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‘Words Are No Deeds.’ Trials Against Literature in the Soviet Union

Sylvia Sasse

In September 1965, the two writers Andrei Sinyavsky and Yuli Daniel, the first being also a critic and the second a translator, were arrested for having published ‘anti-Soviet literature’ in foreign editorials under pseudonyms. In Soviet legislation, both were accused under Article 1, paragraph 70 of the Criminal Code of the RSFSR: ‘Agitation and propaganda with the purpose of undermining or weakening of the Soviet power or with the purpose of committing or inciting the committing of particularly grave crimes against the Soviet state, the spreading with the same purposes of slanderous fabrications that target the Soviet political and social system, the production, dissemination or storage, for the same purposes, of literature with anti-Soviet content are punishable by six months to seven years of imprisonment, with possible subsequent internal exile from two to five years.’ One year later, Sinyavsky was sentenced by a court in a show trial to seven years of strict-regime labour camp, Daniel to five years. Even though – or perhaps because – it was apparent that both would be convicted, an unusually controversial debate about literature was held in court. Since both of the accused admitted right from the beginning to having spread the writings abroad (publication under a pseudonym), the discussions in court were limited to the question of whether those writings were of an anti-Soviet nature, that is, if they defamed or humiliated the Soviet people. The charge was thus phrased as followed in the newspaper: ‘In 1956, Sinyavsky wrote the novella “Sud idet” (The Trial Begins), which is infused with hatred against everything Soviet. It contains malicious attacks against the theoretical maxims of Marxism-Leninism, against the history of the Soviet state, against the culture and moral of the Soviet people’ (Ginzburg 1967: 213). One of Sinyavsky’s novellas that were tried in court is in itself also a story about the court. At the end of ‘The Trial Begins’, the narrator, a writer himself, is denounced, tried and sentenced to forced labour camp at the

end because he is telling the story in hand. As Sinyavsky had already analysed the connection between denunciation, indictment, court and verdict within the Soviet Union in 'The Trial Begins', it can be read as an involuntary subtext of the trial against Sinyavsky. His fictional writer is also accused of 'defamation' – specifically, of the defamation of juridical processes in the Soviet Union. In the novella, the writer refers to the role of the word in everyday juridical and literary life in the Soviet Union.

The word, so he writes, is fundamentally dangerous – on the one hand, it needs to be surveilled and controlled, on the other hand, it is itself an agent, an agent of denunciation, indictment and verdict. That which is spoken has consequences and leads to arrests and convictions. In some cases, the word is deadly. Sinyavsky's narrator repeatedly compares religious and totalitarian notions of the power of words. While in the Bible the world was created by means of the word, the word thus creatively becoming deed, it now creates deeds by other means – it creates them in court (Terc and Sinyavsky 1992: 278). In his last words in court in 1965, Andrei Sinyavsky refers to these observations made by his narrator in 'The Trial Begins':

I only want to recall a few arguments essential for literature. Learning them is the beginning of studying literature: a word does not involve a deed, it is a word. A designed image is not real. The writer is not identical with the fictional character. That is the ABC and we tried to talk about it. But the prosecution persistently rejects it as an invention, a deception, a lie.... As a matter of fact I can even understand the attorney. His tasks are far-reaching and he is not obliged to consider literary properties, like what an author, a hero, etc. is. If, however, two members of the Union of Soviet Writers, one being a professional author and one a certified critic, allege such things and consider direct speech of negative fictional characters as the author's opinion, then one really no longer knows what to say. (Ginzburg 1967: 302)

In this statement, Sinyavsky addresses various points that are regularly negotiated when literature is on trial – the differentiation between the speech of narrator, author and character as well as the differentiation between fact and fiction. By mentioning the equation of word and deed, however, he touches upon the neuralgic point which has become the precondition for the condemnation, not only of literary works but also of other 'utterances' in the Soviet Union. Up until this point, nobody before him had addressed the problem this explicitly, and nobody had so clearly spoken out against the notion of literature that Maxim Gorky used in the 1930s with the formula 'words are deeds' in order to establish

Social Realism in literature: 'For the word is equivalent to the deed – essentially, it is also a deed and therefore it is crucial to show how it effects and influences men' (Gorky 1935: 113).

