

# Lessons from the Terror: Soviet Prosecutors and Police Violence in Molotov Province, 1942 to 1949

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State prosecutors played a central role in the exercise of state power during the Stalinist dictatorship. On the one hand, in the show trials of the 1930s, prosecutors orchestrated the public performance of terror. They provided legitimacy to a system of steered political justice, while signing off on hundreds of thousands of troiki-cases during the mass operations.<sup>1</sup> On the other hand, they were prosecuting millions of non-political cases in regular court proceedings.<sup>2</sup> Their “supervision” (*nadzor*) task instructed prosecutors to detect and to fight any given legal violation in the Soviet Union committed by individuals or state agencies, appointing the prosecutor (*prokuror*) as a major tool for combat against arbitrary action within the Soviet state.<sup>3</sup> The procuracy (*prokuratura*) both sustained mass terror and enforced legal rules in the realms of criminal justice.

The Soviet prosecutor is thus a key figure for understanding the correlation of arbitrariness and consistency in the framework of Stalinist rule. This article will elaborate on this correlation and examine the prosecutors’ role in the Stalinist dictatorship by presenting a biographical case study from the Soviet periphery. Dmitrii Nikolaevich Kuliapin was the main prosecutor of the Molotov region from 1942–49. On the basis of his party records, the minutes from prosecutors’ meetings and the correspondences between the *militsiia* and procuracy in the Molotov province, the paper will shed light on the routines of criminal prosecution and supervision, Kuliapin’s professional ambitions, and on his attempts to prevent and to punish police violence by *militsiia* officials.<sup>4</sup> Kuliapin’s story, and especially his struggle with the police, reveals both the prosecutors’ aspirations and abilities to enforce rules in the Stalinist state and in the realm of its policies. It exemplifies the institutional clash between

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1. The term “mass operations” refers to the waves of repression by the Soviet political police in the years 1937 and 1938. In this framework local police chiefs were provided with arrest quotas and three-person panels (*troiki*) made up of officials from the police, the party, and the procuracy sentenced millions of people to execution or incarceration.

2. S. V. Mironenko, ed., *Istoriia stalinskogo gulaga. Konets 1920kh—pervaia polovina 1950kh godov*, vol. 1 *Massovye repressii v SSSR* (Moscow, 2004), 632.

3. George Ginsburgs, “The Soviet Procuracy and Forty Years of Socialist Legality,” *The American Slavic and East European Review* 18, no. 1 (February 1959): 60.

4. The Soviet “*militsiia*” functioned as criminal police and reported to the People’s Commissariat of Internal Affairs (NKVD). They carried out preliminary investigations and assisted investigations by the procuracy.

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prosecutors and the militsiia as a conflict between two competing approaches of Stalinist rule, in which the prosecutors' approach did eventually prevail.

There is a substantial research tradition for the history of criminal justice organs in the Soviet Union. In the Cold War era, the Soviet procuracy and especially its task of "general supervision" (*obshchii nadzor*) drew the attention of western legal experts. Without access to archival material scholars could hardly determine how this task was implemented. Instead, they placed their focus on prosecutors' role as a means of party control over the government. George Ginsburgs concluded that prosecutors were increasingly efficient tools in the party's hands to enforce conformity of ministerial and other state directives with the constitution. Supervision served as a checkup of the state administration, "directed from above" and without providing "a check on the dictatorship's power" itself.<sup>5</sup> To Glenn Morgan the state prosecutor appeared as a not-so-efficient, overburdened, and toothless bureaucratic monster that could enforce central administrative power only in certain periods.<sup>6</sup> Until the 1970s, western experts mostly "hypothesized" about the structure of the procuracy, its supervisory functions, its hierarchies and its basic mode of operations.<sup>7</sup> Only in the 1980s did Eugene Huskey draw the focus on the relationship between law and terror in the 1930s. Courts, advocates, and especially prosecutors appear as autonomous actors and proponents of a Soviet legal understanding that rejected arbitrary violence by the secret police, and thus challenged terror as an instrument of social control. Also due to the lack of archival sources, Huskey had to note in the end that "the struggle between the two approaches to social control remained inconclusive."<sup>8</sup> He identified the chief prosecutor as the driving force for development of the legal order, and he emphasized Vyshinskii's vision of a strong procuracy that competed with the NKVD as a means of social control.<sup>9</sup>

Peter Solomon provided comprehensive insights into the criminal justice system of the early and Stalinist Soviet Union. He drew the focus on penal policy and the dimensions of repression with legal means, unveiling also how the regime utilized courts and prosecutors to crack down on certain social groups.<sup>10</sup> Solomon's groundbreaking monograph unveiled the mechanisms of control in the Soviet legal system—on the basis of archival documents. He demonstrated how the bureaucratization of criminal justice under Stalin created a generation of compliant legal officials. The prosecutor, however, appeared only as one among many agents in the justice bureaucracy. The relationship to the militsiia and the Ministry of Internal Affairs (MVD) remained in the background.<sup>11</sup> Yoram Gorzki brought attention to the key role of the

5. Ginsburgs, "The Soviet Procuracy," 60.

6. Glenn G. Morgan, *Soviet Administrative Legality: The Role of the Attorney General's Office* (Stanford, 1962), 1–6.

7. Gordon B. Smith, *The Soviet Procuracy and the Supervision of Administration* (Alphen aan den Rijn, Netherlands, 1978), 129.

8. Eugene Huskey, *Russian Lawyers and the Soviet State: The Origins and Development of the Soviet Bar, 1917–1939* (Princeton, 1986), 8.

9. Eugene Huskey, "Vyshinskii, Krylenko, and the Shaping of the Soviet Legal Order," *Slavic Review* 46, no. 3–4 (Autumn-Winter 1987): 424–28.

10. Peter H. Solomon, Jr., "Soviet Penal Policy, 1917–1934: A Reinterpretation," *Slavic Review* 39, no. 2 (Spring 1980): 216.

11. Peter H. Solomon, Jr., "The Bureaucratization of Criminal Justice under Stalin," in Peter H. Solomon, Jr., ed., *Reforming Justice in Russia, 1864–1996: Power, Culture, and the Limits of Legal Order* (Armonk, NY, 1997), 228–55.

organs of criminal justice for Nikita Khrushchev's reform policy. After Stalin's death, the prosecutors' office was established as the "main institutional channel of repression."<sup>12</sup> The history of this ascent starts before 1953; especially at the local level, the prosecutors' work and their interaction with other state organs is unchartered territory.

Western historians of Stalinism have shown enormous interest in the secret police and their mass operations, but comparatively little attention has been paid to the organs of justice or the everyday work of militsiia men.<sup>13</sup> On the one hand, western historiography has unveiled the complexities and layers of Stalinist rule both at the central and local levels, highlighting the effects of clientele politics, corruption, power struggles, and the deviant cultural practices within different branches of society, the government, and the party.<sup>14</sup> On the other hand, as far as "repression" is concerned, most of the emphasis has been put on the secret police as the primary instrument of action. The work of justice organs do appear in the context of legal campaigns (such as theft or bribery).<sup>15</sup> Their interaction with police organs and the prosecutors' role as the body controlling police actions is still a desideratum. Although historians do differentiate "legislative and administrative regimes of exclusion" within the Stalinist dictatorship, most studies on Stalinist rule emphasize the complicity of the secret police and the justice organs as parts of a coordinated system of repression—with a primary focus on the police organs.<sup>16</sup> This article will problematize this complicity. By drawing the focus on the conflicts between Kuliapin and the militsiia, I will show how both organs were adopting different approaches towards social control, opposing professional ideals, and, more generally, contrasting principles of rule.

