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## **Equal Before the Law? Soviet Justice, Criminal Proceedings against Communist Party Members, and the Legal Landscape in the USSR from 1945 to 1953\***

In May 1949, Grigorii N. Safonov, the Prosecutor General of the USSR, asked that a secret directive from one of his subordinates to the district and city prosecutors of the Kostroma region be rescinded. In the directive, the Kostroma *oblast'* prosecutor had encouraged other prosecutors to think long and hard before initiating criminal prosecution against Communist Party members or candidates and, in the event that prosecution was unavoidable, to refer them to the secretary of the regional committee of the VKP(b) (*obkom*). Prosecutors were asked to await the decision of the Party secretary concerning the suspects' expulsion from the Party before moving forward with the investigation. Safonov lamented the situation in the region: "two criminal codes are applied there, one for those outside the Party, and one for Party members [...]; when they are involved in the same case and Party members and non-members are brought before justice, Party members remain free, while non-members charged with the identical crime are imprisoned. [...] The situation has led to certain communists not being punished for theft and embezzlement of State funds."<sup>1</sup> This reference to the parallel existence of two "two criminal codes" was repeated in other correspondence between the Prosecutor General's office of the USSR and its regional representatives.

The Second World War was followed by an extremely difficult reconstruction period in the USSR, a country extremely devastated by the war and affected by hunger. Stalin's government employed a series of highly repressive measures in an effort to staunch an unprecedented increase in economic offenses that grew out of the relatively lax legal environment during the war and disastrous economic conditions in the post-war Soviet Union. These measures included stiffer sentences for speculation, corruption, and embezzlement. The Supreme Soviet decree of June 4, 1947 was a turning point in this campaign against crime, with a minimum five to seven year sentence in the GULAG for theft of public or socialist property, a particularly harsh sentence given widespread famine conditions throughout the country.<sup>2</sup>

Party members and government officials were not immune to the policy of discouraging crime. In fact, among the three or four percent of the Soviet population who belonged to the Communist Party, a significant number were tried, convicted, and sent to the GULAG for fraud, corruption, theft, and abuse of office.<sup>3</sup>

\* Last updated on 18 April 2013. – Many thanks to Gabor Rittersporn, Marc Elie, Gilles Favarel-Garrigues, Vanessa Voisin and Sandra Dahlke for their comments on the early draft of this article.

1 RGASPI, f. 17, op. 136, d. 173, p. 10.

2 Regarding this decree, see WERTH *Les lois*.

3 Regarding the vertiginous increase in the population of the GULAG after the war, see *Istoriia stalinskogo GULAGa*. Tom 1, p. 82. In principle, there are no statistics concerning the number of communists condemned to the GULAG in the post-war years, because figures began to be kept only in 1957. The only figures available concerning the scale of the anti-crime campaign are VKP(b) expulsion statistics for thefts, abuse of authority, and embezzlement, but there is no

District and provincial prosecutors complained about the difficulties which they experienced in investigating criminal wrongdoing because of the enormous pressure placed on them by Party committees in defense of members who were suspected of criminal activity. Between 1946 and 1953, the USSR Prosecutor General's office regularly received reports that Party officials were pressuring prosecutors and investigators.<sup>4</sup> A significant number of these letters of complaint from prosecutors, although many of them were Party members and often cadres in regional Party offices, described in detail the complexities involved in trying to pursue communists and the tense relations with local and regional authorities.

Party intervention in judicial affairs initially reflected officials' efforts to stay informed about impending investigations involving communists. This supervisory imperative also led to direct forms of obstruction, including refusals to allow Party members and candidates to be indicted and explicit requests for charges to be reduced or dropped altogether.

A number of major research studies have explored the influence of local and regional Party organizations on the daily operations of the justice system during the Stalin and Khrushchev eras.<sup>5</sup> Although the subject of frequent complaints and condemnations beginning in the 1930s,<sup>6</sup> pressure by the Party on justice continued throughout the Soviet period. Telephone calls and verbal orders from top Party officials, not to mention more decisive interventions by the Central Committee, were common knowledge and featured prominently in the testimony of attorneys and in studies on regional Party operations.<sup>7</sup> It was a common belief among the population that Party members, especially cadres, enjoyed a high degree of impunity, a belief that reinforced the widespread lack of credibility of the legal system.<sup>8</sup>

evidence that expulsions were followed by sentencing. More broadly, between 1949 and 1951, 31.6% of Party expulsions were linked to these three offenses. Between 1946 and 1951, 181,316 Party members were excluded for such crimes, an average of 30,220 per year out of roughly 6 million Party members in the USSR. RGASPI, f. 6, op. 6, d. 25, p. 3.

- 4 A December 17, 1946 circular from the Prosecutor General's office required formal complaints in every case of illegal interference in prosecutor's work by local or regional Party officials. GARF, f. R 8131, op. 32, d. 2236, p. 103.
- 5 GORLIZKY *Political Reform*; SOLOMON *Local Political Power*; SOLOMON *Soviet Criminal Justice under Stalin*, ch. 8; SOLOMON *Soviet Politicians and Criminal Prosecutions*.
- 6 See SOLOMON *Soviet Politicians and Criminal Prosecutions Soviet Politicians and Criminal Prosecutions*. The 3rd plenum of the Control Commission of the Party, the KPK, was held from June 7 to 10, 1936. During the plenum, it was emphasized that communists should be judged according to the general laws just like 'ordinary' citizens, and that reprimands issued by the Party were entirely separate from criminal procedures. RGASPI, f. 17, op. 136, d. 173, p. 12.
- 7 ZUBKOVA *Pribaltika i Kreml'*; LEIBOVICH L. V *Gorode M*; JONES *Everyday Life*; VOISIN *L'épuration de guerre en URSS*.
- 8 One example is the appeal for pardon addressed to the Supreme Soviet by Nina Georgievna Eremenko. Born in 1924, this former cash register clerk in a checkroom along the Turksib railway was accused of providing three falsified invoices for a total sum of 769 rubles; she had been sentenced, according to Article 2 (group theft) of the decree of June 4, 1947, to 10 years of forced labor camp. She explained that she had made the fake invoices on the orders of her director, a Party member. In her letter to the tribunal, she exposed the fear of compromising a communist and did not even ask him to appear as a witness or expose him to the risk of eventual criminal pursuit and conviction. GARF, f. R 7863, op. 20, d. 830, p. 1-2.

The present article draws on the voluminous correspondence between the Prosecutor General's office and its local representatives to reveal the systematic character of interference in the exercise of justice during the post-war period by Party officials. It also demonstrates the extent to which this pattern of influence over the legal system was tied not only to economic and social practices and affected the severity of sentences, but expressed the Party leadership's desire to exercise control over its members' destinies.