Sinyavsky's defence forwards a theory of literature according to which the literary word is metaphoric, polysemic and can never be understood fully. Thus there can hardly be decisive proof of the political purposefulness of a literary text. This theory, of course, is not accepted by the court. Its acceptance would render the prosecution futile. According to Grüttemeier and Laros (2013), a recognition at trial of literature as a special discourse (*exceptio artis*) can serve as evidence for the recognition of the (relative) autonomy of the literary field by the field of power, and this, in turn, can itself be understood as a major achievement in the struggle of the literary field for its autonomy.¹ Obviously, the debates in the trial of Sinyavsky touch upon this problem of *exceptio artis*. Although matters in the Soviet Union lay very differently from western-style liberal democracies, I would like to offer some preliminary thoughts on this subject.

Firstly, the exact definition of *exceptio artis* seems crucial in our context: 'Exceptio artis means that utterances that in principle constitute an offence can be judged otherwise when they occur in a literary work' (Grüttemeier and Laros 2013: 204). I think this definition can apply in a stronger and in a weaker sense. The stronger one would apply if a literary work *does* in fact present certain features which it can be indicted for, *but* the literary work is *redeemed* by its 'social value' as a work of art. An instance of such a liberal jurisdiction has for example been established in US legal rulings concerning pornography since the late 1950s. However, it seems that *exceptio artis* in this strong sense is more likely to play a role in trials when literature is charged with pornography (also blasphemy), because here a difficult balance has to be achieved between the protection of the 'vulnerable reader' and the freedom and enjoyment of the sophisticated reader. If a piece of literature is indeed found guilty of libel against a particular person or of inciting hatred against a minority, there is no balancing between types of readers. In such cases, it seems less likely that a court will judge that the literary text can nevertheless be redeemed by its literary worth and the high esteem it is held in within the literary community. Similarly, in the case of Sinyavsky, discourse *presupposed* that a literary work which in fact was 'anti-Soviet' could not be redeemed by its artistic worth.

A less stronger variation of *exceptio artis* seems to apply when the court, upon coming to a decision, recognizes the special knowledge concentrated in the literary field and reformulates concepts of literature found there (cf. Grüttemeier

and Laros 2013: 205). This, of course, is the kind of recognition Sinyavsky is pleading for, but the court not only rejects the writer's theories about poetics, it, moreover, breaches the most elementary conventions of how to read a literary text (spontaneous identification of narrator/hero and author).

Trials against literature in the Soviet Union

If one wants to understand the equation of word and deed in Soviet literature and legal rulings, it is necessary to first look at the history of the trials against literature, beginning from the establishment of the Soviet Union. In the early 1920s, the first years after the revolution, the state did not prosecute any authors or their literary works. Rather, a Soviet jurisdiction and a Soviet law first had to become established. One way through which this happened was the arts themselves. The theatre becomes an arena for trying out, and also practising, jurisdiction and law. In the 1920s, for instance, so-called agit-courts (*Agitsudy*) are performed all across the Soviet Union. These theatrical lay courts stage moral misconduct in front of ordinary citizens and have the purpose of demonstrating the practices of confessing, testifying and judging. From the very beginning, it is noticeable that throughout these agit-courts, words are strongly attributed with the ability to form reality: a repentant confession usually enabled the delinquents to change their ways and return into the community. The American writer and sociologist René Fülöp-Miller, who visited the Soviet Union before 1926, writes that all debates, even the debates in the field of arts, were staged as court hearings: 'If, for instance, a well-known director presents a new production to the public, soon after a "trial" will take place in which the new work is discussed. One person from the theater personnel performs the prosecutor, another one the defender; the judge, too, is performed by a director or by an actor. The unfortunate one who is to be blamed for the new production is in the dock and has to face the charges' (Fülöp-Miller 1926: 191). Unsurprisingly, this propagandistic genre was immediately parodied by artists. In post-revolutionary Russia, for example, the 'Trial against the Imaginists' (*Sud nad Imazhinistami*) was held in 1920. The literary group of Imaginists (among others, Sergei Esenin, Vadim Shershenevich and Anatoli Mariengof) was accused of violating contemporary, post-revolutionary poetry. For this, twelve judges were chosen from the audience, the Russian symbolist Valerij Brjusov appeared as literary prosecutor, and Ivan Aksenov was the plaintiff. During the trial, Brjusov cited

