

SOVIET STRAITJACKET PSYCHIATRY: NEW LEGISLATION TO END THE PSYCHIATRIC REIGN OF TERROR IN THE U.S.S.R.

I. INTRODUCTION

The systematic abuse of psychiatry for purposes of suppressing political dissent is one of the most horrifying results of the Kremlin's aversion to protest.¹ To Soviet² authorities, "sluggishly progressing schizophrenia" is a disease to be treated by psychiatry; to dissidents,³ it is a sham diagnosis given to anyone who takes exception to government policy.⁴ Untold numbers of healthy Soviet citizens have been placed in psychiatric hospitals against their will for peacefully exercising their human rights in ways not approved by Soviet officials and not for genuine medical reasons.⁵ Psychiatric confinement as a method of suppression is a multi-faceted tool in the hands of Soviet authorities.⁶ Psychiatric commitment makes it possible to avoid a full scale trial with all its attendant publicity, to confine patients for an indefinite period of time, to keep patients in strict isolation, to use powerful mind-numbing

1. *Patients' Rights: An End to Abuses?*, TIME, Jan. 18, 1988, at 33. Other forms of suppression include incarceration, denial of exit visas, expulsion from the Communist Party, loss of job, loss of housing, denial of educational opportunities, or even denial of medical treatment; see Country Reports Amnesty International, 1045-65 (1987) [hereinafter Country Reports]; see also A. SZYMANSKI, HUMAN RIGHTS IN THE SOVIET UNION 282-85 (1984).

2. The Soviet Union is dominated by the leadership of the Communist Party, a self-perpetuating elite which, with the assistance of a powerful secret police, attempts to control all avenues of political and ideological dissent. See Country Reports, *supra* note 1, at 1.

3. For purposes of this note, "dissident" shall mean any person who opposes the policies of the Communist Party of the Soviet Union. This definition is consistent with Amnesty International's definition of a "prisoner of conscience": men and women detained anywhere for their beliefs, color, sex, ethnic origin, language or religion, provided they have not used or advocated violence. See *Amnesty International Report 1983*, Amnesty Int'l Pub. No. Pol., Jan. 1, 1983, at 1 [emphasis added].

4. *Glasnost Comes to Psychiatric Asylums*, U.S. NEWS & WORLD REP., Jan. 18, 1988, at 13.

5. See *Review of Punitive Psychiatry Since January 1987*, An Amnesty International Briefing, AI Index Eur 46/12/88 [hereinafter *Amnesty International Report 1988*]. Information on the actual number of dissidents is very difficult to obtain. Soviet authorities rarely answer questions from abroad about specific prisoners. While it seems very likely that the number of dissidents now forcibly held in psychiatric hospitals is much higher, Amnesty International is working on behalf of 27 people it knows or suspects are "prisoners of conscience." *Id.*

6. See S. BLOCH & P. REDDAWAY, PSYCHIATRIC TERROR: HOW SOVIET PSYCHIATRY IS USED TO SUPPRESS DISSENT 32 (1977) [hereinafter S. BLOCH & P. REDDAWAY, PSYCHIATRIC TERROR]; see also S. BLOCH & P. REDDAWAY, SOVIET PSYCHIATRIC ABUSE: THE SHADOW OVER WORLD PSYCHIATRY 34 (1984) [hereinafter S. BLOCH & P. REDDAWAY, PSYCHIATRIC ABUSE]; see generally SZYMANSKI, *supra* note 1, at 267-94.

drugs to keep patients under control, to "reeducate"⁷ the patient, and to demand "recantation."⁸ This method deprives the patient of the few civil rights enjoyed as a prisoner.⁹ It also provides a basis for discrediting the ideas and actions of the "crazy" patient, thus discouraging outside appeals for the patient's release.¹⁰

Except for Mikhail Gorbachev's new policy of *glasnost*,¹¹ this method of repression may have continued in its veil of secrecy.¹² As *glasnost* has spread throughout Soviet society, incidents of arbitrary psychiatric confinement have been revealed.¹³ The Soviet press has released stories of abuse, corruption, and incompetence within the psychiatric establishment.¹⁴ Such horror stories include the account of a woman who spent four years in a psychiatric hospital after complaining to Communist Party officials about the treatment she received for cancer. Her story was revealed in an article called "Defenseless," published in *Izvestiya*, the newspaper

7. "Reeducation of the patient entails presenting to him values and standards of behavior that are considered realistic and socially valuable." See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 43 (quoting Liefer, *The Medical Model as Ideology*, 9 INT'L J. PSYCHIATRY 13-21 (1970)).

8. See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 32. Release requires "recantation," or telling the doctors that you have reappraised your previous unhealthy convictions. See V. BUKOVSKY & S. GLUZMAN, *A MANUAL ON PSYCHIATRY FOR DISSIDENTS* (1974), reprinted in S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, appendix VI, at 438. The goal of required recantation is to "break" the dissenter. Crush his ideals and you crush his movement. S. BLOCH & P. REDDAWAY, *PSYCHIATRIC ABUSE*, *supra* note 6, at 28. Bloch and Reddaway describe the dissidents' steadfast determination not to recant, "imbued with idealism and dedicated to their convictions . . ." They see recantation as tantamount to self-abrogation, to spiritual death, moral suicide. . . . *Id.*

9. See V. BUKOVSKY & S. GLUZMAN, *supra* note 8, at 419.

10. See *id.*

11. *Glasnost* is an extremely difficult if not impossible word to translate into English. In recent Western literature it has most often been translated as "'openness,' or more specifically, the public discussion of the need for reform. . . ." Arzt, *Due Process in the Appeal of Soviet Immigration Refusals*, 1 TOURO J. TRANSNAT'L L. 57, 57 (1988).

12. See *Amnesty International Report 1988*, *supra* note 5, at 3. The veil of secrecy surrounding psychiatric abuse began slowly to be uncovered in the late 1970's and early 1980's when human rights activists began publishing accounts of psychiatric mistreatment in the U.S.S.R. (authors include Soviet dissidents, Vladimir Bukovsky, Alexander Podrinek, Seymour Gluzman, and Westerners, Sidney Bloch, Peter Reddaway and Alan Stone). The first official condemnation of political abuse in the U.S.S.R. came on August 30, 1977, when the World Psychiatric Association adopted a resolution "against the systematic abuse of psychiatry in the U.S.S.R." *World Psychiatrists Vote to Censure Soviet 'Abuse'*; *Moscow Charges Slander*, N.Y. Times, Sept. 2, 1977, at A6, col. 1.

