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The Common Core of Marxian Socialist Constitutions

JOHN N. HAZARD*

Marxists favor constitutional forms reflecting Marxist-Leninist ideology. The Russian Republic established a model in 1918, followed elsewhere when communists seized power. Although variation increases with the years, some principles remain characteristic: a programmatic preamble setting goals, partisan class language, nationalization of productive resources, declaration of the communist party as "guide," and emphasis upon economic rights. Constitutions follow world-wide practice, with occasional exceptions: China's document was very short in 1975, and Yugoslavia's of 1974, very detailed. Variation is kept within limits set by 1957 declaration of communist parties in power.

The founding fathers of all Marxist inspired governments have demonstrated their adherence to two rules of thumb in their attempts to establish an enduring political structure. First, the structure must be embodied at an early moment in a document of "constitutional" nature. Second, the structure must reflect the philosophy of Karl Marx, as interpreted and developed by his disciple Vladimir Lenin. In a volume devoted to the memory of that great promoter of comparative studies, Maitre Pierre Azard, it may be appropriate to compare what has happened to other Marxist constitutions since Lenin directed his draftsmen in 1918.

Proof that there must be a constitution lies in the fact that there has rarely been a delay in promulgating a basic law in newly formed Marxist socialist states. Only Mao Tse-tung and

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Fidel Castro have moved slowly. Mao took five years to formulate his “constitution,” content to use the “common program” and the “organic law” adopted soon after the seizure of power. Only later did he become “traditional.” Castro, likewise, took time, issuing a skeletal “fundamental law” in 1959, but waiting until 1975 to enact a full constitution.¹

The Russian communists set the general pattern for Marxist constitutions in 1918. After the Third Congress of Soviets had adopted the structure of the provisional government as the permanent structure for the new Russia in January, 1918, pressure for a constitution became so great that Lenin immediately set his colleague, Jacob Sverdlov, to work on a draft constitution. Drafting was begun despite the lack of clarity in social relations, and a draft was made ready within six months even though committee members were sharply at odds over what the new state’s structure should be.²

In short, history has proved that Marxist inspired creators of states have believed in the desirability of constitutions even after revolutionary seizures of power. Almost all have set their lawyers to drafting fundamental laws quickly in order to incorporate formally the structures through which power was wielded during the period of seizing power. They have wanted to place the guidelines to be followed in policy making in a conspicuous place for all to read.

Proof of adherence to the Marxist-Leninist ideology is to be found in every one of the constitutions promulgated by communists. They all negate the “neutrality rule” expressed by Oliver Wendell Holmes in the Supreme Court of the United States when he dissented in *Lochner v. New York*.³ In that much quoted opinion Holmes said, “a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the state or of *laissez faire*. It is made for people of fundamentally different views.”

1. Texts of constitutions cited in this article may be found, if still in force, in A. Blaustein & G. Flanz, Constitutions of the Countries of the World: A Series of Updated Texts, Constitutional Chronologies and Annotated Bibliographies (1971) [hereinafter cited as Constitutions of the Countries of the World]. For Marxist constitutions of historical interest, see J. Triska, Constitutions of the Communist Party States (1968). Castro’s delay has been explained by Theodore Draper as occasioned by the fact that he came to power with a promise to restore Cuba’s 1940 constitution which Batista had abrogated. After 1959 the new Cuban government operated on the basis of a number of decrees. *Id.* at 256.

2. For the history of the deliberations, see G. S. Gurvich, Istoria Sovetskoi Konstitutsii (1923) (History of the Soviet Constitution).

3. 198 U.S. 45, 75 (1905).
Lenin’s first constitution of July 10, 1918 stated the contrary view unambiguously in Article 3:

Bearing in mind as its fundamental problem the abolition of the exploitation of men by men, the entire abolition of the division of the people into classes, the oppression of the exploiters, the establishment of socialist society, and the victory of socialism in all lands, the Third Congress of Soviets of Workers’, Soldiers’, and Peasants’ Deputies further resolves. . . .

Article 3 incorporated the essence of the thinking expressed in the Communist Manifesto of 1848. Communist constitutions are evidently “partisan” and not neutral.

