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## Book Review: Final Judgment. My Life as a Soviet Defense Attorney

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# BOOK REVIEW

FINAL JUDGMENT. MY LIFE AS A SOVIET DEFENSE ATTORNEY. By Dina Kaminskaya. Simon & Schuster, N.Y., N.Y. (1982). Pp. 364. Reviewed by Yevsey Podolsky.†

“Final Judgment. My Life as a Soviet Defense Attorney” examines Dina Kaminskaya’s transformation, in the course of her participation in dissident trials from “good Soviet citizen” to major critic. Kaminskaya, a former Soviet advocate, who defended many dissidents in the course of her 37 year career, was forced to leave her country in 1978. Her book, which was written at her new home in the United States, attacks the Soviet legal system for its injustice, lack of freedom, and flagrant violations of civil rights.

Kaminskaya first became critical of the unequal status of the advocate or defense attorney in the USSR when she began her studies at the University of Moscow Law School in 1937. Although the Constitution of the USSR establishes equal rights between prosecutor and advocate, this right is never observed. Kaminskaya writes “[a]dvocacy is alien to the state.”

In the Soviet Union, the prosecutor represents the state, whereas the advocate represents the private person accused. In any trial, the judge is under the influence of the indictment approved by the prosecutor. Thus, at trial, the advocate actually has two opponents: the prosecutor and the judge.

With great skill, Kaminskaya introduces the reader to the structure of advocacy in the USSR as a self-governing social organization. Unlike the majority of other Soviet citizens, advocates are not state employees and are not paid by the state. But like every other Soviet organization, the College of Advocates (the equivalent of our Bar Association) must coordinate its work with the appropriate government and party bodies and must obey their orders.

Kaminskaya introduces the reader to the Soviet legal system, including matters of jurisdiction and procedure. With a great sense of humor, she describes the parody of Soviet elections where all elections, including those for judge and peoples’ assessors (2-person elected juries),

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† Bachelors Degree, Law College, Kiev, U.S.S.R., 1948; Masters Degree, University of Kiev Law School, U.S.S.R., 1954. Mr. Podolsky, who emigrated from the U.S.S.R. to the United States in 1976, practiced law in the Soviet Union for thirty years. Mr. Podolsky served during his early career as a consultant to the Supreme Court of the Ukrainian Public, and he later became a commercial legal advisor (working as advisor to a metal recycling and marketing plant in Kiev from 1951-60 and advisor to a chemical plant in Kiev from 1960-76). Mr. Podolsky also taught law courses in one of Kiev’s technical colleges from 1965-76. At present, Mr. Podolsky is an assistant librarian at Frank, Bernstein, Conaway and Goldman in Baltimore, Maryland. Of FINAL JUDGMENT, Podolsky states: “I have a special interest in this extremely colorful and accurate book. My wife and I were lawyers in Kiev for three decades — so the vicious practices outlined by Kaminskaya are very familiar to me.”

are boring orchestrations conducted by the Communist Party organizations. Kaminskaya shows that the Communist party and KGB influence not only inundates the administration of justice, but stretches out to the smallest details of everyday life.

Kaminskaya describes state employed prosecutors, investigators, and judges, all of whom were dismissed for various violations and then transferred to the College of Advocacy regardless of skill or competence. She exposes the all pervasive Soviet disease of bribery, including the bribery of judges and prosecutors.

Like a detective story, the author describes the "case of the two boys" unfairly accused of rape and murder because of falsified evidence. This case is a sample of the persistent high skill and professionalism of defense lawyers which ends with triumph only after years of struggle with injustice.

Kaminskaya describes the restricted rights of the accused under the Criminal Procedure Code. The accused is not allowed access to a defense attorney until the very end of an investigation. In fact, a central aspect of the Soviet violation of human rights is the question of "access." An advocate must have special permission to represent a defendant in a political case. Very few advocates are allowed "access."

The author gives a clear picture of the terrible working conditions in Russian law offices and describes the tiny and always dark rooms in the courts with no comforts for advocates. The small rooms are like cages with gray desks and chairs. The rooms have no soundproof walls and you may hear the voices of your next door colleague advising his client. The law offices usually have no library; the advocates must use a small bar association library which usually contains an inadequate stock of legal books and literature. Kaminskaya compares them to law offices in the United States and writes: "[m]y first feeling is envy, not for their luxury, but for the comfort, convenience and calm in which their occupants work." p.33.

Kaminskaya began law school in a time of tyranny and lawlessness, in the beginning of the "Great Terror" (1937), when millions of innocent people were arrested and killed in Stalin's concentration camps. Her family were acquaintances of the family of Valentin Lipshitz, who was falsely accused of the attempted assassination of Stalin and executed, but later declared innocent "due to the absence of corpus delicti."

When Kaminskaya was asked how she had the courage to become a political advocate and why she defended so many dissidents, she replied, "because I defend anyone who needs my legal help . . . that is my profession." In defending the dissidents who were neither terrorists nor extremists, "I felt, that I too was in some degree taking part in that struggle."

Unlike democratic countries, in the Soviet Union the struggle for human rights is a crime. Throughout the entire book, we see a gallery of courageous people defended by Mrs. Kaminskaya, such as Bukovsky,

Galanskov, Litvinov and Marchenko. The political trials completely changed Kaminskaya's ideology, and the Soviet authorities could not forgive her. She and her husband were expelled from their jobs and forced to emigrate.

This remarkable book is the first in the West to disclose the flaws in the functioning of the entire administration of justice in the Soviet Union. After I read "Final Judgment," I was tempted to rename it "Dina Kaminskaya Versus the Soviet Legal System."

#### A FEW WORDS ABOUT THE SOVIET LEGAL SYSTEM

Under Article 150 of the Constitution of the USSR, justice is to be carried out only by a court. The District People's Courts are courts of first instance and have under their jurisdiction both civil and criminal cases. In trials, one judge and two people's assessors participate. The judge is elected to office for a term of five years and the people's assessors are elected for a term of two years.

The Region, Territory or City courts are courts of first instance, but these courts also act as appellate courts which hear appeals and protests against judgments of the district people's courts. The judge of the region, territory or city court is elected by the respective Soviets of Working People's deputy for a term of five years. Two people's assessors are also elected to each court.

The Union Republic's Supreme Court is a court of first instance (important civil and criminal matters are relegated to this court), but it also hears appeals and protests against judgments and decisions of the Region, Territory or City courts. Judges of the Union Republic's Supreme Court are elected by the Union Republic Supreme Council for a term of five years. This court consists of two divisions - criminal and civil.

The Supreme Court of the USSR, the highest judicial body in the country, consists of a criminal, civil and military division. This court supervises the judicial activity of all judicial agencies and is also considered a court of first instance for cases of exceptional importance which are relegated to it by law. Furthermore, this court has legislative initiative. The members of the Supreme Court are elected by the USSR Supreme Council for a term of five years.

A very important role in the Soviet legal system is played by the Procurator. The Procurator General and procurators subordinate to him support the state accusation in criminal cases and exercise supervision over the legality of judgments, decisions, rulings, and decrees rendered by judicial agencies as well as over the execution of court judgments.

All litigation between plants, factories, and organizations is considered in arbitration.

In the Soviet Union there is no common law, nor is there bail or plea bargaining.