

Vladimir Terebilov

# THE SOVIET COURT

"IN THE USSR JUSTICE  
SHALL BE ADMINISTERED ONLY BY THE COURTS.

"IN THE USSR THERE ARE  
THE FOLLOWING COURTS: THE SUPREME  
COURT OF THE USSR, THE SUPREME COURTS  
OF THE UNION REPUBLICS, THE SUPREME COURTS  
OF THE AUTONOMOUS REPUBLICS, TERRITORY,  
REGIONAL, AND CITY COURTS,  
THE COURTS OF THE AUTONOMOUS REGIONS,  
THE COURTS OF THE AUTONOMOUS AREAS,  
DISTRICT (CITY) PEOPLE'S COURTS,  
AND MILITARY TRIBUNALS  
IN THE ARMED FORCES"

(ART. 151 OF THE CONSTITUTION OF THE USSR).

**PROGRESS Publishers**

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PROGRESS PUBLISHERS  
MOSCOW

Translated from the Russian by *Murad Saifulin, Cand. Sc. (Law)*

Designed by *Yuri Egorov*

**В. И. Теребилов**

СУДЕБНАЯ СИСТЕМА В СССР

*На английском языке*

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English translation © Progress Publishers 1973

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English translation of the revised Russian text

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T  $\frac{1203150000-720}{014(01)-85}$  66-86

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## PREFACE

This book must be regarded merely as a brief exposition of some major questions of the organisation and functioning of the courts in the USSR.

The reader will see that throughout the history of the Soviet state its judiciary has been gradually modified and improved. Substantial change, however, has not affected only the main principles to be dealt with in the second chapter.

Soviet jurists, it stands to reason, do not believe that the present Soviet system of courts need not be improved further. Just the opposite, today we seek to put to use the experience congealed by others, primarily, by other socialist states in order to perfect our judiciary and bring it into fuller conformity with the present conditions of a developed socialist society.

The solution of this task, it seems to us, depends not only on the sophistication of the judicial structure and court procedure. The perfection of judicial activity depends largely on other circumstances, particularly on such two important factors as the existence in our state of a well elaborated system of legislative acts covering all the aspects of state and public life and a higher level of legal culture of the population, including a good knowledge of laws by all citizens and their strict implementation.

For this reason legislative work and the legal education of citizens are now an object of primary concern of the Soviet state.

The continuous process of the state's social and economic development calls for an appropriate improvement of laws in force. However, this does not mean at all that they must be amended in a quicker procedure and without proper justification. In principle, we must aspire to a stability of laws and to their operation for a maximally long period. Frequent and unjustified amendments in laws are, no doubt, harmful. But no less harmful is the artificial containment of the de-

velopment of laws and the blind following of old legal formulas. In conformity with serious changes wrought in the life of the Soviet state, the renovation of laws is quite natural, for a higher level of the state's social development must be accompanied by new legislation that meets the contemporary conditions of life.

Today a great deal of legislative work is being conducted in the USSR. On the basis of a new Constitution (adopted in October 1977) the Soviet Parliament adopted a series of important laws: on election to the Supreme Soviet of the USSR, on the Council of Ministers of the USSR, on people's control in the country, on Soviet citizenship, on the Supreme Court of the USSR, the Procurator's Office of the USSR, etc.

At present the problems of the legal regulation of the national economy figure prominently in our legislative work. The number of factories, mills and agricultural enterprises have grown immeasurably in this country. This necessitates the improvement of laws that operate in industry and agriculture for the purpose of securing the country's more effective economic progress.

Now we are completing the preparation of the Statute Book of Laws of the USSR, which represents a new step in the codification and systematisation of current legislation whose significance for strengthening the legal foundations of the state it is hard to overestimate.

The USSR keeps expanding its economic relations with other countries and this calls for the elaboration of fresh international legal acts.

This many-sided legislative work is called upon to create a dependable legal basis for the effective work of Soviet courts in addition to the solution of other important tasks.