The partisan nature of Marxist inspired constitutions was demonstrated later when the second avowedly Marxist state promulgated its constitution for Mongolia on November 26, 1924. Since the new “People’s Republic” was essentially pastoral and had few, if any, of the characteristics of the industrial societies to which Marx devoted his analysis, the formula was not identical to that used in Lenin’s Russia. The Marxist imprint, however, was evident. The draftsmen spoke in the preamble in the name of the “broad masses” and declared in Article 1 that all power belongs to the working classes. In Article 2, they set as the new state’s task the obliteration of the remains of the feudo-theocratic system.

As the more industrialized states of Eastern Europe were brought under the influence of communists after World War II, the constitutional declarations of Marxist principles became clearer. The Hungarians declared in their constitution of August 20, 1949 that: “Courts in the Hungarian People’s Republic punish enemies of the working people, defend and secure the State, economic and social structure of the people’s democracy, its offices and the rights of the toilers, educate the toilers of the world in the spirit of observance of the rules of socialist intercourse.”

Most of the post-war Eastern European constitutions, however, expressed the Marxist orientation of their draftsmen in less resounding Marxist phrases. For them the key statement of working class orientation appeared only as a limitation on the right of expression, guaranteed by all of the constitutions. Thus, the Romanians declared in their constitution of April 13, 1948 that the right of association did not extend to associations formed to destroy the democratic order established by the constitution. Ac-

4. See J. Triska, supra note 1, at 2-16 (for English translation).
5. Id. at 292-99.
6. Id. at 182-94.
7. Id. at 350-61.
cording to Article 2, their constitution had been created in the struggle waged by the people, headed by the working class, against fascism, reaction and imperialism.

Romania's neighbor Bulgaria expressed its philosophy likewise in its constitution of December 4, 1947, limiting the right of association established by its Article 87. The relevant clause stated that the rights existed only "if they are not directed against the state and public order established by the present constitution." This public order was defined a few lines later in Marxist terms by a paragraph that asserted, "It is forbidden and will be punished by law to form organizations having as their purpose the taking from the Bulgarian people of the rights and freedoms won by the people's uprising of September 9, 1944, and guaranteed by the present constitution or to limit these rights and freedoms."

The Czechs were less outspoken in their constitution of June 9, 1948. Their formula, as set forth in Article 20, was to restrict expression by law "only with a view to the public interest and to the cultural needs of the people." Poles in Article 71 of their constitution of July 22, 1952, forbade associations directed against the political and social system of the Republic.

Although the frankness of the declarations of adherence to the Marxist faith varies in the Eastern European constitutions promulgated immediately after seizure of power—probably because of the revolutionaries' sense that the middle classes would resist expressions of a Marxist faith—the orientation to Marxist principles were evidenced in a substantive way by other features of the constitutions. Most especially these are found in a chapter incorporated in all constitutions on "Economic Structure" or "Economic Policy" which in every case established the cardinal rule enunciated by the Communist Manifesto that productive property shall be state owned or at least "socialized."

Less rigid requirements of socialist constitutionalism have emerged as elements of the "common core" as the years have passed and constitutions have multiplied. Perhaps the most striking of these requirements is the "programmatic" element to be found in all Marxist inspired constitutions, with the notable exception of the U.S.S.R. constitution of 1936. Clearly, each group of founding fathers has wanted its people to know what is planned for their future.

8. Id. at 152-65.
9. Id. at 369-429.
10. Id. at 332-47.
11. Id. at 37-53.
The Russian Republic's constitution of 1918 created the prototype. It read:

The fundamental task set for the current transitional period for the constitution of the Russian Socialist Federated Soviet Republic is the establishment of the dictatorship of the urban and rural proletariat and of the poorest peasantry in the form of a powerful All-Russian authority for the purpose of completely suppressing the bourgeoisie, eliminating the exploitation of man by man introducing socialism, in which there will be neither division into classes nor state authority.12

Here Sverdlov stated the classic Marxist goal of a classless society to emerge from socialization of the means of production and monopolization of political power by the working classes. The final phase, anticipating the end of state authority, reflected the expectation of the ultimate achievement of the goal set by Marx and Engels of a society in which order is kept not by the force of state institutions, but by the people themselves after personal desires have been satisfied with an abundance of production and after individuals have learned to perform the duties of citizens willingly.

