TITLE: ARBITRARY JUSTICE: COURTS AND POLITICS IN POST-STALIN RUSSIA. Report #3. THE BREZHNEV PERIOD

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This is the third 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 Part II: an introductory essay, The Brezhnev Period by Donald Barry; and Chapter Three, The Siniavskii-Daniel Case by Yuri Feofanov. Subsequent Reports in the series, numbered sequentially, will contain the remaining Parts III - VII, and will carry the same main title and the subtitle of the Part contained.

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II. THE BREZHNEV PERIOD

Donald D. Barry

Leonid Brezhnev served as leader of the Soviet Union for eighteen years, longer than anyone other than Stalin. The characteristics of his tenure, therefore, cannot easily be summarized in a few words. He came to the General Secretaryship of the Party as a rather vigorous man, not quite 58, and he died in office feeble, likely senile, and nearly 76. This dramatic difference has led some analysts to speak of "two Brezhnevs," the early and the late. As one Russian analyst put it in 1992, "in the mid-70s Brezhnev the politician was ousted by Brezhnev the sclerotic, gradually slipping into senility."¹

Whether one sees the period 1964-1982 as being ruled by two Brezhnevs or one, it is certainly true that Brezhnev, throughout his tenure as leader, was much less dynamic than Khrushchev and did not seek to change the Soviet system to anywhere near the extent that either Stalin or Khrushchev changed it. Some speculate that Brezhnev was able to stay in office for so long because a nonentity was welcome after the bloody period of Stalin's rule and the chaos of Khrushchev. Georgi Arbatov, the long-time director of the USSR Academy of Sciences' Institute of USA and Canada, is alleged to have said that the reason for Brezhnev's political longevity was that he was a nobody.²

Compared to his predecessors, Brezhnev certainly was a conservative. Under his rule, neither the Stalinist transformations of the late 1920s and early 1930s nor the thaws of the Khrushchev period took place. Nor was Brezhnev inclined to the bloody repressions of Stalin or the harsh treatment that Khrushchev sometimes meted out to colleagues and subordinates.³ But as a conservative he felt more comfortable with the highly-controlled system that Stalin had created, and so sought to re-establish it, without the bloody repressions.

Under Brezhnev and the conservative cohort that he gathered around him, the country entered a period of relatively few experiments and of little innovation. Reform, such as it was, amounted to no more than tinkering at the margins. It gradually became clear that the country was not keeping up in the scientific-technical revolution that was taking place in the rest of the world. This must have been enormously frustrating for some of his fellow Party leaders such as Andropov, and for some of the younger generation like Gorbachev and Shevardnadze, not to mention scientists and scholars, who had some sense of what the rudderless leadership of the late 1970s and early 1980s was doing to the country. But the political system had so congealed that removing an ineffective but personally unobjectionable leader had become all but impossible. The country could only wait.
It was this later part of Brezhnev’s rule that came to be known as the period of stagnation (zastoil). If not inevitable, stagnation was certainly one of the likely results of the conservatism of the early Brezhnev period. From the start, prime importance was accorded by Brezhnev and his conservative lieutenants to a high level of control over political operations. The prime objective was to maintain the system against all challenges to its authority.

Such challenges, no matter how remote or secondary in importance, were met with strong responses from the party-state machine. The "Prague Spring" in 1968 seemed to threaten the Soviet empire in Eastern Europe, so it was snuffed out by Soviet military force. The state agricultural system was performing poorly, but any innovations that involved substantial incentives to individual farmers were squelched. The few analogous experiments in industry met the same end. Religion was neutralized, to the extent possible, by co-opting the Russian Orthodox Church in exchange for favors to it from the regime, while a negative policy toward other religions was pursued. All manner of restrictions on intellectual life were maintained. From more subtle incentives/pressures, such as allowing or withholding the privilege of travelling abroad, to blatant and brutal repressions, such as bulldozing a modern art show in Moscow in 1974, where foreign newsmen and others were beaten by police goons. Similar in aim if not in overt violence were the arrest and forced emigration of many, including Alexander Solzhenitsyn, who was compelled the leave the country in 1974, and the exile and resettlement of Andre Sakharov to the closed city of Gorky in 1980.

No pretense of legality was maintained in the actions against those such as Solzhenitsyn, Sakharov or the modern artists. This was no more than the exercise of naked power. But not all moves by the state were so blatantly lawless. The authorities also used the machinery of the legal system to achieve their prime objective of thorough political and social control.

