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V.K. Zabigailo*

Perestroika, Glasnost and Law
Reform in the Soviet Union
Today**

Three years have passed since the elaboration, on the initiative of the Communist Party of the Soviet Union, of a new strategy of action for Soviet society — the acceleration of the country's social-economic development.

Today this strategy is finding wide implementation in the policy of *perestroika*, the revolutionary renewal of society and profound changes in every sphere of its life — political, economical, social and spiritual. Formulated at the April Plenary Session of the Central Committee of the Communist Party of the Soviet Union in 1985 and the 27th Party Congress in 1986, the concept of *perestroika* is based on a comprehensive analysis of the entire previous development of the Soviet state and the practical problems it has had. This concept sets out guidelines for its further accelerated improvement.

The aim of *perestroika* is to establish new rates for the development of socialism, to raise it to a qualitatively higher level, and to produce a significant rise in the standard of living.

To do this it is necessary to put into play all the hitherto unused possibilities of socialism, a truly humane social system which serves and elevates man. It is a society for people which provides the conditions for freeing all their creative abilities and ensures their welfare, a healthy way of life, and the physical and spiritual development of each person. It is a society in which each person feels that he is master of the country, as in fact he is.

There are today about 285 million people living in the Soviet Union. Soviet people are proud of their country's achievements. In particular, the fact that there has been no unemployment for more than fifty years: the Constitution guarantees each person the right to work, which is ensured by different social, economic and legal means. The economy of the country as a whole functions constructively: the state budget has no deficit. The real income of Soviet people has doubled in the last two decades. Every year more than two million apartments are built in the Soviet Union. Apartments are for the most part free to citizens; rent for an apartment costs each family around three per cent of its budget. In the

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USSR there are around six million engineers, 1.5 million scientists, and more than one million doctors. All forms of education and medical care in our country are absolutely free. Only the cited facts provide a basis for speaking about the high level of social protection for an individual, and his confidence in his future and that of his children under socialism.

But Soviet society is not only aware of its achievements and successes. Today more than ever before it sees clearly its weaknesses and inadequacies, the possibilities for a full-blooded socialism which were missed in the past.

For 70 years the Soviet people have been inspired by the idea of socialism and the building of it. But because of both internal and external reasons we have not been able fully to realize the scientific principles of the new social structure. This was seriously hindered by the Great Patriotic War of 1941-45, which cost our people 20 million lives and destroyed the country's economy; by the personality cult of Stalin; by the command-style administrative system of government which arose in the '30s; and the lack of initiative and the obstructionism of the late 1970s and the early 1980s which led to the stagnation. A pre-crisis situation was brewing in society.

The question arises: how and why did this threat become real? To find the answer to this question a genuinely scientific, objective analysis of our past and present is now being carried out. The task is not merely a matter of naming some names, or giving those who were undeservedly forgotten their due — though this is an important and integral part of this enormous work. It is a question of producing a truthful and complete history of the life and struggle of the Soviet people. As the General Secretary of the Central Committee of the Communist Party of the Soviet Union, M.S. Gorbachev, has emphasized: "We wish to really analyze, comprehend our achievements and accumulated problems, and learn the lessons for work in conditions of *perestroika* and renewal of Soviet society."¹

It is now possible to speak of two stages of the *perestroika* which is taking place. The first stage was a theoretical analysis of the situation which had arisen. The policy of *perestroika* was basically worked out and the most important decisions were made. Today the policy of *perestroika* has become everyday practice, affecting all of society, and it has set the whole mass of Soviet people into motion. The decisive stage in the struggle for *perestroika* has begun.

At the heart of *perestroika* lies the democratization of Soviet society. This very important theoretical conclusion was drawn by the Communist

1. Gorbachev, M., "Revolutionary *perestroika* and the ideology of renewal", in *Moscow News — Supplement to Issue*; no. 9, 1988, 2.

Party. The Party determines the success of *perestroika*, the progress of socialism and its future as a whole.

It should not be supposed that democracy is some sort of blank space in the political culture of socialism, as its enemies insist. We are aware that much has been done, we can see our achievements and take pride in them. The question to ask is: 'in what other society do the workers themselves choose their leaders, from the director of the company to the shop foreman?