Imaginist poems by heart, and Esenin similarly used a poem – 'Confession of a Hooligan' ('Ispoved Chuligana'), a parody of the violent power of words – for his defence. In answer to this 'trial', the Imaginists staged a contra-trial, the 'Trial of the Imaginists against Russian literature' (*Sud imazhinistov nad literaturoj*).

Apart from these parodistic and propagandistic theatrical trials, lay courts with the purpose of dealing with smaller offences are introduced in the mid-1920s. The introduction of lay courts can on the one hand be ascribed to a serious lack of legally trained personnel, but on the other hand, it is also programmatic: the people themselves should be the judges, since codified law (partially pre-revolutionary) was still considered a model in transition in the 1920s. Once the masses gain a socialist consciousness, it would become downright redundant (Solomon 1996: 36). Although the creation of such informally called *tovarishcheskie sudy* (comrade trials) in order to lighten the workload of the courts was initially accepted by the People's Commissar in March 1928 as a temporary experiment, by 1930, lay courts had become firmly anchored in Soviet law (Solomon 1996: 67). This carried consequences for literary or artistic production as well – it was thus possible to try offences against the Soviet conception of art and literature and later, in the years after 1934, against the official doctrine of the Socialist Regime, in front of lay courts, especially the courts of the Union of Writers. One of the first, very early lay courts known to me is the 'Trial against Pornography' in 1925. In this case, it was more of a discussion organized by the local committee of writers on a text written by Alexander Volzhskij 'Druz'ja po Volge' (Friends along the Volga). The court was called in on the request of the writer himself, because he had the impression that his text was being defamed in the *Pravda* (the press). The discussion was mainly concerned with the question of whether the use of profanity in new proletarian literature was allowed or not. Volzhsky defended himself by arguing that the use of vulgarity occurs in character speech and is vital for the characterization of a figure belonging to the Tsarist army, that is, the old order. The vulgar speech had a realist function. The verdict came to the conclusion that 'all charges against comrade Volzhsky are dropped' (*Sud nad pornografiej* 1926: 46), although he received a warning. In the future, the use of such words in literature should not be allowed if they are deemed redundant from an artistic or harmful from an educational point of view.

At about the same time, beginning in 1927, an extensive campaign of self-criticism and criticism spread across the Soviet Union, with devastating consequences for writers and artists. This campaign also prepared the persecution,

arrest and murder of artists in the 1930s. With the introduction of this campaign, it is possible to speak of a juridification of society by means of compulsory and public self-criticism and the denunciation of those who transgress Soviet doctrine. In this campaign, Stalin erroneously refers to the Marxist concept of criticism in order to use it for the persecution of so-called deviants – that is, everybody who does not comply with his policies (Marx and Engels 1948: 215). Thus, beginning in the late 1920s, there are numerous instances of self-criticism by writers and artists, at times even prophylactic, in which they apologize for former ‘errors’ in order to avoid a ban on publication, among other things. Viktor Shklovsky wrote an example of forced self-criticism as early as 1930, which was published under the title ‘Pamjatnik nauchnoj oshibke’ (Monument to a Scientific Error), published in the *Literaturnaja gazeta*. In the article, he uses the exact same vocabulary for self-defence that was used against him and the Formalists at the time. He has to defend the fact that he – naively – saw literature as a sum of processes, but he now realized that single pieces cannot be summarized into literature but can only work together in a state of interdependence (Shklovskij 1930: 1). Shklovsky’s self-criticism occurred parallel to a polemic against ‘Formalism’ in literature and other arts. As early as 1933, ‘Formalism’ was considered as an antithesis to ‘Realism’, though it then became a charge, if not even an offence, in trials against a variety of artists in a broadly conceived campaign. Meetings were organized all over the place in order to verify suspected Formalism, such as in the House of Film in February, and in March, the Union of Writers conducted a session that lasted several days in which Boris Pasternak, Yuri Olesha, Boris Pilniak and Isaak Babel had to justify themselves because of Formalism. Sergei Eisenstein had to publicly justify his errors in 1937 as well, mainly because of ‘Formalism’ in his film *Bezhin lug* (Bezhin Meadow). The Union of Filmmakers even held a three-day-long colloquium on self-criticism for Eisenstein in 1937, following Eisenstein’s article from April 1937, published in *Sovetskoe Kino*, with the title ‘Oshibki Bezhina luga’ (The Error in Bezhin Meadow). The text has the same title as the article published by one of his critics, Boris Shumyatsky, that was previously published in *Pravda* (Shumyatsky 1937).