The study refutes the idea that interference was limited to informal, illegitimate practices. Indeed, it was an outgrowth of a fundamental rivalry between two disciplinary entities in the USSR – the Party and the legal system – and between two systems of norms – Party regulations and criminal law. The study explores this rivalry by analyzing the principles, texts, and procedures used by prosecutors to establish their hegemony over criminal repression, and also the principles, texts, and procedures which Party officials used<sup>9</sup> to oppose the prosecutorial system and, when all else failed, to protect some of their fellow members. The documents reveal contradictions between the normative acts which governed actions of prosecutors, formally recognized beginning in the 1930s as the only institution with authority over indictments and arrests,<sup>10</sup> and Party regulations, particularly those related to disciplining and expelling Party members. Pressure applied by regional Party offices to prosecutors took a variety of forms, in terms of both political practices (ranging from complicity with the prosecutor to intimidation) and underlying objectives, such as respect for disciplinary procedures, supervision of branches of the judicial system, protection of individuals and interest networks, and the desire to soften the effects of harsh penalties for criminal activity. This had profound consequences on the prosecutors' work, including prolonging of investigations, non-respect for the confidentiality of records, personal dependency on regional Party offices, loss of autonomy, and seeking compromise with the local authorities. As a 1962 circular condemning such interventions notes, this discredited the state judicial and investigatory system in the eyes of the population and encouraged the belief that the legal system was not only not independent and autonomous but actually represented an obstacle to the proper exercise of public justice.<sup>11</sup> The regional and local nature of these episodes provides scholars with an understanding of daily life of Soviet regions at the time, while also shedding light on conflicts between local authorities and central institutions and on the highly centralized regulations put in place to maintain Moscow's control over the Prosecutor General's office as well as the Party Control Commission of the Central Committee (KPK TsK).

- 9 This involved, at the local level, the *raikom* and *gorkom*, the *obkom* and *kraikom* at the regional level, and the central committees of the Republics, but also the powerful Control Commission of the Central Committee (KPK TsK) and its regional and local ramifications (*partkollegii*).
- 10 This recognition of prosecutorial authority was formal regarding 'political' criminal charges, but also as long as the role of the political police remained central during the period of the great waves of repression, especially the Great Terror of 1937–38. RITTERSPORN Extra-Judicial Repression and the Courts. Furthermore, as late as March 1940, an order required that the NKVD supervise all suspended sentences. KHAUSTOV / NAUMOV / PLOTNIKOVA Lubianka, p 217. I am grateful to Vanessa Voisin for communicating this information to me. The focus of this article is criminal charges in connection with non-political crimes which were at the center of less well-known conflicts between the prosecutors' offices and Party offices.
- 11 KHLEVNIUK (ed.) Regional'naia politika, p. 209–211.

*“An Unwritten Law” or the Multiplication of Normative Acts*

In 1948, the secretary of the Syzransk *gorkom* in the Kuibyshev region cited an “unwritten law” to justify his order asking his instruction to the district prosecutor not to open an investigation against a member of the *nomenklatura* without prior Party approval and not to convey cases concerning other Party members to the court without a similar agreement.<sup>12</sup> This reference to informal rules was an exception, however; when they were in conflict with prosecutors, Party leaders employed texts, instructions, and orders from the center. Prosecutors sought to assert their authority by citing legal enactments like articles of the Stalin-era Constitution of 1936 and Central Committee directives from the end of the Great Terror which attributed full responsibility for criminal proceedings to the General Prosecutor’s office.<sup>13</sup> In addition to relying on legal texts, prosecutors also cited political sources, particularly a speech given by Malenkov in 1947 which pursued Lenin’s denunciation of local authorities’ influence over the government’s affairs.<sup>14</sup> The prosecutors’ arguments were also supported by the resolutions of the 3rd plenum of the Party’s Control Commission in 1936 (KPK TsK), which specified that disciplinary actions handed down by the Party did not replace judicial procedures.<sup>15</sup>

The true authority of the prosecutor’s office was unclear even at the end of the war, however. Although the secret directive of December 1, 1938 did affirm prosecutorial power over arrests, it also specified in another section that approval from the first secretary of the Party (or in his absence, the second secretary) was required before certain office-holders – including Party members and candidates – could be arrested.<sup>16</sup> The 1938 circular did not attribute this prerogative solely to the Party, but also to the central administrations of important governmental institutions. It presented a list of positions among the ranks of ministries, the army, the Supreme Soviet, and the Party for whom prosecutors were required to request prior approval for arrests. The December 1, 1938 Central Committee directive was part of a series of measures intended to bring an end to the mass arrests and other abuses of the Great Terror, and it confirmed the prosecutors’ monopoly over the issuance of arrest warrants while also limiting their independence; only in 1962 was the circular finally rescinded.<sup>17</sup>

12 GARF, f. R 8131, op. 28, d. 11, pp. 236–237.

13 Article 113 of the 1936 Constitution established the authority of the USSR to oversee the application of the law in the USSR. The principle of the independence of the courts was presented in Article 112 of the Constitution. Article 127 stipulated the inviolability of the individual, stating that no arrest could take place without a court warrant or the prosecutor’s authorization. Article 5 of the judicial law concerned the principle of equality of all citizens regarding their responsibility for infractions against the law and for criminal acts. More seriously, the prosecutors referred to secret regulations of the Central Committee of November 17 and December 1, 1938 regarding the necessity of possessing authorization from the prosecutor’s office to bring charges against and arrest individuals.

14 “These local influences placed local and general interests in opposition. Local influence is one of the greatest, if not the greatest, obstacle to establishing legality and culture,” GARF, f. R 8131, op. 28, d. 11, p. 217 and pp. 242–243.

15 GARF, f. R 8131, op. 37, d. 4668, p. 131–134.

16 RGASPI, f. 17, op. 3, d. 1004, p. 6.

The focus of this article is the Party's interference in criminal cases filed against communists. The archives also contain a number of complaints from prosecutors, albeit fewer, about justice being obstructed by ministerial administrations.<sup>18</sup> Party members charged of crimes could only be arrested once the secretary or first secretary (depending on the position of the accused within the Party hierarchy) of a *raikom*, *gorkom*, or *obkom* had given his approval. This rule applied in theory only to arrests, but it was systematically extended to cover criminal investigations and indictments filed by prosecutors. A slightly later archival document reveals that it also covered criminal investigations by the police, which involved a considerable number of cases after the end of the war.<sup>19</sup> Like prosecutors, investigators were required to inform the Party about investigations in which Party members were implicated and to await Party officials' approval before investigating criminal charges.<sup>20</sup>

VKP(b) leaders who denied authorization tended not to use the December 1938 circular as justification for their right to pre-approve arrests. They based their arguments instead on other regulations not specifically related to criminal sentencing but to the Party's own disciplinary expulsion procedures. The very existence of a dual system of justice for communists (who as members of the VKP were required to obey both Party disciplinary rules and the laws which applied to ordinary citizens), the link between criminal procedures and Party expulsions and the complexity of expulsion procedures interfered with the application of the law. Ideally, the intention was for the Party to be a partner in judicial actions, or even anticipate it by adding a disciplinary measure – exclusion from the Party – to criminal charges that led to sentencing. In the midst of a harshly anti-crime environment, the Party was supposed to punish members condemned by the judicial system by also systematically expelling them, despite a shortage of Party cadres. But the Party also came to the defense of certain Party members by helping them escape from or at least soften their sentences.

- 17 KHLEVNIUK (ed.) *Regional'naia politika*, p 209–211. This 1962 directive from the Presidium of the Central Committee, which canceled the December 1938 circular, condemned Party influence in criminal cases concerning communists, and it noted that, for identical criminal acts, the non-party members were often pursued by the judicial system while communists went unreprimanded.
- 18 For example, GARF, f. R 8131, op. 37, d. 4037, pp. 131–132.
- 19 It is worth recalling that during the post-war period, responsibilities were shared between the Prosecutor General's office and its different branches, the MVD (to which the militia belonged until October 1949) and the MGB (to which the militia belonged from October 1949 to March 1953).
- 20 An ultra-secret directive from the militia leadership in May 1954 indicated that they had learned that some investigations targeting communists and even Party officials continued to occur without prior notification of first secretaries and Party committees and without their authorization. The directive condemned these actions and indicated that the individuals responsible would be severely punished. GARF, f. 9415, op. 3, d. 252, pp. 133–134. Unfortunately, no trace has been found of other normative texts concerning the militia, particularly for 1949–53, when it became part of the political police inside the MGB. Testimony is available from the local militia leadership which complains about the time it took for *raikom* secretaries to issue approvals to arrest Party members and the need to communicate requests first via primary Party cells. RGASPI, f. 17, op. 136, d. 270, pp. 83–93.

