

**FOR THE RULE
OF LAW**

**Bulletin
of the
International
Commission
of Jurists**

*"That every State and every citizen
shall be free under the Rule of Law"*

No. 2

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Contents

I. Preface	3
II. "Socialist Legality" in Czechoslovakia by Vladimir Kabes	5
III. Annex I: Justice and "Education"	34
IV. Annex II: For Better Decisions in Czechoslovakia	43
V. Book Reviews.	46

Preface

In presenting this study on "Socialist Legality in Czechoslovakia", the International Commission of Jurists has two aims in view. In Communist terminology and propaganda the concept of "socialist legality" has an important place. The expression is vague, seldom is it clearly defined. Generally it serves as a magic formula to cover either defective argumentation or a defective policy of justice.

In the first place, the International Commission of Jurists want to give to the lawyers and jurists of the free world an insight into the reality behind this formula, and thus, more insight into soviet "justice".

Secondly, an exposition on the sovietization of a free state and the resultant influence on the Law and Justice of that state underscores the danger to our fundamental principles of law inherent in the practical effects of soviet dialectics.

We have said that we want to defend against corrosion and attack the basic values of the rule of law as the heritage of the civilized world. The present study may serve to expose the character of the corrosion and attacks by which this heritage is threatened today.

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"Socialist Legality" in Czechoslovakia

I.

The apparently effective imposition of Soviet methods upon Czechoslovak public life and the rapid abolition of genuine democracy have puzzled and dismayed the free world. Nowhere is the change more striking than in the legal system of Czechoslovakia, which is now a hardly less disheartening study than the judicial conditions in the Soviet Union.

To understand the ruthless speed with which the "transition from capitalism to socialism" is being accomplished in the satellite countries, it must be kept in mind that their communist-dominated governments are equipped with detailed blueprints readily supplied by the Moscow headquarters and adjusted to typical local conditions only in cases of inevitable necessity.

The Soviet Union's own road to "socialist legality" was an arduous one. It took a full twenty years before Law secured a permanent place on the official scale of positive value. The orthodox post-revolutionary school of Pashukanis favoured the theory of a gradual withering-away of all judicial procedure, which coincided with the classical Marxist doctrine of a progressive disappearance of the State and its instruments of coercion. For the fathers of Marxism, the very idea of "State" was utterly incompatible with the idea of "Freedom". "As the State is only a transitional institution which is used in the struggle, in the revolution in order to hold down one's adversaries by force, it is pure nonsense to talk of a 'free people's State'; as long as the proletariat still *uses* the State it does not use it in the interest of freedom but in order to hold down one's adversaries, and as soon as it becomes possible to speak of freedom the State as such ceases to exist" (F. Engels: Letter to Bebel, 1875). Law was to them but one

of the weapons forged by the ruling class of the past — the bourgeoisie — to subdue and oppress the working masses. Consequently, it was argued, their liberation would create a temporary situation where the only purpose of promulgating and enforcing laws would be to stamp out the remnants of the exploiting classes.

“The standards set by Soviet law envisaged from the beginning the restriction of capitalist elements in both town and country and, following this, their supplanting and liquidation.”¹

The logical conclusion arrived at by Pashukanis and his school was that once the enemies of the people were crushed and the entire population assumed the character of “toiling masses”, there would be no more need for law as conceived by bourgeois jurisprudence, just as there would be no more use for the State in its traditional functions.

Stalin transformed this concept in accordance with his building of “socialism in one country” and with the requirements of his international game.² First, in 1933, he emphasized the necessity of strengthening the State against internal wreckers — a policy followed immediately by the endless series of show trials and purges.³ On the eve of the Second World War, in

¹ Andrei Y. Vyshinsky and M. P. Kareva, *Soviet Socialist Law* (Austin: translated from the Russian and reproduced by Department of Government, University of Texas, 1950), pp. 5—6.

² A characteristically vitriolic attack by Vyshinsky against the ‘traitors’ of the Pashukanis school was given at the First Congress on Problems of the Sciences of the Soviet State in 1938 and is reproduced in: *Soviet Legal Philosophy* (Cambridge: Harvard University Press, 1951), pp. 303—341. During this process of revision, the Pashukanis group was liquidated in 1937 as a treacherous clique conspiring to sabotage the building of socialism and spreading ideological confusion and defeatism.

³ “The Results of the First Five-Year Plan: Report Delivered at the Joint Plenum of the Central Committee and the Central Control Commission of the CPSU (B), January 7, 1933”, in J. Stalin, *Problems of Leninism* (Moscow: Foreign Languages Publishing House, 1954), pp. 535—539, and especially: “The abolition of classes is not achieved by the subsidizing of the class struggle, but by its intensification. The state will wither away, not as a result of a relaxation of the state power, but as a result of its utmost consolidation . . .” (p. 538).

1939, Stalin's argument shifted toward the need of strengthening the State in defence against "capitalist encirclement." ⁴

Based on a fast-growing centralized bureaucracy, Stalin's regime was not slow to recognize the advantage of a massive legal superstructure: the task was now to use all coercive elements of the traditional State in the service of a hurried industrial and military build-up:

"Why do we need stability of laws? Because the stability of laws fortifies the stamina of the political regime and the span of governmental discipline." ⁵

Throughout this development from Utopian ideas about the early withering away of State and Law to the recognition of both as permanent institutions and to their systematic strengthening in the service of the dictatorship, there looms one basic principle of communist law — its exclusive class character. For the Soviet jurist, law expresses merely the will of the ruling class of a given period and is "established . . . to develop such social relation as are favourable to the ruling class." ⁶

The communist doctrine on law and justice is the very opposite of Gsovski's "impartial something serving the common cause." ⁷

⁴ "Report to the Eighteenth Congress of the CPSU (B) on the Work of the Central Committee, Delivered March 10, 1939", in *ibid.*, pp. 746—803, wherein he stated: "Will our state remain in the period of communism also? Yes, it will, if the capitalist encirclement is not liquidated, and if the danger of foreign military attack is not eliminated . . ." (p. 797). The entire speech is of considerable importance because of the subsequent developments in Soviet internal policy as well as foreign policy.

⁵ Andrei Y. Vyshinsky, *Sovetskoe gosudarstvennoe pravo* [Soviet Public Law] (Moscow, 1938), as quoted in Vladimir Gsovski, *Soviet Civil Law* (Ann Arbor: University of Michigan Law School, 1948), Vol. I, p. 187. For a translation of Vyshinsky's book and a slightly different translation of this passage, see: Andrei Y. Vyshinsky, *The Law of the Soviet State* (New York: Macmillan, 1951), p. 51.

⁶ Andrei Y. Vyshinsky in an article in *Sovetskoe Gosudarstvo i Pravo* [Soviet State and Law] 1938, No. 4, p. 27, as quoted in Rudolph Schlesinger, *Soviet Legal Theory, Its Social Background and Development* (2nd ed.; London: Routledge & Kegan Paul, 1951), p. 243.

⁷ Vladimir Gsovski, "The Soviet Concept of Law", 7 *Fordham Law Review* 2 (1938).

"... there is no contradiction between revolutionary legality and the suppression of class enemies; ... the task of revolutionary legality is so to organize summary justice and the suppression of class enemies that the courts under the dictatorship of the proletariat are turned into an unerring weapon against the class enemies, pitilessly suppressing them and mercilessly dispensing justice." ⁸

From the point of view of actual application of the new laws,

"two divergent trends ... are constantly evident in the Soviet jurisprudence. These are the recognition of the full authority of law, or, rather, of statutory legislation, on the one hand, and the admittance of the executive freedom and extra-legal consideration on the other." ⁹

This explains why revolutionary legal systems rely heavily on administrative justice. Vyshinsky formulates it carefully:

"We do not share the bourgeois democratic viewpoint that all cases involving acts which are punishable as crimes have invariably to be considered by the judiciary alone. In the circumstances created by the class struggle, we have allowed cases to be dealt with for example, by the authorities of the OGPU." ¹⁰

This outwardly innocuous statement is put in proper perspective by the following two quotations from official Soviet sources referring to the OGPU's direct predecessor, the Cheka:

"The Cheka established a de facto method of deciding cases without judicial procedure. In a number of places, the Cheka assumed not only the right of final decision,

⁸ Andrei Y. Vyshinsky and V. S. Undrevich, *Kurs ugolovnoy protsessy* [A Course in Criminal Procedure] (Moscow, 1936), pp. 45—46, as quoted in *Report of the Ad Hoc Committee on Forced Labour* (Geneva: United Nations, Document E/2431, 1953), p. 487.

⁹ Gsovski, *op. cit. supra*, note 5, pp. 154—155.