From early in the Brezhnev era a get-tough policy against law violators of various kinds became the order of the day. New "anti-hooliganism" legislation was adopted, for use against a variety of law-breakers, including those who committed crimes under the influence of alcohol, and juvenile delinquents. The emphasis of the Khrushchev period on restoring "socialist legality" was now replaced by a stress on "law and order" (pravoporiadok), which took on the characteristics of an orchestrated campaign designed to pressure the courts to mete out harsher sentences. The fact that some lawyers cautioned against excesses during this period indicates that even then, a small degree of autonomy existed for those willing to question the blatant compromising of legal principles.

Another salient feature of the early Brezhnev period was the rise of the dissident movement. Its appearance at that time seems to have been related to the partial liberalizations of the late
1950s and early 1960s and to frustrations growing out of the return to great limitations on expression that followed Khrushchev’s removal.

In a large sense the dissident movement had its origins in the field of artistic expression, especially literature. There were several reasons for this. Among the various ways of expressing dissenting views in the Soviet Union, the written word was the most important. So it was not surprising that some writers were among the dissenters. Throughout most of Soviet history the authorities went to great lengths to control literary expression, and their efforts were largely successful. Officially published fiction and poetry were by and large supportive of the regime. But a relatively small number of writers and other artists did not conform to the dictates of official policy. They sought ways around it.

Literature and poetry could be the vehicles for the expression of views by indirection, and they long provided an outlet for mildly critical assessments of aspects of Soviet life which could not be criticized directly. A poem resounding with double meanings or a play about a foolish king portrayed in a way to remind an audience of a Soviet leader might be published or performed, and its underlying significance would not be lost on the Soviet public. "Getting it past the censor" had a long tradition, going well back into prerevolutionary Russia.

Some writers who couldn’t conform to the dictates of the system or engage in the covert criticism described above turned to translating classical works of literature from foreign languages. Some took to writing "for the desk drawer," i.e., producing work which could not be published because of its political or social content and which might be shown at most to a few friends. Writing "for the drawer" had long been practiced in Russia, but in the 1960s some of this writing emerged in the form of samizdat (i.e., "self-published," a word modelled after the acronym gosizdat, the term used in the name of official state publishing houses). Samizdat writings, often merely typescripts or mimeograph copies, circulated as underground publications among various groups and individuals within the USSR, and sometimes found their way abroad.

As the dissident movement broadened and samizdat expanded, much of the writing tended to deal with political, economic, social, and religious topics. But early in its existence, purely literary subjects seemed to dominate. Thus, it is not surprising that the subject of the first real cause célèbre of the dissident era was a case involving literary expression and the regime’s reaction to it. The Siniavskii-Daniel trial of February 1966 was an event of watershed importance in the dissident movement. Writings of these two authors, published abroad under pseudonyms, gained a considerable following. Whether or not they were anti-Soviet in character, as the prosecution charged in the trial, they were beyond the bounds of approved literary expression and would not have been published within the country. The trial of the two, and their subsequent
prison sentences, stirred liberal sentiment both within the country and outside. Many Soviet dissidents date their participation in the movement from the time of the trial. The unofficial record of the trial, prepared by the young writer Alexander Ginzburg, became a leading samizdat document. When Ginzburg and others were tried and sentenced in 1968 for their dissident activities, their trial brought forth even more protest. It was shortly after this trial that publication of the foremost samizdat journal, The Chronicle of Current Events, was initiated, and the dissident movement was launched in earnest.

The use of the judicial process was not the only or even the most important means of combatting dissent. A variety of forms of harassment were also used, including repeated house searches, frequent summons for questioning, constant following and surveillance by the secret police. Signers of protest letters lost their jobs or were threatened with dismissal. Even defense lawyers for dissenters faced the wrath of the state in various forms. Like Solzhenitsyn, a number of people were banished from the country. And incarceration in psychiatric hospitals, with compulsory administration of drugs, was also employed. The most "public" form of countering dissent, however, was the judicial process, and among the several celebrated trials of the Brezhnev era, the first and foremost was that of Siniavskii and Daniel. It is this trial that Feofanov covers below.

Feofanov's accounts received little attention in the Western coverage of the trial, which tended to cite the more vehement criticisms of the defendants. But his stance was unmistakably with the prosecution, as the lengthy quotations from his articles will show. As suggested in the Preface, Feofanov considered it important here not only to spell out his original position on the trial but also to expand upon his previously expressed regret for having taken that position.

