

1950

Speeches/Documents

Title: Instructions concerning Abolishing the Six Codes of the Guomintang and Determining Judicial Principles for the Liberated Areas

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Description:. Abolishing Guomintang laws

(1) The understanding of the Six Codes of the Guomintang, among a good number of our judicial cadres, is mistaken and confused. There are not only a number of people who have studied old laws, revere them as sacred, and stress that they can also be used in the liberated areas; even among political cadres with relatively high responsibilities, there are people who believe that the Six Codes agree with the interests of the broad people, and that only a part of them, not the essence, does not conform with the interests of the broad people. In "How to Build Judicial Work", published by the Northeast Press, all sorts of viewpoints concerning the Six Codes are raised, which is only one clear case in point.

(2) Law is the so-called national ideology that the ruling class openly enforces with arms. Laws and states are the same, they are only tools to guarantee the interests of a certain ruling class. The Six Codes of the Guomintang and ordinary bourgeois laws are the same, they appear by concealing their class nature, but in fact, as there are no states without classes, it is impossible that there are laws that transcend class. The Six Codes and ordinary bourgeois laws are the same, they present themselves with a facade that everyone is equal before the law, etc., but in fact, between the ruling class and the ruled class, between the exploiting class and the exploited class, between those with and without properties, between creditors and debtors, there are no real common benefits and losses, and consequently, there cannot be truly equal legal rights. Because of this, all Guomintang laws can only be tools to maintain the reactionary rule of landlords, compradors and bureaucratic capital, and weapons to suppress and constrain the broad popular masses. Exactly for this reason, did Chiang Kai-shek, in his cry to be saved from death and his call for peace at New Year, demand the maintenance of the sham Constitution and the sham legal system, this was a demand to maintain the continued effect of the Six Codes of the Guomintang, because of this, the Six Codes of the Guomintang can absolutely not be the law in both the regions controlled by Jiang and the liberated regions.

(3) Any reactionary laws – and this is the same for the Six Codes of the Guomintang – cannot but include a number of articles that protect the so-called interests of the entire body of the people, this is the same with states themselves, they are the outcome and manifestation of the irreconcilable class struggle; this means that the purpose of the ruling class is guaranteeing its own basic class interest (property and political power), and this cannot but be present in some articles of its laws. On the one hand, it considers some interests of its allies or the allies it wants to obtain, scheming to consolidate its ruling position in this way; on the other hand, it cannot but perfunctorily deal with its fundamental enemies – the working people, scheming to mitigate and oppose their class struggle in this way. Because of this, we cannot see the Six Codes as a law that only partially and not fundamentally discords with the interests of the broad people because they speciously protect the so-called interests of the whole body of the people, rather, we should see it as a law that basically discords with the interest of the people.

(4) During the period in which we resisted Japan, the articles in Guomintang laws that benefit the people have been used from time to time in a few base areas to protect or realize the people's interest, under reactionary rule, we have also often used the few articles in reactionary law that benefit the masses to protect or fight for the masses' interest, and so we have exposed the fundamental reactionary nature of reactionary law to the people. Undoubtedly, it was correct to do so. But we cannot understand these acts based on the strategy of that time as a fundamental recognition by us of reactionary Guomintang law, or believe that the old reactionary laws of the Guomintang can be basically adopted under the New Democratic regime.

(5) Under the people's democratic dictatorship, led by the proletariat and with the alliance between workers and peasants at the core, the Six Codes of the Guomintang should be abolished. People's judicial work can no longer be based on the Six Codes of the Guomintang, but should be based on new laws of the people. Until new people's laws have been systematically promulgated, it should be based on the policies of the Communist Party, as well as all programmes, laws, regulations and resolutions published by People's Governments and the People's Liberation Army. At present, under the circumstances that the people's laws are not yet complete, the principles for judicial organs'

handling affairs should be: where there are programmes, laws, decrees, regulations or resolutions, following the provisions of programmes, laws, decrees, regulations and resolutions; where there are no programmes, laws, decrees, regulations, or resolutions, following the policies of New Democracy. At the same time, judicial organs should regularly, with a spirit of scorning and criticising the Six Codes and all other reactionary Guomindang laws, with a spirit of scorning and criticising all anti-people laws and decrees in the capitalist countries of Europe, America and Japan, and with the method of studying and grasping the view of the state and view of law in Marxism and Mao Zedong Thought, as well as the New Democracy's policies, programmes, laws, decrees, regulations and resolutions, educate and reform judicial cadres. Only in this way is it possible to ensure that our judicial work truly becomes a component part of the organic structure of the people's democratic political work, only in this way is it possible to raise the theoretical understanding, policy understanding and legal understanding of our judicial cadres, as well as their work abilities, only in this way is it possible to thoroughly shatter the mistakes and harmful thoughts of those people who have studied the old laws by swallowing these old things without digesting them, and ensure that they cast off the burden of the past, lay down their nauseating air, become willing to accept the role of primary school pupils, and start to learn again through Marxism, Mao Zedong Thought and our policies, programmes, decrees, regulations and resolutions, and transform themselves into judicial cadres of the people under the New Democratic regime. Only in this way can they become able to serve the people, and can they become judicial cadres who work together with one heart in our revolution, and its it possible to eliminate the bad phenomenon that new and old judicial cadres do not unite, or that old judicial personnel venerate the Six Codes of the Guomindang, and remain self-important and arrogant.

(6) Please discuss these opinions of ours with government and judicial cadres, and report the results of the discussion to us.