The principle that a member of the VKP(b) – pillars of the socialist way of life and moral authority<sup>21</sup> – could not be sentenced or imprisoned without previously being sanctioned by the Party (i. e., expelled) enabled Party leaders to use the expulsion process as a way of frustrating the prosecutorial process. Expulsion procedures were long and complex. As part of a campaign to put an end to practices used during the Great Terror, new Party regulations (*ustav*) were ratified in 1939 which redefined the expulsion process as unfolding in several phases. The first phase involved discussing the case in the presence of the accused in front of the assembly of his primary organization. If expulsion was considered warranted after an investigation, ratification by the *raikom* or *gorkom* office was required. Finally, the expulsion decision had to be approved by the Party college (*partkollegiia*) and ratified by the *obkom* or *kraikom* or the Central Committee of the Republic.<sup>22</sup> As Edward Cohn argues in his dissertation study, the individual threatened with expulsion was required to be present at each of these meetings, an impossibility if he had been placed under arrest.<sup>23</sup>

To justify their desire to be kept informed about ongoing prosecutorial investigations, Party secretaries cited their duty to respect the disciplinary rule that Party members could only be sentenced after they were expelled from the Party. The tension between the two-pronged timing of the judicial process and the Party's disciplinary process was not restricted to the regional level. At the center, inside the KPK TsK, which was responsible for Party discipline and respect for procedures, criminal sentencing of communists before expulsion was frequently seen as a significant problem.

### *The Collision of Two Legitimacies*

One example serves to illustrate these difficulties very clearly. At the end of the year 1948, the Counselor of Justice Zakharov was asked by the General Prosecutor's office to investigate the railway system in the Voronezh region. Zakharov traveled to the region to determine why deadlines for investigations were not being respected. He found that the reason was a circular sent several months earlier by the *obkom* secretary, V. I. Tishchenko, requiring all prosecutors to obtain prior approval from the *raikom* or the *gorkom* as well as the *obkom* before prosecuting Party members. Indeed, like in other regions, it had been decided that VKP(b) members and candidates could only be the objects of criminal proceedings after the question of their continued Party affiliation had been settled.<sup>24</sup> Zakharov also noted that in the *oblast'*, a certain number of individuals accused of thefts and embezzlement had avoided punishment when the Party refused to expel them because their criminal charges were suspended. When questioned about the existence of the circular informing prosecutors that they were required to wait for expulsion before filing charges against a communist, Tishchenko claimed that the powerful vice-president (and soon-to-be president) of the Party Control Commission (KPK TsK), Matvei F. Shkiriakov, had directly and personally transmitted the rule to him. When he returned to Moscow, Zakharov received a telephone call from Abramova, an important member of the KPK TsK Party college. She

21 WERTH *Être communiste en URSS sous Staline*.

22 *Kommunisticheskaia partiia sovet'skogo soiuz'a v rezolutsiakh*, tom 8, p. 96.

23 COHN *Disciplining the Party*, pp. 104–113.

24 GARF, f. R 8131, op. 38, d. 569, p. 153.

confirmed that filing charges against Party members without prior decision by *raikom* and *gorkom*, examination by Party colleges, and ratification by the *obkom*, violated the rules. She repeated that the Party offices “could be and were in their right to arrive at a different decision concerning the fate of a communist than representatives of the prosecutor’s office.” At the end of the conversation, she emphasized that Shkiriatov had personally delivered this directive to the *obkom* secretaries.<sup>25</sup>

The direct involvement of the KPK TsK in such matters sometimes also manifested itself in more official ways. One incident involved a secret circular issued to the regional and local offices of the Party in April 1950. Drafted by the secretariat of the TsK VKP, the circular condemned infractions against Party regulations. Shkiriatov again demanded that the circular condemn infractions against Party regulations which led to the systematic expulsion of an excessive number of VKP(b) members and candidates. In addition to a higher rate of automatic expulsions, especially for non-payment of Party dues, the high expulsion rates were also attributable to the large number of cases of abuse of social property, theft, and embezzlement which triggered expulsions. In some regions, these and similar infractions were the justification for 25 to 50 % of the expulsions from the ranks of the VKP(b). Shkiriatov deplored the fact that these cases had been decided by Party organizations through an automatic process, after sentencing by the courts and without examination by primary Party organizations as Party regulations stipulated. The *raikom* and *gorkom* endorsed these expulsions without discussion following the delivery of verdicts by the courts.<sup>26</sup> Finally, the April 1950 directive regarding “infractions of Party regulations” mentioned the excessive number of expulsions for cases of theft, embezzlement, and abuse of authority, as well as the non-involvement of local Party cells in the disciplinary examination of these cases.<sup>27</sup>

The April 1950 circular was sent to the 103 *obkom* secretaries in the USSR and also to the *kraikom* secretaries of the Republics and regional college secretaries. The circular had a significant impact in the field. The secretary of the *obkom* of the autonomous province of Circassia justified the order to systematically refer cases involving judicial proceedings against communists to the *kraikom* by citing this new ruling concerning infractions against Party regulations.<sup>28</sup> This was also the case in the Kursk region. The circular was interpreted as obliging Party organizations to follow the Party’s complex procedures to examine personal cases involving communists, even those who had committed crimes that involved the courts, in contradiction of the idea that communists should not be considered to be above the law.<sup>29</sup>

In April 1952, new Party rules (*ustav*) were finally ratified with great pomp and circumstance at the 19th Party Congress. In the section pertaining to the rights and duties of communist Party members, Article 13 specified that Party members who had committed a punishable crime would be excluded from the Party and the relevant administrative and

25 GARF, f. R 8131, op. 38, d. 682, pp. 6–8.

26 RGASPI, f. 17, op. 118, d. 808, p. 29.

27 RGASPI, f. 17, op. 118, d. 808, pp. 14–15. KHLEVNIIK (ed.) TsK VKP(b) i regional’nye partiinnye komitety, pp. 85–86.

28 On July 6, 1950, the *obkom* secretary of the autonomous Circassian *oblast’* mentioned this circular, but the prosecutor replied that it contained nothing to indicate opposition to criminal pursuit, and that the 1938 circular remained in effect. GARF, f. R 8131, op. 29, d. 11, p. 287.

29 GARF, f. R 8131, op. 29, d. 11, pp. 311–321.

judicial authorities would be informed.<sup>30</sup> In addition, Article 11 stipulated that in matters involving a member of the *raikom*, *gorkom*, and the *obkom*, the decision to suspend members would be made not by the secretary but by the plenum. Article 13 immediately began to be cited as justification for interference in legal cases by *raikom*, *gorkom*, and *obkom* secretaries. Their reasoning was logical, because an individual who stood to be tried and convicted of a crime was required to be expelled before being indicted and going to trial, and applying internal procedures which did not lead to expulsion before the legal process got under way meant that a criminal case was no longer necessary. By positioning disciplinary procedure over judicial action, the regulations exacerbated existing confusion and opened the door to increased pressure on the legal system.