NOTES

2. Ibid.
5. Peter Juvaler asserts that even during the Khrushchev era Brezhnev personally showed an affinity for this approach. See Peter H. Juvaler, Revolutionary Law and Order: Politics and Social Change in the USSR (New York: The Free Press, 1976), p. 84.
6. Ibid., p. 87.
The removal of Nikita Khrushchev also took place under the banner of "restoration of Leninist norms" — this time the norms of the "collective leadership" and the struggle against voluntarism, of which the fallen leader was accused. There was, of course, a large measure of truth in this. The execution of two young men, which was just discussed, was a typical voluntaristic act. It is true that the valiutchiki committed illegal acts; but the cruelty of the punishment was unjustified, even from the standpoint of the interests of party power. The swindlers presented no threat to the regime, in any case no greater a threat than that of thieves and bribe-takers. The disruption that they caused can be viewed as the valiutchiki taking advantage of the system’s economic absurdity.

The Brezhnev leadership, when it came to power, was confronted, by contrast, with open opponents of the existing structure who came to the fore as a result of the Khrushchev liberalization. The dissident movement began to develop when society understood that no real changes were coming, that, to the contrary, a return not just to Leninist norms but to Stalinist methods was beginning. It was at this time that doubts about the infallibility of Lenin were first heard. Stalinist terror, it was asserted, was not a distortion but a further development of Leninist lessons. True, it was now physically impossible to return to massive terror. However, under the new leadership a moral and ideological terror had begun. Under Brezhnev the ideological forces again closed ranks with the state security organs to root out the free-thinkers, just as the Catholic Church had once made a pact with the secular powers in fighting heretics.

The first frank and open step in creating a Soviet party inquisition was the case against two writers, Andrei Siniavskii and Yuli Daniel. Of course the political trials of the period of stagnation had little in common with the 1930s. But they weren’t completely different. There were common elements. The Trotskyists of the 1930s, the dissidents of the 1960s, and the members of cooperatives during the first years of perestroika were "enemies." The concept of "enemy" was deeply rooted in public morals and even now has an impact on popular legal consciousness. People in the Brezhnev times who rebelled against the system were courageous and principled, but only a small portion of the public felt any sympathy for them. The letters of approval for the persecution of Sakharov, Solzhenitsyn and others, signed by scientists, literary figures, and actors, testify to this. To be sure, these letter campaigns were often organized, but the signatures were given either voluntarily or after only the mildest pressure.
Nothing more serious threatened a non-signer than career considerations, prohibition of travel abroad, and the general loss of the favor of the leadership.

Still, the system worked quite smoothly. Journalists of the central newspapers knew, of course, about corruption in the party hierarchy, about the system of "soft" (in comparison with Stalin’s times) persecution, and particularly about censorship. I knew, and to the extent possible I maintained a neutral position. I remember that once I was invited to speak before journalists and police personnel in Kaluga. After the talk some questions were asked, including one about my view on the writings and speeches of Solzhenitsyn. I tried to avoid an answer, saying that I had read only Ivan Denisovich, which had been published legally, and therefore had nothing to say. But they pushed for an answer: it was said that Solzhenitsyn was making anti-Soviet statements, that he was publishing his works abroad, including in "White Guard" publishing houses. I answered that I do not listen to hostile speeches and that regarding publications in the Soviet press, I wasn’t in a position to judge Solzhenitsyn on the basis of them. With that I concluded my talk in Kaluga. Several days later I was called upon to explain myself to the higher-ups: the Central Committee had received a report that I had not been sufficiently decisive in rejecting Solzhenitsyn’s position. At that time I had already read The Gulag Archipelago, and I understood well that everything in it was true. But I decided not to speak about that.

Is this position unprincipled? Opportunistic? It may be put even more harshly than that and it would still be true. And that was also my position when I received the assignment to report on the Siniavskii-Daniel case. My reporting in this case weighs heavily on my conscience, particularly my last article, where I tried to explain and justify the sentence. I return to it now not simply to repent, because I publicly expressed my regret regarding this matter earlier. My reason for discussing the case here is not to beat my breast again, but to explain the phenomenon of politics impinging on law, morals and conscience.

This widely-known case was heard by Judge Lev Smirnov, then Chairman of the RSFSR Supreme Court. I knew Lev Nikolaevich well. He was a capable jurist, a participant in the Nuremberg trials, but first and foremost a party functionary holding a governmental post. Before the trial started Izvestiia carried a story entitled "The Turncoats" written by a certain Eremin.¹ He did not work for Izvestiia and I did not know him. In the article he attacked the yet-to-be charged writers, accusing them of anti-Soviet propaganda under article 70 of the RSFSR Criminal Code. I had read the works of these writers, which had been published abroad by emigre publishers. Publishing abroad served as the basis for charging both of them with having committed state crimes.
Much has been written about this trial, and many views have been expressed. The sentence against them was rescinded in 1991, and even before then the writers had been rehabilitated in the eyes of much of the public.

