

THE QUESTION MARK OVER THE SOCIALIST RECHTSSTAAT

THE NEW PHASE

The work of the Soviet jurist is done in the shadow of the thesis that its ultimate purpose is to contrive a disappearing act for both the state and the legal order. The prophecy that state and law will one day no longer be the attributes of our life lies beyond the range of the present study. It is brought in here only inasmuch as it provides the ethos of Soviet planning and as it influences the forms of Soviet institutions, preferences for the forms of social action, and the legislative techniques to effect governmental and social reforms. While it is useful to establish connections between political aims and a legal measure, its effects must be examined in the context of its social role, irrespective of the political aspects of its origin. Once the rule of law has been enacted, it represents its own complex of problems occurring in response to the unique characteristics of legal action.

The issue of the withering of state and law lay dormant during Stalin's regime. After the Twentieth Party Congress in 1956, the immediate task was to repair the damage caused to the Soviet ship of state by the "cult of personality"—a brand name for policies and governmental techniques which relied on use of force and dictatorial forms of government with little respect for the legal rule and democratic processes. The socialist state was to give meaning to the rule of its own law. Since the Twenty-first Congress of the Party in 1959, the reform of the legal system has acquired a new sense because, as the Congress stated, the time has come to reorganize all phases of Soviet life. The time is thought to be ripe because of the contemporary

upsurge of economic forces in Soviet society on which the dawn of communism is predicated. This declaration has put on the action calendar of the day the question of the withering away of the state and law.

The socialist state, which followed the destruction of the capitalist order, retained certain characteristics of the bourgeois state, which were deemed indispensable under socialism. Among these were remnants of bourgeois law, including techniques of legal action and the use of force by the state. These features of the socialist state were scheduled to disappear under communism.¹

Lenin established certain objective conditions for the arrival of communism, independent of the levels of socialist productive forces. These consisted primarily in the ability of Soviet society to exercise controlling and organizing functions without the state and formal legal rule. The need for the state and law would be eliminated because the vast majority of members of the society would acquire skills required for performing government and administrative functions. Furthermore, they would acquire the habit of performing these functions without remuneration and in addition to their normal duties in the economic processes. Then these functions, which are now in the hands of the administrative departments, agencies, and special governmental services, would be discharged by the society itself. The result would be a perfect state of law enforcement and a biological unity between the social structure and the exercise of governmental functions.²

In general perspective, the reforms initiated after the Twenty-first Party Congress were a continuation of the reforms which followed the demise of Stalin. The regime of the Georgian dictator was characterized by a high concentration of administrative powers in the hands of the Union government. The gradual unloading of the accumulated powers was followed by a radical reform of the economic administration, which shifted all administrative functions from the center to-

1 Aleksieiev, "O zakonomernostiakh razvitiia sovetskogo prava v period razvernutoho stroitelstva kommunizma," SGP 10 (No. 9, 1960).

2 Lenin, *The State and Revolution*, 33 Soch. 155; cf. Chapter IV *supra*, text at note 9a; the full theory of this process was worked out by Engels in *Anti-Düring*.

ward the republics and the regions administered by the councils of national economy.³ Decisions of the Twenty-first Congress attached an ideological significance to the process which was already taking place and mapped out a further program of decentralization. Decentralization, in this phase, went beyond the mere framework of the bureaucratic mechanism of the Soviet state, but engaged its representative and social institutions.

In the first place, the Congress recommended further decentralization of authority and a further shifting of governmental functions to the lower levels of governmental authority. Secondly, it was decided to draw social organizations into the processes of government and to devise methods which would make them directly responsible for the maintenance of law and order and for the exercise of judicial and certain other functions of government.

The decisions of the Twenty-first Congress expressed the conviction that, as Lenin predicted, more perfect law enforcement would

3 At the time of Stalin's demise, administration of the national economy of the USSR was almost exclusively tied to decision from the center. According to the distribution of responsibilities for the management of various branches of national economy, only some 30 per cent of industry was in charge of the individual republics, while the rest was run by the Union. This process was reversed, and by 1956, after the initial unloading of responsibilities for various industrial branches, only some 45 per cent of the national economy was still run by the industrial ministries of the federal government, while the rest was classified as industry of local character and importance. As such it was under the direct and exclusive administration of the individual republics or local soviets.

These measures were only preliminary to more basic reforms, and, after a good deal of cogitation and discussion, the Supreme Soviet of the USSR approved during the session May 7-10, 1957, the law on Further Improvement of the Organization of Industry and Construction in the Soviet Union. The main feature of the reform was to replace branch administrations run from the center by the territorial administrations under economic councils (*sovnarkhoz*) set up by the individual republics forming the Union. The entire territory of the Soviet Union was divided into 104 economic administrative units, each headed by an economic council. *Vedomosti*, sec. 275 (1957); *cf.* SGP 4 (No. 4, 1959); *Kommunist* 27 (No. 13, 1958); Khrushchev's speech to the Supreme Soviet of May 7, 1957, *Pravda*, May 9, 1957; for detailed description of the organization and operation of the councils of national economy *cf.* Petrov, *Sovety narodnogo khoziaistva* (1958).

thus be assured. The direct participation of society could play an important role in combating breaches of socialist law and order. "Our public organizations," said Khrushchev, "have no less adequate capacities, means and forces for this than the militia, the courts and the prosecutor's office."⁴

Less than a year later, Khrushchev reported to the Supreme Soviet as follows:

Guided by the decisions of the Twenty-First Congress, the Party and the government are constantly effectuating measures for the further development of socialist democracy drawing the wide masses of the working people into the administration of the country's political, economic and cultural affairs. Extension of the rights of Union Republics, local authorities and public organizations and reorganization of industrial management have produced valuable results. The activity of the masses, politically and on the labor front, is growing and their creative initiative developing.

More and more functions are being entrusted to public organizations, and they are playing a bigger part in economic and cultural development and in strengthening socialist legality. One evidence of this is the recent decision of the USSR Council of Ministers and of the Party Central Committee to abolish the USSR Ministry of Internal Affairs and transfer its functions to the Republics and local authorities. This is done not only to reduce the size and cost of our administrative apparatus but chiefly to further develop socialist democracy and enhance the role of public organizations in combating infringement of our laws, and to extend the powers of local authorities.⁵

The process of decentralization, which resulted in an impressive reduction of the central apparatus of the government of the union, was paralleled by the transfer of some governmental functions into the administration of social organizations. Even before the Twenty-first Congress, the administration of sports and physical culture was made the business of the social organizations (trade unions), and the Congress recommended that a similar step should be taken for the administration of health and cultural affairs.⁶

4 XXI sjezd KPSS o razvitii i ukreplenii sovetnskogo sotsialisticheskogo gosudarstva (No. 4, 1959); Denisov, "O sootnoshenii gosudarstva i obshchestva v perekhodnyi ot kapitalizma do kommunizma period," SGP 29-40 (No. 4, 1960); cf. XXI sjezd KPSS i zadatchi sovetnskoj pravovoi nauki, SGP 4-5 (No. 2, 1959).