As we have said, the system of legislative acts in force will be effective provided these laws are brought home to ordinary citizens and officials, provided they become the standards of their behaviour. Therefore Soviet legal science regards these two factors in close interrelationship. The legal education of Soviet citizens is a major component part of legal work and for this reason it is both an official and unofficial duty of every lawyer and every legal institution in the USSR.

This work is organised by the USSR Ministry of Justice which has set up a Coordination Methodological Council dealing with the legal education of citizens. The Council consists of representatives from the main legal institutions and de-

partments and from the republican ministries of culture, secondary education and higher education, from trade unions and youth organisations, and also from the editorial offices of central newspapers, radio and TV. The chief task of the Council is to coordinate measures for the legal education of citizens, and also for the elaboration and implementation of joint undertakings on this question. It is important to emphasise that it is not a matter of training professional lawyers but a matter of *legal education of all citizens*, for the proper information of the public about the laws in force, the inculcation of general respect for the laws and the rules of socialist community life are of great importance for the state legal order.

The legal education of young people is central to this process. An important role in this belongs to bodies of public education and vocational training and to other departments responsible for the work among the youth. Soviet lawyers take an active part in this work.

A basic course in Soviet state and law has been introduced in all secondary and vocational schools. Legal disciplines are taught practically in all higher non-juridical educational establishments. This is necessary, because the leavers of, say, technical institutes must possess a minimum of legal knowledge in order to fulfil their functions as managers of enterprises, as engineers, shop superintendants, heads of institutions, etc.

The legal magazine, *Man and Law*, caters for a broad circle of readers and has a circulation of 9 million copies. It features legal and moral articles and explains the laws in force in simple and lucid language. The regular TV and radio "Man and Law" series is intended for the adult population. The Soviet TV and radio also transmit for students two study programmes on legal matters. All these broadcasts are prepared with the active participation of lawyers.

Legal aid bureaus, run on a voluntary basis and set up by trade unions at factories, state or collective farms, render effective legal aid to people. Today a total of 30,000 such legal aid bureaus function in the country. Every citizen is entitled to receive free legal advice on any question of interest to him, the advice being given by experienced lawyers.

Lectures on legal topics are a good form of legal education. Every year Soviet lawyers deliver over one million lectures. People's universities which function in many cities have law departments. The latter provide evening tuition,

Classes are attended by those citizens who wish to become conversant with legal issues.

The press has a great part to play in the propagation of legal knowledge. Most newspapers and magazines are devoting more and more attention to legal matters. To make the published materials maximally useful, judicial officers periodically invite newspaper and magazine editors to discuss at conferences the nature and orientation of these materials. These officers and editors produce joint recommendations on the coverage of specific legal problems and the ways of their presentation to the reader.

While describing the forms of the legal education of the population, we should like to emphasise that its aim is that every citizen should acquire a good knowledge of the laws and a personal conviction that he should respect them, being aware that they protect general interests, including those of every individual.

Of great importance for the judiciary is the training of lawyers in 50 Soviet universities and law institutes, in which curricula are drafted with the participation of legal bodies.

Of no less importance is the periodic retraining of lawyers. With this end in view the USSR Ministry of Justice has set up institutes and extension courses for the improvement of legal qualifications. The judges, advocates, procurators, legal advisers, notaries public, and also school teachers of law undergo retraining every five years. They study legislation, problems of economics, sociology, etc.

Soviet jurisprudence is called upon to play a big part in the further improvement of the judiciary, the strengthening of socialist legality, the training of legal experts and in drafting bills. The Soviet Union has a sizeable number of legal research institutes. They include the All-Union Research Institute of Soviet Legislation, the Institute of State and Law, the All-Union Institute for the Study of Causes of Crime and the Elaboration of Measures of Its Prevention, the All-Union Research Institute for Judicial Expertise.