Regarding the writings of Siniavskii, they still generate literary and even political controversy. But recently he returned to his Fatherland and appeared on television. Looking at the trial from the present it is easy to say that it was a political reprisal. Could I then have come to the same conclusion regarding what took place in the courtroom? To be truthful, the answer is both yes and no. The fact is, however, I was sincerely convinced at the time that the sending of literature to "white emigrant" publishers was a crime.

One other consideration needs to be added. The fact was that Daniel and Siniavskii were not among those dissidents who openly challenged the regime. Andrei Siniavskii wrote works for Soviet publications that were fully loyal, articles about socialist realism, about the role of Lenin and Gorky in the development of literature on patriotic themes, etc. And in foreign editions, under the pseudonym Abram Tertz, he wrote directly contradictory things. All of this was brought forth in court. Could I morally justify that? No. And I still can't. And the question that was put to me on TV by the wife of Siniavskii: "when was the journalist Feofanov a progressive -- when he wrote about the [Siniavskii-Daniel] trial, or when he is writing about truth?" -- that question could equally be addressed to Andrei Siniavskii: "How could he be said to be progressive, when he was simultaneously holding opposite positions?"

None of this is said to justify myself or to settle accounts: as I said, my reporting of that time weighs on my conscience. And that is because my writing was affirming not law and justice, but the idea of reprisal.

Although the Siniavskii-Daniel trial was quite extensively covered in the foreign press, as it has been more recently in ours, I want to return to those proceedings and to my reporting from the courtroom at the time. I want to note that I received no particular instructions from agitprop or the KGB. This was the task of the editor-in-chief, who arranged for me to see the materials relating to the charge. I wasn't anxious to write about it, but I didn't have the courage to refuse.

My first report, excerpted below, was a paraphrase of the indictment:

<<BEGINTEXT>>

This report is being written from the courtroom where the RSFSR Supreme Court is hearing the case of A. Siniavskii and Iu. Daniel. Everything is taking place according to the usual procedure. But the trial itself is anything but usual.

<<ENDTEXT>>
Siniavskii is a candidate of philological sciences, a senior research associate at the Institute of World Literature of the USSR Academy of Sciences, and a member of the Union of Writers. Daniel is a translator of poetry. Both have glorified our Motherland, in their published works, discoursed on the high moral character of Soviet man, and criticized (at least in the case of Siniavskii) those colleagues who seemed insufficiently patriotic. That was in Soviet publications.

At the same time, over a period of several years, they wrote anti-Soviet satires and sent them to foreign bourgeois publishers. There these concoctions directed against our Motherland were eagerly published. They were printed in many languages, provided with anti-Soviet introductions, and widely distributed. They were even brought into the USSR. The authors wrote their lampoons under pseudonyms, and Western publishers carefully concealed their real names. A woman named Ellen Zamoyskaya (Peltier) acted as intermediary. She was the daughter of a former French naval attache to the USSR. She came frequently to the USSR as a tourist, was acquainted with Siniavskii, and secretly carried his lampoons abroad. Siniavskii used the name Abram Tertz, while Daniel chose Nikolai Arzhak ...

The time was 10:00 a.m., February 10, 1966. Sitting on the government side were the prosecutor, State Legal Counsellor Third Class and aide to the USSR Procurator General, O.P. Tyomushkin, as well as the public accusers, Arkady Vasiliev and Zoya Kedrina. Opposite them were Siniavskii’s lawyer, E.M. Kogan, and Daniel’s counsel, M.M. Kisenishskii, who had been hired by the defendants’ relatives. Several experts also participated in the trial. Their job was to establish authorship of these writings, that were so densely filled with anti-Soviet statements, although the accused did not deny authorship.

The proceedings began with the typical yet solemn call from the bailiff, "All stand, the court is in session." Seated on the bench, in chairs adorned with the state crest, were the presiding judge, RSFSR Supreme Court Chairman L.N. Smirnov, and the two people’s assessors, N.A. Chechina and P.V. Sokolov.

