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**TITLE: ARBITRARY JUSTICE: COURTS AND POLITICS IN POST-STALIN RUSSIA. Report #9; PART VI:  
POLITICAL REHABILITATION and POLITICAL JUSTICE**

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## NCSEER NOTE

This is the ninth in a series of Council Reports which, in all, will contain a book, by the same authors and probably with the same title, forthcoming, M. E. Sharpe. This Report begins Part VI: Political Rehabilitation and Political Justice, and consists of an Introduction by Donald Barry, and Chapters Fourteen, The Stalinist Terror and the Rehabilitation of Its Victims"; Fifteen, How It Happened; and Sixteen, Voices from the Past; all by Yuri Feofanov. Subsequent Reports in the series, numbered sequentially, will contain the rest of Part VI, and Part VII. They will carry the same main title and the subtitle of the Part contained.

*[Correction: Reports #5 and #6 contained Part IV, not "Part III" as they listed on their face pages and in their NCSEER NOTES]*

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## VI. POLITICAL REHABILITATION AND POLITICAL JUSTICE

Donald D. Barry

### **Introduction**

No area of Soviet life escaped the Gorbachev revolution. At the base of this transformation, which led in just a few years to the collapse of the USSR itself, were a number of factors that chroniclers will analyze for ages to come in seeking to understand the fall of the superpower. One of these, perhaps the most important, was the decision to lift the lid on the pervasive secrecy that had characterized the regime since its inception. This urge toward glasnost, one of the defining slogans of the period, made much else possible, including a more honest look at the USSR's past.

Inevitably this meant a renewed examination of political repressions, particularly those of the Stalin period. Rehabilitation of some of the victims of Stalinist terror had begun soon after the dictator's death, but it had been a highly controlled process, even during the thaw periods under Khrushchev. Still, during the years 1954-1961 over 700,000 persons had been rehabilitated. But after the fall of Khrushchev in 1964, as one careful analyst has put it, "mass rehabilitation practically ceased."<sup>1</sup> It was not until the end of the 1980s, under Gorbachev, that large-scale rehabilitation was resumed. Between 1988 and 1993 over 1.2 million persons were rehabilitated, bringing the total at that time to nearly three million.<sup>2</sup>

Large-scale rehabilitation derived from large-scale repression, and another result of glasnost has been the opportunity to delve more deeply into the character and dimensions of the terror. This has taken a variety of forms, including a number of notable novels, plays, and films. But it has been examined most thoroughly by journalists and social scientists working with newly available sources, the most important of which are previously sealed archives. Scholars inside and outside of Russia are taking advantage of these opportunities, seeking to determine the true number of people who suffered in the successive waves of terror and much else.<sup>3</sup>

The process of rehabilitation has been effected by various means. A Politburo Commission "for the further study of materials connected with the repressions that took place in the period of the Thirties through the Forties and the beginning of the Fifties" was created in the late 1980s. It processed many cases, but it could not itself grant legal rehabilitation. The USSR Supreme Court handled the rehabilitation of large numbers of individuals, but the tide of potential cases was too large for it. Therefore, a series of normative acts designed to rehabilitate categories of repressed persons was adopted. But since some people in these

categories had been deservedly convicted of crimes, an individual review of cases was required. This became the job of procuracy employees rather than the courts, carried out, as one analyst put it, "in the quiet of their offices." After "secret repression," he said, there was now "secret rehabilitation."<sup>4</sup> Later legislation was adopted allowing a person who had been denied rehabilitation through this process to appeal the decision to a court.

The basic legislation now in effect on the subject is a 1991 Russian Federation law, as amended, "On Rehabilitation of the Victims of Political Repression."<sup>5</sup> It describes the categories of people who may be rehabilitated; the acts for which people may have been convicted that no longer have legal force; procedures for bringing about rehabilitation; and the consequences of rehabilitation, which include restoring rights, decorations and titles, and citizenship (in cases where it was revoked), awarding monetary compensation, and other benefits. A 1993 amendment to the act permitted the abovementioned court suits to those denied rehabilitation in administrative proceedings.

Although the law seems quite comprehensive, the adoption of a number of supplementary normative acts has been necessary.<sup>6</sup> Some citizens think that relevant legal provisions still do not go far enough. In 1995 the basic law on rehabilitation was the subject of constitutional litigation. The child of a couple that was subjected to the Stalinist terror sued in the Russian Federation Constitutional Court because the law did not provide money compensation for her, although it would have been available to her now-deceased parents. She argued that since she had been taken with her parents to the place of their resettlement, she was as much a victim of repression as her parents had been. But Ministry of Justice officials had rejected her plea for compensation, pointing to several provisions in the 1991 law on rehabilitation. The Constitutional Court ruled that in this regard the statute violated the constitutional provision of equality of all persons before the law and the courts. In striking down the offending provision, it requested that parliament make appropriate amendments to the law.

In writing about this case in *Izvestiia*, Feofanov asserted that "children, like their parents, bore the full weight of repression that a criminal state brought down on them." In excluding children in such cases from compensation, he averred, government officials were proceeding from the position that the state could not afford the expense. But in Feofanov's view it was not a lack of money that led to the administrative denial of the plaintiff's request and brought her to the Constitutional Court; otherwise, he asserted, referring to the Chechen war, "one part of the government would not have been ordered to bomb our cities and another to rebuild them." In rendering its decision, he said, the Constitutional Court "was motivated not by financial considerations but by legal principles and a feeling for justice."<sup>7</sup>

Rehabilitation is aimed, first and foremost, at atoning for offenses against the millions of victims of the terror. But many who write about it, Feofanov included, see a further purpose in the process: a hope, as a lawyer from the Russian Ministry of Internal Affairs put it recently, for "the establishment of a kinder and more honest society in Russia."<sup>8</sup>

In the chapters that follow Feofanov examines terror and rehabilitation in several ways. He looks first at those whom he calls the "creators" of terror (Chapter Fourteen, "The Stalinist Terror and the Rehabilitation of Its Victims"). Here he does not have Stalin in mind, or the various heads of the secret police, but two of the principals in the juridical phase of the purges, Nikolai Krylenko and Andrei Vyshinsky. Krylenko was the prosecutor in a number of well-publicized trials in the late 1920s and early 1930s, and later went on to other important legal posts. Vyshinsky made his name and gained Stalin's favor as prosecutor in the famous purge trials of 1936-1938.

Both of these men have been the subject of considerable interest for students of Soviet law.<sup>9</sup> Krylenko holds a particular fascination for Feofanov, because he was an early comrade of Lenin and at first a supporter of progressive legal principles.<sup>10</sup> He later abandoned this position and became a willing participant in the increasingly lawless regime created by Stalin. This did not save Krylenko, however. He was arrested and shot in 1938. Feofanov's portrait of Krylenko recognizes certain positive traits in the man. But in the end Krylenko is seen as one of those victims of the regime who had earlier acted as its enthusiastic henchman.<sup>11</sup>

Feofanov turns next, in "How It Happened" (Chapter Fifteen) to two of the major trials of the latter part of the 1930s: the Zinoviev-Kamenev trial in 1936 and the Bukharin trial in 1938.<sup>12</sup> Both cases, but especially Bukharin's, have been extensively described and analyzed in Russia and the West. The rehabilitation of the defendants in 1988 (except for former secret police chief Yagoda, as Feofanov points out) brought renewed interest to these cases, as newly-released information provided a more complete picture of the times and events. Feofanov breaks no new ground in his discussion of the trials, although he does remind the reader of a number of interesting aspects of the cases: the fact that the 1936 trial took place in the midst of the orchestrated country-wide discussion of the new "Stalin Constitution"; and the credulity of foreign observers of the judicial proceedings. And he offers his own views regarding the preposterous confessions made by the defendants.

His real purpose in discussing these cases, however, is to reiterate themes that find expression elsewhere in the book: the use of the press to inflame the masses, and the related "mob syndrome," that permits otherwise decent people to act in shameful ways. He doesn't deny that fear was behind this behavior, but sees the result as an extreme form of what characterized public behavior in more "normal" post-Stalin times.

The same point applies to the purely legal aspects of the judicial process in these cases. Analyzing the trials helps to show more clearly the distortions in the law that characterized the Soviet legal system for so long. He sees parallels, in diminished form, between the 1930s trials and the way courts operate right up to the present time. For instance, as he made clear in his discussion of the Churbanov trial and other cases in Part IV, the over-reliance of courts on views of investigators, and the reluctance to conduct truly independent judicial proceedings, remained flaws in the judicial system even as the Soviet Union was nearing its end. But it found its ultimate expression in the Moscow show trials, a point he drives home in reviewing those proceedings of sixty years ago.

On the basis of his writings about the rehabilitation of those convicted in the Moscow trials, Feofanov received a number of letters. In "Voices from the Past" (Chapter Sixteen), he includes three of these: from the granddaughter of Lev Kamenev, the wife of B.O. Norkin, one of the defendants in the 1937 "Anti-Soviet Trotskyite Center" trial, and the wife of S.M. Frankfurt, a lesser-known official.

All letter-writers suffered in one way or another, both Norkin's wife and Frankfurt's wife having been repressed themselves for long periods of time. Frankfurt's story of her forced confession in prison is similar to many such descriptions. More moving is her admission of disillusionment with her husband for having collaborated in the liquidation of peasants prior to his own arrest.

## NOTES

1. V.V. Lunev, "Politicheskaia prestupnost'." *Gosudarstvo i pravo*, 1994, no. 7, p. 113. Lunev gives a figure of 737,182 persons rehabilitated between 1954 and 1961, including 353,231 who had been executed. Over the next twenty-five years (1962-1987) only 157,055 persons were rehabilitated.

2. Ibid. Lunev points out that from 1992 on the figures cited only cover the Russian Federation

3. See, for instance, *ibid*; V.P. Popov, "State terror in Soviet Russia, 1923-1953 (sources and their interpretation)," *Otechestvennye arkhivy*, 1992, no. 2, pp. 20-31 (English translation available in *Russian Law and Politics*, Vol. 32, no. 3 (May-June 1994), pp. 79-101); Alec Nove, "Terror Victims—Is the Evidence Complete?" *Europe-Asia Studies*, No. 46, no. 3, 1994, p. 535-537. And see the Yale University Press series entitled "Annals of Communism," documentary volumes put together by editorial teams made up of Russian and American scholars.

4. B.T. Bezlepkin, "Reabilitatsiia neobosnovanno repressirovannykh grazhdan po delam proshlykh let." *Sovetskoe gosudarstvo i pravo*, 1990, no. 3, p. 82. The discussion is based largely on this source and Lunev "Politicheskaia prestupnost'."

5. Vedomosti S "ezda narodnykh deputatov RSFSR i Verkhovnogo Soveta RSFSR, 1991, no. 44, item 1428; Vedomosti S "ezda narodnykh deputatov Rossiiskoi Federatsii i Verkhovnogo Soveta Rossiiskoi Federatsii, 1992, no. 28, item 1624; 1993, no. 1, item 21. Related legislation covers the rehabilitation of repressed peoples. "O reabilitatsii repressirovannykh narodov," Vedomosti S "ezda narodnykh deputatov RSFSR i Verkhovnogo Soveta RSFSR, 1991, no. 18, item 572.

