



CRIME

in the

U.S.S.R.

50 QUESTIONS ANSWERED

by

Ralph Millner

Barrister-at-Law

6^{D.}

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CRIME IN THE USSR

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15. HOW ARE JUVENILE OFFENDERS DEALT WITH?

There are no Juvenile Courts, like those which exist in England.

Children under 16 years may not be tried before a Court. If they commit any wrongful act they may be brought before one of the Commissions for Juvenile Cases. The Commission is not a judicial tribunal, concerned primarily with the offence, but is rather an educational body, concerned with the child's welfare. Only measures of a medico-educational character are applied, no punishments being inflicted.

The Commission considers the reasons, personal and social, for the delinquency of the child and, on that basis, decides what shall be done, with a view to correcting any undesirable tendencies in the child, and providing a proper environment in which the child can develop.

The provision of proper adult supervision, placing a child under another guardian, making arrangement for education, and/or vocational training, medical treatment, the provision of cultural opportunities, are among the measures that may be applied by a Commission for Juvenile Cases.

Young persons (i.e. aged 16-18) who commit offences are dealt with in the same courts which try adults (i.e. aged 18 upwards). Thus a boy or girl of, say, 17, caught stealing would be summoned to appear before the People's Court. (It is interesting to note that one of the chief objects of our Juvenile Court system is to provide a friendly and informal atmosphere for the trial of young offenders: precisely such an atmosphere prevails in the People's Courts at all times, whether the accused is a youngster or an adult.)

16. DOES JUVENILE DELINQUENCY PRESENT A PROBLEM IN THE U.S.S.R.? HAVE WAR CONDITIONS AFFECTED THIS IN ANY WAY?

Before the war, juvenile delinquency had ceased to be the serious problem which it had been in the years immediately following the 1914-17 war, the revolution and the Civil War.

In that period an enormous task faced the Soviet authorities. Young people and children, in very large numbers, wandered about in gangs committing every conceivable crime, from petty thieving to robbery with violence, rape and murder.

The problem of reclaiming these young hooligans was solved by means of the now famous labour communes, with special emphasis upon education and the inculcation of a sense of social responsibility.

Juvenile delinquency had therefore become no more than a temporary problem. Individual cases naturally arose, but juvenile delinquency on a mass scale had ceased to exist and with the increase in education—not only of the children themselves but also of parents—and the improved facilities in the way of schools, crèches, nursery schools, etc., it was in the process of being abolished as a social problem.

No statistics are available to show the effect of war conditions in relation to this question. It is clear, however, that they have given rise to new problems.

War orphans abound. In the areas that have suffered Nazi occupation many young children have lived through experiences even more terrible than those which created the juvenile problem of the early Soviet years. Others have lived and fought with the guerilla bands, a hard and precarious life, ill-suited to children of tender years. The problem of reclaiming these many children is already being tackled, but it will no doubt provide much educational work of a special kind for years to come.

17. WHAT IS THE SOVIET ATTITUDE TO THE QUESTION OF "WAR CRIMINALS"?

The Soviets base their attitude on the agreed Allied "Declaration on Atrocities," following the Moscow Conference of November, 1943:—

"At the time of the granting of any armistice to any Government which may be set up in Germany, those German officers and men and members of the Nazi party who have been responsible for or have taken a consenting

The decision regarding payment of fees is not taken until after the conclusion of the case.

Maximum fees to be charged by lawyers for various types of legal work are laid down by the People's Commissar of Justice. These are in all cases very moderate as compared with lawyers' fees in many capitalist countries and having regard to wage-levels in the Soviet Union.

29. DO THE SOVIETS HAVE A SYSTEM OF "CASE LAW"?

Case law does not occupy the position in the Soviet Union which it does in England, where a rigid system of "precedent" ensures the binding effect upon our courts of previously decided cases.

Advantages attributed to our system of case law are that it makes for "certainty" as to what the law is, and it enables the courts to apply consistently the same legal principles in all cases that come up for decision. How are these clearly desirable objects achieved by the Soviet courts?

Constant review of cases decided in their courts is carried out by Soviet judges; similarly, review on a higher level, namely in the Supreme Courts, is carried out in relation to the decisions of lower tribunals. The Procurators also have the duty of keeping the decisions of the courts constantly under review. All these reviews are conducted in close co-operation with the Soviet institutes of law and also judges frequently seek the advice of these bodies on particular points with which they have to deal.

Finally, all bodies of persons in any way affected by or interested in particular legal points and court decisions, such as trade unions, local soviets, etc., are consulted and discuss these matters.

The result is a thorough ventilation of all views that may be helpful, and the Procurators and the high judicial organs are in a position to issue directions to the courts as to how various matters are to be dealt with. Thus the advantages of a system of "case law" are obtained without the serious disadvantage which naturally results from the somewhat mechanical application of a rigid system of precedents.