Parallel to these instances of self-criticism and lay courts in the unions, the state holds a series of secret trials against numerous writers. Among others, writers such as Daniel Charms, Alexander Vvedensky, Osip Mandelstam, Isaak Babel, Sergei Tretyakov and Vsevolod Meyerhold are brought in front of a court and sentenced to labour camps or even shot immediately. All of these secret trials, with the exception of one, were mock trials. By mock trials, I mean those trials

that were held on account of a single charge with the purpose of covering up the actual reason for the indictment. This means that writers were not prosecuted because of their writings but because of counterrevolutionary actions (Article 58 of the Criminal Code of the RSFSR), which covers espionage as well as propaganda or agitation that aimed at overthrowing, undermining or weakening the power of Soviet rule or at the committal of single counterrevolutionary crimes. Sergei Tretyakov, for example, was brought in front of a court for espionage. One exception is the trial against Osip Mandelstam. Mandelstam was arrested in 1934 because of a poem directed against Stalin. He '[h]as written a counterrevolutionary pamphlet about comrade Stalin and distributed it among acquaintances at lectures' (Shentalinsky 1995: 228). The examining magistrate was only provided with a transcript of an informer who claimed to have heard the poem at a reading by Mandelstam. At the interrogation, Mandelstam was forced by the examining magistrate to write down the poem in his own hand and countersign it (Shentalinsky 1995: 229). This transcript, together with a copy of it written down by the investigators, is the only remaining document of two and was hidden in Mandelstam's files until the early 1990s, all the while different versions of the text were circulated orally thousandfold. At the hearing, Mandelstam was threatened to have endangered not only himself but also every other person who had heard the poem. Mandelstam had to name every member of the audience, and all of those were now in danger of indictment as well, due to having heard the poem. Mandelstam's trial showcases how two aspects were combined, something which Sinyavsky had also drawn attention to in 'The Trial Begins' – the connection of a religious and of a totalitarian understanding of the word. The notion of sin that is contagious by hearing recalls an idea practiced in Christianity, according to which the hearing of a curse and failure to report it leads to the listener also becoming infected by the evil as if by illness, and, as a carrier of it, thus becoming infectious to others as well. Within the logic of the Stalinist trials of the 1930s, the sinful, contagious word is the word of the defamatory deed.²

Performativity and hermeneutics

The equation of words and deeds will have considerable consequences for conceptions of literature in the official discourse as well as for juridical practices. Gorky reacts in his statement on word and deed to one aspect of a conception