6. E.g., a decree on burial of rehabilitated individuals at government expense. See the discussion of this and other acts in "Benefits for 'Enemies of the People': We are Restoring Justice With Respect to the Victims of Political Repression," Rossiyskiye Vesti, March 28, 1995, p. 3, FBIS-SOV-95-071-S, April 13, 1995, p. 35.

7. "Zhertva repressii vtorogo sorta," Izvestiia, May 24, 1995, p. 2.

8. Tat'iana N. Moskal'kova, "Rehabilitation of the Innocent in the Russian Federation," Review of Central and East European Law, vol. 18, no. 5 (1992), p. 484.

9. See, e.g., Donald D. Barry, "Nikolai Vasil'evich Krylenko: A Re-evaluation," Review of Socialist Law, vol. 15, 1989, pp. 131-147; Eugene Huskey, "Vyshinsky, Krylenko, and the Shaping of Soviet Legal Order," Slavic Review, vol. 46, 1987, pp. 414-428; Arkady Vaksberg, Stalin's Prosecutor: The Life of Andrei Vyshinsky (New York: Grove Weidenfeld, 1991).

10. See Feofanov's earlier article on Krylenko, "Stanovlenie zakona," Izvestiia, August 11, 1987, p. 3.

11. The need for balance in judging the victims of the purges is a common theme of recent rehabilitation literature. Many who were ultimately caught in the terror had earlier helped to administer it. This was generally acknowledged with regard to leaders of the stature of Yagoda and Yezhov, but was long ignored in the case of some others. On this point see Ella Maksimova's 1994 article "Ne otlichit' palacha ot zhertvy" Izvestiia, March 23, 1994, p. 1, which also involves Krylenko. The author describes the 1932 Shtern-Vasil'ev case, in which the defendants, accused on trumped-up charges, were executed. Krylenko prosecuted the case. In writing about the trial in 1994, after the defendants were rehabilitated, the author raises this question: "Krylenko was shot in 1938--does this give us the right to forgive [his] butchery?"

12. The first of these trials had a total of sixteen defendants and the second a total of twenty-one.

## CHAPTER FOURTEEN. THE STALINIST TERROR IN THE LIGHT OF THE REHABILITATION OF ITS VICTIMS.

Yuri Feofanov

In this section a time is discussed when the author of these remarks was already alive, but his child's mind could evaluate the events of the time only by the standards instilled in him by school and propaganda. This was even more the case since I lost my parents early in life, though not through the repressions. I was educated in a good children's home and from age 11 to 13 only rejoiced with the rest at the reprisals taken against the spies and wreckers.

Full understanding of these matters came only a half-century later, when the rehabilitation of the "enemies of the people" was completed. I have tried to put together materials to show the tragedy of the time, of both the people on top and of regular citizens, whose fates were crushed by the devilish machine of the communist regime.

### **The Victims Of Terror And Its Creators**

In 1988 all victims of the "Moscow Trials"-- the official "enemies of the people,"-- were rehabilitated by the USSR Supreme Court. Included were those who had been convicted without trial or in truncated simplified proceedings. In addition, documents that shed a very different light on the nature of communist terror, dating back almost to the day of the October Revolution, began to be released from secret archives.

Much of this was known in the West far earlier than to the people here, against whom a bloody experiment unprecedented in history had been conducted. I won't attempt to review for the reader what is reasonably well-known. But when the "massive rehabilitation" of the victims of the terror began in 1988, the kind of detail that would help one to understand better the essence of the despotic Soviet regime and its system of judicial repression became available. With that in mind I have taken from the enormous amount of available material some examples relating to the fate of particular people--since they are always unique.

From 1956, when the Twentieth Party Congress took place, up until the late 1980s, the official version of the bloody repressions was as follows: Stalin distorted the ideas of Lenin regarding the socialist state; during Lenin's time, if "red terror" took place, then it was necessitated as a response to "white terror"; the revolution had to be defended, and therefore the VChK (the Cheka) was created to put the mechanism of repression in motion. This, it was asserted, was an unavoidable consequence, as it is in any revolution.



In this regard, the Great French Revolution was often cited. And this is what Robespierre said on February 5 1794: "If the moving force of the people's government during peacetime should be virtue, the moving force of the people's government during the revolutionary period should be virtue and terror--virtue, without which terror is ruinous, and terror, without which virtue is powerless. Terror is nothing less than swift, strict, inexorable justice. Therefore, it emanates from virtue. It is not so much a special principle as a result of a general principle of democracy employed in the most urgent needs of the fatherland."

Beginning in the 1930s the Stalinist butchers were of course not thinking about such "virtue." Massive and exceedingly cruel terror became the norm, requiring no justification. But the way was paved for it by revolutionary romantics of the "Incorruptible Maximilien" stripe. One of the pillars of this "Leninist guard" was Nikolai Krylenko. In his person and fate is embodied the irreconcilable contradictions of revolution and law. He could not avoid becoming a victim of these contradictions, a victim of what he affirmed in the name of the highest goals, but omitted regarding the inescapable axioms of universal law.

The policy of the bolsheviks in the sphere of justice began with three decrees on the courts. Decree No. 1 dissolved the former courts, the judicial chambers, and the governing senate with all of its departments. Decree No. 2 established the structure of the new people's court; an investigation commission was created within the people's court and democratic procedures of court operation were foreseen. In Decree No. 3 all of this was stricken and the standard of justice that was announced was "revolutionary legal consciousness."

Nikolai Krylenko became a close collaborator of Lenin in the establishment of Soviet justice and in the assertion of the principle of socialist legality. He went into history not as a jurist; the posts of procurator of the republic and people's commissar for justice lay ahead of him.

He took an active part in storming the Winter Palace on the day of the revolution. Right after the seizure of power he became a member of the first Soviet government, a people's commissar, serving together with Dybenko and Antonov-Ovseenko on the committee for military and naval affairs. After the adoption of the decree on peace Lenin transferred the command of the German front to the General Headquarters, directed by General Dukhonin, with the order to enter into negotiations immediately with the Germans. The General Headquarters ignored this order. There followed a telegram replacing Dukhonin as commander-in-chief by ensign Krylenko. In Mogilev with a unit of revolutionary sailors, Krylenko issued Order No. 972: "On November 20, 1917 I came to General Headquarters and assumed the post of commander-in-chief of the army and navy of the Russian republic. Ensign

Krylenko." This was followed by the replacement of a number of generals, the democratization of the army, and its complete demoralization.

The members of the first Soviet "cabinet" were daring plotters, able conspirators, semi-educated people dedicated to the revolutionary idea, in whose hands this enormous country, boiling with passions, suddenly found itself. The people's commissars were required both to develop a political strategy and to run government departments, and they were capable of doing neither. The ensign who became commander-in-chief was just one confirmation of this.

After a short time Nikolai Krylenko was "thrown" to the field of law. Why? After completing the gymnasium Krylenko enrolled in the history-philology faculty of Petersburg University, but he did more work in support of the revolution than as a student. He was arrested and exiled, and worked for a time as a teacher in Lublin (Poland). He became acquainted with Inessa Armand and through her with Lenin, who was living then in Cracow. At the behest of the leader, Krylenko prepared speeches for bolshevik members of the State Duma. In connection with this he enrolled in law school. The speeches of the bolshevik deputies had to take the laws of the Russian empire into consideration, and it was desirable that they not appear to be ridiculously ignorant.

After the final collapse of the front the commander-in-chief was named the first procurator of the republic. It must be said that Krylenko did not take a position that denied the importance of the law. Indeed, he attempted to introduce a legal basis for the despotic regime. He began his activity with bringing order to legislation. He convinced his colleagues in the Council of People's Commissars that in the absence of a criminal code, "a court might give a reprimand for a punch in the nose in Ryazan, while the sentence in Tula might be shooting." In 1922 the Criminal Code was adopted. But it was also necessary to carry out the laws, and the authorities, lacking self-discipline, relied on their revolutionary consciousness.

The III session of the All-Russian Central Executive Committee in 1922 approved the Law on the RSFSR Procuracy. Krylenko introduced the draft of the law, according to which a procurator was not subordinate to the local authorities, but saw to the uniform application of the law by these authorities. This seemed an unusual practice for the time (and it remains so even today). At the session of the All-Russian Central Executive Committee some of the most well-known leaders of the regime spoke against the "Krylenko draft"--Kamenev, Zinoviev, Rykov, Kaganovich. And the draft was rejected. But at the insistence of Lenin it was adopted . . . in the Politburo itself.<sup>1</sup> This fact in itself contains the root of the corruption of the system--the flaw in the whole system of power: a properly conceived law regarding the independence of the procuracy is adopted in defiance of elementary legal norms by a party organ, which

openly subordinates the legislative organ to itself. And the guardian of the law, the Procurator of the Republic, accepted this as appropriate. A good and legal end justified anti-legal means.

Meanwhile Nikolai Krylenko was advancing the idea of the independence of judges and their subordination only to the law. This principle was considered bourgeois in nature and unacceptable for a Soviet regime. But in his work Judicial Structure of the RSFSR Krylenko stated directly that Soviet judges should carry out the policy of the Soviet state "within the limits of the law, independent of non-judicial factors." And he wrote that "under revolutionary legality it is necessary to understand that an arrangement will be established in which every person will be guaranteed full protection to act if what he does is not prohibited by the law." Krylenko spoke sharply against those party and soviet workers "who, having accepted with their words the move toward revolutionary legality that has been taken, have no intention of carrying it out when a matter involves them personally or their areas of competence. With accusations of 'formalism' they seek to exclude themselves from subordination to legality."

In the report of the RSFSR Procuracy to the Presidium of the All-Russian Central Executive Committee for 1926, N. Krylenko stated: ". . . in the work of the majority of investigators serious shortcomings are still observed . . . [including] incomplete investigations, especially in economic cases and official crimes. . . . some investigators in these cases are completely hopeless. . . . many have a noticeable accusatory tendency, which interferes with a strictly legal evaluation of crime and the degree of guilt of the accused."

Krylenko was right. The regime was not demanding a strictly legal evaluation; its justice was dictated by arbitrariness, both in criminal and in civil proceedings.

An outstanding scholar of the time and authority in Soviet jurisprudence, E. Pashukanis, began to assert that in economic affairs "the planning organizational concept is supplanting the formal-juridical concept," that as the regulation of social relations becomes more effective, the role of law will weaken. In legal theory the idea was more and more insistently put forward that existing Soviet law was marked with the stamp of "bourgeois influence," which complicates and makes more difficult the resolving of the tasks of the socialist reformation.

Nor did the procurator of the republic, who had begun by insisting on the primacy of law, hold up against this campaign, for the regime itself was rejecting him.

In 1927 Krylenko came out in favor of reform of the *Criminal Procedural Code*. Not long before he had stated that "the judicial form protects to a greater degree than any other against errors. It defends first and foremost the state itself but also persons being brought to trial." He also stated that the Soviet state is not interested in the erroneous initiation of investigations, and even less in mistaken, unnecessary detention prior to court proceedings." But a year later the procurator of the republic suddenly announced that "it is pure utopia to

demand absolute objectivity from the judge"; that "the prerogatives of the defense counsel need to be narrowed, since the court itself defends the accused"; and that "a legal defense should be allowed only on petition of the trade unions; the defense will be responsible to the trade union, and checked by the trade union, and thus the control over the defense will be in proletarian hands, and not in the hands of an anonymous foreign body," as he called the college of advocates. When it was objected that legal defense was provided for in Decree No. 1 on the Court, Krylenko replied that this provision was adopted when the left Social Revolutionary Shteinberg was in charge of the ministry of justice. In 1924 Krylenko asserted: "one of the greatest achievements of the revolution is the existence of a code of procedure." But in 1927 he called the code of procedure "a copy of bourgeois law" and suggested that if it couldn't be done away with completely, then it needed to be simplified to a great extent.