At the same time we have enough dignity to speak today of the necessity of "learning democracy", of working seriously on increasing political culture in society. This contains a serious reproach to the past, when certain democratic attitudes were largely distorted and deformed, when they were at times declared rather than realized.

But today the important thing is not so much the past as the present and the future.

The renewal of Soviet society which is taking place now demands a new level of democracy, the practical ability of millions of people to live and work under new conditions. This is not only desirable and possible, it is a truly vital necessity. The development of socialist democracy is not simply the consequence of changes taking place in society. It is an indispensable and most important condition for the successful realization of *perestroika*, and at the same time a guarantee that it will have an irreversible character. More democracy — more socialism. That is the most topical political task in Soviet society. It is not a mere slogan but the very essence of *perestroika*.

Today we are practically realizing the truly gigantic task of including each person in every process of government — the labour collective, the town, the country — and in the decision-making of every sphere of life — social, economic, political and spiritual. For this purpose a coordinated and flexible mechanism is being developed.

The interest with which the population of our country is taking in these processes is shown in the data of a telephone survey made by the weekly "*Argumenty i fakty*" in February of 1988.² Here, for example, is how definitions of democracy are distributed (in percentage of total number of answers), in reply to the question: "What do you think democracy is?"

Freedom to express opinions	—	31
Freedom of thought and action, freedom of choice	—	13.2
Equality of person, independent of post occupied	—	8.7
Just (normal, good) relations between people	—	7

2. *Argumenty i fakty*, no. 8, 1988, 4.

Participation in governing not only by the bosses but also by subordinates	—	6.1
Democracy is the power of the people	—	5
Unity of the individual's rights and duties	—	4
Discipline, one's duties	—	2.8
Absence of bureaucracy	—	1.4
Democracy is <i>glasnost</i>	—	4.8
Other	—	6
Not applicable	—	10

The opinions cited reflect the fact that Soviet people are well aware of the beneficial effect of democracy, which is becoming the norm for society's life.

What paths are indicated for extending democracy further? Primary attention is devoted to the development of democracy in industry, the consistent introduction of the principles of real self-government into the work of labour collectives. The most important task is to create conditions of work and life which will allow each worker to feel that he is the true master of the enterprise.

Problems of the *perestroika* of the Soviet political system are being discussed. This involves realizing, in full measure, democratic principles in the activity of the Councils, the representative bodies of the political power of the workers.

Democratic changes affect the voting system, unchanged for many years. More candidates for deputies, the possibility of an alternative choice for voters, their more effective and real participation at all levels of the pre-election and election campaign, more initiative in the deputies' execution of their powers — these are some of the directions of the electoral reform in preparation. Elections for local Councils, which took place in 1987, were the first experiment along this path.

The activity of independent organizations among the population is developing. New social organizations are being created, the Soviet Culture Fund has been formed, women's councils are being set up across the country. Numerous informal workers' associations have appeared, particularly among young people. All these are examples of the real process of expanding the citizens' socialist self-government.

In the general course of democratizing Soviet society, problems of democratizing the activity of the Communist Party are being settled. These problems were the subject of general discussion at the Nineteenth All-Union Party Conference in Moscow in June 1988.

A particularly important aspect of the democratization of Soviet society which has come to the fore is *glasnost*. As the results of the survey of public opinion given above show, these concepts have almost become

synonymous in the minds of most citizens. And this is no coincidence. *Glasnost* is a dependable way for the masses, for society, to control every process and decision. *Glasnost* is above all the complete realization of the constitutional stand on freedom of speech and expression of opinion. It is the right to truthful and honest information about everything. It is the freedom to criticize inadequacies and the absence of subjects, positions or persons considered to be above criticism. It is full access for every citizen to information about the life of society. It is enormous possibilities for expressing one's opinion in the press or other mass media, at meetings, demonstrations, etc. We support *glasnost* without exceptions or limitations, but a *glasnost* within the framework of the Constitution of the U.S.S.R. and Soviet laws. To the question whether *glasnost* has limits the answer is: if *glasnost* and criticism are in the interests of socialism and the people, then they have no limits.

