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POPULAR PARTICIPATION IN THE ADMINISTRATION OF JUSTICE IN THE SOVIET UNION: COMRADES’ COURTS AND THE BREZHNEV REGIME

GORDON SMITH†

Marx, Engels and Lenin propounded the theory of a classless, stateless society toward whose realization the Soviet state is an initial step. Fundamental to their theory is the doctrine that all history is the history of class struggle. They argued that class differences result from ownership of the means of production. Inequity of ownership of the means of production creates class antagonisms from which a new ruling class emerges and changes the nature of the society.

Bourgeois law is a system of social relations which corresponds to the interests of the ruling class, and the state is the instrument by which the ruling class protects these interests and maintains itself in power. The emphasis of Soviet legal theorists on bourgeois law indicates that all law is class law, and feudal, bourgeois and socialist law each exists in opposition to one another like the classes themselves.

The revolutionary tautology is complete: law is a function of the state, the state is a function of the ruling class, and the ruling class is a function of the ownership of the means of production. With the socialization of the means of production, classes are eliminated and the state and law will "wither away." Socialization of the means of production also eliminates the social and economic bases for crime. Theft, aggravated assault, murder and embezzlement are symptoms of capitalist society. The few infractions of public morality which would arise in socialist society would be handled informally. The end-product of this utopian evolution is the emergence of socialist public self-government.

† M.A., Indiana University
1. Friedrich Engels stated, "your jurisprudence is only the will of your class made into the law for all." K. MARX & F. ENGELS, THE COMMUNIST MANIFESTO 27 (1955).
3. This utopian concept of the "withering away" of law was not an empty wish or ideology. On December 5, 1917, less than one month after the Bolshevik Revolution, the Council of People's Commissars issued a decree abolishing all circuit courts, legal chambers, the Constituent Assembly and all its departments, courts-martial and commercial courts, as well as the institutions of investigator, procuratorial supervision, and counsel for the defense. The functions of justice of the peace were assumed by the local courts whose officers were elected by direct vote. Pravda, Dec. 7, 1918, at 1.
4. Lenin wrote:
   We set ourselves the ultimate aim of destroying the state. . . . We do
According to communist doctrine, the masses are to be educated to the point that the collective sense of right or wrong (i.e., communist morality) becomes so ingrained that social pressure replaces law as the social control mechanism. Whether compulsion by means of public opinion is any less coercive or class biased than the rule of law is, of course, a matter of great contention. Nevertheless, Lenin recognized the crucial need to educate the masses in participation and supervision of legality.\(^6\)

The total elimination of the vestiges of bourgeois society and the educating of the masses require a considerable period of time which Lenin called the “transitional stage” from capitalism to communism. During this period, power is concentrated in a revolutionary party which consolidates that power before transferring it to the people and withering away. According to P.I. Stuchka, People’s Commissar for Justice and Chairman of the R.S.F.S.R. Supreme Court, Soviet law is the law of this transitional period.\(^6\) Under Soviet law the very concept of law is socialized. Law protects the social order, rather than the individual. Under Soviet law the polarity of right and duty withers away; the collective good and the individual good are synonymous.\(^7\)

In this transitional stage, Soviet law includes comprehensive criminal statutes.\(^8\) In addition, however, Soviet law imposes sanctions that are not classified criminal punishment (ugolovnoe nakazanie) for offenses (narusheniia, prostupki) that are not called crimes (preступления).\(^9\) A principal institution for mobilizing popular participation in

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\(^5\) V. LENIN, Gosudarstvo i Revolutsia (State and Revolution) 68 (1932).
\(^6\) Stuchka, supra note 2, at 516.

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Given the goal of eliminating all formal law, a narrow meaning must be imputed to the Criminal Code which states:

Criminal punishment shall be applied only by judgment of a court . . . [and] only a person guilty of committing . . . a socially dangerous act provided for by law [zakon] shall be subject to criminal responsibility and punishment.


Imposition of these noncriminal sanctions is authorized by enactments of the Supreme Soviet of the U.S.S.R. (or one of its constituent republics), by decree (ukaž) of the Presidium of the Supreme Soviet, by executive decree of the Council.
imposing these noncriminal sanctions upon offenders is the comrades’ court—a nonprofessional, three-member tribunal, popularly elected to rule on minor disputes arising between persons within factories, housing units and other institutions. This article will examine the development of the comrades’ courts and other means of noncriminal sanctioning under Soviet law with particular emphasis on the status of these institutions in the Brezhnev administration. In the process, one can trace the larger trends shaping Soviet law and jurisprudence.