¹⁰ Vyshinsky and Undrevich, *op. cit. supra*, p. 26, as quoted in *Report of the Ad Hoc ...*, *op. cit. supra*, note 8, p. 485.

but also the right of control over the court. Its activities had the character of tremendously merciless repression and complete secrecy as to what occurred within its walls." ¹¹

"The Cheka does not judge the enemy but strikes. In its activities, the Cheka has endeavoured to produce such an impression on the people that the mere mention of the name Cheka would destroy the desire to sabotage, to extort, and to plot." ¹²

The arbitrariness of the administrative procedure is accompanied by the demagogical use of slogans such as "revolutionary conscience" and "class instinct." ¹³ They are used to justify an unbridled interpretation of revolutionary legality which is admittedly "subject to change depending upon circumstances and forms of the class struggle." ¹⁴

The ensuing encroachment on the power of the judiciary and its subordination to political dictates is freely conceded by Soviet legal theorists. "The court is, in the first place, an organ of protection of the interests of the ruling class and of a given social order." ¹⁵ Communist authors belittle a judiciary independent of other government branches and unbiased in its approach to the parties in court. Krylenko, then Commissar of Justice, wrote in 1923:

¹¹ Nikolai V. Krylenko, *Sudustroistvo RSFSR* [The Judiciary of the RSFSR] (Moscow, 1923), pp. 97, 322—323, as quoted in Gsovski, *op. cit. supra*, note 5, p. 234.

¹² Latsis, *Chrezvychainye Komissii po borbe s kontrrevolutsii* [Extraordinary Commissions for the Combat of Counter-revolution], pp. 8, 15, 23, 24, as quoted in Gsovski, *op. cit. supra*, note 5, p. 235.

¹³ F. Beck and W. Godin, *Russian Purge and Extraction of Confession* (London: Hurst & Blackett, 1951), p. 29. "Where class instinct speaks, proof is unnecessary," said Kaminsky of the Kiev Academy of Sciences. Ironically, he uttered this axiom while justifying the censure of Professor Kopershinsky with whom he was later jointly arrested.

¹⁴ See, for example, Shliapochnikov, "Revolutsionnaya Zakonnost'" [Revolutionary Legality], *Sovetskoe Gosudarstvo* [Soviet State; later Soviet State and Law], 1938, No. 4, p. 46, and an article by Vyshinsky on the same subject in *Bolshaya Sovetskaya Entsiklopediya*.

¹⁵ Krylenko, *op. cit. supra*, note 11, p. 206, as quoted in Gsovski, *op. cit. supra*, note 5, p. 240—241.

"No court was ever above class interests, and if there was such a court, we would not care for it." ¹⁶

A revealing passage on the position of the judiciary in the Soviet Union was commented on by the United Nations' Ad Hoc Committee on Forced Labour:

"The authors (Vyshinsky and Undrevich: *Course in Criminal Procedure*) refute the idea of a number of penologists who . . . hold the view that the purpose of a court is to apply the law and to apply it uniformly to all classes of society. To hold such a view . . . is to 'ignore the task of stamping our class enemies' (and) to 'emasculate the class content of judicial practice' . . .

Elsewhere, the authors state that ' . . . The law of the Soviet regime is a political directive and a judge's work is not to apply the law according to the requirements of bourgeois legal logic but to execute the law unwaveringly as an expression of the policy of the Party and Government.' In a later passage, it is explained that ' . . . the Soviet State openly repudiates the political independence of judges . . . We openly require our judges to carry out the policy of the proletarian dictatorship . . . ' " ¹⁷

Communist judicial procedure is one of the many instruments of political propaganda. The following quotation from an official Soviet source offers a clue to all show trials from Kamenev and Zinoviev to the American fliers in China:

"The judge must know how to conduct the court proceedings and how to write the judgment in a manner which shows with the utmost clarity the political significance of the case so that the defendant and those present in the courtroom see clearly the policy of the government in the court action." ¹⁸

¹⁶ Krylenko, *ibid.*, in Gsovski, *ibid.*, p. 241.

¹⁷ In its *Report*, *op. cit. supra*, note 8, p. 487.

¹⁸ Quoted in Gsovski, *op. cit. supra*, note 5, p. 255.

In a study of present legal standards in Czechoslovakia, it is necessary to begin with a short review of the Soviet system. Since February 1948 Czechoslovak legislation has merely been based on Soviet models and turned out by hand-picked Czechoslovak "constitutional authorities" under strictest surveillance by Moscow's resident and visiting agents.

We shall follow to illustrate the themes of Soviet legal practice on their impact on Czechoslovakia.

II.

1.

"All citizens are equal before the law." (Czechoslovak Constitution of May 1948, Part I, Section 1.)¹⁹

"A number of legends about... the equality of all citizens before the law served the purpose of deceiving the people." (Minister of Justice Dr. Alexei Cepicka in Parliament, December 1948).²⁰

The class character of socialist legality was never denied by Communist theoreticians or neglected by the practitioners of the "superior law."²¹ Bragging about their deliberate rejection of the "fiction" of impartiality and objectivity in the judiciary, Czechoslovakia's new jurists argue that all through history law has merely been a weapon of the oppressor. The progressive character of the new order is seen in the fact that it allegedly reflects the will of the crushing majority of the people, the workers, while the negligible minority — the capitalists, landlords, and higher civil servants of the *ancien regime* — are left to rot in the "dump of history". The late President Gottwald's son-in-law and present Vice-Premier, Cepicka, says:

"The notion that there is some supra-class justice contradicts truth and reality... Today, our judiciary must lead the anti-capitalist fight, the fight against the rem-

¹⁹ Constitution of the Czechoslovak Republic of 9 May 1948; official Czech text in *Sbírka Zákonů a Nařízení Republiky Československé* [Collection of Laws and Decrees of the Czechoslovak Republic], 1948, No. 150. An English translation was issued by the Ministry of Information and Public Culture (Prague: Orbis, 1948).

²⁰ XII *Právní Praxe*, [Legal Practice, a Czech law review] 283 (1948).

²¹ "In its most recent interpretation... Socialist legality is the legal expression of the supremacy of the Communist state." See Václav Benes, "The Legal Profession in Czechoslovakia — Its Status Under the Communists." 40 *American Bar Association Journal* 487 ff. (June 1954).

nants of the defeated ruling class which tries desperately to save whatever can still be salvaged." ²²

This most ruthless of the new generation of post-war Communists holds that, in Red Czechoslovakia,

"all vitally important questions were settled in the spirit of the Constitution — in a democratic way which requires that the minority has to submit to the majority." ²³

Denying that there is any uncertainty about the legal development of the country, he elaborates:

"Both the working man and the capitalist have full certainty about (their) future life. Laws and decrees purport to benefit . . . the working people in general. On the other hand, nobody is left in doubt that it is mandatory to destroy capitalism, wherever it might still appear." ²⁴

In the present stage of the class war, communist rulers are concentrating on the struggle against those former capitalist elements which are still operating "from a private position" — the independent farmers. These *kulaks*, as they are called in ominous reference to the liquidated Russian peasants, can do no good. Statements to the effect that there may be also among them enlightened individuals ready to contribute to the building of socialism were formally condemned in the Communist press. ²⁵ Accordingly, even the most submissive *kulaks* are banned from membership in the agricultural collectives (*kolkhozes*), the management of which is continually exhorted to eliminate and keep them out as "dangerous animals of prey".

²² *Právní Praxe*, op. cit. supra, note 20.

²³ Speech at the Congress of Czechoslovak Jurists, quoted in *Rudé Právo* (Central Organ of the Communist Party of Czechoslovakia), 24 September 1949, p. 1.

²⁴ *Ibid.*, p. 5.

²⁵ *Rudé Právo*, 12 December 1952; see also *Zpráva o Československu* (Report on Czechoslovakia, published in Czech by the Free Europe Committee, New York), December 1952, p. 9, item 5385 a.

The Penal Law is invoked against "verbal offences" by which the village rich allegedly spread distrust and opposition against the new order. ²⁶

Nothing is permitted to dull the edge of the artificially fermented class war in the village. During a high treason and espionage trial of fifteen intellectuals in Brno in July 1952 the press emphasized that

"the defendants were . . . typical representatives of the cultural reaction. In the service of the agrarian capital, they preached slogans about the perpetuity of differences of wealth among people and about the country being one family." ²⁷

To allow for the broadest possible interpretation of the task of the "liquidation of the *kulak*", no precise definition of that doomed group was ever published. "The village rich is not characterized by the size of his holdings alone, but also by his behaviour, his former life, his views . . ." ²⁸ It may be said that a *kulak* is whoever in the past used to hire labor thus having acquired the "exploitatory mentality." This mark is clearly indelible and exposes the bearer to different kinds of administrative and judicial discrimination. A member of the Office of the Prosecutor General pledged in a broadcast:

"a daily fight against the village rich, their humiliation and expulsion from the economic and political positions in the villages" ²⁹

as the guiding principle for the work of the judiciary.

²⁶ *Trestní Právo* [Penal Law] (Prague: Státní Pedagogické Nakladatelství [State Pedagogical Publishing House] 1953), p. 31; this is a Czech college textbook by the Collective of Cooperators of the Cathedra of Penal Law.

²⁷ *Rudé Právo*, 5 July 1952; see also *Zpráva o Československu, op. cit. supra*, note 25, July 1952, p. 22, item 4596. The political purpose of this trial was to link the "Vatican's fascist ideology" and the agrarian "Green Internationale, a direct mercenary of American imperialists." The defendants, mostly Catholic writers, received sentences from 7 to 22 years.

²⁸ *Zemědělské Noviny* (newspaper for the agricultural population), 18 July 1952.

²⁹ Prosecutor Dr. Rudolf Jurina on 16 July 1952, as quoted in *Zpráva o Československu, op. cit. supra*, note 25, July 1952, p. 28, item 4601.

