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EXECUTIVE SUMMARY

THE MARXIST-LENINIST INSTRUMENTALIZING OF PRESENT PERSONS FOR THE SAKE OF DISTANT FUTURE SOCIO-POLITICAL ENDS, AND THE DESTRUCTIVE IMPACT OF THIS PRACTICE UPON SOVIET SOCIETY

George L. Kline

This report explores two major respects in which the powerful orientation toward the historical future that Soviet political leaders, ideologists, and social and legal theorists have inherited from Marx and Lenin has been and continues to be the cause of great human suffering. First, there is the tacit commitment (inherited directly from Lenin and in an unacknowledged way from Trotsky) to state terrorism as a necessary (present) means for attaining the (future) end of a classless, unexploitative, just, and harmonious society. Second, there is the related Soviet recourse (unique among major powers, except for Communist China), since 1961, to the death penalty for certain large-scale crimes against property -- not private or personal, but socialist (i.e., state or public) property.

Such crime is seen as massively obstructing the building or construction (stroitel'stvo or postroenie) of an ideal future society. It is no accident, as the Russians say (eto ne sluchaino) that in the period just prior to the issuance of Khrushchev's ukaz of May 5, 1961, which for the first time introduced the death penalty for the khishchenie (plundering or embezzlement) of socialist property the Soviet media were saturated with the May Day slogan "Long live Communism -- the radiant future of all mankind!"

Although Soviet policy-makers and ideologists have quietly abandoned other key elements of Marxist-Leninist ideology (e.g., its egalitarianism), they remain faithful to both Marx and Lenin in their continuing powerful orientation, both theoretical and practical, toward the long-term historical
future -- a future measured in hundreds and even thousands of years. Like Marx, they tacitly commit what I have called the "fallacy of the actual future" and the related "fallacy of deferred, or historically displaced, value."

Holding that their projected historical future is in some queer sense already there, they regard future communities, cultures, practices, and -- especially -- persons as more valuable than their present counterparts, being perfected and purged of the "birthmarks" and other flaws which still mar everything present. Marxist-Leninists, contemptuous (as Marx was) of the historical present, deny intrinsic value to present persons, insisting that living human beings may justifiably be treated, in the present, as means, having instrumental value, positive or negative (the former if they facilitate, the latter if they obstruct) the building of the radiant future of communism.

In devaluing and instrumentalizing the present, Marxist-Leninists are quite prepared to sacrifice actual persons to future, merely possible persons. The much discussed "humanism" of the young Marx is not a present-oriented humanism of principles, which treats the rights of persons as inviolable (Marx was scornful of all talk about human rights), but rather a future-oriented humanism of ideals, which, in the historical interim (lasting centuries or even millennia) is quite compatible with "transitional totalitarianism." The classes, groups, and individuals against whom revolutionary terrorism was directed in the 1920s, 1930s, and 1940s, like those more than two generations after 1917 who are guilty of major crimes against socialist property, are held to be unacceptably obstructive of the future-oriented process of the building of communism and thus subject to the death penalty.

Although the question is no longer discussed with Trotsky's brutal candor, or his rhetorical sweep in dismissing the "Kantian-clerical, vegetarian-Quaker chatter about the 'sanctity of human life'," it still lies just under
the surface of much Soviet discussion of the justification of "wars of national liberation," etc. Fortunately, the Soviet commitment to such forms of terrorism has in the past few years abated significantly.

Nikita S. Khrushchev, whose current reputation both in the Soviet Union and among emigre commentators like Alexander Yanov, as a "liberalizing" reformer is quite undeserved, was in fact a hard-liner, who crushed the Hungarian uprising in 1956, built the Berlin wall in 1961, and installed nuclear missiles in Cuba in 1962. He was no less a hard-liner in domestic policy. He "de-Stalinized" the surface of Soviet society, but "re-Leninized" its depths, introducing a series of measures which in their totality amounted to "social Stalinism" -- classical or police-state Stalinism pursued by other means.

Khrushchev's measures against "social parasitism" -- including the trial and conviction of Leningrad poet Joseph Brodsky in 1964 (Brodsky was the Nobel Laureate for Literature in 1987), and the harsh attack on modernist tendencies in Soviet painting -- involved the mobilization of countless individuals and groups to check and report on those Soviet citizens who refused or evaded "socially useful work," as defined by the Party leadership. All of these measures of social Stalinism culminated in Khrushchev's introduction in 1961 of an unprecedentedly Draconian measure: recourse to the death penalty for large-scale crimes against state and public property. This, the most shocking manifestation of the devaluing and instrumentalizing of living persons, has already cost the lives of between nine thousand and ten thousand Soviet citizens. In practice, the threshold for application of the death penalty appears to be about 200,000 rubles. But any threshold involves an unacceptable conversion of quantitative into qualitative differences. A relative difference, a difference of degree, between two economic crimes
results in an absolute difference, a difference of kind, between the respective punishments: prison terms, fines, confiscation of property in the one case; execution by shooting in the other. Something which is a matter of more-or-less is treated by the application of something (the death penalty) which is a matter of all-or-none.

This crucial distinction appears not to be appreciated by those who, like Andrei Sakharov and Amnesty International, are categorically opposed to the death penalty as such. They are, it seems to me, insufficiently sensitive to the difference between the recourse to capital punishment for crimes against persons and the recourse to capital punishment for crimes against property.

The destructive effects upon Soviet society of the twenty-eight year practice of taking the lives of persons who have taken only the state's property has been felt, one assumes, by a variety of social groups. First, there are the ten thousand people who have been executed; then the many tens of thousands of people who are their relatives and friends; next the thousands of prosecutors, judges, and defense lawyers, at least some of whom (we have clear evidence of this in the case of certain defense lawyers) have recognized and continue to recognize the general barbarism and specific anti-Semitism -- particularly in the earlier phases -- of this practice; finally there is the group with which it is difficult to feel any sympathy, the hundreds of executioners (and their thousands of relatives and friends), human beings who must have been deeply demoralized and dehumanized by the practice of their gruesome trade. Beyond these specific groups there are the broader circles of Soviet society, people who are vividly aware of the injustice and brutality, the suffering and degradation, experienced or inflicted by the members of the various groups identified above.
For the sake of all of these groups of Soviet society, and for humanity's sake, one may hope that the current Soviet proposal, in the draft revision of the Soviet criminal code (published in Izvestia, December 17, 1988), to remove the death penalty for crimes against state and public property will be promptly put into effect. This may or may not happen; there is both support for and resistance to such a move on the part of prosecutors, judges, lawyers, and legal scholars in the Soviet Union. If it does happen, the long juridical nightmare inflicted upon Soviet society by Khrushchev and his successors will at last have ended. In the meantime, it would seem to me to be both a prudent and humane policy on the part of the United States government to place continuing pressure upon the Soviet government to bring to an end this harsh and brutal violation of the most fundamental of human rights.

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This report explores two major respects in which the powerful orientation toward the world-historical future which Soviet political leaders, ideologists, and social and legal theorists have inherited from Marx, Lenin, and (in an unacknowledged way) Trotsky has been and continues to be the cause of great human suffering. The first respect, discussed in Section II, is the commitment to (state and party) terrorism as a necessary (present) means for attaining the (future) end of a classless, unexploitative, and harmonious society. The second respect, discussed in Section III, is the Soviet recourse, since 1961, to the death penalty for certain large-scale crimes against socialist, i.e., state or public, property.

Large-scale economic crime is seen as massively obstructing, in the present, the building or construction (строительство or построение) of an ideal future society. Significantly, in the weeks immediately prior to the issuance of Khrushchev's указ of May 5, 1961, which introduced the death penalty for the plundering, theft, or embezzling (хищчение) of socialist property, the Soviet media were saturated with the May Day slogan "Long live Communism -- the radiant future of all mankind!" ("Da zdravstvuet kommunizm -- svetloe budushchee vsego chelovechestva!").

I

I have had a good deal to say in other places about the Marxist future-orientation, something that involves both what I have called "the fallacy of the actual future" and the concomitant devaluing and instrumentalizing of present existents -- communities, cultures, practices, and, especially,
persons -- for the sake of attaining that future.\(^2\) The Marxist-Leninist contempt for the historical present, emphatically shared by Trotsky, has as a corollary the assumption that no present existent has intrinsic, non-instrumentalizable value and that, as a consequence, every present existent -- and living persons, in particular -- may justifiably be treated as a means, as having positive or negative instrumental value, with respect to existents -- societies, in particular -- in the remote historical future (hundreds, even thousands of years hence). Those future existents, in turn, are treated in the present as ends, entities which will (in the remote future) have the intrinsic value that is denied to present existents.

