
МЕМЛЕКЕТ ЖӘНЕ ҚҰҚЫҚ ТЕОРИЯСЫ МЕН ТАРИХЫ ТЕОРИЯ И ИСТОРИЯ ГОСУДАРСТВА И ПРАВА THEORY AND HISTORY OF STATE AND LAW

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Kazakhstan's political repression in the first half of the 20th century: characteristics of the legislative mechanism governing the use of repressive measures

The research conducted enabled us to draw the conclusion that the mechanism of political repression during the studied period encompassed a range of legal and non-legal strategies, as well as organizational and social measures. These were implemented with the objective of attaining political objectives, safeguarding the existing structure, ensuring state security, and upholding the unity of the totalitarian union state. The time under examination witnessed the establishment of both public and confidential departmental regulations, which effectively safeguarded the legitimacy of political repression. These regulations comprehensively governed the whole process of implementing punitive actions. Simultaneously, the ruling bodies of the united communist party held exclusive authority in determining all significant decisions of state entities. The establishment of organizational and legal frameworks for political repression in the USSR was a fundamental component of the totalitarian control structure. This framework facilitated extensive human rights abuses and had a lasting impact on the historical trajectory of the Soviet population over an extended period. The examination of historical events of this nature enables us to comprehend the workings of totalitarian regimes and underscore the significance of the rule of law and autonomous institutions in safeguarding civil rights and liberties.

Keywords: repression, mass political repression, mechanism of political repression, rehabilitation, extrajudicial bodies, forced collectivization, anti-Soviet element, totalitarianism.

Introduction

The determination of the content of political repression conducted in the USSR during the first half of the 20th century, as well as the characteristics of the legal mechanism for implementing such measures, remains a highly contentious and inadequately researched subject within the realms of modern historical and legal scholarship.

The ability to undertake a scholarly examination of the mechanism of political repression has emerged since the late 1980s of the 20th century. This development coincided with the implementation of the policy of perestroika in the Soviet state, which introduced the principle of glasnost. As a consequence, previously classified archival data and other sources of information became accessible for scholarly scrutiny and dissemination. The contributions made by scientists in disciplines outside of the legal field hold significant value for the purposes of historical and legal research, particularly within the realms of political, social, and historical sciences. Noteworthy scholars in this regard include L.S. Akhmetova, A.N. Dugina,

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G.A. Zhumasultanova, A.S. Zhanbosinova, V.N. Zemskov, M.K. Kozybaeva, M.K. Koigeldieva, Popova, and Yu.I. Stetsovsky within the field of legal science, the investigation of political repression has garnered scholarly attention from many writers, including M.T. Baimakhanov, E.L. Barantseva, A.Ya. Ginsburg, I.A. Grishchenko, N.O. Dulatbekov, I.L. Zherebtsov, A.G. Zvyagintsev, O.E. Kutafin, D.B. Fartusov, and others.

Despite much study conducted on this subject matter, there remains a dearth of scholarly investigation of the legal dimensions surrounding the execution of political repression. This underscores the necessity for a more comprehensive examination of this matter. To date, there is a dearth of scholarly research in Kazakhstani legal science that has undertaken a complete and systematic examination of the establishment of the legislative framework governing the implementation of political repression, together with a study of the distinctive characteristics associated with the use of repressive means. The present study addresses the aforementioned deficiency in the field of historical and legal scholarship in Kazakhstan.

The scholarly study focuses on providing a theoretical explanation for the legal character, substance, and technique of implementing political repression in Kazakhstan, based on the analysis of practical implementations of repressive measures.

This objective necessitated the resolution of the subsequent issues:

- an examination of the evolution of social relations law arising from officially recognized crimes against the state;
- an examination of the elements of legislative support for the repressive policy, as well as the application of criminal law norms and criminal procedural law based on materials from Kazakhstani practice;
- an establishment of the function and position of the prosecutor's office and the judiciary in the political repression apparatus.

Methods and materials

The study was grounded on the methodological framework of the general dialectical method, along with several general scientific, special, and specific scientific techniques of legal knowledge. The examination of the inquiries presented in the study was conducted using distinct historical, retrospective, formal logical, statistical, and other methodologies.

The empirical foundation is primarily shaped by the dialectical progression of Kazakhstan's historical development in conjunction with other post-Soviet republics. This foundation encompasses legal statutes of both Union-wide relevance and the Kazakh SSR, as well as archival records. As a result of limited accessibility to Russian archives, we relied on previously published works by writers who had the privilege of examining the aforementioned papers. The lack of specific research conducted by legal scholars in Kazakhstan on the issue of political repression during the first half of the twentieth century in the USSR necessitated the examination of certain problematic aspects within the research topic using Russian and, in some instances, Soviet scientific sources.

Discussion and results

During the initial part of the 20th century, Kazakhstan had a challenging phase characterized by significant political transformations that were closely linked to the foundation and consolidation of Soviet authority. The historical period of our country's growth was marked by political repressions, which have had enduring social and cultural ramifications that persist in contemporary times. Moreover, they have emerged as subjects of historical and legal investigation with the objective of comprehending this sorrowful era and its repercussions on contemporary society.