At first I will give a short outline of the legal and political framework of law enforcement in the 1930s. What did "Socialist Legality" mean, and what function did the prokuror have in this framework? Secondly, the paper will focus on Kuliapin's personality and his professional ambitions to execute and interpret this role when he entered office during World War II. How did he perceive the issue of police brutality and to what extent did the Great Terror influence this perception? Third, by looking at the confrontation between him

12. Yoram Gorlizki, "Theft under Stalin: A Property Rights Analysis," *Economic History Review* 69, no. 1 (February 2016): 292; Yoram Gorlizki, "De-Stalinization and the Politics of Russian Criminal Justice, 1953–1964" (PhD diss., University of Oxford, 1992).

13. David Shearer, *Policing Stalin's Socialism. Repression and Social Order in the Soviet Union* (New Haven, 2009); Paul Hagenloh, *Stalin's Police: Public Order and Mass Repression in the USSR, 1926–1941* (Baltimore, 2009); Lynne Viola, *Perpetrators on Trial: Scenes from the Great Terror in Soviet Ukraine* (New York, 2017). On the militsiia see Louise I. Shelley, *Policing Soviet Society: The Evolution of State Control* (London, 1996).

14. Sheila Fitzpatrick, *On Stalin's Team. The Years of Living Dangerously in Soviet Politics* (Princeton, 2015); John Arch Getty, *Practicing Stalinism. Bolsheviks, Boyars, and the Persistence of Tradition* (New Haven, 2013); Viola, *Perpetrators*; James Heinzen, *The Art of Bribe. Corruption under Stalin, 1943–1953* (New Haven, 2016); See e.g. Sheila Fitzpatrick, *Everyday Stalinism: Ordinary Life in Extraordinary Times. Soviet Russia in the 1930s* (Oxford, 2000).

15. Heinzen, *The Art of Bribe*; Gorlizki, "Theft."

16. Alf Lüdtke and Sheila Fitzpatrick, "Energizing the Everyday: On the Breaking and Making of Social Bonds in Nazism and Stalinism," in Michael Geyer and Sheila Fitzpatrick, eds., *Beyond Totalitarianism. Stalinism and Nazism Compared* (New York, 2009), 275.

and the regional MVD and the militsiia, I will show how Kuliapin asserted his professional claims against the militsiia and their officials. How did the Soviet procuracy fight cases of police brutality and what were the consequences? How did this struggle affect the relationship between these two institutions? By focusing on prosecutors, this paper brings attention not only to an underestimated agent of Soviet rule, but also questions the overall complicity of justice and police as instruments of rule. The Soviet regime employed the organs of justice and of the secret police as competing and alternating agents for that purpose. This article reveals their mutual relations and thus the changed way the regime exercised power—after 1938 and after 1953.

### Socialist Legality: The Prosecutors' Duty

To begin it is important to locate the Soviet prosecutor ideologically and politically. What did the Soviet regime expect from these officials at the end of the 1930s? The constitution, the penal code (from 1922), and the code of criminal procedure (formally) determined the framework of actions for the public prosecutor. Prosecutors would have to answer for the practical application of “Socialist Legality.”<sup>17</sup> Their responsibility covered not only the prosecution in court, but also the supervision of all judicial measures applied by investigators, the police and the courts. Theoretically, if there were any unlawful actions in these areas, “he [would] immediately . . . take steps to achieve the full restoration of legality, independent from local influences.”<sup>18</sup> What did this mean?

On the one hand, Soviet law did have to submit to basic political interest in order to defend revolutionary achievements. The civil war had proven to the Bolsheviks that the revolutionary end justifies any means necessary. Class interests were to be defended without regard for convenience, ethics, or rules. “Enemies” were ascribed, isolated, and eventually excluded from the realms of law, eradicated by the organ appointed for this very purpose: the Cheka.<sup>19</sup> Whenever the party saw its interest under threat—the revolutionary project put in jeopardy—the cohesive powers of law needed to give way to extra-judicial measures and violence. The Bolsheviks’ survival was the underlying principle for any legal concept in the Soviet state.

On the other hand, this approach did not help to master the social and economic challenges of forced industrialization. Binding rules were indispensable in order to discipline state and society for the production plans. The Soviet state had to enforce its will on a more permanent basis, using prosecution and

17. Only after the Second World War women started slowly to fill the ranks in the lower and middle judicial administration and the procuracy. Nonetheless before the 1960s female prosecutors and investigators in Molotov were the exception. See also Inna Fedotova, ed., *Prokuratura Permskogo kraia. Zakon. Chest'. Otechestvo* (Perm, 2008). Andrei Vyshinskii, *Revolutsionnaia zakonnost' i zadachi sovetskoi zashchity: Ispravlennaia i dopolnennaia stenogramma doklada na sobranii moskovskoi kollegii zashchitnikov, 21 dekabria 1933 g.* (Moscow, 193), 5.

18. D.S. Karew, *Sowjetische Justiz* (Berlin, 1952), 108.

19. G. D. Obichkin, ed., *Dekrety sovetskoi vlasti*, vol. 3, *11 Iulia—9 Noiabria 1918 g.* (Moscow, 1964), 291–92.

court proceedings to fight crime rates and corruption. Law was not about to die off with the state; rather it was necessary to sustain a growing bureaucracy. The penal code, the Code of Criminal Procedure, and the constitution were not superfluous but key elements of Stalinist state-building.<sup>20</sup>

Both aspects represent two ends of the spectrum of legal thinking in Stalinist Russia. Huskey described this as the “statist” fusion of norms and repression, yet I prefer to think of it as a concurrence of expediency and functionality in political action.<sup>21</sup> Socialist Legality meant to reconcile these aspects in reality. Soviet Law was an “instrument of force and pressure” in the hands of the state.<sup>22</sup> Law enforcement was therefore considered to be both regulative and politically flexible, and the Soviet state prosecutor had to put the concept of Socialist Legality into practice. He had to enforce the rules while serving the revolutionary interest.

Kuliapin and his peers were given this task without any authority to issue directives. It was Lenin who wanted the prosecutor to be independent from local governmental influences. In return, the prosecutor must not personally exercise any direct power over other state organs.<sup>23</sup> Reports were the tools he used to discipline other state agencies: enforcing Soviet legal codes either by filing complaints or, in more severe cases, instituting criminal proceedings. Whenever the prosecutors would meet resistance from other state authorities, the issue would be taken to the next level in the government hierarchy until it was settled.<sup>24</sup> Legal handbooks did not offer any guidance on such issues. The 200-page manual for prosecutors contained only a two-page section on inter-agency relations. It did not mention conflicts at all. Instead, the “interaction with other organs” was characterized by sound socialist cooperation. The manual only delivered a clear warning: not to criticize the Communist Party, which was considered a “grave political mistake.”<sup>25</sup>

Thus, the Soviet prosecutor was expected to observe compliance with the law, while having limited means to enforce it. He or she was left only with the power to file complaints while overseeing the activities of the Soviet state. At all times they must show regard for the party interest. This dualism of legal and party rule had its finest expression in the party’s very own regulations for the prosecution of its members.<sup>26</sup> The party rule trumped the legal framework. The prosecutor had either to respect or to make use of this authority. The actual challenge for these officials lay elsewhere, however.

20. Yoram Gorlizki and Hans Mommsen, “The Political (Dis)Orders of Stalinism and National Socialism,” in Geyer and Fitzpatrick, eds., *Beyond Totalitarianism*, 46–47.