In the early 1950s, the Prosecutor General's office and the Party obeyed contradictory and sometimes irreconcilable imperatives. They were each required to apply conflicting procedures (which involved either investigations or disciplinary procedures) to the same criminal cases, a situation rendered even more complex by the fact that prosecutors were Party members and often were part of the Party hierarchy. Some prosecutors were uncertain whether they were unaware of a secret circular intended to protect communists. While as an institution the Prosecutor General's office sought to assert its role in enforcing Soviet criminal policy, especially in cases involving economic crimes, the KPK TsK was sending signals calling for more restraint and seeking to retain control over expulsions (and, by extension, over the number of criminal convictions) of Party members. The KPK TsK's reminder about the need to respect the expulsion process led some regional Party leaders to wonder whether they were not part of an effort to control the prosecutorial system and the courts and to reclaim the right to rule on cases of misconduct and even on matters involving guilt or innocence. It is possible to hypothesize that in response to increased attention to crime, and the number of communists indicted and sentenced, the Central Committee and particularly the KPK responsible for supervising Party cadres were attempting to limit the impact of the crackdown on crime. This change of political line was sanctioned, instead of through direct orders to prosecutors, via directives to Party organizations that were intended to protect cadres from the ferocious judicial process.

#### *A Typology of Interference*

The influence of these measures and the tensions between prosecutors and the Party leadership was omnipresent, and they compromised prosecutors' work. Party offices in the Khabarovsk *krai* demanded documents pertaining to criminal investigations in order to rule on continued Party membership, citing Article 13 of the rules. The *obkom* secretary of the Autonomous *oblast'* of Khakasiia explained that Article 13 superseded the circular of December 1, 1938, which therefore no longer had the force of law. In the Irkutsk *oblast'*, the *obkom* cited the same law to explain to the *gorkom* and *raikom* secretaries and the leadership of the regional prosecutors' office that communists could only be prosecuted after they were excluded from the Party ranks. This point was also relayed by the chief of the regional office of the Ministry of Justice, which instructed people's judges to avoid reviewing cases involving communists until the status of their membership was resolved. The director of the administrative section of the *obkom* had provided confirmation to the

30 *Kommunisticheskaia partiia sovetского soiuza v rezoliutsiakh*, tom 8, p. 289.

prosecutor that these instructions were in strict conformity with regulations. Furthermore, in this Siberian region in which distances were enormous, provisions which imposed treatment by the primary Party organization, the *raikom*, and the *obkom* inevitably created significant delays.

The regional Party administrations, in particular the first secretaries, enjoyed the authority to influence criminal investigations and verdicts and even to liberate Party members from prison. Prosecutors' descriptions of such incidents are illuminating. One example among others exemplifies the sorts of interference deployed by regional Party administrators. In January 1948, the Khorezm regional prosecutor in Uzbekistan submitted a complaint regarding interference in specific files by Party officers which came under his jurisdiction. His complaints eventually reached the Central Committee of Uzbekistan, which sent a representative of the central Uzbek Prosecutor's office to investigate. He found that the Party influenced every aspect of the administration of justice in the region, from the course of the investigation, the issuance of an indictment, the moment of arrest and the period following arrest, and the transportation of prisoners. The former chief of a grain silo charged with misappropriating funds had fled before finally being arrested in Tashkent. While being transported to the GULAG, however, he stopped overnight in Khorezm, where the first secretary of the *obkom* asked that he be liberated; the local prosecutor granted his request, and the prisoner went scot-free. He was re-arrested only upon the arrival of the vice-prosecutor of the Republic. The same prosecutor took advantage of the incident to also place a former cinema manager under arrest who had been sentenced to six years in prison for falsifying cash register receipts but had remained at liberty following sentencing. The vice-director of the administration of KPK cadres regularly intervened to demand that prisoners be freed in the region. Some individuals convicted of theft and embezzlement were merely reprimanded by the Party and were never tried for their offenses. With the complicity of the regional prosecutor, the *obkom* secretary had insisted that decisions of the courts which pertained to communists be previously decided by both the *raikom* and the *obkom*.<sup>31</sup> The arrival of a highly-ranked prosecutor in a location making it possible to move forward with arrests of important local figures illustrates a prevailing legal environment that was not restricted to the oblasts of Khorezm and Surkhandar'insk of Uzbekistan. The prosecutor of Eastern Kazakhstan filed complaints about systematic and massive Party interference in his work, while the Prosecutor of the Republic of Kazakhstan confirmed that this characterized the situation in the Eastern, Western, and Central regions, as well as in Kyzyl Ordinsk, in other words, throughout the Republic.<sup>32</sup> In Kirghizstan, prosecutors lamented the fact that several Party officials dictated whom to arrest and whom they were not allowed to arrest.<sup>33</sup> In the early 1950s in the Republic of Turkmenistan, the Prosecutor complained that the central committee of the Republic itself had ruled that criminal legal proceedings against Party members and candidates would henceforth be governed by Party offices.<sup>34</sup> Prosecutors asserted that such forms of protection even extended to individuals unaffiliated with the Party.

31 GARF, f. R 8131, op. 29, d. 11, pp. 2–7.

32 GARF, f. R 8131, op. 37, d. 4036, p. 88, pp. 95–96.

33 GARF, f. R 8131, op. 37, d. 4037, pp. 112–113.

34 GARF, f. R 8131, op. 32, d. 821, pp. 2–11.

It would be reasonable to assume that interference in legal matters on such a grand scale would have been especially common in regions with less well-developed judicial systems or those in which the system confronted powerful social networks, such as peripheral Republics or Republics with large prison populations or vast geographical distances. Interference was so systematic, however, that instead of being limited to peripheral regions, the phenomenon appears to have been ubiquitous.

Official circulars at the regional level mandated prior examination of judicial affairs which concerned Party members, and *obkom* decisions were repeated in letters issued by the regional prosecutor and regional judicial authorities. In addition to the circular issued by the Kostroma *oblast'* referred to earlier, similar circulars were issued in Voronezh and Molotov, as they were in the regions of Sverdlovsk, Astrakhan, Irkusk, Ul'ianov, the *krai* of Stavropol or Krasnodar, the autonomous region of Circassia, and the Republic of Moldavia. Elsewhere, in the Kemerovo, Iaroslavl, and Vologda regions, verbal orders were issued during meetings of the leadership requiring that Party members be excluded before criminal offenses were brought to trial, and that the charges should be dropped if expulsion was rejected. Finally, in August 1950, the Prosecutor of RSFSR complained that recently in his Republic, the majority of the *obkom* and *kraikom* had decided that communists could not be judged without prior examination of their cases by Party officials and the expulsion of the individuals involved.<sup>35</sup>

Individuals who received protection were not necessarily minor criminals, and it was common knowledge that people close to the regional offices of the Party were defended. In the Kostroma region, for example, the railway supervisor (*dorozhnyi master*), S., had stolen two railway switches (*strelachnye perevody*) and non-ferrous metal bars. Evidence was collected by the prosecutor's office, and the accused confessed to the offense, but the *obkom* refused to exclude him from the Party and issued only a reprimand. His investigation file was therefore not forwarded to the trial, in part because the prosecutor himself had also received a reprimand concerning his non-respect of the *obkom's* instructions in a different legal proceeding.<sup>36</sup>

Some instances of protection could be linked to personal, even mob-related networks. The prosecutor of the Lipkany district complained about the behavior of Party members who illegally pilfered farmers' possessions, evicting them from their houses and beating them. They were able to do so with no legal consequences other than a reprimand, and he explained their impunity by referring to connivance between the *raikom* secretary and the Central Committee of Moldavia.<sup>37</sup> In the town of Tatarsk in the Novosibirsk region, a people's judge received a list of names whom he was not allowed to charge from the *obkom* secretary.<sup>38</sup> In the Iaroslavl region, a Party member who had conducted a series of railway thefts with at least a dozen adolescents fenced the stolen merchandise, reselling it on the market. The secretary of the *gorkom* defended him despite proof of his guilt.<sup>39</sup> In the Sara-

35 GARF, f. R 8131, op. 29, d. 11 p. 304.

36 GARF, f. R 8131, op. 38, d. 683, p. 60.

37 GARF, f. R 8131, op. 32, d. 13, pp. 25–28.

38 RGASPI, f. 17, op. 136, d. 309, p. 3. Reports transmitted to the editors of "Pravda" concerning the interference of Party offices in the functioning of the justice system and the prosecutors' offices, January 1951.

