Soviet Legal Institutions: Doctrines and Social Functions by Kazimierz Grzbowski

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In his study of the Soviet legal system, Dr. Grzybowski employs a comparative approach which takes Western legal thought and institutions as a frame of reference. In the author's opinion two circumstances make such an undertaking possible and worthwhile. He sees Soviet legal development primarily as a part of the now world-wide response of law to the new problems accompanying industrialization and urbanization rather than as a phenomenon unrelated to what is occurring in other parts of the world. Furthermore, he maintains that, in spite of the original anti-legal bias of Marxist theory, soul-searching by Soviet jurists, and repeated claims of a unique system of justice, the Soviet legal structure after forty-odd years of growth, ironically, represents essentially a copy of Western models as far as form is concerned.

Similarity gives way to contrast, however, when the comparison is shifted from the question of form to that of function. The expansion of the state's activity in economic and social matters which took place along with industrialization in Western Europe and North America proceeded within a framework of judicial control. Soviet experience has been the opposite. The regime's total concentration on planned progress at a maximum pace towards the higher social and economic order of an advanced industrial society has reduced law largely to a means for achieving this end. Far from being a regulator of state action in the economic and social sphere, law has served primarily as a convenient instrument for the state or, more precisely, the governing party, in the pursuit of its ultimate aims. Collective achievement and social discipline, not the status of the individual, have consequently carried the day in Soviet justice. The author's analysis of the post-1956 legal reforms led him to conclude that these priorities, so apparent in Stalin's day, have survived him. He points out, for example, that the reform in 1958 of criminal law left essentially intact the principle that punishment is meted out on the basis of the social cost or social danger of the crime instead of the intent of the guilty. At the same time, he is fully willing to admit that the new measures have substantially reduced the scale of arbitrary acts against the individual and have significantly moderated excessively harsh sanctions,
On the broader question of whether or not Soviet society is experiencing an evolution in the direction of liberalization, the author feels that two contradictory trends are at work in the legal field. The rule of law has been on the rise in the economic realm. The costs of over-centralization of management became increasingly apparent as the economy expanded rapidly in recent years. The reform de-centralizing the managerial network which the regime introduced as a consequence has, by investing a large number of economic units with a degree of autonomy, necessitated a greater dependence on law as an ordering mechanism. In contrast, in the realm of the individual the tendency is toward greater constraints, even if terrorist violence has been largely supplanted by incentives, persuasion, and lesser forms of coercion. The current interest of Soviet leaders in semi-official social organizations as supervisory agents to ensure conformity among the population promises increasing interference in the affairs of the individual.

The great interest that this work undoubtedly will have for the legal specialist should not be permitted to obscure the fact that it has much to offer a wider audience as well. The author’s thorough examination of this facet of Soviet reality provides important insights into the general nature of the Soviet system and the changes which Soviet society is undergoing.

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