**Comrades’ Courts Historical Development**

During the fifty-four years of their existence in the Soviet Union, the comrades’ courts have been subjected to three countervailing legal ideologies. The first, the utopian trend, stresses the need for building communism and the hope that courts of law together with the state will eventually be abolished and disputes will be settled informally. Second, the dictatorial trend emphasizes rule based on force and unrestrained by law, and the third trend, the bureaucratic, stresses the idea that law must be clear and universally obeyed and enforced.

The comrades’ courts developed within the utopian view which predominated immediately after the revolution. Sources disagree as to the origin of the comrades’ courts. Western writers trace the courts to a decree by Leon Trotsky in 1917 which established tribunals within units of the Red Army to strengthen military discipline. Soviet sources prefer to attribute the creation of the courts to a decree of the Council of People’s Commissars of the R.S.F.S.R. signed by Lenin on November 14, 1919. The decree established in each trade union tribunals of three members representing management, the trade union and the collective. Although not clearly delineated by the decree, the jurisdiction of the courts was limited to work-related infractions and general behavior on the job. The sanctions employed by the courts included public apology by the offender, warning (tovarishchekoe predupreshdenie), public censure, of Ministers or a republican council of ministers, or by decree of a single all-union ministry.

11. Id. at 90.
reprimand, deprivation of active and passive election rights up to six months, reduction of position up to one month and compulsory labor.\textsuperscript{10} In cases of noncompliance or repeated violations, the courts were empowered to dismiss the offender from his job and transfer him to a concentration camp.\textsuperscript{17} The right of appeal to the provincial comrades' courts was granted to all parties involved.\textsuperscript{18}

Subsequent decrees expanded the jurisdiction of the comrades' courts to include theft and property damage to 50 rubles, criminal behavior at work and generally antisocial behavior subsumed under the phrase "negative sides of life."\textsuperscript{19} In addition, the right of appeal was eliminated except for general supervision of the activities of the comrades' courts by the people's courts. Moreover, comrades' courts were established in housing projects and villages with the additional power of eviction.\textsuperscript{20} They also were established in all factories and enterprises, thereby severing their connection to trade unions.\textsuperscript{21} The expansion of the courts' jurisdiction in areas of antisocial behavior is indicative of the influence of the utopian trend. In fact, the Soviet press carried repeated pleas by jurists for more informality in legal procedures.\textsuperscript{22}

A radical shift in emphasis was introduced in a report by Stalin before the 16th Congress of the All-Union Communist Party in 1930. Stalin had consistently advocated the strengthening of state power. He attempted to reconcile the apparent contradiction between this concept and the withering away of the state by stating:

We stand for the strengthening of the dictatorship of the proletariat, which represents the mightiest and most powerful authority of all forms of state that have ever existed. The highest development of the state power for the withering away of the state power,—this is the Marxian formula. Is this 'con-

\textsuperscript{16} Id.
\textsuperscript{17} Id.
\textsuperscript{18} Id.
\textsuperscript{20} Decision of Council of People's Commissars, On Disciplinary Comrades' Courts in Apartment Housing Offices, June 30, 1931.
\textsuperscript{22} \textit{See}, e.g., Krylenko, \textit{Pora (It's Time)}, REVOLIUTSHIA PRAVA No. 4 (1927), in Z. ZILE, \textit{IDEAS AND FORCES IN SOVIET LEGAL HISTORY} 211-13 (1967) [hereinafter cited as ZILE]. \textit{See also} Stuchka, \textit{supra} note 2. at 447.
Yes, it is 'contradictory.' But this contradiction springs from life itself and reflects completely the Marxian dialectic.\textsuperscript{23}

In Stalin's wake, the comrades' courts all but vanished during the period 1931-1959. Various reasons have been advanced by Soviet authors to explain the decline of the courts: the absence of a single statute for all the comrades' courts, the unclear and conflicting supervisory responsibilities of state administrative agencies, the ambiguity in their relationship to the judiciary, their professional incompetence and the centralization of law enforcement in all-union hands.\textsuperscript{24}