5 Supplement to the New Times, No. 4, January 1960.

6 XXI sjezd KPSS i zadatchi sovetnskoj pravovoi nauki, SGP 4-5 (No. 2, 1959).

Decentralization of governmental powers and the creation of new channels for law enforcement represent only two sides of the same process, directed at drawing broad social strata into direct participation in government. At the present stage, the level of individual skills and habit of participation in governmental functions does not permit the individual involvement of Soviet citizens. This must still be done by way of their membership in social organizations, on the basis of directed action.⁷

The transition to communism, or at least the first phase of it, will not result in the relaxation of formal social ties. Quite to the contrary, as the Resolution of the Twenty-first Congress of the Party warned:

[A] definite dialectical link is inevitable between a socialist state formation and law, on the one hand, and self-administration by the people and social norm of a communist society on the other; it consists of the preservation in a different form of some of the elements constituting the activity of the state and content of the norms of law.⁸

Soviet jurists interpret this statement as indicating that the centralized character of the Soviet state will not be affected by the process of change, neither at present nor in the future. Communist society is not planned to be a structure of free individuals who act according to a certain pattern because of internal compulsion and acquired behavioral pattern. Communist society will still be a centralized society. As a Ukrainian jurist wrote:

The view that the system of self-administration in a communist society is a decentralized system is a revisionist and anarcho-sindicalist distortion of Marxist-Leninist teachings on the socialist state and structure of society in the highest phase of communist society. Both a socialist state formation and self-administration in a Communist society are understood by the classics of Marxism-Leninism as a democratically centered organization.⁹

Soviet leaders and jurists are anxious to forestall any premature ideas regarding a rapid change in the methods and forms of govern-

7 *Ibid.*

8 XXI sjezd KPSS o razvitii i ukreplenii sovetского sotsialisticheskogo gosudarstva 14 (No. 4, 1959).

9 *Radyanskije pravo* 18 (No. 4, 1959).

ment, such as turning the Soviet state into a system of loosely connected organizations, each responsible for its own area of competence. Khrushchev, describing the process of transition from socialism to communism, used language which left little doubt as to the fact that the process of transition means a greater cohesion of both governmental machinery and social structures.¹⁰ Transition from the socialist state into communist society will be a gradual process, characterized not so much by the organization of new means of exercising governmental powers but by the changes in the nature of governmental functions. Organs of state administration will acquire the character of social organizations, and their function will acquire a social character, while rules of social behavior, which they will enforce, no longer will be legal rules:

[T]he withering away of the state by no means implies the disappearance of all . . . authority and administration.

The withering away of the laws does not mean the disappearance of standards of social behavior, personal freedoms, and social duties of the peoples. It would be an unforgivable vulgarization to represent the matter in a manner according to which as the laws wither away under communism, all the rules governing social relations and personal rights and freedoms of citizens disappear, too. They will remain under communism, but they will lose their political and legal character.¹¹

Soviet jurists and leaders have restated in a new form Stalin's doctrine that, as Soviet society comes closer to the realization of the goals of social reconstruction, the functions of the state and law will expand. They sound a note warning that resolutions of the Twenty-first Congress indicate that state direction of the national economy will increase, that the government of the Soviet polity will continue to provide for the defense of the country, and that its educational and organizing functions will expand. In particular

10 "... year 1960 will go down in history as the first year of the extensive building of communist society in our country. . . . The past year has been a further strengthening of the social and political system, the continued development of socialist democracy and the heightening of the organizing and educational role of the Communist Party." *Supra* note 8, at 15.

11 Romashkin, "Razvitie funktsii sovetskogo gosudarstva v protsesse postroeniia kommunizma," SGP (No. 10, 1958).

... shall continue and shall grow such functions of the socialist state as the function of the brotherly cooperation with other countries of socialism, the function of the preservation of peace. Until the full victory of Communism, shall be preserved protection of social property and social order and the supervision and the measure of work and measure of satisfaction of social needs.¹²

Not until several conditions are met will state and law disappear, but even then not wholly. Before that happens, a high level of production and high cultural level of the entire society will have to be reached. Differences between the forms of life in the urban and agrarian environment, and between physical and intellectual work must be abolished. Survivals of capitalism in the minds of the people, and the danger of external aggression must be liquidated, and the entire society with all its members must fully conform to the rules of life in a socialist community. Only then will the socialist state have no function and no responsibility. However, administration of things and productive processes will continue, but will lose its political function.¹³

The general picture of this process is an almost total identification of social organizations with the governmental apparatus, and the integration of social and governmental actions into single patterns of activity not only within a single area of life (e.g., economic activity) but also within the same governmental function (administration of justice, police functions, etc.). Social organizations become government agencies organized on a different principle:

The activities of the social organization in the administration of the affairs of the society, as distinct from the "intra-union" administration of voluntary societies... must be carried out within the framework of the Soviet Constitution which envisages the uniform subordination of all organizations and citizens to the law of the Soviet state.¹⁴

Conversely, the elements of public administration acquire the characteristics of social organizations of the voluntary associations in the discharge of public functions. Khrushchev, referring to social organizations, called the Soviets the largest and the most important among them.¹⁵ *Kommunist*, the ideological paper of the Communist

12 Mitskievitch, "Razshirenije roli obshchestvennikh organizatsii v period razvernutoho stroitelstva kommunizma," SGP 26 (No. 9, 1959).

13 *Id* at 33.

14 *Id.* at 32.

15 Khrushchev, Rech na sobranii izbiratelej Kalininskogo izbiratel'nogo okruga goroda Moskvy 7 (1959).

Party of the Soviet Union, anticipated Khrushchev's statement by writing in 1958 that the Soviets will not disappear from the future Communist society, but "as society draws closer to Communism, they, gradually, losing their class political character may merge into a system of self-administration in a Communist society." Further, they will not only merge, but may even occupy the central, leading position.¹⁶

Thus, some form of fusion between social and governmental organizations is planned in which the Soviets will occupy a controlling position with two facets—one representative of the administrative aspect of the Soviet governmental machinery and the other indicative of its essential association with the society which it represents. In the new scheme of things which is taking shape as a result of governmental and party decisions, both sides of Soviet activities have gained considerable importance.

