

Franziska Exeler

Assessing Soviet Military Justice: Military Tribunals and the Punishment of Red Army Soldiers During the Second World War

Introduction

In late July 1941, Abdullah Valiev, military prosecutor with the Soviet Union's 21st Army, found himself in the city of Homel', in southwestern Belarus. A few weeks earlier, on 22 June 1941, Germany and its allies had attacked the Soviet Union. The invasion caught the Soviet leadership by surprise, and in the first weeks, the Axis troops made large territorial gains. Within days, Army Group North pushed through the three Baltic countries, heading toward northwestern Russia. Army Group South aimed to bring Ukraine, the southern parts of Russia, and the Caucasus under its control. Meanwhile, Army Group Center marched through Belarus and western Russia, its eyes set on Moscow, the Soviet capital. Western Belarusian cities like Brest and Hrodna fell within the first days of war, Minsk itself was conquered on 28 June, and eastern Belarusian towns like Babruisk and Barysaŭ soon followed. By mid-July 1941, German troops stood before the eastern Belarusian town of Homel'. Deployed for the defence of the city was the newly organised Red Army's Central Front, which consisted, among others, of the 21st Army.¹

Prior to the war, Abdullah Valiev had worked as a prosecutor in the Kazan region in central Russia. Following the German invasion, Valiev was assigned to the military procuracy of the 21st Army, which by late July 1941 was housed in the forest institute of Homel', near the city's railroad station. The basement of the institute served as a provisional cell for people who, stopped by the police on the street, had been unable to provide identity papers. Among them were many soldiers, some of them in civilian clothes, who had gotten separated from their units. As the Wehrmacht pushed east and Red Army units disintegrated under the onslaught, hundreds of thousands of Red Army soldiers ended up behind the front line. Many were captured by the Germans and confined in deadly prisoner-of-war camps, but others managed to hide in forests or seek shelter in villages.²

¹ Timothy Snyder, *Bloodlands: Europe between Hitler and Stalin* (New York: Basic Books, 2010), 165–166, 175–184; Alexander Hill, *The Red Army and the Second World War* (Cambridge: Cambridge University Press, 2017), 214, 220. “Front” means army group in Russian.

² Christian Gerlach, *Kalkulierte Morde: Die deutsche Wirtschafts- und Vernichtungspolitik in Weißrussland 1941 bis 1944* (Hamburg: Hamburger Edition, 1999), 128–133; Christian Streit, *Keine*

Yet others managed to cross into Soviet territory, appearing in cities like Homel' close to the front. One of the main tasks of the 21st Army's military tribunal and military procuracy was to determine whether men of military age without identity papers were indeed Red Army soldiers who had gotten separated from their units – and to decide if these men should be considered deserters. The tribunal's workload was high: As Abdullah Valiev recalled in his memoirs, "there was a lot of work for military lawyers. We literally worked day and night."³ Those whom the tribunal found guilty of desertion were sentenced to death. The executions were carried out swiftly. Members of the NKVD, the Soviet state security organs, took the convicted by car to a forest in the south of the city. Here, the NKVD had cordoned off a site and prepared pits in advance. Valiev himself witnessed at least one of these executions. The convicted man was lined up in front of one of the pits. Also in attendance were members of the procuracy, prison guards, and a doctor, who served as witnesses. An NKVD officer shot the convicted with a gun in the back of his head. "The man", Valiev recalled, "fell into the pit."⁴

This chapter takes the recollections of military prosecutor Abdullah Valiev as a starting point to examine the role of the Soviet military justice system in the disciplining and punishing of Red Army soldiers during the Second World War. Broadly understood, military justice refers to the "systems which states have put in place to regulate both disciplinary and criminal offences by members of their armed forces."⁵ First and foremost, the aim of military justice is to promote and enforce the military's organisational and social order, including obedience and subordination to army hierarchies. However, which specific acts count as disciplinary or as criminal offences, as less or more severe offences – that depends on each country and its military's rules and law. The nature of each state, whether authoritarian or democratic, significantly influences its military justice system: Although armies are distinct from the civilian world, they are not isolated from state and society. In other words, each military, and with that each military justice system, is a product of the specific state and society that it belongs to.⁶ The history of the Red Army (and the history of the Soviet armed forces more gener-

Kameraden: Die Wehrmacht und die sowjetischen Kriegsgefangenen 1941–1945, 2nd ed. (Bonn: Dietz, 1991), 24.

3 Abdullah Kh. Valiev, *Zapiski voennogo prokurora (Velikaia Otechestvennaia voina 1941–1945 gg.)* (Kazan: Matbugar Iorty, 2000), 17–18, quote 18.

4 Quoted from Valiev, *Zapiski voennogo prokurora*, 26.

5 Quoted from Alison Duxbury and Matthew Groves, "The Reform of Military Justice," in *Military Justice in the Modern Age*, ed. Alison Duxbury and Matthew Groves (Cambridge: Cambridge University Press, 2016), 2.

6 Duxbury and Groves, "The Reform of Military Justice," 6.

ally) illustrates this particularly well. The Red Army, formed during the Russian Civil War (1917–1923), was supposed to be the vanguard and guardian of an emerging socialist society.⁷ In the interwar years, the Soviet state subjected its population to violent transformations of its social fabric, political structure, and economic ways of life.⁸ During the war, state violence continued, including at the front. Within the armed forces, political commissars and NKVD members exercised a great deal of control over the soldiers.

By analysing the role of the Soviet military justice system in the disciplining and punishing of Soviet soldiers during the Second World War, this chapter thus explores the place of Soviet military justice within the Stalinist dictatorship. What was the relationship between members of the military tribunals and the military procuracy, on the one hand, and the state security organs and political commissars on the other hand? How meaningful are conviction rates and what can scholars deduce from them? And how did individuals, such as military prosecutor Abdullah Valiev, later in life reflect on their responsibilities and actions? In examining these questions, the chapter combines reflections on the more theoretical underpinnings of Soviet military justice with an analysis of how it operated in practice. The first part therefore provides an overview of some of the unique features of the Soviet legal system, its criminal codes, and the ways in which military and non-military/civilian law were fused in Soviet law. The second part turns to the different ways in which Red Army soldiers were disciplined and punished at the front. It analyses conviction rates, their meaning, and analytical problems. The third part examines autobiographical sources (memoirs and shorter recollections) to discuss how former Soviet military prosecutors later in life reflected on their wartime activities and the Soviet military justice system.

To this day, a comprehensive critical study of Soviet military justice during the Second World War is missing. Historians have thus far mostly examined aspects of its history as part of more general works on the Red Army during the Second World War.⁹ In contrast to Red Army soldiers, more is known about the

7 Mark von Hagen, *Soldiers in the Proletarian Dictatorship: The Red Army and the Soviet Socialist State, 1917–1930* (Ithaca: Cornell University Press, 1990).

8 For a concise overview of interwar Soviet state violence, see Snyder, *Bloodlands*, 21–87.

9 See, for example, Catherine Merridale, *Ivan's War: Life and Death in the Red Army, 1939–1945* (New York: Metropolitan Books, 2006); Mark Edele, *Stalinism at War: The Soviet Union in World War II* (London: Bloomsbury Academic, 2021); Mark Edele, *Stalin's Defectors: How Red Army Soldiers became Hitler's Collaborators, 1941 to 1945* (Cambridge: Cambridge University Press, 2017); Hill, *The Red Army*; Jochen Hellbeck, *Die Stalingrad-Protokolle: Sowjetische Augenzeugen berichten aus der Schlacht* (Frankfurt am Main: Fischer, 2014); Roger Reese, *The Soviet Military Experience: A History of the Soviet Army, 1917–1991* (London: Routledge, 2000); Antony Beevor, *Stalingrad* (London: Viking, 1998).

wartime and post-war prosecution of Soviet civilians accused of collaboration with the German occupation regime, whose prosecution also fell within the jurisdiction of Soviet military tribunals.¹⁰ The discrepancy between these two research areas (i.e., that more has been published on the prosecution of Soviet citizens accused of wartime collaboration than on the prosecution of Red Army soldiers) is likely due to differences in archive accessibility. For that, it is important to know that military tribunals existed both within the armed forces and within the state security organs. Yet whereas Red Army soldiers were mostly prosecuted by military tribunals within the armed forces, during the war, Soviet civilians accused of wartime collaboration were prosecuted by both NKVD and Red Army military tribunals. After 1944, Soviet citizens accused of collaboration were prosecuted by NKVD military tribunals only.¹¹

