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"SEND HER TO A KOLKHOZ!": A COMRADES' COURT PROCEEDING IN MOSCOW*

In the lounge of a Moscow apartment building, a piano and speaker's desk are pushed aside. A table and three chairs are standing on the podium. Some ten people, nearly all of them elderly women with thick kerchiefs, are waiting.


** The social institution of the comrades' court has waxed and waned in Soviet legal history. The comrades' courts made their first appearance during the Civil War as non-judicial, peer bodies designed to bring social pressure to bear on individuals committing minor infractions of military and labor discipline. With the relegalization of Soviet Russia which followed the proclamation of the New Economic Policy, the functions of the comrades' courts were assumed by other institutions and they generally ceased to function during the early and mid-1920s. As attention once again turned to the withering away of law in the late 1920s, however, the comrades' courts were revived and they flourished, especially in production enterprises and apartment houses, up to the late 1930s. As the war approached and Stalin decreed the criminalization of labor discipline, the comrades' courts themselves "withered away."

During the postwar period, the comrades' courts were revived again to some extent under Stalin in the early 1950s, but their full scale re-emergence occurred under Khrushchev, beginning in the late 1950s, in conjunction with his renewed emphasis on the withering away process as a part of the then-heralded "transition to communism." The principal legislation was enacted in 1961 and the comrades' courts once again began to flourish as the peer justice process came into vogue anew. Although the institution survived Khrushchev's ouster in 1964, it was subsequently subsumed into the formal state system of social regulation under Brezhnev's more pragmatic approach to legal policy. This tendency toward juridicization was legislatively affirmed most recently in 1977.

In spite of the fact that the comrades' court is not mentioned in the comprehensive new USSR Constitution of 1977 and has been relegated to the periphery of the production enterprise in the Statute on the Labor Collective of 1983, the institution continues to function as indicated in the following account of a comrades' court proceeding in an apartment house in Moscow in 1982. Because the institution has always been decentralized and its unpublicized proceedings are brief, informal, and usually take place in out-of-the-way communal venues, very few comrades' court "cases" have been observed and written-up by Western scholars of Soviet law. "Send Her to a Kolkhoz!," a proceeding attended by Professor Friedrich-Christian Schroeder of the University of Regensburg and a group of West German law students, is thus a welcome addition to the Western literature on the unusual institution of the comrades' court in the contemporary Soviet Union.

Robert Sharlet.
An elderly woman wearing her hair severely pulled back, who has already taken her coat off, is trying to attract the others’ attention. Is she the accused or is she a member of the comrades’ court? This is the question since a proceeding of the comrades’ court is to take place in the apartment house. Such courts, which continue to resemble institutions set up right after the Bolshevik Revolution of 1917, were created by Khrushchev. They were established in the late 1950s in order to mitigate the impact of criminal law and promote the “withering away of the state” and state authority which had been promised by Marx.

The waiting audience curiously examines a group of West German students who squeeze themselves into the small room. Are they sufficiently prepared to present this special form of Soviet justice in a convincing manner? A man looking as if he belonged to the Soviet middle class and two women climb the podium and take their seats. The chairman opens the hearing by explaining to the audience that the comrades’ court cannot impose punishment, only educational measures. He requests the elderly woman to speak. “Mariia Maksimova, please, present your version of the incident.” Mariia Maksimova hurries over to the desk which is off to one side, leans on it and looks over the audience.

She begins by describing the incident as an “appalling scandal.” For years she has had to suffer martyrdom in her communal apartment. Again and again, she relates, a young couple sharing the apartment would be noisy and would get into arguments when they were drunk. One day, the woman continues, she could no longer bear the noise, so she ran into the kitchen in order to settle things. Thereupon she was pushed through the glass door by the offender, she tells the audience, while pointing at an unhappy creature, a woman sitting in the front row, her shoulders hunched, her bleached hair swept up on her head in a somewhat odd way and covered with a small hunter’s hat. The accuser goes on to say that she severely injured her wrist and that a lot of blood was shed during the incident. She holds up her arm in an accusing manner. You could see a huge line of blood throughout the whole apartment, she continues her report, blood, blood all over! Such scenes would happen constantly, the woman adds. Most of the time nobody was injured, but this time it ended terribly. A gaping wound, a huge pool of blood... She seems to relish the description of the evil that had befallen her.

The chairman intervenes. “Mariia Maksimova, you have already mentioned this. May I ask you not to repeat yourself!” Mariia Maksimova is getting a little confused, but finally ends her presentation with a pathetic accusation.

“And now, the other party, please!” The unhappy looking woman rises, her shoulders still hunched, her coat strangely drawn around her—a woman who, from her outward appearance, seems to be completely intimidated. She says that Mariia Maksimova turned out to be a tyrant in the apartment. She would frequently interfere in her marriage and give orders about running the