39 GARF, f. R 8131, op. 32, d. 2236, p. 80.

tov region, in the district of Kastendei, the prosecutor described a series of incidents in which a *raikom* secretary was systematically protecting criminals, asking the Prosecutor General's office to investigate; this did eventually lead to a severe reprimand and the firing of the *raikom* secretary.<sup>40</sup> At a more local level, another *raikom* secretary systematically protected the affairs of his brother and successfully prevented him from being sentenced; in the Karaganda region, the *obkom* secretary forbade the arrest of the parent of a *raikom* member;<sup>41</sup> a *raikom* secretary defended a former army comrade,<sup>42</sup> while elsewhere the same secretary intervened on behalf of an acquaintance from the same locality,<sup>43</sup> and a different secretary intervened to prevent the arrest of individuals who had made gifts to him.<sup>44</sup> These cases reveal the subtle protection game (*pokrovitel'stvo*) operating through local networks and the sorts of endemic corruption that prevailed among regional Party officials.

The director of the fuel depot at the railway station at Tulum in Eastern Siberia, A. K., illegally distributed government coal to organizations and individuals, stealing 430 tons of coal with the assistance of his subordinate. A. K. had also embezzled over ten thousand rubles at the time of the monetary reform of December 1947. The *gorkom* secretary and the secretary of the Irkutsk *obkom* nevertheless rallied to his defense. The accused explained that the coal theft had been authorized by the municipality and that, as president of the electoral commission, he had used the proceeds of the sale to organize an evening gathering of 40 guests, one of whom was the Irkutsk *obkom* secretary himself. When the case went to court, the prosecutor was asked by the *obkom* secretary of Irkutsk and the director of the Party cadres to explain why he was bringing charges against the depot director without the approval of the *gorkom* and the *obkom*.<sup>45</sup>

There were startling ambiguities in how allegations of mismanagement were investigated. Because of an ongoing scarcity of raw materials, some misappropriations could be explained by the need to supply a kolkhoz or a factory (illegal purchases of materials, for example). Factory and work-site managers were accused of criminal activity because they were responsible for accidents and defective manufactured goods, as well as absenteeism. During the post-war period, the range of available methods to combat mismanagement and lack of discipline among workers often was brutal, prompting widespread efforts to at least soften excessively harsh sentences. For example, in the Ivanovo *oblast'*, the prosecutor charged a chemical factory director with immobilizing railway cars during unloading for an excessively long time. The *obkom* did not agree to the filing of the charges, leading

40 GARF, f. R 8131, op. 29, d. 11, p. 53–55.

41 GARF, f. R 8131, op. 32, d. 675, p. 9–10.

42 GARF, f. R 8131, op. 29, d. 11, p. 114: A woman directing a heating station lost some of the station's money and risked being held responsible. In attempting to recoup the loss, she gave 600 boxes of matches to a speculator for resale. Charges were brought against her, but the *raikom* secretary refused to allow her to appear before the judge.

43 GARF, f. R 8131, op. 37, d. 2236, pp. 19–23: The secretary of the Gari *raikom* in the Sverdlovsk region defended him as a "former socially dangerous element", condemned according to Article 74 of the penal code of the RSFSR. The secretary and the accused came from the same village. More generally, the prosecutor accused the communist dignitary of systematically protecting his own, of "*semeistvennost'*".

44 GARF, f. R 8131, op. 29, d. 11, p. 294.

45 GARF, f. R 8131, op. 29, d. 11, p. 234.

the prosecutor to ask the Central Committee to intervene, which in turn appealed to the Prosecutor General's office to limit the Party's responsibility in the event that the accused was not charged or brought to trial. This chain of referrals was discussed in a memo from the Council of Ministers of the USSR (*Sovmin*).<sup>46</sup>

The level of actual interference sometimes depended on the seriousness of a particular case. Interference was rare in cases of major embezzlement, for example, although there were instances in which pressure was applied in favor of communists accused of embezzling tens of thousands of rubles. One Party member in Karaganda who was in charge of supplies at a public cafeteria had committed a large theft of 22,000 rubles, but the *gorkom* secretary refused to approve his arrest, arguing that he was not a "socially dangerous element" and did not deserve to spend 10 to 25 years in the camps.<sup>47</sup> It should be noted that there is also evidence that Party secretaries intervened out of a sense of responsibility on behalf of poorer or more vulnerable members of society such as widows with young children or war invalids.

It is also true that the different ways in which Party officials defended members varied depending on whether their objectives involved protecting a more or less corrupt or criminal network, whether they reflected a desire to protect individuals from the more brutal or unfair aspects of Stalin's anti-crime campaign, or whether their purpose was to protect cadres needed for the Party or the government to operate normally. In the Molotov region, although prior consent for arrests or investigation was systematically required, the prosecutor noted that refusals were not issued for individuals who had engaged in crimes for their own personal profit; the *obkom* only came to the defense of cadres accused of poor management or illicit practices that benefited their institutions.<sup>48</sup> Even more clearly, in the Ul'ianovsk *oblast'*, the regional prosecutor explained that criminal charges against communists were sometimes resolved, not based on the crime itself but on the presence of a candidate to substitute for the accused.<sup>49</sup> This form of protection of cadres was particularly frequent in cases of members of the *nomenklatura* or ministries who were not necessarily Party members but who occupied key positions. Some prosecutors denounced the tendency to expand the list of critical positions requiring prior approval of arrests from the supervising ministry.<sup>50</sup> Protecting cadres represented an unarticulated, local response to anti-criminal repression in the late 1940s.

