

THE ROLE OF JUDICIAL AUTHORITIES IN CRIMINAL PROCEEDINGS FOR POLITICAL CRIMES IN THE STALINIST PERIOD: MODERN HISTORIOGRAPHY

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The subject. The subject. Historiography of the participation of the judicial authorities in mass repressions in Soviet Union in the 1930s-1950s.

The purpose of the article is to confirm or disprove the hypothesis that the number of studies of the historical involvement of the judiciary in repression in recent years is increasing; researches cover more and more regions of the former USSR and help to create a complete picture of the special procedural law for political cases in Soviet Union in the 1930s-1950s. Methodology. The author uses historical legal method. The author analyses legal and historic literature, written by scientists who live in former USSR. Analysis of judicial statistics is used also.

Results, scope of application. The history of the Soviet court remains the subject of active research interest at the present time. At the same time, special publications summarizing the entire body of scientific works on the participation of justice in mass repressions are not issued. A number of works on the history of the judicial authorities contain sections on the application of the rules of judicial procedure to political crimes. Currently, PhD theses, covering an increasing number of regions of Russia, are being defended actively. Unfortunately, some regional researchers are not familiar with the modern historiography of the judicial system and, therefore, repeats some of the conclusions that have been made before. Researchers are trying to formulate new approaches to assess the repressive policy of the Soviet state. For example, V.N. Karaman determines the repressions using political criterion. Researches that are not directly related to the history of judicial proceedings contain valuable information about the participation of courts in mass repressions often. Also, the group of researchers continues to develop the theme of rehabilitation of victims of political repression. New young researchers are emerging.

We should also highlight a group of works on the historiography of mass repression. The appearance of such works is justified. A lot of research has accumulated for 70 years, which need to be generalized and systematized. Three of the PhD thesis, dedicated to the repression of the state security organs, five theses on the mass repressions, 14 theses on the camps during the war were defended during 1990-2010 in Siberia.

The Russian-French seminars "Judicial political processes in the USSR and Communist countries of Europe: a comparative analysis of mechanisms and practices", held in 2009-2011, played an important role in summarizing the main problems of legal proceedings in political cases.

Modern science continues to study various aspects of the application of criminal procedure for counter-revolutionary crimes. Scientists are exploring in detail the role of the judicial authorities in conducting mass repressions in Soviet Union the 1930-1950s. Individual problems of political justice are considered in detail: types of political processes, rehabilitation procedures, official forgery, cassation on political affairs, etc. There are separate areas of activity of the judicial authorities, directed against certain groups of the population: military, intellectuals, party-soviet officials, peasants, etc. Regional studies continue to appear, reflecting the role of the judicial authorities in mass repressions.

Conclusions. The judicial authorities are considered generally in the context of the activities of all repressive bodies in modern legal and historical scientific literature; researches cover more and more regions of the former USSR and may lead to a complete picture of the special procedural law in political cases in Soviet Union in the 1930s-1950s.

1. Introduction

The history of the Soviet court remains the subject of active research interest at the present time. At the same time, special publications summarizing the entire body of scientific works on the participation of justice in mass repression are not issued. This article continues our publication prepared in 2012 (Soviet justice and repression in Stalinist Russia: problems of theory and history// Legal science and law enforcement practice. Tyumen, 2012. No. 3. Pp. 9-17). The scope of contemporary publications in this area is enormous. In this regard, we have limited ourselves to considering only the works of modern scientists living in the territory of the former USSR. We have excluded from the sphere of study a large number of interesting foreign authors, as well as a huge amount of garbage pseudopatriotic and pseudoliberal literature, the study of which can be the subject of other socio-psychological research. Unfortunately, the volume of scientific works is so large that it is not possible to describe all scientific works.

2. The role of military justice in mass repressions

A.E. Epifanov is one of the leading modern scientists in this area, he has conducted the research on the prosecution of war criminals and their accomplices in the USSR. The result of many years of his work was an extensive monograph "Organizational and legal basis for the punishment of Hitler's war criminals and their accomplices in the USSR, 1941-1956" published in 2017.