In his address to the citizens of Kazakhstan on the occasion of the Day of Remembrance for Victims of Political Repression and Famine, President K.-J.K. Tokayev emphasizes that “the memory of those who suffered from political persecution and starvation will endure for generations to come. With a deep understanding of historical events, our utmost commitment is in preventing the recurrence of such calamities” [1]. The concept put out by the President of the Republic of Kazakhstan holds significant relevance in contemporary times, extending beyond the confines of our nation. As widely acknowledged, history has cyclical patterns. Hence, it is imperative that we acquire this knowledge, primarily to avoid the recurrence of historical errors. In recent times, there has been an increasing focus on the phenomenon of mass repression, particularly in relation to its role in instigating ethnic and religious tensions among the post-Soviet republics. A considerable number of publications have been made available to the general public, including diverse statistical data

pertaining to the population of individuals who have experienced repression. Frequently, the availability of supporting documentation for such information is lacking.

According to the research findings, V.N. Zemskov, a Russian scientist who holds a Doctorate in Historical Sciences and is a member of the commission of the Department of History of the USSR Academy of Sciences (established in early 1989 by the decision of the Presidium of the USSR Academy of Sciences), has identified four primary estimates for the magnitude of victims of political terror and repression in the USSR. These estimates are as follows: 110 million (as reported in the publications of A.I. Solzhenitsyn), 50–60 million (according to Western Sovietology during the Cold War), 20 million (according to Western Sovietology in the post-Soviet period), and 2.6 million (based on the findings of the commission's work) [2; 317]. Furthermore, it should be noted that the commission's estimates are only derived from official papers originating from the highest echelons of state authority and government institutions of the former Soviet Union. These records are meticulously preserved inside the State Archives of the Russian Federation. According to V.N. Zemskov, the commission's estimates were based on a wide understanding of the term “victims of political terror and repression”.

The findings of a study conducted by Kazakh researchers indicate that the current lack of credible data on the extent of political repression in Kazakhstan may be attributed to the inadequacy or absence of statistical methodologies during that period. Based on an examination of accessible archival records, it has been determined that the human casualties resulting from the famine in Central Kazakhstan far surpass the discrepancy observed between the population census figures of 1926 and 1939. Furthermore, these casualties extend beyond the Kazakh community, as shown by sources [3; 9]. The cause for these disparities cannot be ascertained due to the extensive loss or fragmentation of nearly all papers that provide evidence of the famine and its aftermath.

In order to ascertain the nature of the mechanism of political repression, we will examine the regulatory framework governing the oppressive actions carried out by officials of the Soviet government, without confining our analysis to a moral evaluation of historical events.

The starting points that define the concept of political repression for us are the provisions of the Law of the Republic of Kazakhstan dated April 14, 1993 “On the rehabilitation of victims of mass political repression”, which establishes that “coercive measures carried out for political reasons by government bodies or officials representing them are recognized as *political repression*, in the form of deprivation of life or liberty, including detention and compulsory treatment in psychiatric institutions, expulsion from the country and deprivation of citizenship, removal from places of residence or habitat (exile or expulsion), referral to a special settlement, forced labor with restriction of freedom (including in the so-called “labor armies”, “work columns of the NKVD”), as well as other defeat, deprivation or restriction of rights and freedoms, associated with false accusations of committing a crime, or with persecution as socially dangerous persons on grounds of political convictions, class, social, national, religious or other affiliation in a judicial, extrajudicial or administrative procedure” (Art. 1) [4].

The inception of Soviet law commenced with the revocation of a substantial number of legislative measures enacted during the periods of Tsarist Russia and the Provisional Government. This also pertained to Kazakhstan, as during the early stages of the establishment of Soviet authority, our nation was incorporated into the Russian Soviet Federative Socialist Republic (RSFSR). The Soviet administration undertook the repeal of legislation enacted under the Russian Empire, while also engaging in the eradication of whole social groups and estates, as well as targeting the intellectual elite of the era.

In Kazakhstan, during various years in the first half of the twentieth century, numerous notable individuals from the Kazakh intelligentsia, political and government spheres, as well as cultural, scientific, and artistic circles, such as Zh. Aimaitytov, Sh. Kudaiberdiev, A. Baitursynov, A. Bukeikhan, and S. Seifullin, experienced repressive measures. Additionally, figures like Zh. Akbaev, M. Zhumabaev, B. Mailin, Zh. Dosmukhamedov, and several others were also subjected to similar forms of repression.

According to E. Sailaubai, “the Soviet government conducted extensive trials of individuals associated with the Alash party, Kazakh intelligentsia, and affluent members of social communities. These individuals held positions within the government of Alash Orda, national social institutions, and economic organizations under the Provisional Siberian Government and the Kolchak government. As a result, they were forcibly deported from Kazakhstan without substantial evidence to support these actions” [5].

Consequently, a substantial number of individuals lacking expertise or prior experience in political and governmental matters were engaged in the administration of state affairs, with little understanding of legal frameworks and individual rights.

In early December 1917, the Council of People's Commissars (hence referred to as the CPC) enacted a decree known as Court Decree No. 1, which resulted in the abolition of the prosecutor's office. Additionally, the aforementioned Decree introduced "the establishment of revolutionary tribunals, serving as a means to safeguard the nascent government. The decree mandated the establishment of revolutionary tribunals with the purpose of battling counter-revolutionary elements by implementing steps to safeguard the revolution and its achievements, as well as addressing instances of looting, predation, sabotage, and other forms of misconduct" [6].

During the same period, the All-Russian Extraordinary Commission, also known as the AEC, was founded. This organization has extensive authority and operated with no oversight. The primary responsibilities of the AEC were the identification, prosecution, and elimination of those associated with counter-revolutionary activities, as well as the apprehension and legal processing of saboteurs.