Present existents -- communities, cultures, practices, and, especially, persons -- which are seen as having negative instrumental value are held to obstruct (as those which have positive value are held to facilitate) the present building of the communist future in which all existents will have only positive value. The groups, classes, and individuals against whom revolutionary terror is directed, like those, more than two generations after the revolution, who are guilty of major crimes against socialist property, are held to be particularly, and unacceptably, obstructive of this future-oriented process of the stroitel'stvo kommunizma.

In the remainder of this introductory discussion, I limit myself to a handful of quotations which explicitly exhibit the powerful future-orientation of Marxism-Leninism and (in at least some cases) suggest the way in which Marxist-Leninists devalue and instrumentalize the present for the sake of the historical future.

Marxism was the most future-oriented of doctrines, a fact so obvious as to require little elaboration. Rejecting the whole of existing reality, it enthusiastically contemplated the necessary advent of a novel [future] society. . . . The promise of a [future]
millennium was inherent in Marxism and the chiliastic dream was
certainly a part of its appeal. . . .

Ernst Bloch, in a massive work entitled "The Principle of Hope [for
the Future]," asserted that Marx's "whole work serves the future and. . .
can only be understood and carried out in the horizon of the future."\footnote{4} And
Dwight Macdonald commented perceptively on the "strange" fact that Marxists
should habitually regard the Present as merely the mean entrance-
hall to the spacious palace of the Future. For the entrance-hall
seems to stretch out interminably; it may or may not lead to a
palace; meanwhile, it is all the palace we have, and we must live
in it. I think we shall live in it better and even find the way
to the palace (if there is a place), if we try living in the pre-
sent instead of in the Future.\footnote{3}

Finally, I offer three related statements by Trotsky. "Without a broad
political view of the future, I cannot conceive. . .of political activity. . . ."
According to Trotsky, in the Communist future human beings will become "im-
measurably stronger, wiser, and subtler. . . .The average human type will
rise to the heights of an Aristotle, a Goethe, or a Marx. And above this
ridge new peaks [of human greatness] will rise."\footnote{7} In his "Testament" of
1940 Trotsky declared:

I shall die with unshaken faith in the communist future. This faith
in man and his [communist] future gives me even now such power of
resistance as cannot be given by any religion.\footnote{8}

As we shall see in Section II, this commitment to and faith in the
communist future also gave Trotsky -- as it has given countless other
Marxist-Leninists -- an unshakable conviction that their devaluing and
instrumentalizing of the lives of present persons for the sake of that
radiant communist future was unquestionably and unqualifiedly justified.
Lenin offered several brief and programmatic statements of such an instrumentalizing view, among them: "At the foundation of Communist morality lies the [present] struggle for the strengthening and [future] completion of Communism," and "Our morality is wholly subordinated to the interests of the class struggle of the proletariat."  

The problem of ends and means, terrorism, and the dictatorship of the proletariat was posed sharply, not only at the level of theory, but even more urgently at the level of policy and practice, in the early years of the Soviet regime. During this period, Lenin continued to put his instrumentalizing theory into practice, but he wrote relatively little on the subject. He did sketch the position, elaborated by Trotsky in 1920 and 1938, that violence used by the exploiters is directed against the historical development of mankind and thus is historically doomed, but violence used against the exploiting minority who are blocking historical progress is effective and those who use it can be confident of success.

In general [Lenin declared] socialism is opposed to violence against human beings. However, except for Christian anarchists and Tolstoyans, no one has ever concluded from this that socialism is against revolutionary violence. Thus, to speak of "violence" in general, without an analysis of the conditions which distinguish reactionary violence from revolutionary violence, is to be a Philistine who renounces the revolution, or else simply to deceive oneself and others with sophistry.
Lincoln Stefens (who was quite pro-Bolshevik at the
time) reports that he asked Lenin, in 1918-19 about the Red
Terror:

"Who wants to ask us about our killings?" he
demanded, coming erect on his feet in anger.
"Paris," I said.
"Do you mean to tell me that those men who have
just generalled the slaughter of seventeen millions of
men in a purposeless war are concerned over the few
thousands who have been killed in a revolution with
a conscious aim—to get out of the necessity of war
—and armed peace?" . . . "But never mind, don't
deny the terror. Don't minimize any of the evils
of a revolution. . . . If we have to have a revo-
lution, we have to pay the price of revolution."[1]

The chief theoretical statement of the Lenin-Trotsky
position was evoked by grave charges brought in 1919 by Karl
Kautsky, leading spokesman of European democratic socialism.
Kautsky sharply attacked what he called the Bolsheviks'
"immoral and anti-democratic" methods, making specific
reference to the so-called "Red Terror."[12] Trotsky answered
these charges the following year in a slim volume entitled
Terrorism and Communism.[13] Kautsky published a reply in
1921[14] and a final word in 1930.[15] After Kautsky's death in
1938 Trotsky, then in exile in Mexico, returned to the sub-
ject in the article, "Their Morals and Ours.[16]

Trotsky's "theoretical" justification of recourse to
terrorism, violence, and deception on the part of revolu-
tionary governments, may be reduced to four "theses," of
which the first two are in his own eyes most important and
impressive, and less historically conditioned or contingent;
in other words, more theoretical, more clearly a matter of "principle": (1) Ends and means are separable, dissociable, and a good (future) end justifies any (present) means; furthermore, different socio-economic classes may use the same means (e.g., terrorism) to achieve very different, even opposed, ends. (2) Socialism cannot be achieved, at least under present (1920) conditions of capitalist encirclement and intervention, without revolutionary violence and repression. Whoever desires the end of socialism must accept the means of terrorism. (3) All governments use violence to stay in power, and all historical revolutions have used violence to break that power. (4) The reign of terror in Russia was started, not by the Bolsheviks, but by the counter-revolutionary (White Guard) forces. In other words, the White Terror came first; the Red Terror was only a response to it.

During this polemical exchange Kautsky attacked, and the Bolsheviks (prominently including Trotsky) defended, Lenin's position. Trotsky refused to recognize any moral limitation upon the choice of means, concluding that terrorism, violence, and deceit were all antecedently justified by their serving to bring about the good end of communism. Kautsky, in contrast, insisted that Bolshevik terrorism represented not only a reversal of the historical trend toward humanization of morality generally but also a violation of the sanctity of human life, a refusal to recognize
the human individual as a Selbstzweck ('end in himself').

"The end," Kautsky wrote, "does not sanctify every means, but only those which are in harmony with it" (TuK 139). In other words, Kautsky held that there are certain moral principles or values which set absolute and inviolable limits to the choice of means for realizing given socio-political ends. He thus came very close to Kant, and Trotsky --who derisively repudiated Kautsky's "Kantian-clerical, vegetarian-Quaker chatter about the sanctity of human life" (TiK 61) -- could justly charge that Kautsky had taken up a position inconsistent with Marxian ethical relativism.

It is clear that Kautsky's advocacy of a constitutional winning of power by socialists through free elections, accompanied by education in the aims of socialism, and his insistence that only thus could the end be kept uncorrupted, are much closer to the democratic and humanistic traditions of the West than is Trotsky's future-oriented revolutionary instrumentalism. But who was closer to Marx?

Kautsky did not deny that Marx had favored revolutionary violence and terrorism in 1848, but he insisted that by 1871 Marx had come to the conclusion that bloodshed and terror were not necessary to revolutionary success. And Kautsky implies that this doctrinal shift was a result of wider experience and maturity. "Marx," he wrote, "was completely right when he pointed out with satisfaction that the second Paris Commune was free of all the acts of violence of
which the first had seen so many" (TuK 40). Kautsky adds that, as early as 1872, "Marx expressed his expectation that in such countries as America, England, and Holland the proletarian revolution could take on peaceful forms" (TuK 101).

Trotsky can hardly restrain his impatience with such views. Kautsky, he declares acidly, is not a (revolutionary) Marxist; his theory of history is a vulgar eighteenth-century doctrine of peaceful progress. For Kautsky, Trotsky says sarcastically, the whole of history reduces to a continuous ribbon of printed paper, and Kautsky's venerable writing desk stands at the [very] center of this 'humane' process" (TiK 26).

I shall try to state the essence of Trotsky's four "theses" as systematically and concisely as possible, formalizing his argument somewhat, but leaving its substance unchanged.

(1) Trotsky insists that different socio-economic classes may use analogous means (e.g., terrorism) for totally distinct and opposed ends. This follows, he suggests, from the essential separability and independence of ends and means. What is moral and justified when directed toward one end is immoral and unjustified when directed toward a different end. Trotsky in 1938 put this in a graphic image: "Only contemptible eunuchs," he wrote, "maintain that the slave-owner who, by deceit and violence, places a slave in chains is the equal before morality of the slave who, by deceit and violence,
casts off his chains" (IMN 15a).