10 It is important to note that *kollaboratsionist* (collaborator) and *kollaboratsionizm* (collaboration) are more recent additions to the Russian vocabulary. In contemporary documents, those accused of working for the Germans during the war were usually accused of treason, which translates into Russian as both *predatel'stvo* and *izmena*. A "traitor" was therefore a *predatel'* or an *izmennik*. *Predatel'stvo* and *izmena* were used interchangeably in Soviet documents. The legal category for treason was *izmena rodine*, meaning regardless of whether someone was accused of *predatel'stvo* or *izmena*, he or she would formally always have been prosecuted for treason, *izmena rodine*. On the prosecution of Soviet citizens, see, for example: Juliette Denis, "Identifier les 'éléments ennemis' en Lettonie: Une priorité dans le processus de resoviétisation (1942–1945)," *Cahiers du monde russe* 49.2 (2008): 297–318; Diana Dumitru, "An Analysis of Soviet Postwar Investigation and Trial Documents and Their Relevance for Holocaust Studies," in *The Holocaust in the East: Local Perpetrators and Soviet Responses*, ed. Michael David-Fox, Peter Holquist, and Martin Alexander (Pittsburgh: Pittsburgh University Press, 2014), 142–157; Franziska Exeler, *Ghosts of War: Nazi Occupation and Its Aftermath in Soviet Belarus* (Ithaca: Cornell University Press, 2022), 142–174; Franziska Exeler, "The Ambivalent State: Determining Guilt in the Post-World War II Soviet Union," *Slavic Review* 75.3 (2016): 606–629; Jeffrey Jones, *Everyday Life and the "Reconstruction" of Soviet Russia during and after the Great Patriotic War, 1943–1948* (Bloomington: Indiana University Press, 2008); Sergey Kudryashov and Vanessa Voisin, "The Early Stages of Legal Purges in Soviet Russia (1941–1945)," *Cahiers du monde russe* 49.2 (2008): 263–295; Oleksander Melnyk, "Stalinist Justice as a Site of Memory: Anti-Jewish Violence in Kyiv's Podil District in September 1941 through the Prism of Soviet Investigative Documents," *Jahrbücher für Geschichte Osteuropas* 61.2 (2013): 223–248; Olaf Mertelsmann and Aigi Rahi-Tamm, "Cleansing and Compromise: The Estonian SSR in 1944–1945," *Cahiers du monde russe* 49.2 (2008): 319–340; Tanja Penter, "Local Collaborators on Trial: Soviet War Crimes Trials under Stalin (1943–1953)," *Cahiers du monde russe* 49.2 (2008): 341–364; Vanessa Voisin, *L'URSS contre ses traîtres: L'épuration soviétique, 1941–1955* (Paris: Publications de la Sorbonne, 2015); Amir Weiner, *Making Sense of War: The Second World War and the Fate of the Bolshevik Revolution* (Princeton: Princeton University Press, 2001), 82–190.

11 In many European parts of Russia (east of the frontline), the Soviet government declared martial law, as a consequence of which general area courts were turned into military tribunals. These courts prosecuted civilians for all major crimes. On these prosecutions: Oleg Budnitskii,

This means that scholars investigating the prosecution of Red Army soldiers would search for documents by Red Army military tribunals, while scholars investigating the prosecution of Soviet civilians would focus on both NKVD and Red Army military tribunals. The problem is, though, that historical documents on the Red Army are mainly stored in the Central Archives of the Ministry of Defense of the Russian Federation (TsAMO) – and these archives are virtually inaccessible for researchers, except for those affiliated with the military or the Russian state security service (FSB).¹² For material on NKVD military tribunals, the situation is more favourable to researchers. To be sure, the FSB archives, like TsAMO, are also off-limits to the vast majority of researchers. Within Russia, most historians thus have to rely on the limited NKVD material that is stored in the Russian State Military Archive (RGVA), the State Archive of the Russian Federation (GARF), or regional archives.¹³ However, in some of the other former Soviet republics, the situation is more favourable. In Lithuania, Latvia, Estonia and Ukraine, the archives of the former Soviet state security services are open to researchers.¹⁴ Even in Belarus (otherwise in terms of archive accessibility as strict as Russia), material on NKVD tribunals can be found in the special sector files of the Communist Party of Belarus, held in the National Archives in Minsk.¹⁵

What this means is that researchers can draw on more material by NKVD than by Red Army military tribunals. This might be one important factor as to

“The Great Terror of 1941: Toward a History of Wartime Stalinist Criminal Justice,” *Kritika. Explorations in Russian and Eurasian History* 20.3 (2019): 447–480. The material for these military tribunals (formerly general jurisdiction courts) can be found in the archives of the USSR People’s Commissariat of Justice, the RSFSR People’s Commissariat of Justice, the USSR Supreme Soviet, and the USSR Procuracy, which used to be relatively accessible to researchers.

¹² TsAMO claims to be accessible to international researchers, but in fact, it is not, at least not pertaining to questions of military justice or anything else deemed sensitive material. The archive does not understand itself as a public institution that facilitates scholarly research and public knowledge. Rather, it is a secretive institution in the service of the Russian state, one of whose aims is “counteraction against attempts to falsify history.” Quoted from the website of the Central Archives of the Ministry of Defense: https://eng.mil.ru/en/archival_service/central.htm, accessed 10 April 2024. Please note that the website was accessible at the time of writing, but has since been restricted outside of Russia (probably due to Russia’s ongoing war against Ukraine).

¹³ Much of RGVA’s holdings remain classified, though, while other material has been moved to TsAMO.

¹⁴ The material of the former Soviet state security organs in Ukraine is located in the Sectoral State Archive of the Security Service of Ukraine (Haluzevyi derzhavnyi arkhiv Sluzhby bezpeky Ukrainy, HDA SBU).

¹⁵ In Belarus today, the state security service is still called the KGB. The archive of the Communist Party of Belarus is part of the National Archive of Belarus (Natsional’nyi arkhiv Respubliki Belarus’, NARB).

why scholarship on the prosecution of Soviet citizens is more numerous than on the prosecution of Red Army soldiers. Scholarly publications on military tribunals within the Soviet armed forces will continue to have to depend primarily on published primary sources. Nevertheless, these sources can provide important insights into the workings of the Soviet military justice system. This chapter, then, is based on a range of different sources, most notably Soviet criminal codes, writings by contemporary Soviet lawyers on Soviet military law and military tribunals, and memoirs and recollections by Red Army soldiers and officers. With the onset of political liberalisation (*Perestroika*) in the mid-1980s, it became possible to publish memoirs that deviated from the heavily state-regulated official narrative of the war and that spoke of regime violence at the front. In the following, I draw on these to analyse the ways in which Red Army military personnel were affected by Soviet state violence. I also examine memoirs by members of the military justice system that were published after the fall of the Soviet Union (although partly written before that) to discuss how these men, looking back in life, reflected on their role in the disciplining and punishment of Red Army soldiers and on their relationship to the Soviet state.

The historian Oleg Budnitskii has argued that the penal policies and judicial practices at the beginning of the Second World War greatly resembled those employed during the Great Terror 1937–1938, during a period of massive Soviet state violence against its own citizens.¹⁶ This chapter concurs with Budnitskii's argument. The violent methods that the Soviet regime employed at the front to discipline and punish its own soldiers represented a continuation of pre-war practices, which were exacerbated by the German invasion. Soviet military tribunals, I argue, formed an important part of that process. In their interpretation of what acts counted as military crimes, members of the military tribunals closely followed the government's harsh line. This is not to say that institutional frictions and discord did not exist. Conflict occurred especially between military prosecutors and NKVD members, usually over technical or procedural questions. Overall, however, both institutions – the military's judicial apparatus and the state security organs – depended on each other and cooperated closely. Soviet military justice, then, did not act as a significant potential corrective to the violence exerted by NKVD members and political commissars. On the contrary: overall, it understood itself as acting in the interests of the Soviet state.

¹⁶ Budnitskii, "The Great Terror of 1941," 448.

1 Soviet Military Law and Military Tribunals – Some Important Features

To understand how Soviet military justice functioned, it is important to recognise several unique features of the Soviet legal system. To begin, the Soviet Union was nominally a federal union of equal national republics spanning Eastern Europe and Eurasia. In practice, though, it was a highly centralised state, a one-party dictatorship governed by the All-Union Communist Party (known also as the Bolsheviks), since 1952 called the Communist Party of the Soviet Union. All republics, including its largest republic, Soviet Russia, were subordinated to the all-Union structure. At its top stood the Politburo (*politbiuro*) of the Central Committee of the All-Union Communist Party, which represented the leadership of the Soviet Union.¹⁷

The nominally federalist (if in practice highly centralised) structure of the Soviet Union was also reflected in the Soviet legal system. Although the 1924 constitution of the Soviet Union authorised the government to establish the legal foundations of the Union, it left the promulgation of criminal and civil codes to the individual Soviet republics. For military law, it is the criminal code that matters, which is why the following focuses on criminal law only. A single, all-Union criminal code did not exist in the Soviet Union. Rather, each republic (such as Soviet Russia, Soviet Ukraine, Soviet Kazakhstan) had its own criminal code. In devising these codes, the 1926 criminal code of Soviet Russia (with its subsequent additions) effectively served as the basis for the criminal codes of the non-Russian republics. While the respective article numbers differed in the individual criminal codes, in essence, the legal text was the same. Taken together, the criminal codes of the Soviet republics formed a single body of Soviet laws. Over the years, additions were made to the 1926 code. Following Stalin's death in 1953, the criminal code was revised, and in 1960, a new code came into force, which replaced the 1926 criminal code with all its additions.¹⁸

The criminal codes of the various Soviet republics were divided according to groups of crimes. Each republic's criminal code included a special section on military crimes (in the 1926 code called: *prestupleniia voinskie*). Military crimes were not *any* crimes committed by members of the Soviet armed forces. Rather, they were specific offences committed by servicemen against the established order

¹⁷ On the structure of the Soviet party-state: T.H. Rigby, *Political Elites in the USSR. Central Leaders and Local Cadres from Lenin to Gorbachev* (Edward Elgar: Aldershot, 1990), 73–126.

¹⁸ Harold J. Berman, "Principles of Soviet Criminal Law," *The Yale Law Journal* 56.803 (1947): 808–809.

and performance of military service. These crimes included desertion, resistance to a superior, failure to execute an order, or the evasion of military service by means of self-mutilation or other methods. In times of war, desertion and evasion of military service by, for example, means of mutilation carried the death sentence.¹⁹ Apart from specific military crimes, the criminal codes also contained a range of other groups of crimes (such as murder, physical abuse, or theft) that servicemen, just like civilians, could also be tried for. Since active servicemen were always tried by a military tribunal (*voennyi tribunal*, sometimes also translated into English as military court) and not by the regular or general courts that dealt with civil and ordinary criminal cases, this meant that military tribunals tried servicemen for all types of crimes, military and non-military.

