Wages for compulsory labor. Two women technicians wrote, "The father who does not want to fulfill his paternal responsibilities is a destroyer of the family." Other letters suggested that the fees for divorce should be even higher than those proposed, and that divorce should be returned from ZAGS to the courts. Women approved the idea of strengthening the family if it meant increasing the responsibility of men toward their wives and children.

In a park in Red Presnia in Moscow, a district with a long history of working-class militancy, a woman worker in a public discussion of the 1936 law, yelled out, "Destroy all the men and everything will be in order." The state drew upon this deep fount of bitterness to justify the resurrection of the family. The 1936 law offered women a tacit bargain: It broadened both state and male responsibility for the family, but in exchange it demanded that women assume the double burden of work and motherhood. The idea that the state would assume the functions of the family was abandoned. The new bargain was possible precisely because of women's painful experiences — in the 1920s and in the new Soviet industrial revolution — with the disintegration of the family. Although it satisfied certain social needs, it also marked the beginning of the state's abdication of social responsibility and the double burden that Soviet women bear today. Ultimately, this bargain, which has comfortably accommodated both men and the state, has left women with the lion's share of responsibility for work, shopping, housework, and child care.

121 See Pravda, "Trekhogorka Golosuet," and "Polnoe Zapreashchenie Aborta — Nepravil'no" (May 27, 1936); 2; "O Posobnikakh Zlostnym Neplate'veshchikam Alimentov" (May 28, 1936); 2; "Kak Dolzhen Proskhodit' Razvod" (June 8, 1936): 3.


Conclusion
Stalin's oxymorons:
Socialist state, law, and family

We should not aspire to a highly stable family and look at marriage from that angle. Strengthening marriage and the family — making divorce more difficult — is not new, it is old: it is the same as bourgeois law.1

Iakov Brandenburgskii, arguing before the VTsIK in 1925

These "theories" were reflected also in denial of the socialist character of Soviet law, in attempts to portray Soviet law as bourgeois law — as law resting on the same bourgeois principles and expressing the same social relationships inherent in the bourgeois order. These persons trod the well worn path of Trotskyite—Bukharinist perversions. . .

Andrei Ia. Vyshinsky, 1948

In the two decades between 1917 and 1936, the official Soviet view of the family underwent a complete reversal. Beginning with a fierce, libertarian commitment to individual freedom and "the withering away" of the family, the period ended with a policy based on a repressive strengthening of the family unit. Similar shifts occurred in the ideology of the state and the law as the party systematically eliminated the libertarian currents in Bolshevik thought. A legal understanding of crime based on social causation and rehabilitation yielded to a new emphasis on personal culpability and punishment. Open intellectual exchange gave way to fearful caution, honest debate to a stiff, brittle mockery of discussion. By 1936, newspapers trumpeted

1 Stenograficheskii otchet zasedaniia 2 sessii Verossiiskogo Tsentral'nogo Ispolnit'el'nogo Komiteta, 12 soveta, 20 oktyabria 1925 goda (Moscow, 1925): 146.

support for a strong socialist family, elaborate legal codes, and a
powerful state. The concepts of socialist family, law, and state,
more reminiscent of Constantine Pobedonostsev than Marx, had
become the new holy trinity of the Party.

The shifts in ideology occurred unevenly and often in a con-
tradictory fashion. The abolition of the Zhenotdel in 1930 elimi-
nated an important center of ideas and activities promoting
women's interests. Weakened by a lack of support and funding
through the 1920s, the Zhenotdel had already lost much of its
power by the end of the decade. Yet despite its weakness, the
organization had planned and made possible such meetings as
the 1927 Women's Congress, which brought hundreds of
working-class and peasant women together to criticize the Party,
and the state, to explore the sources of their oppression, and
to discuss their ideas for change. Richard Stites notes that
the abolition of the Zhenotdel marked "the end of the Prole-
tarian Women's Movement."

At precisely the same time that the Zhenotdel was disbanded,
however, the first five-year plan revived early ideas of women's
emanicipation and the "withering away" of the family. Many
Party activists, prompted by women's entrance into the work-
force, enthusiastically took up the causes of daycare, socialized
dining, and women's liberation from household responsibilities.
In the legal arena, a group of jurists led by Krylenko, drafted a
new "minimalist" criminal code in 1930 designed to undercut
the foundations of law. The draft contained no sanctions against
juvenile crime, and strongly emphasized social motives for crimi-
nal behavior and "socially oriented preventative and readaptive
measures" in lieu of punishment.