Owing to the process of decentralization, the Soviets have obtained a firmer grip on local industries which serve to satisfy local needs. In the areas of its original jurisdiction, interference by the higher echelons of the administrative apparatus seems to have been restricted to cases of clear violations of the rule of law in force.¹⁷ On the village level, the Decree of September 12, 1957, introduced an important reorganization of the village Soviet. By increasing its size and assigning additional personnel, the exercise of some basic functions of government on the local level became possible.¹⁸ Another development, which enhanced the role of the local Soviets, was the assignment of administrative punitive powers to the militia commission of the local Soviet, beginning with the township Soviets within their territorial units.¹⁹

Moreover, a significant change occurred in the style of the work of the local authorities. Until now, decisions of the Soviet, consisting of the elected members, were implemented through the instrumentality of administrative personnel employed by its executive commit-

16 *Kommunist* (No. 11, 1958); cf. Aleksiev, *supra* note 1, at 12-16.

17 Cf. *supra* at 180-81.

18 Zimin, "Novoe polozhenie o selskom sovete deputatov trudiashchykh RSFSR" SGP 3-11 (No. 1, 1958).

19 Mitskievitch, *supra* note 12, at 27.

tee. Now, the emphasis is on the direct action of the various commissions consisting of the elected members of the Soviet. These now practice direct action in cooperation with social organizations or through the so-called activists in various areas of administrative responsibility.

Since 1959, the number of deputies in the Soviet has increased considerably. Thus has been permitted closer and informal cooperation of the Soviets with trade unions, youth organizations, housing and street committees, people's militia, committees for the affairs of minors, etc., which themselves are active in their various areas of social action. These latter also cooperate with the Soviets in order to realize specific programs in the field of public security, education, social welfare projects, the administration of housing, and the liquidation of crime and juvenile delinquency.²⁰

The over-all purpose is to exploit the influence, social ramifications, and manpower which various social institutions have at their disposal. There are at least three patterns of cooperation between social and governmental institutions. Social organizations perform specific services (e.g., rehabilitation of criminals). They are in charge of governmental functions, which are also handled at a different level, by the governmental agencies. Finally, social organizations, particularly those which participate in the economic functions of the socialist system, assume general responsibility for the affairs of a social group, thus bringing the situation very close to the medieval pattern of distributing authority.

SOCIAL ORGANIZATIONS AND GOVERNMENTAL FUNCTIONS

The involvement of social organizations in the administration of justice, resulting from the reforms initiated by the Twenty-first Congress, had its precedent in the early days of the Revolution. Trade unions with special responsibilities in the factories of Russia had established their disciplinary tribunals. These were limited initially to disciplining the workers, but tended to expand their functions until they began to compete with the jurisdiction of the people's courts,

20 *Ibid*

which finally caused their liquidation.²¹ A somewhat longer career was enjoyed by comradely courts which, organized in the army (1917), ultimately spread later to the factories (1919). Their purpose was to maintain the morale of the army and of factory crews in the fulfillment of their duties. In 1928 (August 28) the basic law on the organization of the comradely courts in factories and in governmental and social establishments was enacted. Then in 1930, village courts were set up, and in 1930 and 1931, similar institutions were established in housing organizations.

The purpose of these organizations was to deal with minor offenses originating mainly in private accusations. Their jurisdiction was based on the fact that parties were employed, or lived, in the same village, factory, or in the same house. Such minor problems, arising out of conflicts between neighbors or coworkers, have little general significance. Neither did they constitute a danger to the preservation of peace. Thus, the state could profitably leave them to be handled by quasi-judicial bodies. However, as Soviet society moved toward total monopolization of public authority by the central government, the activities of the comradely courts began to dwindle and in the late thirties were practically halted.²²

An editorial in a Soviet legal periodical found the cause of the disappearance of this form of social participation in governmental activities in the fact that comradely courts lost contact with the social milieu which produced them:

The drawback of the regulations concerning social courts, introduced thirty years ago, was precisely this, that direction of their work was the responsibility not of the Soviets or trade unions, but of the people's courts. This fact transformed comradely courts into a supplementary element in the state judicial system, and limited their contact with the broad social masses.²³

21 Hazard, *Settling Disputes in Soviet Society, The Formative Years of Legal Institutions* 182 (1960).

22 "Obshchestvennye sudy—vazhneishaia rola borby z perezhytkami proshlogo," SGP 4-5 (No. 5, 1959); Savitskii & Keyzerov, "Razvitie pravovykh form organizatsii i dejatel'nosti tovarishcheskikh sudov," SGP 37-46 (No. 4, 1961); Hazard, *Le droit soviétique et le dépérissement de l'État* 4-5 (1960).

23 *Obshchestvennye sudy*, *supra* note 22, at 10; Mitskievitch, *supra* note 12, at 26.

It is useless to speculate whether comradesly courts had a chance to survive Stalin's regime merely by dint of a different affiliation. However, it is also true that the present policy of the regime is to foster the expansion of governmental functions of a general nature within social groups which owe their existence to their functions in the economic units, i.e., collective farms and workers' organizations on the factory level.

Of the two, farming collectives are more important in terms of the human mass involved, as somewhat more than 50 per cent of the Soviet population lives and works in the countryside. By the very nature of things, village communities, closely identified with the economic organization which almost totally absorbs the life of an average member of the collective, represent an ideal social environment for self-government activities. Under Stalin these tendencies suffered from the fact that centralized economic administration gave little independence to the collective's authorities, which voted charters and statutes according to the single model prepared by the ministries and adopted economic plans and deliveries of farm products to the government according to instructions centrally prepared.

On March 5, 1956, the Central Committee of the Party and the Council of Ministers of the USSR passed a resolution to encourage the collectives to depart from the pattern and adapt their charters to local conditions. After the Twenty-first Party Congress, the Supreme Court of the Soviet Union followed this resolution with a ruling (March 26, 1960) which instructed the courts that charters of the collective farms had to be considered as the basic source of law in legal disputes:

[W]hile adjudicating in civil matters pertaining to agricultural collectives, the courts should take into account that members of the collectives make decision as regards the disposal of the products and of the property of the collective, and direct its activities in accordance with the laws of the Soviet authority, decisions of the Party and of the Government . . . and that a collective's charter with its supplements and amendments which were registered by the executive committee of the region represents the basic law for its activities.²⁴

24 Bardin, "Novoe postanovlenie plenuma Verkhovnogo Suda SSSR 'O Sudebnoi praktike po grazhdanskim kolkhoznym delam,'" SGP 12 (No. 6, 1960).