In the Soviet Union, military tribunals existed both within the armed forces and within the state security organs. The latter, which are commonly known under their post-1954 name KGB, underwent many complex organisational changes and shifting divisions of tasks since their inception following the 1917 October Revolution. During the period examined in this chapter (1941–1953), the military tribunals were under the authority of the NKVD, in 1946 renamed MVD.²⁰ Correspondingly, the state security organs' military tribunals were called the *voennye tribunaly voisk NKVD*, and from 1946 on the *voennye tribunaly voisk MVD*. The military tribunals within the armed forces were divided into three types: military tribunals within the Red Army (*voennye tribunaly Krasnoi Armii*), military tribunals in the navy (*voennye tribunaly Voennno-Morskogo Flota*), and military tribunals for railway and water transport (*voennye tribunaly zheleznodorozhnogo i vodnogo transporta*).²¹ The vertical organisational structure of the state security and the armed forces' military courts mirrored each other. The lowest court in the Red Army was the divisional military court. The next higher court was the army group military court. The lowest military court within the NKVD/

19 Aron Trainin, Vladimir Men'shagin, and Zinaida Vyshinskaia, *Ugolovnyi kodeks RSFSR: Kommentarii* (Moscow: Iuridicheskoe izdatel'stvo NKIU SSSR, 1944), 229–233.

20 In 1934, the political police, the GPU-OGPU, was abolished and its functions transferred to the NKVD, the All-Union People's Commissariat for Internal Affairs. The NKVD was briefly divided into NKVD and NKGB in 1941, subsequently reunited, and separated again in 1943. In 1946, when the people's commissariats were renamed ministries, the two agencies were renamed MVD and MGB, and in 1954, they were merged into the KGB, the newly formed Committee for State Security. In the following, I usually specify which institution I speak of, but I sometimes also use the shorthand "state security organs." On the Soviet state security organs in Stalin's time: David Shearer, *Policing Stalin's Socialism: Repression and Social Order in the Soviet Union, 1924–1953* (New Haven: Yale University Press, 2009).

21 Mikhail S. Strogovich, *Voennye tribunaly sovestskogo gosudarstva* (Moscow: Iuridicheskoe izdatel'stvo NKIU SSSR), 19.

MVD was the regional military court and the next higher military court was the court of the NKVD/MVD on the level of the republic.²² While different people's commissariats (from 1946 called ministries) were involved in the tribunals' supervision and organisational matters, formally, all tribunals were subordinated to a higher legal organ, the Military Collegium of the Supreme Court of the USSR (*voennaia kollegiia Verkhovnogo suda SSSR*).²³

2 Counterrevolutionary Crimes

Soviet military courts prosecuted soldiers – and they also prosecuted civilians charged with counterrevolutionary crimes. Counterrevolutionary crimes were a specialty of Soviet law. Whether committed by civilians or members of the military, whether in peacetime or in regions under martial law, they were always prosecuted by military tribunals. This meant that “a degree of fusion” existed between military and non-military/civil law in the Soviet Union – not just because definitions and sanctions of military crimes were contained in the general military code, but also because civilians (and not only soldiers) were tried by military tribunals. This fusion of civil and military authority was, as Harold Berman and Miroslav Kerner have argued, “unusual, if not unique” in Europe and America at the time.²⁴

Counterrevolutionary crimes were crimes against the state, against the Bolshevik regime, against the achievements of the October Revolution (thus the term counterrevolutionary). In the 1926 Russian criminal code (the criminal code that was in force until 1960), counterrevolutionary crimes were defined as any acts directed at the overthrow, subversion, or weakening of Soviet power. In 1934, the legal category of counterrevolutionary crimes was expanded to include treason

²² To illustrate this with an example: The military court of the NKVD of Minsk oblast (region), which was a region within Soviet Belarus, was a regional military court. The next higher military court was the NKVD/MVD military court of Belarus (*voennyi tribunal NKVD Belarusskogo okruga*).

²³ In the case of the military tribunals of the armed forces, the relevant institutions involved were the People's Commissariat of Justice, the People's Commissariat of Defense, and the People's Commissariat of the Navy (since 1946 all called ministries). In the case of the state security organs' military tribunals, the relevant institution involved was the People's Commissariat (since 1946 Ministry) of Internal Affairs. Strogovich, *Voennye tribunaly*, 18–19. The Office of the Procurator-General of the USSR also exercised supervision over the military courts. Harold J. Berman and Miroslav Kerner, *Soviet Military Law and Administration* (Cambridge, MA: Harvard University Press, 1955), 101–103, 123.

²⁴ Quoted from: Berman and Kerner, *Soviet Military Law*, 65.

(*izmena rodine* in Russian, literally “betrayal of the motherland”). Treason was defined as “acts committed by citizens of the Soviet Union to the detriment of the military might of the Soviet Union, to the independence of her state or the integrity of her territory.” It was tried under Articles 58-1a (for civilians) and 58-1b (for soldiers) if the military court applied the penal code of Soviet Russia.²⁵ Treason carried the death sentence for civilians and soldiers, but if the military court could determine “mitigating circumstances” in the case of civilians, it could lower their sentence to ten years of forced labour. Precisely what counted as mitigating circumstances was left to the discretion of the courts. It was also possible to be sentenced for minor counterrevolutionary activity, which the penal code defined as “relations” with a “foreign state.” Depending on the individual case, it was punished with three years of forced labour but could also result in summary execution.²⁶ In theory, a prosecutor and a defence counsel had to be present at military trials, but in cases of treason, espionage, sabotage, or terrorist acts, that right could be denied. Moreover, during the Second World War, the right to legal counsel was denied to all defendants in military trials.²⁷ The defendant also had no right to appeal. He or she could only hope that the internal (or supervisory) review process, whereby the next higher-level military tribunal routinely checked on the rulings made by the lower-level military courts, would find procedural flaws and either change the sentence or hand the case back to the lower-level court or prosecutor. The prosecutor assigned to the lower-level court could also intervene and request that a higher-military court review the case.²⁸

During the Second World War (and beyond), jurisdiction over counterrevolutionary crimes was divided mainly between the Red Army and the NKVD military courts. In theory, the military tribunals of the armed forces had jurisdiction over all crimes that were committed by servicemen as well as all crimes of treason, espionage, terrorist acts, and sabotage. The NKVD military tribunals had jurisdiction over all other counterrevolutionary crimes committed by civilians (with the exception of those committed on railroads and waterways).²⁹ In areas adjoining the front, NKVD military tribunals were also organised as special courts for the

25 *Ugolovnyi kodeks* (Moscow: Iuridicheskoe izdatel'stvo NKIU SSSR, 1940), 26–27.

26 Trainin, Men'shagin, and Vyshinskaia, *Ugolovnyi kodeks RSFSR*, 64–77.

27 Berman and Kerner, *Soviet Military Law*, 113, 122.

28 Strogovich, *Voennye tribunaly*, 21–22. For an example of this internal review process, in this case the military tribunal of the MVD in Belarus, fourth quarter of 1947, see: National Archive of Belarus (Natsionalnyi Arkhiv Respubliki Belarus', hereafter NARB) f. 4p, op. 29, d. 603, l. 175 (Dokladnye zapiski, spetssoobshcheniia i drugie materialy prokuratury respubliki, voennogo prokurora i voennogo tribunala, September–December 1947). Also: Berman and Kerner, *Soviet Military Law*, 123. On the denial of a right of appeal: Kudryashov and Voisin, “The Early Stages,” 273.

29 Strogovich, *Voennye tribunaly*, 20.

protection of the rear, and as such had jurisdiction over cases of desertion from military service. In practice, however, and depending on front conditions, it seems that these lines of divisions between army and NKVD military tribunals were not kept neatly.³⁰ The system of military tribunals was also greatly expanded during the war. On 22 June 1941, the Supreme Soviet declared martial law in the European regions of the Soviet Union, which was subsequently expanded to the Caucasus, all railways and sea and river transport. In consequence, the regular courts in these regions were transformed into military tribunals, which now tried civilians for practically all serious crimes, most notably counterrevolutionary crimes.³¹

3 Violence at the Front: The Disciplining and Punishment of Red Army Soldiers

This, then, was the law and the institutions that constituted the Soviet system of military justice. To understand what this meant in practice, how Soviet military justice operated during and in the aftermath of the Second World War, it is necessary to take a broader look at the disciplinary regime within the Red Army and the ways in which the state security organs and the Communist Party exercised control over the soldiers, before turning to the role of Soviet military tribunals.

Arguably, every military is a structurally violent institution. Armies are meant to transform the “I” into a “We”, to merge and subordinate individuals into a uniform collective with a strict hierarchy, order, and discipline. The army is also a gendering institution. Many militaries around the world have sought (and continue to seek) to transform boys into tough, hardened, and unemotional men.³² In that process, masculinity not only achieves meaning in contrast to definitions of femininity. By labelling everything that is deemed weak, cowardly, or emotional as feminine, military masculinity clearly subordinates women (and ho-

³⁰ Berman and Kerner, *Soviet Military Law*, 109–110.

³¹ Budnitskii, “The Great Terror of 1941,” 450–452.