13. Willey, Strasser & Shabad, *Glasnost Over the Cuckoo's Nest*, NEWSWEEK, Jan. 18, 1988, at 49.

14. *Patients' Rights: An End to Abuses?*, *supra* note 1; see *Amnesty International Report 1988*, *supra* note 5, at 3.

of the Presidium of the U.S.S.R. Supreme Soviet.¹⁵ As the outcries of family and friends of similar victims caused sharp criticism to be launched from within the Soviet Union and abroad, the Kremlin finally responded in the spirit of *glasnost* in January 1988 by instituting reform measures aimed at ending psychiatric abuse.¹⁶ These measures include the introduction of new regulations on psychiatric confinement enabling patients and their relatives to appeal diagnoses and involuntary hospitalization through the courts,¹⁷ along with an order requiring special psychiatric hospitals to be removed from the jurisdiction of the Ministry of Internal Affairs to the jurisdiction of the Ministry of Health.¹⁸ Reform measures also impose criminal penalties on "anyone who willfully confines a mentally healthy person in a psychiatric hospital."¹⁹

Part II of this note will briefly develop the history of psychiatric abuse in the Soviet Union.²⁰ A discussion of the Soviet theory of dissent will be essayed for its role in encouraging psychiatric abuse for purposes of political repression.²¹ Part III will provide a thorough analysis of the two legal procedures for psychiatric confinement, along with an analysis of legal reforms implemented under Gorbachev.²² The question of whether political prisoners will find salvation in these reform measures will be addressed in the conclusion.²³

II. DEVELOPMENT OF THE ABUSE OF PSYCHIATRY FOR POLITICAL REPRESSION

A. History

The abuse of psychiatry for political purposes in the U.S.S.R.

15. See *Amnesty International Report 1988*, *supra* note 5, at 3 (citing *Izvestiya*, July 11, 1987).

16. See *id.* But see Willey, Strassar & Shabad, *supra* note 13, at 49. Soviet human rights monitors share the skepticism of Anatoly Koryagin, a Soviet psychiatrist who spent six years in a labor camp for documenting his country's psychiatric malpractices and who charged that reform measures are only a "political maneuver." Kremlin revisionists want the West to believe that "there was no [psychiatric] repression in the Soviet Union only isolated, haphazard abuses." *Id.*

17. See *Amnesty International Report 1988*, *supra* note 5, at 4-7.

18. *Id.*

19. *Id.*

20. See *infra* notes 24-42 and accompanying text.

21. See *infra* notes 43-81 and accompanying text.

22. See *infra* notes 82-147 and accompanying text.

23. See *infra* notes 148-151 and accompanying text.

has a long and complex history.²⁴ Throughout the reign of Stalin, there was no need to cover up political repression.²⁵ The need to destroy the enemies of socialism who did not surrender and repent was assumed in the era of the great purges.²⁶ Corruption and the use of terror made it impossible for victims to resist by appealing to the law.²⁷ Salvation was afforded only those political prisoners lucky enough to be declared insane and sent to a psychiatric asylum rather than a labor camp.²⁸ Unlike prisoners,²⁹ psychiatric patients were fed and were not subject to compulsory labor or treatment.³⁰

The tide changed during the Khrushchev regime and the Soviet Union would no longer boast about political repression.³¹ Khrushchev, eager to cleanse the tarnished image of the Soviet Union, began releasing political prisoners in an attempt to convey to his country and the world that the Stalin atrocities had ceased.³² The new administration tolerated a limited amount of discussion until rising criticism from young people claiming that the Soviet socialist system was a perversion of Marxism made continued repression seem necessary.³³ Government organs armed themselves with psychiatric methods of persecution.³⁴ At first, psychiatrists still believed they were saving dissenters and did not hesitate to confine a person based on orders from the KGB.³⁵ But eventually, intensive

24. V. Bukovsky, Remarks to the American Psychiatric Association, Toronto (May 3, 1977), in 29 A CHRONICLE OF HUMAN RIGHTS IN THE U.S.S.R. 51-59 (1977).

25. *Id.* at 51.

26. *Id.*

27. *Id.*

28. *Id.* During the Stalin era psychiatric hospitals were regarded as "oases of humanism" by prisoners in political camps. Films, plays and concerts were permitted in some hospitals. See Glusarov, *It Was Better Under Stalin*, in THE SILENT ASYLUM (A. Podrabinek & V. Nekopilov eds.), reprinted in H. FIRESIDE, SOVIET PSYCHOPRISONS, app. IV, at 155 (1979).

29. For purposes of this note "prisoner" will be used to refer to persons held in labor camps, or actual prison facilities, as distinguished from "patients" which will be used throughout to refer to persons interned in psychiatric hospitals, whether or not they are held legitimately.

30. V. Bukovsky, *supra* note 24, at 51.

31. *Id.*

32. *Id.* See generally J. RUBENSTEIN, SOVIET DISSIDENTS: THEIR STRUGGLE FOR HUMAN RIGHTS 1-30 (1980). "From 1954-59, between seven and eight million people returned from labor camps, prisons and Siberian exile, with stories of torture, and slave labor." *Id.* at 22.

33. See V. Bukovsky, *supra* note 24, at 52.

34. *Id.* at 53.

35. KGB is the "[a]bbreviation for Komitet Gosudarstvennoi Bezopasnosti, the Committee for State Security of the USSR, the secret police agency charged with preserving state power and maintaining surveillance over the Soviet population." B. McCREA, J. PLANO & G. KLEIN, THE SOVIET AND EASTERN EUROPEAN POLITICAL DICTIONARY 288 (1984).

psychiatric treatment, which included the administration of drugs and injections, was introduced to punish those who refused to repent.³⁶

By the late 1960s, a well established methodology of psychiatric repression had evolved as a result of a cooperative effort between the KGB and "core" psychiatrists.³⁷ KGB officials provided the ideological direction giving orders that "opponents of the Soviet regime"³⁸ be declared insane, and their psychiatric counterparts worked out an entire system, complete with a diagnostic basis, to carry out those orders.³⁹ By 1970, the practice evolved so that political prisoners were sent to psychiatric hospitals just before the end of their camp sentence to allow the authorities to extend their sentences indefinitely.⁴⁰ By 1980, psychiatric hospitals were charged with such abuses as indefinite confinement, repentance as a prerequisite to release, stripping of all legal rights, torture through the use of mind-numbing drugs and constant blackmail through the threat of reconfinement following release.⁴¹ In 1983 the Soviet Union withdrew from the World Psychiatric Association when confronted with extensive evidence of abuses against dissidents.⁴²

B. Definition of Political Dissidents

The Soviet Constitution and legal codes guarantee the right to express an opinion publicly, through speech, publication and other peaceful means.⁴³ The range of opinions that can be publicly expressed in the Soviet Union, however, is strictly limited.⁴⁴ Like all of the freedoms guaranteed by the Soviet Constitution, the right to speak freely is generally limited by the obligation of Article 39, which states that "Soviet citizens may not exercise their rights to

36. See V. Bukovsky, *supra* note 24, at 52.

37. A "core" psychiatrist is a phrase coined by authors Bloch and Reddaway in reference to a group of Party members who hold positions in the top echelons of psychiatry and who the authors charge are "pivotal participants" in psychiatric abuse. See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC ABUSE*, *supra* note 6, at 35-37.