These transformations were not accidental. Krylenko later appeared as the state accuser in several important political trials, including the "Promparty" case and the "Shakhtinskii" case. As republic procurator he could not have been unaware that the accusations in these cases were trumped up and that the confessions of conscious wrecking had been gained by blackmail (physical torture was not yet being used).<sup>2</sup>

Krylenko had a choice: he could go against the Stalin regime or give himself to the service of the despot. He chose the latter. But it was already too late.

In 1934 Krylenko published a book entitled "Lenin on the court and criminal policy." Krylenko defined revolutionary legality as the continuously-operating norm "of the construction of socialism from the moment of the creation of state power and of the bases of the planned economy." This was his last attempt to give lessons in the law to the political regime. This the regime could not tolerate. During these years very different kinds of legal works were being written. They did not contain mistakes: they consciously distorted the principles of law themselves. Their author was Andrei Vyshinsky. The huge political trials of the 1930s were already being prepared, and Krylenko, with his vacillation between the law and socialist legality, was not the man for the job. He was not competent to create a "theory of arbitrary rule," which Vyshinsky created. In court, the latter wrote, it is impossible to establish objective truth, because the crime cannot be repeated. And since establishing truth is impossible, the "maximum probability" of guilt of the accused is sufficient. What was completely improbable for the times was that an opponent to Vyshinsky appeared. Mikhail Strogovich wrote in 1937 (!) that an accusation may only be based on facts that have been established with absolute certainty, and not on probability, and that a sentence may be handed down only when objective truth has been established (Problemy ugolovnoi politiki, book 4, Moscow, 1937, p. 39).

I was well acquainted with Mikhail Strogovich, who has since died, in the 1960s and 1970s. He was a corresponding member of the Academy of Sciences and a recognized leader in the law field in those years. I met him often, and he did much to help me understand the law and his philosophy. It could even be said that we became friends. Five men, one the present ambassador to Israel Aleksandr Bovin, regularly arranged "stag parties." Over a glass of vodka we had discussions that dealt more with legal problems than with, say, the subject of women, which might seem more appropriate to the circumstances. I asked Strogovich how he had avoided punishment for expressing disagreement with the all-powerful procurator. First, said the professor, the article came out in a specialized legal publication of small circulation. And second, and more important, the terrifying prosecutor, who knew Strogovich personally, related to him in an indulgent and condescending manner. He did not deign to reply to the disagreement, but he didn't move to persecute Strogovich either. A miracle.

Let me return, however, to Nikolai Krylenko. In 1936 he was appointed People's Commissar of Justice of the USSR. And a year and a half later, on January 31, 1938, he was arrested on the personal order of NKVD chief Yezhov. He was charged with being associated with the anti-Soviet organization of rightists allegedly headed by Bukharin; with creating an organization of saboteurs within the justice organs and carrying out subversive activities; of personally recruiting 30 people . . .

In 1988 I reviewed the investigatory materials on the case, which had been conducted 50 years earlier. To some extent one can imagine how it all took place. It had been "established" that from 1930 on Krylenko had been a participant in an anti-Soviet organization of rightists. In his position as People's Commissar of Justice, he had supposedly created a subversive organization, headed sabotage activities, and prepared for intervention against the USSR by fascist states. In 1936 he supposedly was ordered by Bukharin to prepare terrorist acts against party and governmental leaders.

All of this nonsense was supported by the testimony of a number of people. They named names, including Krylenko's opponent Professor Pashukanis. A worker in the People's Commissariat of Justice, Yakovleva, testified that in 1930, on orders from Trotsky, she brought Krylenko into a terrorist group. On December 7, 1937, she retracted this testimony but on December 10 she again "confessed." It doesn't take much imagination to understand the reasons for her vacillation.

What happened to the recently-dismissed USSR Minister of Justice? The materials on the case show that he sent petitions to Yezhov. In the first, of February 3, 1938, he admitted that from 1930 on he participated in a struggle against Soviet power, carrying out wrecking activities on three fronts: on the theoretical front, in the breakdown of the work of the courts

and the procuracy, and in spreading subversion among the cadres. On April 3 he added sheer fantasy to these "confessions": it turns out that this friend of Lenin was struggling against Lenin even before the October Revolution, and after the Revolution he joined Bukharin, Pyatakov and others in waging a struggle against the party (an interesting point to note: NKVD official Kogan, who had taken this testimony, was shot in 1939 "for anti-Soviet activity").

At his last questioning on June 28, 1938 Krylenko confessed that he had recruited to his cause 30 people from the People's Commissariat of Justice.

An NKVD official named Aronson, who was questioned in 1955 at the conclusion of [the rehabilitation process in] the Krylenko case, testified that Krylenko retracted his "confessions" in court, but this made no difference. On July 29, 1938 Krylenko was sentenced to death by shooting.

I quote from the decision of the Military Collegium of the USSR Supreme Court in [posthumously] rescinding this sentence: "In judicial proceedings of the Military Collegium of the USSR Supreme Court of July 29, 1938 Krylenko confessed to his guilt. The protocol, consisting of 19 lines, contained too little to provide even an approximate representation of the proceedings, which lasted 20 minutes."

The fate of Nikolai Krylenko was the fate of the whole "Leninist Guard." It embodied the drama of the epoch. His vacillation between law and the lawlessness symbolized the contradictions of the revolution. Personally an undoubtedly honest and upright individual, he could not fail to know, to feel the deceitful underlying motives for the trials in which he served as prosecutor. He justified lawlessness against the enemies of the revolution and simultaneously spoke of the independence of the court and the need to observe procedural norms. The Stalinist regime grew out of and developed on the basis of these contradictions and inconsistencies, and the victims of this regime were those who founded our state. And, it must be said, these victims themselves were the pitiless butchers of those who thought differently from Lenin.

They paid too harshly for their vacillations and errors. But scores were settled against them not for killing of millions of peasants, not for the vengeance taken against political opponents, and not for establishing a lawless and arbitrary regime. The "Leninist Guard," the romantics of the revolution, were ready to reject all of their opinions and principles in order to serve tyranny faithfully. But they weren't needed by the tyranny. They became expendable witnesses who were killed according the rules of gangster "ethics."

Their fate was that they paved the way for the butchers that followed them.

## NOTES

1. A description of the Politburo's direct participation in and resolution of this issue may be found in Sovetskaia prokuratura: Istorii i sovremennost (Moscow: Iuridicheskaia Literatura, 1977), p. 12; also Prokurskii nadzor v SSSR (Moscow: Iuridicheskaia Literatura, 1966), p. 6.

2. In 1990 the Politburo commission charged with examining the repressions looked into these cases and determined that the charges against the defendants were fabricated. The victims were later rehabilitated. See "V Komissii Politburo TsK KPSS po dopolnitel'\_nomu izucheniiu materialov sviasannykh s repressiiami imevshimi mesto v period 30-40kh i nachala 50kh godov," Izvestiia, June 5, 1990, p. 2.





## CHAPTER FIFTEEN. HOW IT HAPPENED

Yuri Feofanov

On August 15, 1936 a short announcement entitled "In the USSR Procuracy" appeared in Izvestiia, in the upper right hand corner of the second page. It stated dryly that the cases of L. Kamenev, G. Zinoviev and others were being turned over to the court.

It's hard to say what the true feelings of the people were, at least those of middle age and older. No more than ten years earlier these men had been leaders, members and candidate members of the Politburo, people's commissars, important diplomats, well-known economic managers, heroes of the Revolution and Civil War, and close associates of Lenin. At the 13th Party Congress in 1924, and at earlier congresses, four leaders in particular were greeted by toasts and applause--Lenin (at the 13th Congress, of course, there was no toast, but a statement in his memory), Trotsky, Zinoviev, and Kamenev. This is all contained in the stenographic records of the congresses which anyone can check.

And suddenly, two of them have been brought to court! In addition, the trials in the Shakhty and Promparty cases had already taken place. Ryutin and his comrades had vanished from the political horizon, and from the scientific field, Chayanov, Kondratev and other scholars were also gone. There was an announcement about the shooting of the murderer of Kirov, L. Nikolaev, and his accomplices in the "Leningrad Center." But these were not well-known people, in fact they were completely unknown to the broad masses of workers. Now, however, there was an announcement that recent leaders, who were famous not only in the country but around the world, were criminals, plotters against the party and Soviet power.

We were not to know what the people really thought about all of this. More than a half-century has passed, and those who were children then are pensioners now. We have to be content with what was published in the official press. And in the press an orgy of conviction prior to trial commenced, without real information, accompanied by the expression of loyalty toward one man--the Leader

After the announcement just mentioned all of the newspapers began to run statements about "the anger of the workers," "no mercy to the enemies," "liquidate the reptiles," etc. Mass meetings of workers, kolkhozniki, scholars, and cultural figures issued resolutions; party groups and general meetings, as well as leading citizens, signed individual and collective letters expressing loyalty to comrade Stalin. There was still no testimony by the accused, nor a sentence, but the "masses" were already inflamed with evil enthusiasm. Society had been transformed into a mob. The degree of sincerity in all of these resolutions demanding

liquidation? I don't know, and have no way of knowing. But can a mob not be sincere in its savage impulses? This whole campaign was taking place during the time when the country was discussing the draft of the Constitution, which was already being called the "Stalin Constitution." It was unceasingly being asserted over the radio that "we don't know any other country where a person breathes so freely." In Izvestiia an article appeared under the headline "Personal Inviolability"; judges and procurators, it said, must "investigate first and then arrest"; "sooner or later," it asserted, "the question of allowing defense counsel into the preliminary investigation must be raised"; it even mentioned the "habeas corpus act"—a document that established the basic rights of a person held in custody many centuries ago. The article was read, apparently. But still it was demanded that "the reptiles be liquidated," even before the trial had begun.

This dual morality was put in place coarsely, insistently, and on a wide scale. Nobody thought much about law. Law merged in the public consciousness with the unconditional certainty of "the organs," which, as the dictum of the time held, did not err.

But here was a paradox. The charge was published and the trial began. On its third day Izvestiia published the following: "From Paris-21/viii/36. To the Chairman of the Council of People's Commissars. . . . In spite of the fact that the accused--Zinoviev and his comrades--were always evil enemies of the Socialist International and the International Federation of Trade Unions, we feel constrained to request that they be provided with all proper judicial guarantees, that they be allowed to have defense lawyers who are completely independent from the government, that they not receive death sentences, and that, whatever happens, no procedure prohibiting the possibility of appeal be adopted. [Signed] The Chairman of the Socialist International De Brukler. Secretary Adler. The Chairman of the International Federation of Trade Unions Sitrin."<sup>1</sup>

How naive these people from Paris were! They didn't have a clue about what was happening to their "evil enemies." And of course, here they got a deserved rebuff--in the form of a call to "pillory the supporters of the trotskyite-zinovievite murderers." A publication of this kind could have had a sobering effect on us as well. But in this welter of events who could listen to the voice of reason? Moreover, in speaking about legal guarantees, defense lawyers and appeals, these naive people from Paris simply did not understand that a lot of preparation had gone into developing the position being taken on law after December 1, 1934.<sup>2</sup> I think that it would be interesting to explain this to them now and see what they think.