The Penal Code (Act No. 86/1950) provides for a special punishment called "interdiction of sojourn" (Section 53) requiring a court ruling to ban a person permanently or temporarily from a part of the state territory, or from a single community, "in the interest of the security of the population, or (socialist) property, or in another public interest." The textbook on Penal Law comments that this penalty

"is used in practice as an exception, when the purpose of this punishment cannot be achieved by other means. It is appropriate against a village rich who tried by his crime to slow down the process of socialization of the village." ³⁰

The *kulak* is the typical remnant of capitalism who is to be transformed into an "honest toiler" — i.e., has to surrender his farm and redeem himself by menial work wherever the State Administration of Labor Reserve considers fit to assign him. However, while the independent farmer is deservedly the centre of attention of both the regime and its opposition, the class character of socialist legality is not directed against the *kulak* alone. ³¹ That would be too narrow an interpretation of the main principle of the Penal Code, "to render harmless enemies of the working class" (Act 86/1950, Section 17a).

³⁰ *Op. cit. supra*, note 26, p. 260.

³¹ The remarkable spirit of the peasants in the face of all the pressure is one of the brightest facets of the present situation in the satellites. Threatened in 1953 by an imminent crisis in food supplies, the Czechoslovak government was forced to slow down its socialization drive in the villages. The undaunted farmers turned this opportunity into a mass exodus from the collective farms (*kolkhozy*): within eighteen months, 1,753 *kolkhozy* were dissolved and the total of collectively tilled acreage fell from 44 per cent in June 1953 to 30 per cent in November 1954; as cited in *Czechoslovak* [The Czechoslovak Abroad] (London), No. 46, 10 December 1954, p. 2. Recently, the government tried to fight back and prosecute any individuals who left the *kolkhozy* — as they are legally permitted to do — on charges of sabotage and 'persuasion to joint anti-state activity'. At least 34 *kulak* trials were reported in September 1954 alone; see *News From Behind the Iron Curtain* (New York: Free Europe Press of the Free Europe Committee, November 1954, p. 54. This excellent magazine appears also in a German edition as of January 1955.

"The law of the working class is an iron fist of the people against those who obstruct the path toward socialism." ³²

"Notorious wreckers of the new order" are of course *prima facie* all members of classes which suffered, since the communist seizure of power, any material damage or loss of political stature and social prestige. All their deeds and omissions are evaluated on this prejudicial basis. On the other hand, Section 8 of Act 86/1950 stipulates:

"Any criminal act ceases to be an offence if committed to avert an impending danger to the People's Republic, to its socialist development, or to interests of the working class."

This provision sanctions any violence perpetrated under the pretext of preventing "diversionist actions of class enemies" and thus limits even further the precariously narrow field of private rights. ³³

A broad measure of class discrimination is also contained in the regulations on penalties.

"The class character of punishment reflects quite frankly in the penal code of the people's democracy: the provisions about the purpose of punishment . . . the system of penalties . . . and their concrete forms, the principles of fixing the penalty bespeak clearly the fact that the edge of the punishment aims primarily against the remnants of the exploiting classes and their minions . . ." ³⁴

³² Juraj Vieska, *Komentované Zákony, Ochrana lidové-demokratické Republiky v novém trestním zákone* [Legal Commentary, the Protection of the People's Democratic Republic in the New Penal Code], p. 10; see also Václav Benes, "The New Legal System of Czechoslovakia", *Journal of Central European Affairs* (Colorado: University of Colorado), October 1952, pp. 215—235.

³³ "So-called private rights in Soviet Law are not actual rights of private persons, but rights established by the State in favour of private persons, in order to secure the public interest in the latter's welfare." Schlesinger, *op cit. supra*, note 6, p. 95.

³⁴ *Trestni Právo, op. cit. supra*, no 26, p. 21.

Sections 37—41 of the Penal Code provide for a new “corrective measure at liberty”, i.e., a penalty of labor served eventually at the convict’s usual working place with no confinement but reduced responsibility and up to one fourth of the wages withheld by the authorities. This corrective measure, hailed as a further proof of socialist leniency, may be applied for one to six months in lieu of a jail term of up to three months. Significantly,

“it can be imposed only upon culprits from the ranks of the toilers but never upon independent entrepreneurs including persons who were entrepreneurs in the past.” ³⁵

As a revolutionary innovation, the Penal Code introduced the element of the “proper life of a toiler”. Past evidence of this quality has the effect of an alleviating circumstance (Section 21f) and is a primary condition for the suspension (Section 24b) or obliteration (Section 67) of a sentence. In contrast, “hostility to the people’s democratic system” is listed as first among aggravating circumstances (Section 20a).

It is no less difficult to define the “proper life of a toiler” than to tag the “village rich”. It is said that

“a previous conviction does not by itself mean that the person did not lead the proper life of a toiler . . . On the other hand, his (previous) good conduct does not mean that he leads the proper life of a toiler.” ³⁶

Obviously, a former “exploiter”, however morally impeccable his non-communist past as a businessman, farmer, or small producer may have been, is *ipso facto* “hostile to the people’s democratic system”, while a city hoodlum or a thievish migrating farmhand with proper class instincts qualifies for the benefits of communist justice.

³⁵ *Práce* (Prague; daily newspaper of the trade unions), 6 January 1953, as quoted by Pavel Korbel and V. Vagassky, *Forced Labor, Population Transfers and Deportations in Czechoslovakia*, Third Supplement (New York: Free Europe Committee, March 1953), p. 16.

³⁶ Schlesinger, *op. cit. supra*, note 26, p. 248.

2.

"No one shall be prosecuted, except in cases permitted under the law, and then only by a court or authority competent by law, and in a manner described by law." (Czechoslovak Constitution of May 1948, Part I, Section 3, Par. 1.)³⁷

"The special provisions of the Administrative Penal Code define the essential features of the acts which may give rise to prosecution . . . Those definitions are made as flexible as possible so that they may at all times be adapted to the rapidly changing requirements of people's democracy."

(Explanatory Memorandum on the Administrative Penal Code, Act 88/1950.)³⁸

We could not evaluate properly the purpose and the consequences of communist administrative justice without realizing that

"in the case of Czechoslovakia . . . it is possible to demonstrate the relationship between the location of forced labor camps and the planned economic development of the country."³⁹

"Most of the camps are situated in or near industrial and mining centers. It seems to be beyond doubt that economic reasons determine the extent and use of slave labor."⁴⁰

Forced labor camps are as necessary a supplement of a

³⁷ *Op. cit. supra*, note 19.

³⁸ Quoted in the *Report of the Ad Hoc . . . , op. cit. supra*, note 8, p. 230.

³⁹ *Ibid.*, p. 219, from the Memorandum of 5 November 1952 submitted by the International League for the Rights of Man.

⁴⁰ *Ibid.*, p. 222.

dictatorship's industrial potential as administrative justice is a direct product of socialist legality.

While the destruction of the independence of the judiciary and its complete control by the political lay element are still cloaked with conventional phrases of the present Constitution (Sections 134, 138, 143), no such attempt was made with regard to the administrative penal procedure. Indeed, "the introduction of the administrative criminal law is perhaps the most eloquent evidence of the changed concepts of criminal justice."⁴¹

The Explanatory Memorandum on the Act 88/1950 emphasizes its class character by stating that it is to become "an instrument for the relentless suppression of the remnants of capitalist reactionary elements in the country."⁴²

Section 12, par. 3 has them clearly in mind:

"If the way of committing an offence proves that it had or should have expressed a hostile attitude to the people's democratic system of the Republic or against its socialist construction, a penalty of deprivation of liberty from 3 months to 2 years may be imposed. In such cases . . . the penalty of deprivation of liberty is to be served in camps of forced labor."

An important part of the administrative penal system is assigned to the so-called subsidiary penalties, which, among other, are fines, banishment from domicile, and confiscation of property.

"Confiscation of property (Section 21) and fines are some of the most effective means in the struggle against the criminality of the bourgeoisie which uses its possessions as a basis for committing criminal acts; the purposes (of these penalties) is to pump out the wealth acquired in a manner not consistent with the rules of socialist co-living and with the proper life of a toiler."⁴³

⁴¹ Benes, *op. cit. supra*, note 33.

⁴² Quoted in the *Report of the Ad Hoc . . .*, *op. cit. supra*, note 8, p. 233.

⁴³ *Trestni Právo*, *op. cit. supra*, note 26, p. 251.

We have already observed the provision of interdiction of sojourn in the Penal Code. The same penalty may be imposed through administrative procedure against those "who committed a serious crime threatening the constructive effort of the working people in a given community" (Section 23).

Apart from this penal measure, large-scale deportations on two-weeks' notice resulted from the government's drive to banish from industrial cities those admittedly innocent inhabitants who used their houses or apartments "against the public interest."⁴⁴

The victims, primarily bourgeois "idlers" of advanced age, were assigned quarters in various backward areas of the country. For the younger class enemies, the answer was again forced labor camps. Formally instituted by Act No. 247 of October 25, 1948, they were "to educate for work as a civic obligation" and use the working capacity of the inmates for the benefit of the whole (Section 1). According to Section 2, the camps were reserved for persons

- a) older than 18 years but not over 60 years, physically and mentally capable, but shirking work or jeopardizing the building of the people's democratic system of the economic life;
- b) persons convicted of economic crimes (black marketing, etc.);
- c) persons convicted of administrative crimes and sentenced to terms exceeding three months."