These were indeed operational problems of the comrades' courts during the early period. However, the main reason for the decline of the comrades' courts was the change in the political climate during the thirties. In 1928 Stalin began his campaign of forced industrialization and collectivization of agriculture under the first five-year plan. These programs, existing amid an increasingly threatening international atmosphere, required strict and uniform laws. In 1932 the death penalty was introduced for theft of state property.\textsuperscript{25} A decree of the Presidium of the Supreme Soviet in 1940 made shirking work without valid reasons punishable by corrective labor up to six months and loss of up to 25 percent of one's wages.\textsuperscript{26}

The utopian notion of public participation in the administration of justice was sternly rejected. Vyshinskii, in a speech before the Ukrainian prosecutors in 1936, stated that "the old twaddle about the mobilization of social active workers ... all that must be put aside, something new is needed at the present time."\textsuperscript{27} The role of the masses in state admini-
istration was reduced and repression in the form of state coercion became the principal sanction, thus completely overshadowing the use of public influence.

Change was imminent after Stalin’s death in 1953. Stalin left a vast, headless security police and administrative apparatus that was powerful enough to constitute a potential threat to the Party. Decisive action was needed. Lavrenty P. Beria was arrested, and the Special Board of the Ministry of Internal Affairs was abolished.28 The Procuracy, which had suffered under Stalin’s regime, was strengthened. After 1956 all criminal cases, including political crimes, had to be prosecuted in the people’s courts with regular judicial procedure, and the security police could not make an arrest without the authorization of a judge or procurator.29

Soviet jurists began openly attacking the coercive use of law to bolster state power and urged changes in Soviet criminal and civil legislation. An editorial in the Party’s theoretical journal Kommunist attacked the traditional Soviet interpretation of legality, and stressed the need for a concept of legality designed to protect the rights and interests of citizens.30 A study published in 1958 by the U.S.S.R. Academy of Sciences argued that citizens’ rights are even binding on state authorities. It concluded:

That the organs of state power be bound by law is an indispensable condition for the existence of legality and the subjective rights of citizens in relations with state authorities. For an organ of state power to be bound by law means that it must fully observe the requirements contained in legal standards and unswervingly fulfill all obligations imposed on it by the law in the citizens’ interests.31

Other Soviet jurists argued that cases involving citizens’ personal and property rights should be examined by the courts, rather than by superiors or institutions.32 They further demanded state officials bear material and criminal responsibility for such violations. Unlike either


30. Ukreplenie sotsialisticheskoi zakonnosti i iuridicheskoi nauka (Strengthening Socialist Legality and Jurisprudence), Kommunist No. 11, at 20 (1956).


the utopian or dictatorial concepts of law, these changes began to resemble the western concept of "rule of law," although this bureaucratic trend in Soviet law existed with and was often overshadowed by a resurgence of legal utopianism until 1964.

Party Secretary Nikita Khrushchev signaled the revival of the comrades' courts in 1959 before the 21st Party Congress. He stated:

The time has come when more attention should be paid to the comrades' courts, which should seek chiefly to prevent assorted kinds of law violations. They should hear not only cases concerning behavior on the job, but also cases of everyday deportment and morality, cases of improper conduct by members of the group.3

The U.S.S.R. Supreme Court and Procurator General subsequently transferred appropriate cases to the comrades' courts for disposition.4 Also, the Legislative Proposals Committee of the Supreme Soviet published a Model Statute in 1959 which served as the pattern for legislation adopted in all the constituent republics. The jurisdiction of the comrades' courts, which was clearly detailed in the Model Statute, included disposition of minor criminal cases which, in the court's opinion, could be successfully handled informally by social organizations.5

The renewed interest in the comrades' courts after 1959 was indicative of a resurgence of the utopian trend in Soviet law. An article in Sovetskoe gosudarstvo i pravo argued against the dictatorial view:

Communism is a society that will have neither state nor law, but compulsion is not something that must necessarily be a function of the state, nor must normative regulation be a matter of law. . . . In a communist society there will be no law, as there will be no state and state compulsion. The difference between legal measures and the measures to be applied to persons violating the norms of social behavior under communism consists in the fact that they will rest not upon state compulsion but solely upon public opinion, the strength of the group, social influence.6