21. Eugene Huskey, “A Framework for the Analysis of Soviet Law,” *Russian Review* 50, no. 1 (January 1991): 57.

22. Vyshinskii, *Revoliutsionnaia zakonnost’*, 27.

23. V. I. Lenin, ed., *Institut für Marxismus-Leninismus beim ZK der KPdSU, Werke. Bd. 33, August 1921–März 1923* (Berlin, 1962), 352.

24. V. G. Lebedinskii, *Organizatsiia raboty Sovetskoi Prokuratury* (Moscow, 1953), 97–99.

25. *Ibid.*, 181.

26. Juliette Cadiot, “Equal before the Law? Soviet Justice, Criminal Proceedings against Communist Party Members, and the Legal Landscape in the USSR from 1945 to 1953,” *Jahrbücher für Geschichte Osteuropas* 61, no. 2 (2013): 249.

The militsiia was formally under control of the prosecutors' nadzor while both organs were supposed to conduct the criminal investigation together. Moreover, the NKVD (supervising the Central Militsiia Administration, GUM) had its own priorities for the observance of written rules.<sup>27</sup> The secret police claimed in its role as the sole protector of the revolutionary cause, it and its members were not accountable to the system of criminal justice. Unlawful acts by members of the militsiia and the NKVD were prosecuted by military prosecutors and tried in military courts. Regular (territorial) prosecutors did not have influence over these proceedings.<sup>28</sup> Enforcing Socialist Legality therefore meant challenging the authority of the ministry of the interior. Prosecutors had to confront expediency with functionality in the everyday work of criminal investigations, prosecutions, and in the penal institutions. Any arbitrary action of NKVD/GUM officials had to be countered by the state prosecutor, who had to enforce the rules in the realms of the NKVD. But how could the prosecutor fulfil this role? What chances did they have in the struggle and what were their ambitions to carry on?

### Dmitrii Kuliapin—The Prosecutors' Ambitions and the Terror

Dmitrii Nikolaevich Kuliapin entered the office in Molotov in autumn 1942. The region itself was the result of the administrative division of the former Ural region into Sverdlovsk and Perm' (renamed Molotov in 1940) in 1938. The area combined a large network of labor camps with a weak infrastructure. It experienced rapid industrial growth throughout the 1940s. This industrialization drive and the evacuations from the west considerably increased social tensions in the region.<sup>29</sup> During and after the war, prosecutors in the hinterland had to deal with an increased case load and staff shortages. Molotov thus provided a good example for the everyday challenges for law enforcement in the era of Stalinist mobilization.

Kuliapin was born in this area. Entering office at age 46, he was older and different from most of his colleagues. He could neither look back at a glamorous party career nor did he have an academic legal education. He did not fit into the scheme of the Stalinist *vydvizhentsy* generation.<sup>30</sup> Born to a peasant

27. Shelley, *Policing*, 30–31.

28. The activities of the organs of military justice are due to the lack of archival material still a blind spot in historiographical research. George Ginsburgs, "The Reform of Soviet Military Justice," in Donald D. Barry, ed., *Soviet Law after Stalin: Soviet Institutions and the Administration of Law*, Part III (Alphen aan den Rijn, Netherlands, 1979), 31–34. Investigations against members of the militsiia were usually led by the GUM's own department for "Special Inspection" (OI) before military prosecutors would take the case to court. They formally were part of the Prosecutor's Office yet in practice were subordinate to the NKVD. See Samuel Kucherov, *The Organs of Soviet Administration of Justice: Their History and Operation* (Leiden, Netherlands, 1970), 96–100; 125–26.

29. Andrei Suslov, *Spetskontingenty Permskoi oblasti, 1929–1953 gg.* (Moscow, 2010), 84; Oleg Leibovich, *V gorode M. Ocherki sotsial'noi povsednevnosti sovetskoi provintsii v 40–50 gg.* (Moscow, 2008), 15–18; Andrej S. Berkutov, "Bor'ba s ugolovnoi prestupnost'iu v Molotovskoi oblasti v poslevoennye gody 1945–1953 gg." (PhD diss., Perm', 2004), 105–7.

30. Stalinist upstarts (like Leonid Brezhnev) came usually from a workers' background and were born a decade after Kuliapin. This generation did not fight in the civil

family in the late 1800s, Kuliapin had attended church school for only “two winters” before he was conscripted to the tsarist army in 1916. By his own account, he decided early in 1918 to fight for the Red Army where he became a war commissar. After the Civil War, he chose to work in the judiciary. A former peasant’s son, he made his way as an investigator and assistant prosecutor, climbing the career ladder of the local procuracy for nearly twenty years. It was not until 1937, at the age of forty-one, that he became a party member, and not until 1939 that he acquired a mid-level legal degree via correspondence.<sup>31</sup>

Kuliapin offered experience in the field and a seamless career in the judiciary. He had built a reputation on practical skills rather than academic merits. Equally important were his personality traits. To the present day Kuliapin occupies a place of respect in the Perm’ prokuratura, providing an example of both assertive and humane qualities. The official “prokuratura chronicles” in Perm’ praise him as a “man of frantic bravery [who was] talented, odd, naive, youthful and enchanting. His subordinates admired him and knew Kuliapin would not give them away (*ne vydast*).”<sup>32</sup> This eulogy hardly gives any evidence on Kuliapin’s professional self-image. It is more of a reference to the foundations of his reputation: professional loyalty and his readiness for confrontation. He was considered to be of a controversial nature, a brawler with a strong notion of esprit de corps who lent the Molotov procuracy a very individual face. Plenty of anecdotes depict him as a man who did not shy away from any confrontation. He was willing to articulate and to advocate his personal and professional convictions and he was dedicated to defending procedural norms in a battle against arbitrary rule.

This dedication on the one hand was of course occupational. His uncompromising nature made it more apparent. On the other hand, his commitment stemmed from an experience that he shared with hundreds of his associates in the Soviet Union. During the mass operations, the procuracy was an auxiliary force to the NKVD. Prosecutors and judges helped to conduct the mass arrests before many of them were targeted in these operations themselves. Hundreds ended up dead, in prison, or jobless.<sup>33</sup> When the party leadership issued a resolution on November 17, 1938 to end the mass operations, a small window of opportunity for prosecutors opened up to settle their scores with the NKVD. Vyshinskii was advocating the restoration of Socialist Legality and together with Lavrentii Beria he ordered a limited review of political cases.

For a couple of months everywhere in the country local prosecutors were aiming for retribution against their “fellow” NKVD officials.<sup>34</sup> They

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war but chose at young age to join the ranks of the party. See Sheila Fitzpatrick, “Stalin and the Making of a New Elite, 1928–1939,” *Slavic Review* 38, no. 3 (Fall 1979): 385–87.

31. Permskii Gosudarstvennyi Arkhiv Sotsial’no-politicheskoi Istorii (PermGASPI), fond (f.) 105, opis’ (op.) 220, delo (d.) 1750, list (ll.) 1–10 (Personal file of Dmitrii N. Kuliapin).

32. Fedotova, *Prokuratura Permskogo Kraia*, 76.

33. See Solomon, Jr., *Soviet Criminal Justice*, 244–45. On the purge in the Soviet judiciary see also the initial telegram by Nikolai Ezhov: V. N. Khaustov, V. P. Naumov, and N. S. Plotnikov, eds., *Lubianka. Stalin i glavnoe upravlenie gosbezopasnosti NKVD 1937–1938* (Moscow, 2004): 506–8; Aleksandr Zviagintsev and Iurii Orlov, *Prigovorennnye vremenem. Rossiiskie i Sovetskie Prokurory XX vek. 1937–1953* (Moscow, 2001), 57–76.