There were a range of reasons for adversarial relationships to develop between Party officials and prosecutors – beyond documented cases in the archives of corrupt prosecutors who used their power to favor their own circle of acquaintances. With the possible exception of forms of protection linked to corruption networks, they also flowed from a sense of legitimacy that grew out of the use of power, the acquaintance with the cadres, and the role of the Party in evaluating the political purity of an individual. Communists who were protected by their *obkom* but ultimately sentenced after a showdown with the Prosecutor's office felt unfairly victimized and demanded to be judged based on their entire lives and service to the Party instead of on a single criminal act. In a letter appealing

46 RGASPI, f. 17, op. 136, d. 73, pp. 1–9.

47 GARF, f. R 8131, op. 38, d. 569, pp. 1–3.

48 GARF, F R 8131, op. 38, d. 682, pp. 122–123.

49 GARF, f. R 8131, op. 29, d. 11, p. 295.

50 GARF, f. R 8131, op. 37, d. 4037, pp. 131–132.

his sentence, one Party member explained that his *kraikom* opposed his arrest. His letter very explicitly questioned judicial authorities who were 10,000 kilometers from where he lived and were responsible for sentencing him when the local *kraikom* which could evaluate his entire life was in full support of him.<sup>51</sup> The prosecutor's offices were in fact concerned when Party members' appeals (*zhaloby*) mentioned that the proceedings against them had violated regulations by being conducted without Party officials' approval. They were afraid that individuals might use legal arguments that challenged the process in order to obtain a review of their convictions.<sup>52</sup>

### *Prosecutors' Responses to Party Interventions*

In cases in which pressure was applied, the stakes, beyond individuals who might escape punishment, involved the reputation of the prosecutor's office in the area amid competition between two orders of legitimacy – the local and regional Party organization, who served as the guarantors of their cadres and whose intimate acquaintance with their members was the sources of their considerable power, and the prosecutor's office, which represented the strong arm of the justice system and the stern application of the law. The Prosecutor General's office did not hesitate for this reason to provide regular reminders of its centralizing function, particularly since the struggle against local influence was an omnipresent slogan during the post-war years. Once the order was issued to regional prosecutors to systematically record evidence of interference, regular condemnations by the Prosecutor General's office in correspondence with the Central Committee and even press reports about pressure by regional and local Party offices on justice provide illustrations of the prosecutorial system's struggles to retain its hegemony. But the system appeared fragile to the prosecutors themselves. During the pan-Soviet conference of prosecutorial workers in April 1948, Safonov condemned interference by Party offices. The Prosecutor General of the USSR frequently asked the TsK to sanction them during 1948 and 1949 and to comply with prosecutors' complaints.<sup>53</sup> But only on March 27, 1954, after Stalin's death and the elimination of Beria, did the Central Committee finally issue a directive that condemned interference by local Party committees in legal cases involving communists.<sup>54</sup>

The Prosecutor General of the USSR stated on a number of occasions that prosecutorial workers were representatives of the central authorities. Although the importance of working with the local Party was acknowledged, he criticized local cliques (*mestnichestvo*) that influenced the effectiveness of his agents.<sup>55</sup> During the 19th Party Congress, the top lead-

51 GARF, f. R 9474, op. 16, d. 337, pp. 26–29.

52 GARF, f. R 8131, op. 29, d. 11, p. 215.

53 In May 1953, Safonov wrote to Khrushchev summarizing the difficulties which prosecutors encountered in the field. He noted that, since new Party regulations were published, secretaries had rescinded the 1938 circular and established a new rule that the investigation of a communist could only be initiated after examination of his Party membership by the *raikom* and the office of the *obkom*; the letter cited the examples of Astrakhan, Irkutsk, Baranovichi in Bielorusia, the Transcarpathian region, and the Republic of Turkmenistan. GARF, f. R 8131, op. 32, d. 2236, pp. 118–120.

54 GORLIZKY Political Reform, pp. 260–261.

55 Safonov's speech at the pan-Soviet conference of prosecutors of the Republics, *krai*, regions, and cities, April 1948, FR 8131, op. 37, d. 4034, p. 54, p. 70.

ership of the Central Committee condemned the way in which certain Party leaders protected delinquents and acted as if they could use the law as they saw fit.<sup>56</sup>

This assertion of force on the part of the Prosecutor General's office needs to be considered judiciously in light of the narratives of the prosecutors on the field and the ambiguities of the political line described earlier. During the prosecutorial workers' conference in April 1948, numerous prosecutors complained of interference by local authorities. The leadership of the Prosecutor General's office responded by emphasizing the need for good relations with the Party, asking that tensions not be overblown and that external pressure be minimized while prosecutors looked for opportunities to reach compromise.

Newly assigned district prosecutors expressed profound concern upon arriving in a territory only to become subject to pressures from multiple sources. Some even admitted that they were incapable of resisting and began to doubt their own familiarity with the regulations: Were they current concerning every directive relating to cases involving Party members? Had a new directive been issued? The prosecutor of the Iam district of the Iaroslavl *oblast'* wondered how he should combat local influence in the field: "What results do we expect to receive, we, the basic workers [...] when this highly local influence is so strong that if, as a prosecutor, I do not try to get along with the *raikom* secretary, I imperil my Party membership."<sup>57</sup> In the Saratov region, in his first encounter with the *raikom* secretary, one prosecutor learned that he required the *raikom*'s approval in order to perform his functions. When he responded by citing Articles 117 and 121 of the Constitution, the *raikom* secretary roundly rebuffed him, explaining that, as far as he was concerned, there was no law outside of Party regulations.<sup>58</sup> Ultimately, prosecutors confessed that while they were unable to resist such pressure and even saw advantages in collaborating with Party offices. In the Kemerovo region in March 1949, the prosecutor explained that until he received no clear response from the Prosecutor General's office, he would systematically seek approval from the *raikom* and *gorkom* in every case.<sup>59</sup> In November 1948, the prosecutor of the Far Eastern railways underscored this point: Reaching an agreement with Party offices had proven beneficial because it avoided seeing cases end in dismissal, which elicited criticism from prosecutors' and judges' superiors.<sup>60</sup> The involvement of Party offices seems in this case to extend beyond simple protection of VKP(b) members to control over the entire anti-crime apparatus of repression.

District prosecutors remained dependent on Party organizations of which they themselves were members, and indeed throughout the 1940s many of them belonged to the Party's administrative hierarchy. As Peter Solomon observes in his studies of Stalin's judicial system, the appointment of a prosecutor at the time depended on his hierarchical superior but also on ratification by regional Party offices. As a member of the Party, the prosecutor could be subject to disciplinary measures.

56 Shkiriatov and Poskrebyshv's speeches at the 19th Party Congress. The latter employed the appropriate Russian expression: The law would act like a cart's shaft – you pull it to the right, you pull it to the left, as you see fit (*zakon – chto dyshlo, kuda povernil – tuda i vyshlo*). RGASPI, f. 592, op. 1, d. 44, pp. 59–68, 125–129.

57 GARF, f. R 8131, op. 29, d. 11, p. 259.

58 GARF, f. R 8131, op. 37, d. 2818, pp. 2–4.

59 GARF, f. R 8131, op. 38, d. 569, unnumbered page.

60 GARF, f. R 8131, op. 38, d. 569, p. 34.

There were also complaints about intimidation from prosecutors in the field. A minority of prosecutors refused to consult the *gorkom* and *raikom* before launching criminal investigations, or worse, to agree to drop charges. In such instances, prosecutors were subjected to threats: An order would be issued over the telephone to halt proceedings, or they would be urgently asked to come to the Party offices. In some regions, such confrontations were frequent and constituted daily harassment, including telegrams asking for the suspension of an investigation, telephone calls, insults, orders to immediately appear at Party headquarters before the entire assembly, and demands for documents related to an ongoing investigation. In the Tikhoretsk district of the Krasnodar *oblast'*, one judge complained about a schizophrenic situation in which on the one hand he was supposed to follow the law, while on the other he had to answer telephone calls from the *raikom*.<sup>61</sup> A prosecutor in the Saratov region conducted an investigation against the kolkhoz director. Several Party members were compromised in the case, and the prosecutor's office demanded that they be expelled from the Party, but the Party only issued reprimands. Based on his findings, the prosecutor decided to conduct an investigation of the kolkhoz and was summoned to the *raikom*, which forbade him from pursuing a single communist without approval, explaining that it was not his role to administer justice to communists because he was not the *raikom* secretary. To get rid of him, he was sent to represent the *raikom* during the sowing campaign in another kolkhoz 50 kilometers away from the prosecutor's office.<sup>62</sup> In the Moldavian *obkom*, a prosecutor was expelled from the Party and lost his position after opposing the *raikom* over a variety of cases. It required the intervention of the Central Committee and the General Prosecutor's office to reverse the decision and re-institute him in his position.<sup>63</sup>