³² On the military as a gendering institution, see Karen Hagemann, “Introduction: Gender and the History of War – The Development of the Research,” in *The Oxford Handbook of Gender, War, and the Western World since 1600*, ed. Karen Hagemann, Stefan Dudink and Sonya O. Rose (Oxford: Oxford University Press, 2020), 5–6; Thomas Kühne, “States, Military Masculinities, and Combat in the Age of World Wars,” in *The Oxford Handbook of Gender, War, and the Western World*, 501; John Hockey, “No More Heroes. Masculinity in the Infantry,” in *Military Masculinities. Identity and the State*, ed. Paul Higate (Westport/London: Praeger, 2003), 17–18.

mosexual men) to heterosexual men. Military culture, in other words, creates a particular violent image of hegemonic masculinity.³³

In the early Soviet Union, traditional gender roles became, within limits, more fluid.³⁴ Still, political discourse and practice were heavily masculinised and militarised.³⁵ Service in the Red Army was considered the height of male socialisation, as an entry point into the world of grown-up men. In this process, verbal or physical violence, including hazing rituals, played a central role.³⁶ To be sure, armies differ in terms of the level of violence that prevails within their own ranks. While many, if not all soldiers will at some point have experienced humiliation or abuse of power at the hands of their superiors, some armies have historically been more violent on the inside than others – and the Red Army was a particularly violent institution. Forged during the Russian Civil War, Red Army officers usually considered hitting soldiers a legitimate means to discipline the troops.³⁷ The Red Army soldier Georgii Arbatov, who was drafted into the army in 1941, recalled a joke that circulated among the soldiers: “If asked: Are you

33 On military masculinity as a form of hegemonic masculinity see, for example: Frank J. Barrett, “The Organizational Construction of Hegemonic Masculinity: The Case of the US Navy,” *Gender, Work and Organization* 3.3 (1996): 129–142, especially 130, 140–141. Also: Ruth Seifert, “Identität, Militär und Geschlecht. Zur identitätspolitischen Bedeutung einer kulturellen Konstruktion,” in *Heimat – Front. Militär und Geschlechterverhältnisse im Zeitalter der Weltkriege*, ed. Karen Hagemann and Stefanie Schüler-Springorum (Frankfurt/New York: Campus Verlag, 2002), 53–66, especially 62–64.

34 Women, for example, increasingly began to work in male professions. Out of necessity, women also served in the Red Army during the Second World War. See the excellent exhibition catalogue: *Mascha+Nina+Katjuscha. Frauen in der Roten Armee 1941–1945*, ed. Peter Jahn (Berlin: Ch. Links Verlag, 2003). See also Anna Krylova, *Soviet Women in Combat. A History of Violence on the Eastern Front* (Cambridge: Cambridge University Press, 2010), although uncritical in her assessment of sexual harassment and violence within the Red Army.

35 On heavily masculinised political discourse: Erika Fraser, *Military Masculinity and Postwar Recovery in the Soviet Union* (Toronto: University of Toronto Press, 2019), 10–11.

36 Konstantin Bannikov, “Regimented Communities in a Civil Society,” in *Dedovshchina in the Post-Soviet Military. Hazing of Russian Army Conscripts in a Comparative Perspective*, ed. Françoise Daucé and Elisabeth Sieca-Kozłowski (Stuttgart: ibidem, 2006), 42.

37 For an analysis of violence within the ranks of the Red Army during the Second World War, including toward female soldiers and ethnic minorities, see: Franziska Exeler, “Gewalt im Militär. Die Rote Armee im Zweiten Weltkrieg,” *Zeitschrift für Geschichtswissenschaft* 60.3 (2012): 228–246. For examples of beatings and instructive executions as a means to discipline Red Army soldiers during the Civil War, see: Hellbeck, *Die Stalingrad-Protokolle*, 35–36. In the Imperial Japanese army, informal punishment among soldiers and between officers and soldiers was also common. Senior soldiers, for example, beat their subordinates for errors or mistakes that they deemed an embarrassment to the platoon. Edward J. Drea, “In the Army Barracks of Imperial Japan,” *Armed Forces and Society* 15.3 (1989): 338.

afraid of the Germans, soldier, the answer was: no. If asked: But of whom are you afraid, the answer was: my sergeant.”³⁸ Officers, too, experienced violence at the hands of their superiors. Red Army officer Vladimir Gelfand was repeatedly abused by his company commander Rybkin, who threatened to shoot him, hit him at will, and insulted him in front of the soldiers.³⁹ As the writer and war journalist Vasilii Grossman noted in the winter of 1942 about a commander and his divisional commander, “each of them has his own chain of command of punching.”⁴⁰ Indeed, that Red Army generals, commanders, and officers regularly beat their respective subordinates seemed to have been part of how they were supposed to behave. According to Nikita Khrushchev, one of the leading Bolsheviks who visited the front regularly during the war, it “was considered heroic to hit a subordinate into the face. And hit they did!”⁴¹

The violence that Red Army soldiers experienced at the hands of commanders, sergeants, or other soldiers only formed a part of the Red Army’s internal violence, though. Most notably, it was the representatives of the regime – members of the state security organs and the political commissars – who exerted a type of violence that came from the very top, from Stalin and the other members of the Politburo in Moscow. A close network of informers who reported to the state security organs, special blocking units that prevented soldiers from fleeing the frontline, and summary executions of soldiers at the front, meant to teach the others a lesson – these were just some of the violent measures that the political leadership used to discipline and punish Red Army soldiers and to make them fight.⁴² To understand where these measures came from, it is important to recall the significance of violence as a political tool in the Bolshevik state.

The Soviet Union under Stalin was a dictatorship with no regard for human life, a police state with a powerful, all-encompassing ideology and a close surveillance network that extended across the Soviet regions.⁴³ As an alternative to capitalist modernity, the Bolsheviks sought to build an egalitarian, modern, and in-

38 Georgii Arbatov, *Detstvo, otrochestvo, voina: Avtobiografiia na fone istoricheskikh sobytii* (Moscow: Sobranie, 2007), 40–41.

39 Vladimir Gelfand, *Deutschland-Tagebuch 1945–1946. Aufzeichnungen eines Rotarmisten* (Berlin: Aufbau Verlag, 2005), 58.

40 Quoted from *A Writer at War. Vasilii Grossman with the Red Army 1941–1945*, ed. Antony Beevor and Luba Vinogradova (London: Pimlico, 2005), 70.

41 Quoted from Nikita Khrushchev, *Vremia, liudi, vlast.’ Kniga pervaiia* (Moscow: Moskovskie novosti, 1999), 383.

42 Hellbeck, *Die Stalingrad-Protokolle*, 67–68.

43 On surveillance: Shearer, *Policing Stalin’s Socialism*, especially 158–180.

dustrialised society.⁴⁴ Yet the radical political, social, and economic transformation of the regions that in 1922 came to constitute the Soviet Union was only achieved through a tremendous amount of coercion. State violence peaked in the 1930s. Any resistance, real or imagined, to the collectivisation of agriculture was met harshly by the authorities. Overall, the NKVD deported 1.7 million “kulaks” (allegedly rich peasants) to the Gulag. Many of them, especially children, will have died.⁴⁵ Violence continued with the Great Terror of 1937–1938. It initially began with purges within the Communist Party, the regional NKVD, and the Red Army (which led to a significant loss in experienced personnel), but soon extended to the general population.⁴⁶ During the Great Terror, the NKVD arrested more than 1.5 million Soviet citizens, most of them peasants, whom it accused of treason, spying for foreign powers, or economic sabotage. About 700,000 of them were executed, the rest sent to the Gulag, where many of them will certainly have died.⁴⁷

From the very beginning, the Bolsheviks perceived themselves to be under threat from internal enemies and foreign agents, alleged traitors and “fifth columns” who were infiltrating the country. The notion of betrayal (*izmena* or *predatel'stvo* in Russian) was central to the series of public trials of alleged political opponents that the authorities conducted in the interwar Soviet Union, and at which the defendants stood accused of counterrevolutionary crimes.⁴⁸ When Ger-

44 Stephen Kotkin, *Magnetic Mountain: Stalinism as a Civilization* (Berkeley: University of California Press, 1995), 2, 23, 358–359; Stephen Kotkin, “Modern Times. The Soviet Union and the Interwar Conjuncture,” *Kritika. Explorations in Russian and Eurasian History* 2.1 (2001): 111–164.

45 Lynne Viola, *Peasant Rebels under Stalin: Collectivization and the Culture of Peasant Resistance* (Oxford: Oxford University Press, 1996), vii, 21–24; Snyder, *Bloodlands*, 27. In the special settlements in the Northern Region, the mortality rate was estimated to be 15 percent by July 1931, and much higher among children. Lynne Viola, V.P. Danilov, N.A. Ivinskii, and Denis Kozlov, eds., *The War Against the Peasantry, 1927–1930. The Tragedy of the Soviet Countryside* (New Haven: Yale University Press, 2005), 275.

46 Snyder, *Bloodlands*, 78–86, 89–104; The largest group of victims, most of them probably peasants accused of anti-Soviet activity, were arrested as part of the so-called Kulak Operation that was carried out from August 1937 to the fall of 1938. Two weeks after the start of the Kulak Operation, the so-called Polish Operation began. It hit the western regions hardest, as its victims were mostly Soviet Poles accused of spying for the Polish state or other individuals associated with Poland, Polish culture, or Roman Catholicism. Nikita V. Petrov and Arsenii B. Roginskii, “Pol'skaia operatsiia' NKVD 1937–1938 gg.,” in *Repressii protiv poliakov i pol'skikh grazhdan*, ed. Aleksandr E. Gur'ianov (Moscow: Zven'ia, 1997), 22–43.

47 V.N. Khaustov, V.P. Naumov and N.S. Plotnikova, eds., *Lubianka. Stalin i glavnoe upravlenie gosbezopasnosti NKVD 1937–1938* (Moscow: Mezhdunarodnyi fond ‘Demokratiia’, 2004), 6.