The charge was read. Siniavskii and Daniel were accused of violating the first part of Article 70 of the RSFSR Criminal Code, which reads: "Agitation or propaganda carried on for the purpose of subverting or weakening Soviet authority or of committing particular, especially dangerous crimes against the state, or circulating for the same purpose slanderous fabrications which defame the Soviet state and social system, or circulating or preparing or keeping, for the same purpose, literature of such content, shall be punished by deprivation of freedom for a term of six months to seven years, with or without additional exile for a term of two to five years, or by exile for a term of two to five years. . . ."
Reactionary imperialism, it states in the indictment, having been defeated in its efforts to rout socialism by armed struggle, has used other measures against the Soviet state and now is making a major effort at disruption by means of ideological diversion. Bourgeois propaganda does not shrink from even the most vile means in attempting to compromise socialist society in the eyes of world public opinion and of the Soviet people. Toward these ends the propaganda centers of the imperialist states actively employed the anti-Soviet defamatory writings of certain renegades whom the West passes off as "true" representatives of Soviet literature. In the anti-communist propaganda of recent years a significant place has been given to such anti-Soviet slanderous works as "The Trial Begins," "What is Socialist Realism," and "Liubimov," published in the West under the name of Abram Tertz, and "This is Moscow Speaking," "Hands," and other works by Nikolai Arzhak.

A large amount of material in the indictment was directed at portraying the character of Siniavskii and Daniel. The magnitude of moral degradation is difficult to depict. . . . They say, of course, that their works are not anti-Soviet. The Western press evaluates somewhat differently the tale "The Trial Begins": "This is the most direct and open expression of the complete failure of the Soviet system"; the tale has "explosive force," etc. *Time* magazine, in its issue of October 29 1965, called Siniavskii "a bitter enemy of communism."

Siniavskii's "The Trial Begins" is full of hate for everything Soviet. It contains bitter attacks on the theoretical principles of Marxism-Leninism, the history of the Soviet state, and the culture and morals of the Soviet people. The lampoon "What is Socialist Realism" is directed against communist ideology and against the leading role of the CPSU in the ideological life of Soviet society; it contains slanderous fabrications about Soviet reality.

Siniavskii's literary ranting were seized upon by bourgeois ideological centers and were actually used in anti-communist propaganda. More and more new information was brought out which showed that Siniavskii's and Daniel's acts fell directly under Article 70 of the RSFSR Criminal Code. They intentionally but covertly sent their writings to our adversaries, which, naturally, created hostile attitudes toward Soviet power, served as a weapon of ideological diversion against our country, brought harm to the prestige of the Soviet state, and even contained direct appeals to work against the Soviet state and its people.

The recounting of the most reactionary and libellous publications of the accused seemed endless. The tale "Liubimov" was praised to the skies by Radio Liberty, which is run by the "Coordinating Center for the Anti-Bolshevist Struggle." After reading the indictment the judge asked: "Accused Siniavskii, do you admit your guilt?" The same question was put to Daniel. Both categorically denied their guilt.³
That was my first report from the courtroom. Several members of the Izvestiia Editorial Board expressed the view that it was too passive, that I had not sufficiently passed judgment. But they did not specifically insist on "improvements" in the text. In my second report I set forth the main points of the judicial investigation, the testimony of the accused, and that of the witnesses. Here are excerpts from what I wrote (The second day began with the interrogation of the accused):

<<BEGINTEXT>>

"Tell us Daniel," asks the procurator, "what ideas did you seek to express in your story 'This is Moscow Speaking'?"

- I was interested in analyzing the psychology of people who found themselves in an unusual situation. I didn't have any political intentions. It was pure psychology.

- What was this unusual situation?

- The content of the story was as follows: A 'Public Murder Day' is introduced, similar to 'Builder's Day,' 'Teacher's Day,' and so forth. On this day everyone can settle accounts with everyone else. And the story shows what happened on this day. You see, I wanted to portray a fantasy and to put the main characters under unusual conditions. It was, as I say, a fantasy.

- But why then didn't you choose as the site of action, let's say, ancient Babylon? Why did you allow these foul fantasies to happen to our people?

- This is an artistic device," Daniel reiterated yet another time, trying to turn the dialog to problems of the theory of literary creativity. . . .

The tale was published by the white emigre publisher B. Filippov. In the introduction the publisher emphasized that the "artistic device" used by Nikolai Arzhak (the pseudonym of Daniel) provided the possibility of showing "real life" in the Soviet Union. . . .

- "But I can't be responsible for the words of Filippov," the accused says with a look of surprise. There was little else that he could say.

- But could he interpret your story in an anti-Soviet sense? Could our enemies arm themselves with it in the struggle against the Motherland, our system, our people?