34. Vyshinskii was campaigning openly against the practices of the NKVD in the name of “Socialist Legality.” See his opening address at the All-Union prosecutors’ convention

encouraged political prisoners to revoke their statements and to testify about cases of police brutality and torture, putting local police officials in the cross-hairs of further investigations. The NKVD in turn accused the prokuratura of sabotaging police investigations.<sup>35</sup> In Moscow, Vyshinskii tried to contain these conflicts, but he had encouraged them in the first place. Already in May 1938, he had proclaimed the “reconstruction” (*perestroika*) of criminal justice. He had initiated the professional rebirth of the Soviet procuracy and encouraged prosecutors to take a stand against arbitrary state practices and police violence.<sup>36</sup> Local prosecutors used the opportunity for a showdown with the NKVD.

This window of opportunity was quickly closed by Stalin himself.<sup>37</sup> Torture was legalized again and the procuracy lost its leverage over the NKVD. Moreover, the secret police reclaimed power over the political cases until 1940. Still, for a whole generation of prosecutors the so-called “Berii-Thaw” boosted their professional confidence towards the NKVD.<sup>38</sup> Many officials who were once henchmen of arbitrary violence now reestablished their commitment to the enforcement of rules (as far as non-political cases were concerned), considering themselves a “lawful” alternative to the NKVD.<sup>39</sup>

Kuliapin also went through times of uncertainty. We do not know any details about his involvement in the mass operations. In his party CV, he referred to the years of 1936–38 as the “massacre of communists.”<sup>40</sup> In 1937, he was briefly expelled from the party and most likely targeted by the secret police. Unlike many others, Kuliapin was unharmed and kept his position. He did, however, have a stain on his biography that he had to address openly. Kuliapin put emphasis on the fact that he never received an official party reprimand and wrote in the same sentence about his personal experience with the NKVD as a legal instructor. In the early 1930s, he was giving courses on judicial procedures for members of militsiia and NKVD.<sup>41</sup> Therefore, he knew

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in May 1938: “Vsesoiuznoe prokurorskoe soveshchanie. Doklad A. Ia. Vyshinskogo,” *Sotsialisticheskaia zakonnost’* 6 (1938): 4–5. On the review of political cases and the struggle between NKVD and prosecutors see Oleg V. Khlevniuk, *The History of the Gulag. From Collectivization to the Great Terror* (New Haven, 2004), 187–193; Immo Rebitschek, *Die disziplinierte Diktatur. Stalinismus und Justiz in der sowjetischen Provinz, 1938 bis 1956* (Cologne, 2018), 87–93.

35. Gosudarstvennyi Arkhiv Rossiiskoi Federatsii (GARF), fond (f). R-8131, opis’ (op.) 37, delo (d.) 139, list (ll.) 84 (forwarded letter from NKVD official B. Kobulov to Beria).

36. “Vsesoiuznoe prokurorskoe soveshchanie,” 4–5; Rebitschek, *Die disziplinierte Diktatur*, 69–77.

37. Stalin personally took the NKVD out of the line of fire by sanctioning the application of physical violence during an interrogation in January 1939, see V. N. Khaustov, ed., *Lubianka. Stalin i NKVD—NKGB—GUKR “Smersh,” 1939—mart 1946* (Moscow, 2006), 14–15.

38. Marc Junge, *Chekisty Stalina. Moshch’ i bessilie: “Berievskaia ottepel’ v Nikolaevskoi oblasti Ukrainy* (Moscow, 2017); Viola, *Perpetrators on Trial*; Lynne Viola, Marc Junge, and Jeffrey Rossman, eds., *Chekisty na skam’e podsudimyykh: Sbornik statei* (Moscow, 2017).

39. In March 1940 the prosecutor’s office also lost its formal voice in the supervision of political proceedings. Rossiiskii Gosudarstvennyi Arkhiv Sotsial’no-politicheskoi Istorii (RGASPI), f. 82, op. 2, d. 884, l. 149 (Letter from Vyshinskii to Pankrat’ev, 17.3.1940); see also Khlevniuk, *The History of the Gulag*, 193.

40. PermGASPI, f. 105, op. 220, d. 1750, l. 1. 9.

41. PermGASPI, f. 105, op. 220, d. 1750, l. 1. 9.



perfectly well the attitudes and everyday practices of NKVD and militia personnel in dealing with the law and he had experienced the threat of possible arrest, and even execution. Throughout his career, the events in 1937 and 1938 served him as a striking example of what would happen if the rules of law and criminal procedure were either bent or relaxed.

Kuliapin shared and enforced this view on various occasions; one of which was the wartime campaign against deserters from work. The decree of June 26, 1940 and the subsequent order from December 26, 1941 made irregular absence from the workplace a criminal offense. A handful of ill-defined paragraphs on quitting and/or shirking the job brought millions of people into the crosshairs of criminal prosecution, threatening them with up to eight years in a labor camp.<sup>42</sup> The Soviet government pressed legal officials to accelerate these proceedings and abstain from preliminary investigations. Kuliapin and his fellow officials did not oppose the campaign itself but opposed the idea of an unsupervised and simplified legal mass operation.

At the meetings for the prosecutors in Molotov in September 1942, Kuliapin emphasized the lessons from the “Great Terror” and the existential value of the rules for criminal procedure. Ignoring these rules would, just like in the 1930s, “turn prosecutors into mechanics” who transmit material to the courts without analyzing them. He urged his assistants to look “behind the numbers” and to familiarize themselves with every single case.<sup>43</sup> Whenever enterprises pressed charges against their workers, prosecutors were supposed to examine these allegations and to check the evidence against him/her before sending the case to the court.<sup>44</sup> Kuliapin then told the story of a young mother who received time-off from her factory work in order to pick up her child from home. On their way back, the means for public transport were out of order, and mother and child were forced to walk 250 kilometers back home. Eventually, she was three days late and therefore arrested as a deserter from work. Kuliapin used this story to underline the consequences of ignoring or relaxing procedural norms. Preliminary investigations would help to prevent these kinds of tragedies, since this woman had a perfectly good reason for her late arrival. Enforcing legality meant more than fulfilling statistical obligations and producing rock-solid charges.

I as the regional prosecutor bear responsibility for having trusted the numbers that were given us through phone or telegraph. Hidden behind the numbers are outrageous facts of unlawfulness and arbitrariness against Soviet persons. We must draw serious conclusions from it in order to not forget about a human’s value. Occasionally, we lose the feeling for this value; it dies off. We transmit an ocean full of criminal cases in a certain period of time and we approve these cases. Doing that we forget about the living

42. I. T. Goliakov, ed., *Sbornik dokumentov po istorii ugovnogo zakonodatel'stva SSSR i RSFSR. 1917–1952* (Moscow, 1953), 417; Martin Kragh, “Soviet Labour Law during the Second World War,” *War in History* 18, no. 4 (November 2011): 545–46.

43. Gosudarstvennyi Arkhiv Permskogo Kraia (GAPK), f. 1366, op. 1, d. 57, l. 5 (short hand reports of the Perm prosecutor’s office staff meeting, July 1943).

