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Gary Bittner
College of Pennsylvania

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Legal Aspects of Religious Freedom and Dissent Within the Soviet Union up to 1975

Gary E. Bittner

Professor Bittner is Chairman of the Behavioral Science Department, York College of Pennsylvania. His special areas of training are Sociology of Law and Urban Sociology. He is a member of C.A.R.E.E., and has been a participant in the 13th Symposium of Christen und Marxisten im Friedensgespräch. He has also travelled in the Soviet Union in conjunction with the Institute for Peace and Understanding.

Every Soviet Constitution since 1936 has guaranteed basic human rights including freedom of conscience and expression. However, these constitutional rights are permitted as long as an individual's or group's behavior does not threaten the Soviet state. If the behavior is considered a threat to the state, the act may be classified as criminal or as a "socially dangerous" crime. Therefore, the resolution of the conflict between constitutional rights and the state occurs within the Soviet legal system. However, within the legal system, judges are to be guided by their "socialist consciousness" in reaching a verdict. Socialist consciousness allows a judge to interpret Soviet laws in terms of the ideological underpinnings of the party. "Thus, socialist legal consciousness provides the mechanism by which the political demands of the Party, clothed in ideological garb, can impinge on the conduct of a trial", (Weiner, p. 48, 1970). This was originally affirmed by N. V. Krylenko, People's Commissar of Justice, who stated in 1923 that "...our judge is above all a politician, a worker in the political field..." He continued that

"...a club is a primitive weapon, a rifle is a more efficient one, the most efficient is the court."

Religious freedoms are controlled by criminal and administrative laws which regulate the separation of church and state, the teaching of religion to children, the registration of parishes, church government, and numerous other religious items. A violation of these regulations is a crime. In addition, to publicly express dissatisfaction with these regulations is considered anti-state agitation or propaganda thereby making the protester a dissident. Anti-state agitation or propaganda, a "dangerous state crime" was expanded in 1966 to apply to dissidents who were not motivated by anti-Soviet intent. Religious leaders, church members, and their supporters who spoke out against the conflict between religious freedom and the criminal codes were considered dissidents who were engaging in "socially dangerous crimes."

DISSIDENT MOVEMENTS

Since the mid 1960's, the Soviet Union has engaged in a series of prosecutions against the creative and political intelligentsia, nationality, and religious dissenters. These individuals have been tried and sentenced primarily under Articles 70, 190-1, 190-3 (agitation and propaganda), 64 (treason), 142 (church and state separation) or, with the use of psychiatric expertise, commitment to mental institutions. Charges have been leveled against the state that it has abused the criminal codes by not notifying relatives and defense witnesses of time and place of trial, that the trials were held in secret in order to protect the

Soviet national security, the refusal to allow expert witnesses for the defense, interrupting witnesses and the defendants during their final summation, illegal searches, and illegally long pretrial detentions. Some of the complaints are true violations, while others are open to interpretation dependent upon the charge and situation. What is important and different from the Stalinist era is that both sides are using the same articles of the Criminal Code and Code of Criminal Procedure to support their positions. Each side opposes the other in the name of the codes. And each side thereby accepts some limitations imposed by the codes; so far, at least, the regime is unwilling to revert to Stalinist terror, and its opponents are unwilling to espouse the cause of counterrevolution. "As long as this situation remains, legality will continue to be not only a matter of crucial importance in everyday Soviet life but also a master key to Soviet politics," (Berman and Spindler, p. 89, 1972).

A second difference has been the appeal of the intelligentsia to the public over political domination of the criminal process. This appeal has been through underground literature and within specialized professional journals. An analysis of the literature reveals two major lines of protest. First, trials of dissidents are politically dominated with the legal process being subordinated to the party. Second, the procedural norms are adequate but were distorted in application. This group is close in orientation to the legal experts' debates in their professional journals; both demand strict observance to procedures. If procedures were followed, an adequate defense could be effective,

(Weiner, 1968).

The use of underground, or samizdat, literature reveals a large group of dissenters. For lack of a better name, different authors have referred to an influential segment of this group as the Democratic Movement.

It appears that the Democratic Movement had its origins during Khrushchev's denunciation of Stalin in 1956. It gave the intelligentsia an opportunity to claim its role that it had lost under Stalin. The intelligentsia believed that its first task was to reestablish the rule of law, secondly, to compensate the survivors of the Stalinist camps, and lastly, to develop a rational scientific and economic social system. However, with Khrushchev's fall, the intelligentsia found reform to be more difficult than expected. Secondly, the movement has a major difficulty in organizing due to its composition. It is not a "popular" movement with its members being primarily middle and upper-middle class (Reddaway, 1972). Coupled with the political culture, there appears to be only a few thousand mainstream members and an unknown number of sympathizers. It is composed of Leninists, neo-Marxists, Christian socialists, and liberal democrats. They are held together by a common position on the Soviet Constitution and the importance of law as an instrument through which to promote democratization and secure civil rights, (Reddaway, 1972). The Chronicle of Current Events, the samizdat or underground periodical, of the Democratic Movement provided a platform for the members and sympathizers democratic views. However, its editorial position is taken from Article 19 of the

Universal Declaration of Human Rights:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, (Reddaway, p. 24, 1972).