The Administrative Penal Code is based on the authority of the National Committees, a revolutionary innovation set up "spontaneously" in 1954 as a people's democracy's answer to bourgeois bureaucracy. In the field of administrative justice, local National Committees are in charge of minor matters of local police and education.⁴⁵ In all other cases covered by the Administrative Penal Code, jurisdiction belongs to District and Regional National Committees. Their penal commissions, com-

⁴⁴ A typical deportation order will be found in *Zpráva o Československu, op. cit. supra*, note 25, March 1953, pp. 14—15, item 5600 b.

⁴⁵ Government Ordinance No. 78 of 9 October 1951.

posed exclusively of laymen, sit in judgment on cases of political and economic nature, i.e., primarily "against the class enemy" (Section 12, par. 3 — see above), on offences "jeopardizing the building of socialism" and such where "a subsidiary penalty of confiscation of property or interdiction of sojourn may be imposed." ⁴⁶

To fully realize the impact of these sweeping powers, we have to remember that the National Committees were established on the communists' insistence, in the chaotic days following the liberation, that they were ever since a virtual communist bailiwick and that the first elections of their functionaries did not take place until 1954, and then, of course, in the usual totalitarian style.

While the non-communist parties fought in the years 1945—1948 an uphill battle to wrest from the Reds a "proportionate share" of authority in the National Committees and often succeeded in checking the worst abuses, there was no moderating influence left after the February coup. Henceforth, unmitigated class justice was meted out by the "people's own administrative organs" which now openly assumed their true roles as "levers of proletarian dictatorship". Their main activity coincided with the most violent phase of the extermination of bourgeois reaction in 1948—1950.

"... hundreds of the small shops and handicraft firms were nationalized. Thousands of persons were arrested in the course of a few weeks and sent to the camps without any trial or examination. A few weeks later some of them were given a copy of the sentence, announcing that they were found guilty and sentenced to eighteen months of forced labor." ⁴⁷

⁴⁶ Decree of the Minister of the Interior, No. 473 of 28 July 1950. The respective provisions of the Penal Commissions of the District and Regional National Committees were left unchanged by the newest reorganization of the National Committees, Section 27, par. 2 of the Government Ordinance No. 23 of 7 May 1954.

⁴⁷ Ivan Gadourek, *The Political Control of Czechoslovakia* (Leiden: H. E. Stenfert Kroese N.V., 1953), p. 78. See Book Review Section for a review of this book.

Such actions of the commissions were usually based on testimonies of the victim's former communist employees, on denunciations for personal revenge, or merely on the Party's or an individual functionary's interest in the class enemy's property. Needless to say, this arbitrary procedure deprived the convict of any right of defense, including specifically the benefit of counsel.

The Czechoslovak government was seriously alarmed by the attention given to its bluntly enunciated system of forced labor camps by the specialized agencies as well as by individual members of the United Nations. A representative of the United Kingdom called Czechoslovakia "perhaps the most painful example of a country to which the system of forced labor has spread" and denounced Act 247/1948 as amounting to "sheer terrorism and political oppression".⁴⁸ A Memorandum by the International Federation of Free Journalists made the following accusations:

"From the reports of refugees who passed through some of these camps we may... safely estimate the present number of inmates as approximately 240,000 people, both men and women. About 80 per cent of them are political prisoners sentenced by administrative organs (National Committees), about 12 per cent are political prisoners sentenced by State courts... and the rest are common criminals serving their sentences in forced labor camps."⁴⁹

The international indignations provoked by the formal adoption of the practice of concentration camps three years after Czechoslovakia's supposed liberation from that very evil forced the government to retreat and to avoid an open clash with the Charter of the United Nations. The Administrative Penal Code 88/1950 repealed in Section 151 the Act concerning forced labor camps. However, the explanatory memorandum to the Code

⁴⁸ Quoted in the *Report of the Ad Hoc...*, *op. cit. supra*, note 8, p. 215.

⁴⁹ *Ibid.*, p. 222.

“stresses the point that judging by past experience, such camps play an important part in the re-education of persons who, by their former anti-democratic convictions and actions hinder the Socialist development of the Republic!”⁵⁰

In due time, the claim of abolishing forced labor camps by repealing Act 247/1948 proved to be false. For the communist legislators it was a mere matter of semantics. The Revised Code of Judicial Criminal Procedure, Act 67/1952, stated in Section III, par. 3:

“Where reference is made to forced labor camps . . . it shall be taken to mean the Transitional Institution of the Ministry of National Security (which became a part of the Ministry of Interior in 1953 — ed.)”.

It is hard to visualize what benefit has been derived from this new window-dressing by the unfortunate inmates of the “Transitional Institutions”. Now as then, they are to be “re-educated to a positive attitude toward the social order of the Republic” and are “prepared for life and work at liberty through properly selected work and discipline”.⁵¹ They can find little satisfaction in the fact that the difference between life inside and outside their camps is gradually vanishing.

⁵⁰ *Ibid.*, p. 226.

⁵¹ *Ibid.*, p. 237, quoting from the Explanatory Memorandum on the Revised Code of Judicial Criminal Procedure, Act 67/1952.

3.

"Freedom of expression is guaranteed." (Czechoslovak Constitution of May 1948, Part I, Section 18, Par. I.)⁵²

"The Penal Code is also directed... against the vestiges of capitalist ideas in people's minds." (Explanatory Memorandum on the Penal Code, 1950)⁵³

The third of the elements we propose to examine in this study is the degrading role of the Czechoslovak judiciary in the service of the regime's political propaganda. The pattern followed in recent years proves conclusively that the major show trials of that period were staged in accord with Moscow's general line rather than in order to combat internal conspiracies.⁵⁴ This was particularly true in the famous case of the former Vice-Premier of Czechoslovakia and Secretary-General of the Czechoslovak Communist Party, Rudolf Slánský, and his thirteen comrades from the upper ranks of its hierarchy. Their trial in November 1952 coincided with the Soviet switch to a distinctive anti-semitic policy, a development immediately preceding Stalin's sudden demise. Significantly, eleven of the defendants, including Slánský himself, were of Jewish origin. So strong must have been the public apprehension about the racial overtones of this case, that State Prosecutor Dr. Urválek was compelled to deal in his final speech

⁵² *Op. cit. supra*, note 19.

⁵³ Quoted in the *Report of the Ad Hoc...*, *op. cit. supra*, note 8, p. 225.

⁵⁴ The editorial of *Rudé Právo*, June 29, 1952, made this revealing statement: "The Resolution (of the Cominform on Yugoslavia) became in warning signal for all communist and workers' parties and an urgent call for increased caution and vigilance. Thus there were gradually exposed the imperialistic agents Rajk in Hungary, Kostov in Bulgaria, Patrascanu in Rumania, Koczi Dodze in Albania, and finally the insidious traitor Slánský and his band in our country. A heavy blow was inflicted on the American imperialists speculating to disrupt the great camp of peace and socialism..." Quoted in *Zpráva o Československu*, *op. cit. supra*, note 25, June 1952, p. 10, item 4355.

at length with the difference between Judaism and Zionism, ⁵⁵ the latter being defined elsewhere as "a bestial ideology which became a weapon of the Jewish bourgeoisie, wielded by American imperialism." ⁵⁶ Later on, while reviewing the Slánsky trial, Minister of State Security Karol Bacilek remarked almost apologetically:

"It is not our fault that there were in the dock only Zionists of bourgeois origin. We did not choose them to stand trial. They were picked by Slánsky for his criminal purposes." ⁵⁷

While the anti-Semitic wave in the satellites had subsided, there remains one constant element accompanying all major show trials in communist Czechoslovakia: the systematic fanning of hatred against the West and particularly the United States. It seems as if there were two basic approaches to this task; their application can be traced throughout the sphere of Moscow's domination. First, it is the persecution of domestic opposition under the pretext of exposing collaborators with American and other Western intelligence services. Second, it is an effort to produce a captive foreigner, preferably an American, properly conditioned to confess his "crimes" and to denounce more native espionage agents, saboteurs and diversionists. The implied purpose is to present him to Western sympathizers as a faithless individual who betrays local anti-communists in order to save his own skin. Anticipating the indignation of the democratic world about the obviously fabricated charges against such foreigners, communist lawyers have a ready justification:

"From the point of view of the socialist legal consciousness, crimes are acts which attack important interests of the working class and the toiling masses, it being immaterial whether such acts are also punishable by the bourgeois penal legislation." ⁵⁸

⁵⁵ *Prace*, *op. cit. supra*, note 36, 27 November 1952, pp. 4—5.

⁵⁶ *Rudé Právo*, 24 November 1952, p. 1.

⁵⁷ *Rudé Právo*, 18 December 1952, p. 3.

⁵⁸ *Trestni Právo*, *op. cit. supra*, note 26, p. 23.

We have to keep in mind this definition when assessing for instance Mr. William N. Oatis's admission upon release from jail that he was guilty under Czechoslovak laws. Such an unqualified statement is liable to confuse the less informed sectors of Western public opinion. ⁵⁹

The first approach — to strike at native victims — offers an unlimited number of variations and is therefore most widely used. It was first tested on a large scale in the political trial of the group of Dr. Milada Horáková in May 1950. ⁶⁰ The indictment against Mrs. Horáková and her collaborators stated:

“The task of the accused group was to centralize the reactionary underground in Czechoslovakia and to facilitate an armed attack against Czechoslovakia by Anglo-American imperialists . . . an attack the vanguard of which should be according to the imperialist war plans the neo-Nazi West Germany.” ⁶¹

In the following years, this main scheme was modified inasmuch that the responsibility for the criminal war schemes

⁵⁹ The Oatis story is told in detail in “Trial of William N. Oatis,” XXV Department of State Bulletin 283, 285—288 (20 August 1951), and in the New York Bar Association's Report on the Oatis Case (Committee on International Law), 27 September 1951.