48 On the show trials: Marc Jansen, *A Show Trial Under Lenin. The Trial of the Socialist Revolutionaries, Moscow 1922* (The Hague: Martinus Nijhoff, 1982), 27, 50; Julie A. Cassiday, “Marble Col-

many invaded the Soviet Union, the fear of betrayal permeated the Soviet leadership. In his 3 July 1941 radio speech, Stalin called upon the population to mobilise all forces and to rise united in the fight against Nazi Germany. As he declared, “there must be no room in our ranks for whimperers and cowards, for panic-mongers and deserters. (. . .) We must wage a ruthless fight against all disorganisers of the rear, deserters, panic-mongers and rumourmongers, we must exterminate spies, sabotage agents and enemy parachutists.”⁴⁹

Quickly, the state security organs created special destruction battalions, small operational units, whose aim was to identify and liquidate everyone deemed a spy, deserter, or foreign agent. What exactly counted as cowardice, desertion, or defeatism – that was determined by the NKVD. Admiration for German tanks, for instance, was regarded as an offence, and the accused soldier or officer was liable for punishment. At the front, even wounded Red Army soldiers had to report to the first-aid posts with their weapons so as not to fall under suspicion. Those who mutilated themselves, hoping to be sent to a hospital in the hinterland, were repeatedly shot. Men with wounds to the left hand were especially treated with suspicion.⁵⁰ Each Red Army division had a “special department” (*osobyi otдел*) made up of NKVD officers who closely monitored the troops, a practice employed since the Civil War. Later in the war renamed SMERSH (an acronym for *smert’ shpionomam*, Death to Spies), the presence of the state security organs contributed significantly to the creation of an atmosphere of permanent fear at the front.⁵¹ “Never talk about politics” – that was the unspoken rule, for the SMERSH agents relied on an extensive network of informers who were constantly busy gathering compromising material. The former Lieutenant Levka Rubinshtein remembered a joke from the days of war: “[if] three officers are talking with each other, two of them will tell the SMERSH about it.”⁵² And the artillery officer Andrei Zharikov

ums and Jupiter Lights: Theatrical and Cinematic Modeling of Soviet Show Trials in the 1920s,” *The Slavic and East European Journal* 42.4 (1998): 640–660; Wladislaw Hedeler, *Chronik der Moskauer Schauprozesse 1936, 1937 und 1938. Planung, Inszenierung, und Wirkung* (Berlin: Akademie Verlag, 2003); Iryna Ramanava, “The ‘Lepele Case’ and Regional Show Trials in the Belarusian Soviet Socialist Republic (BSSR) in 1937,” in *Political and Transitional Justice in Germany, Poland and the Soviet Union from the 1930s to the 1950s*, ed. Magnus Brechtken, Wladislaw Bulhak and Jürgen Zarusky (Göttingen: Wallstein, 2019), 54–73.

49 Quoted from the 3 July 1941 radio broadcast printed in Joseph Stalin, *On the Great Patriotic War of the Soviet Union. Speeches, Orders of the Day, and Answers to Foreign Press Correspondents* (Moscow: Foreign Languages Publishing House, 1944), 7, 8.

50 Marius Broekmeyer, *Stalin, the Russians and Their War*, translated Rosalind Buck (Madison: University of Wisconsin Press, 2004), 84–85, 168, 171; Merridale, *Ivan’s War*, 39.

51 Hellbeck, *Die Stalingrad-Protokolle*, 53.

52 Levka Rubinshtein, “Ispoved’ shastlivogo al’pinista. Glavy iz trilogii,” *Zvezda* 5 (1995): 50

described the situation at the front as follows: "It is difficult to comprehend the predominant general mistrust, the mutual spying, and the denunciations. [. . .] None of this served to promote brotherly friendship in the officer's corps; it only caused meanness."⁵³

By creating a permanent state of fear, the regime forced its soldiers to become accomplices. As Andrei Zharikov recalled, "if you can prove that, although your friend may not be a spy, he is capable of being a traitor to the Fatherland, you yourself will never be under suspicion of the SMERSH."⁵⁴ Officers, even NKVD members themselves, were under pressure to identify alleged enemies of the state. M. Delagrammatik, who from March 1942 on worked as a secretary at a military tribunal on the Southern Front, remembered a drunken SMERSH employee complaining about the low number of arrests with the following words: "[too] few arrests, work not visible" (*Arestov malo. Raboty ne vidno*). His subordinates immediately understood this remark: "[to] make the 'work visible' one had to report brilliant successes to the demanding superior who was in control of the tasks, one had to constantly go ahead and arrest enemies, expose spies, terrorists, anti-Soviet ones and refer their cases to the military tribunals."⁵⁵

Next to the state security organs, the political commissars also exercised control over the soldiers. As agitators and political educators, they served as the Communist Party's representatives and held great power over the troops. Their reports, in which they recorded soldiers' remarks about the political system of the Soviet Union or disciplinary infractions, usually called the NKVD into action. Political commissars also directly handed soldiers over to the military tribunals. Small transgressions were enough: As political commissar Boris Slutskii wrote in a poem after the war: "[for] three incidents, three anecdotes / we removed the sniper from his position / dragged away, tried, sentenced / that is how it was, how it is, and how it will be."⁵⁶ Like NKVD members, political commissars were entitled to execute soldiers on the spot if they refused orders or had fled from their positions. These executions were usually carried out in front of the entire unit, meant to teach everyone a lesson.⁵⁷ In July 1941, probably west of Smolensk, the political officer Nikolai Moskvin shot a soldier who had urged his comrades to

⁵³ Quoted from: A. Zharikov and P. Jurchenko, ". . . V polk pribyli sibirski," *Sibirskie ogni* no. 5 (1989): 147.

⁵⁴ Zharikov and Jurchenko, ". . . V polk pribyli sibirski," 147.

⁵⁵ Quoted from M. Delagrammatik, "Voennye tribunaly za rabotoi," *Novyj mir* 6 (1997): 138.

⁵⁶ Quoted from Boris Slutskii, ". . . A ia ne uchastnik ovatsii," *Druzhba narodov* 11 (1988): 92.

⁵⁷ On the role of political commissars: Hellbeck, *Die Stalingrad-Protokolle*, 51–54; Hill, *The Red Army*, 223.

surrender. Afterwards, Moskvín wrote in his diary: “[the] boys understood. A dog’s death for a dog.”⁵⁸

Yet in the eyes of the Soviet leadership, these measures were deemed insufficient to counter the invasion. During the first months of the war, the Wehrmacht and its allies made large territorial gains. Mortality rates among Red Army soldiers were particularly high. Hundreds of thousands got trapped behind the frontlines or fell into German captivity.⁵⁹ In that atmosphere of chaos and desperation, the NKVD quickly established a method that it had previously employed during the Soviet-Finnish war in 1939–1940: It created so-called blocking units (*zagraditel’nye otriady*), which were operating directly behind the front lines and whose aim was to prevent soldiers from retreating or abandoning their division.⁶⁰ In addition, on 16 August 1941, Stalin issued Order No. 270, which stated that officers or political commissars who tore off their military badges in battle, retreated or “allowed” themselves to be captured by the Germans, were to be treated as deserters and could be shot by their superiors, even without a court-martial. Consequently, every soldier reported missing in battle was officially considered a deserter – a stigma that also applied to his or her family.⁶¹

A year later, the regime further increased its draconian measures. On 28 July 1942, Order No. 227 was issued, known as “*Ni shagu nazad*” – Not a Step Back.” Its contents were conveyed by word of mouth to every man and woman in the army. Those deemed guilty of a breach of discipline were to be sent to newly created penal battalions (*shtrafnye batal’ony*).⁶² Employed for the most dangerous tasks (such as clearing mine fields by walking across them), the mortality rates in these units were very high. As the soldier Anatoly Rybakov recalled, to identify where the attack would come from, the members of the penal battalions were the first to be sent into the open field. “The enemy opened fire on them, all were killed”, but that allowed “ours to locate and contain his firing positions, and then we went into the actual attack.”⁶³ Few survived the penal battalions. Vladimir Karpov, who spent some time as a *shtrafnik*, as members of the penal battalions were called, recalled one particular attack: “I was lucky, I was not even wounded.

58 Cited in Merridale, *Ivan’s War*, 99.

59 Streit, *Keine Kameraden*, 24.

60 Merridale, *Ivan’s War*, 71, 135.

61 Hill, *The Red Army*, 223; Merridale, *Ivan’s War*, 98. Relatives of soldiers or civilians who fled abroad or relatives of those whom the Soviet state considered German collaborators could be punished with up to five years in exile in distant areas of the Soviet Union. See Kudryashov and Voisin, “The Early Stages,” 275.

62 For Order No. 227, see: Vladimir A. Zolotarev, ed., *Velikaia Otechestvennaja voina 1941–1945. Volume I: Surovye ispytaniia* (Moscow: Nauka, 1998), 505–507.