- "Yes," Daniel was forced to admit. But he hastened to add; . . . "I never intended to bring harm to my country. Only during the investigation did I understand that my works were directed against our structure and epoch."

- And did you show your manuscripts to anybody in the Soviet Union?

- Yes, to several friends.
And what was their reaction?

This was answered as follows. An acquaintance of Daniel heard that the white emigre radio station 'Liberty' had broadcast Nikolai Arzhak's story. And he told his circle of friends about it. And Daniel upbraided him, demanding to know "Why are you gossiping?"

-So you understood that this was risking the uncovering of the pseudonym? You acknowledge the political tenor of the story?

No intelligible answer to this question was received. Another friend, after reading the manuscript, warned the author directly that publishing it abroad was impossible since it could be used against the USSR.

-"I for some reason did not give any significance to his words," said the "frivolous" author of the lampoon, who thought, as he pretends now, that he composed something no more objectionable than fairy tales for Sunday reading. All right. Let's suppose that he didn't heed the warnings because of naivete. Let's suppose that he didn't have the sense to do this. But here we have a copy of the book from abroad with the unequivocal anti-Soviet introduction by Mr. Filippov. This clinches it. The book was used against the Motherland, it was seized as a weapon by ideological saboteurs. Do you think that the author grasped his head in horror at this? That he whispered into the night. "What a dunce I've been, creating this mess by my foolishness?" Nothing of the sort! He then sent abroad his next story, "The Temptation. . ."

The facts are equally crushing to the position of Siniavskii. He established what seemed to him to be an invulnerable line of defense. Basically, it consisted of the same strongholds: I didn't know what I had created.

-"Yes, the works listed, which were published abroad, were written and sent there by me." he said, stroking his large red beard.

Siniavskii's tale "The Trial Begins" is examined. And again we hear the familiar but now annoying words about "the right of the artist to self-expression." about the conditional character of the statements, about hyperbole, etc.

-Let's take all that as given. But let's also, accused, consider your own thoughts expressed not in fictional works but in, as it is expressed, literary reflections. Are you familiar with the work called "Thoughts Aloud"?

-Yes, that is my work.

-Was it published abroad?

-Yes.
- Allow me to quote from it. 'Drunkenness -- this is the obsession of the Russian people.' -- such is the "reflection" of Siniavskii. A nation of thieves and drunks incapable of creating a culture.

- What do you say to this, accused?

After a long silence Siniavskii says. "You see, I love the Russian people [the Chairman quiets the hall]. No-one could accuse me of bias toward the West. I have even been called a Slavophile . . ."

It was impossible for Siniavskii to deny the direct statements he had made. But Siniavskii rejected the anti-Soviet essence of his writings. And of the judgments he made about 19th Century realism and of his particular concept of socialist realism. This occurred when the court asked him to respond regarding the work he published abroad entitled "What is Socialist Realism?"

- "Accused, you say about the Soviet people that they are 'creatures composed of blood and dirt.' How can you square this with what you have said about the love for communist ideals?"

- "In my opinion this is not a precise translation," he answered, to laughter in the courtroom.

- "What was your purpose in sending this appalling libel to the West?"

- "I wanted to say something about the spiritual needs of the masses [laughter in the courtroom]."

In the 1990s, when anyone can express any opinion one likes about the authorities, this line of questioning seems farcical. The accused or a witness would simply say to the august court: "Never mind about that . . . I write what I want, and I talk about what dissatisfies me." But thirty years ago this was a much more serious matter. The accused writers had to try to show that they did not intend to disrupt the Soviet system, to discredit the lofty ideas of Marxism-Leninism, or to speak out against the party leadership. Of course this was precisely what they had in mind, and a noble intention it was at that. Andrei Siniavskii and Yuli Daniel were not the first to speak out against the existing regime. Theirs were not direct attacks, but in literary form, published secretly and under pseudonyms. But this doesn't diminish their civic status. Their sacrifice was that they were the first victims of a wave of repression of a new type. They conducted themselves with dignity, given the circumstances that prevailed in the court and in the society as a whole.
This is the evaluation of their behavior that I make now. But then? Could I have made it then? No. not in print. That would have been impossible. But would I have personally, to myself, have thus evaluated their behavior? No, since I had publicly written as in the above passages, I could not. Nor did I even think in that way. On a moral plane I considered them unquestionably culpable. But were there elements of criminal violations in their acts? According to Article 70 of the RSFSR Criminal Code, which I cited above? Here I had serious doubts. But alas, I had to file a third report on the case, on the last day of the trial. Here is the text of that report, made so long ago from the courtroom.