The decree "On the organization of the AEC to combat counter-revolution, profiteering and ex officio crimes" was adopted by the Council of People's Commissars at a meeting on December 20 (7), 1917, based on a report by F.E. Dzerzhinsky. The draft decree was outlined by V.I. Lenin in his note to F.E. Dzerzhinsky (Lenin, Works, Vol. XXII, pp. 126–129) [7; 39].

The elimination of the majority of pre-revolutionary legislation resulted in a lack of legal structure governing the functioning of state authority at both the national and local levels during the early stages of Soviet governance. According to the scholarly work of V.A. Bobrenev and I.P. Rashkovets, it is observed that "the existing deficiencies in legal regulation necessitated prompt and radical measures to address them. These measures were driven by the urgent need to address the interests of the workers' and peasants' government, frequently resulting in choices being taken based on subjective perspectives and evaluations" [8; 7].

The punitive-repressive system's inherent potential was later used to facilitate expeditious economic expansion via industrialization and the advancement of the national economy. In this context, the governing bodies aimed to establish a system of compulsory labour. The principle of universal labour conscription was incorporated into Article 3 of the Constitution of the RSFSR, which was ratified by the All-Russian Congress of Soviets during a meeting held on July 10, 1918. "The purpose of this provision was to eradicate societal layers deemed parasitic and to establish an organized economy" [9].

The resolution issued by the People's Commissariat of Justice, specifically Resolution No. 598, which was titled "On the deprivation of liberty as a punitive measure and the corresponding procedures for its implementation (Temporary Instructions), and was dated July 23, 1918, highlighted "the abolition of the categorization of detention facilities based on the severity of punishment imposed by the courts. Instead, the courts were instructed to indicate only a specific period of imprisonment, which would invariably involve compulsory labour" [10; 708–714].

Subsequently, in the NEP era, the practice of compulsory labour conscription was terminated; yet, notwithstanding this development, forced labour camps continued to persist. The resolution "On forced labour camps" was approved by the All-Russian Central Executive Committee in 1919, delineating the process for the establishment and management of such camps.

The Resolution "On Revolutionary Legality" was adopted by the IV All-Russian Extraordinary Congress of Soviets on November 8, 1918. This resolution acknowledged that "the persistent efforts to undermine the revolution and the war imposed by imperialist forces on the Russian workers and peasants necessitated, in certain instances, the implementation of emergency measures that were not explicitly outlined in existing legislation or deviated from its provisions" [11].

On December 12, 1919, the People's Commissariat of Justice of the RSFSR issued "Guidelines on Criminal Law of the RSFSR" (hereinafter referred to as Guidelines). This document consolidated the basic provisions that served as a kind of reference points for other normative acts and, first of all, for the Criminal Code of the RSFSR of 1922. The guiding principles effectively encapsulated the oppressive characteristics inherent in the criminal policy of the Soviet regime.

According to Article 4 of Guidelines, the justice in the RSFSR is focused on the issues of "Soviet criminal law, which are primarily carried out by the bodies of Soviet justice, namely (the People's Court and the Revolutionary Tribunal)".

Article 25 of the Guiding Principles, in conjunction with other provisions, provided several forms of punishment, including the "denial of political rights", "the designation as an enemy of the revolution or the people", "compulsory labour without imprisonment", and "capital penalty". According to the notes provided in Article 25, it is specified that the application of the death sentence is not practiced by the People's Courts [7; 71].

One of the primary provisions outlined in the normative act being examined pertains to the elucidation of the crime idea, which is to be understood as a transgression against the established framework of societal interactions safeguarded by criminal legislation. The differentiation of violations based on their nature and degree of hazard was not addressed in Article 2 of the Guidelines. Consequently, any action that contravened the established structure of social interactions was deemed as unlawful.

The implementation of the aforementioned measures unavoidably resulted in instances of excessive actions, affecting not only those who were genuine adversaries of Soviet authority. The prevailing circumstances have necessitated the implementation of certain steps. By enhancing the legal framework and establishing a dedicated independent entity responsible for overseeing the enforcement of laws inside the nation. On May 28, 1922, at the regular session of the All-Russian Central Executive Committee, the Position of prosecutor's office [12], supervision was adopted at the behest of V.I. Lenin. This position established the State prosecutor's office inside the People's Commissariat of Justice.

The formation of the Union of Soviet Socialist Republics took place on December 31, 1922. This alteration resulted in a transformation of the hierarchical framework of the authoritarian administrative system inside the nation. As highlighted in the legal literature, "there exists a necessity to establish higher entities of state authority, administration, judiciary, and the prosecutor's office to duly consider and advance the interests of the Union of Soviet Socialist Republics (USSR) as a federal entity, along with its constituent republics" [13; 19].

On January 31, 1924, the Second Congress of Soviets of the USSR adopted the first Constitution of the USSR. The Basic Law contained a special Chapter VII "On the Supreme Court of the USSR", in which, in order to establish revolutionary legality on the territory of the USSR, a Supreme Court was established under the Central Executive Committee of the USSR, one of the competencies of which was to consider cases on charges of senior officials of the Union of crimes in office. The same chapter also outlined the powers of the Prosecutor of the Supreme Court of the USSR: "giving opinions on all issues subject to resolution by the Supreme Court of the USSR, supporting the prosecution at its hearing and, in case of disagreement with the decisions of the plenary meeting of the Supreme Court of the USSR, appealing them to the Presidium of the Central Executive Committee USSR" [14].