63 Quoted from Anatolii Rybakov, *Roman-vospominanie* (Moscow: Vagrius, 1997), 96.

The first company was completely wiped out, out of 198 men only six survived. Then the second company was wiped out and I survived again. We were deployed in the most dangerous parts, sent to an almost certain death, at first even without artillery support.”⁶⁴ The commanding officers had the right to execute soldiers in the penal battalions on the spot for violations of military order. As Red Army officer Rubinshtein recalled, Lieutenant Reestrov, the commander of a penal unit, let no day pass by without an execution of a *shtrafnik*. According to Rubinshtein, Reestrov explained: “I am shooting at them each day and I never miss. I do not need to be liked.”⁶⁵

Apart from penal battalions, Order No. 227 also formalised, perhaps even expanded, the existing practice of blocking units. The order instructed all army commanders to create blocking units within their armies, which were to be put behind “unstable divisions.” In case of “panic and scattered withdrawals”, they were to “shoot panic-mongers and cowards and thus help the honest soldiers of the division execute their duty to the Motherland.”⁶⁶ That Order No. 227 built on already existing practice was confirmed by a 10 October 1941 report from the head of the Special Section apparatus of the NKVD to Lavrentii Beria, the head of the NKVD. As the report stated, by October 1941, 657,364 servicemen who had “run away from the front” had been intercepted by special sections and blocking detachments of the NKVD. Of these, 10,201 soldiers (1.5 percent) had been shot, and another 25,878 had been arrested.⁶⁷ In that respect, then, Order No. 227 was merely a restatement of the current rules. The soldiers knew well what blocking units meant in practice. In his short story *Prokliaty i ubity* (“The Cursed and Killed”), Viktor Astafev described his own experience of the Dnieper crossing in September 1943. Without pontoons or bridges, the soldiers had to cross the river clinging to sacks of hay or straw. Thousands drowned before reaching the western banks. Those caught up by the current and swept back to the eastern banks were chased back by NKVD troops. Anyone who had already been hit by the blocking units was left to drift downriver. “Just let them see (. . .) what we do with that scum,” Astafev let an NKVD officer say, “those cowards who confuse

⁶⁴ Quoted in Boguslav Shnaider, “Neizvestnaia vojna,” *Voprosy istorii* 1 (1995): 107.

⁶⁵ On the right to execute on the spot: Alex Statiev, “Penal Units in the Red Army,” *Europe-Asia Studies* 62.5 (2010): 735. Quoted from: Rubinshtein, “Ispoved’ shastlivogo al’pinista,” 36.

⁶⁶ Quoted from order no. 227 in: Zolotarev, *Velikaia Otechestvennaia voina*, volume 1, 505–507.

⁶⁷ See the report in Alexander Hill, *The Great Patriotic War of the Soviet Union, 1941–45. A Documentary Reader* (London: Routledge, 2009), 68–69. The blocking units had their origins in the Russian Civil War, when they were first employed by the Red Army, and fulfilled many functions that the military police had in other armies. See: Statiev, “Blocking Units in the Red Army,” 478–483.

the left bank with the right.”⁶⁸ That this was not a fictional account – that the blocking units and their predecessors did shoot at soldiers to stop them from retreating – was also confirmed by several accounts from the Battle of Stalingrad. Here, the blocking unit of the 51st Army opened fire on the retreating units.⁶⁹ In the history of the Second World War, the Soviet blocking units stand out as a unique feature. Except for sporadic German SS experiments with similar measures, during the Second World War, no other army used special units to shoot at its own soldiers.⁷⁰

4 Soviet Military Justice in Numbers: Conviction Rates and the Limits of Knowledge

During the Second World War, then, Red Army soldiers experienced a great deal of violence at the hands of their own state. The NKVD and the political commissars followed a harsh line when it came to defining what counted as desertion, self-mutilation, or unauthorised retreat, and they showed little mercy or compassion. The political leadership granted them extensive control over the troops, which included pronouncing and carrying out sentences on the spot, without the immediate involvement of military tribunals.

Despite the prominent role of the NKVD and the political commissars, the military tribunals still fulfilled a crucial role in the disciplining and punishment of Red Army soldiers. Military tribunals tried, and convicted, a high number of people during the war, which indicates that the military tribunals duly followed the harsh line given out by the political leadership. From statistics compiled by the People's Commissariat of Justice, it is known that between 1941 and 1945, 2,530,663 individuals were convicted by Red Army, navy, and NKVD military tribunals. An additional 406,042 individuals were convicted by military district courts, special courts, and military tribunals for railway and water transport.⁷¹ It is unknown

⁶⁸ Quoted from: Viktor Astaf'ev, "Proklyaty i ubity. Kniga Vtoraia. Prodolzhenie," *Novyi mir* 11 (1994): 61.

⁶⁹ Quoted from: Vasilii S. Khristoforov, *Stalingrad: Organy NKVD nakanune i v dni srazheniia* (Moscow: Moskovskie Uchebniki i Kartolitografiia, 2008), 89. This is based on FSB archive material that the author had access to.

⁷⁰ Statiev, "Blocking Units in the Red Army," 488.

⁷¹ See the table published in N. Vert (Nicholas Werth), S. V. Mironenko, and I. A. Ziuzina, eds., *Istoriia stalinskogo Gulaga: Konets 1920-kh–pervaia polovina 1950-kh godov*. Volume 1: *Massovye repressii v SSSR* (Moscow: Rosspen, 2004), 620. The original is: GARF f. 9492, op. 6, d. 14, ll. 6–19.

how many of these 2,936,705 individuals in total were soldiers and how many were civilians; the documents from the People's Commissariat of Justice do not differentiate between the two categories. They also do not provide information on prosecution, conviction, and acquittal rates.⁷² For information on the conviction rates of soldiers, scholars usually rely on one book, *Velikaia Otechestvennaia bez grifa sekretnosti* (The Great Patriotic War without Secrecy), which was co-authored by a group of historians headed by Grigorii Krivosheev.⁷³ Affiliated with the Military-Memorial Center of the Armed Forces of the Russian Federation, a subdivision of the Ministry of Defense, the author collective had access to TsAMO and the FSB archive. *Velikaia Otechestvennaia bez grifa sekretnosti* provides information on the conviction rates of Soviet military personnel. According to the book, 994,279 Red Army soldiers were convicted by military tribunals between 1941 to 1945. (It remains unclear how many were prosecuted and acquitted in the first instance.) Seen in proportion to the overall size of the Red Army during the war (an estimated 34 million soldiers between 1941 to 1945), this translates to 2.9 percent of servicemen who were convicted by military tribunals between 1941 and 1945. Of the convicted soldiers, 157,593 soldiers (0.46 percent) were sentenced to death, 436,600 were sentenced to imprisonment, and 422,700 assigned to penal battalions. In about 40 percent of the death sentences, the application of the sentence was postponed until the end of the war, and the convicted were sent to penal battalions.⁷⁴ In comparison, in the British, French, and American armies, the absolute number of soldiers whom the armies' respective military courts sentenced to death was much lower, ranging between 40–150 executed soldiers in each army for the entire duration of the Second World War.⁷⁵ German conviction rates were higher than those of the western Allies, although lower than Soviet numbers, in absolute and proportionate numbers. From 1939 to 1945, German mil-

72 See the table published in Vert, Mironenko, and Ziuzina, *Istoriia stalinskogo Gulaga*, volume 1, 620.

73 G. F. Krivosheev, V. M. Andronikov, P. D. Burikov, and V. V. Gurkin, *Velikaia Otechestvennaia bez grifa sekretnosti. Kniga poter'* (Moscow: Veche, 2014). The volume builds on an earlier work: G. F. Krivosheev et al., *Grif sekretnosti sniat. Poteri vooruzhennykh sil SSSR v voynakh, boevykh deistviakh i voennykh konfliktakh. Statisticheskoe issledovanie* (Moscow: Voennoe izdatel'stvo, 1993). It was translated into English as: Grigorii Krivosheev et al., *Soviet Casualties and Combat Losses in the Twentieth Century* (London: Greenhill, 1997).

74 Krivosheev et al., *Velikaia Otechestvennaia bez grifa sekretnosti*, 304. It is unclear what happened to them after the war.

75 The British Army executed 40, the French Army 102, and the US Army 146 of its own soldiers. On the western Allies: Norbert Haase, "Wehrmachtsangehörige vor dem Kriegsgesicht," in *Die Wehrmacht: Mythos und Realität*, ed. Rolf-Dieter Müller and Hans-Erich Volkmann (Munich: Oldenbourg, 1999), 481.

itary courts sentenced 25,000 to 30,000 German soldiers to death. In relation to the overall size of the Wehrmacht (an estimated 17.2 million soldiers), this translates to 0.14–0.17 percent of all soldiers. It is estimated that about 90 percent of death sentences were carried out.⁷⁶

What can the conviction rates of Soviet military tribunals, the number of sentences and commuted sentences tell us? Grigorii Krivosheev and his co-authors took the numbers from a 1990 report by the administration of military tribunals on, as the author collective wrote, “the criminal record of Red Army soldiers.”⁷⁷ As Krivosheev and his co-authors wrote, from these numbers, “a picture of the strictness of the law of the harsh war years emerges.”⁷⁸ However, it is possible that reality was even stricter. For one, it seems that the report did not contain estimates on the number of undocumented deaths, the soldiers who were shot on the spot and whose deaths were not recorded by the army (or disguised as “fallen in battle”). In other words, the actual number of executed soldiers was probably much higher than the number provided by Krivosheev et al.

Moreover, the number of commuted death sentences (about 40 percent of death sentences turned into penal battalion service) requires some critical reflection. It is known from Vanessa Voisin and Sergey Kudryashov’s research on Soviet military justice during the Second World War that the internal review process (whereby a higher-level military court reviewed the sentences passed by a lower-level military court) often did not take place. In many cases, as A. M. Strogovich, a prominent Soviet jurist and expert on questions of military justice, complained in a February 1943 letter to the People’s Commissariat of Justice and the General Prosecutor, the prosecutor (who was supposed to attend or carry out the pre-trial investigation and confirm the arrest and the charge against the defendant) was not present at the trials.⁷⁹ In addition, according to the law, death sentences handed down by military tribunals had to be confirmed by the Military College of the Supreme Court of the USSR before coming into effect. On 27 June 1941, however, a decree granted the military councils of army groups (*voennye sovety*, collegial decision-making bodies within the army) the right to ratify death sentences themselves. These prerogatives were extended to the lower-level military councils of armies and corps and to divisional commanders in July and September 1941. For a death sentence pronounced by a military tribunal to come into effect, only

⁷⁶ For a discussion of numbers and estimates: Manfred Messerschmidt, *Die Wehrmachtjustiz 1933–1945* (Paderborn: Schöningh, 2005), 160–170. On the overall size of the Wehrmacht: Rüdiger Overmans: *Deutsche militärische Verluste im Zweiten Weltkrieg* (Munich: Oldenbourg, 2005), 215.