Self-government of agricultural collectives has also been upheld by the Supreme Court in connection with the administration of criminal statutes. Thus, the court quashed the case against three members of a collective, who were charged with a theft of social property, stating:

It is not correct to initiate criminal prosecution of the members of an agricultural collective for offenses connected with the economic activities of the collective, without a prior decision in this respect by the general meeting of the collective. If the injured party is a collective farm, then the problem regarding making good the losses, application of correctional measures to the offenders should be in the first place decided by the general meeting of the members of the collective.²⁵

The Chairman of the Supreme Court of the Union, in an article published in the leading legal periodical, approvingly described the situation in one of the agricultural collectives with a membership of some six thousand. This collective gives no business to the criminal courts. It is admitted that criminal offenses are committed in this exemplary association of Soviet citizens. The chairman of the collective explained this situation by the fact that, owing to the organization of work, not the slightest transgression of the law escapes attention. Transgressions are dealt with on all of the levels of the organization of the collective, in the working brigade, by the party committee, and by the administration, as well as in the general meeting. The results of this method are said to be most satisfactory, particularly in regard to moral rehabilitation of the offenders.²⁶

A somewhat analogous development took place in the industrial sector of the national economy. The decree of the Presidium of the Supreme Soviet of July 15, 1958, gave additional jurisdiction to the factory and local trade union committee regarding participation in the management of industrial enterprise or a working institution, in all those aspects which concern the interests and the rights of the factory crew, enforcement of the labor law, and matters affecting the fulfillment of the economic plan. Expansion of administrative responsibilities was combined with expansion of judicial powers. Thus, the factory and trade union committee deal locally with all matters of discipline, with appeals from the labor disputes boards, and render

25 Gorkin, "O zadatchakh sovetskogo suda v period razvernutoho stroitelstva kommunizma," SGP 17 (No. 3, 1960); cf. Pravda, July 29, 1959.

26 *Ibid.*

decisions on the dismissal of workers. In this particular field their decisions are final, and their powers resemble very much the powers of an umpire. The factory committee may modify the decision to dismiss a worker and impose another disciplinary measure, with a warning to the culprit. It may also order steps designed to instill in the member of the crew a correct attitude toward work and performance of his duties, including social supervision by the members of his working brigade or team, as well as investigation of his personal circumstances.²⁷

As compared with the situation in the agricultural collectives, the operation of group government in the industrial environment of socialist society is narrow in scope, and certainly the urban environment restricts the degree of the factory committee's control over individual workers. However, the expansion of factory housing projects and of welfare services and the amenities of factory life tend to increase the effectiveness of collective control over individual members of the factory crew.

NEW FORMS OF ADMINISTRATIVE JUSTICE

The outline of principles to provide a guide for the reform of criminal codes in the Soviet republics states that

... administration of justice in criminal matters belongs exclusively to the court. Nobody may be declared guilty of committing a crime and be subjected to penalty except by court sentence.

Article 7 of the General Principles of Criminal Legislation was read in the context of the abolition in 1955 of the Special Board in the Ministry of the Interior which exercised vast punitive powers, generally without trial, and which at one time was the most important instrument of criminal repression.²⁸

27 Akhverdian, "Zakreplenie vazhneishykh dostizhenii sovetskogo naroda," SGP 97 (No. 11, 1959): "...in those enterprises, where the factory committee of the trade union under the leadership of the party organization fully exercises the rights which it has under the statute, all basic problems of production, of work and living conditions are decided by the management of the enterprise only in cooperation with the trade union organization."

28 Gsovski & Grzybowski, *Government, Law and Courts in the Soviet Union and Eastern Europe* 578 (1959).

The significance of Article 7 was somewhat weakened by the fact that in a number of Soviet Republics a law against parasites was adopted. It provided that a meeting of neighbors could exile for two to five years of forced labor persons who carry on "a parasitic mode of life . . . as well as those living on unearned income." The only formality required, in addition to the popular vote, was that the decision to impose a sentence was subject to confirmation by the executive of the district soviet. There was no appeal to a court.

However, at that particular moment this method of criminal repression of the enemies of the socialist mode of life was somewhat in doubt. Its adoption was discussed in other republics but was rejected in RSFSR, which somewhat checked its progress. In the absence of the regime's clear position, it seemed that this law would not significantly detract from the judicial monopoly for the administration of criminal statutes.

The situation changed materially after the Twenty-first Party Congress. Khrushchev declared himself in favor of the exercise of governmental functions by social organizations:

Problems of security in our social order, and enforcement of the rules of socialist coexistence should, to an ever increasing degree, become the business of social organizations. . . . Socialist society forms such voluntary agencies of enforcement of the social order as people's militia, comradesly courts, and similar institutions. They will discharge in new manner . . . social functions. . . .

According to Khrushchev, this new approach to law enforcement was dictated by the serious restriction of the powers of the security police.²⁹ The proposal soon became adopted in the RSFSR and in a number of other republics, reflecting a change in the general attitude of the legislatures of the various republics toward the law on parasites.

In the debate which followed, the administration of serious penalties by nonjudicial bodies was declared to be typical for the period of transition to communism. Administrative regulation of certain relationships is being replaced by the institutes of civil law and *kolkhoz* law. Similar changes occur in the field of the administration

of justice, where judicial functions and court action are replaced by administrative forms of criminal responsibility:

In conditions of transferring separate functions of the governmental agencies to social conditions, the tendency in this group of relations is to tie it directly to the expansion of autonomous and creative participation of the broad working masses in the maintenance of social order and of rules of socialist coexistence.³⁰

The inference is that the broad working masses may provide administrative action but cannot be a source of judicial process.