Obviously no one today would fail to note the positive changes taking place in Soviet society under the influence of greater *glasnost* and democracy. For the majority of citizens living and working have become easier, more fulfilling. It has become immeasurably harder for those civil servants who are accustomed to administrating and subjective decision making, which quite often led to abuses of power and infractions of the norms of law and morals. When everything is done in full view of the public and under worker control, it is difficult to use bureaucratic measures and still more difficult to act contrary to the requirements of legality.

Now that Soviet society has embarked on the decisive stage in the struggle to bring into being the policy of *perestroika*, socialist pluralism of opinion is making its appearance in the most real manner. On the pages of newspapers and journals, and in the other mass media there are interested discussions about the essence of the changes in society, ways of realizing them, and the problems hindering *perestroika*. Quite different opinions are expressed. But the main thing is becoming increasingly clear: the growing support of the broad mass of workers for the policy of *perestroika*.

At the same time, many of those who see no need for supporting the critical mood in society and the spread of *glasnost* as an integral part of democracy cling to their positions. There are still instances of open opposition to this process among some officials, who not infrequently also infringe on the rights and lawful interests of citizens. It is no coincidence that a fairly large percentage — around 10 per cent of those surveyed — have personal experience of the negative effects of the implementation of *glasnost*.³

3. *Argumenty i fakty*, no. 8, 1988, 4.

However, isolated incidents cannot interfere with the continual development of glasnost as an effective instrument in making the atmosphere of life in Soviet society healthier and democratizing it. An irreversible character is given to this process by the *Glasnost* law and other legislative acts now being elaborated. These must ensure maximum openness in the activities of state and social organizations. They must give citizens a real, guaranteed way of expressing their opinions on any subject of social life, and a reliable defense from any infraction of this right by officials.

Particular importance is attached to legislative acts and law by no means only in the ensuring of glasnost. Strengthening the legal levers of the policy of *perestroika*; elevating the constructive role of law in the life of society is one of the foundations of this policy.

The process of democratization, the spreading of *glasnost* in Soviet society has posed an acute question concerning socialist legality. Under the conditions of the administrative-command methods of governing employed during the years of Stagnation, a legal nihilism appeared which is not characteristic of socialism as a whole. After all, socialism is rule by the people, and rule by the people presupposes complete and undivided supremacy of laws expressing the people's will.

Real democracy does not exist outside or above the law. Democracy essentially requires a reliable legal basis. It is not enough to proclaim a policy on social and economic reforms. A policy acquires real features only when its principle foundations are embodied in legislation and when these foundations' realization is ensured by the corresponding legal means.

The elevation of the role and prestige of law as an instrument of the renewal of Soviet society is taking place on a well-prepared basis. Such are the decrees of the Constitution of the U.S.S.R. concerning nationwide government and legal forms of its functioning, the legislative foundations of the activities of all state and social organizations.

The Fundamental Law of the Soviet State proclaims and guarantees a broad spectrum of political, social-economic and personal rights and freedoms of citizens. Such an important principle of legality as the precedence of the Constitution in the system of sources of law, *etc.*, is also legislatively established. All these are extremely important concrete achievements of Soviet society's political and legal development.

The policy of *perestroika* opens new possibilities of successfully realizing in practice humanistic constitutional tenets and other legal norms, the comprehensive realization of the concepts of socialist legal government. At the same time, the successful realization of this policy requires an effective legal system which would ensure the radical changes

being carried out in the country. A legal system is not only an effective stabilizing factor which consolidates relations existing in society. The law is capable of playing a constructive, creative role in society, and of ensuring the renewal of all aspects of social life.

First, after broad democratization combined with law, juridical mechanisms can give *perestroika* an irreversible character and transfer its political strategy to the plane of the consistently realized practical concern. Second, law and legislation have the power, when combined with other means, of disabling the braking mechanism of *perestroika*. Third, it is law and its norms and institutes which constitute the forms through which central tasks of *perestroika* are decided such as the extension of democracy, realization of radical economic reforms, activization of the human factor.