Beyond such instances of open conflict that ended either in compromise, in the transfer of a prosecutor to another position, or in intervention by the central authorities, prosecutors complained more generally about the difficulties in pursuing investigations because of Party pressure. They lamented extensive delays until the decision was made for a communist to be expelled, leading to instances in which his partners in crime who were not Party members languished in preventive prison for months at a time. Communists also managed to remain informed about the progress of their own judicial investigations during the different phases of the disciplinary proceedings and, when subsequently awaiting indictment or trial, had all the time needed to flee to another region, prepare their defense, influence witnesses, and conceal evidence. This phenomenon was also noted by the militia, the other institution responsible for conducting criminal investigations. The vice-director of the militia in the city of Odessa complained about leaks of confidential information from investigations targeting communists and its rapid spread via Party committee meetings. Leaks about ongoing investigations led to the disappearance of suspects and witnesses as well as fenced or stolen items.<sup>64</sup> Prosecutors in the field were deeply concerned about this non-respect of judicial confidentiality. When a prosecutor or judge agreed to share evidence in a case with Party offices, the evidence was sometimes destroyed right before their eyes. The accused and his accomplices were also occasionally present when prosecu-

61 GARF, f. R 8131, o.p 29, d. 11, p. 302.

62 GARF, f. R 8131, op. 37, d. 2818, pp. 2–4.

63 GARF, f. R 1831, op. 37, d. 2818, pp. 21–24.

64 RGASPI, f. 17, op. 136, d. 270, pp. 90–93.

tors presented evidence before the *gorkom* or *kraikom*. The ritual of summoning judges, prosecutors, or investigating judges to appear before the *gorkom* or *raikom* or the Party college mirrored trials in taking place in the presence of the accused and delivering theoretically privileged information into their hands. Prosecutors were particularly shocked by scenes of mimicry during judicial trials at the *raikom*, *gorkom*, or *obkom*. After reviewing a case involving the various elements of the charges and evidence, and after the indicted member had explained himself, the chief of one Party college concluded: “you can go home now – you will not be judged.”<sup>65</sup>

In November 1948, a decision from the Krasnodar *kraikom* demanded that if evidence was found against a communist, the *gorkom* or *raikom* should be notified before charges were filed. At the conclusion of an investigation, a meeting would be held at Party offices to rule on the question of expulsion and whether or not to pursue criminal indictment. For every case the Party college – which answered directly to the KPK – was to conduct a parallel inquiry to the criminal investigation under way. Faced with this directive, the *krai* prosecutor wrote a highly indulgent letter in which he first pointed to the impossibility of opposing to one another the prosecutor’s office and the Party since he himself was a member of the Party’s organizations. He did proclaim, however, the particular competence of the prosecutor’s office to conduct criminal investigations, including technical and legal expertise as well as acquaintance with special prosecutorial directives to which the members of the Party college did not have access. In concluding, he did not exclude the possibility that Party officials were occasionally tempted to resolve legal matters, not from the perspective of general principles of criminal policy but from the point of view of their interests and of local “particularities”.<sup>66</sup>

In response to obstacles which they faced in their daily work, prosecutors resorted to their hierarchical superiors. If the problems were at the level of the *raikom* and *gorkom*, they appealed to the *oblast*’ prosecutor or the *obkom*, but if the conflicts were at a higher level, matters were referred to the TsK and the prosecutor of the Republic. The ultimate recourse was of course the Central Committee and the Prosecutor General of the USSR. This pyramidal structure was simultaneously both efficient and unsatisfactory, and some prosecutors complained about the weak support of the Prosecutor General’s office, adding that Safonov was less supportive than his predecessor Vyshinskii.<sup>67</sup>

Above all, no one wanted to run the risk of direct interventions from the KPK of the Central Committee. Moreover, the influence of this powerful institution could be felt more strongly than previously, at least at the regional level. Since May 1949, in fact, the Party college secretaries of the *obkom* and *kraikom* KPKs and the TsKs of the Republics, themselves appointed by the Central Committee of the USSR, were in turn required to nominate the Party college secretaries, who were then subject to confirmation by the KPK of the Central Committee. College secretaries were obliged to send regular reports to Moscow.<sup>68</sup> Therefore, when conflicts arose at the regional level, prosecutors, who reported to

65 GARF, f. R 8131, op. 29, d. 11, p. 117.

66 GARF, f. R 8131, op. 29, d. 11, pp. 119–120.

67 GARF, f. R 8131, op. 37, d. 4034, p. 129: testimony of the prosecutor of the Republic of Buriat-Mongolia.

68 KHLEVNIIK (ed.) TsK VKP(b) i regional’nye partiinye komitety, pp. 40–41.

the prosecutor general of the USSR, collided with the secretaries of the Party committees and colleges who were themselves in direct contact with Moscow and the KPK TsK.

At the center, local cliques and the protection of illegal trade networks could be openly punished. Furthermore, the KPK of the Central Committee involved itself in the personal affairs of convicted communists, interventions by the center which obeyed the same case-by-case rules as those on the lower end of the hierarchical ladder, although they usually took place after conviction and sentencing. This influence was particularly noticeable in appeals and requests for pardons following convictions. Trials were mimicked in the KPK TsK: Safonov was regularly summoned by the Central Committee to discuss cases that had concluded in an appeal, a pardon by the Supreme Soviet, or in ratification of the sentence.<sup>69</sup>

In his magisterial study of justice under Stalin, Peter Solomon contended that the protection provided by the various Party offices did not apply in cases involving heavy criminal sentences, murders, for example, and that protection also depended on a convicted member's level within the Party hierarchy. The mechanisms put in place by Moscow are in fact understandable as part of an effort to oversee what the central authorities believed was either acceptable or unacceptable in terms of protecting communists: Protection had been centralized. Still, the archives reveal the systematic nature of pressures applied at the local level and also the extent to which the operations of the Party-State converged in order for prosecutors and Party offices to be brought to agreement while also mutually monitoring each other. Placing these two apparatuses in competition is a particular feature of Stalinian logic which was tied to a range of dysfunctions. Ultimately, campaigns against local influence by the Party and the prosecutor's office were intended less to ensure equality before the law, as might be believed based on the quotation at the beginning of this article, than to concentrate the power to punish in Moscow, not only within the prosecutorial system but also the Central Committee.

### *Conclusion*

The extreme centralization and the monopoly on power which characterized Stalin's second period generated a wide array of breakdowns and dysfunctions that Moscow actually exploited in order to inflame conflicts between institutions. Prosecutors admitted that in the absence of a strong signal from the center, they continued to consult Party officials before opening an investigation or filing criminal charges. Members of the prosecutor's office found themselves in a highly ambiguous position in which they were attentive to their prerogatives, which were supervised by their central offices, while also depending to a great extent on their good relations with local Party officials. The agents of the Party-State also faced the difficulty of understanding contradictory and often secret signals. At the top, the USSR General Prosecutor's office and the KPK TsK amicably settled the differences reported to them from the field, replaying events that transpired in the regions in Moscow. The ability for important cases to make a final decision regarding individual destinies was concentrated in the hands of the Central Committee, and in those of Stalin himself.