The Chronicle has given every democratically inclined group an opportunity to be recorded and to make contacts with other democratically inclined groups. With its emphasis on human rights violations, the Chronicle exerted its greatest influence as a coordinator for dissident groups and individuals activities.

However, the Democratic Movement is not a true interest group in the sense of being an organized social aggregate seeking political goals. Because of its composition, it is a collection of individuals with a common characteristic who interact with some frequency on the basis of shared characteristics. "As used here, 'interest group' refers to any group that, on the basis of one or more shared attitudes, makes certain claims upon other groups in the society for the establishment, maintenance, or enhancement of forms of behavior that are implied by the shared attitudes,the shared attitudes, moreover, constitute the interests," (Truman, p.34, 1951). The Chronicle was used as the coordinating agent to integrate their different interests while giving the movement an organizational focus. If the state relaxed its control, it is possible that the Democratic Movement would break apart as the social opposition did in the 1890's.

The growth of dissent within the Soviet Union from 1956 to 1980 was due in part to Khrushchev's unwillingness to resort to Stalinist suppression nor relax party control, (Blumberg, 1970).

However, with the trials of Siniavsky and Daniel in 1966, dissidents realized that Soviet legal codes were still ambiguous in application when the acts were considered socially dangerous. These socially dangerous crimes covered a wide range of issues from censorship, civil rights, nationality rights, violation of constitutional guarantee, and freedom of conscience.

Religious Issues.

Freedom of conscience is a particularly sensitive area for the Soviet government. It is a guarantee under the Soviet Constitution but its suppression includes issues of censorship, nationality rights, and civil rights. As a result, the suppression of religious freedom in the U.S.S.R. has become a cause among nonreligious dissenters.

Religious literature in the Chronicle represents only a small portion of the total amount. This may be due to the fact that much of the material was written by religious individuals rather than members of the intelligentsia, (Blumber, 1970). Secondly, much of the literature is printed for home use instead of abroad, (see Table I). This literature can also be broken down by types of issue found among the religious dissidents, (see Table II).

TABLE I. Frequency Distribution of Religious Samizdat Documents

Faith	Abroad	USSR	% Abroad
Baptists	21	190	10
Orthodox	7	101	6
Jews	33	67	33
Catholics	1	24	4
Totals	62	382	14

TABLE II. Frequency Distribution of Dissent Issues by Religious Faith

Kind of Issue	Baptists		Orthodox		Jews		Catholic	
	N	%	N	%	N	%	N	%
Monographs	13	6.2	59	54.7	7	7	0	0
Trial Records	17	8.0	2	1.8	5	5	4	16
Petitions	40	18.9	6	5.5	17	17	6	24
Persecution	46	21.8	18	16.7	10	10	9	36
Prison complaints	16	7.6	1	.9	2	2	0	0
Prisoner lists	9	4.3	0	0	2	2	0	0
Civil rights	2	.9	3	2.8	3	3	0	0
Publications	39	18.5	0	0	6	6	4	16
Internal church	13	6.2	19	17.6	0	0	2	8
Children	16	7.6	0	0	1	1	0	0
Emigration	0	0	0	0	47	47	0	0
Total	211	100.0	108	100.0	100	100	25	100.0

(Tokes, p. 199, 1975)

The state views religious dissidents, as well as other types, as renegades who believe they are being persecuted for their beliefs. They are using the persecution image to hide their anti-Soviet fabrications and actions. "Thus, what we are talking about here is the penalties for deliberate actions provided in Articles 70 and 190 of the Russian Republic Criminal Code and the corresponding articles of other Union republics' criminal codes," (Pravda Editorial, 1977). The state maintains that everyone has complete freedom in designing their attitude toward religion: to believe or not to believe. No one is compelled to perform any religious or anti-religious activity. Pimen, Patriarch of Moscow and all Russia, has stated that freedom of religion is guaranteed by the basic law -- the U.S.S.R. Constitution.

All religious societies, including the Russian Orthodox Church, have equal status with respect to the state, and each of them is self-governing. The U.S.S.R. keeps no records or statistics on the population according to religious denominations. No questions are asked about religious affiliation when people are hired for jobs, when the census is taken, when passports are issued, etc. Soviet legislation provides strict liability for any kind of infringement on the civil rights of the believers among the population, including the clergy. Believers of all religions, as well as clergymen, are full-fledged citizens of the Soviet state, and they take an active part in the country's political, economic and social life." (Kuroyedov, p. 2, 1976).

However, freedom of religion does not allow religious societies and its members to do as they wish. No state or nation can remain indifferent to violations of legislative enactments.

Western propaganda claims that freedom of conscience should give religious societies and their members the opportunity to do as they please. To this one can reply that there is no state in the world that can remain indifferent to violations of legislation and of generally accepted norms of communal living committed

under cover of religious rules. Believers may be guided by such rules only as long as they are not at variance with the laws of the state....