38. See *id.*

39. See *id.* at 37-39.

40. See V. Bukovsky, *supra* note 24, at 56.

41. See *id.* at 57.

42. *Id.*

43. See KONST. SSSR arts. 48 & 49, reprinted in *THE SOVIET CODES OF LAW 1-53* (W. Simons ed. 1980).

44. See A. SZYMANSKI, *supra* note 1, at 271.

the detriment of the interests of society or the state.”⁴⁵ Article 50, which guarantees freedom of expression in various forms, is specifically limited by its preface, which states that such rights are guaranteed “in accordance with the goals of communist construction.”⁴⁶

Thus, there exist in the Soviet Union, settled fundamental issues, which are the basis of socialist society. These issues may not be publicly challenged, because any challenge would hinder the development of socialism. They include: socialism as a system and communism as an ideal; challenges to the leading role of the communist party in Soviet society or its fundamental integrity; and the existence of the military as necessary to defend Soviet society.⁴⁷

The range of expression tolerated in the Soviet Union also varies according to the audience.⁴⁸ The widest range of tolerance is afforded to the specialized press in the publication of specialized journals, which are read only by a few relevant specialists even though they are available to the general public. The narrowest range of tolerance is afforded to the media whose reports reach the general public⁴⁹ and, more consequentially, the West.⁵⁰ The Soviet theory is that a monolithic image should be conveyed to maximize the appearance of strength and minimize any external dangers whenever the country is threatened by foreign enemies.⁵¹

Two articles of the RSFSR Criminal Code illustrate the Soviet idea of speech that undermines the basic assumptions of Soviet society.⁵² Political dissidents are most often charged for violations of these two articles.⁵³ Article 70 of the RSFSR Criminal Code criminalizes activity carried out with the purpose of “subverting or weakening Soviet authority.”⁵⁴ Article 190-1 is less severe and criminalizes activity that deliberately spreads “anti-Soviet falsehoods.”⁵⁵ Articles 70 and 190-1 read as follows:

45. See KONST. SSSR art. 39, reprinted in THE SOVIET CODES OF LAW 1-53 (W. Simons ed. 1980).

46. See *id.* art 50.

47. A. SZYMANSKI, *supra* note 1, at 271.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. See Ved. Verkh. Sov. SSSR arts. 70 & 190-1, reprinted in THE SOVIET CODES OF LAW 53-157 (W. Simons ed. 1980).

53. See S. BLOCH & P. REDDAWAY, PSYCHIATRIC TERROR, *supra* note 6, at 102; see also S. BLOCH & P. REDDAWAY, PSYCHIATRIC ABUSE, *supra* note 6, at 22.

54. See Ved. Verkh. Sov. SSSR art. 70, reprinted in THE SOVIET CODES OF LAW 53-157 (W. Simons ed. 1980).

55. See *id.* art. 190-1.

Article 70. "Anti-Soviet Agitation and Propaganda":

Agitation or propaganda carried on for the purpose of subverting or *weakening* the Soviet regime [*vlast'*] or of committing particularly dangerous crimes against the state, or of circulation, for the same purpose of slanderous *fabrications* which *defame* the Soviet state and social system, or the circulation or preparation or keeping, for the same purpose, of works, of such content in written, printed, or other form, shall be punished by deprivation of freedom for a term of six months to seven years, with or without additional exile for a term of two to five years, or by exile for a term of two to five years. The same actions, if committed with the use of funds, or other means of material value received from foreign organizations or from persons acting in the interests of such organizations, or by a person previously convicted of especially dangerous crimes against the state or committed in wartime shall be punished by deprivation of freedom for a term of three to ten years, with or without additional exile for a term of two to five years.⁵⁶

Article 190-1. Circulation of Fabrications Known to be False which Defame the Soviet State and Social System:

The systematic dissemination in oral form of *deliberate fabrications* which discredit the Soviet political and social systems, or the manufacture or dissemination in written, printed, or other form of works of such content, shall be punishable by deprivation of freedom for a period of up to one year or by fine of up to 100 rubles.⁵⁷

Articles 70 and 190-1 provide legal basis for punishing political dissidents in accordance with Article 3 of the Criminal Code which states: "no person shall be punished unless they have committed a crime in law."⁵⁸ Article 70 criminalizes both the circulation and possession of literature containing statements defamatory to the Soviet political or social system, and carries a sentence of up to seven years imprisonment plus five years of exile.⁵⁹ Article 70 is contained in Chapter One of the Code, which deals with crimes against the State authority or *vlast'*.⁶⁰ To be convicted under Article 70, a subjective anti-Soviet intent is "theoretically" required.⁶¹ According to one Soviet commentator, "a person is guilty of violat-

56. *Id.* art. 70.

57. *Id.* art. 190-1.

58. *Id.* art. 3.

59. *Id.* art. 70.