On July 10, 1934 the OGPU was reorganized into the NKVD, and within it an extra-judicial organ was created--the Special Board. This body included the Procurator General of the USSR. Here you have the "sword of the law" and its "overseer" as well. On the day of

Kirov's murder, December 1, 1934, the Presidium of the Central Executive Committee adopted a decree "On the procedure for handling cases involving the preparation or commission of terroristic acts." On the same day! Isn't this just a little too efficient? To prepare a legal document in this short period of time? Or was it somebody's ability to foresee events? But the fact is that the document established a procedure that had not been seen in the law up until that time. The period of investigation would take up to ten days; the criminal charge was issued one day before judicial proceedings were to begin, and the "parties" to the case--procurator and defense lawyer--were excluded from the trial; the cassationary complaint and even the plea for mercy were abolished--just immediate execution by shooting (in 1937 the same procedure would be introduced in cases of wrecking and sabotage). But even these simplifications in procedure were minor. Kaganovich introduced non-judicial hearing of cases where the death penalty could be applied, and Molotov, because of the large number of cases, proposed "trials" and execution by lists of names. Even the inquisition itself did not go this far.

The preparation of "public opinion" was also taking place. First the opposition was "ideologically crushed," their main leaders removed from their posts and from the party. Then they repented and were consequently treated generously: in 1933 Zinoviev and Kamenev were even restored to the party.

But three years later the open trial took place. It was clear who was behind all of this, directing the orchestra. But the unavoidable question is how did this director manage to grasp such complete control of society?

When did Stalin come to power? In 1922, 1924, 1929, or 1934? The question is an idle one in light of the events of those years. Any of these years can be chosen as a point of departure. But still . . .

Thinking about this a half-century later, when the plenary meeting of the USSR Supreme Court was reviewing the cases of the "Moscow Center," the "Trotskyite-Zinovievite Bloc" (Zinoviev, Kamenev), and the parallel center headed by Pyatakov and Radek, and then the "Bukharin-Rykov Right Trotskyite Center," I sought the answer to the question of how all of this had happened. I perused the newspapers of the time and tried, to the extent possible, to immerse myself in the atmosphere of the period. And although I was not able to take myself back to this time, I think I got some sense of how a combination of the fanciful and the chimerical, based on fear and enthusiasm, involving forced subordination and voluntary self-delusion, had entered into the life of the time. I felt this to an even greater extent because, although I was a youngster, I was a Young Pioneer, and I recall how enthusiasm was

expressed among the boys of my age. We didn't have families, meaning repressed parents and relatives, and we were sincere.

Evil passions raged across the country. Earlier one could hear expressions of support, approval, or condemnation of what speakers at meetings or authors of newspaper articles were hinting darkly at. But after 1934 society seemed to have become infected by an epidemic that might be described as the "mob syndrome." The mob, as is clear, lives by the laws of a distorted dialectic: it is unruly, but at the same time can easily be directed by a single interjection—"go get him"; lacking convictions, it nevertheless can be seized by a single impulse, which can unite dozens of people in an instant and is capable of growing geometrically.

To turn society into a mob, a extremely strong, stunning blow of some kind was required, a monstrous crime that struck at the party and the country. This was achieved when Kirov was murdered.

Who murdered him? The investigation established as early as December 20 that Leonid Nikolaev did it at the behest of the underground terrorist organization "Leningrad Center." "This anti-Soviet group saw itself as an alienated organization that had lost all hope of popular support . . .," as it was put in the criminal charge. Fourteen people were tried in the case, and all were put to death before the month was out.

But still, who did the killing? Obviously, the sentence in Nikolaev's case did not provide the answer that was needed. And in January 1935 a new court proceeding was instituted. This time the accused was not the heretofore unknown Nikolaev, but the former leaders and powerful revolutionary figures, Zinoviev, Kamenev, and others. This was a "trial balloon": could a charge be brought without evidence, and then a sentence imposed without proof? The participants in the so-called "Moscow Center" were now brought to trial.

The charge was stated cautiously: "The investigation has not established facts that provide the basis for directly charging the members of the 'Moscow Center' with having agreed to or having given any instructions regarding the organization of the commission of a terroristic act directed against comrade Kirov." There were no facts, but a criminal charge against 19 persons was signed by Deputy Procurator of the USSR A. Vyshinsky and investigator for the most important cases in the USSR Procuracy L. Sheinin. The charge was confirmed by the USSR Procurator I. Akulov. The sentence was handed down by an assize session of the Military Collegium of the USSR Supreme Court, with judges V. Ulrich, I. Matulevich and A. Goryachev sitting. The high court also did not "establish facts," but it considered it sufficient that those convicted "knew about the terroristic inclinations of the 'Leningrad group' and they inflamed these inclinations." And for this Zinoviev got a 10 year

sentence, Kamenev got 5 years, and the rest got punishments of this general order of magnitude. From the legal standpoint it wasn't awfully convincing, but the trial balloon had lifted off the ground.

Nonetheless, this semi-open trial and sentence, based on no facts and on such indefiniteness, apparently was not considered suitable. Although, of course, it did receive "the approval of the workers." What was needed, it seemed, was a brilliant spectacle with fireworks. And in August 1936 the first of the noted "Moscow trials" illuminated the scene. These were open, well-publicized events held in the House of Unions in a packed hall that included the foreign press. All of the procedural forms were observed. The defendants--Zinoviev and Kamenev again and 14 others--publicly testified. Vyshinsky conducted the questioning, referring to the defendants in the polite form. And they all were shot. Appended to the sentence were the signatures of judges V. Ulrich, I. Matulevich, and I. Nikitchenko.

There is no need to describe the details of the trial, nor the following one in 1937 in the Pyatakov-Radek case, nor the last one in 1938 involving Bukharin, Rykov, and their comrades. All of this is well known from many publications, especially after the rehabilitation of the defendants in 1988. But I would like to comment on several points.

One does not need access to secret archives to reach conclusions about the justice of the accusations: everything was published in the open press, in sharp, screaming, terrible terms. And this open preparation to do violence to one's victims permits one to answer the question raised above: when did Stalin come to power, in 1922, 1924, 1929, or 1934? Any date can be accepted, for one or another purpose. But he came to absolute power, when he could "do anything," and when that "anything" would be approved without question--generally, unanimously, and beyond the shadow of a doubt--in 1934. And in 1936, and particularly in the horrible times that followed, his power not only over people, but over their thoughts and feelings as well, found a seemingly absolute character. No doubt there were some who thought otherwise than the official morality dictated, but they were terrified to express their views. That was how it was. And this is fully demonstrated by the recollections of the time by the victims of repression themselves. It would be not only on the war fronts of the future that men would die with the name of Stalin on their lips. His name was uttered in desperate hope by no one knows how many of those innocents being executed in the basements of Lubyanka and other torture chambers.

But in 1936, at the first Moscow trial, a comedy called a "court of law" was supposed to show the world both objectivity and justice. The accused had the "opportunity" to testify to the whole world. "Procedural questions" concerned those who had staged the affair. During the proceedings they vigorously rebuffed any "uninvited defenders." And in his opening statement

in the Pyatakov-Radek trial prosecutor Vyshinsky devoted a whole section to "procedural questions." He demonstrated fully that the investigation took place without any violations of the law, and that the court was both democratic and founded on legal principles. He arranged beforehand that this passage would be supported by the testimony of the accused themselves. A good example may be found in this, 1937 "Anti-Soviet Trotskyite Center Case.

From the questioning of Boguslavskii

< < **BEGINTEXT** > >

V. [Vyshinsky]. At first you would not testify at all and then you began to testify. Perhaps this is to be explained by some specific conditions of your arrest, perhaps pressure was brought to bear on you?

B. No.

V. Perhaps it was suggested that you should testify in the way you subsequently did, in return for which your sentence would be mitigated?

B. No.<sup>3</sup>

< < **ENDTEXT** > >

Jurisprudential history scarcely knows examples of such unanimity and cooperation between accuser and accused. And so the question is inevitably raised: why did almost all defendants confess to this sheer nonsense in open court. One explanation is often insistently advanced: that these were just staged spectacles, with people playing roles. I even heard that during the court proceedings "Bukharin's beard was pulled off." This version is attractive, because everything is easily explained by it. But let's ask ourselves: would Stalin condone the use of actors playing roles?

Much has been written about this man, about his terrible deeds, the system he created, the "Stalin phenomenon" the "Stalin riddle." His acts and personality have been examined in detail. From all that we know it seems highly unlikely that he would have agreed to the mounting of a spectacle with actors. He needed an official celebration, the reduction of his former opponents to the point of complete moral degradation, he needed vengeance and the image of the suffering of his victims on the fire of his vengeance. To me, no other explanation would be logical. Just kill them? He would get to that later, when the mass, indiscriminate liquidations took place. A repressive mechanism was developed that operated according to the scheme of those who created it, without his direct participation. Could he have known the thousands and thousands of his victims? Of course not. But the defendants in the show trials he did know personally. They were his opponents, whom he had bested.

During the 1920s, after the departure of Lenin from active politics and his subsequent death, the higher reaches of the party and the state were filled not just with arguments about the paths toward the construction of socialism, but also, of course, with a desperate struggle for influence and power. First Zinoviev, Kamenev and Stalin routed the most dangerous pretender for the role of leader—Trotsky; then Stalin and Bukharin moved against the "New Opposition," Trotsky, Zinoviev, and Kamenev. And then Stalin tackled his loyal ally Bukharin. In the transcript of the congresses everything is as clear as day. The discussion was not about personal power but about the possibility of creating socialism in one country, about the paths to its construction, about the possibility of world revolution, about NEP, about the concept of leninism, etc. Sorting out the lineup of the forces regarding the substance of these matters is the job of the historians. But it is not difficult to follow the line of argument: each of Stalin's rivals defended his own conceptions, seeking to carry the day. Stalin was prepared to support any program in order to achieve absolute power. Having destroyed the creator of the theory that saw people as cogs in a machine,<sup>4</sup> he calmly transformed that theory into his own practice.

True to color, he attributed his own motives and aims in this struggle to his defeated opponent. The lead article in a newspaper of the time contained the following: "Kamenev formulated the plundering nature of the creed of the trotskyite-zinovievite underground in answering a question about the stimuli that animated their way of life: 'THE THIRST FOR PERSONAL POWER'."

A person who had already become the supreme leader had sufficient reason to light the fire of vengeance. Could he forgive the same Kamenev, for what he had heard him say in a speech at the Fourteenth Party Congress?<sup>5</sup> "We," said Lev Kamenev, "are against creating a theory of 'leader' [vozhd], and we are against creating a 'leader'. We are against the Secretariat's actually combining policy and organization and standing above the political organs. We are for organizing our higher bodies so that the Politburo really is all-powerful. . . . I have become convinced that comrade Stalin should not fulfill the role of unifier of the bolshevik command."