Legislative acts forbid the use of meetings of believers for political speeches aimed against the interests of the Soviet state, the incitement of believers to evade fulfillment of civic duties, the suggestion to believers that they refuse to participate in public and political life, the performance of barbarous ceremonies harmful to the health of citizens and fraudulent actions designed to stimulate superstitions (for instance, spreading rumors about the "end of the world" or about "miraculous healings" at graves or near so-called "holy places," the faking of such "healings," and the like). Religious societies have no right to compel believers to pay dues in any form.

Does this infringe freedom of conscience? Of course not. That is why the clergy in the U.S.S.R. honestly fulfill legislative requirements and hold a position of loyalty to the state. (Kuroyedov, p. 2, 1976).

According to the Soviet government, no one has been prosecuted because of religious convictions, but some religious leaders, particularly Georgi Vins, have attempted to forbid their members to participate in public life. Therefore, their persecution is not due to their religion, but to their activities which interfere with legislative enactments and the socialist way of life, (Kuroyedov, 1976).

Pre-1960 Religious Freedom

The controversy over religious freedom predates the Democratic Movement and incorporates historical traditions of Tsarist Russia with Marxist theory on church-state relations. Historically, the Russian Orthodox Church's relations with the Soviet state between 1917 and 1929 evolved from open confrontation, to an apolitical position which entailed de

facto recognition of the government while attempting to preserve the integrity of the church, and finally de jure recognition with church support for Soviet policies.

The Renovationist Sobors of 1923 deposed and defrocked the Patriarch Tikhon for his support of counterrevolutionary forces. The Sobor, in conjunction with the party, attempted to form the "Living Church" by adopting a pro-Bolshevik political position. This included giving support to the Soviet repression against "reactionary" Tikhonite bishops and clergy. However, the party attempted to gain support among the population and priesthood by reinstating Patriarch Tikhon. In his Confession of 16 June, 1923, Tikhon accepted the Soviet government but still insisted on the integrity of the church. After Tikhon's death in 1925, Metropolitan Sergius, acting as locum tenens, followed Tikhon's policy: recognition of the Soviet government but with the irreconcilability between the Orthodox Church and the communist party. In his message of 10 June 1926, Sergius insisted on the integrity of dogmas, and spiritual freedom, (Bociurkiw, 1968). His position was supported by Tikhonite priests, imprisoned, who also argued the conflict between church and state could only be overcome by strict adherence to the concept of separation of church and state. They also could not follow the Renovationist policy.

Sergius and the Tikhonite priests found that the concept of separation of church and state was interpreted differently by the party. In July, 1927, Sergius issued a declaration which set the church's official position. Echoing the

Renovationist position, he implied that there was no religious persecution, with the crucial element of the declaration being the church's civil loyalty to the Soviet government. This was to include "...unconditional obedience to the regime, positive support of its policies, and the assumption by the church of the previously rejected obligation to ensure the political reliability of its flock," (Bociurkiw, p. 18, 1968). The church now gave de jure recognition with church support for Soviet policies. In the process of attempting to hold together the church, Sergius alienated a small group of still active priests and bishops. Under the leadership of Metropolitans Peter and Iosif, the protesters formed a dissident group which was eventually silenced by the church and state without healing the gap of suspicion and dissent.

The Evangelical Christians and Baptists, in contrast to the Orthodox were able to come to a satisfactory agreement with the new government. The new Soviet administration was attempting to reduce the Orthodox influence and therefore removed restrictions on "sectarian" churches. The period between 1917 and 1929 allowed the Protestant churches more freedom than during the Tsarist era. From 1929 to World War II, the Evangelical Christians, Baptists, and Orthodox churches were forced to struggle for survival.

While the church leadership was struggling with the problem of survival, the Communist Party was also struggling with survival. The long tradition of Tsarist and Orthodox Russia as the Third Rome coupled with the population's loyalty

to their respective churches caused the party to apply the concept of democratic centralism to the churches rather than destroying them. The state attempted to incorporate the church leadership into the dictatorship so as to use them to transmit party policy while giving the new government legitimacy, (Bociurkiw, 1968). This was a change that developed over time from Lenin's pre-revolutionary writings.

Everyone should have full freedom, not only to adhere to the faith of his choice but also to propagate any creed...All confessions should be equal before the law. The priests of different faiths may be maintained by those belonging to the given creed and the state must not use public funds to support any confession, (Lenin p. 173, 1960).