In the past, the functions of the comradely courts were primarily concerned with the internal discipline of the social groups which they served. As a party resolution stated:

Disciplinary courts should . . . raise the discipline of labor and cultural forms of the struggle for the higher productivity of labor not interfering with the functions of the people's courts and governmental functions.³¹

The main duties of the comradely courts were in the re-education of the workers, with a view to advancing the interests of production. Their social significance consisted in the specific purposes of the group, as defined by its economic function. But, in addition, the comradely courts dealt with immoral behavior of the factory crew, rowdiness, indecent behavior, cursing, minor thefts, etc.³²

The resolution of the Executive Committee of the Council of National Economy of the RSFSR of August 27, 1928, added to the jurisdiction of the comradely courts cases of insults and lies.³³ A year later, they were instructed to deal with cases of bodily harm, minor larceny of materials and tools, and civil disputes involving small value.³⁴

Comradely courts were instructed to proceed in an informal and simple manner. However, their duty was always to give an opportunity to the accused party to be heard. Their action included

30 Aleksieiev, *supra* note 1, at 17.

31 Decision of the Central Committee of the Party of January 12, 1922, Savitskii & Keyzerov, *supra* note 22, at 38.

32 *Ibid.*

33 Sob. uzak. No. 114/707 (1928).

34 Sob. uzak. No. 67/62; Savitskii & Keyzerov, *supra* note 22, at 39.

conciliation, arbitration, arrangements for the restitution of damages, as well as simple judicial functions.

Post-Stalin developments have contributed significantly to the expansion of their function, although the technicalities of their action have remained practically unchanged.

At the Twenty-first Party Congress, Khrushchev postulated expansion of their activity outside the immediate social group they serve.³⁵ This was duly reflected in Article 1 of Model Act of the Comradely Courts, stating that their duty consists in

... educating Soviet citizens in the spirit of communist attitude to work, socialist property, observance of the rules of socialist coexistence, promoting with the Soviet people the spirit of collectivism, comradely help, respect for dignity and honor of the citizens.

Their duties were no longer confined to the framework of a social group, but were to extend to everybody within their territorial jurisdiction.

Following the Twenty-first Party Congress decision, No. 3 of the Plenary Session of the Soviet Supreme Court (June 19, 1959) and Order No. 43 of the Procurator General of July 20, 1959, the courts and subordinate prosecutors were instructed to restrict judicial action to cases which called for the action of courts. Minor cases which could be successfully dealt with by social organizations and comradely courts should be transmitted to them for informal disposal without resorting to formal criminal procedures.

Both the Supreme Court and the Procurator General resorted to an unusual legal argumentation. They referred to Article 7, part 2, of the Principles of Criminal Legislation enacted in December 1958. Article 7, part 1, contains the definition of the crime. Part 2 of Article 7 states that:

An act of commission or omission shall not be deemed a crime; if although formally containing the elements of an act specified by the criminal statute, it nevertheless does not represent social danger, because of its insignificance.³⁶

35 Khrushchev, *O kontrolnikh tsyfrakh razvitiya narodnogo khoziaistva SSSR na 1959-1965 gody* 122 (1959).

36 *Sots. zak.* 13-19 (No. 9, 1959).

The jurisdiction of the comradely courts was regulated in detail by the Model Act of the Comradely Courts, which was to serve as the basis for the adoption by the individual republics. The Model Act appeared in *Izvestia* on October 23, 1959.

Comradely courts are competent to deal with minor civil cases, breaches of the discipline of labor or factory rules, misuse of materials, tools, instruments, or means of transport which are social or government property, failure to provide proper education for children, refusal to accept respectable employment and carrying on of a parasitic mode of life, small thefts, minor assault, violation of the government monopoly of trade, speculation, breaches of peace, violation of rules in living quarters, and in all those matters which are transmitted by the prosecution or courts. Comradely courts may apply various forms of censure, impose fines, put an offender on probation, obligate his immediate collective to exercise supervision during a certain period, and impose on him the obligation to make up the damages caused by his action.

The primary purpose of the comradely courts is to relieve courts of general jurisdiction from dealing with minor criminal and civil cases. As an editorial in a Soviet periodical revealed, people's courts dispose yearly of more than four million civil cases, quite frequently of great simplicity and concerning small value.³⁷

Moreover, their purpose is to combine the protection of social interests with preventive action. The law states:

The main task of the comradely courts is to prevent violations of the law and all actions which harm society, education of the people by means of crime prevention and social influence, creation of an atmosphere of intolerance for anti-social behavior of any kind. Comradely courts are clad in the confidence of the collective and express its will.

The broad aims of the quasi-judicial action of the comradely courts are made realistic by the fact that their action is supported by the general mobilization of social organizations in the enforcement of the rules of life in socialist society. Simultaneously with the Model Act of the Comradely Courts, two additional model acts, one dealing with raising the Role of Social Organizations in the Struggle

37 SGP 4-5 (No. 2, 1959).

with the Violations of Soviet Laws and Rules of Soviet Society, and the other on the creation of committees for the Affairs of the Juveniles (*Izvestia*, October 23 and 24, 1959), were published. The comradesly courts thus became a center of a vast mechanism which is to deal with antisocial manifestations in Soviet life, beginning with the affairs of children without proper care, and affecting the behavior of Soviet citizens in public places and at work, their general attitude toward one another, family relations, manners in public places, and even at home.

The leading idea in this scheme of things is that not all violations of codes of social behavior need to be dealt with through judicial channels.⁸⁸

The action of the social courts and social organizations is strengthened by the formation of the so-called people's detachments, which strengthen police action and work on a part-time basis to provide security and safety in public places. They participate as a supporting arm for the regular police in the investigation of crimes and intervene on the spot in all situations which would threaten disturbance of the peace. Their obvious advantage is the presence of members of the detachments everywhere—in streets, houses, dwellings, at work, and in recreational institutions—in numbers greatly exceeding manpower possibilities of the regular police.⁸⁹

Article 38 of the Principles of Criminal Legislation gave social organizations the right to intervene in a criminal case, thereby assuming direct responsibility for the rehabilitation of the offender:

Taking into consideration the circumstances of the case, the character of the guilty person, as well as the petition for suspension of sentence presented by a social organization, or a collective farm, where the guilty person is employed, the court may impose upon these organizations the duty of re-educating and reforming the person whose sentence is suspended.

38 Utevskii, "Voprosy ugolovnogo prava v projekte zakona," SGP 116-19 (No. 1, 1960). The leading principle in this connection is that judicial punishment is necessary only for those who cannot be reformed by means of social influence.

39 "Nekotorye voprosy sudoustroistva," SGP 72-83 (No. 7, 1959); Barsukov, "Ob uchastii trudiashchikhisia v okhranie obshchestvennogo poriadka," SGP 51-55 (No. 8, 1959).

The close collaboration of the courts with the various forms of crime prevention is further assured by the institution of the social prosecutors and social counsels who, by court order, may be called upon to participate for the defense (Article 41 of the Principles of Criminal Procedure).