The same point had been made, more solemnly, by an official of the Soviet Secret Police (Cheka) in 1918: "Murder, lies, and treachery are amoral [i.e., immoral] and shameful if they are harmful to the cause of the proletarian revolution; these same lies, treachery, and murder are moral and laudable if they serve this [future-oriented] revolution." 19 And in 1921 A. V. Lunacharsky declared: "Although it is abominable in the hands of a . . . [past-oriented] reactionary government, violence is sacred and necessary in the hands of a [future-oriented] revolutionary." 20

Further questions remain, however. Assume for the moment that one could agree with Trotsky (as Kautsky did during their polemical exchange) that socialism is a "good" end, where the criterion of "goodness"--in Trotsky's own words--is the extent to which the given socio-economic order "leads to the increase of man's power over nature and the abolition of the power of man over man" (IMN 18a). The difficulty arises when it is proposed to use terrorism, violence, and deception as a means for attaining this "good" end.

There are at least two possibilities: (a) one who accepts socialism as the ultimate end may disagree with others, and with the "leaders" of the revolutionary party, about the effectiveness of terrorism as a means. Such a disagreement would be a theoretical one, and it could presumably be
settled, as Trotsky tries to settle it, by appeals to evidence and logic—the final argument being: but it is working; and it has worked. (b) But even one who agreed with Trotsky about the effectiveness or expediency of terrorism as a means for achieving socialism, might (with Kautsky) conclude that such means conflict radically with some other norm or principle (e.g., respect for human life or individual dignity); in other words, one might find the means theoretically effective, but morally unacceptable. Then, one could either (i): have recourse to a less effective, but nevertheless, not totally ineffective, means of realizing the given end (socialism). This is precisely what Kautsky did in his appeal to constitutional, parliamentary reform. Or else (ii), if it can be shown (as Trotsky tried to do) that terrorism, violence, and deceit are the only possible means of establishing socialism, one must accept them, recognizing their immorality (but asserting that these immoral means are justified by the good end)—or else give up the end altogether.

Trotsky does not recognize any moral limitation upon the use of terrorism; he insists that the degree and nature of repressive measures is purely a matter of expediency, not a matter of principle. And he explicitly repudiates any Kantian "metaphysical-bourgeois" dictum that the dignity and worth of the individual person should be respected, asserting that, where necessary, individuals are, and should be,
treated merely as means.

Kautsky had charged that the architects of the Red Terror, unlike the initiators of the White Terror (who, after all—on his view—were mostly representatives of the exploiting classes), violated their own principles, in particular, the principle of the "sanctity of human life, which they themselves have proclaimed" (TuK 139). Trotsky, of course, is emphatic in his denial that he or any other Bolshevik leader ever subscribed to such a principle. Indeed, he calls it the most hypocritical and stupid "principle" imaginable. So long, Trotsky insists, as society is exploitative and predatory, the "principle of the 'sanctity of human life' remains the basest lie, intended to keep oppressed slaves in their chains" (TiK 61). In other words, it applies primarily to the life of the exploiter and oppressor, and is invoked to protect him from the righteous indignation of his victims. "In order to make the individual person sacred [in the future], one must [in the present] destroy the social order which crucifies the individual. And this task can be carried out only with iron and blood" (TiK 61).

(2) Trotsky's reference to "iron and blood" leads us directly to his second main "thesis": without terrorism it is impossible to achieve socialism.

Anyone who renounces terrorism in principle, [Trotsky declares] . . . must[also]renounce the political rule of the working class, its revolutionary dictatorship. Anyone who renounces the dictatorship of the proletariat,[also]renounces the social revolution and
writes "finis" to socialism. (TiK 23).
Socialism, he adds, means a society without class divisions, without exploitation, wholly "without deceit and violence. But it is not possible to throw a bridge toward that [future] society except by the methods of ... violence" (IMN 14a).

"Violent revolution was necessary [in Russia]," according to Trotsky, "... because the undeferrable demands of history [sic!] proved incapable of clearing a road [to the future] through the [present] apparatus of parliamentary democracy" (TiK 35). Under pressure from Kautsky, Trotsky goes so far as to admit that, in the historical struggle against feudalism, "formal" democratic principles (the individual as an end in himself, universal suffrage, freedom of expression) had played a progressive role. But at present, he insists (in 1920), they exhibit their reactionary aspect: "the setting up of the control of an ideal norm above the real demands of the working masses and the revolutionary parties" (TiK 38). In other words, such principles—and especially that which specifies that individual persons have intrinsic, non-instrumental value—introduce an unacceptable constraint upon the otherwise unrestricted recourse to violence, terrorism, and deceit.

The essential theoretical differences between Trotsky and Kautsky should now be clear: the former holds that socialism can only be achieved by the violent means of proletarian dictatorship and terrorism. The latter insists (although
earlier [in 1909] he was closer to Trotsky's position) that a constitutional winning of power through free elections, accompanied by propaganda and education in the aims of socialism, is the only way to keep the end uncorrupted.

(3) Trotsky's third argument is, in essence, that Bolshevik violence, terror, and deception are "justified" because all governments have recourse to such measures. Trotsky cites a number of examples from contemporary (1920) events in Western Europe to support his thesis, and concludes:

> It would be vain, in our time, to seek anywhere in the world a regime which did not have recourse to measures of harsh mass repression in order to maintain itself. (TiK 15; cf. 53.)

For Trotsky, the form and extent of repressive measures (e.g., imprisonment versus shooting) is a matter not of principle but of expediency. And imprisonment is not an effective means of intimidating the counter-revolutionaries, since the latter—as of 1919-1920—think that the Bolshevik government will soon be overthrown and that they will be released. "The extensive recourse, in the civil war, to execution of shooting," Trotsky adds, "is to be explained by this one simple but decisive fact" (TiK 56).

**Intimidation** [Trotsky declares] is a powerful instrument of both foreign and domestic policy. . . . The revolution . . . kills individuals and [thus] intimidates thousands. (TiK 56-57.)

(4) Trotsky next turns briefly to his fourth argument: that the terror was started not by the Bolsheviks but by the counter-revolutionaries, "who were supported by foreign
money, men, and supplies." Historically, this is a dubious assertion, but I shall not pause to challenge it.

Apart from the question of means and ends, Kautsky says, we must recognize that "even the end (purpose) of Bolshevik terrorism is not unobjectionable. Its immediate task is to maintain control of the military-bureaucratic apparatus of power which [the Bolsheviks] have created" (TuK 140). Kautsky goes even further: "The holding down of a discontented proletariat," he retorts, with irony, "such is the noble end which is supposed to sanctify the base means of mass-murder in Russia today" (TuK 140). This is not Marxism, Kautsky insists; the Bolsheviks have discarded Marx's theory and retain only the magic slogan "dictatorship of the proletariat." By using this expression, he writes, "they thought they could gain absolution for all their sins against the spirit of Marxism" (TuK 110).

Trotsky predicted, with nonchalant self-assurance, that in the future the terror would be reduced: "The further we go [into the future], the easier it will get, the freer each citizen will feel himself to be, the more imperceptible will the coercive force of the proletarian state become" (TtK 163). Trotsky's last point is crucially and, I suspect, deliberately, ambiguous. Will the coercion be less perceptible because it will actually have lessened, or only because Soviet citizens will have become more thoroughly habituated to it?

Kautsky's comment, a decade later, is worth noting.
"Terror in the Bolshevik system," he declared, "is not a mere wartime measure [i.e., one confined to the period of civil war]. Rather it has become more deep-rooted in the ten years of peace since 1920." And he adds that there are two kinds of counterrevolution [in Russia], the primitive or 'White-Guard' counterrevolution, and the bonapartist or fascist-Bolshevik counterrevolution.

On this point, at least, despite their bitter differences on other matters, Kautsky and Trotsky (author of The Revolution Betrayed) were in substantial agreement.

John Dewey, in his response to Trotsky's 1938 essay, makes an important distinction between two different senses of 'end' in Trotsky's assertion that 'the end justifies the means': (1) end as the objective or actual consequence of present action; and (2) end as the "end-in-view" or (subjectively) envisaged goal to be brought about by present actions. The end-in-view is relegated to the remote historical future, whereas the first of the objective consequences appear in the relatively short-term future.

Dewey asserts forcefully that means and ends (in both senses) are interdependent and continuous. He charges Trotsky with subordinating the professed end, the end-in-view, to the instrumentality of violent class-struggle--proclaimed as the only possible effective means. Since for Trotsky, Dewey writes,
the view that [class struggle] is the only means is reached deductively and not by an inductive examination of the means-consequences in their interdependence, the means, the class struggle, does not need to be critically examined with respect to its actual objective consequences. It is automatically absolved from all need for critical examination.

... [T]he end-in-view (as distinct from objective consequences) justifies the use of any means in line with the class struggle and ... justifies the neglect of all other means. ... (MAE 71.)