of literature from the nineteenth century and further accentuates it. In *What is Art?*, a text he worked on during the 1880s and 1890s, Lev Tolstoy summarizes that art is only art if it infects immediately. Tolstoy reduced the role of art to its medial character and thus highlighted the danger of art being contagious. He moreover drew inferences from the author's condition while writing, as readers are supposedly infected with the very feeling the author had during the writing process. Such a conception of literature legitimized censorship, which explains why the representatives of Socialist Realism were interested in Tolstoy in the 1930s. If art can cause immediate deeds, as, for example, the music of Tolstoy's *Kreutzer Sonata* causing a murder, it is also legitimate to surveil its effects. Tolstoy's conception additionally makes it possible to draw inferences about the author as a person – it literally makes him responsible for the effects of his art – while assuming that a universal reader existed. In the proletarian conception of art in the 1920s, there is a revival of Tolstoy's conception: Anatoly Lunacharsky, for example, takes up Tolstoy's theory of infection, in order to elaborate his concept of agitation and propaganda. Already at the beginning of the 1920s, he clarifies the role of infectious art as 'organizing ideas and emotions' (Lunacharsky 1967: 440).

Whereas Tolstoy primarily focuses on a transference of affects, Gorky takes a step forward in the quote above. For him, spoken and written words are not only effective in organizing the recipients' emotions but are also immediately effective. Here, one could come back to the two aspects of performativity Judith Butler distinguishes in her book *Excitable Speech*, following Austin. She differentiates between illocutionary and perlocutionary speech acts. Illocutionary ones perform what they say in terms of content (promising, inviting, requesting, judging, guaranteeing or baptizing) by saying it. As Butler puts it: in the situations at stake, the word does 'not only name, but in some sense... perform[s] and, in particular... perform[s] what it names' (Butler 1997: 43). In this context, the word is instrumental to the accomplishment of a deed, as well as being the action in itself. Perlocutionary speech acts, however, cause effects which do not necessarily have to realize the content of what is said immediately. They lead to certain effects and realities which result from the speech act but which do not realize its content. Austin categorized both types of speech acts as performative utterances whereby illocutionary speech acts are already performative themselves by the act and process of naming.

In totalitarian cultures' understanding of words and deeds, both speech acts concur. In court, this becomes especially obvious. It is hard to mention an

example for a trial against literature here since we have no material about the secret trials. Instead I would like to focus on the famous show trial of 1938, in which Nikolai Bukharin was tried and sentenced to death. In the interrogation of Nikolai Bukharin, one can clearly discern the performative status that words had in court during the 1930s. The fact that they were officially provided with this performative status is linked with a change in the juridical practices before show trials were introduced and with the cultural agreement that words are already deeds. In this context, a performative understanding of words comparable to perlocutionary speech acts was at stake. The attorney Vyshinsky elevated the confession, that is, the word, to the status of being the sole means of evidence. From then on, it was no longer necessary to bring forward any other means of evidence in order to reach a verdict. A confession thus outweighed any evidence. Bukharin, on the one hand, tried to reveal what happens if words are granted such power; on the other hand, he wanted to take advantage of it. So what did Bukharin do? He primarily had two strategies: on the one hand, he engages with the performativity prescribed when it seems useful to him; on the other hand, he tries to thwart the principle of a word's immediate effectiveness by setting interpretation and hermeneutics against performativity. Thus, he was affirmative and subversive at the same time. For example, he always affirmed the attorney's concept – he affirmed that what is said is effective. Bukharin for instance said: 'and because Rykov affirmatively talks about them (the facts), I do not have a reason to deny them' (*Sudebny otchet* 1938: 191). He dealt similarly with testimonies: he did not confirm the witnesses' testimonies because of their content but rather confirmed the effect of the speech genre in court: a testimony as well as a confession are performative due to their genre; what has been said is effective. Conversely, Bukharin continually questions particular terms and dwells on the meaning of certain words. In contrast to Vyshinsky, who understandably was not interested in questions of interpretation, Bukharin had a hermeneutic interest. Vyshinsky demanded not to discuss formulations or terms; he even accuses Bukharin of quibbling and regards it as evidence for his conspirative activity. The attorney makes it clear that exegesis and interpretation do not only defy his principle of performativity but are downright criminal.

