TITLE: ARBITRARY JUSTICE: COURTS AND POLITICS IN POST-STALIN RUSSIA. Report #2. THEKHRUSHCHEV PERIOD

AUTHOR: YURI FEOFANOV and DONALD BARRY

THE NATIONAL COUNCIL FOR SOVIET AND EAST EUROPEAN RESEARCH

TITLE VIII PROGRAM

1755 Massachusetts Avenue, N.W.
Washington, D.C. 20036
NCSEER NOTE

This is the second in a series of Council Reports which, in all, will contain a book, by the same authors and probably with the same title, forthcoming, M. E. Sharpe. This Report contains: an Introduction: The Press and Political Power from Stalin to Yeltsin by Yuri Feofanov; and Part I, The Khrushchev Period, consisting of chapters One and Two of the book, "The Return to Leninist Norms of Legality," and "The Rokotov Case." Subsequent Reports in the series, numbered sequentially, will contain the remaining Parts II - VII, and will carry the same main title and the subtitle of the Part contained.

PROJECT INFORMATION:

CONTRACTOR: Lehigh University

PRINCIPAL INVESTIGATOR: Donald Barry

COUNCIL CONTRACT NUMBER: 808-02

DATE: October 2, 1995

COPYRIGHT INFORMATION

Individual researchers retain the copyright on work products derived from research funded by Council Contract. The Council and the U.S. Government have the right to duplicate written reports and other materials submitted under Council Contract and to distribute such copies within the Council and U.S. Government for their own use, and to draw upon such reports and materials for their own studies; but the Council and U.S. Government do not have the right to distribute, or make such reports and materials available, outside the Council or U.S. Government without the written consent of the authors, except as may be required under the provisions of the Freedom of Information Act 5 U.S.C. 552, or other applicable law.

1 The work leading to this report was supported in part by contract funds provided by the National Council for Soviet and East European Research, made available by the U.S. Department of State under Title VIII (the Soviet-Eastern European Research and Training Act of 1983, as amended). The analysis and interpretations contained in the report are those of the author(s).
INTRODUCTION: THE PRESS AND POLITICAL POWER FROM STALIN TO YELTSIN

by Yuri Feofanov

I came to newspaper work while Stalin was still alive -- in September 1952. I first worked at Krasnaya Zvezda, a military paper, as a civilian employee. But I got into court sessions a bit earlier, quite by chance and without any assignment. After demobilization from the army in 1946, Vladimir Novinskii, a friend of mine from the front and at that time a practicing lawyer, invited me to come and watch one of the trials that he was involved in. Chairing the court session was a man in military uniform but without shoulder boards, a recently mustered-out officer. I never thought at the time, of course, that this invitation to a trial from my friend from the military would be a prologue to my professional life. But that's what happened, although a bit later.

In 1956, just after the Twentieth Congress of the CPSU, I went to work at Izvestiia. From that moment my professional life combined the courtroom with the newspaper column. For 40 years. In these essays particular attention is given to political or, more precisely, politicized trials. However, it seems to me that the purely criminal aspects of some of these cases may be of interest as well, not just the ideological considerations. Moreover, the cases we examine also reflect on the nature of society at the time, and on the character of the system of justice. In all regimes and political systems crimes that excite the human passions of envy, greed, anger and even love are to be found. The criminal acts examined in this book are no exception.

Possibly the American reader will be unaccustomed to a certain moralizing in the course of the discussion of criminal acts and trials. But this approach has a long tradition in Russia, and I don't think it appropriate to depart from it. What follows is a short introduction devoted to particular Russian attitudes toward political power, courts, and the press.

Things have always been more complicated for the press and the court system in Russia than in the West, the United States in particular. In your country the court hands down judgments and the press describes the sensational, or perhaps just the interesting, aspects of trials. Obviously, you also have critical articles and publications about the administration of justice that are meant to enlighten the public. But in a law-based state a newspaper would hardly be considered competent to replace the organs of justice and take the role of judge upon itself. In the Soviet state that happened.

The Press during the time of Stalin was completely under the control of the political authorities. It was a horn that played just one note, glorifying entrenched political power.
Newspapers basically lacking information were published, if you don't count official releases as information. An Izvestiia correspondent once transmitted the following from Paris: "According to local radio, it is raining in Paris." He added nothing of his own because that could be fatally dangerous. Publications on judicial or legal themes were limited to either celebratory articles or trivial observations from the courtroom. To write about human rights, let alone to write in favor of them, was senseless, hopeless and exceedingly dangerous. In a single space and time, and in the eyes of the same people, there were two realities. Millions of innocent people lost their lives, met their fate, and the remaining millions "knew nothing" about it. The "other world" was effaced, blotted out as if it didn't exist. And this is no less a tragedy than the repressions themselves. On the day Stalin died I was 27, had lived through front-line action during the war, completed my studies at the institute, and begun working at the newspaper. But believe me when I say that I sincerely asked "how are we going to live without Him?"

When the Supreme Court rehabilitated some "enemies of the people" -- Kamenev, Zinoviev, Bukharin and their ill-fated comrades -- I wrote about it. I paged through the Izvestiia files for the 1930s. And I came across an article under the headline "Inviolability of the Person": it involved a discussion of the draft of the "Stalinist Constitution." Dear God, I thought, reading the article: the presumption of innocence, the right of the accused to a defense counsel, respect for personal rights -- all of this was in the article. And right next to it was a demand to "eradicate the Trotskyists without trial or investigation." How could all of this have existed in our consciousness? And yet it did. There were people who sat in prison for, let's say 18 years, and considered that in their particular case there had been a mistake, but that the general policy had been right.