Stalin remembered everything and was incapable of forgiving, although even a statement of that kind was still not particularly unusual. It was more the norm.

On the next to the last day of the Kamenev-Zinoviev trial, on August 21, Karl Radek wrote a long article entitled "The Trotskyite-Zinovievite Fascist Band and Its Hetman--Trotsky." This article includes the following words: "The case is being heard in the presence of hundreds of persons, including dozens of foreign correspondents, and no-one in possession of his faculties does not believe that the accused have condemned themselves. . . ." How must

the author have felt later to read in the same newspaper the statement of Vyshinsky that an order had been issued to begin the investigation of Tomsy, Rykov, Bukharin, Radek, and Pyatakov? And a year later they would slander themselves in precisely the same way. And would read citations from Vyshinsky in his articles condemning "enemies of the people."

For example. The state accuser cites Radek, writing about the 1936 trial: "Crush the vipers! This is not a matter of exterminating ambitious men who have gone to the length of committing a great crime; it is a matter of exterminating the agents of fascism. . . ." Vyshinsky then comments: "Radek thought that he was writing about Kamenev and Zinoviev. . . . He was writing about himself."<sup>6</sup>

When we return to that time now, we try to understand and re-appraise it all. But I believe that we are doing this extremely inconsistently, still not completely willing to look truth in the eye. A half-century later, after their condemnation, the state that they created and that then failed them, returned their name and honor. And public opinion?

The public rehabilitation of "enemies of the people," "terrorists," "Anglo-Japanese-German spies" took place long before their legal rehabilitation. After the Twentieth Congress no-one believed seriously that the people who had made the revolution suddenly became traitors and spies.

I spoke earlier about the "mob syndrome." But in private did people believe the absurd charges? This is not very easy to answer. The majority believed when they were gathered together "as a majority." But each one personally? I don't know. And there is nobody to ask, in order to get a precise answer.

Even now the accounts of certain independent persons, who made such distorted analyses, are difficult to understand. Lion Feuchtwanger, who was present at the 1937 trial, stated the following in his small book, which unfortunately was widely-publicized:

< <BEGINTEXT> >

In general appearance this was more like a discussion than a criminal proceeding, a discussion which was conducted in a conversational tone by educated people who were trying to elicit the truth and to establish precisely what happened and why it happened. The impression was created that the accused, the procurator, and the judges were animated by the same--I would say almost sporting--interest in explaining, with maximum precision, everything that happened.<sup>7</sup>

< <ENDTEXT> >



It doesn't make much sense to disturb the spirit of this important Twentieth Century writer. But still one is struck by how this humanist and antifascist has sunk to political cynicism: the good "discussion among educated people" which concluded with the execution of all opponents. And of course Feuchtwanger was not alone in believing in Stalinist "justice." Right after the war a book by two American authors entitled "The Secret War Against Soviet Russia" became a best-seller.<sup>8</sup> In it, important officials of our state who are now officially rehabilitated were described as the very "spies," "wreckers," and "terrorists" that they were described to be in the open trials of 1936-38. Such "testimony" of foreigners always seems particularly persuasive.

Of course it was not just those who were repressed, but members of their families, their associates, and their friends. They had to know the truth, and they certainly would not believe the most outlandish lies. This was true even of those forced to renounce the "enemies of the people" for fear of reprisal. But still the public psychosis was so powerful and the atmosphere of fear and lies so dense that in some sense even they believed. At least they admitted the possibility that, in struggling against Stalin, the oppositionists had embarked on a path of struggle with Soviet power, and that in this sense, "something was going on."

Now, however, the loose ends were tied up. The USSR Supreme Court had thrown out the sentences of 1936-1938. Still, it was premature to end the story and return the cases to the archives. Because when you read the transcripts of the trials, which were published for all to see, again and again the question is raised as to how this could have happened. The volume on the Bukharin case runs to 708 pages and contains such absurdities and such clumsily-developed charges that one is astonished that those responsible had the nerve to allow the proceedings to take place in open court with such broad coverage. Party and state officials, diplomats, heads of people's commissariats and of republics suddenly became a "criminal band of spies and murderers." How could this be?

But they themselves confessed openly to everything. Before the public in the courtroom, before the Soviet people and the world. And how sincerely they repented. I won't give the surname of this accused, but just present his confession: "I am like a crow flying after the smell of carrion, joining any hostile group that fights against Soviet power." The accused acted as the chief aide to his accuser. Kh.G. Rakovsky asserted: "I returned from Tokyo carrying the credentials of a spy for Japan."<sup>9</sup> N.N.Krestinsky admitted that he received 250 thousand marks a year directly from the Gestapo.<sup>10</sup> The naked cynicism of those responsible for the trials did not bother anyone who was not ashamed for having created the horrors of the torture chamber.

Krestinsky tried to use his right to speak the truth in court with the hope of being heard by the court. He retracted his "confession," which was extracted from him during the

preliminary investigation. This was part of the dialogue that took place between him and Vyshinsky (from the transcript of the session of March 2 1938):

< <BEGINTEXT> >

K. I gave incorrect testimony during the preliminary investigation . . . because my personal experience convinced me that until the court session I would not be able to deny this testimony.

V. And now you think that you will succeed in denying it?

K. What is important is that I state that I do not admit to being a Trotskyite. I am not a Trotskyite. . .

V. And when did you begin to tell the truth? . . .

K. Today I am telling the truth.<sup>11</sup>

(From the transcript of the session of March 3 1938):

K. Yesterday under the influence of a momentary sharp feeling of false shame brought on by sitting as an accused and the heavy impression made by the reading of the charge, aggravated by the poor condition of my health, I was not in a frame of mind to say that I was guilty. Instead of saying "yes, I am guilty" I almost mechanically answered "no, I am not guilty."

V. Mechanically?

K. I did not have the strength to tell the truth before world public opinion, that I had carried on a trotskyite struggle for the whole time. I request the court to correct my statement, that I fully and completely admit my guilt with regard to all of the grave charges against me personally, and I admit my full responsibility for the treason and betrayal that I committed.

V. I have no more questions.

Presiding Judge V. Ulrikh: Sit down, accused.

We turn now to the questioning of defendant Rykov. Do you affirm the testimony given during preliminary investigation?

R. Yes, I affirm it.<sup>12</sup>

< <ENDTEXT> >

The lesson for those sitting in the dock was conveyed frankly and graphically. They all knew what happened to Nikolai Nikolaievich Krestinsky on the night of March 2-3, during the break between sessions. Therefore there are no surprises at the "repentant" words of his

comrades in misery. G.F. Grinko: "I answered trust with treason, as dark as night, against the party, the motherland, and Stalin . . . I am able to speak of my joy at the fact that our evil plot has been uncovered."<sup>13</sup> I don't think that a normal criminal or any guilty defendant could express joy at being caught in a lie.

Rather than condemnation, they ought to receive their due. Even in their hopeless situation, the smallest attempt at justification was met by torrents of calumny from the state accuser, and even the weakest resistance caused irritation, because it upset the scenario. Under these circumstances some held their own as well as they could. "The favorite of the party"<sup>14</sup> and one of its strongest theoreticians was called by Vyshinsky a "low mixture of swine and fox"<sup>15</sup> and many other insulting names. The procurator took particular pleasure in humiliating him. But even after the episode with Krestinsky, Nikolai Bukharin still had the courage to spar with his all-powerful accuser.

It is surprising how this man's life turned out. At the time of his rehabilitation a century had passed since his birth. A century divided into two parts: 1888--birth; 1938--execution; 1988--return from non-existence. Economists, philosophers, and historians, one supposes, will now again turn to his works and analyze his ideas regarding the paths of socialist construction. I would like merely to reconstruct the behavior of Nikolai Ivanovich in court, where all had been written out in advance and followed an established scenario, and where the defendants helped the procurator in every way with the accusations and helped the court to convict themselves. They understood their fate, of course. But still . . . how did they play roles in this crudely-concocted spectacle? I have already made mention of the version that holds that the defendants were actually hired actors, and indicated my disbelief in this.

In "Darkness at Noon," a book that won great fame in the West, Arthur Koestler advanced the idea that on Stalin's demand, for the sake of the "higher goal" of finally exposing the opposition, the defendants declared their guilt.

Certain indirect evidence supports this view. In his final words at the trial N.I. Bukharin--for reasons that remain unexplained--declared the "voluntariness" of his fantastic confessions and rejected the idea that they were extracted by physical means. "Repentance is often attributed," he said, "to various absurd things like Tibetan powders . . . Hypnosis . . . the Dostoevsky mind [which cries] ' . . . beat me Orthodox Christians, I am a villain' . . . But that is not the case at all."<sup>16</sup> So what can we say? I think that it will always remain something of a puzzle: among the defendants in the three trials none remains alive. In agreeing to the fantastic and absurd charges, Nikolai Bukharin remained firm and would not confess to what was unbearable to him: "I reject the charge of having made an attempt on the life of Vladimir Lenin," he stated, "but my counterrevolutionary associates, and I at their head, tried to kill

Lenin's cause, which is being continued by Stalin with tremendous success."<sup>17</sup> A shameful self-indictment? Currying favor with the butcher? Or the only possible way to preserve the remains of his dignity? Yes, he confessed to all of the crimes that he was implicated in. In general. Such as "killing the cause of Lenin." But he stood his ground and did not confess to concrete acts that he was implicated in. He "strove for" the restoration of capitalism, having chosen war and the dismemberment of the USSR as the means for defeating the Soviet government; he was the "organizer" of wrecking, terrorism and espionage. He accepted all charges of a general character. But he categorically rejected being a killer and spy.

But this was a public trial where the charges had to be proved and presented to the people and the world. Without facts and proof that specific acts took place, there would be no case. In the proceedings before the "Special Boards," held behind closed doors and without any publicity, a page of charges was sufficient for handing down a sentence. Here, however, it was necessary to put the best possible face on the proceedings. Unfortunately, this was not always achieved by "comrade procurator."

Here is a sample of the polemics between Bukharin and Vyshinsky, the victim and the butcher. We have chosen a passage pertaining to the "palace coup."

< <BEGINTEXT> >

B. Our idea for overthrowing the state, i.e., by the rightist conspirators, goes back to about 1929-1930, but we didn't move to carry out the "palace coup" at that time for two reasons . . .

V. Why you didn't proceed is not so interesting. What does the expression "palace coup" mean?

B. It means the forces concentrated in the Kremlin.

V. Then isn't it better to speak not about a "palace coup," but about an attempt to seize power through an armed uprising?

B. No, to say armed uprising would not be quite right. An armed rebellion is a mass phenomenon.

V. What masses, you didn't have any masses!

B. Consequently it is not an uprising.

V. An uprising with the aid of a group.

B. If you choose to define an uprising of a group as an uprising . . .<sup>18</sup>

< <ENDTEXT>

In reading these and many other passages in the transcript I catch myself thinking: courage and the feeling of dignity were needed to cross swords with the all-powerful procurator.