III. SOVIET COURTS AND LEGAL INSTITUTIONS

30. WHAT COURTS EXIST IN THE SOVIET UNION ?

Most cases come before the "People's Courts." These function in all parts of the Soviet Union, each court having jurisdiction within a certain district. The government of each Republic fixes the number of People's Courts and prescribes the district to be covered by each.

Crimes such as murder, assault, robbery and breach of duty by government officials are dealt with by these courts, as well as petty thieving, tax offences and other less heinous offences.

Above the People's Courts come the Courts of Regions and other territorial areas within the Union Republics, and the Supreme Courts of Autonomous Republics.

These try serious criminal cases which directly involve the state, such as stealing public property and serious breaches of duty by officials. They also hear appeals against decisions of People's Courts.

The Supreme Courts of the various Union Republics come next in the scale. They supervise the work of the courts below them by hearing appeals, and also try certain serious crimes.

The highest court is the Supreme Court of the Soviet Union, which, in addition to supervising the judicial activities of all other tribunals, hears charges of treason and other serious crimes against the state.

Special courts also exist—military tribunals, railway line courts* and water transport line courts—to deal with crimes particularly affecting these special matters. Appeal lies from their decisions to the Supreme Court of the Union.

* Special military tribunals were set up in April, 1943 to deal with the railways and a decree of the Supreme Soviet announced that all offences committed on railways would be dealt with by them, in accordance with war-time laws.

31. HOW ARE JUDGES APPOINTED ?

Appointment is by democratic election. Judges of the Supreme Court of the Soviet Union are elected by the Soviet "parliament"—the Supreme Soviet, to serve for a term of five years.

Similarly, the Supreme Soviet of each Republic elects the judges of the Supreme Court of the Republic, and the judges of the other territorial units within the Soviet Union are also elected by the respective Soviets.

People's Judges are elected not by the local soviets but by the ordinary voters in the district in which the People's Court functions. The term of office is three years.

32. DO THE SOVIETS HAVE A JURY SYSTEM ?

Soviet courts do not have juries as we know them. The object of the jury system—trial by one's fellow-citizens—is achieved, however, in a different way.

Ordinary men and women, who are not professional lawyers, are elected to sit on the bench side by side with trained judges. Such persons are called "people's assessors." When elected their names are put on a panel and they are called upon, in the order in which their names appear, to do their court work for ten days at a time. Two assessors sit with one judge.

A man or woman may one day be working in a factory or mine, or on a farm or in a hospital, and the next day may find him in court helping to solve the problems and deal with the misdoings of his fellow citizens.

Most of the work of people's assessors is of course performed in the People's Court—where the majority of cases are heard—but they sit in the higher courts too. They do not, however, take part in the hearing of appeals from lower courts, and certain crimes of an exceptional kind are heard by professional judges sitting without assessors.

33. HOW ARE PEOPLE'S ASSESSORS ELECTED ?

In the same way, and by the same bodies of electors, as the judges with whom they are to work.

Thus assessors for the People's Courts are elected locally; assessors to sit in a Union Republic Supreme Court are chosen by the Supreme Soviet of the Republic concerned, and so on.

34. WHAT ARE THE POWERS OF THE PEOPLE'S ASSESSORS ?

The full-time judge acts as the chairman of the court, but the people's assessors have equal authority with him in taking decisions in relation to cases which they hear. Thus, if the two people's assessors disagree with the chairman, their view prevails over his.

35. DOES NOT THE SYSTEM OF PEOPLE'S ASSESSORS MAKE FOR "ROUGH JUSTICE" ?

On the contrary, the system appears to work in a highly satisfactory way.

Experience in many spheres—not only in the Soviet Union—has shown that where work has to be done under the vigilant eye of the public, by persons who hold their positions only by reason of public confidence, it is usually done well.

Furthermore, the Soviet system of nomination and election tends to place only the most worthy and suitable persons in responsible positions.

Citizens elected to the important position of people's assessor are, moreover, given facilities for legal education to assist them in carrying out their duties.

36. WHAT QUALIFICATIONS ARE NECESSARY FOR A JUDGE ?

No special qualifications are prescribed by law. Any person, man or woman, who has electoral rights* is eligible for election as a judge.

* *Electoral rights are enjoyed by all citizens of the U.S.S.R. who have reached the age of 18 years, irrespective of race and nationality, religion, educational qualifications, residence, social origin, property status or past activity. Only insane persons and persons deprived of their electoral rights by a court of punishment for a crime are excluded.*

This does not mean that persons without any knowledge of law are elected to judgehips. Preference is naturally given to men and women with the best training and experience, both in the nomination of candidates for this office and in the actual elections.