The Khrushchev Thaw placed the press in a new position with regard to political authority: it began to work with that authority, and was allowed to criticize within limits, up to a point. The first challenge to the dictatorship of the spirit was born. But law did not make gains in real life -- what was restored were "Leninist norms" of legality. That is, the appearance of law. In Izvestiia the new drafts of the codes were discussed, but the term "presumption of innocence" was still considered bourgeois.

It was at this time that judicial reporting and popular writing on law came into vogue. For the first time the Soviet press assumed the role of defender of human rights. The submissive and silent press of the Stalin period began to cooperate with the authorities, to criticize authority, and even to replace the authorities.
This development was associated with the assumption of the position of editor-in-chief of Izvestia by Aleksei Adzhubei, Khrushchev's son-in-law. I worked with him for the whole period of four years until the removal of both the father-in-law and the son-in-law. The main thing that Adzhubei demanded was that no issue of the newspaper come out without something on defending human rights. A sensation was created by an article defending a Jewish girl who was denied admission to an institute. Likewise regarding the article entitled "The Case of Pyotr Kizilov", which cast doubt on a court verdict involving a death sentence. And the sentence was reversed. This was not typical for the Soviet press.

Under Adzhubei my first court essay appeared under the title "The Woman in the Mourning Dress." This was about a large amount of family property that remained after the death of a minister. In a few days I had a new assignment: a teacher in Georgia kidnapped a female tenth-grade student. These sketches of mine were viewed in the Central Committee of the CPSU as a species of bourgeois "yellow journalism." But they couldn't do anything about the son-in-law of Khrushchev. The court theme was firmly established in Soviet reporting.

Naturally, no-one could even think of criticizing the System: "the construction of communism", "party leadership", "democracy of a higher type" -- all of this was firmly established, and not even a shadow of doubt was permitted to be cast on these dogmas. However, after some sharply critical publications about individual cases, sentences were reviewed, investigations were terminated, and people were released from custody. In the eyes of the people the newspaper became higher than the state law-enforcement organs. This was flattering to the egos of journalists, of course, but it was distorting to the law-enforcement process. The problem was that, as before, the mechanisms of the state for the defense of individual rights did not work. Suing in court against state organs or their officials simply was not allowed. One could only make informal complaints through party or state organs.

During this period some attempts were made to improve the System: new criminal, civil, and procedural codes were adopted. But still the citizen was left without rights in encounters with any official or policeman, and so it was only through the newspapers that citizens could seek protection of rights that had been violated.

The Brezhnev stagnation used all of the means at its disposal to subordinate the press to its will. The dissident movement had been under way since the time of the Khrushchev thaw, but it came to the surface only during the Brezhnev period. The press was deprived of the possibility of supporting individual rights, even in the attenuated form that had existed under Khrushchev. Repression against individual demonstrators commenced. But also strengthened
was the movement in defense of the rights of dissidents, which had become well known in the
West. This became a period of "soft terror."

Two outstanding defenders of human rights advanced their conceptions of the struggle
for human rights: The Solzhenitsyn Position was that fighting for the rights of the persecuted
was hopeless until the System itself was destroyed. The Sakharov Position was that one needed
to fight against the system, but that the main objective should be to protect any individual who
was threatened with prison or incarceration in a mental hospital.

The official press was deprived even of the possibility of employing the "Sakharov
variant": articles of the time in defense of individuals did not make it past the censor, or even
past editors-in-chief. Editors-in-chief simply did not permit sharply critical material defending
human rights -- the kind of thing that under Adzhubei was required in every issue.
Nevertheless, official newspapers continued to defend people in a way that would be quite
unusual in a democratic society.

Courtroom essays and crime stories of every kind enjoyed great popularity with readers.
The detective and the investigator were depicted as irreproachable heroes, which, of course,
the leadership in the legal field liked. In this way the press extolled and supported the lawless
character of the system. But as strange as it may seem, sometimes this approach worked in
favor of particular individuals. An appeal to the higher ranks of the MVD, the procuracy or a
court by a popular journalist, or any kind of phone call, especially if it came from a
government telephone, regarding a specific complaint of a convicted person or one under
investigation, produced an instant response. The authorities eagerly adopted measures to avoid
any kind of publicity in the press.

The Andropov Period was very short but not without substantive changes in the activity
of the Soviet legal system. Yuri Andropov, former Chairman of the KGB, on becoming head
of state and party, went about healing the System by cleaning out the parts that had already
begun to rot. He began by going after high-ranking stealers of public funds and bribetakers. Of
course there were recognized limits to what he could do: an obkom party secretary could be
arrested and tried, but the FIRST secretary of the very same obkom would be protected. The
press threw itself like hungry beasts on the sensational material that was permitted to it by the
authorities. And in the process journalists began to spread their wings.

Gorbachev's Perestroika set the press against the authorities. This period produced one
unconditionally positive result -- the beginning of glasnost, and with it freedom of the press
started to become a reality. The press's breaking away from the control of the regime was
among the first developments in the direction of democracy. It played a major role in the
changing of Article 6 of the USSR Constitution, which marked the official demise of Communist Party dictatorship; and it achieved the elimination of Article 70 of the Criminal Code, on anti-Soviet propaganda. And this is not to mention the role of radio, television, and newspapers in the events of August 1991.

The press is becoming even more independent... and this is causing increasing annoyance to the democratic forces, in particular the Russian parliament. Unfortunately, in the era of democratization the press has ceased to play its former role of defender of citizen rights. The law and the law-enforcement system, as before, are not defending the individual from the authorities, but the press has lost the capacity to provide this protection, because it is no longer paid attention to. During the Khrushchev and Brezhnev times the press performed a unique form of feedback, which is necessary for the continuous adjustment of any system. Now the press uncovers scandalous things, but nobody reacts to them. The authorities don't want to, and the public has not yet found mechanisms to influence the authorities...