34. Order No. 3 of a Plenary Session of the Soviet Supreme Court, June 19, 1959; Order No. 43 of the Procurator General, July 20, 1959.
35. Most significant was the statute approved by the Presidium of the R.S.F.S.R. Supreme Soviet on July 3, 1961, R.S.F.S.R. 1961 UgoL. Kod. (Criminal Code) art. 51.
36. Ioffe and Shargorodskii, Osnachenii obshchikh opredelenii v isledovaniy voprosov prava i sotsialisticheskoj zakonnosti (The Significance of General Definitions in
The traditional utopian themes of withering away of the state and law and the need for informality and popular participation in the administration of justice were echoed in the press and statements of Party officials.

However, a more politically salient reason for the decentralization of state power was alluded to in a Pravda editorial that referred to the necessity of restricting the power of the security police. With Stalin dead, the Ministry of Internal Affairs was the most important representative of the dictatorial attitude toward law and potentially the most threatening institution to the Party.

Model Statute of 1959

The Model Statute of 1959 established comrades’ courts at enterprises, institutions, organizations, higher and specialized secondary schools, collective farms, apartment buildings and rural villages and settlements. Comrades’ courts could be set up in collectives of at least 50 persons. Under these statutes, there is no legal prerequisite for the members of the courts, who are popularly elected for a one-year term.

The comrades’ courts have a dual function: (1) to educate the public about the rules of socialist society, thereby preventing acts which would be detrimental to society, and (2) to punish and re-educate violators of established laws and prescribed behavior patterns. Khrushchev stressed the role of the court and society in general in regulating behavior. He urged the populace to uncover the violator, not only when he has committed a misdeed or an offense, but also when he demonstrates variations in acceptable norms of behavior which may lead to anti-social deeds. People can, by timely measures to influence them, suppress their bad indications.

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the Study of Problems of Law and Socialist Legality), SOVETSKOЕ Gosudarstvo i pravo, No. 5, at 54 (1963).
38. Izvestia, Oct. 24, 1959, at 2. Press campaigns for assistance to the comrades’ courts indicates that legal competence is a persistent problem. See, e.g., Bolshevik Vnimaniia Deiatelnosti Tovarishchesikh Sudov (Greater Attention to the Activities of the Comrades’ Courts), SOVETSKAIa IUSTITSIIA No. 17, at 2 (1963) and Uspekhii i Oshibki v Rabote Tovarishhesikh Sudov Lipetskoi Oblasti (Successes and Mistakes in the Work of the Comrades’ Court in Lypetskoi Oblasti), SOVETSKAIa IUSTITSIIA No. 16, at 14-15 (1964). Also, an editorial in Izvestia called for a permanent system of training for comrades’ court members, ad hoc consultations with people’s court judges and the establishment of special sections of the Council of Lay Assessors of the people’s courts and regional councils of comrades’ courts to supervise their activities. Izvestiia, Nov. 20, 1963, at 2. The Soviet press cited with approval the case of a one-year course for members of the comrades’ courts offered by the People’s University at Sverdlovsk. KUCHEROV, supra note 27, at 183.
39. N. S. Khrushchev, in Slitenko, Nasha Rabota po Preduprezhdeniiu Prestuplenii
The effectiveness of the comrades' courts is largely due to public pressure. The Soviet press quoted a typical plea of a woman appealing to have her case transferred to the people's court:

I am ashamed to appear before the comrades with whom I work . . . . Really, it is easier to endure a stricter punishment than the stern court of the collective.  

The popularity of the courts with the political leadership can also be measured in numbers. By the end of 1963 more than 197,000 comrades' courts were disposing of more than four million cases a year. The successes of the courts were hailed in the press as evidence of progress toward the utopian goal of complete replacement of criminal sanctions with moral and social sanctions.

SOCIALIST LEGALITY AND THE BREZHEV REGIME

With the ouster of Khrushchev, however, the bureaucratic establishment of the Soviet Union (including the prokuratura) has taken steps to bring "popular justice" under legal control. A new phrase, "socialist legality," has become the watchword in Soviet legal theory. The director of the U.S.S.R. Academy of Sciences Institute of State and Law, V. Chkhikvadze, stated in a 1967 Pravda article that "socialist legality" is related to the western concept of due process of law; it represents the bureaucratic trend in law with its resulting concern with procedural and substantive rights of citizens and with the professionalism of the courts.