⁷⁷ Quoted from Overmans, *Deutsche militärische Verluste*, 304.

⁷⁸ Quoted from Krivosheev et al., *Velikaia Otechestvennaia bez grifa sekretnosti*, 304.

⁷⁹ Kudryashov and Voisin, “The Early Stages,” 276.

the divisional commander was needed, leading to a rapid implementation of sentences.⁸⁰ In some cases, military tribunals were allowed to carry out sentences without any ratification. As military prosecutor Abdullah Valiev recalled from the 21st Army that was employed in the region around Homel' by the end of July 1941, rapid frontline developments and military activity made it impossible for the military council of the 21st Army to ratify death sentences; they simply did not have the time to occupy themselves with these issues. If a military tribunal pronounced a death sentence, the tribunal and the NKVD were supposed to go ahead and carry out the sentence, without ratification from another institution.⁸¹

Depending on the context, that practice (that death sentences were carried out immediately) seems to have continued throughout the war. In his memoirs, Red Army soldier Gabriel Temkin recalled a quick execution that took place in the spring of 1945 in Romania. A supposed case of *samostrel*, a self-inflicted wound, was discovered in Temkin's regiment. The trial began as soon as the military court arrived from army headquarters. Conducted in front of the regiment, the tribunal pronounced the verdict ("to be shot"), after which the sentence was carried out immediately, witnessed by the soldiers.⁸² Similarly, Red Army soldier Mukhamet Shayakhmetov recalled the execution of a soldier in the summer of 1942, at the front close to Smolensk. After the commander read out the tribunal's verdict, "a sergeant-major barked: 'Permission to carry out the sentence!'" and shot the man in the back of his head.⁸³ As Nikolai Afanas'ev, for most of the war chief military prosecutor of the military tribunals for railway and water transport, recalled, "all of the most serious questions were decided on the spot, at the front."⁸⁴

Taken together, these sources suggest that the formal review process, whereby a high-level military tribunal reviewed the death sentence pronounced by a lower-level military tribunal, often did not take place. It is, of course, still possible that military tribunals at the front pronounced a death sentence but then immediately commuted it into service in a penal battalion. In other words, the 1990 report on Red Army soldier convictions, sentences, and commuted sen-

⁸⁰ Kudryashov and Voisin, "The Early Stages," 276. On rapid implementation: Budnitskii, "The Great Terror of 1941," 469.

⁸¹ Valiev, *Zapiski voennogo prokurora*, 23.

⁸² Gabriel Temkin, *My Just War. The Memoirs of a Jewish Red Army Soldier in World War II* (Novato, CA: Presidio Press, 1998), 179.

⁸³ Quoted from: Mukhamet Shayakhmetov, *The Silent Steppe. The Story of a Kazakh Nomad under Stalin* (London: Stacey International, 2006), 279.

⁸⁴ Afanas'ev's memoirs were published in: S. Iu. Ushakov and A. A. Stukalov, "Front voennykh prokurorov:" *Kogda rasstrelivali prokurorov. Rasskazy o voennykh prokurorakh* (Moscow: Viatka, 2000), 134.

tences, cited by Grigorii Krivosheev and his co-authors, might not necessarily be incorrect with regards to the number of commuted death sentences. Given what is known about the severity of punishment (and how easily a political commissar or commander could pronounce and carry out a death sentence on the spot), the number seems quite high. But perhaps 40 percent of the soldiers who were sentenced to death indeed immediately had their verdict reduced to service in penal battalions. Unfortunately, it is unclear which report exactly Krivosheev et al. cite in their work. A reference to an archival document is missing; the book thus falls short of academic standards.⁸⁵ Their historical analysis is also quite tendentious and in line with Soviet interpretations of the war. Not only do the authors call the Soviet annexation of Eastern Poland in 1939 a necessary measure in defence of the Ukrainian and Belarusian-speaking population in the region, they also maintain that researchers have yet to find proof in the archives that the NKVD blocking units did in fact kill Red Army soldiers, and they suggest that penal battalions were needed to enforce discipline at the front.⁸⁶ Ultimately, it is impossible to determine for certain the accuracy of the numbers provided by Grigorii Krivosheev and his co-authors. Without open access to TsAMO and the FSB archives, scholarly knowledge on conviction rates, including the percentage of commuted death sentences, will have to remain incomplete. Yet seeing as historians affiliated with the Russian military or the FSB – and with privileged access to otherwise virtually inaccessible archives – might have a professional interest in depicting Soviet military justice in a “positive” light, their studies should be treated with reasonable caution.

5 Soviet Military Justice: Memoirs and Recollections

Beyond conviction rates, there are other ways in which historians can assess the role of military tribunals in the disciplining and punishing of Red Army soldiers during the Second World War. In the following, I zoom in on individual biographies (the abovementioned Nikolai Afanas'ev and Abdullah Valiev, but also

⁸⁵ Krivosheev et al., *Velikaia Otechestvennaia bez grifa sekretnosti*, 304.

⁸⁶ Krivosheev et al., *Velikaia Otechestvennaia bez grifa sekretnosti*, 18, 304–8. Another book without references authored by historians employed by the FSB is: V.S. Khristoforov et al., eds., *SMERSh. Istoricheskie ocherki i arkhivnye dokumenty* (Moscow: OAO Moskovskie uchebniki i kartolitografiia, 2003).

others) to discuss how members of the military justice system, in this case military prosecutors, understood their work within the larger political context.⁸⁷

Born in 1902 in Viatka (later Kirov) in the western part of the Russian empire, Nikolai Afanas'ev began his service in the Soviet military justice system in 1924, when he became a military investigator for the military tribunal of the First Kazan Rifle Division. Throughout the interwar years, he served in different positions within the military procuracy. In the fall of 1939, he was appointed as deputy to the chief military prosecutor of the Soviet armed forces. Following the German invasion of the Soviet Union, when the Wehrmacht advanced on Moscow in the fall of 1941, many government institutions, including the Office of the Prosecutor General, were evacuated east.⁸⁸ It was then that Afanas'ev was authorised with the task of re-organising the general courts in Moscow into military tribunals. In February 1942, he was promoted to the position of chief military prosecutor of the military tribunals for railway and water transport, a position that he held until March 1945. His career continued into the post-war years: from March 1945 to June 1946, he was chief military prosecutor of the Red Army, and from July 1946 to July 1950, he was the chief military prosecutor of the Soviet armed forces and simultaneously deputy to the general prosecutor of the Soviet Union.⁸⁹

At some unspecified time in the post-Stalin years, probably in the 1960s or 1970s, Afanas'ev wrote his memoirs. Published for the first time in 2000, they consist of two parts: reflections on the Great Terror in the late 1930s (in particular, on the role of the NKVD and military tribunals in the political purges and state terror), and on the Second World War. The two parts stand in stark contrast to each other. In the first part on the Great Terror, Nikolai Afanas'ev clearly exposed the political nature of the prosecutions. Calling the NKVD "falsificators," he provided examples of how the NKVD exerted physical violence and torture to extract "confessions" from the defendants. Perhaps unsurprisingly, he painted his own role during these years in a positive light; as someone who was also in danger of arrest yet nevertheless tried to help the defendants as best as he could, saving at least one of them from certain death. Only the state security organs, Afanas'ev

⁸⁷ I have so far only been able to find memoirs by military prosecutors, not by military judges. However, one could argue that in the Soviet justice system, including the military justice system, the prosecutor was more important than the judge, seeing as he (and it seems that it was exclusively men) fulfilled prosecuting, investigative, and protesting functions all at once.

⁸⁸ Ushakov and Stukalov, *Front voennykh prokurorov*, 10, 20, 56–57 (on his career in the 1930s.) On evacuation: Rebecca Manley, *To the Tashkent Station: Evacuation and Survival in the Soviet Union at War* (Ithaca: Cornell University Press, 2009).

⁸⁹ Ushakov and Stukalov, *Front voennykh prokurorov*, 171–172.

suggested, and some of the leading Bolsheviks, most notably Ezhov, Beria, Stalin, and Molotov, were responsible for the Great Terror.⁹⁰

In contrast, his reflections on the war years lack any critical reflections on the nature of Soviet military justice. As the military prosecutor in charge of Moscow's military tribunals from the fall of 1941 onwards, he oversaw the prosecution of about 300 cases. These were, he wrote, cases of "marauders who robbed the apartments of Muscovites who were evacuated, panic-monger-deserters who, having seized state property and valuables, tried to flee Moscow, simple criminals who profited from the lack of order and protection of the city, and others."⁹¹ Theft of state property – an economic crime – carried high sentences in the Soviet Union, as did the theft of evacuee (private) property.⁹² As Afanas'ev recalled, "the most vicious plunderers and recidivists were sentenced to death by the tribunals, but a number of people were sentenced to be sent to punitive battalions at the front."⁹³ Yet whether these sentences were reasonable, that was a question that did not arise. There is no trace of a doubt in his memoirs that these individuals deserved harsh punishment. That Afanas'ev clearly understood himself not just as a representative of the regime but also as someone guarding and defending it becomes clear from his depictions of the Polish politician Stanisław Mikołajczyk, prime minister of the Polish government in exile during the war. Mikołajczyk, he wrote, was an "anti-Soviet and a bourgeois nationalist."⁹⁴ Afanas'ev also believed that the 1945 conviction of Aleksandr Solzhenitsyn (who subsequently became famous for his novels which exposed the extent of state repression and violence in the Soviet Union) was justified. According to Afanas'ev, Solzhenitsyn had "rightly been sentenced" to forced labour in the Gulag because "he was and remained an anti-Soviet person."⁹⁵

During the war, some, perhaps many members of military tribunals took issue with how the NKVD investigated and classified crimes. Yet these were procedural issues, disagreements about the correct technical application of the law, not about its substance. Above all, members of the military tribunals disapproved of verdicts without trial. The military prosecutor Boris Alekseev, for example, who headed the military procuracy of the 23rd Army until June 1942, was said to have

90 Ushakov and Stukalov, *Front voennykh prokurorov*, 6–91, in particular 65, 77, 78.

91 Quoted from Ushakov and Stukalov, *Front voennykh prokurorov*, 110.

92 On economic crimes and theft during Stalin's time: Yoram Gorlizki, "Theft under Stalin: A Property Rights Analysis," *The Economic History Review* 69.1 (2016): 288–313; Juliette Cadot, *La société des voleurs: propriété et socialisme sous Staline* (Paris: EHESS, 2021).