44. PermGASPI, f. 105, op. 9, d. 118, l. 57 (Kuliapin’s instruction on groundless prosecution of Soviet citizens, May 13, 1943).

human being who once was born and raised by a mother and eventually was arrested unlawfully by us.<sup>45</sup>

This moralistic tone was typical for Kuliapin; he drew a direct line from sloppy and/or deliberately arbitrary investigative practices to the suffering of the innocent. Yet he did not stop there. Since prosecutors were supposed to comb through places of detention in order to release those who were unlawfully arrested, Kuliapin reminded his staff of those in prison who sat there due to the “tardiness of the courts” and to “biased investigations.” He continued: “You understand what this is all about. This is about us not allowing the practices of arbitrariness that took place in 1936 and 1937.”<sup>46</sup> To Kuliapin, there was no structural difference between sloppiness and deliberate malpractice. Any violation of procedural norms—a missing preliminary investigation for instance—was considered an attack on the foundations of the Soviet order, a possible relapse into times of chaos, torture, and mass violence. This applied especially to physical abuse during interrogations. “Assaults” by state officials, he told his audience, “smell like the practices condemned by the government on the 17.11.1938.”<sup>47</sup>

Kuliapin did not hesitate to use the Great Terror as the ultimate metaphor for professional failure, since everyone in the audience knew perfectly well what he meant. The mass arrests of the 1930s were a lesson on what would happen if rules were bent, twisted, or simply ignored again. A strong moral imperative together with his disgust for arbitrary state violence determined Kuliapin’s ambitions to enforce procedural norms. This attitude must not be mistaken for resistance against the state or personal clemency for a suspect. At no point did he or his subordinates question whether sentences were appropriate or too harsh in a particular case. He was determined to ensure the quality of any investigation in order to avoid arbitrary casualties while enforcing Soviet law. To him, a prosecutor’s duty meant the ability to advocate with precision and predictability in order to prevent mass arrests from happening (again). Yet to what extent could he implement these convictions?

As far as the campaign against desertion was concerned, he had the means to apply action to his words. In the spring of 1942, Kuliapin’s superior, All-Union prosecutor Viktor Bochkov, managed to officially reintroduce preliminary investigations for cases of work desertion (albeit under a different term).<sup>48</sup> Kuliapin consequently urged local prosecutors to amplify these preliminary investigations in order to sort out petty delinquencies and unjustified indictments before they pressed charges. Once the charge was made, a prosecutor would need to fight for a verdict. Kuliapin knew that simplified investigation procedures did not just entail grave consequences for many workers; simplification endangered the basic principle of (non-political) prosecution—to separate the innocent from the guilty on the basis of legal criteria.

45. GAPK, f. 1366, op. 1, d. 57, l. 6.

46. *Ibid.*, l. 111.

47. *Ibid.*, l. 40.

48. GARF, f. 8131, op. 37, d. 969, l. 213 (letter from V. Bochkov to Vyshinskii, April 3, 1942); GARF, f. 8131, op. 38, d. 96, l. 83 (decree from the USSR prosecutor’s office on the supervision of the execution of the order from December 26, 1941).

Admittedly, this principle succeeded more often when prosecutors had the technical skills to pursue a thorough investigation and as long as no formal accusation was made. Notwithstanding, until 1945, Soviet enterprises filed 1.8 million reports on alleged deserters, but not even half of them were brought to trial. Similar numbers can be found for Molotov.<sup>49</sup> Not only Kuliapin, but prosecutors everywhere in the Soviet Union were hesitant to initiate criminal proceedings in these cases—not out of protest against a draconic law, but because they had separated valid evidence from flimsy evidence during the investigation. Therefore, many proceedings were halted and innocent people were spared from unnecessary trials.

The campaign against work desertion demonstrates the impact prosecutors had on the enforcement of Soviet rules. It demonstrates that officials like Kuliapin, with his professional ambitions, contributed to refining state policy. Bochkov's order to conduct a preliminary investigation accommodated Kuliapin's insistence on compliant and careful methods. Officials could not only stop investigations (as long as no proceeding was instigated), but they were expected to do so. But how far would Kuliapin's drive reach when he faced resistance? In other words: How did a prosecutor enforce rules in everyday work alongside the militsiia and the MVD?

### Kuliapin and the MVD

The militsiia and the prokuratura both had authority over parts of the investigation. The militsiia carried out inquiries while the procuracy was in charge of the preliminary investigation. Apart from that, prosecutors had the duty of overseeing the investigative work of the militsiia. Investigation thus was a collaborative process. Depending on the crime under investigation, the code of criminal procedure theoretically determined their jurisdiction. At the same time, there was a wide scope of interpretation and plenty of exceptions. Prosecutor's investigators (*sledovатели*) were allowed to take the case from the militsiia investigators (*organy doznaniia*) while it was also possible that both organs would lead the procedure together.<sup>50</sup> Apart from that, the militsiia was nearly always the first to arrive at a crime scene so both organs were compelled to interact in any case. In terms of qualifications and professionalism, however, they were worlds apart.

In 1939, at least fifty percent of all prosecutors held a legal degree (ten percent from universities). This percentage increased gradually throughout the 1940s and 1950s, such that by 1956 close to seventy percent of prosecutors had a higher legal education.<sup>51</sup> At the same time, the Soviet militsiia itself struggled to function due to its barely literate personnel.<sup>52</sup> Moreover, militsiia

49. See a detailed analysis in Kragh, "Soviet Labour Law"; For Molotov see GAPK, f. 1366, op. 1, d. 60, l. 4–5 (prosecutor's report on the situation in the Molotov arms industry, October 1, 1942).

50. *Ugolovno-protsessual'nyi kodeks. S izmeneniami na 1 dekabria 1938 g.* (Moskva, 1938), 23–33. See esp. article 108 on page 30.

51. Gorlizki, "De-Stalinization and the Politics," 222.

52. Still in 1956 "close to one-half of the militsiia force was nearly illiterate." Shelley, *Policing Soviet Society*, 32.

personnel in the periphery often were recruited from the margins of society. Alcoholism, low-income, and miserable working conditions led to appalling crime (and suicide) rates and a low inhibition threshold. Young men prone to violence and abuse were left in positions of responsibility and local power.<sup>53</sup> The central militsiia administration did not only downplay these issues; the political power of the MVD and the military jurisdiction actually shielded the militsiia from criminal prosecution and from the judiciary in general. Under the patronage of the MVD, many militsiia investigators thus felt free to ignore procedural norms during investigations. Forging evidence and maltreating suspects during interrogation regularly led to “quick” results.<sup>54</sup>

Official numbers on the prosecution of militsiia personnel are scarce, not least because these cases were brought before military courts. In 1940, sixty-seven militsiia members from Molotov were convicted under various charges; nearly half of them were punished for tardiness. Abusive behavior was often criticized but rarely prosecuted.<sup>55</sup> Another significant indicator for investigatory quality was the number of stopped and dismissed investigations, or proceedings in general (*prekrashchenye dela*). The Union prosecutor’s order from April 21, 1943 increased the pressure on local prosecutors to lower these numbers and at the same time accelerate investigation.<sup>56</sup> Whenever the court dismissed cases (for instance, due to a lack of evidence), the prosecutor’s office on-site took the blame for it. Poorly educated and often indifferent militsiia investigators therefore could endanger many proceedings and a prosecutor’s reputation.

To Kuliapin, the militsiia’s “lapses” soon became a weekly challenge. Since entering office, he had worked through hundreds of cases in which militsiia men either beat up prisoners, forwarded incomplete cases, or arrested people without notifying the local prosecutor. He would then send a list with a compilation of violations to the head of the regional militsiia administration, Grigorij Skripnik, and urge him to enact consequences against his personnel. When two workers from Krasnokamsk were arrested without a prosecutor’s sanction, Kuliapin demanded their release and the responsible militsiia men to be punished. Skripnik did not respond.<sup>57</sup> Even if he had answered Kuliapin, Skripnik usually protracted the correspondence in order to wear down the prosecutor and his drive for legality.<sup>58</sup> The major obstacle to enforcing these rules was the fact that the militsiia used the prosecutor’s responsibility against him. Nadzor meant that the prosecutor had to answer for the

53. GARF, f. 9415, op. 3, d. 383, l. 60b (report from the head of the GUM NKVD on party work and the moral state of affairs in the militsiia in 1940–44).