At the time of the revolution, the party was divided into two groups over church-state relations. The fundamentalist took the position that the new government should embark on an intense anti-religious campaign. They were opposed to any cooperation based on Marxist theory. In contrast, the pragmatist took the position which subordinated the anti-religious campaign to the class struggle. Less optimistic about anti-religious propaganda, the pragmatist wanted to reward them by allowing them to exist. This would give legitimization to the government and party among church congregations and increase internal security (Bociurkiw, 1968). M. I. Latsis, spokesman for the pragmatist, argued for the government support of "progressive" clergy:

Both the state and the church consists of the same citizens (excluding non-believers). To allow the church to differ from the state means to permit a state within the state within the state which, obviously, cannot be tolerated by any regime, least of all the Soviet....Any religion, and any church, if it does not wish to condemn

itself to non-existence, should follow the spirit of the times....The black clergy will not surrender their position without a struggle. Naturally, the progressive clergy has the right to count on support from the Soviet state and it will find such support if it follows the path charted by the Soviet regime, (Izvestia, 1919).

The pragmatic approach was rejected by the chief of the Department of Cults of the Justice Commissariat arguing that it is the duty of the party to eliminate religion. The principle of freedom of conscience could not be reconciled with the reunification of church and state, (Krasikov, 1919). However, the pragmatic viewpoint was the policy followed by the party. It was accomplished by manipulating the "harmony" between church and state through the application of laws and administrative decrees. These actions resulted in pro-Soviet religious groups being allowed to register their parish congregations, being given leases on church property, and the use of state power to support ecclesiastical leaders against "reactionary" church elements. From 1922 to 1929, freedom of religion was only permitted for religious groups who showed loyalty to the state, (Bociurkiw, 1968).

The 1918 to 1922 period was crucial to Soviet manipulation of religious groups. The Provisional Government decrees allowed the state to take control of church lands and property, and to transfer all educational programs under state control including theological institutions. The churches were to be deprived of their subsistence and their central administrative organizations disrupted. At the same time, Lenin published his first decrees on the separation of church and state. The decree of 5 February 1918, disestablished the

Orthodox Church, banned public subsidies, all social and religious groups were equal in official decrees and legislative enactments, and lastly, the performance of religious rites were tolerated if they did not interfere with citizen's civil rights. Religious associations were banned from imposing compulsory donations and contributions or to solicit fees while religious activities were restricted to the performance of rites. In addition, ...the decree nationalized

the entire property of all religious groups, including church buildings and their contents, which from now on were to be leased free of charge to the believers by the state authorities; moreover,...., all churches and sects were deprived of the rights of a juridical person, including the right to own property, (Bociurkiw, p. 8, 1968).

The Law of 1918 had an opposite effect on Soviet policy than intended. Instead of separating church and state, the state was now in a position of having to, at least temporarily, support "loyal" religious groups by involving themselves in their internal affairs.

By 1929, the regime felt secure from internal opposition while Lenin's New Economic Policy had allowed the economy to sufficiently recover from the civil war. Stalin, beginning to consolidate his leadership position, started his first five year plan through a massive regimentation of society which included accepting the fundamentalist view on religion. The Law of 1918 was reinforced and expanded by the Law on Religious Associations of 1929. It codified all previous laws, expanded religious prohibitions to include parent-child instruction, denied legal status to Eastern-Rite Catholics,

denied theological education for ministers of Seventh-Day Adventists, Methodists, and Mennonites, and formally established the Council for Religious Affairs to oversee religious activity. The most important administrative measure was the establishment of a three member executive committee to oversee the church community. Any member of this board could be removed by the local Soviet. Therefore, the local Soviet could control the selection of church members for the board and thereby place local Communist in key religious positions, (Bociurkiw, 1971).

World War II reversed the fortunes of the churches. With the German invasion and low morale of the Soviet people, Stalin attempted to gain public support by reintroducing Russian historical traditions. This included the opening of churches and greater religious tolerance. In 1943, leading Orthodox figures were called to the Kremlin. Nothing was recorded, or at least released by either church or state, but immediately thereafter eight theological seminaries were opened: bishops were consecrated; parishes were reopened; the publication of the Journal of the Moscow Patriarchate was reinstated; and most importantly, Metropolitan Sergius was elected as Patriarch. The Patriarch's position had been vacant for nearly twenty years since the death of Tikhon. In 1944, the Evangelical Christians and the Baptists were allowed to form the All-Union Council of Evangelical-Baptists and were permitted to publish a journal entitled The Fraternal Herald. These agreements or understandings lasted until 1960.

Post-1950 Religious Liberty Issues

The July, 1954, resolution of the Central Committee gave notice to religious groups that the Stalinist understanding were changing. This resolution attacked the party and state's passivity toward religious activity and ordered a resumption of anti-religious propaganda and campaign by the party and state.

Khrushchev was able to accomplish the aim of the resolution by extending the type of crimes allowed under Article 142 (separation of church and state), and by administrative manipulation. This started with the antiparasite laws of 1957. The origin of this campaign, which did not get into full swing until 1960, may have been more functional than ideological. The party had been sterile under Stalin's dictatorial rule and needed a focus to unite it. Such a focus is usually against an enemy at hand. The churches, and particularly the sectarian denominations, were natural enemies who could be found in every city and town. This new program would allow the party to revitalize itself, (Bourdeaux, 1971).