<<BEGINTEXT>>

The end of the Siniavskii-Daniel trial is approaching. Although my purely reportorial impressions are quite fresh, I would like to reflect a bit on what I have heard during these three days.

In the recesses between sessions the courtroom has been full of discussions characterized by indignation and contempt. But many are simply confused: how could something like this happen at this time? Indeed, how? Two relatively young men (both about 40), graduates of Soviet schools and then higher educational institutions, living side by side with us, who suddenly became the accomplices of our worst enemies. Why? To what end? And how could they have come up with the idea of sending abroad these openly evil, slanderous writings about our country and people?

The explanations of both of the accused, although somewhat different in form, were equally laughable. They avoided the facts and leaned heavily on psychology.

Daniel acted as though he were a young child who could not grasp what slander was, and didn’t see that it is not just those who wish us well who live abroad, but also our enemies, and that sending writings to the West was a tremendous windfall for reactionary bourgeois and white-emigre publishers.

His co-defendant tried constantly to obfuscate what was quite clear, holding forth about the imperfections of world existence, about a new religion, and about his particular perception of reality, which was inaccessible to mere mortals.

All of this came across as being so absurd when contrasted to the real evidence of anti-Soviet activity on the part of Siniavskii and Daniel that those present at times reacted angrily to the limitless cynicism of the accused and at other times openly laughed at what were, to say the least, their naive answers. Presiding Judge Lev Smirnov, who conducted the trial in an efficient, even brilliant, manner, often was forced to quiet the courtroom.

<<ENDTEXT>>
In any case, what are the reasons for the fall of two people, who consider themselves intelligent individuals?. One of them, it seems to me, is the extreme lack of ideological discipline and the moral irresponsibility of the accused. Their complete loss of civic, patriotic feelings has engendered a hate for our state system, for the ideas of communism, and for the lifestyle of the Soviet people. All of this led the accused directly to their hostile acts.

In 1956 Siniavskii began to write his libels. Daniel began a bit later. Of course they carefully hid their underground activity from the public. However, they read their obviously anti-Soviet works to several acquaintances and friends. Some turned up their noses at them while others found stylistic or literary merit or shortcomings. Alas, I was not able to find anyone among their friends or acquaintances who had heard or read the anti-Soviet works of Siniavskii and Daniel and who could evaluate these writings and give a straight opinion. But to assess their anti-Soviet quality did not demand particular acuity. Only the elementary propriety of a Soviet citizen was required. . . .”

I omit the part of my article on the questioning of the witnesses, since it is not of significance any more. My report ended as follows:

"The questioning of witnesses ended during the morning session of February 12. The experts offered their opinions, establishing that the authors of the anti-Soviet works were Siniavskii (Abram Tertz) and Daniel (Nikolai Arzhak).

Then the presentations by the two sides began. The public accusers Arkady Vasiliev and Zoya Kedrina made their presentations. In the name of writers in general they held up to shame the vile acts of the accused and demanded that the defendants be given severe sentences. The state accuser then provided a detailed characterization of the criminal anti-Soviet acts of Siniavskii and Daniel.

The trial of the two turncoats was coming to an end. The time had come for them to pay.”

I don’t remember why, but I didn’t mentioned the sentence: Siniavskii received seven years deprivation of freedom and Daniel got five.1

1Daniel served his full term. After his release he lived in Kaluga and then in Moscow. He died on December 31, 1988. Siniavskii spent six years in a camp. He emigrated to Paris in 1973 and is now a professor at the Sorbonne. In 1991 the USSR Procurator General protested the decision in the case and the
Such severe sentences for writing literary works, even if they appeared in "hostile"
publications and insulted the top leaders of the Soviet people, raised some doubts. I was, at the
time, unquestionably convinced that the acts of the writers violated the criminal law. And if
the court, having concluded that they were guilty, had handed down a sentence of, let's say,
public censure and punishment that stopped short of imprisonment, then I would have
considered this legal and just. But long years in a camp: I internally disagreed with this. This
dichotomy led me to write another article in which, on the one hand, I applauded the sentence
as just but expressed opposition to the severity of the punishment.

In preparing this article I looked at foreign legislation and legal practice. I was able to
find some things in criminal codes. In particular I found that the Italian code contains a norm
that punishes a person for insulting the nation. And if memory serves, I also referred to
several articles from the law of the Federal Republic of Germany. Unfortunately, I have not
kept a manuscript of this unpublished article.