Perhaps the following reformulation will make Dewey's point somewhat clearer: According to Dewey, Trotsky accepts an end-in-view $E$, and asserts that to attain this end one must resort to certain means $M$ (class-struggle, violence, etc.). But, Dewey maintains, when we use $M$, certain (perhaps unanticipated) objective consequences $C$, ensue; and some or all of these consequences are incompatible with $E$. Yet they were generated by $M$, which was asserted to be essential to the attainment of $E$. The reason for this paradoxical situation, Dewey argues, is that $M$ is arbitrarily declared to be the only possible means to $E$, and thus is exempted from critical examination, and in particular from an investigation as to its probable objective consequences $C$. Such analysis and criticism, if undertaken, would have made it clear that $M$ would (probably) generate objective consequences $C$, that would be incompatible with, or would "undermine" the original end-in-view, $E$. 
It is one thing [Dewey continues] to say that class struggle is a means of attaining the end of the liberation of mankind. It is a radically different thing to say that there is an absolute law of class struggle which determines the means to be used. For, if it determines the means, it also determines the end—the actual consequence. (MAE 71.)

There are many ways, Dewey points out, of carrying on a class struggle. We should choose critically among them—assuming that we have adopted "class struggle" in general as the appropriate means for achieving our end-in-view (which Dewey himself did not)—by examining their consequences, not by deduction from an alleged "law of history."

Dewey, who made a central place for the category of habit in his own ethical and social theory, is, I think, suggesting that the Trotskyite recourse to terror might become habitual, that the objective consequences of such a historical habit might be something like an institutionalization of terrorism—what we might call "transitional totalitarianism"—and that it might prove a hard habit to break, might indeed last for generations.

It is to Khrushchev's special brand of "transitional totalitarianism" that I now turn.
Capital punishment for non-political crimes was abolished in Russia long before 1917. And in March of that year, shortly after coming to power, the Provisional Government abolished the death penalty altogether. However, capital punishment was restored, as applied to soldiers at the front, in July of the same year. The Bolshevik regime suspended the death penalty again in November 1917, shortly after seizing power, but restored it again in May of the same year. The final Soviet suspension of capital punishment lasted three years: from 1947 to 1950. However, until 1958, when maximum terms of deprivation of freedom were reduced to fifteen years, many Soviet citizens were sentenced to the earlier maximum of twenty-five years, which—as Sakharov points out—amounted in practice to a death sentence.

Nikita Krushchev, in his more than six years as Premier and Party First Secretary (1958-1964), not only made no move to abolish the death penalty; he steadily enlarged the class of capital crimes and for the first time in modern Russian and Soviet history made a broad spectrum of crimes against property punishable by death. The only—and partial—precedent in Soviet history during the period 1921-1961 was Stalin's edict of August 1932 specifying the death penalty for a limited class of crimes against state and public property. This measure, which was applied primarily as a component of the massive and cruel program of forced
collectivization of agriculture, was later dropped. In any case, most of the crimes against property which Khrushchev made capital offenses in 1961 were not covered by the edict of 1932.

The reputation which Khrushchev enjoyed, and to a considerable extent still enjoys, as a "liberalizer" -- and, in the current Soviet press, as a significant precursor of Gorbachev's reforms (both glasnost' and perestroika) -- is in my judgment quite undeserved. I would challenge Alexander Yanov's recent characterization of Khrushchev's policy as one of "reform" (contrasted with "Stalin's dictatorship" and "Brezhnev's decay"), Yanov's reference to "Khrushchev's reform regime that had actively fought for a permanent accommodation with the West," and his labelling of Khrushchev as "a Soviet Luther who introduced and legitimized the new denomination of Soviet Protestantism into the Soviet meta-ideology."28-a

I would agree rather with the former Soviet lawyer who asserts that Khrushchev continued the "lawlessness" of the Stalin period in the form of the "law which established the death penalty for economic crimes . . . . From the point of view of criminal legislation . . . one cannot speak of a 'thaw' in the early 1960s."29

To be sure, Khrushchev "de-Stalinized" Soviet society, but only in order to "re-Leninize" it. In foreign affairs his aggressiveness in crushing the Hungarian uprising of 1956, building the Berlin Wall (1961), and installing nuclear-
tipped missiles in Cuba (1962) is well known, yet often conveniently forgotten. As a recent commentator recalls: "I vividly remember when Nikita S. Khrushchev was extolled here [i.e., in Italy] as one of a trio of harbingers of hope for mankind (the other two were John F. Kennedy and Pope John XXIII) by 'experts' who somehow forgot the crushing of the Hungarian Revolution, the building of the Berlin Wall, and the Cuban missiles."

What needs to be stressed in the present context is that Khrushchev was no less an extremist and "hard-liner," no
less prone to violent and repressive measures, in domestic affairs. His introduction of the death penalty for crimes against (state and public) property was only one aspect—although clearly the most striking and shocking—of what I have called Khrushchevian "social Stalinism." Social Stalinism, as distinguished from "classical" or police-state Stalinism, was formulated in a series of drastic, largely unprecedented, measures introduced by Khrushchev between 1958 and 1964, including the massive mobilization of "volunteers" whose task was to "check and report on" their fellow citizens' errors of commission and omission. Whether or not Khrushchev was consciously emulating Chinese Communist practice in these matters, his social Stalinism had a distinctly "Maoist" flavor about it. As he declared at a Plenary Session of the Communist Party Central Committee in November 1962, if all Party, Komsomol, and trade-union members were put to work "checking and reporting on" what is happening in Soviet society, not even a mosquito could take wing without being detected!

Khrushchevian social Stalinism crystallized into recognizable institutional forms, all of which are still operative in the Soviet Union today, among them the Comrades' Courts, the People's Voluntary Militia (narodnye druzhiny), the home-and-family-life detachments (bytovye otriady) of the Komsomol. And it can hardly be accidental that former KGB officials have assumed leading positions in the druzhiny.
The mobilization was massive. As of 1967, according to one Soviet commentator, there were 5.8 million members of the druzhiny, together with six million people involved in checking up on the activities of those engaged in trade and service industries; over 200,000 comrades' courts; four million members of groups engaged in social inspection and checking; three million members of the Komsomol "searchlight" (prozhektor); two million deputies of local Soviets; plus 23 million activists and a huge army of volunteers engaged in helping the police, courts, and prosecutors.32

Another Soviet author refers to a "large army of druzhiniki," many of whom, "under the direction of party organizations," carry on a "struggle against plunderings (khishcheniia) of socialist property."33 There was, and is, of course pressure on the "volunteers" to undertake such unsalaried duties; but there are also rewards for so doing, e.g., extra vacation time at places where the volunteers' expenses are wholly or partly paid. Other incentives include "expensive gifts" as well as citations and badges.34

The purely "voluntary" character of the druzhiny is further put in doubt by the comment that there is "continuous interaction between the people's militias and the apparatus of the militia."35 Finally, the same author notes that the experience with "specialized druzhiny" set up to combat speculation and the plundering of socialist property has been sufficiently positive to make it desirable to extend such
druzhiny to "all major industrial enterprises." According to another Soviet commentator, the interests of the "Soviet people" are guarded by an "enormous army of scouts" which has become a "most active helper of the Party and government."

It should be emphasized that the aim of social Stalinism, like that of classical Stalinism, is to channel all the energies of Soviet society into "socially useful work"—where 'usefulness' is of course defined by the current political leadership. Its means are largely public and social, in contrast to the bureaucratic and terroristic means of classical Stalinism. However, it should be stressed that while the agencies engaged in checking and reporting are to a significant extent non-professional—groups of unpaid volunteers as contrasted to Stalin's salaried police agents—the actual sanctions, under Khrushchev and his successors (down to and including Gorbachev), as under Stalin, are applied by instrumentalities of the state and Party.

Those who still tend to view Khrushchev as a "liberalizer" should recall, on the one hand, his famous "donkey tail" speech condemning modernist tendencies in Soviet painting and, on the other, the fact that the first (post-Stalin) Soviet trial of a writer simply for the crime of writing, not for any alleged political offense, was carried out in Leningrad in February-March 1964 against the twenty-three-year-old poet, Joseph Brodsky (who was to receive the Nobel Prize for
Literature, 1987). Brodsky would, in all probability, have served out his entire five-year term at hard labor in the Far North (the tiny, isolated village of Norinskaia in the Region of Archangel), despite support from certain prominent Soviet intellectuals and an outcry in Western literary and intellectual circles, if Khrushchev had not been toppled in September 1964. Brodsky was in fact released after only twenty months in November 1965.