One can find various analogies to the equation of words and deeds in the totalitarian culture of the 1930s discussed here in Russia's legal history. The legally legitimized analogy of word and deed was already founded in the 1649 *Sobornoye Ulozheniye* (Legal Code).³ In the *Ulozheniye* of 1845, it is still stated that 'disclosing one's disposition by oral or written articulation of thoughts

(alone) is equal to the accomplished act' (Urysohn 1906: 54). Referring to the *Ulozheniye*, Dostoevsky created the probably most well-known document of the indistinguishability of words and deeds in legal history in his novel *The Brothers Karamazov*, which he finished in 1880. The case, described as a juridical error by Dostoevsky and always understood as such, is no error from the perspective of the valid law at the time. It rather takes up the ambivalence of Russian legal rulings, according to which whoever thought and said the deed was already considered a potential culprit. In *The Brothers Karamazov*, the one who thought of the crime and formulated the intention to do it is convicted, while the actual offender, Smerdyakov, who 'only' became this word's minion and the thought's executor, is called into question by the novel as offender.

Against the background of these examples, I do not want to establish a historical context but rather suggest that specific historical agreements in dealing with public speech and the difference between words and deeds have always been in effect and were re-actualized in the 1930s. However, I briefly want to summarize how I understand the relation between words and deeds in the totalitarian culture of the 1930s. We are concerned with a culture embracing the staged performativity of words. The performativity of words was not only claimed but also artistically represented and staged. In almost every novel written in the context of Socialist Realism, one can find reception scenes showing the danger of words and leaving behind shocked or delighted intradiegetic readers. My point is thus not to ask whether there are performative utterances, but to show how a specific historical context was produced in which words were given this status in the first place.

Effect-witnesses

Effect-witness is a term Sandra Frimmel uses in her book on trials against curators and artists in contemporary Russia (Frimmel 2015). It refers to the witnesses summoned in order to testify to art's negative effects, either by drawing on their own experience, or by witnessing effects of art on other people. For the prosecution, the witnesses act as evidence for the word's or image's/painting's performativity. The practice of relying on effect-witnesses also started in the trials of the 1960s in the Soviet Union. It can then also be encountered in other trials of the former Eastern Bloc and is especially prominent in the cases against the organizers of the exhibition *Ostorozhno religiya* ('Caution, Religion' 2005)

and *Zapretnoe iskusstvo* ('Forbidden Art' 2010) as well as the case against Pussy Riot in 2012.

In order to illustrate the practice of effect-witnesses, I want to go back to the 1960s. Based on the material of the case against Iosif Brodsky, it can be demonstrated how witnessing an effect by others works. Each witness of the prosecution starts his or her testimony in the trial as follows: 'I do not know Brodsky personally, but ...,' or 'I do not really feel comfortable being a witness in this case, as I only got to know Brodsky here, in court' (Varshavsky 1998: 282). These statements refer to Brodsky as a person as well as to his texts. Such ritualized formulations were not new, they were already known from the denunciative statements of the public campaign against Boris Pasternak. Thus, the witnesses do not present themselves as eye- or ear-witnesses of the text from the outset, they have not read it but are witnesses to its effect on others. However, one cannot call them only witnesses by hearsay, because what they testify, the effect of a text, is indeed seen with their own eyes: 'Prosecution witness Nikolaev, retired: "I do not know Brodsky personally, but I have heard of him for the last three years ... I know him for the harmful influence he has on young people. I saw a big book at my son's place – in it, there were several poems. I did not read them, but I can imagine what is written there"' (Varshavsky 1998: 278).

The legal basis for the case against Brodsky was Article 209 of the Criminal Code of the RSFSR (*tuneyadstvo* – parasitism) as well as the enactment 'on strengthening the struggle against persons who avoid socially useful work and lead an antisocial parasitic way of life' by the Presidium of the Supreme Soviet of the RSFSR on 4 May 1961. The conviction to be expected entailed five years of exile and penal servitude in the Arkhangelsk district. So even though parasitism was negotiated in court, witnesses who were supposed to testify to the harmful effect of his poems on young people were summoned. Consequently, evidence that was supposed to condemn his harmful and illegal way of life alone did not suffice, and the accusation was extended to show how this way of life had its effects on the poems and how the poems had the same effects on young people.