54. See for instance: GAPK, f. 1366, op. 1, d. 572, l. 10–13 (exchange of letters between Molotov district and regional prosecutors and the internal investigation unit of the militsiia).

55. GARF, f. 9415, p. 3, d. 383, l. 25 (report on party measures in the organs of the militsiia).

56. GARF, f. 8131, op. 38, d. 155, l. 33 (Union prosecutor’s decree “20s” on measures to eliminate delays in the process of investigation).

57. GAPK, f. 1366, op. 1, d. 651, l. 39 (letter from Kuliapin to G. Skripnik).

58. Some of these disputes could drag on for months. GAPK, f. 1366, op. 1, d. 569, l. 328 (letter from the regional militsiia administration to the regional prosecutor’s office).

quality of militsiia work. As a result, militsiia officials could easily scapegoat the prosecutors for their own investigative failures.

In December 1943, Skripnik attacked Kuliapin through his superior. He informed the prosecutor's office in Moscow about Molotov prosecutors denying arrest sanctions to militsiia investigators. "Thieves and recidivists" were released unlawfully. Skripnik had given three examples to illustrate these practices.<sup>59</sup> Kuliapin instantly responded to the allegations. This was the militsiia's attempt "to mislead" the prosecutor's office. Only nine percent of over 10,000 requests for detention were rejected. Therefore, only a fraction of the overall cases was sent back to the militsiia due to poorly led investigations. Skripnik shifted the blame for these failures to Kuliapin who was then forced to justify the prosecutor's everyday work and to dispel doubts on the mentioned 996 cases.<sup>60</sup> Another problem was that local prosecutors themselves were sometimes not willing to plough through all the cases they had received by the militsiia. Prosecutors, too, were often unmotivated and operated sloppily, which again increased pressure on Kuliapin. In 1943, a district prosecutor had two women arrested because they bore a similar name but did not bother to figure out which one of them was under suspicion. Another one of Kuliapin's subordinates ended up in jail for incarcerating people without any legal basis.<sup>61</sup> Although the militsiia clearly outnumbered the prosecutors in this regard, Kuliapin could not point out these incidents without coming under pressure for the prosecutors' own record.

This pattern of conflict repeated itself week by week and Kuliapin more than once expressed his contempt for the militsiia's practices. Sometimes he would question the militsiia's professionalism to his superiors, especially when unlawful arrests were involved: "So where are the militsiia's principles regarding such a serious issue as a citizen's arrest?"<sup>62</sup> Such complaints proved fruitless. On the contrary, whenever the militsiia created a scandal, the Union-Procuracy pointed at the prosecutors' failure to live up to their responsibilities. In September 1943, Kuliapin and his office were accused of "forgetting the resolution from 17.11.1938." The local militsiia had arrested without legal imperative "women with infant children, old people, juveniles and others who [had] committed petty crimes."<sup>63</sup> In the eyes of his superiors, Kuliapin had to bear the blame for these violations. As far as the militsiia was concerned, local and regional prosecutors were on their own. Union prosecutor Konstantin Gorshenin made this extremely clear.<sup>64</sup>

59. *Ibid.*

60. It would not make sense to "waste arguments in order to prove that the prosecutor's office was acting in accordance with the Union prosecutor's decree 20s." GAPK, f. 1366, op.1, d. 569, l. 326 (letter from Kuliapin to the head of the department for militsiia supervision in Moscow).

61. GAPK, f. 1366, op. 1, d. 651, l. 106 (letter from Kuliapin to UNKVD head M. Potashkin).

62. *Ibid.*

63. PermGASPI, f. 105, op. 9, d. 118, l. 72–73 (obkom report on violations of the law during arrest and investigation).

64. In 1946 the All-Union prosecutor was renamed as General Prosecutor, see Zviagintsev and Orlov, *Prigovorennye vrememem*, 318.

At the All-Union prosecutors' meeting in February 1945, regional prosecutors were addressing the structural imbalance between militsiia and prokuratura. Gorshenin exhorted them to be more assertive and further explained that there are two ways of leading an investigation: the sloppy, wrong way of "thumping the table with one's fist" and arresting people without asking questions (for which "you don't need a special head") and the prosecutor's way, which included a "thorough analysis of all the circumstances" for an investigation.<sup>65</sup> Unlawful arrests and physical abuse of suspects were the result of ill-educated militsiia officials and it was the prosecutors' duty to compensate for this by pointing out these mistakes. This was their range of power. The General Prosecutor himself expressed his contempt for arbitrary arrests and these forms of malpractice. He also considered the militsiia to be "unsophisticated" and their methods antagonistic to the prosecutor's professional understanding. Still, prosecutors were not supposed to criticize the militsiia/MVD in its entirety. Kuliapin thus could not expect his superiors to test the relationship with these organs.

As the years passed, the conflict between Kuliapin and Skripnik intensified. After 1945 the number of abusive incidents and cases of malpractice in the militsiia strongly increased. Violent outbursts by militsiia members against civilians caused even the staff of the military court to condemn the ongoing "hooliganism" (*khuliganstvo*) among Molotov police forces.<sup>66</sup> Kuliapin addressed Molotov MVD chief Aleksandr Zakharov directly, hoping for a change. Year after year he complained and admonished the MVD for the misbehavior of its agents, yet Zakharov refused to exact consequences against his personnel or to even reply to Kuliapin's letters. Between 1944 and 1946, nearly one hundred official submissions by the prosecutor's office on this topic were left unanswered by the MVD. Most of the time abusive officials escaped punishment. Additionally, the quality of investigatory work in the region deteriorated even further. In 1945, close to one third of all militsiia investigations in Molotov were dismissed by prosecutors or the court.<sup>67</sup>

Kuliapin therefore changed his tone in February 1947. In a letter to Zakharov, he did not only point out the violations by the militsiia, but criticized the MVD regional office as a whole. He lamented that his "staff doesn't even think about conducting an investigation without arresting someone."<sup>68</sup> For him cases of abuse were not just neglected, whenever a prosecutor filed a complaint on these issues "some MVD secretaries" were "covering up" these things.<sup>69</sup> Kuliapin was suggesting that in its entirety, the Molotov MVD had a problem for which Zakharov was personally responsible. Backed by statistics and case examples, he painted a clear picture of the militsiia's failure

65. GARF, f. 8131, op. 37, d. 2241, l. 186 (shorthand report of the staff meeting of the Union republics' prosecutors).

66. PermGASPI, f. 105, op. 12, d. 140, l. 27–31 (report from military prosecutor Starodubtsev to Skripnik).

67. GARF, f. A-461, op. 8, d. 844, l. 33 (annual report of the regional prosecutor's office Molotov).

68. GAPK, f. 1366, op. 1, d. 575, l. 51 (letter from Kuliapin to regional MVD head Zakharov).

69. *Ibid.*, l. 46.

to meet their basic tasks. Close to 1000 cases investigated by the militia in 1946 were rejected by the courts. Moreover, Kuliapin accused the MVD of collecting incriminating material on all prosecutors. Intimate details on their private life were collected like bargaining chips for the militia whenever leverage was needed. Because he was tired of unanswered requests, Kuliapin issued an ultimatum. He had sent sixty-three submissions in 1947 and, making sure that there would not be another one, he threatened Zakharov with “complete revision” of the Molotov MVD, by request of the General Prosecutor, if he did not respond within ten days.<sup>70</sup> The Molotov prosecutor thereby took the first step in breaking the pattern of socialist interagency conflict management. Instead of filing single complaints about the misbehavior of particular officials, he confronted Zakharov as the superior of an incompetent and arbitrarily-operating institution. The MVD chief’s response took less than ten days.