The heart of social Stalinism—the laws against social parasitism and the edicts against economic crimes—represents a response to what the post-Stalin Soviet leadership has come to regard as the intolerable persistence in a significant sector of the Soviet population of self-interested and anti-collectivist motives. Anti-social self-interestedness was in fact encouraged by various Stalinist policies and practices. And the stress upon acquisitive motivation, implemented by a complicated network of incentive payments, bonuses, and piece-work wages, has continued and in some respects been expanded; e.g., under Gorbachev bonuses are awarded for exceeding the norm, not just in quantity, but also in quality of production. The system of positive incentives is supplemented by threats of harsh sanctions for "social parasitism," i.e., for deliberate non-participation in the "building of Communism," and by the threat of the ultimate sanction for active and large-scale obstruction of the functioning of the public economy.
Konstantin Simis, a Soviet emigre who had many years of intimate experience, as a lawyer and researcher, with Soviet legal theory and practice, in his fascinating book, USSR: The Corrupt Society,\textsuperscript{38} tells an intriguing story about the role of Khrushchev's son-in-law, Alexei Adzhubei, then editor of Izvestia, in persuading his powerful father-in-law to introduce capital punishment for crimes against state and public property.\textsuperscript{39}

During May and June the activities of a group of "speculators in foreign currencies" headed by Ian Rokotov and Vladik Faibishenko, were discussed in lurid detail in the pages of Izvestia.\textsuperscript{40} There is more than a hint of xenophobia in the report that the avaricious Rokotov spiced his Russian conversation with such English words as 'sir,' 'ok,' and 'good-bye.' And there is a detailed catalogue of their loot, totalling twenty million rubles in the "old" currency (in effect until early 1961, which equals two million rubles in the "new" currency. The larger figures are often given, presumably--as Evel'son asserts--to make them appear even more astronomical than they otherwise would). Part of the two million rubles was in dollars ($19,000), and smaller amounts in pounds sterling, French francs, and other Western currencies. The message for the Soviet public was hammered home by Izvestia's law correspondent, Iuri Feofanov, writing on May 19, the very day on which the ukaz of May 5 was published in his newspaper.\textsuperscript{42}
"All honest people demand that they [viz., Rokotov, Faibishenko, and their accomplices] be brought to justice with all the severity [and] all the strictness of the just Soviet laws" which were set forth in the "recent" ukaz.

Adzhubei also published in Izvestia a number of letters to the editor which prominently featured the outrage of ordinary Soviet citizens, many of whom demanded the death penalty for Rokotov, Faibishenko, et al.

Valery Chalidze makes a related point when he refers to talks that took place in 1972 between poet and editor Vladimir Lapin and a member of the Presidium of the Supreme Soviet about Lapin's proposal to abolish capital punishment. The member of the Presidium told him, "Incidentally, many people write us about changes in our legislation, but for the most part they ask that harsher punitive measures be established. . . . I must say that recently you are the only one to write about abolishing capital punishment." I am sorry to add [Chalidze continues] that I place much more credence in this statement by a member of the Presidium of the Supreme Soviet than in the words of the 1947 decree abolishing capital punishment, which stated that this boon was granted to satisfy the wish expressed by social organizations and trade unions.

Simis further reports that as the trials were drawing to a close (in June 1961) Khrushchev summoned the Prosecutor General of the USSR, Roman Rudenko, and demanded to know why these vile criminals could not be put to death. Rudenko allegedly replied that there were two decisive reasons: (1) speculation in foreign currencies, however brazenly carried
out and on however large a scale, is not a capital crime under Soviet law; and (2) even if the law were to be changed tomorrow, these defendants could not be retroactively charged under an edict that was not yet in effect when their crimes were committed.

Khrushchev, in a rage, reportedly shouted: "Who's the boss: we or the law?" He gave orders to extend the death penalty to major crimes against state and public property, and to devise some strategem for applying the new law retroactively to Rokotov, Faibishenko, and their accomplices. According to Simis, both of these orders were expeditiously carried out, beginning with the ukaz of May 5, 1961, although the carrying out of the second strategem--by means of a second trial--involved a clear violation of the principles of Soviet legality.

I have no reason to doubt Simis' story; indeed, it has the smell of truth about it. However, I would resist what I take to be Simis' implication: that this unprecedented shift in Soviet legal and social practice was uniquely the result of Khrushchev's personal impetuousness together with his rashness and extremism in matters of public policy. If Khrushchev's successors had viewed the edicts of 1961-1962 as part and parcel of his alleged "hare-brained scheming," they would surely have cancelled them without delay or, at the very least, would have let them quietly lapse, uninvoked. They have done neither: all four of Khrushchev's successors--
Brezhnev, Andropov, Chernenko, and Gorbachev—have retained the death penalty for crimes against property in full and sinister force.

For the first time since 1961 the possibility of dropping the death penalty for crimes against state and public property was discussed during the drafting of the reform of the Soviet criminal code in 1987-1988. The draft revision was published for the first time in Izvestia (Dec. 17, 1988, p. 2); under the heading, 'death penalty' only certain political crimes (treason, espionage, terrorism) and certain crimes against persons (first-degree murder, rape of a minor) are listed. American specialists who have been present at Soviet discussions of the reform of the penal code over the past two years report that there is both strong support for, and strong resistance to, the dropping of the death penalty for crimes against property among Soviet lawyers, judges, and law-enforcement officials. Suggestions and objections to the draft revision are invited until March 15, 1989. It is likely that a number of suggestions will involve restoration of the death penalty for crimes against property. The outcome of this dispute is still uncertain, but it should become clear within the next several months, i.e., by the end of 1989 or the beginning of 1990.

There is a certain historical irony in the fact that at just the time when the long-simmering Sino-Soviet conflict had come to a boil (in 1960-1961) Khrushchev should have
followed the decade-old lead of the only major country in the world to have made certain crimes against property punishable by death (this was done in the People's Republic of China in 1951).

As it happens, the technical mode of execution is the same in China as in the Soviet Union: not the gallows, the electric chair, lethal injection, or even the firing squad, but a single bullet to the base of the skull. However, the social or public mode is quite different. Soviet executions are standardly carried out behind the walls of the Lubianka and similar non-public places, whereas in China many of the people convicted of major economic crimes, along with murderers, rapists, traitors, saboteurs, et al., are executed publicly, in groups of several dozen, in town squares or open fields. For some weeks prior to the executions large posters with portraits of the criminals and descriptions of their crimes stand in the place of execution. On the appointed day a policeman with a rifle stands behind each of the convicts and, at a signal, shoots him in the back of the head. Any who survive the first shot are given the coup de grâce by a police officer. For several weeks after the execution the posters are left standing, but each pictured criminal is "checked off" in black paint. 46

In the nearly twenty-eight years since it went into effect, Khrushchev's draconian edicts have continued to claim their victims at a fairly steady rate, ranging from a low of
about 200 to a high of between 300 and 350 executions per year. Sakharov, writing in 1975, offered what strikes me as a plausible estimate of 700 to 1,000 executions per year for crimes of all kinds—political crimes, crimes against persons, and crimes against property. In a later work he added: "The total number of executions in the USSR is not known; the statistics are a state secret. But there are grounds to believe that several hundred persons are executed annually. . . ." Liu Fong Da makes a parallel statement, but goes on to offer mind-boggling statistics on the number of executions in the PRC. "Unless it is deemed politically necessary to publicize them, executions in China are kept secret and carried out under tight security." He estimates the number of public executions in 1983 alone at over 100,000. The Chinese law specifying the death penalty for crimes against state property has been in effect for thirty-eight years (ten years longer than the Soviet law); the total number of persons executed over this period for crimes of all categories may well exceed three million—assuming that something close to the estimated rate for 1983 was maintained throughout most of this thirty-eight-year period. One-third of that total, the probable ratio of those executed for crimes against property, would represent a staggering total of nearly one million people executed in China for economic crimes. This is more than one hundred times the Soviet total; since the Chinese population is nearly four times the
Soviet population, this would come to something like twenty-five times the Soviet total on a per capita basis. All of these figures, of course, are approximate and subject to refinement.

The Soviet total assumed in the above discussion is calculated on the basis of Sakharov's figures at between 19,600 and 28,000 executions for crimes of all types over a twenty-eight-year period (1961-1989). If we assume that one-third of these were for crimes against property, that figure would still amount to a staggering total of between 6,533 and 9,333 Soviet citizens whose lives have been taken because they took, or misused, the state's property.

In general, when there is a stepped-up campaign against official corruption ("red-collar" crime, as it has been aptly called\(^5\)), e.g., under Andropov in 1983 and under Gorbachev in 1985-1988, the number of executions for crimes against state and public property increases significantly.

The capital crimes that I have been referring to as 'crimes against (state and public) property' have been characterized in Soviet legal jargon (since 1961) as 'economic crimes on an especially large scale' (khoziastvennye [or ekonomicheskie] prestupleniia v osobo krupnykh razmerakh). These include "embezzling and plundering or theft" (the capacious term khishchenie covers all of these), counterfeiting, speculating in foreign and domestic goods and currencies, bribery, and short-changing the public. Parallel crimes
against private or personal (lichnyi) property, e.g., grand larceny, are not of course capital offenses under Soviet law. They are punished rather by deprivation of freedom, fines, and confiscation of property—the same punishments which apply to crimes against state and public property when these are less than "major" or "large-scale."