60. *Id.*

61. *Id.*

ing Article 70 only if he knows or foresees that his actions can produce in others a hostile attitude toward the Soviet authority or instigate them to commit particular especially dangerous crimes against the state and he desires such from his acts."⁶² The statute's failure to define what is meant by "anti-Soviet" has allowed dissidents to be charged and sentenced under this article for simply making derogatory remarks concerning the Soviet Union.⁶³

Article 190-1 also makes it a punishable offense to circulate statements defamatory to the Soviet state.⁶⁴ Article 190-1 is less severe carrying a sentence of three years of deprivation of freedom for first offenders.⁶⁵ Article 190-1 does not require that articles be circulated with an "anti-Soviet" intent, but does require that the violator know that the articles circulated are false.⁶⁶

It appears that the argument that the accused believed the defamatory statements to be true is a complete defense to charges under either article.⁶⁷ In practice, however, the assertion of truth as a defense is completely ineffective and is likely to result in a psychiatric commitment, since "Soviet courts refuse to admit that any sane Soviet citizen honestly can make a statement attacking the Soviet political or social system."⁶⁸

C. Dissidents Categorized as Schizophrenics

The use of psychiatry as a punitive measure in the Soviet Union is based on a deliberate interpretation of dissent as a theoretical symptom of mental illness.⁶⁹ According to Soviet theory, no social basis exists for deviance.⁷⁰ Crime resulting from social stresses is a phenomenon resulting from capitalism.⁷¹ "Dissidents and law breakers are either mentally ill or under Western influence,"⁷² and any unlawful act, precisely by virtue of its being un-

62. See H. BERMAN, SOVIET CRIMINAL LAW AND PROCEDURE 81 (1972) (citing Shargorodskii and Belaiev, *Kommentarii Kugolovnomu Kodeksa RSFSR*, 153 annotation 10 (Leningrad, 1962)).

63. See *id.*

64. Ved. Verkh. Sov. SSSR art. 190-1, reprinted in THE SOVIET CODES OF LAW 53-157 (W. Simons ed. 1980).

65. *Id.*

66. *Id.*

67. See H. BERMAN, *supra* note 62, at 83.

68. *Id.*

69. See S. BLOCH & P. REDDAWAY, PSYCHIATRIC TERROR, *supra* note 6, at 34-74; see also A. PODRABINEK, PUNATIVE MEDICINE 5 (1988).

70. See V. NEKIDELOV, INSTITUTE OF FOOLS xiii (1980).

71. *Id.*

72. *Id.*

lawful, calls for psychiatric analysis.⁷³ Thus, declaring persons who disagree with particular aspects of the Soviet government "non-responsible" is in keeping with the underlying theory of socialism.⁷⁴ For this purpose, political dissidents have almost invariably been classified as "sluggish schizophrenics."⁷⁵

According to the Soviet conception, schizophrenia has three forms. "Continuous schizophrenia" is characterized at first by subtle personality changes: withdrawal, apathy, diminished interest and the more severe symptoms that later develop, including delusions and hallucinations.⁷⁶ Continuous schizophrenia has two sub-categories, which may be distinguished by the rate at which the disease progresses.⁷⁷ Sluggish schizophrenia, the category most often applied to political dissidents, progresses slowly.⁷⁸ Patients often retain the ability to function normally in society while simultaneously exhibiting signs of mental disease.⁷⁹ The most frequently used phrases in diagnosing "sluggish schizophrenia" include "paranoid reformist delusional ideas, paranoid delusions of reforming society or reorganization of the state apparatus, uncritical attitude towards abnormal condition, opinions having moralizing character, over-inflation of his capabilities, [and] poor adaptation to the social environment."⁸⁰ Not surprisingly, these phrases transform easily into the character traits of political dissidents.⁸¹

73. *Id.*

74. KONST. SSSR art. 11, reprinted in *THE SOVIET CODES OF LAW 1-53* (W. Simons ed. 1980).

A person shall not be held criminally responsible who at the time of committing a socially dangerous act was in a state of non-immutability, [non-responsibility], that is cannot realize the significance of his actions or control them because of a chronic mental illness, temporary mental derangement, mental deficiency, or other condition of illness. . . . Compulsory measures of a medical character may be applied to such a person by order of the court, but upon recovery he may be subject to punishment.

Id.

75. See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC ABUSE*, *supra* note 6, at 40.

76. For a brief discussion of the Soviet approach to schizophrenia, see A. SZYMANSKI, *supra* note 1, at 282. For a lengthier, more thorough discussion, see S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, 246-48.

77. See A. SZYMANSKI, *supra* note 1, at 282; see also S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 246.

78. See A. SZYMANSKI, *supra* note 1, at 282; see also, S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 246-48.

79. See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 246.

80. See *id.* at 251.

81. See *id.* One example of a case report on a dissident's mental condition states "He expresses with enthusiasm and great feeling reformist ideas concerning the teaching of the Marxist classics, revealing in the process a clear over-estimation of himself and an unshak-

III. PROCEDURES FOR PSYCHIATRIC CONFINEMENT

There are two procedural systems used in the Soviet Union to commit individuals to psychiatric hospitals against their will, one is civil and the other is criminal.⁸² Each of these systems has been used as a means of imposing compulsory confinement or political dissidents.⁸³ Each allows psychiatric confinement to be extended indefinitely.⁸⁴

A. *The Criminal Commitment Procedure*

The criminal procedure for compulsory confinement is initiated against persons who have committed a crime and whose mental health has been called into question.⁸⁵ This procedure is governed by the Code of Criminal Procedure of the Union Republic of the U.S.S.R.⁸⁶ The criminal investigator first determines whether an accused should undergo psychiatric examination.⁸⁷ The accused is then examined by a commission of three psychiatrists, who determine whether the accused is insane and thus "not accountable" for the crime charged.⁸⁸ Psychiatric examination can last from several weeks to several months.⁸⁹ Compulsory commitment requires the recommendation of the commission.⁹⁰ When necessary, the law permits a second supplementary examination; if there is a difference of opinion between the two commissions, the criminal investigator decides which opinion to accept.⁹¹

If the commission finds that the accused is "not accountable" for the offense charged, the accused loses the right to a trial.⁹² Instead of a trial, there is a hearing at which the court decides three questions: whether the individual has committed a socially "dan-

able conviction of his own rightness." *Id.* (citing Report No. 35/s., AS574).

82. *See id.* at 97. *See, e.g., Political Abuse of Psychiatry in the USSR, An Amnesty International Briefing* (1983) 5, AI Index: Eur 46/01/83 [hereinafter *Amnesty International Report* 1983].

83. *See Amnesty International Report 1983, supra* note 82.

84. *See id.* at 5-6.

85. *See Proceedings for the Application of Compulsory Measure of a Medical Character, Codes of Criminal Procedure of the RSFSR arts. 403-13, reprinted in 23 THE SOVIET CODES OF LAW* 312-16 (W. Simons ed. 1980).

86. *Id.*

87. *Id.* art. 404.

88. *Id.* art. 404(5).

89. *See id.* art. 133 (the period for a preliminary investigation is two months, subject to continuations that can last up to nine months).

90. *Id.* art. 408.

91. *Id.* art. 409(5).