In the year 1926, the Russian Soviet Federative Socialist Republic (RSFSR) implemented a new Criminal Code, which became effective on January 1, 1927. This revised code included several provisions that were characterized by their repressive nature. Notably, Article 58 encompassed a range of offences classified as (counter-revolutionary crimes), consisting of fourteen distinct subparagraphs and Article 59 addressed crimes deemed particularly hazardous to the governance structure of the Union of Soviet Socialist Republics (USSR), comprising thirteen subparagraphs.

The subsequent set of rules, which facilitated the enforcement of political repression, may be attributed to the process of collectivization inside the nation. The act of expropriating property, specifically livestock, which served as the sole means of sustenance for nomadic livestock breeders, was implemented through the Resolution of the Central Executive Committee and the Council of People's Commissars of the Kazakh Autonomous Soviet Socialist Republic titled "On the confiscation of bai farms" on August 27, 1928, and the Resolution of the All-Russian Central Executive Committee and the Council of People's Commissars of the Kazakh Autonomous Soviet Socialist Republic titled "On collectivization" on February 1, 1930. The aforementioned activities prompted the government to employ coercive measures as a means of quelling the protest of the masses against the ongoing establishment of collective farms in rural areas.

During the period spanning from 1927 to 1930, Article 61 of the Criminal Code of the Russian Soviet Federative Socialist Republic (RSFSR) enacted in 1926 was predominantly employed in Kazakhstan to enforce oppressive actions targeting nomadic livestock herders. During the period from March to April 1930, a total of 5291 individuals were found guilty in the nation under Article 61 of the Criminal Code of the RSFSR. Additionally, 439 individuals were convicted under Articles 58-7, 58-8, and 58-10 [3; 119].

On 10 July 1934, a further reorganization of the special services was carried out: By a resolution of the CEC of the USSR, the All-Union NKVD of the U.S.S.R was formed. At the same time, offices of the NKVD were established in the Union republics [15; 63].

The joint resolution "On the Special Meeting of the NKVD of USSR" was adopted by the Central Executive Committee (CEC) of the Soviet Union and the Supreme Soviet of the Soviet Union (SNC) on 5 November 1934 [16]. The recently formed institution was granted extensive authority to confront individuals perceived as threats to society. It was also authorized to administer penalties, such as jail, to those regarded socially hazardous, without their direct involvement in the case's deliberation [17; 94]. During the period of

the Great Patriotic War, the Special Meeting was authorized to exercise extrajudicial punitive measures, including as capital punishment, for offences committed against the State. The attendance of the Prosecutor of the USSR at the Special Meeting was mandatory. In the case of any disagreement with the decisions made during the meeting, the Prosecutor had the right to appeal such decisions to the Presidium of the Central Election Commission (CEC) of the USSR.

With acceptance two the following regulatory acts were entered significant changes in criminal procedure USSR legislation. These changes tightened measures punishments behind committing crimes against states.

The Decree of the Central Executive Committee of the USSR, enacted on June 8, 1934, pertained to the augmentation of regulations concerning state offences, specifically those of a counter-revolutionary nature and crimes that posed a significant threat to the governance structure of the USSR. This decree introduced additional provisions specifically addressing acts of treason. The official publication of this decree can be found in No. 433 of the *Izvestia* of the Central Executive Committee of the USSR and the All-Russian Central Executive Committee, dated June 9, 1934. Through the implementation of this resolution, the authorities have not only increased the severity of punishments for offences against the state, but have also introduced the notion of holding individuals criminally accountable without the requirement of demonstrating their guilt. According to the provided statement, “those who are classified as adult members of the traitor's family and were either residing with the traitor or financially reliant on the traitor at the time the crime was committed may face consequences such as the revocation of their voting rights and relocation to distant regions of Siberia for a period of five years” [18].

The Resolution of the Presidium of the Central Executive Committee of the USSR titled “On Amendments to the Current Criminal Procedure Codes of the Union Republics” [19] adopted on December 1, 1934, played a pivotal role in establishing the legal framework for the implementation of repressive measures. The aforementioned modifications effectively eliminated any potential for oversight in both the investigative process and the adjudication of cases by courts and specialized assemblies.

The nascent social dynamics inside the nation were marked by inherent contradictions: the extensive magnitude of political suppression and its legal framework were juxtaposed with entirely democratic choices. As an illustration, the preliminary version of the Constitution of the Union of Soviet Socialist Republics (USSR) in 1936 was made available to the public for deliberation prior to its formal ratification. Article 125 of the Constitution of the USSR was the initial legislative provision that formally recognized and safeguarded the rights of Soviet people to freedom of speech, press, assembly, and public demonstrations, including street processions. The notion of personal inviolability was codified in Article 127 of the document. The statement was declared “those individuals can only be apprehended either through a court-issued warrant or with the approval of the prosecuting authority” [20].

The Kazakh Autonomous Soviet Socialist Republic, established in 1920 as a constituent unit of the Russian Soviet Federative Socialist Republic (RSFSR), underwent a transition and was officially renamed as the Kazakh Soviet Socialist Republic on December 5, 1936. In 1937, at emergency congresses of allied Soviet republics, new fundamental laws and regulations were adopted, primarily focusing “on the form and textual content of the document in question align with the Constitution of the USSR” [21; 230]. The first Constitution of the Kazakh SSR, adopted on March 24, 1937 at the Extraordinary X Congress of Soviets of the Kazakh SSR, was no exception in this regard.

Regrettably, the provisions outlined in these constituent papers pertaining to the aforementioned rights of people have proven to be only declaratory. Indeed, all future occurrences substantiate the blatant infringement of the constitutionally granted rights of individuals.

