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MOB JUSTICE - BY THE WRONG MOB

The first signs of an unforeseen hitch in Khrushchev's plan for expanding the activities of social bodies in the judicial field<sup>1</sup> are now beginning to appear. Soon after Khrushchev had explained it in outline at the 21st Party Congress, the Soviet press was complaining, for example, that the comradely courts were badly conducted due to the procedural ignorance of the "activists" who are supposed to control them (Trud, 4 February 1959). Since no up-to-date statutes for these courts existed at that time, this ignorance was understandable, but it was used by the more unscrupulous factory managements as an opportunity to pack the courts with members of the administration, who could be relied on to do as the director wished. (The director, at that time, was the only person empowered to send a man for trial by a "comradely" court.)

The inevitable adverse reaction among the workers was evidently strong enough in some cases to cause Trud to denounce the packing of the courts with tame administrators, and to explain that henceforth the best and most respected workers would be elected, who would be trained in their judicial duties at a seminar run by the local oblast trade union committee.

One of the virtues of the comradely court<sup>2</sup> and the people's assembly<sup>3</sup> in the eyes of the Kremlin, is that since it is held in the factory shop itself, the punishment meted out is brought to the attention of all workers, thereby providing a maximum deterrent effect. But this convenient arrangement also has its drawbacks, Izvestia (21 November 1959) reports, because in some cases the workers, instead of the management, have taken to packing the assembly.

In one instance two officials of the "Red Triangle" Plant in Leningrad are alleged to have stolen 54,000 rubles worth of "socialist property". In Izvestia's words:

"It would seem that the shop collectives should have denounced the thieves at the assemblies, and held them responsible. But the relatives and friends of the plunderers

<sup>1</sup>See Background Information, 6 March 1959, "Comradely Courts - II".

<sup>2</sup>Tovarishchesky sud. The statute now operative was published by Soviet News. (12 November 1959)

<sup>3</sup>Narpdnoye sobraniye - the meeting which passes judgement under the anti-parasite laws.

came to the shop. What didn't they do to arouse the workers' sympathy! And however strange it may seem, the collective, without making a serious study of all the circumstances and without giving the case much thought, decided to request that the accused should be granted bail."

In another and even more serious case Izvestia states that the design staff of the same factory decided to stand bail for a worker "who had committed murder for base motives". Obviously there is a clear contradiction in these two cases between the opinion of the "people's assembly" concerning the seriousness of the crime and the official view. In each case there were almost certainly extenuating circumstances which Izvestia sees no reason to mention. The accused will now no doubt be dealt with by the regular people's courts, so that they will not escape punishment as a result of the lenient view taken by their fellow workers. Nevertheless the incidents emphasize a major weakness in Khrushchev's program. In the case of the man alleged by Izvestia to be a murderer, he will presumably be sentenced in course to life imprisonment. His colleagues, who wanted to stand bail for him, will then be left in no doubt that "socialist legality" is at least incomprehensible, if not unjust.

One of the arguments put forward by the regime when advocating the comradely courts and people's assemblies was that transgressors would fear the moral indignation of their co-workers, and the public disgrace involved. But where the workers obviously sympathize with the accused, rather than the prosecution, the theory collapses, to the detriment of discipline within the factory.

To correct this situation it will not be enough to publish articles in the press demanding harsher sentences and less forgiveness. The Party will have to find ways and means of preventing the workers from packing the assemblies on the pattern of the "Red Triangle" cases, and to do so without blatantly ignoring the elementary principles of justice will not be easy. If the dilemma is not speedily resolved, some decline in advocacy of the administration of justice by the public may reasonably be expected.

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NON-CONFORMITY IN TWO SOCIETIES

By Daniel Bell  
The New Leader  
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The "Comradely Courts." One of the most fascinating sociological developments in the Soviet Union is the move to create "comrades' courts" -- in effect, impromptu "kangaroo" tribunals -- to deal with a slew of "anti-social" offenses, such as the violation of labor discipline, leading a "parasitic" existence, or the desecration of apartment houses or public parks. A law authorizing factory bodies, housing committees and other non-Party groups to set up such courts was placed before the Supreme Soviet two weeks ago.

