ROBERT SHARLET, commentator (Schenectady, N.Y., U.S.A.)

Samizdat as a Source for the Study of Soviet Law

Since the mid-1960's, samizdat has become an important source for the study of the contemporary Soviet legal system. Among the first major documents on Soviet law to reach the West were the unofficial "transcripts" of the Brodskii trial of 1964\(^1\) and the Siniavskii-Daniel trial of 1966.\(^2\) Brodskii was tried in Leningrad under the RSFSR "anti-parasite" law and administratively exiled to a remote region with compulsory manual labor for a five-year term. Siniavskii and Daniel were convicted of violating Article 70 ("Anti-Soviet Agitation and Propaganda") of the RSFSR Criminal Code and sentenced to seven and five years of detention, respectively. Following the case against the two early samizdat writers, Soviet criminal law was amended in late 1966 to facilitate the prosecution of dissenters by eliminating the requirement of proving anti-Soviet intent. Dubbed the "Siniavskii-Daniel law" by Harold Berman, the principal amendment to the 1960 RSFSR Criminal Code was Article 190-1:

Circulation of Fabrications Known to Be False Which Defame [the] Soviet State and Social System

The systematic circulation in an oral form of fabrications known to be false which defame the Soviet state and social system and, likewise, the preparation or circulation in written, printed or any other form of works of such content shall be punished by deprivation of freedom for a term not exceeding three years, or by correctional tasks for a term not exceeding one year, or by a fine not exceeding 100 rubles.\(^3\)

As the dissent movement has spread in the USSR and the regime stepped up its efforts to suppress it, new "cases" have been opened, trials conducted, and administrative repression carried out against the dissidents. This, in turn, has brought forth a seemingly

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incessant torrent of *samizdat* materials bearing on Soviet "extralegal history" as well as the current administration of justice in the USSR. Western specialists have already begun to draw on this rich archive of material, further enhancing its value for the study of Soviet law. These various *samizdat* and secondary sources are helping to bridge the gap between Soviet "law in the books" and Soviet "law in action" and are providing the Western specialist with a rare opportunity to study the less accessible aspects of the criminal justice system including *in camera* political trials, daily life in the penal system, and unpublished or "secret" legislation.

*Samizdat* has become a particularly valuable source on Soviet law because one of the main strategies of dissenters in the USSR has been to demand the implementation of the individual's constitutional and statutory rights and, when suppressed for doing so, to...