While such a functional approach is not new, it did fit Khrushchev's search for a new role for the Communist Party. If the new role was dependent upon the party influencing all public and private organizations through its position as the leading core of all social organizations, an ideologically active party was a necessity, and could not tolerate an active counterideology as in religious teaching. The 1960 program

may have been Khrushchev's first step in revitalizing the party since the less popular Evangelical-Baptists, Muslims, Jews, and Buddhists were targeted for suppression while the Orthodox, the largest popular church, was persecuted, but in comparison, less than others.

In 1960, the Patriarchal Synod requested bishops and priests to observe the laws on religious societies. In 1961, a Sobor deprived the clergy of membership in the parish dvadtsatka council of twenty'. The administration of the parishes was now the responsibility of the three man executive committee. The Law on Religious Associations of 1929 was never clear on whether the priest was in charge of the administration of church or had this power been removed. The state had remained silent on this point and had not contradicted canon law on this principle. However, there was a belief that the church had signed a semisecret instruction in 1931 giving into the state on this principle with the 1961 law formalizing the agreement, (Reddaway, 1968).

Simultaneously, the All Union Council of Evangelical-Baptists (A.U.C.E.B.) was reacting against the secret agreements made during World War II. Mikhail Orlov stated in 1945 that the Council for Affairs of Religious Cults "...decide the problems of our congregations and needs...", (Bourdeaux, p. 57, 1971). An added problem was the fact that the representatives on the A.U.C.E.B. had been able to avoid any major conflicts with the state.

In addition, individuals were released from the labor

camps starting in 1953 as a reaction to Stalinist abuse. This group included uncompromising members of the A.U.C.E.B. who rebelled at the idea of the All-Union Council's attempt to keep the church activities within the structure of the existing legislation. In 1960, the All-Union Council also issued New Statutes and a Letter of Instruction which had the same effect on the Evangelical-Baptists as the Synods of 1960 and 1961 on the Orthodox Church. While the Letter of Instruction has not been published, its principle features included that children were to be excluded from the religious services, baptisms were to be held at a minimum, and evangelistic preaching was to be reduced. The New Statutes reinforced the All-Union Council's power and position and almost made the Council self-perpetuating without any input from the membership, (Bourdeaux, 1971).

In 1965, members of the Evangelical-Baptists and Orthodox churches reacted respectively against the regulations of the New Statutes and Letter of Instruction and the Sobors of 1960 and 1961. The difference between the two protests was that the Orthodox were more moderate, and appear to be prosecuted less, than the Evangelical-Baptists. In November, 1965, two Orthodox priests, N. I. Eshliman and G. P. Yakunin, petitioned the Patriarch, the Episcopate, and President Podgorny to clearly enforce the Law of 1929 on the separation of church and state. The petition may have resulted from an attempt on the part of Archbishop Yermogen and other bishop to convene a Sobor to repeal the 1961 Sobor's decision to surrender the

clergy's administrative powers over their parishes. While the Sobor was not convened, Khrushchev was ousted from power. The petition of the two priests acknowledged the church's loyalty to the state and its laws, but requested the government to investigate the Council for the Affairs of the Russian Orthodox Church. The priests argued that the Council, under Khrushchev's initiative, violated the Law of 1929, the constitutional division of church and state, and was accomplished with the cooperation of the Patriarch and a majority of the bishops. The petition requested a return to socialist legality and the principle of church-state relations as espoused by Patriarch Tikhon "...the prevention of interference by the secular authorities in the internal life of the church, and strict observance by the ecclesiastical authorities of civil legislation..." (Bociurkiw, p. 30, 1968).

Patriarch Aleksii suspended the two priests even though they had received support from Anatoly Levitin, other younger priests, the diocese of Kirov, and a Moscow parish. In 1966, the state responded by fusing all government councils on cults into the Council for Religious Affairs with greater authority, listing a series of acts which would be crimes under Article 142, and increasing the administrative violations to include:

Refusal of religious organizations to register the organization in state agencies; violation of the regulations established by law for the organization and conduct of religious meetings, processions and other ceremonies of the denomination; organization and conduct by clergy of the denomination and by members of religious organizations of special meetings of children and of youths, and also of

work, literary and other circles or groups, having no relationship to the performance of functions of the denominations. These acts shall incur a fine of up to 50 rubles, levied by the administrative commission of the executive committee of the county and city soviets of working peoples' deputies. (Edit, 1966).

In 1967, Archbishop Yermogen took up the cause of Yakunin and Eshliman by supporting their position on the conflict between the constitutional guarantee of separation of church and state and conflict between law and its application.

The local officials of the Council (CAR) also do not give written explanations, and their oral explanations suffer from contradictions and often conflict with the current legislation. Naturally, a situation in which they do not give a citizen the chance to know the laws he must observe, or do not answer his communications on matters directly affecting his activity, or, even worse, instead of answering his communication, deprive him of the job he holds, cannot be considered normal, (Reddaway, p. 68, 1968).