Subsequent Marxist inspired constitutions have not put such emphasis upon the process of "withering away of the State," but all have anticipated a future of socialism. Perhaps the Hungarian constitution of August 20, 1949,13 is most explicit. In its preamble it declares:

And now our country is advancing toward socialism along the road of people's democracy. The already realized achievements of this struggle and this constructive work, the fundamental changes effected in the economic and social structure of our country, are embodied in the constitution of the Hungarian People's Republic, which also indicates the direction of our future advance.

Although the "programmatic" element of Marxist inspired constitutions has become so prominent as to justify placing it within the common core, Stalin surprised his people in 1936 by denying its appropriateness. He was addressing the Congress of Soviets on the occasion of finalization of the second federal constitution of the U.S.S.R., indicating which of the proposals made during public discussion of the draft were unacceptable to him. One

12. My translation departs from that of Triska which renders the final two words as "state of autocracy." The Triska translation gives the impression that only autocracy was in issue while I believe that the draftsmen had in mind "state authority" of any kind (even democratic state authority) since they belonged to the school that argued that the state would wither away under communism, not just the autocratic Tsarist State.

13. See J. Triska, supra note 1, at 182-94.
such proposal was that the constitution follow the models of the
first basic law of 1918 and of the first federal constitution of 1923 to
incorporate a preamble stating a program. Stalin's oft-quoted
words were:

[T]o indicate in the constitution the ultimate goal of the Soviet movement,
i.e. the building of complete communist society—such are the subjects
with which these amendments deal, in different variations. I think that
such amendments and addenda should also be set aside as having a direct
bearing on the constitution. The constitution is the registration and legis-
lative consolidation of those gains which already have been achieved and
secured. If we do not want to distort the fundamental character of the
constitution, we must refrain from filling it with historical references to
the past, or with declarations concerning the future achievements of the
tillers of the U.S.S.R. For this we have other ways and other documents.14

Stalin's evident hostility to the use of a constitution to declare
goals, as to whose validity he presumably had no doubt, seems
not to have been shared by his heirs. In 1977, when a third fed-
eral constitution was drafted, it was made to incorporate a pream-
ble in which the goal is stated succinctly, as follows:

The supreme goal of the Soviet state is the building of a classless commu-
nist society in which there will be public, communist self-government.
The main aims of the people's socialist state are to lay the material and
technical foundation of communism, to perfect socialist social relations
and transform them into communist relations, to mold the citizen of com-
munist society, to raise the people's living and cultural standards, to safe-
guard the country's security, and to further the consolidation of peace and
development of international cooperation.15

While the Secretary General of the Communist Party, L.I.
Brezhnev, showed himself ready to accept a policy of stating
goals, in contrast to Stalin's policy of no expression of goals, he
was not ready to spell out the structures thought necessary by
their proponents to reflect achievement of these goals. Thus, he
rejected proposals which "clearly run ahead of our time, failing to
take account of the fact that the new constitution is the Funda-
mental Law of a state of developed socialism and not of
communism."16

Brezhnev rejected four proposals along this line: 1) egalitarian-
ism in distribution; 2) abolition of subsidiary small holdings, i.e.
private garden plots of peasant households; 3) substitution of a
unitary state structure for the existing federal structure; and

14. This speech is reproduced in all editions of Stalin's works. For a conve-
nient source, see J. STALIN, LENINISM: SELECTED WRITINGS 379, 396 (1942).
16. For an English translation of Brezhnev's speech of October 4, 1977, see Re-
port by Leonid Brezhnev to the Session of the U.S.S.R. Supreme Soviet, October 4,
4) substitution of the communist party's agencies for those of the state in performing legislative and administrative functions.