I have tried to characterize the relations between the press and the political authorities over a period covering nearly fifty years. I hope that this will help the reader better to understand the reports and reminiscences about legal matters that follow.

NOTES

2. Izvestiia ran several articles on this case under the headline “Delo Petra Kizilova.” Two of them were written by correspondent A. Plyushch (December 11, 1959, 2, and July 20, 1960, 4). On the basis of the original article, a follow-up article was published that read in part: “On Dec. 11, 1959 Izvestiia published an article by A. Plyushech headed ‘The Case of Pyotor Kizilov.’ The bureau of the Belgorod Province Party Committee has discussed this article. The bureau of the province Party committee recognizes that Izvestiia correctly revealed violations of socialist legality by agencies of the prosecutor’s office, the court and the militia in investigating and hearing the case...” (Izvestiia, April 17, 1960, 2).
5. Article 6 of the 1977 USSR Constitution provided, in part, that “The Communist Party of the Soviet Union is the leading and guiding force of Soviet society and the nucleus of its political system and of state and social organizations.” A 1990 amendment to Article 6 deprived the Communist Party of its monopoly on political power. The amendment read: “The Communist Party of the Soviet Union, other political parties, as well as trade unions, youth and other public organizations and mass movements through their representatives elected to the Soviets of People’s Deputies and other ways participate in the development of the policy of the Soviet state and in administering state and public affairs.”
6. Article 70 of the RSFSR Criminal Code, until its deletion in 1989, had provided for penalties for so-called “anti-Soviet agitation and propaganda.” It was the article used in the Siniavskii-Daniel case, analyzed by Feofanov in Chapter Three.
I. THE KHRUSHCHEV PERIOD

Donald D. Barry

During the Gorbachev era a kind of "rehabilitation" of Nikita Khrushchev took place. For years it had been forbidden to mention the former leader's name in the press, but in the spirit of glasnost and through the efforts of his son and others, the period of Khrushchev as a non-person came to an end. To many in the Soviet Union and elsewhere, Khrushchev was seen as a precursor of Gorbachev, a reformer whose accomplishments set the stage for the radical changes that took place after 1985.

Khrushchev's main contribution as a reformer was to shake up the old system. The fallout from destalinization, in which Khrushchev played such a key role, particularly through his "secret speech" at the Twentieth Party Congress in 1956, was enormous. Its ripple effects reached every aspect of Soviet life. The "thaws" of the Khrushchev period, even though short-lived, helped to rein in the terror associated with Stalinism, and legal reform eliminated some of the worst abuses in that field. Restraints on artistic and political expression were loosened, even if only temporarily, and a generation of young intellectuals (including Gorbachev himself), who saw the possibility of real and permanent change in the Soviet Union, was spawned. A number of the people who came to political maturity during this time, the so-called "children of the Twentieth Congress," participated in shaping the Gorbachev-era reforms two decades later.

Since our interest here is principally in law, a review of Khrushchev-era developments in this area is in order. In terms of curbing terror, the Special Board of the Ministry of Internal Affairs, a tribunal that operated outside the regular rules of criminal procedure and had been used to send thousands if not millions to camps or to their deaths, was abolished in 1953. Great numbers of those sent to labor camps under Stalin were released. And at least on paper, a number of other changes were made to narrow the jurisdiction of the security police and the military courts and to protect citizens against some of the worst abuses of the earlier era. Moreover, the tortuous, off-again, on-again process of rehabilitating and restoring the rights of victims of political repression, which continues to this day, was begun in the mid-1950s.

During the late 1950s and early 1960s new USSR legislation was adopted in a number of areas, including criminal law and procedure, civil law and procedure, court organization, the procuracy, and others. At least some of the provisions in this legislation were new and progressive, even if, for the time being, they may have had little impact on the actual operation of the law. A 1958 law addressed the long-standing problem of secret legislation.
stating that all laws, edicts, and decrees of "general significance" or "normative character" were to be published openly. This piece of legislation contained some loopholes. And it certainly did not lead to the elimination of secret law. But it represented an aspiration that many applauded and that would be increasingly advocated by legal professionals in the years to come. It and other parts of the new legislation showed the still-meager imprint of the large body of subject-matter specialists, including lawyers, who were beginning to be heard from in the law reform process.

Without question, then, Khrushchev himself and the policies that he pursued had significant impact on the beginnings of legal reform in the USSR. But as so many commentators have noted, Khrushchev had another side, which affected the style and substance of his rule. Terms such as "erratic" and "impulsive" are often used to describe him. And it seems clear that, as Fedor Burlatsky has put it, he did not have a well-conceived concept of reform. The problem was that although he fought against the Stalinist system, he could never completely escape its influence or the role he had played in its operation. As a reformer he was "a rebel against himself," in the words of Yevgeny Yevtushenko. His ambivalent attitude toward the arts is well-documented. And the harsher stance toward religion pursued during his era, traceable in part to his determination to build communism and the incompatibility of religion with that goal, is also well-known.

Khrushchev's scheme for reforming the system involved continued control by the Communist Party and the development of the USSR within the framework of Marxism-Leninism as he understood it. The main ideological document adopted during the Khrushchev period was the 1961 Party Program, which was to serve as a blueprint for the "comprehensive building of communism" in the USSR over a twenty year period. Khrushchev succeeded in getting the document adopted by the Twenty-Second Party Congress in 1961, over the muted objections of opponents.