The scientist creates an impressive panorama of the consistent actions of the Soviet state to investigate, prosecute and convict war criminals and collaborators. The basic rules of criminal procedure are contained in chapters 3 and 4 of the work. The peculiarity of Epifanov's work is its painstaking, thoroughness, consistency. The researcher carefully examines the activities of operational security units, military counterintelligence, interrogators and military investigators. Consistently considered the procedure for all procedural actions, jurisdiction,

the actual practice of applying the norms of wartime.

The investigation of such cases was conducted not by military investigators, but by NKGB-MGB-KGB investigators (until 1956) under the supervision of the military Prosecutor's office. Epifanov pays great attention to the exposure of criminals among former Soviet prisoners of war, repatriated Soviet citizens of foreign and interned persons. The lack of work of A. E. Epifanov should be attributed to incomplete knowledge of the historiography of the issue. Because of this, the scientist sometimes re-makes discoveries already made by other specialists.

I consider the work of military tribunals in these cases Epifanov reveals all the main problems and shortcomings in the work of justice. In particular, he examines the problems of jurisdiction, the specifics of judicial procedures in war conditions, the activity of military field courts (he evaluates it critically), the conduct of demonstrative trials.

Epifanov's work remains, in our opinion, one of the best modern works on the problems of application of military criminal and military procedural law during the war [1].

The topic of military criminal procedure policy during the war remains relevant. There are interesting publications. For example, the works of M. I. Timofeev (St. Petersburg) [1, pp. 250-254; 3, pp. 43-47], S. G. Lysenkov (St. Petersburg) [4, pp. 24-27; 5, pp. 615-622], A. S. Mamykin (Moscow) [6, pp. 5-12], V. A. Davydov and V. I. Kachalov (Moscow) [7, pp. 38-43], M. V. Sklyarenko (Moscow) [8, pp. 26-30; 9, pp. 36-42]. These authors actively use the archives of the Military College and the Office of military tribunals, carefully analyze the legal acts, and not just rewrite Soviet laws. All these intensive analytical works suffer from one drawback-poor knowledge of the historiography of the issue. Participation of justice bodies as an additional appendage to NKVD bodies is considered by researcher V. F. Zima. [10] I. A. Anuchin's research examines the role of exile in the system of repression, including on political grounds[11].

S. N. Shatilov mentions the number of citizens repressed by the military tribunals and General courts (on political grounds) during the war and calls the figure 336 612 people [12, p. 132]. Repression in the red army is studied by scientists who began this

work in previous years. The study of repression in the Red Army continues by O. F. Souvenirov. [13] Large group of studies is a series of dissertations, articles and monographs on repression in the red army and the Soviet Navy in the 1930s under the overall leadership of Vladimir Milbach Spartakovich. Perhaps in the future, scientists will pay tribute to this outstanding researcher. After defending his doctoral dissertation (2005), he developed a plan to create a large-scale picture of mass repression in the army and Navy during the Stalin period. Each major unit (army, military district, fleet, flotilla) became the object of a separate study. For each of them, a separate researcher conducted a deep analysis of archival materials, published a monograph and defended his thesis. As a result, we see the formation of a large scientific school Milbach. Each study follows a certain pattern. In particular, scientists consider in detail the role of military justice bodies (investigators, prosecutors and judges) in the implementation of repressive state policy [14; 15; 16; 17; 18].

3. Regional bodies of justice in the mechanism of mass repressions

A number of works on the history of the judiciary contain sections on the application of the rules of judicial process to political crimes. For example, Novosibirsk scientists described the work of Siberian courts in the years of the Great terror. The authors detail the work of regional and territorial courts of Siberia, the degree of participation of the people's courts in handling cases of counter-revolutionaries, gave examples of show trials, purges of the courts, the campaign to restore law and so on [19, pp. 232-255].