Recent years have seen the more active development of ties between Soviet and foreign lawyers. Their contacts contribute to better mutual understanding and a more fruitful exchange of views, and involve the lawyers in the settlement of outstanding problems of law and the general problems of the development of the modern society. Mutual and unbiased familiarisation with the laws in force and judicial systems of other states is very useful and serves the cause of peace and social progress.

## CHAPTER I

### A BRIEF HISTORY OF THE SOVIET JUDICIARY

#### 1. Why the Soviet State Needs the Courts

The first legislative enactments promulgated by the Soviet Government of Russia in October-November 1917 were Decrees, transferring all power to the workers and peasants, nationalising the land together with its mineral resources, the forests, waters and large enterprises, the transport facilities and the banks of tsarist Russia, and turning them into state property, or property owned by the whole people. At the same time, the Government issued decrees repealing the social estates and proclaiming the equality of nations, the separation of the church from the state, the equality of women, and so on.

The new socialist state needed a new law and order. The old tsarist state machine, naturally, could not be used for this purpose; it had, therefore, to be dismantled and replaced by a state apparatus built on entirely new principles.

Together with the other state institutions of tsarist Russia the people abolished the old courts that protected the interests of the ruling classes. The abolition of the old courts gave many lawyers and politicians in the West a pretext for accusing the new Russia of establishing a kind of "legal vacuum" following the victory of the October 1917 Revolution. The history of the Soviet courts has amply refuted this kind of nonsense. True enough, the old judicial machinery was completely abolished, but this was done in order to replace it by a new judicial apparatus capable of fulfilling the purposes and tasks of the worker and peasant state.

The theoreticians of socialism have never denied the necessity for strict and consistent legal regulation of all aspects of political life. On the contrary, they have emphasised that the socialist state can function only on condition that there is perfect legislation and that the laws are observed by all officials and ordinary citizens, and by all organisations and institutions.

Apart from other administrative and legal institutions, these tasks should also be implemented in a socialist state by simple, democratic and truly popular courts of law. In a letter addressed to August Bebel in 1884, Engels wrote: "It is in the nature of all parties or classes which have come to power through revolution to demand that the new legality created by the revolution should be unconditionally recognised and regarded as holy."<sup>1</sup>

Lenin, the founder of the Soviet state, elaborating upon this provision, regarded socialist legality as one of the fundamental principles of the socialist state and in this context wrote: "...the laws and instructions of the Soviet government must be faithfully observed, and care must be taken that they are obeyed by all."<sup>2</sup>

It is common knowledge that the state emerged at a specific stage of social development, when private ownership split society into classes. Together with the state there emerged law, consolidating the order favourable to the ruling class. To sustain this order, the ruling class created organs for the enforcement of legal rules. These organs doubtlessly included the courts, for, as Lenin wrote, "law is nothing without an apparatus capable of enforcing the observance of the rules of law".<sup>3</sup>

And in fact in the history of society there has never been a state without courts. Moreover, the courts in all exploiting societies have always served the purpose of oppressing the working people. Like the entire state machine of such societies, the courts serve the interests of the ruling class, propping up the pillars of the societies, protecting the political rights and privileges of this class: in slave societies the courts defended the interests of slave-holders, in feudal societies—the interests of the feudal lords and in capitalist societies—the interests of the capitalists.

Bourgeois lawyers, philosophers and political leaders have always tried to convince public opinion that the courts stand "above class" and reflect the "interests of the whole nation". They maintain that the courts in a bourgeois society are independent of the state, that they defend the rich and the poor alike. In actual fact the situation is altogether different.

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<sup>1</sup> K. Marx and F. Engels, *Selected Correspondence*, N.Y., 1936, p. 427.

<sup>2</sup> V. I. Lenin, *Collected Works*, Vol. 29, p. 555 (here and hereafter Progress Publishers, Moscow).

<sup>3</sup> V. I. Lenin, *Collected Works*, Vol. 25, p. 476.