The Program itself, and numerous public statements made by Khrushchev in connection with it, left little doubt that he had made a strong ideological commitment to his version of communism. This meant many things, as a perusal of the 40,000 word document would show. But two principle ones stand out in the area of law. First, the theme of turning over part of the functions of state organs to so-called social organizations (impliedly as a move in the direction of "withering away of the state") was emphasized. This gave renewed impetus to strengthening institutions such as the volunteer people's guards (druzhiny) and the comrades' courts, bodies created to increase popular participation in the administration of justice. The attention given to
these organs in the early 1960s, and the prominent support Khrushchev accorded to them, indicated a significant new direction in Soviet law.\textsuperscript{10}

Second, the Program itself indicated that the authorities would have little patience with lawbreakers. Under communism, the contradictions of previous societies would disappear, and with them the reasons for crime. But the authorities were not prepared to wait for this to happen spontaneously. The Program made this point explicit: "There should be no room for lawbreakers and criminals in a society building communism. But as long as there are criminal offenses, it is necessary severely to punish those who commit crimes dangerous to society, violate the rules of socialist community and refuse to live by honest labour . . . ."\textsuperscript{11}

Although all crime was condemned by this passage, special attention was given to those who refused to cooperate in joining the march toward communism and insisted on living off the system and engaging in dishonest labor. This sentiment found expression in the law in several forms. One of these was the anti-parasite laws, adopted in the various republics of the USSR in the late 1950s and early 1960s. They provided for "resettlement," a kind of exile, for those who "avoid socially useful work and lead an anti-social parasitic way of life." Persons so accused could be sentenced by summary procedures without the normal criminal law protections.\textsuperscript{12} The objective of the anti-parasite laws was to combat small-scale economic misbehavior and to force idlers such as vagrants and alcoholics into work.

More serious penalties were instituted for those who engaged in larger-scale illegal economic activity. In 1961 and 1962 the death penalty was extended to a number of crimes to which it had not been applied before. Most of these were economic crimes, including theft of state property in especially large amounts, counterfeiting, speculation in foreign currency, and certain categories of bribe-taking.\textsuperscript{13} As Harold J. Berman put it, these laws "reflected the regime's determination to take measures against those who most flagrantly violate the tenets of communist morality."\textsuperscript{14}

This side of Khrushchev’s period of rule was decidedly anti-reform. Those who look back on his era with fondness, finding in it the roots of the Gorbachev-era transformation, must ignore this aspect of the period. But this is precisely the area to which Feofanov has turned his attention. His two pieces in this section are 1990s reflections on 1960s events. Although giving full credit to Khrushchev for his role in destalinization, he regrets, in "A Return to Leninist Norms of Legality," that this initiative did not provide the impetus for further legal reform. This short statement serves as an introduction to Feofanov’s analysis of the Rokotov trial, a lamentable chapter in the legal and journalistic history of the time, for which Feofanov expresses personal remorse. This case constitutes a particularly striking
example of the arbitrariness of Soviet law, since it amounts to a retroactive application of one of the laws mentioned above. As Feofanov shows, Khrushchev's personal role in the episode cannot be denied.

NOTES

1. See Sergei Khrushchev's account of his father's "rehabilitation" in Khrushchev on Khrushchev (Boston: Little, Brown, 1990), pp. 399-410.


3. An example is an area of Soviet law long studied by the author, the liability of the state to compensate citizens for civil wrongs committed by state organs or officials. In the new civil legislation adopted in 1961, the liability of the state in this area was significantly broadened. See the author's Governmental Tort Liability (Leyden, The Netherlands: A.W. Sijthoff, 1970), esp. pp. 54-58.


Without question the Twentieth Party Congress was a turning point in the history of the USSR. It engendered great hopes that turned out to be illusions. Nikita Khrushchëv lifted the lid on stalinist repressions under the slogan of returning to "leninist norms." The principles of democracy and law, those constant values of mankind, were considered as before as bourgeois, and foreign to Soviet society. The ideologues of the new course of the party did not reject these norms directly; they cleverly substituted for them the formula of "the return to leninist norms of party and state life," and also to the norms so openly violated during the years of socialist legality of the 1930s.

This substitution was not really a conscious deception. It was, rather, the personal conviction of Nikita Khrushchëv regarding the superiority of communist ideology, of the planned economy and the particular kind of legality that, during Lenin’s time, was called "revolutionary," and during the whole period up to 1991 was termed "socialist." Behind these declarations and formulas the whole despotic regime, as it had been established in the first years of Soviet power, was hidden. And this is not even taking into consideration the Stalinist excesses.

At the beginning of the 1960s learned doctors of legal science carried on arguments, in the pages of Izvestiia and elsewhere, about whether the presumption of innocence was a universal principle of law or an invention of "bourgeois propaganda." In the law it was written that only a court can declare an act illegal and a person a criminal. But this made no difference, because the court itself was fully subordinate to party power. In addition, values of this kind had no impact on mass legal consciousness. The public lived by the stereotype that if the powers that be called someone an enemy, then he was guilty. During this time I held long discussions with a colleague named Mikhail Garin, who had spent 18 years in prison as an "enemy of the people." He always completely endorsed the "general line," inveighing against trotskyites, deviationists, and compromisers. Eighteen years in the camps had not changed his position: he honestly believed that it was necessary to imprison and shoot trotskyites, and the fact that "honest communists" were also punished was a personal crime of Stalin, but not in any way that of the Leninist party.

My first doubts that the denunciation of Stalin also meant the end of Stalinist justice started to develop with the appearance of writings asserting that "leninist norms" of legality were being successfully restored. My editorial duties required me to prepare articles of this
kind for publication. Alas, this was a fundamental lie presented as the truth. Parliament did not adopt appropriate laws, and the court did not rule justly. "The First" (the top leader) was above all laws. My understanding of this was based on a number of examples, including a simple criminal trial involving a group of swindlers who were speculating in foreign currency. In reality, however, one wouldn't call this a simple trial.
CHAPTER TWO. THE TRIAL OF IAN ROKOTOV

Yuri Feofanov

The trial of a gang of currency speculators that took place in 1961 and entered the annals of Soviet jurisprudence could not really be called a political trial. Very ordinary swindlers and speculators, "valiutchiki" as we called them, appeared before the court. The KGB had conducted the investigation, but only because the operations of the defendants had been connected with foreigners. Foreign currency dealing had taken on fairly large proportions after the world youth festival in 1957. Contact with counterparts from abroad who had dollars, pounds, marks, etc. provided enterprising Soviet young people with a simple and effective way to make money quickly. Such contact with foreigners -- by so-called "fartsovshchiki" -- was purely for business, and had nothing to do with politics.