The Soviet legal profession recently has strongly defended the procedural and substantive rights of citizens, claiming that they are binding even on state agencies and officials. Chkhikvadze, for example, writes that citizens rarely file damage suits against institutions, nor do they bring criminal charges against officials for malicious violation of citizens' rights. In arguing for greater court control of administrative activity,
he refers to a "mania" of overzealous officials and unjustified cases of dismissing persons from work. Indeed, more than one-half of all persons dismissed from work by administrative procedures are reinstated by the courts.

P. Skomorokhov, writing in Izvestia, denounced the view of the chairman of a comrades' court in a Leningrad housing office that court members should have the power to enter a person's apartment and search for evidence. Other Soviet lawyers and jurists warn against newspaper coverage of trials prior to sentencing that might prejudice the court and the public. Another indication of the growing emphasis on procedural safeguards is the recurrent request for expanded rights of counsel during preliminary investigations. Doctor of Jurisprudence and Chairman of the Criminal Cases Collegium of the U.S.S.R. Supreme Court, G. Z. Anashkin, has been particularly vocal on the latter issue. He argues that expanded rights of defense counsel add to the prestige of the court.

The Soviet press frequently cites cases of infringement of citizens' rights. One such case involved a headwaiter of a Moscow restaurant who was indicted for bribery. The Leningrad Borough People's Court convicted and sentenced him to deprivation of liberty. Upon review, the Moscow City Court discovered the defendant had been chairman of the People's Control Assistance Group and deputy secretary of the Party organization of the borough. The court rescinded the sentence and remanded the case for further investigation. The R.S.F.S.R. Prosecutor's office investigated the case and exonerated the man for no corpus delicti. Meanwhile, the waiter's property had been confiscated with enviable efficiency before the sentence could be confirmed by the courts, and the waiter never was able to fully recover his property. Persons in similar situations have discovered that their former jobs had been filled.

In addition to the concern for the rights of citizens, socialist legality emphasizes professionalism in Soviet law. Sovetskoe gosudarstvo i pravo stated that in 1968 only 16.1 percent of the R.S.F.S.R. judges had no
higher legal education as compared with 20.6 percent in 1965. With the increasing enrollment at legal faculties and institutes, professional training will undoubtedly become mandatory. Also, in the December, 1965 elections 73.8 percent of the judges were re-elected. Of the new judges, 29.8 percent had previous legal experience, and 24 percent were recent graduates from higher schools of law. With the diversity of ethnic groups in the Soviet Union, it is important that the judges speak the indigenous language of the republic or region where they are located. The numbers of judges speaking the indigenous language range from 98.4 percent in the R.S.F.S.R. to 55.8 percent in Kirgizia.

Socialist legality emphasizes not only a concern with citizens’ rights and professionalism in the courts, but also the institutionalization of judicial activities. The bureaucratic trend in Soviet law challenged the utopian concept of public participation in the administration of justice, labeling it nihilistic and anarchistic. For example, Chkhikvadze wrote:

The real problem here is not to accelerate artificially the replacement of state and legal forms by public ones, but to make fuller use of the state instruments, to develop activeness of representative agencies (i.e. Soviets).

From 1965 through 1968 an ongoing debate was aired in the Soviet press on the role of public participation in the administration of justice. The lines were clearly drawn between investigators and officials of the Ministry for Safeguarding Public Order in favor of public participation, and jurists, lawyers and legal consultants opposed. Voprosy filosofii carried a bibliographic essay of the important books, pamphlets and articles which appeared on the subject from 1961 to 1966. Most of the works appearing after the 22nd Party Congress deal with popularization and democratization of society, a concept which is criticized by the reviewers.

The writings of Anashkin indicate the nature of the debate. In an article in Sovetskoe gosudarstvo i pravo, he cites public opinion as representing an illegal interference in criminal cases. In these situations,
"the demands of the public" were stated as the justification for punishment, a practice which was criticized by the U.S.S.R. Supreme Court's Criminal Cases Collegium as being contrary to the independence of judges and to the procedure of setting punishment without interference of outside influences as outlined in Article 37 of the R.S.F.S.R. Criminal Code.  