⁶⁰ Dr. Milada Horáková, a member of the Czechoslovak Parliament, prominent worker in the international women's movement and a heroine of the anti-Nazi resistance, was the leader of a post-February underground group composed of liberal politicians, businessmen, lawyers and intellectuals of all shades of democratic opinion. Her courageous attitude in the courtroom is unsurpassed. She defiantly declared: “I oppose the so-called people's democracy in the Czechoslovak Republic, for I hold that it is not democratic. I have worked against it. Should the miracle occur and the court find me not guilty, I shall work against it anew.” *Tensions Within the Soviet Captive Countries — Czechoslovakia* (Senate Document No. 70, 83rd Congress, 1st Session, Part 4), p. 86. Dr. Horáková and three of her co-defendants were sentenced to death and hanged on 27 June 1950.

⁶¹ *Proces s vedením zaskodnického centra proti republice* [Trial of the Leadership of the Treacherous Conspiracy Against the Republic] (Prague: Ministry of Justice, 1950), p. 8. An English extract of the transcript of the trial, characteristically without the speeches of the defense counsels, was published under the title: *War Conspirators Before the Court of the Czechoslovak People* (Prague: Orbis, 1950).

was put squarely on the United States alone, while Britain and France, prominently mentioned in the Horáková case, were left at peace. The anti-American utterances became increasingly violent:

“The American imperialists, these wild successors of Hitler who enslave hundreds of millions of people, try with all their might to prevent their historically predetermined end. They try with all their might and with the most barbaric means to enslave other previously free nations and they plot . . . a new military-political conspiracy against peace and the security of nations, a conspiracy which aims at concentrating all forces for a new war, the bloodiest and most destructive war in human history.”⁶²

For the purpose of the Czechoslovak judiciary, the American evilmaking is by no means limited to high-level political and military planning. According to the findings of state courts, the wretched activities of Wall Street warmongers include such subtle techniques as the spreading of foot-and-mouth disease through local agents who were also indicted of smuggling from the U.S. Zone of Germany boxes with potato bugs and bottles with germs of jaundice, influenza and laryngitis. Eight self-confessed disseminators of these infections were sentenced in December 1953 to jail terms ranging from 12 years to life — their testimony reads like a transcript of a medieval witch trial.⁶³

Yet even the vivid imagination of communist prosecutors does not suffice to invent as many charges of violent anti-state activities as are necessary to supply the propaganda shows in the courtroom. It is therefore indispensable to resort sometimes to purely intellectual charges, the favorite targets of which are the upper Roman Catholic hierarchy, with the Vatican duly exposed as an agency of American imperialism.

⁶² Final speech of the State Prosecutor, Dr. Urválek, in the Slánský Trial, as quoted in *Práce, op. cit. supra*, note 36, 27 November 1952, p. 3.

⁶³ *Rudé Právo*, 18 December 1953.

In March 1953, a group of eight defendants was put on trial for belonging to the Jehova's Witnesses and

"... spreading a cosmopolitan ideology which purported under the pretext of teaching pure Christianity to corrode the working morale of our working people."

The prosecutor assailed

"... the international character of the sect which is one of the instruments of American imperialism to divert the working class from its historic mission to liberate mankind from exploitation." ⁶⁴

The defendants were sentenced to jail terms from five to eighteen years.

Another typical major trial was staged in May 1952 against ten leaders of the prohibited Czechoslovak Boy Scout movement. According to the indictment,

"scouting is one of the means of the ruling bourgeoisie to divert the attention of the youth from the righteous struggle of the toilers against exploitation; ... it misleads the youth which it in fact deprives of national pride by extolling the Anglo-Saxon culture and way of life." ⁶⁵

This trial was held in the presence of young people from the industrial plants and schools of Prague. Sentences ranged from six months to fifteen years.

The character of the Soviet-style show trials in Czechoslovakia differs so fundamentally from the judicial standards established in that country's democratic past that the re-education of the masses certainly cannot keep up with the revolutionary proceedings in court. The soberly realistic man-on-the-street seems to be particularly suspicious of the fantastic confessions of the defendants. An unsigned editorial in a Prague daily

⁶⁴ *Rudé Právo*, 30 March 1953.

⁶⁵ *Rudé Právo*, 17 May 1952.

paper tried hard to dispel the obvious doubts of the public after the Slánsky trial:

"Many people were asking during the trial, why do all the defendants confess so readily . . . But the way in which they made their confessions betrays the deepest motives of this willing 'truthfulness' of people whose lives were one perverted lie. (They) spoke often as if they virtually bragged about the scope of their crimes. Even here, in the last moments of their wretched lives, did they still want to shatter us, to sting, to inflict a wound . . . The bravado with which they enumerated their crimes was to impress us by the feeling how insuperable they were in their plotting of destruction..."⁶⁶

This twisted argumentation can hardly be taken for a plausible explanation of such Soviet inspired monstrosities as the following exchange during the Slánsky trial:

"Prosecutor: 'In conclusion, you should tell us how do you assess yourself.'

Defendant (André Simone, internationally known communist writer and propagandist): 'I assess myself as a criminal who deserves the most severe punishment . . . I was a writer. A beautiful definition says that a writer is an engineer of human souls. What kind of an engineer was I who poisoned these souls? Such an engineer as I was belongs on the gallows. The only good service I can still render is to be a warning to all such people who might be tempted by their origin, their nature, and their other character qualities to take the same infernal road as I did. The stricter the punishment, the greater will be the warning.'⁶⁷

The State Court had Mr. Simone hanged.

Why is the State so vitally interested in presenting the victims of political justice as such distorted, truly inhuman, caricatures? We venture the opinion that the main reason

⁶⁶ *Literární Noviny* [Literary News] (Prague), 6 December 1952.

⁶⁷ *Práce*, *op. cit. supra*, note 36, 23 November 1952, p. 9.

is the permanent need of hatred, the very fuel of the dictatorship of the proletariat. One of the most repulsive tricks yet used to incite public opinion is the Soviet-originated publication of letters from close relatives condemning their parent or husband and requesting his strictest punishment. During the Slánsky trial, the press featured a statement attributed to Thomas Frejka, son of one of the defendants, in the form of a letter to the President of the State Court in Prague:

“Dear Comrade, I request for my father the hardest punishment — the death penalty. Only now do I realize that this creature which cannot be called human, because he did not have a bit of sentiment and human dignity, was my greatest and inveterate enemy. I promise to work always as a devoted communist wherever I shall be assigned and I know that my hatred of all our enemies, especially of those who wanted to ruin our continually richer and more joyful life, and particularly of my father, will always fortify me in my struggle for the communist future of our people. I request that this letter be presented to my father, and, eventually, that I be permitted to say it to him directly.”⁶⁸

The father, government economist Ludvik Frejka, was sentenced to death. The son was reported as having committed suicide soon after the publication of this letter.

The exposure of the sinister character of the judiciary in Czechoslovakia would not be complete without a reference to the ignominious role assigned to the defense counsel. In a people’s democracy, “counsel . . . must not follow blindly his client’s often selfish interests . . . He must not try always and at any price to save his client. The attorney has to keep in mind the higher interest of the people — to defend and strengthen the socialist community . . .”⁶⁹ Within this straight-jacket, the activities of the defense are limited to the support of the state’s case, to propagandistic utterances,

⁶⁸ *Rudé Právo*, 25 November 1952.

⁶⁹ Minister of Justice, Dr Stefan Rais, in *Rudé Právo*, 12 June 1952.

and, at the best, to a meek presentation of such alleviating circumstances as describing the client as a mental case, blaming influences of his bourgeois environment, praising his "complete spontaneous confessions" and claiming credit for him for the free denunciation of his co-defendants.

In a penetrating analysis of the spirit of communist justice, Dorothy Thompson deals with the mob atmosphere surrounding the show trials:

"In communist countries, the mob has come back into the courtroom — and this time a mob indoctrinated with its own self-importance and hypnotized by the slogan of its own secular-religious credo — the mob is called upon to bear witness, with no challenge to the credibility of the witness, if only his testimony serves the end previously ordained."⁷⁰

From the very first day of a political trial, mass organizations are forced to flood the authorities with "spontaneous" telegrams and resolutions urging death sentences for criminals whose guilt is by then established only on the basis of confessions extorted by police investigators. The resolutions pour in also from workers of industrial plants, farmhands and intellectual groups. It is a matter of fact that the "signers" are mostly quite surprised reading "their" messages in the papers. The true authors are usually Party secretaries who fabricate the resolutions *en masse* and distribute them for individual mailing to the communist cells of the respective enterprises and organizations.