The period from 1937 to 1938 in modern historiography is listed as the years of the “Great Terror”, the years of the most massive political repressions in the USSR. The total number of people convicted of counter-revolutionary and other especially dangerous state crimes was 1,344,923 people, of which 681,692 were sentenced to death (SARF. F. 9401. Op. I. D. 4157. L. 201-205) [2; 306].

The Decision of the Politburo of the Central Committee of the All-Union Communist Party (Bolsheviks) of July 2, 1937, titled “On anti-Soviet elements”, serves as the primary document that marked the initiation of mass repressions during this particular period. This document was specifically addressed to People's Commissar of Internal Affairs N.I. Yezhov, as well as the leaders of regional party organizations, including secretaries of regional committees, regional committees, and the Central Committee of National Communist Parties [22]. The Decision delineates the group of individuals targeted for repression and recommends that

the Central Committee be provided with the composition of the “troikas” and the figures for the individuals to be executed or deported within a span of five days.

In order to execute this decision, a series of 13 resolutions were adopted by the Politburo of the Central Committee of the CPSU (b) from July 5 to July 31, 1937 these resolutions, documented in (RSASPI. F. 17. Op. 162. d. 21. L. 94-118.) [23] sanctioned the establishment of “troika” and determined the quantity of individuals to be subjected to execution or expulsion, specifically targeting criminals and kulaks. The choices made by the Central Committee were informed by the data presented by the leaders of party organizations in the respective areas [22].

On July 30, 1937, the Central Committee of the All-Union Communist Party of Bolsheviks made a decision that led to the issuance of the secret order No. 00447 by the NKVD of the USSR “On the operation to repress former kulaks, criminals and other anti-Soviet elements”, aimed to suppress individuals deemed as “anti-Soviet elements”, The order also established the formation of “troikas” to handle the adjudication of such cases [22].

The penalties imposed on those subjected to repression, as well as the quantification of those individuals, were outlined in the second part of Order No. 00447. The total group of individuals liable to apprehension was separated into two distinct categories. The first classification encompassed those identified as “active hostile elements”, who were subsequently subjected to the severe penalty of death punishment, including execution. The second classification pertained to those who were seen to be “less active, but still hostile elements” and were hence susceptible to being apprehended and confined in detention facilities. The regional authorities implemented reductions in the maximum allowable number of individuals within each category. It has been determined that a decrease in numerical figures was permitted, along with the relocation of individuals originally designated for suppression in the primary group to the secondary category, and vice versa.

According to the prescribed guidelines, the overall count of individuals affected by mass repressions was projected to reach 268,950 across the nation. Among this population, 75,950 individuals were designated for death. However, these initial figures were later amended, resulting in an augmentation in the number of individuals subjected to repression [24].

According to historical records, throughout the period of the Kazakh SSR, a total of 7,500 individuals were subjected to arrest, with 2,500 of them ultimately receiving execution sentences [22].

The procedural guidelines for executing the operation and the designated commencement and conclusion dates were established in the third segment of the order. The objective of the authorities was to expeditiously address those who presented a potential risk to the existing system. The commencement of the operation was mandated for August 5, 1937, with a stipulation that its completion should be achieved within a span of four months. Nonetheless, the execution of the operation beyond the initially estimated timeframe of four months and persisted into the fall of 1938.

In order to execute the operation, specialized task groups were established, led by high-ranking officers of the NKVD. The individuals in charge of the operative groups were assigned by the duty of documenting and discerning the individuals subjected to repression, spearheading the investigative process, authorizing formal charges, and executing the penalties imposed by the “troikas”. The examination of lists including individuals targeted for repression was conducted by the People's Commissar of Internal Affairs, as well as the respective heads of the NKVD department or regional department. Following the review process, these authorities granted approval for the arrest of individuals included in these lists. The study was conducted promptly and using a streamlined approach. Upon the conclusion of the inquiry, the case is forwarded to the “troika” for deliberation.

The chairpersons of the “troikas” were selected from the chiefs of the regional NKVD or their deputies. Additionally, members of the “troikas” included leaders or representatives from regional party structures, the court, and the prosecutor's office. It has been determined that the prosecutor has the option to attend meetings of the “troikas” in which he does not hold membership.

Order No. 00447 ordered that special attention be paid to the connections and contacts of those arrested, as a result of which there were many cases of group consideration of investigative cases.

So, for example, by the decision of the Troika UNKVD in the Karaganda region on November 28, 1937, they were convicted under Art. 58-10, 11, 9, 2, 8 of the Criminal Code of the RSFSR to death by execution of 21 people (2 of them were members of the party and were expelled from party membership). The sentence was carried out on December 3, 1937. Under the same articles (Articles 58-10, 11, 9, 8, 2) 4 people (all were members of the CPP (b) and were expelled from party membership due to criminal charges respon-

sibility) were sentenced to 10 years in prison each. All these people were accused of being members of a counter-revolutionary, nationalist, fascist organization [3; 383].

By a resolution of the Presidium of the Karaganda Regional Court of November 28, 1957, this decision of the Troika of the NKVD in the Karaganda region in relation to all those convicted was canceled, the case was dismissed due to lack of proof of the charges [3; 368].

An analysis of the norms of NKVD Order No. 00447 allows us to conclude that its provisions contradicted the principles of personal inviolability proclaimed in the Constitution of the country. The arrest, the investigation, and the extrajudicial body that passed the verdict were led by the same official — the head of the regional NKVD body or his deputy. The convicted were deprived of their constitutional rights to defense: the decisions of the troika were not subject to appeal and were made without the participation of lawyers, because their participation was not provided for by the Order. The execution sentences passed by the troika were not subject to appeal and were carried out immediately.