It was Nikita Khrushchev himself who made this trial political, and in doing so he once again confirmed that all of his liberalization changed nothing of the totalitarian nature of the regime, where the law and the administration of justice were subordinated to the party and personally to its leader.

I will discuss those events of long ago through the judicial reportage of those years, particularly since my publications in Izvestiia are a story in themselves. I will start with the text of my article published in Izvestiia in the case of the "valiutchiki."

<<BEGINTEXT>>

I am paging through a criminal case. Soon it will lie on the judge's bench. I am looking at a face captured by a camera. A face with a narrow slanting chin and one eye slightly crossed. He has a furtive look, as if even in the picture the shiftiness in his eyes can be detected. And then I see the man in person. His look is now nervous, now ironic. His nails are bitten to the quick. He has an animated expressive face, and a confidence in his judgments. Where people in his position normally are timid and servile, he shows none of this.

Very recently many people shook his hand in a servile fashion when meeting him on the street, bowed respectfully when taking his order in a restaurant. He was often invited to the country homes of his colleagues.

"Cross-Eyed Ian," as Ian Timofeevich Rokotov was known in his circle, enjoyed great respect among those who prefer to remain in the shadows. Ian was not like this. He spent lavishly, carelessly, paying no attention to money. It was this, and only this, that defined the value of the man. During his whole life Cross-Eyed Ian existed as a member of a small-time...
a breed of parasites. He never worked, but lived, as they say, a “high life.” And in some circles this is highly valued.

Rokotov’s “work day” began between one and two in the afternoon. He woke up in a luxurious three-room apartment and drank a cup of coffee in bed. From three to nine p.m. was the period of Cross-Eyed’s business day. During these hours he strolled along “Broad” ("Broadway," as the portion of Gorky Street between Okhotnyi Ryad and Pushkin Square is known to the “golden youth”), exchanging pleasantries and meaningless conversation with a few well-dressed people. Then he would go into a phone booth and dial a number.


Meeting a young man in Texas trousers, he indulgently raises two fingers.

-- What’s the take, Sir?
-- Seventeen “Zhorzhikov” [pounds sterling].

All Right, my good man. Give them to Nadya. You will have a good life. Good Bye.

Meeting a young woman friend with an "I am my mama’s foal" haircut, Cross-Eyed Ian extended his hand and said. "Hello dear little one. Should we have shashlyk today at Evseich’s?" Between eight and nine in the evening Cross-Eyed went into a restaurant, on the door of which hung the announcement, "No Empty Tables."

And so it went every day.

Is this a familiar figure? Yes, we often catch glimpses of such persons. This is a type of parasite who lives a fast life. Cross-Eyed Ian is little different from the most ordinary "stilyaga," as Komsomolskaya Pravda so accurately dubbed this kind of person. However, the means used by Rokotov and his companions to earn this easy life is distinguished in our setting by being relatively new. Rokotov is a valiutchik.

The borders of our Motherland are being crossed more and more frequently by foreign tourists, people of widely differing social levels, of differing religious persuasions and varying political views. Bankers and clerks, Americans and French, those who are sympathetic with us and those who hate us. They are attracted by curiosity, the desire to understand what is taking place in an enormous country that is moving forward so broadly in culture and progress. They love St. Basil’s and are interested in a working family’s budget, they wander around the Hermitage. They want to see more, hear more, gain more impressions in their minds and in their hearts.

In addition to the genuinely curious who come and accept our hospitality there are also those who rummage around the globe in search of whatever kind of business they can find.
A crook can recognize another crook from a long way off. And in this case the local dealers made contact with the dealers from abroad. It wasn’t as if Cross-Eyed Ian and the others ran from one hotel entrance to another, or hung around the Intourist restaurants. Ian was called "The Buyer." The dirty work was done by the "intelligent" small fry — the unsuccessful students, the translators, those who had been retrained in speculation, the loafers and spongers of every stripe. They were called "runners" or "trotters." A trotter would meet a foreigner and engage him politely.

"Hello sir. Do you have some dollars, sir? Maybe pounds, sir?"

The majority would shrug their shoulders in bewilderment and move away. But others would accept, changing extra dollars for rubles. And there are those, with money belts bulging with gold coins that they spirited through customs, who had come to speculate with gold five and ten ruble pieces carrying the likeness of Nikolai II.

So the "runner" -- the stilyaga who hangs around Intourist hotel entrances, buys a variety of gold rubles, pounds sterling (called "Georges" -- for the picture of King George on the bills) or dollars. They take this foreign currency to the "buyer" and receive their cut.

Don’t think that this is a small-time operation. It is true that the "runners" work for peanuts -- a nice restaurant meal or a Western necktie. But the "buyer" makes quite good money. The Rokotov gang acquired about 20 million rubles in a year. In the search the authorities found 344 thousand rubles, 1,524 gold coins, about 19 thousand dollars, almost 500 pounds sterling, 3,345 new and 133 thousand old French francs, 1500 German marks, 8,500 Belgian francs and other currency, as well as icons and other contraband.

Where was all of this stuff going? Who bought up the gold and foreign currency in such quantities, and for what reason?

