8 Crimes of Managers and Entrepreneurs: Economic Crimes*

THE ECONOMY AND CRIME

Crimes against the communist economic order and economic relations are among the most publicized, widespread and persistent crimes in all communist countries. Since their commission normally involves at least some measure of corruption, it is practically impossible to clearly separate these two types of criminal activity in any systematic analysis of their nature and their control. This chapter will concentrate, therefore, on selected forms of economic crimes as well as on those types of corruption which are closely associated with and, often, necessitated by them.

It must be noted that most of the economic crimes in communist countries do not have exact counterparts in capitalist countries due to critical differences in the organization of their economies as well as in the nature and scope of their criminal laws. Types of economic crimes which are included in the criminal codes of all Soviet Republics involve: engaging in forbidden trades, falsifying figures or otherwise distorting reports on plan fulfilment, private entrepreneurial activity, intermediary commercial operations, issuance of poor-quality, non-standard or incomplete products, and illegal manufacture, sale and storage of alcoholic beverages (see Great Soviet Encyclopedia, 1973, vol. 2: 66; the Criminal Code of the RSRSR, Chapter 6, reprinted in Luryi, 1978: 171–5, or Encyclopedia of Soviet Law, 1973, vol. 2: 238–9). Thus, economic activities criminalized in the Soviet Union are, with the exception of moonshining, either legal or simply non-existent in capitalist countries. Since the Central Plan, according to which the communist economy is regulated, has the status of law, all economic deviations from the plan are criminalized. This implies massive legal intervention in the economy as well as a reliance on the criminal law as one of the fundamental means of stimulating efficiency and excellence of

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economic production. Indeed, the penal law appears to play the role of a major regulator of the economy. For, while traditional, capitalist regulators, such as profit orientation, market laws and labour negotiations are void of any meaning under communism, no new dependable regulating mechanisms have been developed.

It would be misleading to examine the issue of economic crimes without commenting upon the contradictions, deviations and criminogenic nature of the economy itself. The main problem with the communist economy is that, contrary to the main assumption of Marxist theory, it is completely subordinated to an abstract political doctrine, not generated by but in fact completely divorced from the material base. As a result, the communist economy can make sense only on paper, and it is not surprising that the constantly emphasized economic success is supported by ‘paper’ evidence and ideological slogans which are in clear contradiction to the unsound and disorganized reality.

The one-party state monopoly over both the means of production, and the totality of the political and social processes, implies the full ideological unity of the official political and economic interests, and, therefore, the sheer impossibility of any legislation interfering with or curbing the centralized, plan-oriented organization of the industry. Even more significant is the fact that it excludes the existence of any trade unions representing the interests of the employees rather than employers (i.e. the state). Furthermore, the monopoly of the one-party state over the mass-media negates the possibility of any counter-control or pressure by a non-party majority.

The state’s economic monopoly and its power to fix prices paralyzes the mechanisms of self-regulation in the communist nationalized economy. The exclusion of competition, a practice which is usually seen as criminal in the western countries, becomes the guiding principle under communism. The economy is geared towards the fulfilment of the Central Plan and disregards the pressure of demand and unsatisfied social needs. The macro-economic decisions, especially the plan, cannot be criticized or adapted to the changing needs of society; their premises are secret, their directives legally binding.

Whatever is produced in agreement with the plan is considered automatically as adequate and socially useful, because the plan cannot be wrong. And, in fact, everything that is produced officially contributes towards the fulfilment of the plan since all the reports are prepared with the obligatory nature of the plan in mind. Any evaluation of the plan and all future planning, therefore, is based on distorted information