Although the Soviet criminal code does not specify ruble amounts, Soviet juridical practice has established 2,500 rubles as the threshold for "large-scale" (krupnyi) economic crimes, and 10,000 rubles as that for "especially large-scale" (osobo krupnyi) crimes. What is more directly to our purpose, it appears that about 200,000 to 250,000 rubles is the threshold for the application of the death penalty.

I have no explanation why this figure was chosen—rather than, say, a figure twice as large or half as large. It may possibly bear some rough relation to the lifetime earnings of an average Soviet industrial or clerical worker, which in 1961 was about 50,000 rubles and is currently almost 150,000 rubles. The reason might be that an economic criminal, in depriving the public economy of 200,000 rubles worth of goods and services, would, in a sense, be destroying the equivalent (or somewhat more than the equivalent) of an average worker's lifetime earnings, thus "killing" a worker. This in turn would make exceptionally large-scale crimes against property analogous to murder, and thus subject to the death penalty.

A common-sense, morally-based objection to the quantification of capital crime was aptly formulated in the bitter
comment of a Polish citizen concerning the execution of Stanislaw Wawrzecki, a Polish official convicted of large-scale meat-distribution fraud, as reported in the New York Times on March 28, 1965: "What is the price for human life now in Poland? Is it a ton of meat or is it only half a ton?" Soviet citizens in 1989 must sometimes wonder whether the price of a human life in the Soviet Union today is 250,000 or 200,000, or only 150,000 rubles.

It should be added, with respect to Poland, that, after briefly following the Soviet lead, the Polish government in the mid-1960s quietly abandoned its resort to the death penalty for crimes against property, having executed only a handful of people. Communist China and the Soviet Union remain the only major countries to continue this practice, although Iran under the Ayatollah Khomeini and Nigeria under one of its recent "revolutionary" regimes have both introduced the death penalty for certain economic crimes.

The particular threshold figure for the application of the death penalty—which in practice appears to be between twenty and twenty-five times the 10,000-ruble threshold figure which defines economic crimes "on an especially large scale" (в особо крупных размерах)—is not, of course, as important as the fact that there is some figure. Even if it were ten times, or a hundred times, as large as the currently invoked figure, there would still be a morally unacceptable conversion of quantitative into qualitative differences. That is
to say, a relative difference, a difference of degree, between two crimes—say, the embezzling of n rubles and the embezzling of n+m rubles (where m may be a very small quantity) results in an absolute difference, a difference of kind, between the respective punishments: loss of property, deprivation of freedom, or a fine (or some combination of these) in the one case; death by shooting in the other.55

To put the point differently: all crimes against property are quantifiable; they result in the loss of so-and-so many rubles (or dollars) worth of goods or services. And the normal punishments for such crimes are also quantifiable, are matters of more or less: the greater the loss the longer the jail term, the larger the fine, the more extensive the confiscation of property. But where certain large-scale crimes against property are punishable by death, an incomensurable element is introduced: something which is a matter of more-or-less is treated by the application of something (the death penalty) which is a matter of all-or-none.

There is evidence56 that not everyone whose crime against property exceeds the quarter-million ruble threshold is in fact executed. Since large numbers of people commit such major crimes against state and public property, and only a fraction of them are brought to trial and convicted, and of these only a fraction, in turn, receive the death sentence, it appears that the constant threat of such punishment can be, and is, used to keep people in line politically
and ideologically, and especially to threaten corrupt subordinates who might otherwise be tempted to be disloyal to their corrupt superiors.

In this connection it is worth noting that a recent Soviet commentator has suggested that the prevailing practice of punishing the bribe-giver (vziatkodateli') much more harshly than the bribe-taker (vziatkopoluchateli') should be reversed; that bribe-takers, who in general stand on a higher rung of the socio-economic ladder than bribe-givers, should be punished more harshly.57

The question of the deterrent effect of capital punishment for crimes against property needs to be divided into two subordinate questions: (1) Will it deter potential large-scale economic criminals from their contemplated crimes; and (2) will it deter potentially disloyal subordinates from their contemplated disloyal actions? Both questions, of course, are extraordinarily difficult to answer. But I suspect that the answer to (1) is "No," whereas the answer to (2) may well be "Yes."

That capital punishment has not been an effective deterrent to crimes against property is suggested by the fact that the incidence of such crime appears not to have decreased significantly over the past quarter-century but rather to have increased, particularly in the last decade or more.58 Deterrence presumably presupposes publicity of punishment. But there is a curious ambivalence in the Soviet publicity
about the death penalty. The Soviet practice is to give death sentences for crimes against property much less publicity than do the Chinese. Many such sentences are announced, although according to Sakharov and others, most such sentences remain unannounced. But the announcements are typically sketchy and schematic--usually not more than two or three column-inches of newspaper print, without photographs of the convicted persons or any mention of the date or place of execution.

Although Soviet commentators seldom make the distinction clear or explicit, there are in fact three distinct, and only partly overlapping, categories of crimes against property: (1) Abuse of office ("red-collar" crime), where the office in question is normally of at least middle-level political or economic importance; this includes not just bribe-taking and related activities, but also short-changing of the public; (2) embezzlement, speculation in foreign currencies, counterfeiting, bribe-giving, carried out by "private" citizens, i.e., those whose occupation is not the primary source of their criminal opportunities; and (3) private enterprise.

A comment about (3): Having no legitimate outlet in Soviet society, private managerial and commercial initiative and ability tend to be deflected into activities which in other societies are regarded as quite legitimate and respectable but in the Soviet Union are regarded not only as morally reprehensible but also as criminal. To take a
representative case: in the early 1960s Kotliar and Begelman went into business for themselves, manufacturing and marketing lipstick. To start their basement factory they needed machinery and raw materials. To get both they had to bribe officials of a state-owned and operated lipstick factory. Their enterprise flourished; but under Khrushchev's edicts both were tried and condemned to death for "especially large-scale khishchenie of state property."^59

Although significant in other respects, the recent (November 1986) decriminalization of very small-scale private enterprises, i.e., those which do not employ non-family members—a move urged as early as 1984 by some Soviet legal scholars^60—does not change the situation with regard to larger-scale private enterprises, those which do employ non-family members. These are still illegal, and those who engage in them are still forced to commit other economic crimes, such as those which proved fatal for Kotliar and Begelman more than twenty-five years ago.

All of the people executed for crimes against property during the early 1960s whom I have identified by name—Rokotov, Faibishenko, Kotliar, and Begelman—were Jewish. In my earlier study I raised the question of the "anti-Semitism" of the 1961 edicts and concluded that, although they had clearly anti-Semitic consequences, they were not explicitly anti-Semitic in their formulation or intention. Evel'son, however, makes a persuasive case that the intention as well as the consequences of Khrushchev's edicts was explicitly anti-Semitic.
It appears that in recent years the proportion of Soviet Jews among those condemned to death for crimes against state and public property, originally very high, has fallen significantly, as the number of Soviet Russians, Georgians, Tadzhiks, Kirgiz, Latvians, et al., has risen. The reasons for this shift are complex, but I suspect that an important reason is the increase in "red-collar" criminals among those condemned to death for crimes against property, and the fact that Jews are a relatively small minority among the holders of middle- and upper-level economic and political positions. This in turn is no doubt a result of anti-Semitism of a more pervasive but less lethal kind. Evel'son appears not to disagree with this conclusion.

The nearest thing to a justification of recourse to the death penalty for crimes against property that I have found in the Soviet literature is an unargued and controversial assimilation of such crimes to treason, espionage, and sabotage, by classifying them as "political" or "state" (gosudarstvennye) crimes. That such an assimilation of economic crimes to political crimes was initiated by Lenin makes it easier for Soviet commentators to assume it, without offering any arguments for it beyond the fact that it is backed up by the highest possible political and ideological authority. Lenin on November 18, 1919, declared the peasants' "free trade in grain" to be a gosudarstvennoe prestuplenie.
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Counterfeiting, currency violations, and smuggling are standardly classified in Soviet lawbooks as state crimes or political crimes; and one can see a certain justification for such classification. Khishchenie, short-changing the public, bribery (both giving and taking bribes), etc., are also standardly classified as "crimes against socialist [i.e., state or public] property." The key question is how the latter can be assimilated to the former. A corollary is the implicit admission by Soviet authorities of what has been evident to most observers of the Soviet scene for some time, namely, that the distinction between state and public (obshchestvennye) institutions and hence between state and public property is a specious one. Otherwise it would not be possible to define crimes against public property (say, the property of a kolkhoz, a university, a trade union, or a research institute) as state crimes.