In some instances, the call for a death penalty is coupled in the message with a promise of increased production. Thus, the device serves a double purpose, and imposes an additional working obligation on the involuntary signatories:

"We request that the court pass the strictest verdict on the whole gang as a warning to those who do not believe that the people are going to manage their own affairs . . . we promise to fulfil the tasks of the fourth

⁷⁰ Dorothy Thompson, "The People's Tribunal — the Antithesis of Justice," 40 American Bar Association Journal 289—292 (April 1954).

year of the five-year plan six days ahead of the (date of the) original obligation." ⁷¹

These fraudulent expressions of the will of the people are used to sanction the regime's judicial crimes. Moreover, the demagogically engineered mob hysteria is presented to the world as a primary source of socialist legality:

"... there arrived over 10,500 resolutions and manifestations ... requesting a severe punishment of the convicted criminals. That has been done. Law, Justice, and the will of the people were satisfied." ⁷²

Yet the communist regime is well aware of the dangers of any — even the most bogus — expression of the people's will. It realizes that an artificially stimulated orgy of hatred might get out of hand and backfire against its instigators. Reviewing the Slánský case in a speech at the National Conference of the Party, the Minister of State Security Karol Bacilek did not only apply brakes to the excessive zeal of the faithful, but he also made a startling admission of the Party's dominant role in the system of justice:

"It is necessary that those who today have a tendency to suspect everybody, to denounce everybody, to punish everybody, to liquidate everybody, should realize that by such methods they create difficulties for the Party and in the end for the security organs and that in reality they serve the West... *The Party with the help of the agencies of national security decides ultimately who is guilty and who is innocent, where the errors and mistakes end and where criminal responsibility begins.*" ⁷³

⁷¹ *Práce*, op. cit. supra, note 36, 25 November 1952, p. 7, quoting from a resolution of the shockworking plant Sázavan in Zruc.

⁷² President Klement Gottwald at the National Conference of the Communist Party of Czechoslovakia, as quoted in *Rudé Právo*, 18 December 1952, p. 2.

⁷³ *Rudé Právo*, 18 December 1952, p. 3. See also Pavel Korbel, *Sovietization of the Czechoslovak Judiciary* (New York: Free Europe Committee, February 1953), pp. 21—22.

There is no need to dilate upon a statement which so clearly reveals the extra-legal character of all socialist legality. Having reviewed some of its practical aspects we can now understand Vyshinsky's seemingly contradictory definition of proletarian dictatorship ⁷⁴ as both "a power unrestrained by any laws" ⁷⁵ and "the supreme law which determines the concrete contents of all Soviet laws." ⁷⁶

Vladimir M. Kabes

⁷⁴ See Jiri Houska, Karel Kára, Ján Gronsý (collective authors), "Charakter revoluce a statú v zemích lidové demokracie stredni a jihovychozni Evropy" [Character of the Revolution and the State in the Countries of the People's Democracy in Central and South-Eastern Europe] *Právník* [The Jurist, a law review], January—February 1954, No. 1—2. It might at times appear confusing that communist satellites are referred to in Red literature alternately as "people's democracies" and "dictatorships of the proletariat". These obvious opposites were dialectically reconciled by communist theoreticians led by the late Georgi Dimitrov. The respective development is traced by H. Gordon Skilling: "People's Democracy, the Proletarian Dictatorship and the Czechoslovak Path to Socialism", *American Slavic and East European Review*, pp. 100—116 (April 1951). In contrast, the Czechoslovak period of pre-communist socialism (1945—1948) is now called the "revolutionary-democratic dictatorship of the people", a super-paradox attributed to Mao Tse-tung.

⁷⁵ Vyshinsky, *Soviet Pubic Law*, as quoted in Gsovski, *op. cit. supra*, note 5, p. 187.

⁷⁶ Vyshinsky, *Judiciary of the USSR*, as quoted in Gsovski, *op. cit. supra*, note 7, p. 42.

Justice and 'Education'

It has been repeatedly emphasized by communist, as well as non-communist, writers that one of the main functions of the courts in the Soviet Orbit is the task of 'educating' the citizenry. A recent description appears in a brochure by Professor I. T. Golyakov, a recognized Soviet authority: "The Soviet Court Is the Most Democratic Court in the World," written in November 1954 in connection with the recent elections of People's Judges in the USSR. He stated:

"The Soviet court plays a big part in the communist education of the workers and in the fight against the survivals of capitalism in the minds of the people . . . The court, as an organ of state power, cannot stand aside from politics. In its decisions it has always carried out and continues to carry out the policy of the ruling class. The work of the court is itself political work."

The lessons the court must teach in its educational role, as should be expected, change from time to time but nearly always the main themes are: "obey the laws, learn to obey and respect authority, maintain state and labor discipline".

But it has become increasingly clear that the very act of publicizing certain trials and types of crimes has in itself become a closely calculated affair and an integral part of the 'educational' process. For not only is press censorship a factor of consequence but the deliberate selection of legal materials for publication in the daily press is so arranged as to drive home a particular lesson at a given time.

One of the most intensive recent campaigns on 'education' concerns the exodus of farmers from the collective farms (*kolkhozy*).¹ Under great internal pressure the regimes in

¹ Not in the USSR, of course, where for all practical purposes all of the farms are either in the form of collective or state farms (*kolkhoz* and *sovkhos*, respectively) and no attempt is made to give the peasants an opportunity to leave.

Czechoslovakia and Hungary during the middle months of 1953 authorized the peasants by Communist Party statements, and law, to leave the *kolkhozy*. Apparently the reaction that followed was not expected — thousands of peasants left the collective farms and hundreds of *kolkhozy* had to be disbanded. The regime in turn reacted with a partial retraction. More practical methods than complete retraction, however, have been adopted: the independent farmer has been discriminated against in legal processes and in matters of taxation, and *kulaks*² have been punished for any slight cause. As Mr. Kabes pointed out in his article, in Czechoslovakia at least 34 trials of *kulaks* were officially announced during the month of September 1954 alone. No doubt many others have taken place, but since the provincial press is generally not available outside the country, it is difficult to obtain complete documentation. But even in Poland, where explicit permission for the disbanding of *kolkhozy* was not given, indirect warnings have been issued that the peasants have no right to leave the *kolkhoz* and those fortunate enough to remain outside the collective will be faced with increasing pressure.

The items reprinted below indicate the 'educational' role of the court via publicized trials and events. They primarily concern legal action taken against the *kulaks*, who have recently become the main scapegoats of the regime, but the 'lesson' becomes clear to all who read the papers or listen to the radio: the independent farmer is a thing of the past.

There is still another point at issue. Entire proceedings of the trials listed below are not available. Very few of the countries in the Soviet Orbit release for export the civil or criminal proceedings of their courts. Only one country issues a selection of the decisions of its Supreme Courts. There is good reason to believe that the proceedings of these trials are not even available to lawyers, judges, and jurists within the country itself. It would appear that the incidence of crime,

² The term comes from the Russian, meaning fist or tight-fisted. As a legal term, it is used very loosely and is seldom, if ever, defined but conveys the impression of a wealthy peasant. In actual practice it is applied to all peasants, regardless of wealth or possessions, who hold any mental reservations about the agricultural policy of the regime.

trial procedures, and the punishments meted out have all become state secrets and can no longer be issued even to the persons whose profession is the law. For this additional reason, the coverage of these matters in the press and radio assumes a still greater significance, changing the items that appear from just ordinary news to 'education', by courtesy of the Soviet court, and thus re-emphasizing the 'educational' role of the court.

CZECHOSLOVAKIA

The kulak Jan Barnet was recently sentenced by a people's court in Kromeriz to 5 years' imprisonment, loss of civil rights for five years, confiscation of property, 2,000 Kcs. fine, payment of court costs and expulsion from the town of Prasklice for the rest of his life. Although he called himself a noble Middle-European, he was a miserable blood-sucker in the midst of the population of the village. It would not be right to imagine Barnet as a person with a fat neck, a fat stomach, a tuft of hair on his hat and a chain leading to the West. He cannot even be called a *kulak* on account of the number of hectares which his land measures, for he only had 13 hectares . . . Nevertheless, the whole population knew that Jan Barnet was a *kulak*.

In the First Republic he belonged to the best farmers of the village . . . In the autumn of 1952 he joined a collective farm and one year later was sentenced to a month's imprisonment for theft of the collective's property. On January 1st he left the collective and he resolved to destroy the collective. He gave the members of the collective an ultimatum to withdraw from the *kolkhoz* within 24 hours and called them traitors of the peasant-class . . . His open hatred of the working people and the people's democratic regime and the organization of opposition by the band of *kulaks* were not his only criminal deeds, however. He was also a saboteur of meat, milk, eggs and other deliveries.

— *Nase Pravda*, 3 September 1954

Ladislav Podivinsky, Jaroslav Skoupil, Ludvik Bartonek, Gabriel Vymetal, Jan Zapletal, Ladislav Spacil, Frantisek Skoupil, Vojtech Navratil, Stanislaw Otruba, all from Nameste in Hana.

All these *kulaks*, who during the First Republic exploited not only their helpers, but even small farmers, who being members of the Agrarian Party helped determine the governmental policy directed against the working class and small farmers, who helped the bourgeoisie to step on workers' rights, — these disguised themselves as peaceful members of a collective farm. In autumn of 1952 they decided to join a collective farm, and for the chairman they nominated Gabriel Vymetal, who was actually one of them. In their collective they took care only for their own fields; they did not help small farmers in the village. In August 1953 when their collective should have been changed to a collective of the type III, they rather left the collective. As they were aware that a joint leaving would have been suspicious and that similar persuasion for joint anti-state action is punishable by law, they submitted their requests for leaving the collective separately. But this trick did not help them. Our security organs were on guard. And if these *kulaks* expected a reward for their attempt to undermine the collective, a reward for trying to fulfill one of the "10 Commandments" of traitors, they certainly have been rewarded. For their activities against the republic they were put on trial before the people's court in Olomouc and sentenced: Vymetal — 3 years, Zapletal and Podivinsky 2½ years, Spacil 2 years, Fr. Skoupil, Jar. Skoupil and Navratil 1 year, Otruba and Bartonek 6 months.