The purpose of these provisions was to further the idea that only some forms of actions and some types of duties may be discharged satisfactorily by the institutions of the state. The functions of rehabilitation and re-education are thought to be the proper province of social organizations. Some of the drafts of the criminal codes for the individual republics have rules that convicts with suspended sentences will be placed in the charge of local and village Soviets, which report to the courts on the rehabilitation and re-educational procedures in each individual case. Some of the other drafts have demonstrated rather poor understanding of the new approach. Although it was clear that a suspended sentence precluded execution and that educational and supervisory methods did not constitute a penalty, it was specified that in such cases procedures provided for in the legislation on correctional labor should apply. Correctional labor is conceived as a form of penalty which consists in performing labor at a selected place of work, without deprivation of freedom and at reduced wages (Article 21 and 25 of the Principles of Criminal Legislation).⁴⁰

The new order of things, which in this respect differs little from the practices of the Stalinist period, aims at exploiting the administration of criminal justice for the education of the populace at large.

40 Durmanov, "Ugolovnoe zakonodatelstvo Soiuzs SSR i ugolovnoe zakonodatelstvo soiuznykh respublik," SGP 87-95 (No. 7, 1959).

Direct participation of social organizations in the administration of justice has a long tradition in the Soviet administration of justice. Basic principles of criminal procedure of 1924 provided that "deprivation of freedom as a preventive measure may be replaced by the guarantee of the professional, and other workers, peasant, and social organizations" (art. 10). Similarly, art. 142 of the Code of Criminal Procedure of the USSR ruled that in addition to the individual guarantee that the suspect will not evade justice, such a guarantee may be given by social organizations of which the suspect is a member. However, codes of the Union republics have not included this provision. Baginskii, "Institut obshchestvennogo poruchitelstva kak miera preduprezhdenia pravonarushenii i perevospitania pravonarushitelei," SGP 71 (No. 10, 1959).

Thus, great attention is being paid to the idea that some trials should be held in the factories or collective farms which made up the scene of the crime or involved their members.⁴¹

Another idea was that a social group or a locality which was involved in some manner in the commission of the crime should, preliminary to the hearing and the trial of the case itself, be the scene of the public investigation of the crime. The proposal was to effect this desire at a public meeting in the presence of all those possessing some knowledge of the circumstances of the case or at least of the actors of the judicial drama. The only objection to this treatment of the procedural aspects of criminal proceedings was that it could hardly satisfy the need for the secrecy of the pretrial investigation.⁴²

These various schemes and proposals demonstrate the new concept of the judicial process, which differs in form from direct social action only in the feeling of a need for a higher expertise in the practical handling of the case. The chief element of formal justice—the absence of the influence of the local environment on the minds of the judges—has been eliminated and replaced by the idea of collective responsibility for the behavior of the individual. This is to become the cornerstone of the social order in which the coercive role of the state and of public authority is to play an ever diminishing role.

SOCIAL ACTION AND LAW ENFORCEMENT

There is a good deal of confusion in the minds of Soviet jurists concerning the question of to what extent social organizations called upon to perform governmental functions are to be bound by the rule of law. It is certain that their action will be different as to form, but at the same time members of the legal profession point out that all governmental functions must conform with the principles of the Constitution and of the Soviet statutes.⁴³ The same impression is gained from the provisions of the law on the Increasing the Role of Society in the Protection of Social Order. Its basic idea is to make the entire

41 *Sovetskaia obshchestvennost, reshaiushchaia sila v borbe za ukreplenie sotsialisticheskogo pravoporiadka*, SGP 20 (No. 10, 1959).

42 Mitrichev, "Privlechenie obshchestvennosti k rassledovaniu prestuplenii," *Sots. zak.* 84 (No. 10, 1960).

43 Mitskievitch, *supra* note 12, at 32.

society responsible for the maintenance of law and order. It postulates that each Soviet citizen shall not only follow the rules of law, but shall act as a law enforcement officer and demand that others conform to the rules of socialist legal order (Article 1).

Moreover, the Resolution of the Twenty-first Congress of the Party indicated that some form of lawmaking will still be preserved, even after the higher form of social organization is reached. The change will affect the form of legal rule, but not its content.⁴⁴

Characteristically enough, if there is apprehension as to the competence of social organizations to deal with the legal problems of modern life, there is a good deal of evidence that, on the whole, social organizations are inclined to adopt at least formal aspects of governmental action. They are sternly warned, however, that this is not what is needed. Informality and direct action should be guiding principles in their operations.

Nevertheless, the quest for informality does not dispense with a need for some expertise in the field of law. The very fact that social organizations have been given a role in the preservation of law and order and in the administration of justice calls for some familiarity with its rules and with certain refined legal techniques. Only then may the distinction be made between those cases which are fit for social treatment and those which still need to be handled with reference to the strict rules of the Codes. A high government official (Procurator General of Kazakhstan) was greatly concerned with the level of legal education of those members of Soviet officialdom who were responsible for the application of Soviet statutes. Many violations of the rights of citizens could be traced to the lack of legal education, and this problem becomes even more acute as social organizations are called to discharge public functions:

Now that participation of society in the strengthening of socialist legality and protection of citizens' rights expands, popularization of Soviet laws among the population has an even greater significance in order to prevent the violation of social order.⁴⁵

A great obstacle in the preparation of the vast social strata for proper functioning in their new role is also a generally low level of

⁴⁴ Cf. *supra* at 245; Aleksieiev, *supra* note 1.

⁴⁵ Nabatov, "Strogo okhraniat prava grazhdan," *Sots. zak.* (No. 2, 1960).

studies and scholarly research in certain areas, which must involve broad ranks of the public if the new order is to function as designed. This is especially true in regard to the study of some basic concepts of criminal law:

Can it be said that the study of criminology and of the causes of crimes is properly organized in our country? Unfortunately this work is still of departmental nature. The public, including the scientific community, has not been drawn into this work. True, of late the study of criminology has received some treatment in the general and specialized legal literature. Scientific and practical conferences devoted to the study of crime and its causes have been held in Moscow. . . . But these conferences were of an episodic nature and did not result in programs of systematic studies with the participation of the public . . . for the purpose of eradicating crime in our country. Because of this, highly primitive methods of criminological studies and of the causes of crimes are locally employed. . . . The tasks consist in . . . popularizing the experience in this matter, in working out a method of instruction . . . and in making available to the offices of the procuratura, of the militia, to the courts, and also to the social organizations, information as regards fundamental and at the same time totally effective methods of crime detection and prevention.⁴⁶

It is easy to see that, without proper guidance and instruction in methods of justice, the comradesly courts would reach that degree of simplicity and informality which characterized the courts of revolutionary Russia during the chaotic years of the Civil War.