In addition, Yermogen analyzed the history of canon law and procedures as developed in the Sobor of 1917-1918. He pointed out that the procedures for setting up a Sobor, the election of bishops and Patriarch, and the calling of a Sobor every three years had been violated. These violations had allowed the Council for Religious Affairs to interfere in church life. Yermogen appealed for a new Sobor to repudiate the 1961 Sobor and reinstitute canonical procedures. This was particularly important since Patriarch Aleksii was ninety years old. However, when Aleksii died, a new Sobor was called but excluded Yermogen and other Protesters. Patriarch Pimen was selected under the procedures protested by Yermogen. Yermogen had been forcibly retired to a monastery; (Bourdeaux,

Christian Century, 1971).

The Orthodox protest movement was moderate and centered primarily on the conflict between constitutionality, law, and its application. In comparison, the Evangelical-Baptist protest movement was more militant and centered on three issues: dissatisfaction with the role of the Protestant churches in the Soviet Union, dissatisfaction with the Evangelical-Baptists leadership, and the conflict between constitutional guarantees, laws, and its application.

By 1960, the All-Union Council of Evangelical-Baptists was being challenged by its own following over the New Statutes and the Letter of Instruction. An "action" group was organized under the leadership of Alexi Prokofiev, Gennadi Kryuchkov, and Georgi Vins. The group's primary goals were to eliminate state restrictions found in the 1960 legislation on evangelicalism, to remove the governing body which was neither elected nor had fought the 1960 legislation, and demanded a new congress of properly elected representatives selected from registered and unregistered congregations, (Bourdeaux, 1971).

Before the arrest of Alexi Prokofiev, the action group called for an All-Union congress for 1963 to present its revisions of the New Statutes for discussion. The key item of the proposed revisions was the election of a new All-Union Council with a proposed congress to meet at least once every six months. Other proposed revisions were to include that senior presbyters were to be elected from below rather than appointed from above; the local congregation was to have more

freedom to govern itself without manipulation from the Soviet dominated executive committees; and the exercise of guaranteed freedom of conscience.

Starting between 1961 and 1963, the Soviet government started to arrest different members of the action group who had been elected by their congregations, both registered and unregistered. It appeared that these arrests were done in an alliance between the All-Union Council and the Soviet government, (Bourdeaux, 1971). Those leaders who had not been detained met in June, 1962, and excommunicated Yakov Zhidkov, Alexander Karev, and most of the leadership of the All-Union Council and senior presbyters who they considered to have yielded under state pressure. This was a violation of legitimate grievance procedures and discredited the reform protesters.

From the Soviet point of view, the refusal to follow the New Statutes was a violation of state law as well as an internal church issue. A congregation which criticized the new constitution of the All-Union Council was no longer registered and therefore in violation of Articles 142 and 227. The All-Union Council immediately convened a Baptist Congress to stem the reform group without either fully consulting Vins and his associate or including representatives from the deregistered congregations.

Some concessions were made at this congress from the All-Union Congress to the reformists. It is believed these concessions were an attempt at reconciliation with the most

important being the convening of regular congresses. However, the procedure for the election of representatives did not change. The result was that future congresses would still be under party control with no alternative candidates (Bourdeaux, 1971).

Vins and Kryuchkov, the reform leaders who were still active, met in March, 1965, and confirmed their excommunications of the All-Union Council members and established an unregistered and illegal counter group, the Council of the Church of the Evangelical Christians and Baptists. The schism within the church was official.

In May, 1966, Kryuchkov and Vins assembled 600 believers from 130 towns for one of Moscow's largest public demonstrations. They were arrested, tried, and sentenced to three years hard labor. After his release in 1969, Vins attempted a reconciliation with the All-Union Council through the state while he was working as an unregistered pastor. Vins was rearrested under the antiparasite law in December, 1969. Additional charges were brought against him including Article 190, slander of Soviet state, and article 227, religious activity which harms a citizen's health or interferes with his civil rights. Vins eluded the authorities but was arrested in March, 1974. He was sentenced to the Kiev prison for five years.

While select individuals, like Vins, may receive imprisonment, it appears that since the death of Stalin, the regime has not been able to terrorize its population into

blind obedience. This is probably due to the stress on socialist legality and constitutional guarantees, the sensitivity of the government to foreign criticism, the emergence of public opinion, younger party members moving into power positions, and the need of the party to find its position in a post-industrial, technological state.

The religious protest, and in particular that of the Evangelical-Baptists, has resulted in a grass roots human rights movement with connections (through the Chronicle of Current Events) with the Crimean Tartars and Ukrainian nationality movements, the creative and scientific intelligentsia, and other numerous dissatisfied dissident groups. These different groups, which form the Democratic Movement, have one common thread: the demand for civil rights, justice, and legality.

However, the religious protest movement has ramifications beyond the demand for civil rights, justice, and legality. First the religious protest went beyond the demand for civil rights for the Soviet Government. It had the seeds of a counterideology with a tradition and culture which is anathema to the agnostic principles of the state. Secondly, the movement contained various types of religious protesters: "...(1) those who may not be practicing believers but nevertheless have a faith; (2) those who worship underground; (3) those who may be members of a legally recognized religious institution but conceal their lack of sympathy with its leaders; and (4) the active dissidents," (Jancar, p. 208,

1975). Thirdly, the Evangelical-Baptists active dissent was more organized and militant than the Orthodox protest. However, while the Russian Orthodox Church contains approximately fifty million people, it was the Evangelical-Baptists who may have started the demand for civil rights, legality, and justice. But it was the Orthodox dissenters which linked the movement to the Democratic Movement, (Jancar, 1975).