For each of his rejections he provided a reason. First, in opposition to egalitarianism, which had been an early goal of the Soviet founding fathers, he said that it does not take into consideration skill levels and the quality of workmanship. In short, material incentives were still necessary to encourage citizens to work. Second, in opposition to abolition of private peasant gardens, he said they still had a useful role to play in the economy. In short, production of food still lagged and the plots were necessary to fill the gap. Third, in opposition to ending the federal structure of the State, he noted that although the peoples of the U.S.S.R. were steadily drawing ever closer together and were being mutually enriched in their spiritual life, "we would be taking a dangerous path if we were artificially to step up this objective process of the coming together of nations." And fourth, in opposition to the assumption of administrative functions by the communist party, presumably in preparation for the long-promised "withering away of the state," Brezhnev said the suggestion failed to take into consideration the role of the party as a "guide" to state agencies.

In sum, with these positions, Brezhnev proved himself to be, like his predecessor Lenin, a pragmatist when it came to making concessions to popular pressures. He embraced the ultimate goals established by Marxist thought, but he was not ready to risk crippling the economy or undermining political authority by adhering to orthodoxy during the current stage of Soviet history. While there is evidence of acceptance by constitutional draftsmen in all Marxist inspired systems of what might be called the "three P's" (partisanship, programmatic statements along Marxist lines, and pragmatic concession to popular pressures of the moment in maintenance of existing structures and power), there seems to have been some hesitation over the desirability of writing into constitutions the de facto role of the communist party as "guide" to the political and economic life of each country. Certainly, there is no evidence that the desideratum of some sort of constitutional expression of the communist party's role in society was being mooted prior to publication of the draft of the second federal constitution of the U.S.S.R. in 1936. Lenin's model of 1918 contained no such declaration, nor did the first federal constitution of the U.S.S.R. in 1923. Nor is such a constitutional statement to be found in the constitution of the Mongolian People's Republic of
Therefore, 1936 marked the first move, albeit a somewhat halting one, in a direction which has become prominent in increasingly clear statements since that time.

The historic change in attitudes toward relating the party's role to constitutional law took form in what has seemed to Westerners to be an understatement of a *de facto* position. This understatement appeared in the 1936 constitution's Article 126 on the right of association. The words were:

> And the most active and politically conscious citizens among the working class, working peasants and working intelligentsia voluntarily unite in the Communist Party of the Soviet Union, which is the vanguard of the working people in their struggle to build communist society and is the leading core of all organizations of the working people, both governmental and non-governmental.

This Article 126 introduced no new principle, for as early as 1918, the Communist Party had begun to assume in practice a monopoly role. Later, in 1927, Stalin told a delegation of Americans that the party was the only legal party. He cited no law, and it was generally assumed that he was using some yardstick like the "conventions" which establish British constitutional law to support his position. In view of this history, the monopoly role of the party was well established in fact long before 1936. The constitutional language of that year is seen to have been no more than a putting into *le droit écrit* of what had been *le droit coutumier*—in short, a codification of practice.

Evidently, the new step was planned by Stalin to become a model for Marxist type constitutions of the future, a feature of the common core, for the Mongol's second constitution of June 30, 1940, incorporated the essential element of the U.S.S.R.'s Article 126 in its Article 82. The Mongols only varied the formula slightly to state a goal more appropriate to their pastoral society. The party was to be "the vanguard of the working people in their struggle to strengthen and develop the country along non-capitalist lines into a party which is the foremost nucleus of all organizations of workers, both public and state."

Constitutional draftsmen in the post-war era in Eastern Europe gave evidence that the 1936 formula and the 1940 Mongolian variation had not yet become *de rigueur* for Marxist oriented draftsmen. Perhaps the reason was that in some countries opposition was still too strong to communist party monopoly to be contained, and associated political parties were permitted to exist in what

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18. *Id.* at 37-53.
has been called by a Polish scholar\textsuperscript{21} a “permanent coalition.”