Dollars, pounds, marks, etc. are put into circulation. Gold, as a rule, is sent to so-called "dealers" in the shadow economy, who carry out a variety of machinations that rob the workers. Having amassed large sums of money, these bandits fuss over it like hares. They buy up gold, these avaricious knights, and bury it deep in the earth. At one such site at a dacha several kilograms of pure gold were dug up.

But now these "dealers" and "buyers" and the various small fry are being prepared for an unpleasant ceremony. They are going to be tried. All honest people are demanding that they be judged not with leniency but with all of the strictness that the just Soviet laws allow, as provided for in a recently adopted edict of the Presidium of the USSR Supreme Soviet on responsibility for particularly dangerous crimes. Both the petty and the big crooks should be punished, since both speculated in foreign goods. These people committed or helped commit
economic sabotage against their Motherland. Their acts can be called that regardless of the article of the Criminal Code that the court uses in sentencing them.

Whatever else is said, there is a scent of money. But we cannot use this expression, which was conceived in a society that is alien to us. Money that is gained by the dark operations of Rokotov and company smells very bad. These people, who have no honor, conscience, or shame, and are prepared to betray their people, feign naivety by saying that they didn't know what they were doing; they want us to take pity on them. But in the first meeting with the investigator they tried to be arrogant.

When Cross-Eyed Ian was brought into the investigation room the first time, even the investigator was surprised:

"I had thought, Rokotov, that you were bigger."

"You weren't mistaken," he arrogantly replied, "I'm the biggest. They call me the king."

I page through the criminal file, looking at the faces . . . When I read O. Henry, his noble crook evoked some sympathy. Ostap Bender, whatever else could be said about him, was revolted by some things. These people, by contrast, disdained nothing, were prepared to establish contacts with citizens of any country, and to sell anything to anybody. And they even considered themselves part of the intelligentsia.

Rokotov wore a Moscow University lapel pin and called himself a lawyer, even though he never completed any higher education and never worked anywhere. He said to the investigator: "Work seemed to me a poorly-paid source of income."

His close associates were the married couple Nadya Edlis and Sergei Popov. At first they tried to pass themselves off as honest workers who had fallen into the hands of swindlers by accident.

"Only earned income makes me happy," Nadya said to the investigator. "I got involved with Rokotov through feminine weakness."

But this representative of the "weaker sex" did one hundred thousand ruble deals, and dollars were changed for rubles by foreign and home-grown crooks in her apartment. She supplied several agents -- fliers for the Civil Aviation Fleet -- who delivered gold and foreign currency to her clients. To the musical ear of her husband, a pianist, the sweetest sound of all was jangling of gold pieces. He sold his honor and conscience for them, as well as his muse.

There were nine of them, and soon they'll be defendants in court. Besides Rokotov, Edlis, Popov, and Lagun, facing the judge will be the brothers Yash and Shaly Papismedov.
their nephew Ilya (these three bought gold from Nadya Edlis and transported it to Georgia), the inveterate idler Vladik Faibishenko, and Mubashirya Rizvanova (who prays in jail to the almighty Allah).\(^2\)

They were cut from the same cloth. All had similar backgrounds. Even in school, for instance. Cross-Eyed Ian traded in stamps, books, and camera equipment. Then he moved up to foreign clothing, and finally he became a foreign currency speculator. Vladik Faibishenko bought and sold foreign stockings and chewing gum during the Moscow Youth Festival, before moving on to the "big business" of currency.

The currency traders carefully hid their activity. But the end was inevitable. Nor could it have been otherwise, in a workers' country, where bums of this kind are considered nothing but turncoats. And the "firm," as this band of currency speculators dubbed themselves, collapsed completely. The time for retribution has come . . . \(^3\)

\(<\text{ENDTEXT}>\)\(^3\)

In the article just cited the edict about liability for especially dangerous crimes was mentioned. When I talked in Lefortovo Prison with Ian Rokotov, while I was writing this article, I had no thought that the edict could have any direct connection with the case of the currency speculators, since their acts were committed before its adoption. It seemed to me that for this court proceeding the edict could have no more than moral significance. And Rokotov himself did not connect the influence of the edict with his fate. I present here a fragment of my conversation with Rokotov, which did not appear in print because the editor-in-chief, without explanation, excised it. At the time it did not strike me as important. Here I restore these lines.

\(<\text{BEGINTEXT}>\)\(^3\)

I was allowed to see Rokotov in Lefortovo Prison. He was talkative and in good spirits, if not happy. In any case he looked to the future optimistically. This thirty-year-old dealer in the underground currency market flaunted his gains, his high living, his power over others. And all of this was true — Ian had achieved on a grand scale.

"But the court threatens all of this," I said to Rokotov.

"According to the law the most I can get is eight years. After three years, and maybe earlier, I'll get out. I'll be a model prisoner. When I get out I'll do my business more carefully."

\(<\text{ENDTEXT}>\)\(^3\)
I didn’t give significance to the fact that during the court proceedings KGB officials arranged an exhibition of sorts: a mountain of valuables, gold Tsarist coins, a mound of foreign banknotes, packets of Soviet money, bank deposit books — all taken from the speculators. I attended this exhibit and was struck by the massiveness of what I saw. All of this was described in a handout to the press. Khrushchev was also invited to the exhibit, where he supposedly said, “They need to be shot for this.” This was taken for one of his typical emotional outbursts. Alas, it was not just an empty phrase. By the above-mentioned edict of the Presidium of the USSR Supreme Soviet, changes were made in the criminal legislation: for bribes and theft in particularly large amounts, the death penalty could be imposed. Foreign currency operations were included in this category, although the supreme penalty was not envisaged for such acts. At the time I had no particular problem with the edict. I in no way related it to previous court proceedings, since I understood that there could be no retroactive effect for a law that provided an increased penalty. But suddenly I found out that the procurator intended to apply the provisions of the edict in court, having been able to make reference to them in the indictment. I went to editor-in-chief [of Izvestiia] Aleksei Adzhubei, Khrushchev’s son-in-law, and said that a grave violation of the law was to be committed; that it is prohibited to apply retroactively a more severe penalty of the law.