The Evangelical-Baptist dissident literature is composed primarily of trial records, petitions, records of persecutions, and prisoner lists with emphasis on illegalities on the part of the Soviet authorities. Since 1970, this material has been distributed outside the Soviet Union. Orthodox dissident literature is composed primarily of monographs and records of prosecution and distributed primarily at home (see Tables III). The lack of Orthodox literature for a church of its size, despite its persecutions, gives support to the thesis that the Orthodox church has a more privileged position in the Soviet society. This may also be supported by the concessions granted to the Evangelical-Baptists, (Jancar, 1975). However, individuals within the Orthodox church have shown greater initiative in protesting Soviet restrictions and activities than Evangelical-Baptist members.

TABLE III. Typology of Religious Dissent In U.S.S.R.

Type of subject of Document	Baptist		Orthodox		Jewish		Catholic	
	Ga	Ia	G	I	G	I	G	I
Monographs	2	11	2	57		7		
Trial records	6	11		2b	5			4
Arrests, etc.	24c	16	3	3	6	11	2	4
Persecution	35	11	6	12	8	2	7	2
Prison conditions	11	5		1	2			
Prisoner lists	9				2			
Civil rights	1	1		3d	3			
Publications	39				6			
Religious affairs	12	1	4	15e			2	
Children's issues	8	8			1			
Emigration					27	20		
Totals	147	64	15	93	60	40	11	10
		211		108		100		21

NOTE: Mentions of religious activity in Chronicle of Current Events are not included, since they did not come from the religious groups themselves.

Ga = groups (3 or more persons), I = Individuals.

b=Includes transcript of trial of Patriarch Tikhon in 1924.

c=Includes only petitions addressed to persons abroad; does not include open letters.

d=Includes Levitin-Krasnov's letter to the Human Rights Groups.

e=Includes three letters involving persons abroad.

(Tokes, p. 198, 1975)

Interaction With Democratic Movement.

Individual Orthodox writers such as Yakunin, Eshliman, Yermogen, and Levitin are also members of the intelligentsia while such intelligentsia members as Solzhenitsyn, Siniavsky, Brodsky, Soloukhin, and Galanskov are religious, (Reddaway, 1972). However, it was Anatoly Levitin (Krasnov) to first argue the conflict between the Soviet constitution against illegal persecution in a defence of a student persecuted for adherence to the Old Believers sect:

As the experience of recent years has shown, when arbitrariness begins, no one can tell where it will stop. Propagation of the principle of religious discrimination is a clear call for infringement of the Constitution, for the flouting of each and every legal norm...Respect the Soviet Constitution...: do not sow the seeds of religious hostility, hatred, and fanaticism, because these seeds invariably yield evil fruit. (Reddaway, p. 64, 1972).

Later, Levitin had spoken out on civil rights as well as religious matters. He was a member of the Action Group for the Defence of Human Rights, supported Yakunin and Eshliman in a petition to Soviet interference in the Birov diocese (Drama in Vyatka), and supported Major General Grigorenko's crusade for Crimean Tartars (Light In The Window) and the Moscow Human Rights Group. He also appealed to the Chairman of the Russian Supreme Court concerning the Galanskov-Ginzburg trial, (Reddaway, 1972). Due to his work between 1959 and 1971, the Chronicle of Current Events started to cover the Orthodox struggle in December, 1968, and eventually the Evangelical-Baptist struggle in 1970.

Levitin (Krasnov) was arrested on September 12, 1970, after a search of his apartment, for violating R.S.F.S.R. Articles 142 and 190-1. In October, his case was transferred from the Moscow to the Krasnodar Procuracy where Levitin was held for one year during the preliminary investigation.

During this period, Levitin received support from Sakharov and the Moscow Human Rights Group. Thirty-two Soviet citizens including such political dissenters as Leonid Vasilev, Zinaida Gregorenko, Esenin-Valpin, Victor Krasin, Vadim Shavrov, and Pyotr Yakir signed a samizdat document "To Public Opinion In The Soviet Union and Abroad" in support of Levitin. The article

stated that Levitin "...was becoming more and more worried by problems of civil freedom since freedom is indivisible and there can be no religious freedom if basic human rights are being trampled upon. He was the first religious person in our country in the post-Stalin years to affirm this truth and to raise his voice in defense of civil rights and of those who have fallen victims in the fight for civil freedoms," (Reddaway, p. 325, 1972).

Petitions by both religious and political activists were also sent to the World Council of Churches.