It does mean, however, that judicial office—like any other position of trust in the Soviet Union—is open to every citizen who makes himself fitted to hold it and who has the confidence of his fellow citizens. Experience as a people's assessor, for example, may convince a person that he is suited to judicial work; if his fellow citizens are of the same opinion, he may be elected to a people's judgehip.

It must be remembered, too, that continuous educational facilities are provided for judges—as well as for those training to be judges—and all have the duty to make use of them.

37. MAY ANY PERSON PUT UP FOR ELECTION TO JUDICIAL OFFICE ?

No. Nomination for election to a judgehip, as to any office in the Soviet Union must be by a public body of citizens, e.g., a trade union, the workers on a collective farm, a Communist Party organisation, a cultural society, the members of a military unit.

38. HOW ARE JUDGES PAID ?

Full-time judges are paid salaries. Ordinary citizens sitting as people's assessors are paid their wages in full for the period of their service in court—if they are not wage-earners (e.g. writers) they are paid expenses, to compensate them for the time spent on this public work.

39. CAN A JUDGE BE REMOVED FROM OFFICE ?

Election of a judge is for a fixed period—five years, or, in the case of a People's Court judge, three years—and he holds this office for the full period provided he performs his functions satisfactorily.

If, however, in the opinion of the electors who appointed him, a judge fails to carry out his duties satisfactorily, he may be recalled.

The right to recall a person elected to any office is a fundamental principle of Soviet democracy.

Judges, as long as they hold office, however, are independent and subject only to the law, i.e. can be punished only for offences committed against the law and by proper legal process.

40. HOW IS A VACANCY IN A JUDGSHIP FILLED?

If the judge of a People's Court dies or vacates office or is recalled a new election to fill his place must be held within two months. This is arranged by the Commissariat of Justice.

In the case of a vacancy in any other court, it is filled by the election of a new judge at the next regular session of the Soviet concerned, e.g. of the Supreme Soviet if the vacancy occurs in the Supreme Court, of the Regional Soviet if it occurs in the Regional Court.

41. WHAT HAPPENS IF THE JUDGE OF A PEOPLE'S COURT IS ABSENT?

If the absence is temporary, the court carries on, one of the people's assessors acting as the judge, i.e. the chairman of the bench.

42. HAVE NON-RUSSIAN NATIONALITIES EQUAL RIGHTS BEFORE THE LAW?

There is no domination by the Russians over other nationalities in the Soviet Union.

All persons, of whatever race, nationality or colour have equal rights in all spheres of Soviet life. (See also Question 9.)

An important sign of complete national liberty is the right to use the national language in all the activities of the people. Thus, Soviet law provides that all judicial proceedings must be in the language of the place where the court is. (There are at least 180 different nationalities in the U.S.S.R.)

Any citizen finding himself before a court whose language he does not know must be given every opportunity to acquaint

himself with all the material appertaining to the case through an interpreter. He is also entitled to speak in the court in his own language.

These legal provisions help to ensure equality between the different peoples, but of course the fundamental reason for national equality in the Soviet Union is the absence of economic exploitation of the working classes by another class and of national minorities by a dominant nationality. It should be noted, also, that the various nationalities have political representation in the highest organs of the government of the U.S.S.R., through the Council of Nationalities (one of the two chambers of the Soviet "parliament"—the Supreme Soviet).

∴ Recommended reading: Peoples of the Soviet Union, by D. G. Wolton (6d.).

43. WHAT ARE COMRADELY COURTS?

Comradely Courts are not strictly part of the judicial system. They are an instrument of the people created to deal with minor breaches of the commonly accepted rules of good behaviour and to assist the smooth functioning of social relationships. A comrades' court may be set up at any time and in any place, for example in a workshop or on a farm or in an army barracks, to "try" a person accused of some anti-social act, e.g., rudeness, lateness for work or drunkenness, or to settle some minor dispute.

The judge is elected on the spot from the body of the electors, his function being similar to that of a chairman of a meeting. The matter is thrashed out, any persons present making their contributions if they wish, and sentence is imposed—it may be a small fine, or a public rebuke, or a direction to make amends in some way for the offence committed. Thereupon the court is dissolved and the judge's tenure of office comes to an end.

44. DO THE SOVIETS HAVE A "MINISTER OF JUSTICE"?

Yes—the People's Commissar of Justice of the Soviet Union. Each Republic, too, has its own Commissar of Justice, who works in co-operation with the Commissar of the U.S.S.R.

The Commissar of Justice is in charge of the legal system and is a member of the highest executive and administrative organ of the state—the Council of People's Commissars.

45. WHAT IS THE PROCURATOR ?

The Procurator of the U.S.S.R. is the highest law officer in the country. Each Republic, Territory and Region also has a Procurator, responsible to the Procurator of the Soviet Union.