The implementation of mass repressions conducted by extrajudicial bodies known as “troikas” came to an end following the enactment of the Resolution of the Council of People's Commissars of the USSR and the Central Committee of the All-Union Communist Party of Bolsheviks on November 17, 1938, titled “On arrests, prosecutorial supervision, and investigation” [25]. The aforementioned letter mandated the prompt discontinuation of large-scale operations, specifying that arrests should be conducted on an individual basis, subject to approval by the respective heads of UNKVD or NKVD departments in the republics. These authorities were now required to consult with the prosecutor in order to coordinate each arrest decision. The Resolution also highlighted the primary deficiencies identified in the operations of the NKVD and the prosecutor's office. Emphasis was placed on the investigation's quality, breaches of the Code of Criminal Procedure during interrogations, and “the prevalent use of a streamlined investigation procedure, typically limited to securing a confession of guilt from the accused” [25]. It has been observed “that the prosecutor's office does not adequately address these deficiencies, typically limiting its involvement in the inquiry to mere registration and stamping of investigative documents. The prosecutor's office not only fails to eradicate infringements on revolutionary legality, but in fact, it confers legitimacy upon these infringements” [25]. Subsequent to this event, in accordance with the directive issued by the People's Commissariat for Internal Affairs (NKVD) of the Union of Soviet Socialist Republics (USSR) on November 26, 1938, the process of purging people inside the punitive agencies was initiated.

During the era characterized by widespread repressions, the Special Meetings operating under the NKVD, as well as troikas and other extrajudicial entities, did not supplant the existing legal system, but rather operated in parallel with it. It is important to acknowledge that the courts exhibited limited instances of impartial dispensation of justice during the era characterized by political persecution. The trials frequently exhibited substantial scale and predictability, characterized by judges rendering conclusions influenced by political considerations. During the historical period under consideration, several instances of simulated legal proceedings can be seen, wherein verdicts were initially devised inside the administrative apparatus of a singular communist party and thereafter only “articulated” within the judicial system.

In order to neutralise their most threatening political adversaries, several countries implemented transparent political procedures, which were previously seen as instances of fabricated criminal accusations against the Soviet rulers. One of the most notable events during the period of mass political repressions in Kazakhstan from 1937 to 1938 is commonly referred to as the “Karaganda (Karkaraly) case”. This case involved a fabricated public trial concerning individuals such as former chairman of the Karaganda regional executive committee, A. Asylbekov, former 2nd secretary of the Karaganda regional committee of the CPSU (b), N. Nurseitov, former 2nd secretary of the Karkaralinsky district Committee of the All-Union Communist Party (Bolsheviks), M. Gataulin, and several others who were found to have connections with the accused. The teaching allegation was made against a counter-revolutionary nationalist organisation that engaged in sabotage acts. This organisation was reestablished in the Karkaralinsky district in 1934. Based on the contents of paragraphs 2, 7, 10, and 11 of Article 58 of the Criminal Code of the Kazakh Soviet Socialist Republic (KazSSR), it can be observed that... A. Asylbekov, N. Nurseitov, and M. Gataulin were subjected to capital punishment. In 1957, all those convicted in the Karaganda case were granted rehabilitation due to the absence of criminal intent in their actions [26; 140-141].

The involvement of various prosecutor's offices, including as the USSR Prosecutor's Office and republican prosecutor's offices, was crucial in facilitating the implementation of political terror. According to Russian scholars, it is observed that “during the whole process of criminal cases, starting from their initiation until their resolution by the military judicial authorities, which had jurisdiction over them, all relevant papers were required to be under the oversight of the prosecutor's office. During that period, the prosecutor's office

held exclusive access to the investigative materials of the USPA and later the NKVD. Its primary responsibility was to ensure the adherence of procedural legislation by the personnel of these organizations» [8; 8].

However, regrettably, in actuality, the prosecutor's office, like to the courts in the USSR, functioned as a tool for political suppression. The activities of the security forces, which resulted in severe human rights breaches, were authorized and endorsed by the prosecutor's office. The absence of autonomous judicial institutions and the prevalence of extrajudicial measures facilitated the security forces' ability to operate without accountability, resulting in extensive infringements of human rights.

According to Professor A.Ya. Ginzburg, “..it is evident that throughout the entirety of the mass repressions that occurred between 1937 and 1938, the USSR Prosecutor's Office did not register any kind of objection or take any action to halt or temporarily cease the punitive actions being carried out against the Soviet Union's populace. The current measures, which including extrajudicial murders, were deemed to align with the principles of “revolutionary socialist legality” [24].

However, several judges and prosecutors made concerted efforts to oppose unlawful arrests, the arbitrary actions of investigative agencies, and the fabrication of criminal charges. Regrettably, this resulted in the loss of several lives.

The available data from the presidential archive demonstrates that a significant number of the first heads of the top judicial institutions in Kazakhstan were subjected to repression.