In the beginning of 1960, the Law Institute of Sverdlovsk, with the approval of the Party authorities, decided to establish a university of legal knowledge to provide a basic legal education to all those needing some familiarity with the Soviet legal system. It will consist of three faculties. A faculty of Soviet work is intended for economic and trade union officers, executive officers of Soviet institutions,

. . . activists of the Party, of the Communist Youth Organizations and of the local Soviets. Another faculty will give instruction in all those subjects useful to the commanders of voluntary people's detachments, and a third will cover all aspects required by the chairmen of the people's courts.⁴⁷

46 Gertsenson, "Ob izuchenii i preduprezhdenii prestupnosti," SGP 85 (No. 7, 1960).

47 Semenov i Yakushev, *Sov. iust.* 14-17 (No. 4, 1960).

Some consolation is offered by those who insist that the transition to higher forms of social organizations will also simplify the forms of social action.

According to this pattern, labor relations, affairs of the agricultural collective, and business relations are governed by the general institutions of the proper branches of law, labor, *kolkhoz*, and civil. Individual life is increasingly coming under the rule of administrative law and of administrative action.⁴⁸

Irrespective of the problem of the dialectics of transition to higher forms of social organization, it seems that the prediction that greater opportunities for social action in the maintenance of public order will emphasize administrative rather than judicial action is well founded. As an arm of formal justice, social organizations represent an inferior and ill-equipped instrument. As instruments for social regimentation, they are far superior to any other form of social action, and the enforcement of individual rights and adjudication of disputes will have to take second place.

Quite a different tendency may be observed in business relations. Here it has been realized that higher forms of economic organizations call for individual initiative and transactional forms of economic cooperation.

Thus, each economic institution, which is at the same time a basis for the coordination of human participation in economic processes, represents a complex of relations run according to conflicting principles. Internal relations of the factory crews and of farming communities in the agricultural collectives are handled according to the flexible rules of administrative action. In the socialist business world, rights and duties are gaining expression, and their social role, a wider recognition.

Max Weber observed, in connection with the social function of formal justice, that:

[T]he bourgeois strata have generally tended to be intensely interested in rational procedural systems and therefore in a systematized and unambiguously formal and purposefully constructed substantive law which eliminates both obsolete traditions and arbitrariness and in which rights can have their source exclusively in general objective norms.⁴⁹

48 Aleksieiev, *supra* note 1.

49 Weber, *On Law in Economy and Society* 229 (1954).

It seems that the general tendency of the Soviet legal order is to shift the rule of law almost exclusively into the service of its economic operations.

PROPERTY REGIME AND SOCIAL CONTROL

The central aim of the social reforms launched by the Twenty-first Party Congress is a higher degree of equality for all members of the Soviet polity. This is to be achieved through the reform of property relations:

The building of communism, transforming of all aspects of social and personal life on a higher social basis, also introduces substantial changes in the problem of personal property. The establishment of communism is the objective basis for the intensification of tendencies toward complete equality on the basis of creation of an abundance of material and spiritual wealth.

Socialism, Soviet scholars claim, achieved the first condition of human equality by monopolizing in the hands of the State the ownership of the means of production (socialist property). It left a good deal of inequality in the category of consumer goods (personal property). This was due primarily to the fact that the state of the national economy was such that equal satisfaction of everybody's needs was impossible. Communism, it is argued, will remove that last aspect of inequality by increasing the ability of social institutions to meet individual needs beyond bare existence. The increasing ability of social production to satisfy the needs of society is eventually to result in a fundamental revision of the concept of property.

In order to achieve this new dimension of equality, a new attitude and a new legal basis must be created regarding the use of the so-called durable consumer goods. Under socialism, those who earned higher incomes, owing to their contribution to social life, were able to acquire legally a greater share of durable consumer goods, private homes, cars, pleasure boats, etc. than the rest of society. This attitude and legal form, as expressed in personal ownership, was correct as long as these articles were in short supply. Now that their production is assuming mass proportions, personal ownership is no longer a correct solution. The ideal solution would be to establish a situation where the use of certain consumer goods would be made

available to the public without turning them into the personal property of individuals.⁵⁰

The first hint of the new approach in this matter came from Khrushchev at the Twenty-first Party Congress:

Satisfaction of individual needs of each citizen must take place in the measure of the growth of the material and cultural welfare of the society. It should take place not only in the form of raising wages, but also through the so-called funds, the role and function of which will constantly increase.

As an illustration of what he meant in this connection, Khrushchev referred to the expanding production of automobiles in the Soviet Union, which will serve society not according to the American pattern but will be used to establish taxi pools. Rather than own individual cars, people will rent them as they need them.⁵¹

In June of 1960, *Pravda* began to publish letters from its readers concerning abuses in connection with the distribution of plots from the so-called collective gardens, which were established on government lands allotted to individual factories for the use of their members. It appears that these collective gardens, divided into small plots, were then used by the individual workers to build small *dachas*. Furthermore, vegetables grown in these small plots were disposed of at a handsome profit, thus causing a good deal of jealousy and anguish among those who were unable to secure such plots. It also appears that these gardens were given to those who occupied higher positions in the factory's hierarchy, and generally to those who were able to use some influence. This again caused indignation among the lower ranks of Soviet society. In this manner, members of the Party and those holding executive positions in the factories were accused of succumbing too easily to the lures of capitalism. Moreover, it was reported that in some localities (in Sverdlovsk) a real black market in the garden plots developed.⁵²

50 Stepanyan, "Kommunizm i sobstvennost," *Oktiabr* (No. 9, 1960).

51 Khrushchev, *supra* note 35, at 53.

52 *Pravda*, June 16, July 3, August 31, 1960; the Decree of the Presidium of the Supreme Soviet of the Tadzhik Republic of August 21, 1960, declared punishable all concealed transfer of land allotted for construction of private housing, unauthorized construction of houses, and illegal ac-

The sale of vegetables from private gardens was not the only form of obtaining a profit from objects which were primarily designed to serve the person of the owners. Owners of automobiles were paid for hiring them to others, or for renting their houses, *dachas*, and garages. Thus, they were turned into the private property of the means of production and a source of unearned income.⁵³

In consequence, a further restriction on the scope of objects capable of personal ownership became imperative. As a first step toward communism, it would be necessary to liquidate all those situations which represented a differentiation as to source of income in the Soviet society:

The complete liquidation of private property and its anti-socialist tendencies is a task of the first stage of communism. . . . The existing garden plots and *dachas* personally owned by workers, employees, scientists and writers must be voluntarily placed under a cooperative system. The cooperative system, as one of socialist property, strengthens the socialist nature of personal property and makes it possible through the common efforts . . . to stop abuses. . . .⁵⁴

The proposed reform of property relations will also affect the forms of legal relations. Legal commerce concerned with private life will shift from the contract of sale to contracts of lease, rent, and hire between individuals and social institutions controlling and administering social funds. Such will "promote the development of new relations and will lead to the liquidation of all proprietary concepts of 'mine' and 'yours,' to be replaced by a truly communist concept that all this is 'ours.'" ⁵⁵

THE CROSSCURRENTS

At present the growth of Soviet law and its institutions is influenced by two conflicting tendencies. In the first place, one may clearly discern a tendency toward expansion of the rule of law. After long years, the Soviet leadership has finally realized that continuation of administrative regulation of economic activity represents serious

quisition of building materials. *Kommunist Tadzhikistana*, Aug. 21, 1961.