The editor-in-chief at first did not accept my objections: in the first place, he referred to my own words in my article about “economic sabotage”; then he reminded me of the enormous sums diverted by the swindlers; and finally, pointing a finger at the ceiling, he said that “there” they attach great significance to the case and that “Nikita Sergeevich is ranting and raving.” I then referred to the articles that we have been publishing in Izvestiia about the presumption of innocence, about the stability of the law as a “Leninist principle,” etc. Aleksei Adzhubei was a hot-tempered, powerful man, but one could carry on an argument with him. Unable to convince him, I requested that I be removed from the assignment of writing about the case. He agreed to this and assigned the task of covering the final stages of the case to the deputy head of the letters section, Aleksandr Ivanov. So it worked out that I wrote the first, pre-judicial, article and Ivanov the final one, from the Moscow City Court, where the case was heard. I also present his report here. It was printed in Izvestiia on June 16 1961.

<<BEGINTEXT>>

The End of the "Black Exchange"

The court proceedings dealing with the gang of foreign currency dealers lasted thirteen days. The collegium on criminal cases of the Moscow City Court, chaired by L.A. Gromov.
has since May 31 been untangling a mass of dark dealings by a group of speculators and spongers who, having lost all honor and conscience, carried on a parasitic lifestyle. They not only enriched themselves by speculating in gold and foreign currency in dark corners and hideouts. They brought harm to our country by bringing about the transfer to capitalist countries of valuables created by the work of the Soviet people. They corrupted and transformed into their accomplices empty-minded and weak-willed young degenerates who saw as their aim in life the acquisition of rags with foreign labels and the frequenting of restaurant parties.

For a short time enormous amounts of valuable materials passed through the dirty hands of the criminals. They dealt in gold and foreign currency worth more than 20 million rubles. More than once during the court sessions astronomical amounts were mentioned. The "merchant" Rokotov considered sums of 25 to 30 thousand rubles to be small change.

A cynical attitude toward work was characteristic of the whole gang. But in their last words to the court each of them admitted their guilt and pleaded for mercy.

For the whole thirteen days the courtroom was crowded with people. Among those present were manual workers, office workers, and students. Each of them left the courtroom with a feeling of contempt for the gang of adventurist-vultures.

At the last session of the trial, the words "the court is in session, please rise!" were called out by the guard, and then the sentence was read. The Collegium on Criminal Cases of the Moscow City Court sentenced J.T. Rokotov, V.P. Faibishenko and N.I. Edlis to 15 years deprivation of freedom and confiscation of all of their property. The defendants I.I. Lagun, Ya. O. Papismedov, Sh.O. Papismedov and M.L. Rizvanova were sentenced to 8 years deprivation of freedom and confiscation of the property gained by their illegal activity. And I.M. Papismedov received a sentence of 6 years. Based on an edict of the Presidium of the USSR Supreme Soviet, the convicted persons are not entitled to conditional early release or to the substitution of a part of their sentence with a less severe punishment.

All of the valuables taken from the criminals, including gold coins weighing more than 12 kilograms, a large amount of foreign currency, Soviet money, and other materials, are turned over to the state treasury.

The sentence was received with great approval by all of those present in the courtroom. When we were leaving the courtroom one of the older people said: "Good work Chekisty. At this trial we heard more than once the words 'black exchange': Now this exchange has come to an end."

<<ENDTEXT>>
There is really nothing unusual in this story. At least for the moral climate of those years. The fact that a law was applied that did not exist at the time the crimes were committed bothered only lawyers, and not all of them. After the thoroughly terrible excesses of the recent past, this digression from the law was considered nearly normal. In the public consciousness a kind of formula had taken root: not fully according to the written law, but just. This maxim, as rejecting of the law as it is, has not disappeared even now, and at that time it was considered to be self-evident. And I myself, in refusing to cover the case from the courtroom, was governed not so much by my convictions of the time as by the opinions of prominent professors of law with whom I had done editorial work. Their opinions gradually became my convictions. But to express them openly was impossible.

Meanwhile, it seemed that a tragic denouement was about to conclude the case of Ian Rokotov and his colleagues. Suddenly the Procurator General of the USSR issued a protest against the sentence of the Moscow City Court based on the "leniency of the punishment." It was as if a bomb had exploded. How could it be "lenient" if the sentence provided the maximum deprivation of freedom? And this itself was against the law, since the legal maximum was 8 years? In addition, the protest involved only two of those convicted — Rokotov and Faibishenko, both 22 years old.

One didn’t have to have great imagination to understand what this meant: the two young people were being prepared as sacrifices; they were chosen as victims of an angry man who had only recently vented his fury in exposing stalinist illegalities. The only difference was that if Stalin simply threw aside the law, establishing for his violence "special boards," "troikas," and lists of those to be sentenced to death, then his exposers decided to provide the appearance of legality. But this only increased the cynicism of his illegal acts.

Together with the protest of the procurator the Presidium of the USSR Supreme Soviet issued an edict providing that those who violated the rules of foreign currency operations (article 88 of the Criminal Code of the RSFSR, which had not been changed up to this point, even though the practice had changed) would be subject to the highest form of punishment — the death penalty. Another edict, this one unpublished, was adopted. It decreed the retroactive application of this norm to Rokotov and Faibishenko. There was no doubt that the two young men were doomed, and that the coming court session would merely formalize the punishment. I again went to the editor-in-chief and said that Izvestia should not cover this case. The reader in the 1990s would be perfectly right in saying that failing to cover the story amounts to little, that it was necessary to protest against this violence carried out under the cover of a judicial sentence. But this was impossible at that time. Adzhubei told me of how he had gone to his
father-in-law and tried to convince him not to cross the line into clear illegality. But in vain. The only thing that Khrushchev agreed to was not to insist on editorial justification of the sentence. Izvestiia carried only the official announcement.