In recent years, an increasing number of works on the criminal repressive policy of the Soviet state Professor SB RAS S. A. Papkov. Exploring the peasantry scientist moved to the topic of repression against the population by the NKVD. Often the final stage of repression was the trial. So the scientist took up the problems of Soviet jurisprudence. So in the work "Ordinary terror" (2012) he traced the main stages of terror in Siberia. He noted the main role of the NKVD in

the repression of the 1930s. Described the period of "legality" since 1938. Papkov noted the growing role of justice during the war, but gave few concrete facts about their activities. The role of justice in mass repressions in the postwar period is not revealed at all. However, such restrictions may be associated with a large amount of work. [20] further considering judicial repression against certain segments of the population of Siberia Papkov considered the role of Siberian lawyers in the repressive company, while acting as victims of terror [21, pp. 53-58].

Currently, the active process of defending candidate dissertations, covering an increasing number of regions of Russia, continues. Unfortunately, some regional researchers are not familiar with the modern historiography of shipbuilding and, therefore, repeats some conclusions that have been made for a long time. In a number of regional works, researchers, considering the mechanism of mass repression, focus only on the role of the NKVD (and its successors) of the USSR. This dissertation research of O. A. Ivanova for 1917-1956 (Tatarstan, 2009), [22] V. N. Karaman for 1917-1941. (Far East) [23], O. Yu. Irgit in 1921-1944 (Tuva) [24; 25, p. 32-39], A. A. Koldushko and O. L. Leibovich (Ural). [26] these scholars regarded the judicial authorities as an "Appendix" to the NKVD and briefly mention the final stage of repression – the judicial verdict. In St. Petersburg, V. A. Ivanov continues to explore the regional specifics of terror. [27, p. 113-118] V. N. Smirnov conducts Interesting research in the field of legal proceedings in counterrevolutionary cases [28, pp. 203-211; 29, pp. 47-51].

The researchers try to formulate new approaches for assessing the repressive policy of the Soviet state. For Example, V. N. Karaman determines the repression of the political criterion. He singles out 1917-1922 "conquest of power", 1923-1927 "retention of power", 1928-1933 "establishment of control over the peasantry", 1934-1936 "establishment of control over the party", 1937-1938 "great terror", 1939-1941 "release of steam" [23, l. 39-47]. Despite the controversy of some dates and names of periods in general, we can agree with the author that political reasons were the main in determining the political criminal law campaigns.

Often, works that are not directly related to the history of legal proceedings contain valuable information about the participation of courts in mass repressions. For example, the activity of special boards in the far East in 1934-1938 is described by V. A. Sergienko [30, l. 122-174] a Similar character is the work of A. G. Seropyan on the judicial bodies of the Kuban in 1920-1941 [31, l. 75-95], A. p. Matyushin in Chuvashia [32, p. 168-174], as well as intensive work on the participation of justice in political repression in the Kuban S. A. Kropachev.[33, p. 47-51] the specific practice of the judiciary (special colleges and military tribunals) on the example of Mordovia is considered by the historian E. N. Tyazin.[34, p. 67-74; 35, p. 1597-1601] the Activity of political justice in Khakassia was reviewed by V. A. Pechersky and M. G. Stepanov [36].

Also, the group of researchers continues to develop the theme of rehabilitation of victims of political repression. New young researchers are emerging. For example, in 2011 she defended her thesis on the history of state rehabilitation for a long period of time – from 1953 to the present day. The peculiarity of Putilova's work is that she considered this story in the context of interaction between the state and society on rehabilitation. Putilova as a whole accurately describes work of the commissions on rehabilitation in 1953-1956, lists a number of NPA on rehabilitation, considers activity of the commissions of 1956, etc. [37; 38] also V. N. Uymanov paid attention to rehabilitation procedure [39; 40, pp. 92-99; 41].