Stalin's speech to the Sixteenth Party Congress in 1930 typi-
ified the contradictory combination of retreat and revolutionary
revival. Still adhering to the eventual "withering away" of the
state, he articulated a new dialectic of state power. "We are for

Richard Stites, The Women's Liberation Movement in Russia. Feminism,
Nihilism, and Bolshevism, 1860–1930 (Princeton University Press,
Princeton, N.J., 1978); Carol Eubanks Hayden, "The Zhenotdel and

Stites, p. 344.

John Hazard, "The Abortive Codes of the Pashukanis School," in
F. J. M. Feldbrugge, Codification in the Communist World (A. W. Sijthoff,

the withering away of the state. And we are also for the strength-
ening of the dictatorship of the proletariat. . . . The highest
development of state power with the aim of preparing for the
withering away of state power — here is the Marxist formula. Is
this a 'contradiction'? Yes it is a 'contradiction'."

Yet by the end of the first five-year plan, policy began to veer
sharply away from the "withering-away" doctrine. In 1932,
Vyshinsky published a call for firm, centralized control of the
judiciary and a new stability of law. In stark opposition to Pash-
ukanis and his followers, he argued that law would achieve its
fullest expression under socialism, not under capitalism as the
commodity exchange school had maintained. In 1933, the estab-
ishment of the All-Union Procuracy provided a strong cen-
tralized power base for Vyshinsky and his ideas. The plurality
of legal opinions and journals disappeared. Vyshinsky viciously
attacked Pashukanis at the Seventeenth Party congress in 1934 for
"legal nihilism." Vyshinsky's appointment as Procurator Gen-
eral in March 1935 constituted a clear triumph over Krylenko,
the Russian commissar of justice and a proponent of the
"withering-away" doctrine in law.

I. V. Stalin as quoted in Sovetskoe gosudarstvo, 9–10 (1930) on front-
sisiece of volume.

A. Vyshinsky, "Revolutsionnaya Zakonnost': Nashe Zadachi," Pravda,
(June 28, 1932): 2. On Vyshinsky's article as a turning point, see
Eugene Huskey, Russian Lawyers and the Soviet State. The Origins and
Development of the Soviet Bar, 1917–1939 (Princeton University Press,
Princeton, N.J., 1986): 180, and "From Legal Nihilism to Pravovoe
in volume edited by Donald Barry. Legal historians differ as to when
the Party officially abandoned the withering-away doctrine in favor of
strong socialist law. Huskey pinpoints Vyshinsky's article and So-
vonkarov's accompanying decree as signals for the turn, Hazard cites
Stalin's 1930 speech to the Sixteenth Party Congress, and Peter Solon-
mon points to Stalin's secret directive in May 1933 halting deporta-
tion of the kulaks and chastising local officials for excesses. See
Hazard, p. 166; Peter Solomon, "Local Political Power and Soviet Criminal

Robert Sharlet, "Pashukanis and the Withering-Away of Law in the
USSR," in Fitzpatrick, ed., Cultural Revolution in Russia, 1928–1931
(Indiana University Press, Bloomington, 1984); and his "Stalinism

Huskey, Russian Lawyers and the Soviet State, p. 185.
By the spring of 1935, the shift in policy toward law and the family was inscribed in new laws designed to use the family to counter juvenile crime. Vyshinskii succeeded in destroying and impugning Komones, the Commission on the Affairs of Minors, the Procuracy gained vast new powers over juvenile crime, and the Party spearheaded a campaign to enforce alimony and child support awards. Jurists, once highly sensitive to the social causes of besprizornost', abortion, and juvenile crime, now justified repression with the facile, even cynical claim that conditions had improved.

By 1938, Vyshinskii branded the legal theories of the 1920s as "exceedingly crude perversions," produced "by a group of pseudo Marxists who have spared no effort to litter our juridical literature with pseudo-scientific rubbish." He called Pashukanis "a spy and a wrecker" and claimed that Stuchka and other jurists "trod the well-worn path of Trotskyist-Bukharinist perversions." Pashukanis and Krylenko were both arrested and shot in 1937. Alexander Goikhberg, the idealistic author of the 1918 Family Code, and Aron Sol's, an active participant in the VTsSIK debates in 1925 and 1926 who was also a high ranking member of the Central Control Commission and the Procuracy, were both committed to mental institutions. Many other participants in the debate over the Family Code, like Alexander Beloborodov, Aleksei Kiselev, and Pyotr Krasikov were murdered in prison between 1936 and 1939. Countless other jurists and activists disappeared into the camps.