In 1976, the prosecution proceeded similarly in the case against the band Plastic People of the Universe in Prague. Sixteen band members were arrested and convicted of 'organized disturbance of the peace' according to Article 202/1, 2 of the criminal code of Czechoslovakia. In the end, six band members were sentenced to imprisonment of between six months and three years. The indictment includes the following: 'Vulgar expressions were the core of the program. The texts had extremely vulgar contents, containing antisocialist and

antisocial elements. Most texts praised nihilism, decadence and clericalism' (Amnesty International 1977: 2). Because of only roughly nine vulgar expressions, from sixty-five compositions on behalf of which the defendants were on trial, the prosecution summoned witnesses who were expected to testify to the texts' shocking effects. Among them were very different people, for example adolescents or workers who had visited one of the illegal concerts or had heard about the concerts from others. In the pre-investigation, all of these witnesses confirmed the lyrics' shocking effects. During the trial, the success of precisely this strategy was at risk, threatening the entire lawsuit. Suddenly, most of the witnesses refrained from introducing themselves as 'effect-witnesses'. Thus, a 15-year-old girl reports that she indeed heard an indecent word but that she was not shocked by it. Likewise, a TV employee changed the testimony he had given during pre-investigation: he claims that he was not shocked but only surprised and that he knew other artworks in which vulgar expressions are used. Also, Plastic People's defence attorney used an argumentative strategy that opposed a simple reasoning of effects. He situates the vulgar expressions in the context of carnivalesque popular culture, that is, he argues with Mikhail Bakhtin's book on Rabelais that was translated into Czech shortly before. For his part, Bakhtin argues that vulgar expressions in popular culture do not have destructive, offensive effects but rather have to be considered as part of a culture of laughter determined by playful language. This culture of laughter is said to be self-referential and is thus precisely not directed against others.

The image as deed

According to my observation, the trials of the 1960s in the Soviet Union (but also in other countries of the Eastern Bloc) as well as the lawsuits against artists in contemporary Russia are not only designed to scare by making an example but moreover become the stage to create a valid understanding of literature, in which the belief in a word's performativity is paramount.

In the post-Soviet cases of the 2000s, one can observe that the notion of art's immediate effect pertaining to Socialist Realism is resumed, although no longer as a conception of words but as a conception of images. Thereby, two things are introduced: a return to the understanding of images in Socialist Realism that is at the same time both religious and iconic. Iconic implies that 'each

reproduction is a likeness of the original image of equal value; also digital copies are not considered inferior, but their contents are regarded as being of the same value' (Frimmel 2015: 214). According to Lotman, the iconic notion of the image is based on an iconic understanding of signs in which the expression appears as an image of the content, so to speak. Both share a relation of analogy and the expression is only a materialization of the content. If the expression or the representation were alienated, this would also imply an alienation of the content and in this sense would not only be considered a deviation, but also a heresy (Lotman 1981: 151–71).

During the time of the Soviet Union, it was primarily writers who were put on trial. In the 2000s, it is primarily artists and curators working with religious symbols or exhibiting such artworks. All the trials of the last ten years in which artworks were brought before court referred to Article 282 of the Criminal Code of the Russian Federation according to which 'actions aimed at the incitement of national, racial, or religious enmity' are punishable. All cases presuppose the consent that art can be immediately effective – that images can insult, humiliate, incite hatred and that images can cause shocks or even traumata. All trials were designed to prove the immediate effectiveness of images and to demonstrate this effectiveness through the trials themselves performatively.

The first lawsuit against the artist Avdej Ter'Oganjan in 1998 was carried out because of religious hatred, the latest one against the activists of Pussy Riot because of hooliganism. According to Frimmel (2015), a new or old notion of art should once more be established via the court.