4. Historiography of the mass repression

We should also highlight a group of works on the historiography of mass repression. In the phenomenon of such works is justified. For 70 years, a lot of research has accumulated, which need to be generalized and systematized. M. G. Stepanov continues his research in the field of mass repressions of Soviet citizens during the Stalin period. As before, the author considers only the NKVD-NKGB bodies as the main body of mass repressions and does not take into account the role of the justice bodies at all, while noting that according to other researchers, the justice bodies

became the main repressive body on the eve of the war. Considering the historiography of repression in Siberia in 1939-1945, Stepanov reduces it to the works of Papkov, Gashenko and 2-3 other authors. Three dissertations, five dissertations on mass repressions and 14 dissertations on camps during the war were defended in Siberia in 1990-2010 alone. And this, not counting books and articles. Having no information, the researcher comes to the wrong conclusions that only the scientist G. M. Ivanova is engaged in the study of camp justice. The history of the Gulag (published in 7 volumes) is also not the only comprehensive source of information about repression in the USSR on political grounds. [42, p. 46-53] a Little later returning to this topic in 2015 Stepanov refuses categorical conclusions and expands the list of authors, which he considers from a historiographical point of view [43, pp. 49-55].

In another study, considering the mass repression among soldiers Stepanov demonstrates ignorance of many major scientists who have made a significant contribution to the history of repression: A.I. Muranov, V.A. Zvyagintsev, Mark Jansen, N.G. Smirnov, V.N. Kudryavtsev and A.I. Trusov. [44, pp. 156-159] Despite a number of problems, the researcher seeks to systematize the points of view of different scientists on the causes of terror, its chronology, etc.

In 2010 S. V. Sosnovskikh's thesis on historiography of mass repressions in the Urals was defended. The researcher analyzed a large group of historical works on terror against the party leadership, intellectuals and priests. Applying a social approach, the scientist did not identify groups of works on individual repressive bodies, considered them as a whole. The organs of justice were still regarded as an appendage of the NKVD [45].

An interesting article by A. Teplyakov on the historiography of mass repression in 2000-2011. the Author rightly subjects modern research to harsh criticism. At the same time, it does not take into account many regional studies and almost does not consider publications in the field of judicial justice [46, pp. 224-254].

In 2011 he defended the thesis of one of the leading experts in the history of mass repression S. A. Kropachev [47, pp. 166-172; 48; 49; 50, pp. 86-99] due to his scientific interest, the scientist, first of all,

considered the demography of mass repression. But soon the researcher moved on to the General problems of the state Terror. In 2016, Kropachev published a remarkable article in the journal of State and law devoted to the term "totalitarian law". This is an important attempt to introduce this concept into the Humanities. Kropachev's article needs careful and detailed analysis. In this publication, we do not aim to highlight all the nuances of his article. Let's focus only on the most important aspects of the idea [51, pp. 86-92].

Kropachev rightly raises the question of insufficient disclosure of the legal mechanism of mass repression. He identifies a number of specialists who have studied this mechanism. It is possible to make a number of remarks concerning disputability of this list in which, nevertheless, large scientists of Russia are presented. However, a number of specialists (V. N. Kudryavtsev, A. I. Trusov, V. S. Milbach, etc.), who were engaged in the development of details of the mechanism of mass repression, are unknown to the author. Following in the doctrinal framework of the POS-Lok Kropachev argues that the right cannot be totalitarian. He uses this term only as a kind of Convention. It is impossible to agree with the author. In ancient times and in the middle ages the right was not any "democratic", so it was not? Yeah, right, by its very nature is committed to equality. But, aspiration and reality are not the same things. Perhaps it is impossible to talk about totalitarian law at all. But it is possible to talk about the elements of law inherent in a totalitarian state. Looking at the 1930s, the investigator identifies four waves of terror and cites separate legal acts that can be attributed to totalitarian law. Leads statistics (specialization in which he certainly is). The exception is the fourth period, 1938-1939. no mass repressions nor regulations, nor the activities of the state or statistics do not show us. It was a period of "legality." A new wave of terror arose in 1940.

Further, the researcher gives signs of totalitarianism of law. Including its class character. Indeed, for socialist States at an early stage, this sign could play a role. But, this can only be a sign of totalitarian socialist law. After 1936, Soviet law had almost no class orientation. But the totalitarian

state is not over?

The next sign is the rejection of the presumption of innocence. It certainly can be attributed to the totalitarian legal features. But, innocence is only an institution of criminal process. At least, it is not correlated in scale with the more General sign of class orientation. The next sign – nihilistic attitude to the law, also, to a greater extent, characteristic of the early Soviet state, which cannot be recognized as totalitarian. It is impossible not to agree with the sign of politicization of all law-enforcement bodies. It is only necessary to clarify the law enforcement agencies — this is not a right. As well as not the right sign of obedience, brought up by employees of the police and the police.