<<BEGINTEXT>>
In The Supreme Court of The RSFSR

The U.S.S.R. Procurator General appealed to the Russian Republic Supreme Court concerning the lightness of the sentence adopted by the Moscow City Court in the case of Ya. T. Rokotov and V.P. Faibishenko, sentenced on June 15, to 15 years' deprivation of freedom each for large-scale speculation in currency.

The judicial collegium for criminal cases of the Russian Republic Supreme Court upheld the appeal and the case was returned for a new court hearing.

On July 18 and 19 the Russian Republic Supreme Court, consisting of Comrade A.T. Rubichev, Chairman of the Supreme Court, and two people's assessors -- Comrade A.N. Vasilyev, electric locomotive engineer of the Moscow Railroad, and Comrade A.I. Maurin, tool mechanic at Plant No. 569 -- held an open court session to hear the criminal case against Ya.T.Rokotov and V.P. Faibishenko for speculation in especially large sums of currency.

Comrade G.A. Terekhov, senior assistant to the U.S.S.R. Procurator General and legal counsellor second class, represented the state prosecution.

Comrades N.I. Rogov and V.Ya. Shveisky, defense lawyers represented the defendants.

The court recognized that Rokotov and Faibishenko were guilty of regularly and for purposes of profit buying large amounts of foreign currency and gold coins from foreigners and some Soviet citizens and of selling them at speculative prices.

As was established by the court, Rokotov had bought a total of 12 million rubles worth of currency and gold coins and had resold them, and Faibishenko had bought and resold currency in the total amount of 1 million rubles. Rokotov and Faibishenko led a parasitic type of life and enriched themselves through the benefits created by the working people.

Considering that Rokotov and Faibishenko had committed a grave state crime, the Russian Republic Supreme Court, on the basis of Article 25 of the Law on State Crimes, sentenced Rokotov and Faibishenko to death by shooting with confiscation of all their valuables and property.

The sentence is final and there can be no appeal. The sentence was heard with approval by those present in the courtroom.\textsuperscript{6}

<<ENDTEXT>>
I was present at this court proceeding. It was a painful sight that I can still see in my mind's eye. The accused could not understand the precise import of the proceedings, but they behaved courageously. Rokotov answered questions in his usual confident manner; Vladik Faibishenko appeared depressed, and constantly rocked from side to side as he answered questions: evidently he could hardly conceal his despair in facing death at age 22. The trial proceeded swiftly, I would say in a banal manner, since everything had been determined in advance and the punishment of the two young men required only bureaucratic formalization.

Thus was completed the "return to Leninist norms of socialist legality." The trial of the currency speculators, the execution of two young men, offered as sacrifices to the fury of the Leader, did not, alas, arouse the public. There were, naturally, no organized meetings demanding reprisals against them. But there were thousands of letters sent at the personal initiative of simple Soviet people that fully and completely supported this savage punishment. There were also other letters, a small minority, to be sure, but some nevertheless. Several lawyers, including a corresponding member of the Academy of Sciences, the eminent jurist Mikhail Strogovich, unequivocally condemned the sentence. But voices such as his could not be heard, because of the strict control over the press.

After this the Twenty-Second Party Congress took place, and again Stalinist terror was exposed as massive terror, as terror against "our own people." But the "Rokotov case" became a classic in the sense that it testified to the stability of the norms of the despotic party regime. As before, human life was worth little for this regime. This case served as a prologue for a whole series of other savage reprisals against thieves of socialist property. The persecution was not so much against the thefts as against the heresy of the acts. The Soviet party inquisition continued to act, seizing opponents of marxist ideology in order to sentence them to an auto-da-fe.

The trial of Ian Rokotov dealt a blow to the very idea of restoring legality. Its "Leninist norms" turned out to be not law, but force over law. And the instrument was the legislature. The Presidium of the USSR Supreme Soviet became the obedient executor of the assignments of the repressive apparat, the bureaucratic formulator of the lawlessness of the investigative organs. This was accomplished by lengthening the legally-established limits for holding a person before charging him. The official limit established by the law was 9 months, if sanctioned by the Procurator General. But if the investigation was not completed in that time, the Procurator General made a request to the Presidium of the Supreme Soviet, and it obediently sanctioned an extension, once, twice, as many times as necessary. Some people
were held by the authorities for a number of years; for example Akhmadzhon Odylov, whose case will be discussed below, was in custody for 8 years.

The trial of Ian Rokotov and other "valiutchiki" was a strictly criminal case, as I noted. But it was transformed into a political act. It showed that the "restoration of Leninist norms of legality" was pure fiction, a legal cover for arbitrariness; it did not inhibit the party in any way in dealing with undesirable people and in asserting force over law. As before, there was no guarantee of personal security. And this became even more clear with the beginning of the persecution of dissidents, the defenders of human rights and opponents of the regime.

NOTES

1. The devaluation of the ruble in recent years could lead the reader to underestimate the amount of money involved here. At the time the article by Feofanov being quoted from here was published, the value of the ruble, at the official rate of exchange, was $1.11. In mid-1995, when this book was being finished, the rate reached a high of over 5000 rubles to the dollar before dropping to a somewhat lower level.

2. The charges against Popov were later dropped.


4. Ivanov and Feofanov also wrote a joint article that was published during the time the trial was in process. See "Na zhestokoy skame." Izvestiia, June 10, 1961. p. 4.