In the era of bourgeois-democratic revolutions the bourgeoisie that came to power by ousting the feudal lords proclaimed democratic freedoms and advanced the slogan that "all people are equal before the law". "True, the law is sacred to the bourgeois," Engels wrote, "for it is his own composition, enacted with his consent, and for his benefit and protection. He knows that, even if an individual law should injure him, the whole fabric protects his interests."<sup>1</sup>

The activity of the courts, especially in developed capitalist countries, seems to be attractive to many people and creates the impression that all citizens are equal in the eyes of the law and the courts. But this is merely an outward impression. The rights provided for by the law in a capitalist state may be used in full only by those who are able to employ advocates and meet all legal costs. That part of the population which has no sufficient means often lacks legal defence, but not for the reason that the law officially deprives them of this defence, but for the reason that their economic status prevents them from making use of the constitutional rights. Here is what C. Johnson, a noted US lawyer, wrote on this subject: "Equality of justice is accepted as a fundamental principle in America . . . but the principle of equality often vanishes. . . . Inability to pay court costs and fees and to buy the services of attorneys often separates the rich and the poor by a great gulf."<sup>2</sup>

Of great importance for the capitalist states is the selection of judges to suit vested interests. As a rule, most judges represent the propertied classes or are dependent on even wealthier persons who in fact control the election of judges.

As distinct from the bourgeois legal theories, Soviet legal science has never denied or concealed the class character of the court. In the original synopsis of his article "The Immediate Tasks of the Soviet Government", Lenin wrote that the proletarian revolution should abolish the old courts, not reform them. "The October Revolution fulfilled, and successfully fulfilled, this necessary task. In place of the old court, it began to establish a new, people's court or, rather, Soviet court, based on the principle of the participation of the working and exploited classes—and only of these classes—in administering the state."<sup>3</sup>

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<sup>1</sup> K. Marx and F. Engels, *Collected Works*, Vol. 4, Moscow, 1975, p. 514.

<sup>2</sup> C. Johnson, *Government in the United States*, N.Y., 1956, p. 507.

<sup>3</sup> V. I. Lenin, *Collected Works*, Vol. 27, p. 217.

The foregoing enables us to draw the following conclusions: 1) the old court that functioned in tsarist Russia could not perform its functions in a socialist state and therefore it had to be abolished completely; 2) the socialist state necessarily required a new court; this court was formed from amongst working people; 3) the court in the socialist state is called upon to defend its interests and also the personal, property and other civil rights protected by the law; 4) the court is needed by the socialist state not only to suppress the resistance of the deposed classes, but also to educate citizens in a spirit of new, socialist relations and in the new rules of the community; 5) the court in a socialist state above all persuades, educates and, when it fails in this, enforces measures of compulsion in accordance with the requirements of the law.

Thus, the socialist state preserves the court and the legal regulation of social relations. Moreover, the court and legal regulation actively promote the progress of socialist society.

The socialist court went through a long and complex process before a sufficiently simple and fully effective judicial system corresponding to the ideas of the socialist state came into being.

## 2. The First Decrees on the Courts

On December 5, 1917, or one month after the successful October Revolution, the Government promulgated a Decree on the Courts (No. 1), which abolished the tsarist judicial system and fixed legislatively the democratic principles governing the organisation of the new courts of law.

Arts. 1 and 2 of this Decree declared that all the existing judicial institutions of tsarist Russia, such as the district courts, judicial chambers, the Ruling Senate, the military and naval courts and the commercial courts were to be abolished and replaced by local courts formed on the principle of democratic election. This Decree repealed such institutions as the court investigators, the procurator's office, the jury system and the private bar.

Henceforward the local judges were to be elected by direct democratic procedures. But before such elections were held, the judges were to be elected by district, town and provincial Soviets of Workers', Soldiers' and Peasants' Deputies. Conferences of local judges were to be convened to