— Radio Brno, 28 September 1954

We cannot permit trends toward speculation advocated by the *kulaks*. We shall improve delivery discipline in cooperation with all groups of the National Front with the assistance of national committees and we shall act severely against *kulaks* who, following the advice of our enemies abroad, are carrying out sabotage.

— Antonin Novotny in *Prace*, 9 October 1954

Wherever the *kulaks'* resistance could not be overcome, wherever they were left free to speculate and to follow hostile propaganda, grain bulk buying was difficult and, on the other hand, wherever the comrades could — as the saying goes — 'get' at the *kulaks* and did not give them enough time for their intrigues, the *kulaks* could not influence smallholders and medium size farmers and the communities fulfilled their duties toward the other working people.

— *Rudé Právo*, 20 October 1954

The People's Court in Bresov sentenced Jan Sedlak, of Dulova Ves to 5 years' imprisonment, 5,000 crowns' fine and 5 years' loss of his civil rights. He had been charged with non-fulfilment of the plan as regards supplies of meat, milk, eggs, wheat and potatoes . . .

— *Pravda*, 23 October 1954

The senate of the People's Court in Hranice recently sentenced the *kulak* Albert Klezl, of Spicky, to 5½ years' deprivation of liberty, loss of civil rights for 6 years, confiscation of property and payment of court costs, for short deliveries.

The proceedings showed that the *kulak* always had been and would continue to be an arch-enemy of the small and middle farmers, and that he is a direct confederate of the murderers and diversionaries of (Radio) Free Europe.

— *Straz Lidu*, 29 October 1954

Frantisek Sidlo, of Horni Dubnany, was recently sentenced by a People's Court in Dukovany, near Krumlov, to 2½ years' imprisonment, a fine of 5,000 crowns, the loss of his civil rights for five years and payment of the court costs . . . He had illegally slaughtered three pigs and is an enemy of the people's democratic regime. He did not therefore produce the output laid down by the state and did not care with production . . .

— *Rudé Právo*, 2 November 1954

Every success of the collective ideal deals a crushing defeat to the class enemy — the *kulak* . . . *Kulaks* are capitalist entrepreneurs . . . who in the past consistently exploited small and medium farmers . . . The containment and repression of *kulak* elements means the containment of exploitationary tendencies in conjunction with the economic repression of the capitalist sector of agriculture. The working class is watchful lest *kulaks* exploit working farmers, and multiply their wealth. That does not mean that the *kulak* is prevented from producing. On the contrary. What matters is that the *kulak* should produce, but only with his own resources.

The *kulaks* rave and incite against the introduction of socialist mass production. That is only natural, since they see the approach of their impending doom . . . they are in contact with our enemies at home and abroad. This was shown by the recent Milevski trial in Ceske Budejovice of an anti-state group of 17 which included the *kulaks* Josef Novak and Juraj Dolista . . .

— *Lud*, 14 December 1954

HUNGARY

Istvan Kovacs, of Corna, was sentenced by a Court to 2 years' imprisonment and a fine of 1,000 Forints. Kovacs, in spite of severe warnings, had not made good his tax and output arrears. When a People's Council Committee approached him with a view to affecting a settlement of these outstanding members, he insulted the committee members . . .

— *Radio Budapest*, 19 May 1954

Istvan Somlyai, his wife and Sandor Somlyai did not produce enough. They had acted contrary to the regulations of the authorities . . . Istvan Somlyai was sentenced to 4 months, his wife to 10 months and Sandor Somlyai to 8 months prison and payment of the Court Costs . . .

— *Eszakmagyarország*, 23 September 1954

Workers discovered a rumor mongering *kulak* in Budapest. Heinrich Toma Tamasi, a *kulak* from Piliscsaba, and his

son-in-law, Antal Kratochwil, an accountant, have been inciting against the council elections and distributing hostile leaflets. The workers handed them over to the police. In the course of investigations it turned out that Tamasi, as the proprietor of a butchery, was an army contractor under Horthy. Thanks to his speculations, he grabbed 45 holds of soil and 3 family houses. Since the liberation, he makes a living with jobbery. He speculated with big quantities of flour and wine. He invested a great part of his wealth in gold and currency . . . Legal actions were instituted against both of them. Heinrich Toma Tamasi has been sentenced to 9 years' imprisonment, and the court has ordered confiscation of all his property. Antal Kratochwil has received a sentence of 3½ years' imprisonment and the court has ordered confiscation of 3000 forints' worth of his property. Both the public prosecutor and the accused have appealed against the sentence.

— *Radio Budapest*, 10 and 19 November 1954

The district court of Balatonfured has sentenced Lajos Rugo, a *kulak* of Balatonfokajar, to 5 years' imprisonment for inciting against the producers collective. Rugo wormed his way into the local collective and sought to disrupt it. On one occasion he assaulted an official of the county council who came to give help to the collective.

— *Radio Budapest*, 11 November 1954

The county court of Nyiregyhaza has sentenced to death Istvan Ivaly, a *kulak* of Beregsurany, at whose instigation a young boy of Marokpaty on August 26, 1954, set fire to the haystacks of the Dozsa producers cooperative of Beregsurany. Ivaly had a criminal record and corrupted his young accomplice with alcohol. The boy himself was sentenced to 8 years.

— *Radio Budapest*, 23 November 1954

The Budapest court on November 26 pronounced sentence on 20 profiteers, including horse dealers, *kulaks*, and farmers of the Horthy era. The principal accused received prison terms varying between 3 and 3½ years.

— *Radio Budapest*, 27 November 1954

Five *kulaks* who tried to put up their candidates for the council election in the village of Hobol have been given prison sentences for disturbing nomination meetings, the Hungarian paper *Dunantuli Naplo* reported on November 27 and 28.

The paper of the party committee in Baranya County said that on November 27 the village's *kulaks* thought that with the elections their opportunity had come. They "came out of their retirement" and selected candidates from among their own relatives.

The candidates of the "*kulak-front*" were Pal Kelemen in the end district, Koszef Radics in the 4th, Pal Nagy in the 5th, Istvan Nagy in the 8th, and Janos Miko in the 11th. But the population refused to accept them, the paper said. Nevertheless, at a meeting of electors of the 7th district in Jozsef Leib's house, a *kulak* proposed Jozsef Nagy as a candidate.

— Reuters Press Report from Vienna,
6 December 1954

The *kulak* class-enemy has no business in the farmers' clubs. Such prescriptions of the basic rules must be enforced everywhere by all means. In our farmers' clubs it is sound and right if the members also discuss the political questions of the day. The slogan of exemption from politics is not right, for this is usually the slogan of the enemy! There are demagogues who try to win the public with the false slogan of farmers' unity. This kind of demagoguery undermines the healthy life of the farmers' club.

In Pusztaföldvár in the farmers' clubs, some people standing under the influence of the enemy tried to incite the working farmers against the party organization. However, the Communists were on the look-out and established the order with wise, convincing words...

— *Szabad Nep*, 13 January 1955

POLAND

Three *kulaks* and three employers of the Kleszczyn municipal cooperative appeared before the court in Zlotow on 18th March. The *kulaks* were accused of not having delivered the

required amounts, and the employees of having issued the 'kulaks' with false receipts relative to the deliveries of corn and meat. The 'kulaks' Jan Losos, Konrad Konek and Lucjan Fisula, were sentenced to 7 to 8 years' and 5 years' imprisonment respectively, while the municipal cooperative employees Bernard Gondek and Wladyslaw Litwin were condemned to 4 and 3 years respectively. Furthermore, the accused were deprived of their civil rights for 1 to 4 years.

— *Glos Koszalin*, 3 April 1954

The *kulak* Francisek Biera, of the Lodz district has for the last year or so not produced the required output. He kept large quantities of corn back for his relatives. For this the district court in Lodz sentenced him to one year's imprisonment.

— *Radio Warsaw*, 11 August 1954

The Presidium of the Wabrzez Provincial National Council punished 11 *kulaks* with severe fines of 1,500—3,000 zloty for not discharging their compulsory deliveries.

— From an editorial, "Exemplary Punishments for *Kulaks*,"

Trybuna Wolnosci, 8—14 September 1954

Speculators of the Szczecin Province are making difficult the annual compulsory delivery of grain. A 9 hectare proprietor, Peter Pistlak, of the Scienna parish, instead of settling his arrears, kills his inventory and sells the meat at profiteering prices.

We suppose that the exemplary punishments, which will meet the speculators, will convince others that the compulsory deliveries must be repaid and that speculation in meat can incur great unpleasantness.

— *Radio Warsaw*, 23 December 1954

Only the intervention of the procurator put an end to the machinations of a group of *kulak*-speculators from the district of Wrzesien, who were sabotaging the deliveries of grain.