The idea for such "comrades' courts" was actually proposed by Premier Nikita Khrushchev himself at the 21st Soviet Party Congress less than a year ago. Said Mr. Chairman: "We still have not a few cases of violation of public order, and they must be resolutely combatted.... The functions of maintaining order and security should be performed by social groups, as well as the militia and the courts. The time has come for more attention to be paid to comradely courts, which should mainly forestall various types of violation. They should examine not only cases of a production nature, but also those which concern society, morals and incorrect conduct by those who deviate from the norms of communal order."

Some observers have suggested that the move is an expedient to relieve the pressure on the courts, which are unable to handle with sufficient dispatch the cases resulting from the drive against "hooligans," juvenile delinquents, speculators and other "anti-social" elements in Soviet life. This drive has gathered steam in the last years.

While this may be an element in Khrushchev's calculations, there seem to be much more profound reasons for the surprise use of this new technique of informal coercion. Khrushchev is engaged in a desperate drive for higher productivity. In the past, the striking increases in Russian production were achieved through tremendous transformation of the peasantry into an industrial labor force; in about 20 years, 50 million persons were moved from the farms into the factories. Now, as the population growth has slowed because of war manpower losses and the lower birth rate which usually accompanies the first wave of urbanization, new gains can only come from increased efficiency.\*

But the regime cannot go back to the system of open terror, deportations, administrative sentences by the NKVD,

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\* This statement is a major exaggeration -- see Background Information, 20 November 1959, "Comparison of the US and Soviet Economies -- The Labor Force."

and similar devices used by Stalin to maintain labor discipline in the factories. And, much as Khrushchev may promise the Soviet worker that in the next two decades he will catch up with and surpass the consumption of the American worker, there are few tangible rewards that he can offer the Soviet worker now, as an incentive. Unable to use a club, and having few carrots, the regime is resorting to the technique of public shaming.

If the community is a cohesive one and it can make its sanctions stick, this can be a powerful weapon. Gossip, public obloquy, and ostracism have always been the weapons of a group against its members. This is the history of the small town. It is also the history of utopias and revolutionary sects.

The Oneida Community of John Humphrey Noyes, one of the few successful experimental utopian colonies in the U.S., practiced a system of "mutual criticism" in which, each evening, all the colonists would assemble and criticize each other freely; many members, so shamed, would then confess further sins and express their devotion to the cause. The Hashomer Hatzair, the extreme egalitarian Zionist Socialist movement, regularly held sessions of self-scrutiny and open criticism. And in the early days of the Bolshevik Revolution, in the first blush of "raw Communism," "comradely courts" were set up (by a decree of November 14, 1919) to "establish proletarian self-discipline and to root out the ideology of...the petty bourgeois philistines."

The "legitimacy" of the comradely courts in the history of the revolution may afford a clue to another of Khrushchev's motivations. Self-conscious, as most Communist leaders are, of his "place in history," Khrushchev seems intent on proving that the decisive step toward the future Communist society is being taken during his regime. In Marxist theory, one of the hall marks of Communism is the elimination of formal law and of the courts, and the rise of "people's" justice where morality alone prevails. Khrushchev, by temperament -- and he has given voice to the feeling several times -- has always had a basic distrust of lawyers. This is the mark of the rough and ready man. The idea, therefore, of quick popular sanctions would appeal to him directly.

Apart from such ultimate considerations as Khrushchev's image of his place in the pantheon, it is quite clear that the Communist party needs to have maximum flexibility in manipulating the society at the present critical time when demands for higher consumption, a greater thaw and other aspects of relaxation are becoming more vocal. The new comradely courts and the "social organizations" that will now administer justice quite obviously will take their cues from the Party.



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Principles of administration, set up through courts, the specification of penalties, and all the other cumbersome guarantees of legality are clearly inadequate to deal with the frictions and strains and violations of labor discipline. What Khrushchev, in effect, has done is to give the Party committees on the lower levels greater authority to deal with malcontents, speculators, goof-offs, drunks and similar "non-conformists." And the Party will try to deal with these recalcitrant elements by the informal sanctions of shaming and public obloquy. A new "scarlet letter" is thus appearing in the Soviet Union....