Anashkin questioned the judgment of the populace in legal matters. He reports that in 1965 the courts rejected 29.1 percent of the public petitions for release of defendants in custody for re-education. In the first six months of 1966 the figure had risen to 34.5 percent. According to Anashkin, there are also cases of the public demanding severe penalties for first offenders of minor crimes. He concludes that the opinion of a given collective does not always conform to the law consciousness of the Soviet people.

Consistent with the trend of "juridization" of the administration of justice, the jurisdiction of parasite cases was transferred from administrative bodies and collectives to the courts and the local government by a decree of September, 1965. Simultaneously, Pravda published an article "for purposes of discussion" reviewing the history of "popular justice" and calling for greater emphasis on the government's (not the public's) role in maintaining law and order. In July, 1966, a decree abolished the R.S.F.S.R. Ministry for Safeguarding of Public Order and created a more centralized and powerful all-union ministry. The same month the Presidium of the Supreme Soviet, President of the U.S.S.R. Supreme Court, U.S.S.R. Council of Ministers and the C.P.S.U. Central Committee issued a series of decrees which intensified the struggle against hooliganism and public intoxication. The decrees and subse-
quent court decisions provided for increased fines and penalties to be levied by administrative agencies, without court procedure. The conspicuous absence of references to the comrades’ courts as institutions of control and re-education of hooligans and alcoholics indicates the campaign against “antisocial activity” by the comrades’ courts and drushina since 1959 had failed. The decrees constituted a de facto reduction of the jurisdiction of the comrades’ courts.

The inferior status of the comrades’ courts was dramatized in a 1967 case involving increased liability for repeated instances of a crime. The comrades’ court of the Moscow Wool-Spinning Mill fined one Safanov 30 rubles for petty theft of wool. A few months later Safanov committed the same act. The May Day Borough People’s Court in Moscow convicted Safanov under Paragraph 2 of Article 96 of the R.S.F.S.R. Criminal Code requiring increased liability for repeated instances of the same crime. Although the Moscow City Court upheld the decision, the Judicial Collegium of the R.S.F.S.R. Supreme Court, acting in accordance with its supervisory procedure, ruled that Safanov had been charged incorrectly. In the Collegium’s opinion, the second larceny would have been recognized as a repeated instance only if Safanov’s first case had been tried in a people’s court. The decision was given wide publicity in Bulletin Verkhovnogo Suda R.S.F.S.R. It has two far-reaching implications for the comrades’ courts: (1) the comrades’ courts are recognized by the Soviet legal establishment as extra-legal bodies, and (2) fewer cases involving petty crimes will be brought before the comrades’ courts.

The vocal sentiment against public participation in the administration of justice, of course, had serious implications for the comrades’ courts. A lengthy article in Izvestiia in 1970 called for stricter supervision of the comrades’ courts by the executive committees of local Soviets, public prosecutors, judges and internal affairs organs. However, the article even questioned the practical benefit of public hearings in comrades’ courts.

A form that is democratic in nature does not in and of

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64. Pashkevich, Resheniia obshchestvennosti—Pravovuiu silu (Force of Law to Decisions of the Public), Izvestiia, Sept. 11, 1968, at 3.
67. Aleksandrova & Rozanova, Nei, eto ne tovarishcheskogo sudo (No, This is Not a Comrades' Court), Izvestiia, August 1, 1970, at 5 [hereinafter cited as Aleksandrova & Rozanova].
itself determine content as well. This is a wide door, and, along with advanced views, backward and philistine attitudes gravitate toward it. . . . It is precisely in this sphere [everyday life] that it can do great harm by generating old and nasty characteristics—unsociability and hostility among people. A public hearing that cannot rise above the level of bickering teaches bad lessons.\textsuperscript{68}

The Soviet press cited instances of mishandling of cases by comrades’ courts and urged closer supervision. An editorial in \textit{Izvestiia} cited a case concerning a civil dispute in Housing Office No. 5 in the Dzerzhinsky Borough where two members of the court were criticized for inflaming the situation.\textsuperscript{69} The editorial called for people’s courts, prosecutors, militia officials and defense lawyers to offer voluntarily seminars and consultations with members of the comrades’ courts. In a similar case, another \textit{Izvestiia} article acknowledged that illegal actions by comrades’ courts are not rare and that closer control over their activities should be exercised by the Soviet executive committees and trade unions.\textsuperscript{70} An article in 1970 indicated that of the 8,000 residents in a microborough in Moscow’s Kalinin district, slightly more than 100 participated in the election of comrades’ court members.\textsuperscript{71}

A few Soviet legal theorists even expressed doubts concerning the efficacy of using social persuasion as a mechanism of social control.\textsuperscript{72} Lately, it is increasingly difficult to find any references in the press to the comrades’ courts, with the exception of occasional complaints of court members that their activities are being ignored by the people’s courts.