I drew the most important arguments in defense of the sentence from the American
"witch hunts" of the post-war period, those connected with Senator McCarthy, which are well-
known to Americans. I am not saying that this was a very persuasive argument, but it did
justify the idea of holding the trial itself. Nothing, however, can justify the punishment that
was handed down. And in that article I talked about it, very cautiously, to be sure, but
nonetheless I did discuss it. And this brought forth a categorically negative response from the
editorial board. I know that the editor-in-chief -- at that time it was Lev Tolkunov -- sent the
article to the Party Central Committee, but I don't know what kind of reaction it received
there. The editor-in-chief did say one thing to me, however, and that was that no doubts could
be expressed about the sentence. Regarding the references to foreign law and the practice of
McCarthyism, he said that "this is good" and that it ought to be published.

Again I was put in a difficult situation: I just didn't want to publish one more article with
an unconditional justification of the punishment, but honestly speaking, I didn't have the
resolve to refuse to publish it at all. I was saved by the view expressed by a high official in the
KGB, Filip Bobkov, who was soon to become deputy chairman of the organization but was
then in charge of relations with the press and the public. He rejected the article as thoroughly
flawed. In his opinion it had a "defensive," justifying tone, whereas "attacking" publications
were needed since there was nothing to be defensive about. He recommended that the article

RSFSR Supreme Court rescinded the verdict and sentence and ordered the case closed for lack of the
elements of a crime.
be thoroughly rewritten, but I was able to avoid doing this and, thank God, the whole thing died.

Some time later I was sent to Leningrad to another trial of dissidents. This one was more serious, in that it involved a group of people, mostly Jews, who were accused of trying to hijack an airplane to fly it to Israel. They were accused of violating article 64 of the RSFSR Criminal Code -- treason. The law provided for a range of punishment, including the death penalty.

I attended every one of the court sessions in this case. Now with regard to Siniavskii and Daniel there had at least been some concrete acts -- sending "anti-Soviet" works abroad -- which could be evaluated under article 70 of the Criminal Code. But here there was not even any concrete evidence that the accused had prepared to seize the airplane. As proof, some notes of conversations regarding the dissident movement and attempts to prepare documents for leaving for Israel were introduced. No convincing evidence was brought forward. And although the court did not agree with the procurator, who had demanded the death penalty for the "ringleaders" of the group, the sentence was stunning: 15 years, for the intention to leave for another country!

Returning to the editorial offices, I reported my impressions to the editor-in-chief, Lev Tolkunov. His curt response was that no reporting on this trial was necessary. And that, fortunately, ended my presence in courtrooms where cases against those fighting for their individual rights were being heard. After that open court proceedings in such cases almost ceased, and the leadership found a new non-risk way to punish its opponents: placing them in psychiatric institutions on the authority of a physician's recommendation, and thus avoiding judicial proceedings.

So that was the only time that it fell to me to report on a strictly political trial in a case against dissidents. But it was also the first proceeding of that kind during the stagnation period of Brezhnev. I want to repeat again that what has been written here about the trial of Andrei Siniavskii and Yuli Daniel is not done in justification. I have wanted to set forth my honest feelings and to show how compromises with the powers that be are transformed into bargains with one's conscience.

And one more thought. The Committee for State Security (KGB) organized and directed the political trials of the 1960s and 70s. It is a common practice to accuse this organization in all of the harassments and repressions. Even now, in 1995, "the organs" are faulted for exercising, as before, great power. I don't want to diminish in any measure their liability for all that took place in the country. But one shouldn't reproach the organization because it has
some power. Intelligence and counter-intelligence, as well as security organs and those for fighting crime, need to be strong, professional and knowledgeable. It can't be any other way. It is also true, of course, that their power must be balanced by the law, and that any arbitrary use of power must be restrained by an independent court system.

Yes, the state security organs concocted the case against Siniavskii and Daniel; they collected all of the material, and they manufactured the "evidence" for the indictment. They made contacts with the writers' organization and with the press. But it was the court that handed down the sentence. Two people's assessors signed the sentence. The writer's organization named the public accusers. The newspapers covered the case. And respected people signed petitions branding the defendants as turncoats.

No, I don't intend to whitewash the KGB in any way. But one must give an honest account of how it happened in the USSR in the last half of the Twentieth Century when the state itself, with the support and approval of society, meted out punishment to two writers. Regarding my personal culpability I have written clearly enough: the verdict is guilty.

NOTES