Thus, the U.S.S.R. model for defining the communist party’s function in the state was not widely accepted by Eastern European draftsmen in the first round of constitutions after the communists gained control. References to the party were generally limited to preambles which recited its historic role in leading the revolution. The Hungarians provided an example in Article 56 of their constitution of August 20, 1949,\textsuperscript{22} which spoke only in generalized terms, not mentioning the communist party by name. This Article, in stating the right of association, declared, “The leading force in such political and social activities in the working class, led by its vanguard and supported by the unity of the whole people.” At the time the “vanguard” was the Hungarian People’s Front, created by the communist party in an effort to attract wider support for the new regime than might have been expected had power been monopolized by the party itself.

Evidence that the U.S.S.R.’s formula of 1936 was becoming appropriate in Soviet eyes to the People’s Democracies began to appear with the Romanian constitution of 1952.\textsuperscript{23} Although the Romanians’ 1948 constitution had only prohibited in its Article 32 fascist or antidemocratic associations,\textsuperscript{24} the Article 86 of its 1952 constitution copied the U.S.S.R.’s 1936 formula almost exactly. Albania followed the model in its constitution as amended and published in 1964,\textsuperscript{25} for its Article 21 shows the U.S.S.R. inspiration.

The Yugoslav constitution of April 7, 1963,\textsuperscript{26} was innovated to introduce a new formula, going well beyond that of the U.S.S.R. constitution of 1936. It appeared not in the body of the constitution but as paragraph VI in the lengthy preamble. It may have inspired the formula adopted by U.S.S.R. draftsmen in their 1977 document\textsuperscript{27} for its import is nearly identical. It reads:

\begin{quote}
The League of Communists of Yugoslavia, initiator and organizer of the People’s Liberation War and Socialist Revolution, owing to the necessity of historical development, has become the leading organized force of working class and working people in the development of socialism and in
\end{quote}

\textsuperscript{21} See S. Rozmyn, Comment Ils Sont Gouvernés 73 (1966).
\textsuperscript{22} See J. Triska, supra note 1, at 182-94.
\textsuperscript{23} Id. at 362-77.
\textsuperscript{24} Id. at 350-61.
\textsuperscript{25} Id. at 137-49.
\textsuperscript{26} Id. at 477-541.
\textsuperscript{27} W. E. Butler, supra note 15, at 3. The text is also included in Russian and English translations in Constitutions of the Countries of the World, supra note 1.
the attainment of solidarity among the working people and of the brother-
hood and unity of the peoples. Under the conditions of socialist democ-

cracy and social self-government, the League of Communists, with its
guiding ideological and political work, is the prime mover of the political
activity necessary to protect and to promote the achievements of the So-
cialist Revolution and socialist social relations, and especially to
strengthen the socialist social and democratic consciousness of the
people.

In 1965 the Romanian draftsmen altered their formula on the

communist party that had resembled the 1936 model of the

U.S.S.R. to eliminate the indication of monopoly.28 Presumably

that obvious fact was a position that could by that time be as-

sumed. The new language in Article 27 read: “Through the mass

and public organizations the Romanian Communist Party

achieves an organized link with the working class, the peasantry,

the intelligentsia and the other categories of working people, mo-

bilizes them in the struggle for the completion of the building of

socialism.”

The Czechoslovak constitution of 196029 includes in Article 4 a

simple straight-forward formula going directly to the point. It has

remained the same to the present day in spite of the Dubcek up-

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heaval. The Article reads: “The guiding force in society and in

the State is the vanguard of the working class, the Communist

Party of Czechoslovakia, a voluntary military alliance of the most

active and most politically conscious citizens from the ranks of

the workers, farmers and intelligentsia.” These words seem to

have been inspired by the U.S.S.R. model of 1936 except that they

are not placed in a general article on the right of association.

For the most part, the 1977 U.S.S.R. constitution’s30 provision on

the communist party, with its forthright statement placed near

the beginning, came as no surprise. It had been heralded by

other constitutions and also by Soviet authors who had urged that

the topic be treated in this way.31 The formula adopted was to de-

clare the Party “the leading and guiding force of Soviet society

and the nucleus of the political system, of all state organizations

and public organizations.” Its task was defined as “determining

the general perspective of the development of society and the

course of domestic and foreign policy of the U.S.S.R.”