Certain Soviet statements, particularly statements made immediately after the introduction of capital punishment for crimes against socialist property, undertake, without argument, a kind of rhetorical assimilation of crimes against property to (violent) crimes against persons. Consider the following catalogue of "malicious criminals" (zlostnye prestupniki) offered by Prosecutor General Rudenko: "plunderers (raskhititeli) of socialist property, murderers, rapists." The list is repeated and expanded by another
commentator: "Plunderers of socialist property, counterfeiters, armed robbers, murderers, rapists, those who make a profession of speculation or who engage in speculation on a large scale." In another list the same author adds bribe-takers and kaznokrady --literally, 'those who steal official funds'--in other words, "red-collar criminals."

The Soviet assimilation of large-scale economic crimes to the political crimes of treason and espionage strikes me as extremely problematic. It would be much more convincing if, say, a Soviet restaurant manager or food-distribution official were charged with substituting motor oil for cooking oil, and pocketing the (considerable) savings--like the Moroccan merchants, who, in the 1950s, mixed motor oil with cooking oil, or like the Austrian and Italian winegrowers who in 1985 and 1986 adulterated their wine with an inexpensive but poisonous kind of alcohol. In both cases disabling illness and death was the result. In such cases the crime, though in an obvious sense "economic" and clearly motivated by greed, would be more like assault or murder. And if--in the Soviet case--high officials, either civilian or military, frequented the restaurants in question, it would be analogous to treason. But to my knowledge Soviet restaurant managers and food-distribution officials have been condemned to death only for short-changing the public, e.g., for putting 75 grams instead of the required 150 grams of meat in their institutional stews, and pocketing the difference.
As I have indicated, there is relatively little explicit discussion of the Soviet government's recourse to the death penalty for crimes against socialist property on the part of Soviet legal scholars and none, to my knowledge, on the part of Soviet ethical and social theorists (even under Gorbachev's policy of glasnost'). Soviet theorists have clearly been unable, during the past quarter century and more, to come up with any intellectually respectable, let alone theoretically persuasive, justification of this policy and this practice.

But the near-silence on this topic among Soviet human-rights activists like Sakharov in the Soviet Union and Chalidze in the United States is harder to explain. Sakharov has made some mention of it, in both 1975 and 1978. His clearest and most explicit condemnation comes in a statement which he prepared in 1977 for a conference on capital punishment convened in Stockholm (which he was not permitted to attend): "[I]n the USSR the death penalty is a possible punishment for many crimes which have no relation to crimes threatening human life."\(^\text{68}\) And he makes specific reference to the case of Rokotov and Faibishenko. But since, like the official position of Amnesty International, Sakharov's position is unequivocally opposed to capital punishment as such, he, like them, tends to draw an insufficiently sharp distinction between capital punishment for crimes against persons and capital punishment for crimes against property.
A second reason for the lack of attention to this question among human-rights activists is perhaps that many of the Soviet citizens who have been executed for crimes against property have been (and their contemporary counterparts continue to be) wealthy, powerful, privileged, arrogant, corrupt in themselves, and corruptors of others. I dispute none of these charges. I do not claim that any of them are blameless. I agree that they are criminals and should be punished. My only point is that their punishment should be limited to fines, confiscation of their ill-gotten gains, and jail terms—not execution!

What is perhaps most chilling about all this is the expression that it has received in literary works, e.g., the sardonic statement by the narrator of a story by Soviet emigre author Yuri Miloslavsky, that "the state . . . was insisting on the supreme measure of punishment [viz., the death penalty] for rapists, as though they were . . . speculators in foreign currencies on an especially large scale." In other words, from the point of view of the Soviet state, crimes against persons are now to be assimilated to major crimes against state and public property, when it comes to justifying the death penalty!

There is a third group which has, in recent years, been relatively silent on this topic, namely, Western specialists on Soviet affairs generally, and Soviet law in particular. Peter Juviler, already referred to, is an honorable exception.
But many standard works on Soviet law barely mention the 1961 edicts and those which do mention them treat the Soviet recourse to the death penalty for crimes against property as (1) a phenomenon of no particular importance, and (2) a practice that is likely to be abandoned in the fairly near future. I categorically deny the first of these claims and retain very serious doubts about the second of them.

As I have indicated, groups like Amnesty International, which do a great service in compiling statistics on executions in the Soviet Union, because of their total opposition to capital punishment as such, fail to make the necessary distinction between the death penalty for crimes against persons and political crimes in the strict sense, on the one hand, and the death penalty for crimes against (state and public) property, on the other. I would argue (although the details would have to be reserved for another occasion), as against the Amnesty International and Sakharov position, that in the former cases one can offer a rational moral justification for capital punishment, but that in the latter cases no such rational moral justification can be offered.

IV

In this brief concluding section I wish to make three general points.

(1) Since Soviet commentators have offered no plausible justification for the barbaric Soviet legislation which (since 1961) has cost several thousand human lives, I am persuaded that the underlying justification for the recourse to the death penalty for crimes against property is
ideological and philosophical. It rests implicitly on the traditional Marxist-Leninist view which systematically devalues and instrumentalizes present existents, and in particular living persons, for the sake of a future historical goal of social harmony and justice. I would suspect that recourse to the death penalty for crimes against property in Communist China rests, at least implicitly, on a similar ideological foundation.

(2) Despite repeated Soviet claims that Soviet ethical, social, and legal principles are humanistic, there has been a conspicuous failure to recognize that the humanism in question -- like Marx's -- is a future-oriented humanism of ideals, distinct from the present-oriented humanism of principles which alone deserves the title 'ethical humanism'. Only a humanism of principles precludes as morally unacceptable the treating of living persons as means to some future socio-economic or political end. A parallel distinction is that between a (present-oriented) morality of rights and Recht (=pravo) and a future-oriented morality of emancipation. It is clear that the dominant Marxist-Leninist approach has been sweepingly negative (beginning with Marx himself) toward a morality of rights and a humanism of principles, both of which stress the rights of existing persons.

However, a welcome move in the direction of both a morality of right and rights and a humanism of principles (though the Soviet philosopher in question used neither of these expressions) came from Ivan T. Frolov, Director of the Soviet Institute of Philosophy, in his address to a plenary session of the World Philosophy Congress in Brighton, England, on August 27, 1988. He recognized that ethical theory was a relatively undeveloped discipline among Soviet Marxist-Leninists and stressed that it would
need to be developed so as to provide theoretical foundations which would guarantee that humanistic ends would never again be pursued by recourse to anti-humanistic means.75 I take this as a clear reference not only to Stalinist but also to Leninist-Trotskyite theory and practice.

(3) The destructive effects upon Soviet society of the twenty-eight-year practice of executing persons guilty only of crimes against property, based as it is on a devaluing and instrumentalizing of the present, has been felt by diverse social groups. First there are the thousands of people who have been executed; then the tens of thousands of their relatives and friends; then the thousands of lawyers and judges, at least some of whom (especially among the defense lawyers) have recognized and continue to recognize the general repressiveness and specific anti-Semitism of this practice; finally, a group with which one has little sympathy, there are the hundreds of executioners (and their friends and relatives), people who must have been thoroughly demoralized and dehumanized by their métier. And then there are the broader circles of Soviet society, people who are vividly aware of the injustice and brutality, the suffering and degradation, experienced by all of the groups identified above.

For the sake of all of these groups, and for humanity's sake, one may hope that the current Soviet proposal (in the draft revision of the criminal code) to remove the death penalty for crimes against state and public property will be promptly put into effect, ending the long nightmare inflicted upon Soviet society by Nikita Khrushchev.
1. See the front page of Izvestia for April 9, 1961, where this slogan appears both as a banner headline and as the final 99th May Day slogan.


13. *Terrorizm i kommunizm*, Petrograd, 1920 (also republished in Trotsky's *Sochineniia*, vol. 12). (Hereafter references will be given in the text, using the siglum 'TiK' followed by page number.) The British edition was entitled *In Defense of Terror*, the American edition *Dictatorship vs. Democracy*; the 1961 American reprint is entitled *Terrorism and Communism*.


17. In a passage referred to by both Kautsky and Trotsky, Marx declared: "[T]here is only one means by which the murderous death agonies of the old society and the bloody birth throes of the new [future] society can be shortened... and concentrated -- and that is by revolutionary terror" (*Neue Rheinische Zeitung*, Nov. 7, 1848; in Marx-Engels Collected

18. Trotsky's remark in 1938 about the "dialectical interdependence (vzaimozavisimost') of means and ends" (IMN 18a) is only an apparent and superficial qualification of this basic position.


21. In another place Trotsky speaks of the "monarchy or monopoly-of-power (edinovlastie) of the proletariat" (TiK 22).

22. Der Bolschewismus in der Sackgasse, pp. 93-94.

23. Ibid., p. 102.


25. There are useful discussions of the Trotsky-Dewey polemic in
Knei-Paz, *The Social and Political Thought of Leon Trotsky*, pp. 561-63, and Lukes, *Marxism and Morality*, pp. 118-122. However, neither commentator recognizes the importance of Trotsky's powerful future-orientation or his instrumentalizing of the present.