It is the duty of the Procurator to exercise supreme supervision over the strict execution of the law by all institutions taking part in its administration.

This involves watching trials—both civil and criminal—and intervening if state interests are involved ; initiating reforms ; taking steps to ensure that the laws relating to penal institutions are enforced ; considering complaints from prisoners, etc.

The Procurator also carries out the important duties of Public Prosecutor, whose function it is to initiate criminal proceedings and, where necessary, conduct them on behalf of the state.

46. HOW ARE THE PROCURATORS APPOINTED ?

The Procurator of the U.S.S.R. is appointed by the Supreme Soviet (or "parliament") of the Soviet Union, a term of seven years.

The Procurators of the various Republics and other areas within the Union are appointed by the Procurator of the U.S.S.R., for five years.

47. ARE LAWYERS STATE EMPLOYEES ?

No. The legal profession is independent. Each big town and every important region in the Soviet Union has its local "bar," known as a "collegium," governed by an elected Executive Council.

A number of lawyers work together in each lawyers' office and pool the fees received—which are then divided between them (after payment of expenses), on the basis of their respective skill and experience and the work done by each.

Each collegium, through its Executive Council, controls the professional conduct of its members, but the Commissariat of Justice exercises a general supervision over the profession.

48. WHAT ABOUT THE O.G.P.U. ?

The O.G.P.U.* no longer exists. It was a Government department which dealt with a number of important matters relating to the security of the state. It had both administrative and judicial functions.

Serious crimes endangering the state and the economic system upon which it was based came within the purview of this department. In relation to such matters it had "police" functions, both secret and open, and also judicial powers—suspected persons were tried before the judicial "collegium" or tribunal, of the O.G.P.U., which had power to impose the death sentence.

One of the most notable achievements of the O.G.P.U. in the administrative sphere was in connection with prison reform. The famous penal settlement at Bolshevo, which has amazed the world by its success in the reform of criminals, was founded and maintained by the O.G.P.U. So were other similar settlements. Similarly, the O.G.P.U. is entitled to much of the credit for the triumph of the Soviets over their formerly serious problem of juvenile delinquency, for it created the educational labour communes where good citizens were made out of the wild youngsters who were sent there. These facts are little known.†

Since July, 1934, there has been no O.G.P.U.

Like other Soviet institutions, when the need for it no longer existed, it was abolished. The greater security of the state, and the wider democracy created by the efforts of the Soviet peoples, made possible important changes in the Soviet state structure.

* The initials stand for "Union State Political Administration."

† So much has been written and said about the terror of the O.G.P.U. that it is worth while recalling these facts, although this department no longer exists. True, stern measures were needed against the enemies of the revolution, who had once plunged Russia into civil war and would have done it again ; the O.G.P.U. faithfully carried out its task of protecting the Soviet state, and the newly-won liberties of the peoples, from such enemies. There has been much gross distortion of its rôle in this respect on the part of anti-Soviet propagandists.

The People's Commissariat for Internal Affairs ("Home Office") now performs the police and other administrative functions of the former O.G.P.U. Its judicial functions were handed over to the ordinary courts. Serious crimes of the kind previously dealt with by the O.G.P.U. now come before the Military "Collegium" (or division) of the Supreme Court.

49. CAN FOREIGNERS BE TRIED IN SOVIET COURTS?

Yes, as in most countries. Any person doing any act which is an offence under Soviet law can be tried and punished by Soviet courts. Only persons enjoying diplomatic immunity are protected.

50. WHAT ABOUT THE FAMOUS "POLITICAL" TRIALS?

The so-called "political" trials in Russia were trials of persons who had committed acts of treachery against their country and who were tried under the ordinary law of the Criminal Code and by the normal procedure.

Although the phrase "political trial" is, in a sense, appropriate (because some of the defendants held important political positions and their crimes were connected with political intrigues and therefore had political significance), nevertheless it has been widely used by anti-Soviet propagandists in order to create the impression that these were not proper criminal trials at all but merely the outcome of "political" differences.

36
The trials of Zinoviev, Kamenev and others (1926); Piatakov, Radek and others (1937); and Bukharin and others (1938), convicted of various crimes such as treason, espionage, assassination and attempted assassination, sabotage, were no more—and no less—"political" trials than the trials of the murderers and traitors at Krasnodar and Kharkov in 1943, or the trials of the Vichyite collaborators in France in 1944, or for that matter the treason trial of Sir Roger Casement in England in 1916 for "adhering to the King's enemies within the empire of Germany."

The truth is that Soviet law was strong enough and vigilant enough to deal with their would-be quislings before they had an opportunity to complete their plans and sell their country to the Nazi enemy.

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