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Military Justice in Russia

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**N. Petuhkov, *Istoriia voennykh sudov
Rossii [An History of Russian military
courts]*, Moscow, Norma, 2005, 352
pages.**

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N. Petuhkov, Istoriiia voennykh sudov Rossii [An History of Russian military courts], Moscow, Norma, 2005, 352 pages.

- 1 A book on military courts in Russia, what a good idea! We know little about these courts whose importance in jurisprudence and society is enormous given their wide-ranging jurisdiction and the weight of army in Russian history. Studies of law history are rare in Russia today and of mediocre quality. The strong interest for Russian law in North America, Great Britain, the Netherlands, and Germany during Cold War vanished almost entirely. Alas! Petuhkov's book is unable to fill the knowledge gap on military courts.
- 2 It is fairly an insuperable challenge to condense a six-centuries-long story in some 300 pages. Petuhkov chose to write a mere legal history of Russia's military courts, focusing on codification and legal competences. The reader will look almost in vain for the name of a convict or the tale of some considerable affair. With few exceptions he won't find even a figure to assess the courts' volume of activity through the centuries. Instead, Petuhkov tires him with a long litany of "*gramoty*", "*ustavy*", "*ulozheniia*", and "*artikuly*", whose historical significance remains undisclosed. What is the aim of all this?
- 3 The handbook of Petuhkov, who works as an adviser for the president of the Russian Supreme Courts, serves the goal of legitimizing the military courts in present-day Russia. Since the beginning of the 20th century, liberal jurists have been contesting them. Recently, they came under renewed critique with the wars in Chechnya and ominous espionage affairs. Indeed, military courts don't come down to a mere code of military justice. They are a distinct jurisdiction within the courts system. In particular, the judges and procurors who embody the branch of military justice are career military personnel. Doesn't their subordination to the Defense Ministry for promotion, salaries and housing contradict the principle of autonomous justice?
- 4 Petuhkov, who accepts only "constructive" critique, answers negatively to this question, putting forward traditional arguments in favor of the preservation of military justice even in peaceful time. First, the "specificities" of army life could be rightly assessed only by servicemen. Second, secrecy could be guaranteed only if the judges are career soldiers. Petuhkov makes a clumsy attempt to confirm his argument by calling up international comparisons. He is mistaken when he suggests that French military courts, which exist only in war times, include only military judges. This affirmation is true only for operations abroad, not for the military forces operating on the national territory. The author misinterprets German law to serve his argument by mistaking military legal expertise at civilian courts (as in the German case) for justice done by judges in military uniform (as in the Russian case) (p. 262-263).
- 5 Petuhkov devotes his story to showing that a great army – that founds a great country in his view – rests on a strong military justice (p. 281). His efforts to build a coherent history of military courts by putting on it a fake rationality and by justifying everything by the "circumstances", the "necessity", even "life itself", come up against the Soviet period. He tries in his introduction to get rid of this difficulty by declaring against all evidence that current military courts in Russia proceed essentially from the law reforms of Peter the Great and Alexander II. But when he conforms to the Soviet hagiographic rituals, he praises the intellectual legacy of Soviet military jurists on current debates and the legislative and biographical continuity between Soviet and Russian military judges (p. 235-238). The author

himself was a judge at the Military Collegium of the USSR Supreme Court during the war in Afghanistan and chaired the Collegium during the nineties.

6 As for the dark pages of military justice in the Soviet Union, Petuhov plays down the role of the military courts in political repressions (p. 306). Actually, the regular courts of law (civilian courts and special courts including military courts) participated massively in the repressions, especially after the Great Terror. Even if concentrating on “counter-revolutionary” crimes strictly speaking (art. 58 of the RSFSR criminal code), regular courts condemned 1224000 persons between 1939 and 1956, the crushing majority of which were convicted by organs of military justice, who were pullulating at the time (military courts of the army and the fleet, military courts of the MVD troops, military courts of rail and water transport and the Military Collegium of the Supreme Court). State terror relied ever more on the judiciary after the Great Purges, and military justice was its main instrument¹.

7 This book fall within the category of corporative hagiographies, written by institutional veterans for the sake of self-legitimizing and congratulating. It is of no interest for historians, who won't find anything useful in it: it offers neither new material, nor new interpretations, not even a good synthesis. Because of construction flaws like repetitions and endless enumerations, it doesn't make a valuable *vade mecum*. As to the current Russian situation, the author avoids a serious theoretical debate on the necessity to maintain military courts or on the means to guaranty their independence from institutional pressure.

Endnotes

1 S. V. Mironenko and N. Werth, *Istoriia stalinskogo Gulaga*, vol. 1, pp. 608-610 and pp. 620-622.

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