They said then and they still say that whatever else Vyshinsky may have been, as a criminalist and a logician he proved himself to have been a powerful force during these trials. But read his speeches and the course of his questioning and you will see that it was a combination of thorough abuse and pressure. Much superior in intellect was this helpless defendant, who understood completely the farcical game he was involved in. The procurator had to prove that Bukharin and his ill-fated comrades wanted to dismantle the USSR, giving Ukraine to the Germans, Byelorussia to the Poles, and the Far East to the Japanese.

< <BEGINTEXT> >

B. If Rykov says it is, I have no basis not to believe it . . .

V. Could you answer me without philosophy?

B. This is not philosophy.

V. Without philosophical flourishes . . .<sup>19</sup>

< <ENDTEXT> >

And here, after a discussion of an uprising of kulaks "organized by Bukharin," brought on, as is known, by the extremes of full and intense collectivization, which someone was responsible for, but not Bukharin, the procurator began to dance around the subject of espionage. Exposing this was, in all likelihood, the central objective of the accusation. Wrecking, palace coups, terroristic acts--these are also awful things, of course. But selling oneself to foreign intelligence services, lowering oneself to paid espionage--no-one could sympathize with this, everyone would understand the gravity of the act and any punishment would be justified.

A number of defendants had already confessed that they were agents of German, Japanese and Polish intelligence. And so the same had to apply to the "favorite of the party," the friend of Lenin, the famous economist and, in the eyes of many, still an authoritative theoretician.

< <BEGINTEXT> >

V. Defendant Bukharin, do you admit to being guilty of espionage.

B. I do not.

V. Accused Rykov, did Bukharin receive any information about this kind of activity.

R. I didn't have any conversations with him about this. . .

V. Permit me to consider it established [?!], that Rykov and Bukharin knew the substance of the treasonable connections which included espionage. . .

B. So it appears that I knew something from which something followed. . .

V. I ask the court to explain to the accused Bukharin that he is not here in the capacity of a philosopher, but a criminal . . .

[If this had been a real court, and not a trumped-up trial, the judge would have explained to the procurator that he is a procurator, but not a jurist--when he calls somebody a "criminal" before a sentence has been handed down. And the procurator would have been disciplined for disrespect to the court. But that would be the case if this had been a real court.--Y.F.]

V. We are asking you here in an open proletarian court, we are asking you here in this court before the whole world . . . by what intelligence service were you enlisted, British, German, or Japanese?

B. None.

V. I have no more questions to put to Bukharin.<sup>20</sup>

< <ENDTEXT> >

So Bukharin was prepared to confess to just about anything they wanted, but he refused to admit to working for foreign intelligence services. He confessed to fantastic things. For example, he told of how, with Tomsy, they planned to "arrest the XVII Party Congress." And of how they planned the dismemberment of the USSR and many other absurdities.

The spectacle continued its move toward its sinister finale. The worst kinds of perversions of legal principles were contained in Vyshinsky's speech for the prosecution. Evidence was subordinated to "the logic of things," the absence of evidence was masked by forced confessions, and the refutation of charges was simply ignored. Law was openly perverted. Vyshinsky at one point stated: "Bukharin rejects this. But it is impossible in fact to take as an argument a refutation that is baseless, especially when it contradicts the very logic of things." To which Bukharin noted in his final statement: "this involves 'the acceptance of what is yet to be proved as already proven.'<sup>21</sup>

By the strange logic of open arbitrariness, previously-planned evil-doing nevertheless seeks a philosophical, historical or legal cover. Openly-naked power always wants to look good. The Stalinist regime could send people to the executioner without a trial by using the "Special Board" or even "lists." The absence of evidence did not prevent violence. And confessions were gotten by all possible, even unthinkable, means. Why was the confession

considered necessary? As Bukharin said at his trial, "the confession of the accused is a medieval principle of jurisprudence."<sup>22</sup>

But the fact is that confession, which is rejected by the law as constituting absolute proof, has not lost its persuasiveness, alas, in the eyes of the people. Therefore, even now, educated jurists who went through the university and then became interrogators and investigators have put all of this noble learning off into a corner, along with the law on the books, and say to the people sitting opposite them: "confess and you can go home, or otherwise . . ." And even our current educated judges write in sentences, without any analysis: "the testimony given by the defendant during preliminary investigation is considered reliable." In writing this, they are endorsing the same kind of illegality in principle. I won't refer to published examples of this kind of thing in recent cases, because they are so common.

It will be said that it is blasphemous to compare the open abuse of those years with the investigatory-judicial errors of our days. Who knows, perhaps the blasphemy of comparison will assert more persuasively the tragic violation of the principles of law. We already said that in the theoretical legal disputes of the end of the 1920s it is without question that honest bolsheviks, under the influence of the those malicious times and the tasks of "class struggle," departed from the principles of the law, supported the rightness of courts that were not open and not based on adversarial procedures, and that allowed simplified procedures for alien-class elements. Alas, the theoretical perversions of the principles of law were soon transformed into the trampling of all individual rights and the basis for open abuse.

By a freakish irony of fate, together with N.I. Bukharin and his comrades in the defendants' dock in 1938 was one of those who was responsible for starting the bloody orgy, who, so to speak, personified the "idea of the ax" for cutting off heads. We are speaking of Genrikh Yagoda. He replaced Menzhinsky as head of the OGPU. He established the camps, and began the practice of violence against the personal enemies and friends of the Leader. He passed the bloody baton on to the new People's Commissar of Internal Affairs, Yezhov, who followed his example with a vengeance.

He was the only one of those convicted in the 1936-38 trials who was not rehabilitated. This seems somewhat illogical, but understandable. In the end, he could hardly have been a spy for anybody, and he could not have committed murder through the acts of certain doctors when these accused doctors were rehabilitated. But that's the way it was. Still, the administration of justice is not administered by computer. To excuse Yagoda would have been blasphemy, an insult to the memory of millions of innocent people who were killed.

To support this I will present a routine document that I was able to obtain.

Genrikh Yagoda became head of OGPU in 1932 (when Menzhinsky became ill and held the position in name only). Then in 1934 Yagoda became the chief of the People's Commissariat of Internal Affairs (NKVD). During the period from 1932-1936 mass unjustified arrests took place, in what constituted a rampage against large numbers of leading party and government workers. At his direct order and without any evidence Chayanov, Kondratev and others were arrested.<sup>23</sup>

With Yagoda's direct participation or at his orders false charges of particularly dangerous state crimes and other crimes were cooked up, and investigations that involved gross violations of socialist legality were conducted. In addition, materials connected with criminal cases were falsified. Testimony was extracted from those arrested through threats, torture and other illegal means, as is shown by the cases in which a large number of citizens were later rehabilitated (the case of the so-called "Worker Peasant's Party" and others).

During the period while Yagoda was head of the OGPU-NKVD about 700 thousand people were the victims of massive repressions.

Yagoda participated directly in the investigation of Kirov's murder. The precise circumstances of this crime, and of Yagoda's role, remain a puzzle even now. But this is known. Under questioning on May 19 1937, the already-arrested Yagoda stated " . . . I summoned Zaporozhets [the deputy head of the NKVD for Leningrad Oblast] from Leningrad, let him know about the possibility of an attempt on Kirov's life and recommended that he not interfere . . . In Moscow I sent investigators on a false lead with regard to the case of the Leningrad chekists . . . and I gave Prokofiev and Molchanov [high NKVD officials] the job of seeing that NKVD materials on the case were not compromised" (Vol. 2, Yagoda file, pp. 163-169).

But the abuses and crimes of NKVD leaders is a separate matter. I'll just say this: the crimes of Yagoda were so enormous and sinister that the Procurator General had grounds for not issuing the protest that would have rehabilitated a man whose hands and conscience were covered with the blood of hundreds of thousands of people.

After the Twentieth Party Congress the decision was not made to restore the honor and good name of those convicted in the trials of the 1930s. But new measures were adopted for changing criminal law and eliminating the unlawful norms of repression. In addition, new criminal codes were developed.

This work was done openly and publicly. Controversies over legal matters were aired in the press. But the reforms were met with considerable opposition. Survivors were returning "from there," and we still had not been able to overcome the view that the principle of presumption of innocence was a bourgeois legal concept; the principle that justice was



impossible without establishing objective truth in a case and that there was no crime without guilt being proven still held sway. It seems to me that these legal axioms were included in the law with such difficulty because the Moscow trials, which contained a mass of distortions of the law, had not been analyzed. Still, in theory good sense and scientific arguments won the day. But in practice? In practice we are only now realizing that it is improper to send an entrepreneur to prison for theft when nothing was stolen, but rather something was produced. But why do I say "now realizing"? Even now the "accusatory bias" in the clearly-stated letter of the law and in sometimes-heated expressions of public opinion still obtusely holds to the view that acquittal because guilt was not proved means that the prosecution did an incompetent job in not proving their case.

The extreme legal provisions of the 1930s were based not on the law but on slogans. These slogans were contrary to law by their very nature. Reading the transcripts of the trials, one sees how shaky their foundation was and how dangerous they were for society and the individual. However, the substitution of slogan for law has not been completely overcome even now. The slogan is an attractive thing, even though it conceals a dangerous inner core.

For instance, what about the slogan, "Not one criminal should escape responsibility." Who could object to that? It's an excellent goal. But how realistic is it? Suppose a criminal gets away and is not caught. The slogan demands immediate action. From a noble objective—to apprehend at any cost—was born the "Vitebsk Case"<sup>24</sup> and many others. So what should be done, not establish the goal? The goal, yes, but it should not and cannot suppress the law. Or overshadow the main principle of law, that "not one innocent person should be found guilty, not under any circumstances." This is the objective and continuing task of every court, every prosecutor, and every police unit. It doesn't have to do with spending money or using highly technical equipment. Just preserving one's doubt until fully convinced. That is all that the law requires. But this cardinal objective of the system of justice is still secondary, not just in legal practice but in legal consciousness: "Why should we make a fuss about them . . . let them rot."

But I have digressed from the trial, from 1938. Then nobody was permitted to doubt. And perhaps this is the gravest legacy of that time. In a museum of artistic castings in a city in the Urals I found a skillfully-made ax decorated with engravings. It was the present of an oblast party conference of 1929 or 1930. On the right side of the blade were the words "cut off the right-wing deviation," on the left, "cut off the left-wing deviation," and on the butt-end "beat the compromisers." A symbolic gift for the public to observe and consider! A person would have no choice but to be a devoted follower. Even keeping one's silence would be risky, or by those standards criminal, given the slogan "beat the compromisers."

The three major Moscow trials took place in extremely oppressive circumstances. This atmosphere had a lot to do with explaining how all that we have discussed could have happened.

And now "Bukharin's Testament," memorized by his wife, has come to light.<sup>25</sup> This is his true "last word." The trial transcript contains his other, official, last word. It meant nothing to the court and could not have influenced the predetermined sentence. And of course the accused had to be aware of this. Still he spoke to the court. In confessing, he was really denying his guilt ("I consider myself politically and legally responsible for wrecking activities, although I personally do not remember having given directions about wrecking activities"),<sup>26</sup> and in assuming responsibility for creating an anti-Soviet bloc, he scoffed at the crimes attributed to the bloc ("How can it be asserted that the bloc was organized on the instructions of fascist intelligence services? Why, this was in 1928!").<sup>27</sup> Agreeing that he deserved the most severe punishment, he hopes that the day of truth will come.