In addition, members of the Democratic Movement have supported religious freedoms. Valery Chalidze petitioned the members of the Presidium of the Supreme Soviet on behalf of believers in Naro-Fominsk to register an Orthodox congregation, (Chalidze, 1974). Sakharov appealed to the World Council of Churches on behalf of Georgi Vins on September 11, 1974, as well as a similar appeal on October 22, 1974, to Amnesty International. This last appeal also had the support of G. Podyapolsky, S. Kovalyov, and I. Velikanova, (Vins, 1975). Additional support for a link between the Democratic Movement and religious dissent can be found in the Moscow Human Rights Groups support of a pardon for nine Jews sentenced in a Leningrad trial as well as Solzhenitsyn's "A Journey Along the Oka" and his correspondence with a Father Zheludkov, (Jancar, 1975).

CONCLUSION

It appears that in the issues of constitutionality, legality, freedom of conscience, and civil rights a link has been established with the Democratic Movement and, through samizdat literature, with interested members of the Soviet population.

The Democratic Movement, including religious dissent,

appears to be a result of increased structural and role differentiation within a command oriented society. This has resulted in dissent of two varieties. First, the demand for more autonomy in goal setting and decision-making from the scientific community. Second, the party's demand for a uniform belief system, value system, and citizenship has resulted in protests from creative intelligentsia, religious groups, and minorities, (Conner, 1975). While the belief system and citizenship are not directly related to functional differentiation, they are still parts of the command system. "A potentially critical quality of religious and national dissent is the fact that, in contrast to the dissent of the scientific-technical and creative intelligentsia, these contain the seeds of mass movements," (Conner, p. 149, 1975).

In defending a dissident within the Soviet legal system an adversary capacity, an advocate forces the government to reexamine its basic policies and "...in so doing are going beyond their assigned role of serving as organizers of technological progress...", (Tokes, p. 51, 1975). But the advocate also runs the risk of extrajudicial repression: expulsion from the College of Advocates, expulsion from the party, and the loss of security clearances if one violated ideology and protocol. However, if the advocate abides by protocol and ideology, a dissident trial can "... amount to virtual collusion with the prosecution in 'reeducating' the defendant and the praising of socialist justice," (Barghoorn, p. 67, 1975).

Some advocates, knowing the consequences of their actions,

have acted in an adversary manner in defending members of the Democratic Movement. While very few are known to have acted in this manner, the link has been made between noninstitutionalized groups (dissidents) and institutionalized elites (legal) in attempting to curtail state power. Their strategy has been to apply pressure on individual judges by revealing either a conflict between constitutional freedoms and the criminal code, or, to show no intent to harm the Soviet state. D. I. Kaminskaya was Galanskov's advocate in 1968 for his accused violation of Article 70 due to his inclusion of Sinyavsky's article "What is Socialist Realism?" in one of his collections. She argued that she could not defend Galanskov for his action since the conviction of Sinyavsky deprived her of the right to argue whether the article was "criminal". She asked the court for mercy since there had been no intent to harm the state. She now lives in Virginia, U.S.A. At the other extreme was Boris Zolotukhin, Ginzburg's advocate in the same trial. He refuted the procurator's case point by point and for the first time in many years called for an acquittal. Ginzburg was found guilty and Zolotukhin was expelled from the party and eventually expelled from the nation, (Barghoorn, 1975).

Starting about 1972, the Soviet government adopted new tactics in restraining the legal profession in dissent cases. First, they refused passes to defense attorneys in sensitive cases. Kaminskaya was unable to defend Bukovsky in 1972 and V. Ya Shveisky could not defend Amalrick in 1973 because of the sensitive nature of the case, (Barghoorn, 1975). Secondly, the

court discriminated against hearing defense witnesses whose testimony might prove the defendant innocent. In turn, defendants adopted a new tactic to counter the lifting of security clearances; self-defense is allowed under Soviet legal procedures. However, this was not effective due to the judge's attitudes which were shaped by party and press, and the long detention period during the preliminary investigation.

The defense and dissident strategy did have some successes as in the Levitin case. He had been transferred to the Krasnodar Provincial Court for trial in 1971. In a show of independence, the court dismissed the charges as being too vague. The Krasnodar Procurator appealed to the Supreme Court which upheld the Krasnodar Provincial Court. Levitin was freed. In May, 1971, he was again arrested and convicted on the same charges. He served three years and then emigrated.

While there have also been reports of investigators and even M.V.D. and K.G.B. personnel refusing to manipulate the legal system for a conviction, the legal profession has made little impact in terms of numbers of jurists taking a more active defense. This is due to the Soviet manipulation of clearances which effects career advantages, and the threat of expulsion from the profession and party. However, the impact on the population has been greater. Public trials, even though with restricted or "packed" audiences, have been reported in samizdat literature, foreign newspaper, and in Soviet papers in the form of letters from supporters. As long as the tactics of the legal elite in the defense of dissidents is not open confrontation, but an

attempt to force separate judges to decide if there is "intent" in an act, or a conflict between constitutional rights and the legal codes, the legal profession can aid dissidents in their demands for social change by pressing the court to recognize these demands.

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