Zakharov did not refer to the statistics at all. Instead he both attacked and patronized Kuliapin, dismissing the prosecutor’s allegations as being made up of “twisted facts” and “confusing stuff,” adding further: “I came to the conclusion that these things were written under your absurd temperament.”<sup>71</sup> Naturally he shifted the blame for these cases to the prosecutor’s office, and while he pretended not to take the allegations seriously, Zakharov still delivered a cynical warning. As far as the incriminating information on prosecutors was concerned: “If you are inclined to consider this surveillance work as a constitutional violation I reserve the right to write those submissions not to you, but directly to the General Prosecutor.”<sup>72</sup> This line was meant not just as a threat but as a demonstration of power. The MVD had the resources, the political power, and the advantages on its side as a result of the prosecutor’s supervisory role. As in previous cases, Zakharov assumed that the General prosecutor would rather criticize Kuliapin for not supervising the militia than attack the militia for its actions. Zakharov also made clear that it would be more important to pay attention to prosecutors’ violations. He listed the names of local officials who had sustained “criminal contacts” and engaged in other illegal activities.<sup>73</sup> Zakharov threatened Kuliapin to neither exceed his authority nor to test Zakharov’s.

Unfortunately, no direct answer from Kuliapin exists in the archives, but the next level of escalation in the conflict is known. The rivalry between Kuliapin and Skripnik came to a head when it became clear that the militia had forged evidence in order to incriminate Kuliapin personally. In late 1947, Kuliapin informed the regional party committee that some militia officials were manipulating witnesses from random cases to prepare a case against the prosecutor. In addition, the militia was allegedly instructed to make random criminals and suspects familiar with Kuliapin’s name in order to discredit him in public at some point. One of these allegations, the so-called “Danishevskii case,” was dismissed before the operation could start, but the party started

70. *Ibid.*, l. 51.

71. GAPK, f. 1366, op. 1, d. 575, l. 52 (letter from Zakharov to Kuliapin).

72. *Ibid.*, l. 52.

73. *Ibid.*, l. 56–58.

an inquiry nonetheless.<sup>74</sup> Kuliapin also informed the party secretary, Kuzma Khmelevskii, that during a festive event at the Academy of Science he was robbed of his uniform cap “with fifty militsiia officials present” in the room.<sup>75</sup> These incidents were not linked and the latter surely had more anecdotal than legal character to the party organs. The crucial point was that in late 1947, personal and professional hostilities between Kuliapin and the MVD became indistinguishable. The regular chain of command proved fruitless and the prosecutor now decided to involve the party organs. In terms of interagency communication, the conflict had reached the point of no return. Kuliapin thus went even further.

In January 1948, he filed a 38-page report with the regional party committee, summarizing the past four years of militsiia malpractice and NKVD/MVD mismanagement. It included 130 names of abusive officials and their victims, dozens of incidents in which people were shot on the spot, beaten, or locked-up under false pretenses. In 1947 alone, 3,000 people were “arrested unlawfully.”<sup>76</sup> This report was extraordinary for two reasons. On the one hand, Kuliapin ultimately broke the pattern by compiling hundreds of already known cases to prove his point. On the other, his indictment against the MVD took on a new rhetorical quality. The report quoted appalling cases of abuse against suspects and witnesses. In 1947, in the Nitvynsk district, a 16-year-old boy was caught breaking into a mill by the miller himself. The officer on duty appeared at the scene and first broke the young boy’s legs, left and then returned and shot him.<sup>77</sup> To Kuliapin, this was just one example of “preposterous arbitrariness” (*dikii proizvol*) within the police force. The whole report was a horrifying compilation of everyday cases of fraud, corruption, and forged evidence. He only implied that these practices, this “manhunt” (*ochotitsia za liudmi*), resembled the mass practices of the 1930s. More importantly, he made clear that in his eyes the MVD and the militsiia in Molotov were cultivating the habit of “legal nihilism” and “uncivilized arbitrariness” among their staff.<sup>78</sup> According to Kuliapin, the breakdown of procedural norms was the result not of personal failures but of cultural and structural shortcomings within the MVD.<sup>79</sup> The militsiia did not just fail. They were abusing suspects systematically—encouraged by the MVD.

Although he criticized the regional MVD, Kuliapin implicitly drew a cultural and professional line between the MVD and the prosecutor’s office in general. Technically, he did not directly disobey any of his superior’s orders. Kuliapin just expanded Gorshenin’s thought on the professional flaws of the militsiia and implicitly pushed the argument to its limit. Dozens of examples

74. PermGASPI, f. 105, op. 14, d. 136, l. 62–66 (letter from Kuliapin to obkom secretary Khmelevskii).

75. *Ibid.*, l. 63.

76. GAPK, f. 1366, op. 1, d. 575, l. 7 (report from Kuliapin about unlawful actions by militsiia officials).

77. *Ibid.*, l. 9ob.

78. Kuliapin described how a former MVD official had been discharged in 1938 for “the well-known things in 1937” and afterwards became a prosecutor where he continued to “blindly give sanctions for arrest” until he was removed from office again. *Ibid.*, l. 12.

79. *Ibid.*, l. 1–37.



for arbitrary violence were speaking for themselves. The militsiia was “used to arresting” people and the only protective power (the prosecutor) was obstructed and degraded while abusive officials remained unpunished every day.<sup>80</sup> On one side, the police was searching houses at night and “undermining the faith in the rightness” of their actions.<sup>81</sup> On the other side was the prosecutor fighting these practices. Kuliapin delivered an implicit message to the party and his associates: while the MVD entailed arbitrariness, only the prosecutor’s office could guarantee the reliable enforcement of rules precisely because it had learnt the lesson from 1937–38.

Many prosecutors shared this view, but Kuliapin was one of the few to test its validity. Interestingly, both the regional party secretary, Khmelevskii, and Kuliapin’s highest superior, Gorshenin, were privy to this report before it was filed.<sup>82</sup> Gorshenin may have spoken out publicly against this kind of confrontational behavior, but in private and with the party organs involved he apparently encouraged it. In this way Kuliapin improved his own prospects in this conflict, and at first glance it seemed to work out.

In 1948, the MVD transferred both Zakharov and Skripnik out of Molotov. The punitive transfer was followed by a purge in the regional MVD staff. Once the report circulated among the party administration, and once it had reached the Central Committee in Moscow, the MVD’s main administration had to react.<sup>83</sup> On the one hand, Kuliapin had reached his goal; on the other hand, he had set a dangerous precedent. The official line turned a blind eye to conflicts between the investigative organs. Militsiia and prosecutors were supposed to harmonize in ‘socialist cooperation.’<sup>84</sup> Kuliapin broke this pattern exposing both a weak spot in the MVD and an untenable situation in the militsiia’s fieldwork.

For this very reason, in April 1948, the newly appointed General Prosecutor, Grigorii Safonov, rebuked Kuliapin at the prosecutors’ general assembly. He made clear that prosecutors were supposed to support the militsiia and their ill-educated officials. They should fight the “squalidness of some militsiia departments,” not disclose it to a wider audience. Safonov accused Kuliapin of sensationalism but still he could not reprimand him completely.<sup>85</sup> Many high-ranking prosecutors were calling for structural changes in the supervision of the militsiia. They wanted direct access to the military courts and therefore, to prosecute militsiia officials on their own. For years, prosecutors all over the country were struggling with and complaining about the lack of

80. *Ibid.*, l. 7–8.