Nygmets Nurmakov, a prominent state and political figure in Kazakhstan, was detained on June 3, 1937, based on unfounded accusations of participating in a counter-revolutionary terrorist group. Throughout his professional trajectory, he held several significant positions of leadership, which encompassed his role as the chairman of the Revolutionary Tribunal of the Kazakh Autonomous Soviet Socialist Republic (KASSR), chairman of the Kazakh branch of the Supreme Court of the Russian Soviet Federative Socialist Republic (RSFSR), People's Commissar of Justice, Prosecutor General of the KASSR, and chairman of the Council of People's Commissars of the KASSR. The implementation of the death penalty was mandated through a trial that took place in a private setting. N. Nurmakov sustained a gunshot injury on September 27, 1937. The person in question underwent formal rehabilitation on August 11, 1956, as established by a ruling rendered by the Military Collegium of the Supreme Court of the USSR [27].

During the aforementioned period spanning from fall 1937 to autumn 1938, more individuals serving in the capacity of Themis' representatives, who had previously held positions of authority within the highest judicial institution of Kazakhstan, were subjected to repressive measures and subsequently executed. Included in the aforementioned group are individuals such as Nigmatulla Syrgabekov, Kazmukhamed Kuleshov, Shaimerden Bekturganov, and Murzagul Ataniyazov. Regarding the destiny of several other suppressed judges who once presided over the judicial institutions of our nation. Regrettably, there is a lack of knowledge at several levels [28].

According to scholarly legal literature, it has been shown that throughout “the time span of 1937-1938, a significant proportion of military prosecutors, namely two-thirds of them, were subjected to repressive measures” [8; 94].

So, for example, in Kazakhstan on August 30, 1937 he was arrested on false charges under Art. 58-2, 58-7, 58-8, 58-11 of the Criminal Code of the RSFSR and sentenced to death by the Military Collegium of the Supreme Court of the USSR on February 25, 1938, the first prosecutor of Kazakhstan S. Eskarayev [29].

On August 13, 1937, the first prosecutor of the Karaganda region, Baymukashev Kosmagul, was arrested on trumped-up charges under the same articles of the Criminal Code of the RSFSR and in March 1938 was sentenced to capital punishment and shot [30; 12]. In 1957, the Military collegium of the Supreme Court of the USSR dismissed criminal cases against S. Eskaraev and K. Baymukashev for lack of corpus delicti, and they were fully posthumously rehabilitated.

The mechanism of political repression formed on a legislative basis was used by the authorities until 1953. The extra-judicial collegial body, the Special Meeting, was abolished only after the death of I. Stalin's Decree of the Presidium of the Supreme Soviet of the USSR dated September 1, 1953 “On the abolition of a Special Meeting at the Ministry of Internal Affairs of the USSR”.

Conclusions

The investigation facilitated the derivation of the subsequent findings:

The period under examination witnessed the implementation of a comprehensive system of political repression, which encompassed both legal and non-legal strategies employed by the state to exert influence over individuals or specific groups. The primary objectives of this system were to uphold and consolidate

political authority, safeguard the existing infrastructure, ensure state security, and preserve the integrity of the totalitarian union state.

The first half of the twentieth century in the Soviet state witnessed the establishment of legal frameworks, both public and classified, that effectively sanctioned political repression. These regulations comprehensively governed the entire process of punitive actions and bestowed the authorities with extensive powers to carry out repressive activities. Simultaneously, the leadership authorities of the united communist party had previously granted approval to all significant decisions made by state entities.

The repressive actions observed inside a totalitarian system were distinguished by a notable absence of judicial autonomy and adherence to fundamental human rights. Numerous arrests and charges were driven by political motivations and executed without adherence to proper legal procedures.

In spite of the existence and operation of judicial institutions inside the country, the majority of repressive cases were examined, deliberated upon, and resolved by non-judicial collective bodies, namely the USPA collegium, the Special Meeting, and the “troikas” under the NKVD.

During the period under study, there was virtually no prosecutorial supervision. Called to help strengthen the rule of law in the country, the prosecutor's office actually participated in the legalization of repression by authorizing arrests, searches and other repressive measures, which provided them with legitimacy from the point of view of Soviet law. Attempts to fight individual judges and prosecutors against the permissiveness of the NKVD ended tragically for them. Many of them were repressed and shot.

The establishment of organizational and legal frameworks for political repression in the Soviet Union was fundamental components of the totalitarian regime's system of control. The actions undertaken by the relevant actors resulted in the establishment of circumstances conducive to widespread infringements of human rights, hence leaving a lasting and significant impact on the historical trajectory of the Soviet populace. The examination of historical events of this nature enables us to comprehend the functioning of totalitarian regimes and underscore the significance of the rule of law and autonomous institutions in safeguarding civil liberties and rights.

As noted by the professor, Doctor of Historical Sciences L.S. Akhmetova “The focus lies on the examination of collective phenomena rather than individual destinies. The author emphasizes the significance of studying large-scale events and overarching concepts, prioritizing a perspective that encompasses the grandeur and universality of these subjects. An individual with a singular existence finds themselves once more adrift amidst a multitude of others. Additionally, it is important to approach the examination of individual and societal issues from a distinct perspective. The user's text is not clear and does not provide any information. In the present study, a limited selection of data derived only from archival papers pertaining to repressed judges and prosecutors in Kazakhstan was utilized as an illustrative case. Regrettably, our nation lacks dedicated publications that specifically address the plight of those individuals who, as servants of Themis, valiantly struggled for the development of genuine law during the sad chapter in the history of Kazakhstan. The identities of several individuals have been lost to history. Limited information is available on the subject in question, with the exception of archival records and papers that indicate their experience of repression, subsequent acquittal, and subsequent rehabilitation due to insufficient evidence of criminal activity. By examining the notable trajectories of these individuals, one may see the shifting perception of socialist legality in response to the consolidation and institutionalization of the totalitarian state and its oppressive machinery. The exploration of this particular avenue holds significant potential for advancing scientific inquiry in relation to the subject matter, encompassing both historical and legal dimensions.