33. Galina L. Kriger, Bor'ba s posiyagatel'stvami na sotsialisticheskoiu sobstvennost' i interesy narodnogo khoziaistva (Moscow, 1971), p. 4.
34. Ibid., p. 125.
35. Ibid., p. 126.
36. Ibid. Cf. V. M. Safronov, Sotsialisticheskaia sobstvennost', gosudarstvo, grazhdanin (Moscow, 1975), pp. 77-78.
39. On Evel'son's account, Izvestia, like the rest of the Soviet media, simply featured stories supporting, and attempting to arouse public sympathy and support for, decisions already taken by Khrushchev and Brezhnev (the latter, as Chairman of the Presidium of the Supreme Soviet, signed the three ukazy which made large-scale khishchenie, counterfeiting, speculation, currency violations, and bribery capital offenses). Editorials in Soviet law journals asserted confidently that Soviet citizens had greeted the May 5, 1961, ukaz "with approval" (s odobreniem). Cf. for example Sovetskaia iustitsiia [hereafter 'SIu'], № 13 (1961), p. 3.

Evel'son points out that Khrushchev had partly anticipated this move nine years earlier when, as First Secretary of the Communist Party of the
Ukraine, he arranged for trials in 1952 which resulted in the execution of several economic criminals (most of them Jews), whose crimes were crudely assimilated to political crimes "by analogy" with counter-revolutionary acts. The economic crimes were labelled "counter-revolutionary acts in the area of trade." Cf. *Sudebnye protsessy*, pp. 49-50.

40. For a detailed account of the Rokotov-Faibishenko trial, with extensive excerpts from the Soviet press coverage, see *Sudebnye protsessy*, pp. 268-80.


42. It had been published in the *Vedomosti Verkhovnogo Soveta* on May 11, 1961.


45. As Juviiler points out, "The retroactive death penalty [what Soviet jurists call the obratnaia sila of the 1961 ukaz] for Rokotov and Faibishenko upon their retrial by the RSFSR Supreme Court, July 18-19, 1961, was illegal. . . because it applied new legislation retroactively. . ." (Revolutionary Law and Order, p. 214n.74). The texts of the ukazy establishing the death penalty for crimes against property v osobo krupnykh razmerakh are given by Evel'son: that on counterfeiting and khishchenie of May 5; that on speculation and currency violations of July 6; and that on bribery of February 20, 1962 (cf. *Sudebnye protsessy*, pp. 57-63). Lip
service is paid to the ideological goal of eventually eliminating the death penalty: "The application of the death penalty -- by shooting -- is admitted as an exceptional punitive measure until such time (vprid' go) as it is completely abolished" (Sudebnye protsessy, p. 58; the same language appears in the May 5 ukaz, in the RSFSR Criminal Code, Art. 931, and in textbooks of criminal law).

In a half-hearted attempt to establish the legitimacy of the death penalty for bribery, Soviet commentators note that in 1918 Lenin issued an ukaz setting the death penalty for bribery, and that it remained in effect until 1927. (Cf. M. P. Karpushin and P. S. Dmitriev, Vziatochnichestvo -- pozornyi perezhitok proshlogo [Moscow, 1964], p. 20.)

46. For a graphic firsthand account of such a public execution, see Liu Fong Da, with John Creger, "Execution Day at Zhengzhou," American Spectator, Vol. 19, No. 12 (December 1986), pp. 19-20. I have supplemented this published account with information provided by Chinese emigres and an American sociologist who has done research in Mainland China.

47. Sakharov, My Country and the World, p. 43.


50. Ibid., p. 20.

51. The expression was introduced by the distinguished Polish-Canadian sociologist of law Maria Los in "Red Collar Crime: Elite Crime in the USSR and Poland," an Occasional Paper of the Kennan Institute for Advanced Russian
Studies (1987). The contrast, of course, is with "blue-collar" crime, on the one hand, and "white-collar" crime, on the other. The Russian term for 'abuse of office' -- dolzhnostnoe prestuplenie -- is somewhat broader than 'red-collar crime', since not all abusers of office are Party members, although most of them are. Since no Party member can be tried on criminal charges, abusers of office who are Party members must be expelled from the Party before criminal proceedings can begin.

52. See, inter alia, A. A. Pinaev, Ugolovno-pravovaia bor'ba s khishcheniem (Kharkov, 1975), p. 78.

53. The existence of a quantitative threshold for application of the death penalty leads to such grisly pedantry as the distinction, stressed by Soviet legal scholars, between the wholesale and the retail price of plundered goods. Since the latter may be more than twice the former, an economic crime that stood safely below the 200,000-ruble threshold in terms of wholesale prices could stand ominously above that threshold in terms of retail prices. Cf. Iu. Liapunov, "Kriterii i poriadok opredeleniia razmera khishcheniia," SIu, № 8 (1986), pp. 6-8.

54. I owe this ingenious suggestion to Professor William C. Fletcher.

55. For an earlier formulation of this point, see my article, "Economic Crime and Punishment," Survey, № 57 (October 1965), pp. 67-72; especially pp. 67-68.

56. Some of this evidence is presented indirectly by Simis in USSR: The Corrupt Society. Evelelson, who recounts four hundred trials for economic crimes (1961-1967), mentions several cases in which Jewish defendants were
condemned to death or given very long prison terms while non-Jewish defendants who were equally guilty were given short prison terms or even released from criminal responsibility altogether (see Sudebnye protsessy, pp. 102, 125).

57. See A. Iakimenko, "Kak usilit' bor'bu so vziatochnichestvom?" SZ, N° 8 (1986), pp. 11-12. Since during the 1960s a majority of Soviet bribe-givers were Jewish and a majority of bribe-takers were non-Jewish (Russian, Ukrainain, Georgian, Kirgiz, etc.), the now admitted juridical bias against bribe-givers clearly had anti-Semitic consequences and may well have been anti-Semitic in its intention. The accurate but unwieldy terms vziatkodatel' (bribe-giver) and vziatkopoluchatel' (bribe-taker or receiver) were used at least as early as 1961. Cf. M. Kovalev and G. Shel'kovin, Vziatochnichestvo -- tiagchaishchee prestuplenie," SIu, Nº 24 (1961), p. 11.

58 The ratio of convictions for bribery to total convictions has remained remarkably stable (at around 1.1 percent) over the forty-year period 1925-1965. See Vziatochnichestvo i bor'ba s nim (Tbilisi, 1980), pp. 122-23. More than twenty years after the introduction of the death penalty for crimes against property Soviet commentators complain that "speculation in goods remains, as before, a widespread violation of law" (V. Bolysov, "Usilit' bor'bu so spekuliatsiei," SZ, N° 12 [1984], p. 9). (Cf. the similar complaint in R. Brize, "Primenenie zakonodatel'stvya ob otvetstvennosti za spekuliatsiiu," SZ, N° 3 [1982], p. 13). It become increasingly difficult for Soviet commentators to render plausible the claim that large-scale economic crime results not from any feature of socialist society but from survivals of the (pre-1917) capitalist past, together with the current influence of "bourgeois ideology" emanating from beyond the borders of the USSR. (Cf.
59. See my "Economic Crime and Punishment," p. 72. According to Evel'son, the primary motivation for economic crime, at least during the period covered by her study (1961-1967), was the effort to make a reasonable profit by meeting, through "private enterprise" in the "second" or underground economy, consumer needs which were not being met by the official "first" economy. This claim, though an important corrective to standard Soviet accounts, strikes me as overstated, because it neglects two other significant kinds of motivation (which differ from the first as well as from each other): (1) the striving of the greedy rich to get even richer; and (2) the efforts of factory managers working within the "first" economy to obtain scarce and desperately needed raw materials, machinery, and spare parts by bribing officials of various ministries.


62. Ibid., p. 340

63. Compare the title of Vol. 4 of a standard Soviet textbook of criminal law: "Gosudarstvennye prestupleniiia i prestupleniiia protiv sotsialisticheskoi sobstvennosti" in Kurs sovetskogo ugolovnogo prava. Chast' osobennaia,


67. Ibid., p. 21.

68. Sakharov, Alarm and Hope, p. 121.

69. At least some of those engaged in private enterprise in the "second" economy as well as the hard-pressed factory managers mentioned in n. 59 above should be exempted from the charge of criminality as well as that of arrogance, corruption, etc. Such an entrepreneur, and such a manager, might better be called "an economic criminal malgré lui."


71. See in particular his Revolutionary Law and Order, pp. 83-84, 172, and nn. 72-74 (on pp. 212-14).


74. Lukes, Marxism and Morality, pp. 29, 35, 70.
75. In the published version of this address, Frolov's strong statement is slightly weakened, referring only to the "necessity for the complete harmony of humane (gumannye) means with the humanistic (gumanisticheskie) ends to be realized [through those means]" (Voprosy filosofii, № 2 [1989], p. 21).