81. *Ibid.*, l. 8; 42.

82. *Ibid.*, l. 38.

83. The regional party committee’s report mentions three exemplary cases in which militsiia officials from the local level have been sentenced to long prison terms. Perm-GASPI, f. 105, op. 14, d. 137, l. 60 (obkom report to the secretaries of the MVD party organizations). See also Berkutov, “Bor’ba s ugovnoi,” 105–107; Nikita Petrov, *Kto rukovodil organami gosbezopasnosti 1941–1954. Spravochnik* (Moscow, 2010), 393; Fedotova, *Prokuratura Permskogo Kraia*, 90.

84. Lebedinskii, *Organizatsiia raboty* (Moskva, 1953), 179–82.

85. GARF, f. 8131, op. 37, d. 4034, l. 179–182 (short hand reports from the all-union prosecutors’ meeting).

professionalism in the ranks of the militia.<sup>86</sup> They wanted and needed leverage against the MVD. Kuliapin's behavior was thus met not only with approval but also matched the expectations of many of his colleagues. Accordingly, Safonov held out the prospect of these changes at the very same assembly, promising a reform of the code of criminal procedure.<sup>87</sup>

In the end, Kuliapin's triumph was more of a pyrrhic victory. No changes in procedural legislation were made and Kuliapin was warned not to challenge the MVD again. In Molotov, the conflict between the two institutions went on. Skripnik and Zakharov had a wide circle of supporters who would maintain their position, and Kuliapin's uncompromising attitude further exposed him to new attacks. In 1949, he produced the scandal his opponents were hoping for. Kuliapin had forced laborers to manufacture and erect an iron cross on his parents' tomb. Some of his adversaries made the news public and shortly thereafter he was removed from his post and expelled from the party.<sup>88</sup>

The end of his career somehow achieved the illustrious standards he had set for himself over the past years. More important though, is the fact that Kuliapin could not succeed in the long run. After the showdown with the MVD, his position within the party and governmental networks was weakened. Temporarily, he retained the upper hand. Yet he was unable to induce structural changes and to establish permanent political support for his position in the region.

## Conclusion and Outlook

The digest of Kuliapin's career only scratches the surface of the Soviet procuracy. It is telling in two major ways, though. On the one hand, we see the story of a noteworthy personality. The compliance with procedural norms not only marked the core of Kuliapin's professional drive, but he also derived a moral obligation from it, fortified by the defining experience of the Great Terror. What is more, he had the means and the space to articulate this view on a professional level. It comes as no surprise that the relationship with the militia and the MVD was central to his work. More than any other official, he highlighted a deep professional antagonism between arbitrary police organs and reliable, steadily-working prosecutors. Kuliapin's moralistic view and his readiness for confrontation were extraordinary. His commitment to the professional standard of prosecutors was not. His uncompromising stance only made apparent what prosecutors all over the country were struggling with. Kuliapin was exceptionally courageous in dealing with the MVD, but his professional ambitions and experience with mass terror were shared by most of his peers.

On the other hand, we see the practical limits for these ambitions. We see the structural conditions for the enforcement of Socialist Legality and also the boundaries the prosecutors were facing, and which Kuliapin was willing to test. The enforcement of Soviet criminal law was bound to the task of creating

86. Rebitschek, *Die disziplinierte Diktatur*, 199–201.

87. PermGASPI, f. 105, op. 220, d. 1750, l. 22.

88. *Ibid.*, l. 21.

rock solid convictions. Kuliapin and his superiors insisted on precision and accuracy of investigation, but not leniency—as the campaign against desertion has shown. Therefore, the limits were set by their own technical skills and ambitions. Whenever the militsiia (or the Party) was involved, the compliance with procedural norms depended primarily on the prosecutors' political skills and readiness for confrontation. Rules were to be enforced by means of conflict and negotiation. A permanent solution was out of reach because until 1953, Soviet state prosecutors were not supposed to jeopardize the extra-legal privileges of the MVD.

This thought leads to the question of the prosecutor's role in general. The prosecutors' basic claim was to enforce rules within society and in the state apparatus. Officials like Kuliapin articulated and defended (sometimes successfully) the principle of a justice system that favored rules for the purpose of repression. This did not amount to political opposition at all—it was considerably and consistently Stalinist in the sense that only the Party could ascribe legality its political value, and ensure that political criminals were not entitled to these rules. This claim was a complementary project to the arbitrary rule of the NKVD and MVD. Since 1939, the state prosecutors helped carry and develop this project—increasingly by professional conviction. In the first decade after the war a new generation of well-educated legal officials was striving to implement legal norms in every aspect of their work—ranging from the preliminary investigation to the supervision of prisons, camps, and militsiia work. The procuracy was starting to replace the MVD as an instrument of rule. Courts and prosecutors led the campaign against theft in 1947. Law enforcement was in demand, rather than arbitrary and uncontrollable mass operations.<sup>89</sup> The “tribune of legality” thus lent itself before 1953 to gradually becoming the key organization in a system of legal repression.

The actual breakthrough for this transformation of rule came in 1953. Stalin's death, Beria's lost struggle within the Politburo, and Khrushchev's decision to counterbalance the power of the Secret Police led ultimately to a reform of military jurisdiction. In September 1953, the Supreme Soviet brought low-ranking police officials under regular, non-military, jurisdiction. For the first time prosecutors were now capable of prosecuting militsiia personnel directly.<sup>90</sup> Kuliapin's successor, Michail Iakovlev, was a representative of the new generation of legal experts. He and his colleagues all over the Soviet Union used this opportunity to make the militsiia not just liable for their own violations, but to improve the quality of criminal investigations in general.<sup>91</sup> The new authority of the prokuratura after 1953 did not change the militsiia's structural problems or the staff shortages in the judiciary. Police violence

89. See Yoram Gorlizki's account on how the Organs of justice already in the 1940s supplanted the MVD as the main ‘institutional channel of repression,’ operating more reliably and precisely. See Gorlizki, “Theft under Stalin,” 292.

90. GARF, f. 8131, op. 32, d. 229, l. 112 (decree of the General prosecutor's office on military jurisdiction).

91. For example, the percentage of stopped investigations in Molotov as in the whole Soviet Union fell well below five percent. GARF, f. A-461, op. 8, d. 3219, l. 7 (report from the General prosecutor's department for the supervision of places of detention); See also Rebitschek, *Die disziplinierte Diktatur*, 384–421.

remained a severe problem in the everyday experience of Soviet citizens. The MVD still had the final say in the majority of political cases, while the Party actually benefitted the most from the reforms between 1953 and 1956. Yet Stalinist prosecutors were not supposed to bring principles of Rechtsstaat to life.<sup>92</sup> The prokuror was no embodiment for a legal ethos in a western understanding. He embodied the principle of steered justice, which was practiced by officials like Kuliapin after 1939 and successfully employed for decades after Stalin. The prosecutor was the main protagonist for a transformation that started after 1939: from the Stalinist police state into a dictatorship that enforced its will in a precise and predictable manner.

92. On the term “Rechtsstaat” in the Soviet context see Harold J. Berman, “The Rule of Law and the Law-Based-State with Special Reference to the Soviet Union,” in Donald D. Barry, ed., *Toward the Rule of Law in Russia? Political and Legal Reform in the Transition Period* (Armonk, NY, 1992), 43–60.