The following signs certainly take place. This is the allocation of political justice, and criminal law campaigns (campaigning), and the formalism of the law. Unfortunately, the scientist only designates these signs without a detailed characteristic. Thus, the researcher again raises an interesting problem of totalitarian rule (totality in law?), but further deeper research in this direction is needed.

5. Historiography of judicial and political processes

The Russian-French seminars "Judicial political processes in the USSR and Communist countries of Europe: a comparative analysis of mechanisms and practices", held in 2009-2011, played an important role in summarizing the main problems of legal proceedings in political cases.

Alan Blum, an active participant in these seminars, raised the fair question that historians underestimate the legal side of political processes. He urged to compare processes, to develop a model of the matrix of processes. At the same time, he stressed that the model itself has evolved. Blum makes a successful scheme of the political trial of the Stalinist era, taking into account almost all the elements. The scientist asked several main topics on the problems of criminal trials in political cases [52, pp. 5-11].

The participant of seminars S. A. Krasilnikov carried out serious work on collection of materials on carrying out processes-performances. Developed and disclosed the course of processes in the main political cases. Developing the ideas of Blum, the

scientist tried to identify the model of the social and political process (SPP) in relation to the 1920s. In particular, he defines SPP as a process that takes place within the existing judicial order in the interests of the regime to suppress real or potential opponents. In total, the researcher counted 10 forms of "matrix" processes (economic counter-revolution, Church counter-revolution, etc.) [53, pp. 11-21; 54, pp. 60-67].

Krasilnikov's research culminated in the publication of a textbook devoted to the mechanism of SPP. In fact, it is actually not a manual, but a monograph. As examples he picked SPP on the SRS in 1922, the Shakhty process 1928, Moscow trials 1936-1938, the years Comparing different process models Krasilnikov determines the 1920-ies as a real process to deal with enemies new power. The trials of the intelligentsia in 1928-1931 were transitional, the role of staging increased. The first fully staged performance-process was the case of the industrial Party (1930). Processes were an instrument of social mobility. The author highlights the legal, propaganda, repressive, social and foreign policy aspects of the SPP. [55, p. 141-147] the Researcher continues to work fruitfully in the field of studying the political justice of the USSR [56, pp. 38-53; 57, pp. 153-174].

Meanwhile, the level of research on mass repression is increasing. There are many original works. For example, in 2018, the work of E. M. Mishina was defended, which used statistical methods to analyze the social portrait of the repressed. A thorough study allowed the dissertation to determine the dynamics of repression in the Altai, to identify the mechanism of repression, to classify the age, social, national and educational structures. By identifying the social causes of repression Mishina was able to build a typology of repression in the Altai regions. The result of the research of the young scientist is an interesting and promising model of the analysis of mass repressions with the help of mathematical models. [62] Close on methodological reception of the work is dissertation of L.A. Lyagushkin. Actively using mathematical methods, the researcher analyzed the specifics of repression in 5 Russian regions and compared them [63].

6. New historiographical problems of mass repressions

Including the author, he also prepared several publications on the application of criminal procedure in political cases in the Stalin era. [64, pp. 127-133; 65, pp. 235-245; 66, pp. 42-45; 67, pp. 23-33; 68, pp. 52-56; 69, pp. 69-73].

Ukrainian researcher A. Shchelkunov studies relatively little-known facts of mass repression. For example, he carefully considered the mechanism of mass forgery used in the investigative apparatus. [70, p. 43-57] in another publication, the researcher, one of the first, conducted a thorough analysis of the liberation and rehabilitation of citizens during the new "legality" in 1938-1941. in particular, he revealed the role of special departments of the Prosecutor's office, the campaign to convict NKVD officers involved in the Great Terror. Shchelkunov accurately noted that since the summer of 1940, the campaign for liberation and rehabilitation has almost ceased [71, pp. 103-118].