All this requires a change in the very principle of the regulation of social relationships that must be placed in the foundation of legal reform.⁴ The change from detailed regulation of every activity, from petty surveillance, to the general adaption of a new legal way of thinking based on the general legal principle: "Whatever is not prohibited by law is allowed." This contains the essence of legal reform. The reform is intended to do away with the negative phenomena in the legal system which grew in the years of Stagnation and the predominance of the administrative-command methods of governing. Reform is intended to make the legal system an effective instrument of social development and create firm and reliable guarantees of legality, the protection of Soviet citizens' rights and interests.⁵

The enormous work of renewing Soviet legislation has begun. The task is to make it agree with the requirements of radical reforms of the economy and with the process of democratizing social life and affirming the principle of genuine equality, the unshakeable justice of socialism.

At the basis of the idea of improving legislation lies a new approach to defining the measure of juridical regulation in different spheres of social life. This measure is extremely uneven. On the one hand, this regulation belongs to the area of the economy. It is being decisively curtailed, and there is what could be called a "stock taking" of all the departmental directions and normative acts. Everything that interferes with *perestroika* is cancelled. The grounds and limits of the so-called departmental law making as a whole are being made more precise and a procedure for controlling it is being established.

At the same time there is another side to this. Democracy does not mean lack of control and uncertainty. Some types of social relationships

4. See: "Juridicheskaja nauka i prabtika v usloviiakh perestroiki" (1987), 15 *Kommunist* 89-90.

5. See: V. Kudriavtsev, "Pravovaia sistema: puti perestroiki": *Pravda*.

must be more clearly regulated by legal acts. In connection with perestroika this concerns a whole series of new laws, for example, relating to cooperation, the order of government service, glasnost and the role of the mass media, voluntary societies and creative unions, the procedure and juridical guarantees of the realization of different rights and legitimate interests of citizens, *etc.*

The plan for preparing bills over the period 1986-1991 has been drawn up and approved, and this provides for 38 bills of normative acts in the following areas: development of socialist democracy, socialist self-government, rights and freedoms of citizens; improvement of the economic mechanism and the running of the economy; accelerating scientific technical progress; social development and culture, *etc.*

Many of the legislative acts have already been adopted in the last two years.

It is expedient to name the first of these, the Fundamental Law of the U.S.S.R. concerning government enterprise (association), adapted by the Supreme Soviet of the U.S.S.R. in June 1987. This normative act establishes in law the economic strategy of the policy of *perestroika* and determines the legal basis for the economic activity of socialist government enterprises and associations. The law provides for economic methods of regulation to be strengthened, wide implementation of full self-running and self-financing, the spreading of democratic principles and development of self-government, and it defines the relations between enterprises and organs of state power and government. Juridical methods of regulating economic activity are also substantially changed. There is less arbitrary interference by departments in economic affairs. There is an increase in the importance of government and department arbitration on its instruments such as contractual obligations, fines, forfeit, compensation for direct and economic damage, *etc.* It widens the scope for participation by labour collectives, each worker helping to run the enterprises and decide government and social matters.

A very important guarantee that the constitutional rights of citizens to govern the country is being realized was the law of the U.S.S.R. concerning nation-wide discussion of important problems of government life, adopted last year. This law is intended to create firm legal guarantees of citizen participation in developing government decisions at all levels on the basis of wide *glasnost*, comparison and consideration of different opinions and suggestions of the workers.

An important link in the chain of socialism's genuine values, and one of the main political, moral and legal requirements of socialist society is the defense of human rights by all available means. The realization of the aim of the policy of *perestroika* towards the utmost democratization of

Soviet society and the extension of socialist self-government by the people, is indissolubly connected to ensuring reliable protection of Soviet people's constitutional rights and freedoms and respecting the citizen's dignity. Among different measures for performing this task, the most important is the Law of the U.S.S.R. concerning the procedure for court appeals of illegal actions by officials infringing on the rights of citizens. The judicial procedure for examining complaints has characteristics which result from the adversary nature of court: objectivity, *glasnost*, publicity, independence from narrow departmental interests, the high authority of the adopted decision, all of which are also of the greatest importance for the triumph of justice. Hence the effectiveness of judicial control in the virtual restoration of the violated rights of citizens.