\textbf{CONCLUSION}

Western scholars disagree as to the purpose and effectiveness of the comrades’ courts.\textsuperscript{73} The comrades’ courts were an experiment in popular participation in the administration of justice grounded in the utopian

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\textsuperscript{68} \textit{Id.}

\textsuperscript{69} \textit{Izvestiia}, Nov. 20, 1963, at 2.

\textsuperscript{70} Belskii, \textit{Obahalovaniu podleshit} (It Is Subject to Appeal), \textit{Izvestiia}, Sept. 12, 1965, at 5.

\textsuperscript{71} Aleksandrova & Rozanova, \textit{supra} note 67, at 3.


\textsuperscript{73} Kazimierz Grzybowski states that courts were intended primarily to relieve the people’s courts of jurisdiction in minor criminal and civil cases. \textit{Grzybowski, supra} note 39, at 257. Zbigniew Brzezinski calls the comrades’ courts part of a system of “organized coercion.” Z. Brzezinski, \textit{IDEOLOGY AND POWER IN SOVIET POLITICS} 81 (1962). Edith Rogovin and Bernard Ramundo claim the courts demand regularity of thought and action to curb individualistic tendencies. Rogovin, \textit{Social Conformity and the}
trend of law. Their usefulness was two-fold: they disposed of minor criminal and civil cases, freeing the people's courts of a heavy burden, and they offered a means for popular self-control and enforcement of social conformity. The recent decline of the comrades' courts can be attributed to the exigencies of the bureaucratic trend that neither endorses the utopian concept of the "withering away" of legal and state institutions, nor the dictatorial practice of coercive uniformity.

More importantly, the Soviet political leadership must feel the position of the Party and government is secure enough to warrant adoption of a new type of legality that grants meaningful guarantees to citizens' rights. The adoption of socialist legality has been undertaken cautiously, a characteristic of the politics of the Brezhnev regime. Likewise, changes have come as a result of pressure within the Soviet legal establishment, rather than as a result of pressure from above. In fact, few references to the development of socialist legality have appeared in the speeches of the present leadership. Those that have appeared have been general in nature. This is in contrast to Khrushchev's close identification with and support of the comrades' courts.

Rather than abolishing the comrades' courts, the Party leadership has chosen to restrict their jurisdiction, reduce their prestige, increase their supervision and transfer the majority of their functions to established judicial institutions. The institutionalization of administrative authority, especially with regard to the militia, can be interpreted as an attempt to restrict the power of security agencies.

As in many other areas, the present Soviet leadership favors administering justice through a regularized, stable bureaucracy. However, the dictatorial and the utopian trends in Soviet law are not dead. The decrees on hooliganism, the repression of minority nationalities and the recent trials of Soviet writers indicate a potential resurgence of dictatorial methods. The future development of socialist legality depends upon the strength and stability of the Soviet bureaucracy. It was sufficiently viable to overcome the utopianism of the Khrushchev years and to restrict the power of the security police. The bureaucratic trend is today the most viable force in the Soviet system.

Comradely Courts in the Soviet Union, 7 CRIME & DELINQUENCY No. 4 at 303-11 (1961); Ramundo, supra note 19, at 692-727. Harold Berman and James Spindler are more favorable in their assessment of the comrades' courts. They point out that despite their faults, the comrades' courts are effective in reducing crime because the citizens are dramatically reminded of their social obligations. Berman & Spindler, Comrades' Courts, 38 WASH. L. REV. 842 (1962). They refer to Emile Durkheim's hypothesis that anomie, that is absence of social cohesiveness, is a major factor in producing emotional breakdown and crime. They conclude that the existence of the comrades' courts contributes both to social cohesiveness and to the reduction of crime.