Still, one unexpected paragraph was added to the formula as a

result of the nation-wide discussion of the draft during the sum-

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28. See J. Triska, supra note 1, at 378-94.
29. Id. at 430-52.
30. W. E. Butler, supra note 15, at 3. The text is also included in Russian and
English translations in Constitutions of the Countries of the World, supra
note 1.
31. See Romashkin, Novy etap v razviti Sovetskogo gosudarstva, 10 Sovets-
mer of 1977 which has excited the curiosity of Western specialists. It read: “All Party organizations shall function within the framework of the Constitution of the U.S.S.R.” Such a limitation on political party activities would have been routine in the West.\footnote{32} But since the Party is the supreme authority in the U.S.S.R.—the moteur of political life, in the words of Pierre Lavigne of France\footnote{33}—the meaning of the paragraph excited questions.

Michel Lesage of France has suggested that the provision means simply that the Party intends to control its own rank and file members so that they do not administer but only guide.\footnote{34} Administration will be the task of State officials, not local Party secretaries.

If Lesage is right, the paragraph introduces no new principle since the Party’s leaders for decades have asserted that Party members must not intervene in the work of State officials executing policy. Lenin ordered the Party to remain aloof from the details of administration and the rule remains, although it has been violated on many occasions.

One communist led State, however, has developed a variation, indicating that the limitations upon the party as administrator have not become an element of the common core of Marxist type constitutions. For the Romanians, the communist party secretary of each district serves as chairman of the State agency of the district, the people’s council.\footnote{35}

The same exception to the Soviet rule applies in the People’s Republic of China. Although the relationship of the Communist Party to the State apparatus has varied with the changes in leadership, generally the Party’s “cadres” have constituted the deputies to the local State agencies. During the Cultural Revolution the Party delegates shared formally with the Army and the Red

\footnote{32. The United States Supreme Court, in Smith v. Allright, 321 U.S. 649 (1943), held that a political party’s general assembly may not deny to anyone membership in the party with its right to vote in primary elections because the Constitution guarantees the right of all to participate in the electoral process.}

\footnote{33. See P. & M. Lavigne, Regards sur la Constitution SoVIetique de 1977, at 101 (1979).}

\footnote{34. M. Lesage, La Constitution de l’USSR 7 Octobre 1977: Texte et Com- mentaires 31 (1978).}

Guards in the conduct of affairs at the local level.³⁶ No clear line was set between Party and State functions, but with Mao’s death and the ouster of his wife and three others, known as “the gang of four,” the Party seems to be reverting to a status closer to that envisaged for it by Lenin.

Bills of rights throughout the multitude of new states that have come into existence since World War II have become rather uniform due to the labors of the United Nations and publication of its Universal Declaration of Human Rights. Consequently, it is now difficult to distinguish a unique feature of the bills of rights in Marxist inspired constitutions. Yet, viewed historically, it may be seen that the lawyers of the U.S.S.R. led the way in formulating the United Nations’ Declaration by insisting that economic rights needed to be established on a par with political rights, as had been done in the 1936 Soviet model.³⁷ Soviet pressure was also a major reason for drafting covenants that included economic as well as political rights.³⁸

Today economic rights are part of the common core of all Marxist-inspired constitutions. In some measure the Soviet model has changed attitudes toward bills of rights even in the countries where, as in the United States, a right is thought to be meaningless without a remedy. The President of the United States has recommended to the Senate that it give consent to ratification of the Covenant on Economic Rights on the ground that a declaration of aspirations of this kind is compatible with the contemporary legal thinking in the country. While no one expects, even in the Marxist constitutional systems, that the right to work may be enforced by a court order upon an employer, every one agrees that statesmen should declare their desire to order the economy in such a way that full employment may be achieved.³⁹ A measure that was the common core of the Marxist approach to bills of rights has become the common core of contemporary constitutions around the world.

Turning to the form of a constitution, examination of those promulgated by communists indicates that there is little novelty.