There were a number of publications of the young researcher D. N. Shkarevsky in which he touches upon the problems of political repression with the use of a judicial instrument of influence. It deals mainly with repression through the use of criminal justice and the transport Prosecutor's office. In his monograph on transport justice, the author in the section devoted to mass repression examines in detail the participation of transport courts in political justice. Including raises such a rare topic as the growth of suicides of soldiers under the influence of mass repression. In another work, he reveals the procedure for applying hard labor to political criminals [72, pp. 12-15; 73, pp. 27-29; 74; 75, pp. 28-32; 76].

M. E. Zharkoy continues his research in the field of ideology and practice of criminal proceedings, including repressions on political grounds. Despite the interesting ideas and good materials found, the researcher, in our opinion, excessively politicizes the scientific process, gives the idea of the Soviet state a certain super-value. In Vyshinsky's works the researcher tries to find the principles of struggle against counter-revolutionaries. Engaged in apologetics Vyshinsky Hot does not notice that the Prosecutor of the USSR

was an ordinary opportunist. Vyshinsky many times changed his disguises, wrote opposite things, sensitively feeling the needs of the leader immediately rebuilt and branded the ideas that he impudently imposed the day before. Researchers condemning the repressive policy of the politicization and lack of restraint of the Hot projects on them my personal opinion. The scientist collects all points of view about the causes of mass repression and comes to the conclusion that in most cases the repression was preventive in nature (although the principles and features of mass repression Zharkoy finally systematizes). Objective data allow us to argue with this point of view. If repression was so effective, why did the army fight so badly in 1941-1942? Why did hundreds of thousands of Soviet citizens serve in the Wehrmacht and SS or were collaborators? I wonder if the Communists would not have served the Nazis if it had not been for the Wermacht order on Commissars (1941). How did it happen that some generals served Germany, including those close to Stalin? Why the obvious "contra", released from prison in 1941, heroically fought on the fronts of the war? Why did many recidivists become scouts and heroes of the Soviet Union? How many people had to be repressed to isolate potentially dangerous citizens? Where did so many traitors come from? And mass repression could not contribute to the growth of collaboration? Contradictions in their views Hot not sees. Such questions, in our opinion, are easy to answer if you get out of the paradigm of "friend-foe", "Soviet-non-Soviet" and perceive reality as it is, in all its complexity [77, pp. 86-94; 78, pp. 9-12; 79, pp. 148-159; 80, pp. 133-138; 81, pp. 159-164; 82, pp. 77-86; 83, pp. 261-271].

Of particular interest is the article by I. I. Oleynik and O. Yu. Oleynik on the historiography of cassation proceedings in Soviet Russia. The authors

conducted a thorough analysis of the available literature on this topic. If we take the literature of the last 10 years, they note that most of the works on criminal cassation of the Soviet period, still has a review character (D. I. Kovtkov, D. H. Gekhova, V. K. Aulov, E. A. Karikova, Yu. N. Tuganov, T. G. Borodinova, K. V. Ivashenko). A little more detail on some aspects of cassation proceedings stopped researchers I. S. Dikarev, P. A. Lupinskaya. In General, according to scientists (Oleynik), great advances in the study of cassation in the Soviet period is not observed [84, pp. 222-237]. Moreover, there are no special studies on legal regulation and implementation of cassation procedures in political cases. While the cassation for counter-revolutionary crimes differed significantly from the cassation for ordinary cases. Separate information on the cassation procedure for reviewing cases is scattered in some historical dissertations and articles, but we do not have any systematic knowledge here.

A separate group of studies is devoted to the dispossession of peasants and the deportation of national groups. In these operations of the NKVD organs of justice were not involved at all and, therefore, the topic is not considered in the present work.

7. Conclusion

Summing up, it can be noted that the accumulation of knowledge about the legal mechanism of political repression continues. The research covers more and more regions. The judiciary is generally considered in the context of the activities of all judicial bodies. The mechanism of repression is described in detail. But the full picture of special procedural law in political cases has not been recreated so far. Scientists are currently nearing its creation.

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