Based on the democratic principles of justice, the law envisages that examination of complaints of illegal actions of officials must be carried out in accordance with the norms of civil legal proceedings on the basis of complete assurance of the principle of their openness. This legislative act is intended to play an important role in bringing into effect all reserves of the establishment of legality, the spreading of *glasnost* and democracy.

Together with review and renewal of Soviet legislation the general legal reform includes taking measures to improve the practice of the application of the legislation in use. The Office of the Public Prosecutor has a very important role in performing this task, being intended to uphold legality and law and order in our country. The decree adopted in 1987 envisaged the necessity of radically restructuring the work of prosecuting organs, the style, forms and methods of their activity so that the Public Prosecutor would protect Soviet laws in all instances concerning the defense of the interests of the state and the workers' rights, and would lead a more active fight against offences and crime. It is envisaged that the Public Prosecutor must conduct its activity under conditions of maximum *glasnost*, supported by labour collectives and the general public.

Particular attention is given to establishing guarantees of effective activity by all judicial organs, and above all the court. One of these guarantees is independence in everything concerning professional activity. Additional measures are being examined which are to establish the independence of People's Courts from any external influence, and to create a reliable legal and organizational mechanism for this. Among proposals of legal experts and practical workers which were examined, and widely discussed in print: improvement of the procedure for choosing judges and people's assessors; increase in court staff for more complex cases; longer periods for judges to remain at their posts, *etc.* Proposals to give the Supreme Soviet of the U.S.S.R. the function adopted by different

departments of controlling the correspondence of normative acts, to the Constitution of the U.S.S.R. and existing laws, are intended to raise the prestige of the judicial organs in the Soviet political system.

An important role in ensuring the legality of actions taken by lawkeeping organs belongs to the legal profession. For a long time the powers and importance of lawyers in the Soviet legal system were undervalued. Today mistaken notions of the secondary role of lawyers in ensuring justice are gradually disappearing, and their prestige in society is increasing. Some are of the opinion that a defender should be allowed into the criminal proceedings from the moment the subject is arrested, which must be the next step in the democratization of Soviet justice.

The participation of lawyers is particularly important in legal protection of radical economic reforms. Lawyers must represent the interests of citizens more actively in government and social organizations, and in examining civil and administrative cases.

Accurate and qualified application of the law requires great political culture and legal knowledge of prosecutors, judges, lawyers, and of ministry and department officials. Therefore greater responsibility for constant observation of socialist legality, better juridical service in the Soviets and the economy can be foreseen first of all at the cost of improving the preparation of professional legal cadres, of which there obviously are not enough. Today the apparatus of the executive committees of the Soviets alone lacks 165,000 legal experts. Increasing the preparation of legal professionals is under way in our country along with raising the level of legal preparation of leaders and other officials. However, application of the law depends also on the level of legal culture of all the citizens. It was no coincidence that M.S. Gorbachev emphasized at the Plenary Session of the Community Party in February 1988:

The power of the people is a complete and consummate triumph of laws expressing their will. This is why I would like to express strong support to the idea voiced at this Plenary Meeting of organizing universal primary legal education or a single, comprehensive, nationwide programme covering all sections of the population, all our cadres at central and local levels.⁶

The profound changes taking place in the Soviet Union today in the legal system are founded on the fact that *perestroika* in the economy and the social sphere, the restoration of social justice in its full capacity, the ensuring of the rigorous demands of legality, the protection of Soviet citizens' rights and lawful interests are unthinkable without increasing

6. Gorbachev, M., "Revolutionary *perestroika* and the ideology of renewal", in *Moscow News — Supplement to Issue*; no. 9, 1988, 3.

and extending legal principles in the life of Soviet society. To this are subordinated the accelerated development of legislation, the improvement of its use by all government organs and officials, the restructuring of the activity of the Prosecutor, the Court, lawyers, the legal services in enterprises and organizations, the improvement of the forms, methods and style of their activity. This is the key to elevating the role of law in realizing the policy of accelerating the socio-economic development of Soviet society and in increasing democracy and *glasnost* and the participation of workers in deciding all the vital problems of its further development.