From the decree of the Plenum of the USSR Supreme Court of February 4 1988:

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There was no proof in the case that Kh.G. Rakovsky, M.A. Chernov and A.P. Rozengoltz were guilty of espionage, or that N.I. Bukharin and A.I. Rykov had directed the spying activities of these persons. The investigations carried out by competent organs has established that there is no evidence of contacts of any kind between the sentenced parties and foreign special services . . . The charge against N.I. Bukharin and A.I. Rykov of having established criminal groups to struggle against Soviet power in the Northern Caucasus . . . and other places is completely without foundation.

The conclusion as to the guilt of those sentenced for organizing diversionary and wrecking activities contradicts the factual circumstances and is therefore unfounded . . . There is no objective proof in the charge against those sentenced of having engaged in terroristic acts, in relation to which a protest has been made. The participation of any of them in the murder of S.M. Kirov has not been established, nor has N.I. Bukharin's participation in preparations in 1918 for the murder of Lenin, Stalin, and Sverdlov and also in the SR Kaplan's attempt on V.I. Lenin's life been established.

< <ENDTEXT> >

The trial of Bukharin, Rykov and others in 1938 was in some ways the high point of the repressions. Before then they were on the rise, and thereafter they began to fall a bit.

Moreover, this was the last open trial. From then on "the administration of justice" proceeded only in secret.

The century has split into two parts not just the fate of Nikolai Ivanovich Bukharin. This cleavage has affected masses of people, the conscience of every one of us, our history, and our public consciousness. Fortunately, we have the opportunity now to pick up the pieces. Those who were executed and the millions of others who died innocently can't be brought back. But now we can at least patch together some of the fragments of their biographies.

## NOTES

1. "Prezrennye zashchitniki fashistskikh ubiits," Izvestiia, August 23, 1936, p. 2.
2. The day Kirov was murdered.
3. Report of Court Proceedings in the case of the Anti-Soviet Trotskyite Center, Verbatim Report (Moscow: People's Commissariat of Justice of the U.S.S.R., 1937; New York: Howard Fertig, Inc. edition, 1967), p. 203. Hereafter referred to as The Pyatakov-Radek Trial.
4. A reference to Bukharin's mechanistic theory, in which he saw people as "living machines." See, on this matter Stephen F. Cohen, Bukharin and the Bolshevik Revolution (New York: Alfred A. Knopf, 1972), p. 116; also S.V. Utechin, Russian Political Thought (New York: Frederick A. Praeger, 1963), p. 232.
5. The Fourteenth Party Congress was held December 18-31, 1925.
6. The Pyatakov-Radek Trial, p. 485.
7. Lion Feuchtwanger, Moscow 1937 (New York: The Viking Press, 1937), p. 123.
8. Michael Sayers and Albert Kahn, The Great Conspiracy: The Secret War Against Soviet Russia (San Francisco: Proletarian Publishers, 1946).
9. Report of Court Proceedings in the case of the Anti-Soviet "Bloc of Rights and Trotskyites", Verbatim Report (Moscow: People's Commissariat of Justice of the U.S.S.R., 1938), p. 11. Hereafter referred to as The Bukharin Trial.
10. *Ibid.*, p. 9.
11. *Ibid.*, pp. 54 and 75.
12. *Ibid.*, pp. 157-8.
13. *Ibid.*, p. 720.
14. The term Lenin applied to Bukharin
15. The Bukharin Trial, p. 685.

16. *Ibid.*, p. 777.

17. *Ibid.*, p. 778.

18. *Ibid.*, pp. 394-5.

19. *Ibid.*, p. 400.

20. *Ibid.*, pp. 413, 419, 424.

21. *Ibid.*, pp. 539 and 771.

22. *Ibid.*, p. 778.

23. Chayanov and Kondratev were charged with heading the "Work Peasant Party," which was determined later not to have existed. They were rehabilitated in 1987. See Lev Voskresensky, "Posthumous justice," Moscow News, 1987, no. 33, p. 12.

24. Feofanov discusses this case in Chapter Nineteen, "My Days as a Judge." In Vitebsk, Belarus fifteen women had been murdered. The Communist Party Central Committee of Belarus issued an order that the criminal be found at all costs, with the threat that police officials would lose their jobs if results were not produced. In the frenzy of judicial activity that ensued, thirteen innocent people were convicted, including one who received the death sentence, before the real murderer was found.

25. This was a letter written by Bukharin in 1937 when he knew what his fate was to be. He insisted that his wife memorize the letter and then he destroyed it. Fifty years later his wife released the contents of this "testament." See Lev Voskresensky, "You should know comrades . . ." Moscow News, 1987, no. 49, p. 12; also New York Times, February 7, 1988, p. A1.

26. *The Bukharin Trial*, p. 769.

27. *Ibid.*, p. 770.

## CHAPTER SIXTEEN. VOICES FROM THE PAST

Yuri Feofanov

After the publication in Izvestiia of articles about the rehabilitation of those convicted in the Moscow Trials of 1936-38 I received a great number of letters.<sup>1</sup> Among them were some from the relatives and friends of the victims. They may not represent much historical importance, but they are echoes of the past, memorial markers, if you will. In addition, some interesting details are found in them. On that basis, I decided to include them in this section of the book.

### **Letter From The Granddaughter Of L.B. Kamenev**

Lev Borisovich Kamenev did not die, because we, his direct descendants, are still alive. My father, Vladimir Lvovich Glebov (born in Moscow in 1929) is the son of Lev Borisovich. My father is alive and well, even though he experienced the horrors of the repression. His surname was changed from Kamenev to Glebov in the children's home. He was rehabilitated in 1956.

After returning from the camps, father married our mother in 1960. Two children were born: my brother Yevgenii, born in 1961, completed Novosibirsk State University and is now involved in scientific work. I am Ulyana. I was born in 1975 and go to school. My father is a dotsent in the department of philosophy at the Novosibirsk Energy Technical Institute, and has been a member of the Communist Party since 1961. From earliest childhood we learned from our father the truth about our grandfather, although the history we were taught was completely different.

Today we read in Izvestiia your article about our grandfather, and we thank you from the bottom of our hearts. The telephone has been ringing all day, with everyone expressing their joy that truth finally has won out. We even got a call of congratulations from the oblast party committee.

Happiness has come to our family. Earlier, of course, we were not happy, but after the article the shroud of betrayal has been cast off and a bright day has emerged.

Ulyana

## Letter Of The Wife Of B.O. Norkin<sup>2</sup>

I read the article of Yuri Feofanov, "The Return to Truth," with great interest and nervousness. In this article excerpts are presented from the stenographic record of the interrogation of Norkin, which was taken for the Pyatakov-Radek trial, in which "all confessed to everything."

As the wife of Norkin, and having worked long years with him as a stenographer, I can categorically stated that his was a false confession. Norkin was never a criminal!!! He was an honest, intelligent, man, educated as a chemist, modest to a fault, with broad experience and considerable talent as a manager-bolshevik. At all work sites where the party and government posted him, and these included "Moskvakhim," "TEZhE," "Vsekhimprom," "Soiuzazot", and finally as the representative of the People's Commissar of Heavy Industry comrade Ordzhonikidze for the Western Siberian region and chief of "Keremovokombinatstroi." Norkin worked ceaselessly and with ardent selflessness. He worked without giving thought to the time or the weather; for days on end he could be found at the building sites in Keremovo. He rarely took vacation, and his regular workday went from 8 a.m. to midnight. All projects described in the plan were built and put into operation on time, as was noted by the government. I emphasize that the plans of all years that Norkin worked in Keremovo were fulfilled, and this with inadequate workforce and construction materials, and under conditions of extremely poor roads and inadequate engineering-technical personnel. It demanded unusual flexibility and inventiveness to overcome all of these barriers. I remember, for instance, that because of the absence of nails necessary for construction, Norkin set up a system to have wire hammered into nails.

In his personal life he was unusually modest. A vegetarian since childhood, he could not eat meat or fish. In his dress he was extremely modest. For several months prior to his arrest, because his one suit was in bad condition, I sewed him a suit from material that had been bought for me long before by my parents. I learned from co-workers who were present at a certain meeting that comrade Ordzhonikidze criticized Norkin for dressing too simply.

Norkin completely abstained from alcohol. Once as a young man (he was an active gymnast) he was made ill from vodka (with a pair of friends who drank), and for the rest of his life he never drank. At parties he drank only mineral water. But this did not prevent him from having a good time.

Norkin was over six feet tall and well-built, before his arrest. On September 30, 1936 he was arrested in Moscow, where he had been summoned, and sent to an interrogation prison in Novosibirsk. I know for certain that in the Novosibirsk prison Norkin was interrogated by three investigators: Popov, Bocharov, and Golubchik. He had been arrested in September in a

summer raincoat, and it was by now late autumn and cold. Therefore one of his interrogators asked me to send him warm clothes and bed linens, another acknowledged by letter that he had received my package with warm things, and a third, Mark Borisovich Golubchik, accompanied Norkin to Moscow and was present during the trial (I note, incidentally, that Golubchik's fate turned out to be the same as Norkin's--he was shot).

Investigator Golubchik arranged a meeting for me with Norkin on January 14, 1937, that is, several days before the trial and three and a half months after his arrest. It was held at NKVD headquarters at Lubyanka.

How awful it was! I didn't recognize Norkin. He was unbelievably thin and even seemed shorter. I was stupefied. . . . True, he was dressed simply; he wore the shirt that he had been arrested in, but freshly cleaned and with a blinding white undercollar. He wore no belt. Seeing my surprise, investigator Golubchik said, "Boris Osipovich doesn't eat much, and we don't know what to feed him." But as it turned out later, the two food packages that I had sent him in prison in Novosibirsk, containing cheese, butter, cake, cookies and chocolate, were not given to him, but were sent back to me in Moscow, covered with mold, three months after he was shot.

Norkin said to me during the January 14 meeting, that is, before the trial: "I want to get myself dressed better . . ." As if everything were all right and had been planned out. I was just shocked. It's no wonder that Feuchtwanger, in his book "Moscow, 1937" noted that all defendants were very well dressed.<sup>3</sup>

In spite of the grave conditions of the prison regimen and the interrogations, Norkin stoically denied his participation in the crimes ascribed to him for three months--over 90 days. Several witnesses summoned from Keremovo to Novosibirsk, after face-to-face confrontations, committed suicide in a Novosibirsk hotel.

During the trial, when asked by the presiding judge why Norkin had not confessed for three months and only confessed in January, he answered, "everyone has his limit." This said it all. He understood that the struggle for his honor, his profaned honor, was useless, his strength was exhausted, and he began to "confess" to crimes that he had not committed. He confessed to everything that they offered him.

" . . . I understood the hopelessness of the struggle . . ." Norkin said to Vyshinsky. The struggle for what? For his profaned honor, of course. He, apparently, hoped, and no doubt he was promised, that his life, which he loved greatly, would be spared "for a sincere confession." He was, you know, only 42 years old.

I want to also note that as a wife of an "enemy of the people," I was also repressed by a decision of the Special Board for a period of almost 20 years.