By 1944, the reversal in family law was complete: the Family Edict of that year repudiated the remaining traces of the legislation of the 1920s by withdrawing recognition of de facto marriage, banning paternity suits, reintroducing the category of illegitimacy, and transferring divorce back to the courts. In Peter Juvalier's words, the Family Edict sought to promote family stability "by sparing a man and his legal family the financial and emotional shocks that might arise from paternity and support suits." The twenty year conflict between the legal wife and mistress over the income of the male wage earner was finally resolved in favor of the family. The most revolutionary provisions of the 1918 and 1926 Codes were all eradicated.

The roots of the reversal in family law go back to the 1920s. The legacy of Russian underdevelopment, the lack of state resources, the weight of a backward peasant economy, society, and traditions, the wartime devastation of the industrial base, unemployment, famine, and poverty all seriously undermined the early socialist vision. The besprizornost played a crucial role in forcing the state, decree by decree, to abandon collective child rearing. Many of the suggestions offered by women and peasants in the 1920s — to limit divorce, enforce responsibility for alimony, and stop male promiscuity — were eventually taken up in Stalinist law and family policy. The harsh rhetoric of family responsibility undoubtedly found an appreciative audience.

Yet the state pursued its own agenda through the 1936 law, which was not necessarily shared by the Soviet population. Tadeusovian admitted after World War II that "High fertility of the Soviet family was one of the socialist state's basic purposes in publishing the decree of June 27, 1936 on the banning of abortion." Although women supported certain sections of the law, there is no evidence that Soviet women, living in overcrowded, makeshift rooms, juggling work and family, strained by the effort to outfit and feed their children, supported the provision on abortion. The pronatalist emphasis of the law, extolling families of seven or eight children, mocked social conditions and added immeasurably to the heavy burden of work and motherhood that women already bore.

Moreover, economic and social statistics suggest that repressive measures against irresponsible husbands and fathers were not the most effective way to protect women and children. Although men were undoubtedly irresponsible in their behavior toward their former wives and children, it did not follow that a worker's wages could support two families. Men could be forced to pay, but the sum was usually deducted at the expense of a second wife and family. Repression had limited social value in circumstances in which limited income, rather than personal culpability, determined the fate of families. Men undoubtedly

12 Quoted in ibid., p. 32.
exacerbated women's suffering, but the individual male wage earner did not hold the key to women's liberation.

Finally, although material conditions played a crucial role in undermining the vision of the twenties, they were not ultimately responsible for its demise. One jurist wrote in 1939, "The insistence on the 'withering away' of the family was overtaken by life itself." Yet this was not entirely true. The juridical commitment to free union and the "withering away" of the family was sustained despite the adversities of NEP. Officials in the Commissariats of Land and Justice maintained a strong dedication to women's liberation in the countryside despite powerful peasant opposition. Jurists continued to push for the socialization of housework despite the lack of state resources. The ideological reversal of the 1930s was essentially political, not economic or material in nature, bearing all the marks of Stalinist policy in other areas. The 1936 law had roots in the popular and official critiques of the 1920s, but its means and ends constituted a sharp break with earlier patterns of thought, indeed with a centuries-long tradition of revolutionary ideas and practices.

Stalinist policy toward the family was a grotesque hybrid: Rooted in the original socialist vision, starved in the depleted soil of poverty, and ultimately deformed by the state's increasing reliance on repression. Yet the lineaments of the original vision could still be discerned in the hybrid of 1936. Unlike Nazi family policy, for example, Stalinist ideology never held that women's place was in the home. Despite the emphasis on a strong, stable family, the Party continued to encourage women to enter the workforce, and, moreover, continued to couch its appeals in the older rhetoric of women's liberation. Officials pursued aggressive policies aimed at training, promoting, and educating women, all of which were antithetical to fascism. And despite the new glorification of family, law, and state, Stalinist jurists never entirely disavowed the legislation of 1918 and 1926. They rejected its fundamental aim, namely to promote the "withering away" of the family, and they sanctioned the destruction of its authors, but they continued to claim a continuity between the legislation of the 1920s, 1930s, and 1940s. They still proudly maintained that socialism freed "tens of millions of working mothers for participation in production and social life."14

The tragedy of the reversal in ideology was not simply that it destroyed the possibility of a new revolutionary social order, although millions had suffered and died for precisely this. The tragedy was that the Party continued to present itself as the true heir to the original socialist vision. Cloaking its single-minded focus on production in the empty rhetoric of women's emancipation, it abandoned its promise to socialize household labor and to foster freer, more equal relations between men and women. And the greatest tragedy is that subsequent generations of Soviet women, cut off from the thinkers, the ideas, and the experiments generated by their own Revolution, learned to call this "socialism" and to call this "liberation."