⁵³ Stepanyan, note 50.

⁵⁴ *Ibid.*; XXI sjczd KPSS, *supra* note 4, at 7.

⁵⁵ *Ibid.*

drawbacks and adversely affects economic progress. While the state may intervene locally and adjust the flow of capital, while it may plan investment according to social needs, the end result in terms of the national product depends equally upon the individual initiative of those who manage production, distribute, and serve. As a result, a legal system combining administrative action with transactional forms of economic cooperation has been developed.

This tendency favors codification as the method of social ordering. Business activity calls for the presence of general rules of law to which partners in legal commerce could readily refer without involving official action, except in the form of expert solution of their disputes by the courts.

In contrast, methods of social ordering affecting individual life reveal a different tendency. Here, the function of the abstract legal precept and of the general rule of law is on the decline. It is replaced by social discipline, by collective action, and by the intervention of public authority. And these latter are deeply and intimately concerned with all aspects of individual existence.

Extensive reforms feature deeper involvement of social organizations and individual representatives of society in the affairs of government. The human being is submerged in the social mass and appears only as a carrier of higher authority, as a representative of the people, as a social activist and social organizer. Social pressure and mass control become important instruments of social and even legal reforms.⁵⁶

The characteristic feature of social and governmental reforms is the transfer of vast judicial powers to social organizations which dispose of private litigations and minor conflicts in a nonjudicial manner. Legal development stresses social harmony—composition rather than litigation.

To seek an analogy with these developments of the Soviet legal order, one must leave the world of the Western European tradition.

56 "The complete liquidation of private property and its antisocial tendencies is a task of the first stage of communism. By force of the law, which expressed the will of a united and monolithic Soviet people, it is necessary to close all the loopholes through which private owners crawl. . . . Obviously, this will be done not through a legislative action, but by the pressure of public opinion, by mass action." Stepanyan, *supra* note 50.

As one of the keen observers of the rule of law in Chinese civilization stated:

The peoples of Western civilization have all lived under the Graeco-Roman conception of law. In the West the law has always been revered as something more or less sacrosanct, the queen of gods and men, imposing itself on everyone like a categorical imperative, defining and regulating, in an abstract way, the effects and conditions of all forms of social activity. In the West there have been tribunals, the role of which has not only been to apply the law, but often to interpret it in the light of debates where all contradictory interests are represented and defended. . . . But as one passes to the East, this picture fades away. At the other end of Asia, China has felt able to give to law and jurisprudence but an inferior place in that powerful body of spiritual and moral values which she created and for so long diffused over so many neighboring cultures. . . .⁵⁷

In this conception there is no place for law in the Latin sense of the term. Not even rights of individuals are guaranteed by law. There are only duties and mutual compromises governed by the ideas of order, responsibility, hierarchy, and harmony. . . . The supreme idea of the Chun-tzu is to demonstrate in all circumstances a just measure, a ritual of moderation; as is shown in the Chinese taste for arbitration and reciprocal concessions. To take advantage of one's position, to invoke one's rights, has always been looked at askance in China.⁵⁸

It is a moot question whether modern tendencies in the development of the Soviet legal order are due to the national characteristics of the peoples of Russia, the absence of a legal tradition in the Russian culture, or to its transitional character as a bridge between the East and the West. Nor is it important to establish the relationship between Soviet policies and the political doctrines of Marxism.⁵⁹ Social and legal reforms which followed the demise of Stalin were a response to the needs of the Soviet economy. Further progress was

57 Escarra, *Le droit chinois* 3 (1936).

58 *Id.* at 17; "Lao Tzu advocated a government of men who might possess all powers but would not use them. This idea of government of men was fully developed by Confucius. . . ." Tseng Yu-Hao, *Modern Chinese Legal and Political Philosophy* 8-9 (1930); cf. van der Valk, *An Outline of Modern Chinese Family Law* 10, 12 (1939); 1 Wigmore, *Panorama of the World's Legal Systems*, ch. 4 (1928); Hu Shi, *The Development of the Logical Method in Ancient China* (1922); Wu, *The Art of Law* (1936).

59 Cf. Guins, *Soviet Law and Soviet Society* 382 (1954).

predicated by greater opportunity for business initiative and a further strengthening of the discipline of labor.

There is no doubt that Soviet leadership was convinced that Soviet workers would be capable of greater effort if social discipline would also involve the Soviet citizens' life outside the boundaries of the institution in which he works. Constant concern with the disorganizing effect of industrial economy and the urban conditions of life suggests that they are considered a serious obstacle in economic progress. The model law on Raising the Role of Society in the Struggle with the Violations of Soviet Legality and Rules of Socialist Coexistence points out that:

Soviet citizens devotedly work on all sectors of communist construction, honorably discharge their social duties, abide by Soviet statutes and respect the rules of socialist coexistence. At the same time there are still among us people who live an undignified life, commit crimes and other antisocial offenses. By their doings they make it impossible for Soviet people to live quietly and to work, and they harm society.⁶⁰

A proper style of life corresponding to the dignity of the Soviet man—stressing the duty to work—will result in great economies both in terms of costs of maintaining social discipline and order and greater discipline of labor.

The need for greater social discipline in modern mass society is not less keenly felt in open societies. The Western response was a system of rules and social organizations which emphasized the accommodation of conflicting situations, individual rights, collective action, administrative intervention of public authority, and economic initiative within a framework of abstract legal institutions and judicial controls. The polycentric social mechanism of the Western type provided room for individual existence. A process of delegation of power in the Soviet social order brought an even tighter control of individual life. In the Soviet system, it is exposed to several tyrannies, which are petty and local but nonetheless erosive to human dignity.