69 See, for example, RGANI, f. 6, op. 6, d. 1609: Zapiski i spravki rabotnikov KPK pri TsK VKP po proverke zaiavlenii o presmotre sudebnykh del i pomilovanii, 1951–1952.

I trust that this analysis has demonstrated the ways in which members of the Party and the *nomenklatura* sought to circumvent the ferocious repression of the state, which was primarily designed to punish economic deviations. Party members were far from immune to the temptations of such activities, due to their very social position and to the difficult economic environment in the country. It has been my intention here less to emphasize the obvious limits of the operation of the rule of law and of the principle of equality before the law than to inscribe these practices within a longer narrative about Stalinian repression and Soviet social history. This article has argued that these protective practices obeyed particular logics which cannot be reduced solely to defending personal networks, but can also be understood as helping to preserve a semblance of stability and tranquility for Party cadres in a highly repressive context.

After the war, the Party central leadership, who were well aware of the extent of corruption among Party officials, no longer considered such abuses a threat to the regime.<sup>70</sup> If it is possible to speak of impunity, belonging to the Party or the state bureaucracy provided a resource which could be used to attenuate the impact of repression. It was not the only such resource, and, as recent studies of corruption in the USSR have shown, financial resources also provided a means of resisting repression by providing access to lawyers and ways of corrupting justice.<sup>71</sup>

Reductions in punishments and avoidance strategies with respect to the 1947 laws in local settings were not reserved only to Party members. Industry managers also protected workers from convictions, and, as Peter Solomon explained, judges refused to enforce existing laws in particularly harsh cases.<sup>72</sup> Party interference should be seen within the context of local society, which developed strategies for evading punishment that were foisted on them by the central authorities. But the particularity of the protection which Party committees provided their members, like that provided by the ministries, the army, and the Supreme Soviets, is that it was institutionalized and linked to organs of the state and to distinct disciplinary sets of rules. This organizational system was defined by different administrative and judicial jurisdictions and by different prescriptions and procedures (“another criminal code”) which divided the society into several strata reminiscent of the *sosloviia* of the Old Regime.<sup>73</sup> Although within individual destinies, such protections might have seemed to operate randomly, they nevertheless made it possible to differentiate the leadership of the country from the poor, marginalized majority of the population who suffered the full brunt of the waves of repression that followed the war.

The historian Yoram Gorlizki believes that the phenomenon of Party intervention in the operation of the justice system remained undiminished under Khrushchev; on the contrary,

70 KHEVNIUK (ed.) *TsK VKP(b) i regional'nye partiinye komitety*, p. 8.

71 In a research project on theft, thieves, and repression, the author has analyzed the social resources which enabled different inhabitants of the USSR to protect themselves from repression. Regarding corruption in the system of justice, see the study by HEINZEN *Pick the Flowers while they're in Bloom*.

72 SOLOMON *Soviet Politicians and Criminal Prosecutions*; FITZGERALD *Soviet Workers and Late Stalinism*.

73 Regarding the functioning of the *sosloviia*, see the special issue of *Cahiers du Monde russe* 51 (2010), 2/3: *Dynamiques sociales et classifications juridiques dans l'Empire russe*. Regarding the prolongation in the USSR of this system of social hierarchization by the State, see FITZPATRICK *Ascribing Class*.

it was strengthened by the increased prominence of the Party, particularly in terms of criminal charges and trials, and also by decentralization. Of course, new Party regulations in 1961 clearly indicated that a Party member who had committed a crime punishable by law should be excluded and brought to trial through the judicial system. A 1962 circular superseded the December 1938 circular, ruling that it was no longer obligatory for the first secretary to approve arrests of communists. But the new circular also contained another section which ruled that the Party committee should be informed of cases involving communists, and required that the necessary legal documents be made available to decide whether the member should be expelled from the Party or not. The expulsion decision preferably preceded the delivery of a verdict by a judge.<sup>74</sup> As a consequence, the pressure applied by the committees to protect communists, as lawyers' testimony demonstrates, did not suddenly vanish with the advent of the new rules.

*Translated from the French by John Angell*

### Abbreviations

GARF	Gosudarstvennyi Arkhiv Rossiiskoi Federacii (State Archive of the Russian Federation), Moscow
KPK	Komitet Partiinogo Kontroliia (Party Control Committee)
MGB	Ministerstvo gosudarstvennoi bezopasnosti SSSR (Ministry of State Security of the USSR)
MVD	Ministerstvo vnutrenikh del (Ministry of the Interior)
RGANI	Rossiiskii gosudarstvennyi arkhiv noveishei istorii (Russian State Archive of Contemporary History), Moscow
RGASPI	Rossiiskii gosudarstvennyi arkhiv sotsial'no-politicheskoi istorii (Russian State Archive of Socio-Political History), Moscow
RSFSR	Rossiiskaia Sovetskaia Federativnaia Sotsialisticheskaia Respublika (Russian Federative Socialist Republic)
TsK	Tsentralnyi Komitet (Central Committee)
USSR	Union of Soviet Socialist Republics
VKP(b)	Vsesoiuznaia Kommunisticheskaia Partia (bol'shevikov) (All-Union Communist Party – Bolsheviks)

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### Summary

#### **Equal Before the Law? Soviet Justice, Criminal Proceedings against Communist Party Members, and the Legal Landscape in the USSR from 1945 to 1953**

Based on an extensive correspondence between the Soviet General Procuracy and provincial and local prosecutors, as well as on central State and Party archives, the article focuses on the general phenomenon of protection of party members from prosecution for economic crimes after the war. The author shows to what extent these practices of protection reflected not only the existence of informal or criminal economic practices, and local clientelism, but also conflicts of legitimacy within patterns of disciplining and criminalizing behaviors, confronting the law and justice apparatus, its norms, procedures and values with those of the Party. Confronted with the efforts of the prosecution to put

into practice the extraordinarily harsh law of June 1947 against theft of public property, notably lethal for the whole Soviet people, the Party systematized and organized protection and defense of its own members. A keen look at the chronology shows the confluence of two trends, i. e. spontaneous local and provincial responses to a harsh repressive campaign, and a finally centralized phenomenon searching to soften the repressive campaign for Party members. The force of the law in implementing new values and punishing some economic behaviors, when endorsed by the justice and police officials, was counteracted and modified by social and political networks ramified to Moscow. Using local and provincial examples, the author analyzes, on the one hand, the anxiety of Prosecutors, considering themselves the long arm of the law, but at the same time party members and reliant on the local party organization, and, on the other hand, the low sense of justice and the contempt for law of party members, who were ultimately condemned only when protection by the Party failed. The article describes episodes of the daily life of prosecutors, summoned to come to the party committee for a mimicked trial. These episodes are indicative of the difficulty of certain sectors of Soviet society to accept the rule of law and of phenomena of negotiation at various levels of law enforcement. These practices of legal protection by the Party (as by the State and the Army for their officials) operated as the remnants of the ancient social organization of the Russian empire, by estates (*soslovie*). They offer a view on the Soviet society after the war which was genuinely segmented and stratified and where the rule of law was confronted with contradictory interpretations and even openly rejected when applied to certain people and implemented through the justice apparatus, the Prosecution.

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