In the 2000s, however, the use of effect-witnesses becomes a real business. While we are concerned with resentful and shocked visitors of the exhibition in the first large case against the curators of 'Caution, Religion', the witnesses in the case against the exhibition 'Forbidden Art' are actually recruited and casted in a media campaign. After initiating an investigative procedure against the curators Andrei Erofeev und Yuri Samodurov, which came about because of prefabricated/pre-formulated letters of complaint written by religious citizens, the organization 'Defence of the People', which had triggered the whole thing, called upon all *neravnodushnye* (sympathizers) a second time to volunteer as witnesses in the case 'Forbidden Art':

The investigations in the case of the exhibition 'Forbidden Art 2006' have now begun... We request all sympathisers to participate as witnesses. The investigations are conducted by Evgeny Evgenevich Korobkov, who expects

everyone willing to testify at the address of the district attorney of Tagan ... Not only those who visited the exhibitions, but also those who are indignant at the works shown can appear as witnesses. (*Sledstvie po delu vystavki* 2007)

In the trials, these recruited people in fact appeared as witnesses. Their answers are schematic and constantly seek to stress that the art works had a shocking, in some cases even traumatic, effect. Two examples may suffice. In the case against the curators of the exhibition 'Forbidden Art', the witness Smakhtin, an advisor of a small insurance agency, testified the following: 'I cannot remember, I was so shaken and shocked by what I saw that I cannot remember' (*Dopros Smakhtina* 2004: 4). The witness Garbuzov, an employee of a construction company, stressed: 'The exhibition itself and all that followed took a lot of strength and caused great moral harm to me. Huge damage, I would even say, damage which cannot be made up for. I can say that an ulcer (a cancer) burst open and then damage was inflicted on me, great, significant damage ...' (*Dopros Smakhtina* 2004: 8) The witnesses suffered emotional, moral and health damage, and they gave evidence of the harmful effects of the images/paintings by means of their own condition. The art's possible effects were confirmed by 'psychological juridical opinions'. Here is an excerpt from a psychological juridical opinion given in the 'Caution, Religion' trial (2005):

The authors of the exhibits create an image (a likeness) of Christ and thereby try to distort the image of religion and Christianity in public. This is an attempt to change the observer's worldview by means of shocking and provoking representations and to force him to doubt the religious and moral foundations of society's order, the family, his character and the integrity of his mental values. The process...increasingly and clearly reinforces its negative psychological effect and stimulates cultural and moral or psychological shock reactions.... The visitors of the exhibition were exposed to the strongest and most extreme impacts on their psyche while observing the exhibits mentioned. These impacts constitute a direct threat to their personality as a whole and threaten to destroy their worldview, which resulted in an experience traumatic for their psychological constitution. They also represent a strong stress factor causing insurmountable moral anguish and stress, as well as feelings of humiliation and indignity. (Slobodchikov 2008: 14)

The last quote reveals that the iconic notion of the image does not need to be created, it is already postulated as existing. The expert even presupposes the iconic idea of the images. Consequently, the judicial proceedings do not discuss

the limits of art by using religious material. The experts of the prosecution and the prosecutor do not mention the interpretability of the images. The use of the effect-witnesses prevents the discussion about art.

Yet the trials not only have the purpose to re-establish a religious idea of art but also to modify and to tighten the law. In 2013, the Russian Duma passed a new law that generally forbids any use of religious symbols. The blasphemy law allows for prison sentences of up to three years for those who offend Russian citizens' religious feelings.

Notes

- 1 We have to bear in mind that this trial only seemed necessary because writers like Sinyavsky were pushing for freedom of expression by *tamizdat* (publishing abroad) or by *samizdat* (self-publishing) and that the state overall was losing its institutional and ideological grip on the cultural fields. There arose a polarity between a state-sponsored subfield with its material and symbolical gratification of political loyalty on the one hand and a defiant subfield based on artistic merit and political disloyalty on the other. (I'd like to thank Matthias Meindl for the discussion on this point.)
- 2 In 1938, Mandelstam is convicted a second time, this time because of counterrevolutionary actions, in a secret mock trial. The verdict was five years of hard labour (Kolyma), and on 27 December 1938 he dies in a hospital barrack of a transition camp and is buried in a mass grave.
- 3 The *Sobornoye Ulozheniye* was a legal code promulgated in 1649 by the Zemsky Sobor under Alexis of Russia. The code was used up to 1849, when its articles were revised.

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