

GLASNOST AND THE SOVIET SYSTEM OF JUSTICE

PAUL B. STEPHAN III

Ger P. van den Berg. *The Soviet System of Justice: Figures and Policy*. (Dordrecht: Martinus Nijoff, Law in Eastern Europe, 1985). xiv + 374 pp. Notes, appendices, references, index. \$71.50.

The Soviet System of Justice, this remarkable book by Ger P. van den Berg, lays the groundwork for a sea change in the study of Soviet law by Western scholars. The peculiar obstacles specialists have faced are numerous: ideological bias, conceptual confusion, the desire of Soviet political authorities to manipulate Western impressions, and a Soviet ethic of public discourse that permits a greater degree of indirection and logicolinguistic corruption than Western (especially American) scholars normally tolerate. But the overarching problem has been one of data.

The Soviets do not simply hide information from outsiders. What they conceal from each other is truly extraordinary, when one considers that their society is fairly well developed industrially and technologically, highly educated, and dedicated to providing a kind of inspirational model for the rest of the world. This penchant for secrecy carries over into the legal world, where almost all interesting information—crime rates, sentencing practices, docket sizes, settlement rates, and the like—has remained unavailable to Soviet scholars, much less their Western counterparts. As a result, Western studies of the Soviet legal system have tended to emphasize taxonomy and ontology and for the most part have avoided systematic analysis of the social context in which law operates. Given the state of the data, intellectual integrity could not abide any other approach.

Against this background, van den Berg's book achieves two distinct successes. First, he provides a usable account of a wide range of social issues for which statistics are essential. He reconstructs crime rates, the work load of various courts and the division of their responsibilities, and the number and nature of civil disputes in both the courts and the alternate dispute resolution bodies. This may seem prosaic, but when one considers how large the gap had been, the accomplishment is considerable. For example, three years ago, when I began looking into the role of informal Soviet workers' tribunals in imposing work-place discipline, I had

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no idea how many such tribunals actually existed and how many cases they handled. Some proclamations issued by the top authorities suggested that they too were uncertain about what was going on. As I was finishing research, van den Berg's book appeared, and I learned that the phenomenon in which I was interested involved hundreds of thousands of cases annually. Given the range of possibilities, the statistical evidence that my subject mattered to a good many people was reassuring.

The greater triumph of *The Soviet System of Justice*, however, is methodological. Van den Berg overcame great obstacles in compiling his tables, and the book describes how this was achieved. Often his figures represent extrapolations from small data sets, as when he uses sentencing practice in Rostov as the basis for determining national death sentence figures. Elsewhere he interpolates percentages appearing in one source with absolute figures appearing in another. Sometimes the results are mysterious, or unattainable even after heroic researches. After noting the furious debate in the West over the number of persons processed by the extrajudicial tribunals of the NKVD (the People's Commissariat for Internal Affairs) during the late 1930s, van den Berg wisely refrains from offering an opinion on the best estimate. But throughout he demonstrates how copious study of the published Soviet sources, combined with an intelligent appreciation of what causes gaps in these data, can reward the careful scholar. Repeatedly he shows his reader how to listen for the dog that does not bark. The result is inspiring.

It is too early to tell whether Gorbachev's *glasnost*' represents a permanent change in Soviet political culture or only an interlude comparable to Khrushchev's thaw. Even if the former transpires—something I regard as desirable but unlikely—the study of the Soviet legal system will undoubtedly present distinctive methodological problems. *The Soviet System of Justice* shows us how to grapple with these difficulties. In years to come it will serve as the standard for efforts to derive coherence from small rents in the cloud of Soviet secrecy.

PAUL B. STEPHAN III is a Professor of Law at the University of Virginia, Charlottesville. He received his B.A. and M.A. from Yale University, New Haven, and his J.D. from the University of Virginia. His latest publication is "Comrades' Courts and Labor Discipline Since Brezhnev," in O.S. Tøsse and M.W. Janis (eds.), *Soviet Law and Economy* (Nordrecht: Martinus Nijhoff Publishers, 1987).