³⁷ I tried to evaluate Soviet influence upon the drafting process in Hazard, The Soviet Union and a World Bill of Rights, 47 Colum. L. Rev. 1035 (1947).
³⁹ Scholars are now going so far as to claim that the right to “peace” is a human right, even though no enforcement is to be anticipated within the foreseeable future. See Giniger, International Group Urges Peace as a Human Right, N.Y. Times, Aug. 27, 1979, at A2, col. 2.
In general the documents conform to the style adopted throughout the world. They are usually relatively short, stating only general principles and avoiding the details that are the focus of the various codes of law. To this rule there have been two exceptions among the Marxists: the Mao Tse-tung constitution of 1975 and Marshall Tito's constitution of 1974. The first was exceptionally short (thirty articles), and the second exceptionally long (406 articles). Most have varied between 105 and 170 articles. Brezhnev established the standard attitude toward length when he introduced the draft of the U.S.S.R.'s 1977 constitution by saying that the drafting commission had rejected many proposals to include matter already found in legislation. His words were much like those of Stalin in 1936 when he also refused to add provisions which he thought would encumber the draft with details. Brezhnev explained, "[b]ut the Constitution is the Fundamental Law of the State. It is a record only of the basic, fundamental provisions, which, having direct force, are expressed and spelled out in other legislative acts. . . ."

Since Mao's death, his heirs have reverted to standard practice and promulgated a new constitution to replace the short one of Mao Tse-tung. The 1978 document resembles both in form and substance the Marxist constitutions of Eastern Europe. This is also true of the constitutions of North Korea and Vietnam.

A great deal can be and has been written about the substantive provisions of Marxist-type constitutions. No more need be added to the exhaustive study made by Professor Christopher Osakwe 40. For English translation see Peking Rev., Jan. 24, 1975, at 12-17. This text conformed closely to a draft circulated secretly in 1970 while Lin Pao was Mao's deputy. A text of the 1970 document, obtained by the intelligence agencies of the Republic of China, was printed in Taiwan and an English translation was published in 4 Studies in Comparative Communism 100-06 (1971).

41. See CONSTITUTIONS OF THE COUNTRIES OF THE WORLD, supra note 1, for English translation.


and published in the periodical *Socialist Law*. Brezhnev himself acknowledged his debt to constitutions which had preceded the Soviet constitution of 1977 by a few years, noting that several provisions had been taken by Soviet draftsmen from these documents. Considerable variety has emerged during the recent decade, and it is now unlikely that draftsmen in the various communist parties would feel themselves required to follow the details of the Soviet model.

It has become evident today that details are left to the discretion of each communist party. Yet there is still a common core of what are seen to be the critical elements of Marxist type constitutionalism. While it might seem that practice has established these elements so as to require no written statement of them, the various communist parties in power adopted a resolution in 1957 setting them forth as essential to the preservation of a socialist system. These include: a Marxist-Leninist ideology; leadership by the working class with its vanguard the communist party; and abolition of private ownership of the means of production (to be followed by State economic planning and a reconstruction of agriculture along communal lines).

If the 1957 resolution is taken as creating the foundation or the common core of Marxian socialism, it could be expected that constitutional draftsmen will adhere to it. Detail may vary, but the "style" remains the same. Because of these variations, there has emerged in Eastern Europe a popular new discipline: the comparison of various systems of socialist law. Imre Szabo of the Hungarian Academy of Sciences finds that comparative law has a significant role to play within the socialist camp as variations increase. According to his colleague, Gyula Eörsi, this phenomenon will be reversed in the future as the various socialist systems begin to converge into a common system. As of today, however, the common core is narrow. It is but a few fundamentals which might be called the "base", leaving room for such pragmatic ad-

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48. Konrad Zweigert has concluded that the difference between "families" of law is to be found in their "style," which cannot be defined precisely but is as recognizable as baroque and gothic in the centuries in which they flourished in art, architecture, music, literature, and law. His challenging thesis is set forth in his *Zur Lehre Von der Rechtskreisen, XXth Century Comparative and Conflicts Law: Legal Essays in Honor of Hessel E. Yntema* 42-55 (1961).
justment as may seem necessary to each communist party to meet the pressures of the times in the country it rules.