As noted by the professor, Doctor of Historical Sciences L.S. Akhmetova “We do not study the fate of everyone, we do not look at the personality, we need scale, gigantism, the general. A person who has only one life is lost again among many and many ones. We also need to study the problems of the individual and the people in a different way...» [31]. In the present study, a subset of data derived only from archival papers pertaining to repressed judges and prosecutors in Kazakhstan has been provided as an illustrative example. Regrettably, our nation lacks dedicated publications that specifically address the experiences of the individuals who served justice and ardently struggled for the development of authentic legal principles during that awful moment in the history of Kazakhstan. The identities of several individuals have been lost to history. Limited information is available on them, save for archival certificates and records indicating their repression, subsequent acquittal, and subsequent rehabilitation due to the absence of corpus delicti. By examining the notable experiences of these individuals, it becomes feasible to discern the evolving perception of socialist legitimacy as the totalitarian state solidified its oppressive machinery. The exploration of this avenue

holds significant potential for further scientific inquiry in the specified subject matter, encompassing both historical and legal dimensions.

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XX ғасырдың бірінші жартысындағы Қазақстандағы саяси қуғын-сүргін: репрессиялық шараларды қолданудың құқықтық механизмінің ерекшеліктері

Зерттеу аясында XX ғасырдың бірінші жартысында Қазақстанда саяси қуғын-сүргіннің құқықтық механизмінің пайда болуы мен жұмыс істеуінің кейбір аспектілері қарастырылды. Зерттеудің пәні саяси себептер бойынша адамдардың жекелеген санаттарына қатысты сот және соттан тыс тәртіпте репрессиялық шараларды тікелей қолдану жөніндегі арнайы мемлекеттік органдардың қызметін, сондай-ақ тарихи және теориялық материалдарды, Қазақстан тәжірибесінің материалдарын регламенттейтін кеңестік заңнама нормалары. Мақалада зерттеу кезеңіндегі саяси қуғын-сүргін механизмі қолданыстағы жүйені сақтау, мемлекеттік қауіпсіздікті қамтамасыз ету және тоталитарлық одақтас мемлекеттің тұтастығын сақтау жөніндегі саяси мақсаттарға қол жеткізуге бағытталған құқықтық және құқықтық құралдардың, ұйымдастырушылық және әлеуметтік іс-шаралардың жиынтығы болды деген қорытынды жасауға мүмкіндік берді. Зерттеу кезеңінде саяси қуғын-сүргін жүргізудің заңдылығы тек жария ғана емес, сонымен бірге жазалау шараларының барлық процедураларын реттейтін өте құпия ведомстволық нормативтік актілерді қабылдаумен қамтамасыз етілді. Бұл ретте мемлекеттік органдардың барлық маңызды шешімдері бірыңғай Коммунистік партияның басқару органдарында алдын ала шешілді. КСРО-дағы Саяси қуғын-сүргіннің ұйымдық-құқықтық негіздері адам құқықтарының жаппай бұзылуына жағдай жасаған және кеңес халқының тарихында ұзақ жылдар бойы өшпес із қалдырған тоталитарлық бақылау жүйесінің негізгі элементі болды. Мұндай тарихи фактілерді зерттеу тоталитарлық режимдердің механизмін түсінуге және азаматтық құқықтар мен бостандықтарды қорғау үшін құқықтық тәртіп пен тәуелсіз институттардың маңыздылығын атап өтуге мүмкіндік береді.

Кілт сөздер: қуғын-сүргін, жаппай саяси қуғын-сүргін, саяси қуғын-сүргін механизмі, оңалту, соттан тыс органдар, күштеп ұжымдастыру, антисоветтік элемент, тоталитаризм.

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Политические репрессии в Казахстане в первой половине XX века: особенности правового механизма применения репрессивных мер

В рамках настоящего исследования рассмотрены некоторые аспекты возникновения и функционирования правового механизма политических репрессий в Казахстане в первой половине XX века. Предметом исследования явились нормы советского законодательства, регламентировавшие деятельность специальных государственных органов по непосредственному применению репрессивных мер в судебном и внесудебном порядке в отношении отдельных категорий лиц по политическим мотивам, а также исторический и теоретический материал, материалы практики Казахстана. Статья позволила сделать вывод о том, что механизм политических репрессий в исследуемый период представлял собой совокупность правовых и неправовых средств, организационных и социальных мероприятий, направленных на достижение политических целей по сохранению существующего строя, обеспечению государственной безопасности и сохранению целостности тоталитарного союзного государства. Законность проведения политических репрессий в исследуемый период обеспечивалась принятием не только гласных, но и совершенно секретных ведомственных нормативных актов, которые регламентировали всю процедуру карательных мероприятий. При этом все важнейшие решения государственных органов предварительно решались в руководящих органах единой Коммунистической партии. Организационно-правовые основы политических репрессий в СССР были ключевым элементом системы тоталитарного контроля, которые создали условия для массовых нарушений прав человека и оставили на долгие годы неизгладимый след в истории советского народа. Изучение таких исторических фактов позволяет понять механизм тоталитарных режимов и подчеркнуть важность правопорядка и независимых институтов для защиты гражданских прав и свобод.

Ключевые слова: репрессии, массовые политические репрессии, механизм политических репрессий, реабилитация, внесудебные органы, принудительная коллективизация, антисоветский элемент, тоталитаризм.

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