A. Kholmogorova

### **Letter Of The Wife Of S.M. Frankfurt**

I am nearly blind, but with great effort I read your article. I'd like to talk with you a bit. Why did some of those who were arrested "confess," either at the trial or during interrogation, to things that they didn't do? I was just a small cog in the whole process, but I'll tell you about myself. I was arrested on December 23, 1937, taken right from a lecture I was attending at the Mendeleev Institute, where I was a fourth-year student. I was brought to Lubyanka and put on a bench in the corner. On this particular day arrests were taking place by titles: they were incarcerating heroes of the civil war third and fourth class. They ripped off the badges and other markings, along with the pieces of clothing to which they were attached, threw them on the floor and stomped on them, and tossed them in a large box. Then they removed the laces from the shoes of those arrested, and cut off the buttons on their clothes. The men had to hold up their trousers with both hands. This completed the "civil execution." I sat quietly, as if in a trance.

The door was opened again and in was thrown a very high-ranking, very handsome military man, but white like paper, with his orders and medals ripped off. He, like I, was not one of the planned arrests, and they put him in next to me. Without moving his lips he said, "I am Berzin." I understood. Because several days prior to this in Pravda it had been announced that the chief of "Dalstroi," Berzin (director of labor camps in the Far Eastern region),<sup>4</sup> had been summoned to Moscow by Stalin to receive the Order of Lenin. Berzin said quietly: "two hours before its arrival in Moscow, my rail car was disconnected from the rest of the train. I was put in handcuffs and taken to Lefortovo Prison. They tortured me for six days straight, and now they have brought me to the investigator to sign an accusation. Young woman, write down immediately all of the rubbish that the investigator reads to you in the accusation. Your sentence was written long before your arrest, and attempting to fight it will change nothing. It will just mean humiliating nighttime interrogations and for some, torture." They took me to the investigator. He read the charge to me, that at our home we had gathered a counter-revolutionary group for the overthrow of the leader. Many names were mentioned: Radek, Pyatakov, Karakhan, Davtyan, Mikhail Koltsov, Kork Babel . . . All of them had been associated with my husband; he had become friendly with them before and after the revolution. I asked, "where do I sign?." And I signed without even reading it. I had the impression that the investigator was ashamed. But he praised me for not causing difficulty for him. He allowed



me to give my small son to relatives. There was an order that the children of those arrested be sent to the special children's home where, from morning to night the FATHER OF THE PEOPLE was glorified in the rhymes of Dzhabul as well as in prose and pictures.<sup>5</sup>

In my cell in Butyrsky Prison was the wife of the aircraft builder Tupolev. She was taken to the investigator and told: "We're going to give you a meeting with your husband. You will tell him that you're living at home and that everything is fine. If you even hint that you're in prison, we'll shoot him." She did as they said. And then in the cell we could only guess what price Tupolev had to pay so that his wife "remained" free.

Yuri Pyatakov, in my opinion, saw things more clearly than the others, and in 1932 he understood the direction Stalin was going. My husband said to me that he couldn't understand why Yuri said that he was indifferent about everything. Earlier, in the Supreme Council of the Economy (VSNKh), they argued about things, but now, in answer to everything, he said, "do as you like." My husband's eyes were opened only on the day that Kirov was killed. He was in Moscow on that day and came home white, reeling. And he told me, "a new and terrible epoch is beginning." I didn't understand and he didn't go into detail. I also didn't understand when, close by to me, peasants new-born children, were liquidated: in the harsh Siberian winter of 1933, for days on end, heated railroad cars brought 30,000 peasants, old and young, some about to give birth and others with young babies. They left them on the bare earth, where the temperature was minus 40 degrees. Aside from some tents at the construction site there was nothing. The workers themselves lived crammed into barracks. By March only 500 remained alive. I understood nothing, but now I cannot forgive my husband that he swallowed all of this without objection and without commentary. My image of him as a martyr has dimmed; alas, he was a collaborator.

When I was working on my husband's rehabilitation, I was able to get a look at some sheets of paper regarding his life in the party. This is what I recall from them: in the summer of 1937 he was being held in solitary confinement in Orenburg Prison. He refused to sign a confession. But further on it was stated (typed on a typewriter): "During torture he confessed. In court he stated that his confession was false, that he signed because he could no longer stand the torture. His last words before being shot were: 'I lived a bolshevik and I will die a bolshevik.' He was shot" (as I recall, the date was October 8, 1937). And further, a post-script, which almost drove me mad: "The torture was carried out by investigator (Surname), who was shot (date)." Stalin, following each lead to its logical conclusion with extraordinary efficiency, had prepared in advance a list of those who would do the torturing. He then had them shot. As a rule, he also got rid of the other executioners, for instance Yezhov, Zaporozhets [deputy head of Leningrad Oblast NKVD], Yagoda.

In December 1936 Frankfurt was arrested, and a year later so was I. My stepson was 13 at the time, a wonderful boy, bright and talented. Later a foster father and mother were found for him. He was provided a room in an apartment. He went to see his uncles, the brothers of his father. But when they saw him they quickly shut the door in his face. He often went to see my parents. The director of the school found him work as a tutor, and this was the money he lived on. Once he came to see my parents and said that he had come from the NKVD, and that they had summoned him and suggested that he work as an informer. They said that since your parents are arrested people will believe you. The young man refused and said that he'd never believe that his parents were enemies of the people. He didn't come to see my parents any more--he was arrested as he was finishing his tenth year in school.

In 1955 I was able to help in the posthumous rehabilitation of my husband and stepson. The young man died a year and a half after my arrest. He would not call his mother and father enemies of the people, and they tormented him for it. He should have signed all of that nonsense and not submitted his body to the torture that led to his death.

I will say a bit about Frankfurt. He never held any party posts. He was an engineer and a hard worker, a member of the party (Russian Social Democratic Labor Party--Bolsheviks) from 1904 on. In the 1930s he built the Kuznetsk Metallurgical Kombinat and then the Orsk-Khallilovskii Kombinat. Without these two enormous factories we could not have held out during the war, as they gave us so much steel and nickel. On December 3, 1936 I accompanied my husband to the railroad station, where he was leaving for Orsk. He said: "an awful scoundrel has come to see Stalin, the secretary of the Orenburg Oblast party committee. If Stalin believes his denunciations something is going to happen." And on December 22 the commandant of the apartment building (the apartment belonged to the ministry) came to see us. I was decorating the New Year's tree for my young son, and there were other children present. The commandant said "get out of the apartment." "Why?" "Your husband was arrested as an enemy of the people." I hurried to the telegraph station and sent some kind of crazy telegram, not a word of which I remember. My husband understood, and he answered in the same vein. The next day he sent another telegram, but after that there was silence. The rest was told to me in the camp by some women who came from Orsk, and 20 years later a man I met was able to add to the story.

When my telegram came to the construction site in Orsk, the word spread like lightning throughout the factory that Frankfurt was about to be arrested. The women said that on receiving the telegram Frankfurt locked himself in his office and began to burn papers--the law of the underground was don't leave names, addresses, telephone numbers or documents that could implicate other people. Then he went home. People gathered around his house and

looked at the chimney. Smoke was coming out. The old member of the underground organization was burning notebooks and letters. Then he lay on the divan and waited. In the last days of December Stalin was still putting on his comedy. He sent a special convoy to pick up one member of the USSR Supreme Soviet, and Frankfurt was brought with him to Moscow. He very much liked the young driver, he wrote me. Because of the driver's inexperience, the house was not sealed immediately, and at the very hour when Frankfurt was being taken to Moscow, all of the valuable things in the house were collected and sent to me by train. I was able to sell everything.

As I recall, this was January 1937. In Izvestija there was a major lead article that stigmatized and held up to shame the wrecker and spy for France, the enemy of the people Frankfurt, Sergei Mironovich. In February, as I recall, the doorbell rang and a person whom I didn't know and who didn't identify himself came in and said: "I have come to say that you should give up all hope. I know that you still have some hope regarding Sergo. But there was a Central Committee Plenum and Sergo demanded an answer from Stalin as to why all of his workers had been arrested. To this Stalin replied, 'do you want the same?'. Sergo is dead." And then the man left. Twenty years passed. In 1956 an engineer from the factory in Orsk found me through an information bureau. He said that he was fulfilling a promise. Namely that on December 3, 1936, as I recall, a list of "enemies of the people and wreckers" was given to Stalin, the names of 200 communists and komsomol members, who were the most active and the best workers. This young man was placed alone in a cell. He was 26, a komsomol member who worked at the Orsk construction site. One day Frankfurt was shoved into his cell. He said, "you're young and maybe you will survive this. When you get out, find my wife and tell her . . ." After his arrest Frankfurt was taken to Moscow and was brought to Yezhov's office for a face-to-face confrontation with Yuri Pyatakov. Pyatakov, who had been incarcerated for some time and understood the situation, indifferently and in a dry monotone said: "I recruited you into the organization." Frankfurt, still new to the game, grabbed a pitcher of water from Yezhov's table and hurled it at Pyatakov. It hit the floor. Pyatakov was taken away, and Frankfurt was transported to Orenburg Prison. While they prepared an isolation cell for him, he spent two hours in the cell with this komsomol member. As to the rest one can only guess. Frankfurt was in good health, was strong of spirit, and had had experience in underground activities before the revolution. He did not sign anything or admit anything--before the torture. And after the torture, as I know already from his party file, he retracted everything in court. So was it necessary to take it as far as torture? The fate of every person arrested, according to the established plan, whether it be on a beach or in a train station, was determined in advance. Nothing could be simpler: sign the confession and proceed to be shot. Did you see the film

"Repentance"? What would you think if they brought a person into the torture room and a human body, hardly more than bones, is hanging on the rack, and he screams in horror, and they say to the person that if he refuses to confess in court he will be taken straight to the rack? Is it worth it to be a hero, when neither one's name nor one's place of burial will survive? I would sign anything they asked me to, not just something as preposterous as, say, "building a tunnel from London to Delhi." If my stepson had signed, he would have lived . . . perhaps, perhaps. But he died a hero, an unknown hero, from torture, and he has no grave, and there is nowhere for me to place flowers. I'm the last one to know about him. And how many were there like him, young and honest?

S. Frankfurt,

Moscow, 13-21 June, 1988.

#### NOTES

1. Two of Feofanov's important articles on the subject were "Pochemu eto sluchilos\_'," Izvestiia, April 10, 1988, p. 3 and "Vozvrashchenie k pravde," Izvestiia, June 14, 1988, p. 3.

2. Boris Osipovich Norkin was one of seventeen defendants, along with Pyatakov and Radek, in the 1937 "Anti-Soviet Trotskyite Center" trial.

3. Feofanov comment on Feuchtwanger's uncritical reporting on the 1937 trial in the previous chapter. See note 7 therein, and text accompanying it.

4. Dalstroi, the "Far Eastern Construction Trust," was located in the Kolyma region of eastern Siberia, an area of labor camps devoted largely to gold mining. See Robert Conquest's discussion of Dalstroi and E.P. Berzin in The Great Terror (New York: Macmillan, 1968), p. 350. Roy Medvedev describes Berzin as a "morally degenerate man" who had been "blinded by power" and had built his own personality cult in administering the labor camps at Dalstroi. Let History Judge: The Origins and Consequences of Stalinism (New York: Columbia University Press, revised and expanded edition, 1989), p. 691.

5. Conquest, The Great Terror, p. 424 identifies Dzhambul as a folk poet who produced a verse for Pravda entitled "Annihilate" in connection with the Bukharin trial.