92. *Id.* art. 408.

gerous" action, whether to accept the commission's finding on "accountability," and whether to accept the commission's recommendation as to what medical measures should apply.⁹³ The findings and recommendations for treatment made by the forensic psychiatric commission are almost always accepted by the courts.⁹⁴

Under the criminal commitment procedure the accused is stripped of virtually all of his procedural rights.⁹⁵ The accused has no right to know that a psychiatric examination is being conducted, nor to be told of its findings or recommendations.⁹⁶ The accused also loses the right to be told of any new charges against him,⁹⁷ the results of the criminal investigation,⁹⁸ or to be shown the evidence against him.⁹⁹ The accused loses the right to be heard or to appear at the court hearing.¹⁰⁰ The accused has no right to have visitors.¹⁰¹ "Normally dissenters undergoing psychiatric examination have no visits by their families until after the cases have been heard in court, usually between 6 to 12 months after the arrest."¹⁰² The dissenter's family and friends are also denied access to the trial by the police who are often used to pack the court or occasionally by an official statement that the trial is closed.¹⁰³

93. *Id.* art. 409.

94. See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 104.

95. See *Amnesty International Report 1983*, *supra* note 82, at 6.

96. See Codes of Criminal Procedure of the RSFSR art. 184, *reprinted in* 23 *THE SOVIET CODES OF LAW 312-16* (W. Simons ed. 1980). "The decree to assign a forensic psychiatric expert examination and the opinion of the experts shall not be denounced to the accused if his mental state makes this impossible." *Id.* (emphasis added).

97. See *id.* arts. 403-13 (this right is not contained in these articles). Compare *id.* art. 154 (which grants to an accused, whose mental health has not been called into question, the right to be informed of any new charges against him that emerge during the preliminary investigation) with *id.* arts. 403-13.

98. See *id.* arts. 403-13 (this right is not contained in these articles). Compare *id.* art. 200 (which grants an accused, whose mental health is not questioned, the right to be informed of the results of the preliminary investigation, i.e., whether there is sufficient evidence to try the defendant) with *id.* arts. 403-13.

99. See *id.* arts. 403-13 (this right is not contained in these articles). Compare *id.* art. 201 (which grants an accused, whose mental health is not questioned, the right to examine, with or without the aid of defense counsel, all the evidence against him prior to trial) with *id.* arts. 403-13.

100. *Id.* art. 407. "The people's judge or the chairman of the court shall have the right to order the person against whom the case is being considered to be summoned to the judicial session if the character of the illness does not prevent this." *Id.* (emphasis added) "In very few cases have political dissidents been allowed to attend the hearing which ruled on whether or not they were accountable." *Amnesty International Report 1983*, *supra* note 82, at 6.

101. See *Amnesty International Report 1983*, *supra* note 82, at 6.

102. *Id.*

103. See S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 103.

The sole procedural safeguard afforded an accused person whose mental health is questioned is an empty promise. According to the criminal code, the presence of defense counsel is "obligatory" at court hearings.¹⁰⁴ Beyond the fact that this provision is often violated and prisoners are often denied access to their lawyers,¹⁰⁵ is the fact that, in cases involving political crimes, including violations of Article 70, defendants may choose only attorneys who have *dopusk*,¹⁰⁶ or permission granted by the party to represent them.¹⁰⁷ In many instances political prisoners do not trust attorneys having *dopusk*; their right to counsel becomes meaningless.¹⁰⁸ Furthermore, political dissidents may not, even if they prefer, represent themselves since the court considers them "crazy" and unable to conduct their own defense.¹⁰⁹

As a prerequisite to release, an accused must show that he is not "socially dangerous."¹¹⁰ "In hundreds of cases of forcible confinement of dissenters to psychiatric hospitals there has been no suggestion, even by authorities, that the subjects were physically violent or dangerous to themselves or others."¹¹¹ The Criminal Code's failure to define "socially dangerous" has allowed the courts to interpret this phrase very broadly to mean "capable of harming the social system as a whole," rather than more narrowly as capable of endangering one's "own health or the health of others."¹¹² Thus, the expression of contrary opinion is equated with a "socially dangerous" act.¹¹³

When determining what medical measures should be taken the court "theoretically" has three alternatives: it may order the accused be put in the care of a guardian, be confined for an indefinite period to an "ordinary" psychiatric hospital, or be confined indefinitely to a "special" psychiatric hospital.¹¹⁴ The court is extremely unlikely to allow a person to remain at home under psychiatric supervision, and is left with only two options: compulsory confine-

104. See Codes of Criminal Procedure of the RSFSR art. 405, *reprinted in* 23 THE SOVIET CODES OF LAW 312-16 (W. Simons ed. 1980).

105. See *Amnesty International Report 1983*, *supra* note 82.

106. See T. TAYLOR, COURTS OF TERROR 38 (1976)

107. See *id.*

108. See *id.*

109. See Codes of Criminal Procedure of the RSFSR art. 405, *reprinted in* 23 THE SOVIET CODES OF LAW 312-16 (W. Simons ed. 1980).

110. *Id.* art. 409(1).

111. See *Amnesty International Report 1983*, *supra* note 82, at 7.

112. *Id.* (citing Koryagen, *Unwilling Patients*, LANCET (April 1981)).

113. *Id.*

114. See *Amnesty International Report 1983*, *supra* note 82, at 6.

ment in an ordinary psychiatric hospital or compulsory confinement in a special psychiatric hospital.¹¹⁵ Ordinary psychiatric hospitals are intended for persons who have not committed especially dangerous crimes.¹¹⁶ Special psychiatric hospitals are designated for people who "represent a special danger to society."¹¹⁷ Described as "the worst of contemporary dungeons," special psychiatric hospitals are essentially prison-like institutions.¹¹⁸ They house murderers, rapists and other violent offenders who have been found "not responsible";¹¹⁹ they also house political dissidents.

B. *The Civil Commitment Procedure*

In January 1988, the Presidium of the U.S.S.R. Supreme Soviet ratified a new statute on *The Conditions and Procedures for Providing Psychiatric Care*.¹²⁰ This statute is intended to replace the old method for civil commitment articulated in a directive called *On Emergency Confinement of Mentally Ill Persons Who Represent a Social Danger*.¹²¹ The purpose of the new statute is to "provide guarantees against errors and malpractice" in psychiatry.¹²²

The new statute sets forth a procedure for urgent hospitalization that allows mentally ill persons to be confined to a mental hospital without their permission or that of their family if it is determined that they are an "immediate danger" to themselves or others.¹²³ The statute authorizes the police to assist medical per-

115. *Id.* In no political case known to Amnesty International has a court allowed a patient to remain at home. *See id.*

116. *Id.* *See* S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 186-219 for a lengthier discussion of Ordinary Psychiatric Hospitals (OPHs).