After a 'talk' with the procurator Jan Szuba of Pacanov, Rozalie Dziecielak of Soleczno and Franciszek Izydorek of Sarov fulfilled their compulsory deliveries to the State.

The peasants accepted with satisfaction the demasking of the backward *kulaks*.

— *Radio Warsaw*, 4 January 1955

Zielona Gora — One of the many arrested speculators who engaged in illegal slaughter and the sale of meat at black market prices is Leon Lucharewicz. For many months he was engaged in buying cows and pigs from peasants of the districts of Zielona Gora and Nowa Sol. He sold the meat, which was not inspected medically, at speculative prices.

Among other things he bought livestock from the *kulak* Stanislaw Rozbicki from Uzyce Rural Commune, who was in arrears with his obligatory deliveries. Rozbicki also helped him in illegal transactions. The speculators will meet with deserved punishment.

— *Radio Warsaw*, 9 January 1955

ANNEX II

For Better Court Decisions in Czechoslovakia

Since August 1953 there has appeared in Czechoslovakia a legal review bearing the very expressive title, "Socialist Legality." In the very first issue of this journal, an article by Major-General Dr. Jaroslav Kokes, the Procurator-General, was published under the heading, "For Better Decisions of Our Courts." It seemed interesting to publish extracts from it, which will serve as an illustration to the article on "Socialist Legality in Czechoslovakia" and, at the same time, show once again the concerted drive of the Communist Party against an independent judiciary and especially against those judges who somehow retained a small area of independence and fought the directives of the Party.

From: *Socialistická Zakonnost* [Socialist Legality], Vol. I,
No. 1 (August 1953), pp. 11—14.

For Better Decisions of Our Courts

“What are the shortcomings of our decisions and wherein do our people notice the shortcomings?”

“In the first place, it is the lack of a political and Party character in our decisions.

“Our toiling people, politically well-developed, moulding itself ideologically on the classical works of Marxism-Leninism and applying its knowledge to the building of socialism, criticizes our decisions because it does not find therein the same political basis as in the decisions of the government and the Party.

“The majority of our judges, even if they sometimes have an extensive knowledge of Marxism-Leninism, do not know how to project this most learned of all learned doctrines into practice, to base their decisions on this learned doctrine. Our toiling people’s yearning is plainly that the decisions of every state organ be explained politically to it. With a full comprehension the citizen will accept a decision which does not comply with his wishes and demands if it were to be politically evaluated to him why he cannot be satisfied, if it is made clear to him that the interest of the whole — the construction of socialism — will not allow it or if the just, and recognized as such by socialist society, interest of another citizen forms an obstacle to his demand.

“In order for a decision to be politically based it is necessary to know Marxism-Leninism, to project its theorems into life at a given moment and at a given place and to show that this doctrine is not a dogma but a directive for the decisions of our courts.

“We will really find few Marxist-Leninist analyses, even if we find quotations of Marx, Engels, Lenin, Stalin, and Gottwald in the decisions. The quotations are not analyzed and often they are improperly used, only as a decoration.

“It often happens that comrades come to me with a

decision in their hands, at the same time setting *Rudé Právo* ¹ before me, and say:

“‘Comrade, how is it possible that in *Rudé Právo*, which daily explains our Party’s line for the building of socialism, this and that is written but in the decisions of the courts the contrary is affirmed.’ We’ve had many such cases lately, for example in the question of the *kulaks*. What does this show? It shows that our judges underestimate the importance of the leading and basic articles in *Rudé Právo* — sometimes perhaps they are not even acquainted with them — and make decisions, cut-off from the daily life of our paternal Party and our society. Our toiling people realizes this immediately and is correctly dissatisfied with our decisions.

“... Another important shortcoming in the work of our judges is the scanty and rare cooperation with the organs of the Party and the institutions of the Party. This insufficiency becomes particularly evident in the fact that the courts do not fully evaluate the leading and directing role of the Party in the whole state, that is, in Justice also, as well as in the district and regional national committees. They are not in close contact with the Party functionaries. They carry out their work in isolation of the corresponding Party organs and it is for this reason that they carry on their work cut-off from the economic and political conditions of this or that place. Properly our Party functionaries reproach the judges for this isolation. It so happens that the decisions of the judges are not convincing even to the Party organs and so are justly, and sometimes unjustly, criticized and their changing is demanded. And even here shortcomings must be eliminated.

“The decisions of the court must be in reality the explanation of the policy of the Party in concrete cases, from real life, and this explanation must contribute to the construction of socialism. If the activity of the court does not fulfill this mission, it is deficient and our decisions are trash.” ²

¹ *Red Law*, the official daily newspaper of the Communist Party of Czechoslovakia.

² The word ‘trash’ in the original Czech, *zmetek*, has the meaning of a product rejected or discarded because of its inferior and unacceptable quality and would seem to indicate that the court is an industry whose decisions are simply products.

Book Reviews

I. Gadourek, *"The Political Control of Czechoslovakia — A Study in Social Control of a Soviet Satellite State"* (Leiden: H. E. Stenfert Kroese N.V., 1953).

This is the first volume of the Library of the Czechoslovak Foreign Institute in Exile, with its seat in Leiden, The Netherlands. This book is an encouraging sign and there is reason to hope that future volumes will maintain the standard set in this introductory study.

Mr. Gadourek's treatment of the Communist Party of Czechoslovakia and its control of the entire State complex is of major importance to the understanding of the way this new aristocracy — the Communist Party — subject to no law but its own requirements of maintaining the dictatorship of the proletariat, can seize and then hold power, partially through the use of naked force but no less through the internal control of all the mass organizations in the country. For the key to comprehending this system of totalitarianism is certainly the Party, with its tremendous influence in all activity in the state, not excluding that of the secret police. And it is here that Mr. Gadourek renders a service; his analysis of the Party's internal structure and control mechanism is well done, although not as thoroughly or as well as Phillip Selznik's discussion on one particular mass organization, the trade unions, in his excellent study, *"The Organizational Weapon; A Study of Bolshevik Strategy and Tactics"* (New York: McGraw, 1952). Covering a broader range of activity, Mr. Gadourek illustrates the methods of control in all the important aspects of communal life: State Administration, Economy, Education, Religion, Science and Arts, Recreation, and Morals.

From the point of view of the lawyer and jurist, the most interesting section is the reformation of the State Administration and an all too brief but good account of the purges in the Civil Service and Courts after the Communist coup. In the latter instances, the charges were always vague and flexible, generally summed up in the statement "deviation from the

general policy of the Party." The courts suffered considerably—almost 25 per cent of all the personnel in the Slovak courts were removed because of their political unreliability. And the "cleansing" process was not restricted to the judicial community alone; the legal profession was also subjected to the same critical and destructive examination. In January 1950 some 500 lawyers were refused membership in the "National Association of Lawyers" and told they were forbidden to practice law. In Brno, 36 lawyers were liquidated in one month; in Prague, 250. The legal profession and judiciary cannot escape the consequences of a Communist seizure of power and the "reforms" that follow will inevitably strike first at the legal community.

Some of the evidence used by Mr. Gadourek has been supplied through reports of individuals and organizations who have experienced the birth and consolidation of the new regime. While many of the statements cannot be verified, the information contained therein corresponds to that already known and is in general in line with current developments in Czechoslovakia and the other satellites.

Paul Barton: "Prague à l'heure de Moscou (Analyse d'une démocratie populaire)" [Prague in the Sign of Moscow (Analysis of a People's Democracy)] (Paris: Editions Pierre Horay, 1954).

Paul Barton is the pen-name of a militant Czechoslovak trade-unionist who, since his escape from Czechoslovakia which came under Communist rule in 1948, continually and closely follows the political and social evolution of his country. Since 1951 he has published a monthly collection of studies and documents in French, "Masses-Informations", on the Czechoslovakia of today.

Barton's book, as its sub-title indicates, is in the form of a study of a people's democracy, and is actually an extremely extensive analysis of the Slánsky trial, of the consequences of this trial on the internal situation of the Czechoslovak Communist Party, and also of the position of Czechoslovakia with regard to Moscow.

As will be remembered, the trial began in Prague on 20 November 1952 against fourteen of the most important leaders of the "People's Democracy" of Czechoslovakia, among whom were Rudolf Slánsky, former Secretary-General of the Communist Party of Czechoslovakia, and Vladimir Clementis, former Minister of Foreign Affairs. Eleven of these men were condemned to death and were hanged a week after the end of the trial. The trial took place at the time and in the framework of an anti-Semitic movement which had been set in motion by the discovery in the USSR of the so-called "doctor-murderers" plot, a movement which came to an abrupt end shortly after the death of Stalin by the release of the accused doctors. We feel this change in policy from the book in which the author strives to show that, besides being solely a manifestation of anti-Semitism, the trial had another significance.

Still, the analysis of the Slánsky trial itself in the first part of the book is intensively conducted and clearly demonstrates the shortcomings of the "proofs" which are collected for this parody on justice. The jurist will find here confirmation of his doubts concerning communist "justice".

The second part, called "Life and Death of the Czechoslovak Communist Party (From the Struggle of the Classes to the Struggle of the Cliques)" is an interpretation of the political events, which interpretation is often rather daring and sometimes not very convincing.

The third part of the book, "A Regime Directed by Phone (From Cominform to Comecon)" tries to give a clear presentation of the Sovietization of the economy of Czechoslovakia.