117. *See* *Amnesty International Report 1983*, *supra* note 82, at 6; *see also* S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 186-219, for a more complete discussion of Special Psychiatric Hospitals (SPHs). "Most of the better known dissenters have been dealt with under the provisions of the criminal commitment procedure, by far the majority of these men and women have been treated in an SPH." S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 186

118. *See* S. BLOCH & P. REDDAWAY, *PSYCHIATRIC TERROR*, *supra* note 6, at 191.

119. *See id.*

120. Statute on Conditions and Procedures for the Provision of Psychiatric Assistance, *reprinted in New Law Broadens Mental Patients Rights*, XL CURRENT DIG. SOVIET PRESS 11-13 (1988) (No. 6).

121. *See* *Amnesty International Report 1988*, *supra* note 5, at 4.

122. Telegraphic Agency of the Soviet Union (TASS) report issued on January 4, 1988, in Moscow.

123. *See* Civil Commitment Code art. 16, *reprinted in New Law Broadens Mental Patients Rights*, XL CURRENT DIG. SOVIET PRESS 11-13 (1988) (No. 6).

sonnel in cases of resistance.¹²⁴ To protect against arbitrary confinement the statute requires that patients forcibly confined by way of urgent hospitalization be reexamined by a commission of at least three psychiatrists within twenty-four hours of detention.¹²⁵ If the commission deems it necessary to continue confinement for mandatory treatment, the commission must send a report within twenty-four hours of the examination stating their findings to the chief psychiatrist of the locality in which the patient is detained and to the patient's family.¹²⁶ The statute also requires a medical commission to review cases of compulsory confinement once a month to determine whether treatment should be terminated or continued.¹²⁷ Additionally, the new directive calls for cases of "extended confinement" to be reviewed every six months by the chief psychiatrist.¹²⁸

Though these provisions would appear to adequately protect against wrongful confinement, almost identical provisions appeared in the old directive and were simply ignored in cases involving political dissent.¹²⁹ Dissidents picked up on the street or at their place of work simply disappeared into mental institutions without being examined by a psychiatrist.¹³⁰ Families were not notified of the dissidents whereabouts within twenty-four hours.¹³¹ In many instances dissidents were not reexamined within twenty-four hours, and in some instances dissidents were detained for months without being reexamined.¹³² Furthermore, although the new statute seems to provide added protection against arbitrary confinement by requiring the chief psychiatrists of each locality to examine cases of "extended confinement" every six months, the statute's failure to define "extended confinement" makes this provision useless as a mechanism for challenging institutional abuses.¹³³

124. *Id.* art. 17.

125. *Id.* art. 18.

126. *Id.*

127. *Id.* art. 21.

128. See Statute on Conditions and Procedures for the Provision of Psychiatric Assistance art. 21, reprinted in *New Law Broadens Mental Patients Rights*, XL CURRENT DIG. SOVIET PRESS 11-13 (1988) (No. 6).

129. See *Amnesty International Report 1983*, supra note 82, at 5.

130. *Id.*

131. *Id.*

132. *Id.*

133. See Statute on Conditions and Procedures for the Provision of Psychiatric Assistance art. 21, reprinted in *New Law Broadens Mental Patients Rights*, XL CURRENT DIG. SOVIET PRESS 11-13 (1988) (No. 6).

Apart from the weaknesses mentioned above, the new statute does appear to add some procedural safeguards. While the old directive gave no role to the courts or any other adjudicatory agency, the new statute gives patients the explicit right to appeal, which includes the right to retain counsel.¹³⁴ This process allows individuals undergoing compulsory confinement, and their relatives or lawyer, to appeal the initial diagnosis to the chief psychiatrist in the Department of Health, which administers the hospitals, and to ask for a commission to be established to render a second opinion.¹³⁵ Patients are allowed to have a psychiatrist of their choosing take part in the commission, which cannot include the psychiatrist who made the original diagnosis.¹³⁶ If their appeal of the original diagnosis fails, they may contest the actions of the chief psychiatrist to his or her superiors, or alternatively bring the case to court.¹³⁷

According to the new law, only psychiatrists may make initial diagnoses and, in doing so, they must officially disclose their identity to the person under examination.¹³⁸ The psychiatrist must be guided only by the law and medical criteria, and must be independent of other influences.¹³⁹ Except in "emergencies," the compulsory confinement or examination of individuals may take place only when they have been authorized by the chief psychiatrist.¹⁴⁰ Unlike its predecessor, the new directive has the status of law and carries criminal penalties for those who violate it.¹⁴¹

Furthermore, the statute requires the U.S.S.R. Ministry of Public Health to establish new rules for conducting initial examinations and determining the meaning of "dangerousness," which determines whether a person shall undergo compulsory confinement.¹⁴² The statute further requires that the new rules be pub-

134. *Id.* art. 11.

135. *Id.*

136. *Id.*

137. See Statute on Conditions and Procedures for the Provision of Psychiatric Assistance art. 27, reprinted in *New Law Broadens Mental Patients Rights*, XL CURRENT DIG. SOVIET PRESS 11-13 (1988) (No. 6).

138. *Id.* art. 8.

139. *Id.* art. 4.

140. *Id.* arts. 9 & 15.

141. *Id.* arts. 2 & 27.

142. *Id.* art. 26. See *Officials Say Mental Patients' New Rights Will Deter Abuses; 'Immediate Danger' is Criterion for Involuntary Commitment; Experiment in Some Areas Will Remove Many Patients from Registers*, XL CURRENT DIG. SOVIET PRESS 13-15 (1988) (No. 6, originally printed in *Izvestia*, Jan. 15, 1988, at 6) [hereinafter *Official Comments*]. The Ministry of Health is now working on a set of instructions for determining when a

lished and made available for public examination.¹⁴³

The new law divests the Ministry of Internal Affairs of the responsibility for the administration of special psychiatric hospitals and vests it with the Ministry of Health.¹⁴⁴ It also introduces three new types of supervision: ordinary, intensified, and strict.¹⁴⁵ Finally, the new law abolishes the highly criticized system of recall,¹⁴⁶ which registered every person released from a psychiatric hospital with the local psychoneurological dispensary to facilitate recall for reexamination and confinement.¹⁴⁷ This system was criticized because it facilitated the repeated wrongful confinement of dissidents.¹⁴⁸ Two million names have reportedly been removed from such registers all over the Soviet Union.¹⁴⁹

IV. NEW DEFINITION OF "ANTI-STATE SPEECH"

Despite repeated assurances by Soviet officials that crimes such as "anti-Soviet agitation and propaganda" and "the dissemination of knowingly false fabrication that defames the Soviet state and Social system" will be excluded from the criminal codes of the Soviet republics, to date they have not been.¹⁵⁰ However, the abolition of those crimes by the republics appears imminent due to a new decree of the Supreme Soviet that redefines "anti-state" crimes.¹⁵¹ The decree, promulgated by the Presidium on April 8,

person presents an "immediate danger" to himself or those around him and may be involuntarily committed. A draft of the instructions is to be published in *Neuropathology and Psychiatry* for discussion. The final version will be published in *The Medical Gazette*, so that everyone can become familiar with it. *Id.*

143. *See id.*

144. Statute on Conditions and Procedures for the Provision of Psychiatric Assistance art. 22, reprinted in *New Law Broadens Mental Patients Rights*, XLI CURRENT DIG. SOVIET PRESS 11-13 (1988) (No. 6).

145. *Id.*

146. *See id.* arts. 1-28 for the absence of any provision requiring patients released from a psychiatric institution to register at the local psychoneurological dispensary.

147. *See Amnesty International Report 1988*, *supra* note 5, at 5.

148. *See Amnesty International Report 1983*, *supra* note 82, at 6.

149. *See Amnesty International Report 1988*, *supra* note 5, at 5; *see also Official Comments*, *supra* note 142, at 14.

150. *See* U.S. Helsinki Watch, *List of Statements Made on Human Rights by Soviet Officials That Have Not Yet Been Fully Implemented*, Nov. 3, 1988 Update, which states "[t]he Criminal Code of the RSFSR is being completely revised and redrafted, tentative ratification date, May 1989. Art. 190-1 will be abolished. Art. 70 is to be redrafted so that offenses covered by it are more specifically defined. New versions of Art. 70 will reportedly only deal with violent attempts to overthrow the state; it will not restrict oral and written statements and freedom of assembly." *Id.*

151. *See Is New Law on State Crimes Still Flawed?* XLI CURRENT DIG. SOVIET PRESS 11 (1989) (No. 15), reprinted Decree of the Presidium of the USSR Supreme Soviet: On

1989, significantly changes the fundamental Soviet laws after which the notorious Articles 70 and 190-1 of the RSFSR Criminal Code were fashioned.¹⁵² If the Union republics follow historical precedent, each will soon redefine their individual criminal codes to mirror the new decree.¹⁵³ While this new decree could have meant the complete abandonment of Soviet laws that criminalize political dissent, it promises nonconformists no such salvation, and is in fact, less protective of free speech and more punitive than the law it was designed to replace.¹⁵⁴

The new decree is said to provide concreteness in the Presidium's endeavor to protect the lawful interests of the state from unlawful ways of changing its system and the undermining of its political and economic system.¹⁵⁵ It is further claimed that the new decree corresponds to the norms of world jurisprudence.¹⁵⁶ Far from conforming to international law, it contains provisions that violate human rights.¹⁵⁷ The new decree calls for changes in four substantive provisions of the U.S.S.R. law of December 25, 1958, "On Criminal Liability For State Crimes." Articles 7 and 11 are to be reworded as follows:

Article 7. Appeals for the Overthrow or Alteration of the Soviet State and Social System.

Public appeals for the overthrow of the Soviet state and social system or for a change in it by means at variance with the USSR Constitution, or for preventing the execution of Soviet laws for the purpose of undermining the political and economic systems of the USSR, as well as the preparation for the purpose of dissemination or the dissemination of materials of such content—

are punished by deprivation of freedom for a period of up to three years or by a fine of up to 2,000 rubles.

These actions, committed repeatedly either by an organized group of individuals or with the use of technical means designed or adapted for mass duplication—

Making Changes in and Additions to the USSR Law "On Criminal Liability For State Crimes" (Vedmosti Verkhovnoy Soveta SSSR, 1959, No. 1 Item 8; 1961, No. 21, Item 22; and 1984, No. 3, Item 58) [hereinafter New Decree].

152. *See id.*

153. *See Ni-Li, Decree Lifts Anti-Soviet Activity Provisions Used on Dissidents; New Clause RE Calls to Overthrow System Akin to US Laws; Unofficial Groups' Acts Prompt Stiffer Penalties for Stirring Ethnic Strife*, XLI CURRENT DIG. SOVIET PRESS 11 (1989) (No. 15).

154. *See New Decree, supra* note 151.

155. *See Ni-Li, supra* note 153.

156. *See id.*

157. *See New Decree, supra* note 151.

are punished by deprivation of freedom for a period of up to seven years or by a fine of up to 5,000 rubles.

The actions specified in the first and second parts of this article, committed on instructions from foreign organizations or their representatives or with use of physical assets or technical means obtained from such organizations—

are punished by deprivation of freedom for a period of three to 10 years.¹⁵⁸

Article 11. Violation of National and Racial Equality of Rights.

Deliberate actions aimed at arousing national or racial enmity or discord or at degrading national honor and dignity, as well as the direct or indirect restriction of the rights of citizens or the establishment of direct or indirect advantages of for citizens on the basis of their race or nationality—

are punished by deprivation of freedom for a period of up to three years or by a fine of up to 2,000 rubles.

These actions, combined with violence, deception or threats, as well as when committed by an official—

are punished by deprivation of freedom for a period of up to five years or by a fine of up to 5,000 rubles.

The actions specified in the first and second parts of this article, committed by a group of individuals or entailing the loss of human life or other grave consequences—

are punished by deprivation of freedom for a period of up to 10 years.¹⁵⁹

Additions to the law in Articles 7.1 and 11.1 are to read as follows:

Article 7.1. Appeals for the Commission of Crimes Against the State.

Public appeals for high treason or for the commission of a terrorist act or sabotage—

are punished by deprivation of freedom for a period of up to three years or by a fine of up to 2,000 rubles.¹⁶⁰

Article 11.1. Insulting or Discrediting State Agencies and Public Organizations.

Public insults against or the discrediting of the supreme bodies of the state power and administration of the USSR or other state agencies formed or elected by the USSR Congress of People's Deputies or the USSR Supreme Soviet, or officials appointed, elected or confirmed by the USSR Congress of People's Deputies or the

158. *Id.* art. 7.

159. *Id.* art. 11.

160. *Id.* art. 7.1.

USSR Supreme Soviet, as well as public organizations and their all-Union agencies created in accordance with the procedure established by law and operating in accordance with the USSR Constitution—

are punished by deprivation of freedom for a period of up to three years or by a fine of up to 2,000 rubles.¹⁶¹

Both Article 7, which criminalizes speech calling for “change” by methods contrary to the U.S.S.R. Constitution, and Article 11, which prohibits “deliberate” actions aimed at degrading national honor and dignity, violate the right of free speech protected by Article 19 of the International Covenant of Civil and Political Rights.¹⁶² Furthermore, these articles do not contain the theoretical safeguards found in the RFSFR Code, Articles 70 and 190, which required prosecutors to prove that “anti-state” speech was false and known by the defendant to be false.¹⁶³

Perhaps the most ominous provision from the standpoint of the dissident is Article 11.1, which imposes criminal penalties for “discrediting” state agencies and public organizations.¹⁶⁴ The statute does not make clear how the term “discrediting” is to be interpreted.¹⁶⁵ As one Soviet commentator has aptly pointed out, “it by no means follows from the text of the decree that discrediting is only slanderous, unfair statements. The whole point is that it can be any kind of statement, as long as they [sic] diminish authority [T]here is no such thing as criticism which increases authority.”¹⁶⁶

In response to such criticism and as a result of the numerous actions already being brought under Article 11.1, the U.S.S.R. Supreme Court met on May 23, 1989 to issue guidelines for interpreting Article 11.1.¹⁶⁷ The Court explained that the term “discrediting” should be interpreted to mean “deliberate public dissemination of slanderous fabrications, i.e. information that is known to be false, with the intention of undermining the highest bodies of state power and administration of the U.S.S.R. and in other agencies, public organizations, and officials named in the

161. *Id.* art. 11.1.

162. See G.A. Res. 2200(XI), 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316 (1966).

163. See *supra* notes 56 & 57 and accompanying text.

164. See New Decree, *supra* note 151, art. 11.1.

165. See *Legal Scholar Assails Decree's 'Discrediting' Clause, Saying It Means Anyone Who Criticizes an Official Can Be Prosecuted*, XLI CURRENT DIG. SOVIET PRESS 13 (1989) (No. 15).

166. See *id.*

167. See *State and Law*, XLI CURRENT DIG. SOVIET PRESS 30 (1989) (No. 21).

given article of law.”¹⁶⁸

This interpretation by the Court in effect brings back the “safeguards” found in Articles 70 and 190-1 which required a prosecutor to prove that a defendant knew a statement to be false.¹⁶⁹ Yet, as was stated earlier, the argument that a defendant believed a statement to be true has never been an effective defense where the defendant was charged with violations of Articles 70 or 190-1, and it does not seem likely that asserting the “truth” as a defense will be effective when the defendant is charged with violations of Article 11.1.¹⁷⁰ Although the form of Articles 7, 7.1, 11 and 11.1 are different, the broad ranging applicability of the new provisions mirrors that of Articles 70 and 190-1. Standing alone Articles 7, 7.1, 11, and 11.1 are unlikely to prevent dissenters from being arrested for exercising their internationally recognized right to free speech.

V. CONCLUSION

Despite the fact that the new statute on *The Conditions and Procedures for Providing Psychiatric Care* substantially improves the formal safeguards against arbitrary confinement, the new law fails as an attempt to “guarantee against errors and malpractice” in psychiatry. For every avenue of possible corruption blocked by the new statute another is left gaping. The new law itself is riddled with shortcomings. It fails to define essential terms, creates new vaguely defined categories for psychiatric supervision, and places in the hands of the chief psychiatrist an enormous amount of administrative discretion. Beyond these inherent weaknesses, the most ruinous aspect of the new law is its failure to modify the criminal commitment procedure.

The criminal commitment procedure strips accused criminals whose mental health is called into question of virtually all of their procedural rights. The accused are both unable to defend against the charges pending, and unable to defend their sanity. Persons subjected to the criminal commitment procedure are left at the mercy of the court, with only the hope that the judge will afford them a fair hearing.

Although the new law requires the development and public disclosure of standards for determining when an accused is in “immediate danger,” the new code does not call for the newly devel-

168. *Id.*

169. *See supra* notes 56-57 and accompanying text.

170. *See supra* notes 67-68 and accompanying text.

oped standards to be applied in criminal cases. Nor does the Code require loosely defined diagnostic terms such as "sluggish schizophrenia" to be abolished. As long as diagnostic terms such as "sluggish schizophrenia" remain in use, political dissidents are in danger of being declared "insane." As long as crimes such as "anti-Soviet slander" and "anti-Soviet agitation and propaganda" appear in the Criminal Codes of the RSFSR, dissidents are in danger of being arrested and subjected to the criminal procedure for psychiatric commitment.

Despite the shortcomings in the revised commitment procedures, the Soviet Union was conditionally readmitted to the World Psychiatric Association on October 17, 1989, after Soviet delegates admitted there had been abuses of psychiatry for purposes of political repression and pledged to encourage change.¹⁷¹ The vote for readmission was 291 to 45 in favor of readmission with 19 abstentions.¹⁷² Prior to the vote Pyotr Moroz, acting secretary of the Soviet delegation, read a statement which stated that "previous political conditions in the U.S.S.R. created an environment in which psychiatric abuses occurred, including for non-medical reasons."¹⁷³ The new legislation designed to "guarantee against errors and malpractice in psychiatry" indicates that Soviet dissidents will also have to rely on political conditions to keep them out of psychiatric hospitals.

To effectively guarantee against errors and malpractice in psychiatry, the criminal codes of the Union republics must be completely revised. Diagnostic criteria for compulsory commitment must be completely reevaluated and standards adopted which reflect genuine mental illness. Most importantly the Soviet State must respect the laws of its own creation.¹⁷⁴

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171. See Anastasi, *Soviets Conditionally Readmitted to World Psychiatric Association*, N.Y. Times, Oct. 18, 1989, at A1, col. 1.

172. See *id.*

173. *Id.*

174. See generally *Getting the State to Hew to the Rule of Law XXXI CURRENT DIG. SOVIET PRESS 1-5* (1988) (Pravda—Round Table Discussion in the U.S.S.R. Academy of Sciences' Institute of State and Law. Interview of legal scholars who call for: the right of individuals to sue the state; an end to Ministry directives ignoring the law; separation of Legislative, Executive and Judicial Powers; and more public discussion of draft laws).