93 Quoted from Ushakov and Stukalov, *Front voennykh prokurorov*, 110.

94 Quoted from Ushakov and Stukalov, *Front voennykh prokurorov*, 138.

95 Quoted from Ushakov and Stukalov, *Front voennykh prokurorov*, 76.

complained to the main military prosecutor's office when he found out that 30 soldiers and commanders had been shot without legal proceedings.⁹⁶ Otherwise, however, the NKVD and the military tribunals cooperated closely. Both institutions needed each other and understood themselves as fighting for a common cause: discipline and order in the army. In their mind, the decrees and orders issued by the regime during the war were necessary tools to tighten control over the troops and to propel them to fight. Even before Order No. 227 was issued, military prosecutor Alekseev was said to have taken the initiative and created blocking units himself, in the vicinity of Moscow in the fall of 1941.⁹⁷ He then assigned two military investigators to these units and saw to it that those accused of desertion were investigated and prosecuted in the "shortest time period possible."⁹⁸

Members of military tribunals did not only find common ground with the NKVD and the political commissars in their very strict understandings of what counted as a military crime – for example, whether a wound was to be interpreted as a self-inflicted wound and thus an attempt at desertion, or whether a soldier who had lost his weapon in battle had thus proven to be a "defeatist". They also agreed that punishment should serve an educative purpose, that it should teach Soviet norms and forge defenders of the socialist motherland. At the 1945 frontline trial witnessed by Gabriel Temkin, the soldier accused of a self-inflicted wound was pleading for mercy, begging the tribunal "to spare his mother the shame of which he was guilty." After his execution, the soldiers had to participate in an act of collective post-mortem humiliation: attached to his grave, which every soldier had to pass, was a piece of plywood, on which the following words were written: "Eternal shame on the coward, who has betrayed his comrades and his motherland, and for that crime was shot and buried here."⁹⁹ Whether the frontline executions indeed had the desired instructive effect is doubtful. To Mukhamet Shayakhmetov, who was utterly appalled by the execution of a fellow soldier, they did not: "The military authorities obviously thought that it would act as a deterrent to the rest of us; but the truth is that it caused nothing but indignation among the rank and file."¹⁰⁰

At times, military prosecutors felt the need to further explain their judgments. This becomes clear from Ivan Sorotin's recollections of his years as a military prosecutor. In the summer of 1942, Sorotin was a special investigator for the

⁹⁶ As told in Ushakov and Stukalov, *Front voennykh prokurorov*, 185. It seems that Ushakov and Stukalov collected these memoirs from Alekseev.

⁹⁷ As told in Ushakov and Stukalov, *Front voennykh prokurorov*, 184.

⁹⁸ As told in Ushakov and Stukalov, *Front voennykh prokurorov*, 184.

⁹⁹ Both quotes from Temkin, *My Just War*, 179.

¹⁰⁰ Quoted from Shayakhmetov, *The Silent Steppe*, 280.

procuracy at the Voronezh Front. The headquarters of the army group were in the village Anna, in the vicinity of Voronezh. One day, Sorotin was called up to the military procuracy of the army group and ordered to investigate a case of theft: Red Army soldiers had stolen two sheep from the local collective farm. After Sorotin identified the culprit who was responsible for the deed (S.P. Steepochkin, the assistant to the battalion commander in charge of material-technical support), Steepochkin was brought before the military tribunal. His sentence, ten years in prison, was commuted on the spot for the duration of the war and instead he was sent to a penal battalion. Some of the soldiers, though, expressed their discontent with the sentencing, arguing that Steepochkin had only wanted to improve the soldiers' provisions. At this point, Sorotin "decided to explain, together with the political workers, to these soldiers why they were mistaken." The Soviet war effort, Sorotin argued, depended on the support of the civilian population. To undermine that support by stealing livestock or food meant to discredit the Red Army – which is why his crime required that kind of sentence.¹⁰¹

It is unclear when exactly Ivan Sorotin wrote his recollections (he passed away in 1979; his recollections were published in a small literary journal in 1999) and how the political context influenced his reflections. With the onset of Perestroika in the mid-1980s, war memoirs appeared that deviated from the state's official war narrative. The fall of the Soviet Union in 1991 also brought an end to censorship in publishing houses. In hindsight, the 1990s and 2000s were a period of increasing archive openness and public debates on the crimes of Stalinism. As limited as these debates were (never reaching large segments of the population nor becoming part of a government-led critical reckoning with the Soviet Union), they might have had an impact on how some, perhaps even many, individuals evaluated the Soviet past. Put differently, we can only speculate on whether Nikolai Afanas'ev would have written his memoirs differently had he been able to do so in the 1990s, whether he would have taken a more critical stance on the Soviet wartime military justice system – and his own role and responsibility for it.

In contrast to Afanas'ev, Abdullah Valiev's memoirs not only attest to the author's more ambiguous, conflicted attitude with regards to the Soviet state, but also to his own actions during the war. Abdullah Valiev was born in 1911 in the Ufa Governorate of the Russian Empire, between the Volga and the Ural Mountains. At the age of sixteen, by which the Soviet Union had emerged in place of the Russian Empire, Valiev left his village and moved to Ufa, where he enrolled in

¹⁰¹ Ivan Sorotin, "Po zakonu sovesti (zapiski voennogo prokurora)," *Pod'em* 5 (1999): 212, 136–139.

courses that prepared him to work as a low-level clerk in the new Soviet state administration. In 1932, the state authorities sent him to the nearby city of Kazan, which housed the Institute of Soviet Law, a major institute of higher education that trained future lawyers in the Soviet Union.¹⁰² Three years later, Valiev successfully completed his legal studies and began to work as a state prosecutor in the Kazan region in Soviet Tatarstan. In November 1939, when the Soviet Union invaded Finland, Valiev, a Communist Party member, volunteered to fight at the front. When the war ended in the spring of 1940, he returned to his work in the prosecutor's office in Kazan. In the spring of 1941, he was called up by the Red Army. This time, he was sent to classes that prepared him to work as a military prosecutor. When Germany attacked the Soviet Union, he was assigned to the military procuracy of the 21st Army in Homel' and in October 1941 to the military procuracy of the Red Army's 50th Army, which formed part of the Briansk Front. First as an assistant to and later as the military prosecutor of an artillery division of the 50th Army, the war took him all the way to Germany. In October 1946, he was demobilised from the Red Army and returned to his pre-war work as a civilian prosecutor in the Kazan region.¹⁰³

Valiev's memoirs, which were completed in 1992 and published in 2000, focus on the war years only, but from the editor's foreword, the reader briefly learns about his pre- and post-war life. Valiev almost became a victim of Soviet state violence in 1938 himself: he was arrested during the Great Terror and sentenced to five years of imprisonment but was released shortly thereafter. After the demise of the Soviet Union, Valiev became active in civil society initiatives that sought the rehabilitation of political victims of Stalinism. In his memoirs, there are instances in which he expresses doubts over the fairness of the sentences handed down by Soviet wartime military tribunals. This becomes particularly evident when he reflects on the July 1941 execution of soldiers in Homel', with which this chapter began. Any reader familiar with how the NKVD carried out its executions of prison inmates during the Great Terror 1937–1938 immediately notices great similarities: The pits that had been prepared in advance, in a specially cordoned-off site in a forest not far from the city to which soldiers were taken in cars, and

102 Shabaev village and the city of Ufa were part of the Bashkir Autonomous Soviet Socialist Republic (BASSR, also called Bashkiria). Bashkiria formed part of Soviet Russia. Kazan was the capital of the Tatar Autonomous Soviet Socialist Republic (TASSR, also called Tatarstan), which neighbored Bashkiria, and which also formed part of Soviet Russia.

103 Valiev, *Zapiski voennogo prokurora*, 5–7.

then shot, one by one, by an NKVD officer.¹⁰⁴ Witnessing the executions was an unsettling experience for Valiev: “[as] I watched the scene, I thought that we humans were committing unnatural acts, dressing these with all the formalities of the law.” Yet at the same time, he rationalised the executions as necessary, as serving a larger purpose: “[in] contrast to this feeling, another voice told me that what was being done here was not arbitrariness, vigilante justice, but an act of justice in the name of the law, for the sake of the highest justice.” This feeling then overtook his doubts, at least for the most part: “[t]his voice, to some extent, damped the feeling of regret that came over me about what was happening.”¹⁰⁵

In his recollections, Valiev repeatedly stressed that he only followed the law and that he went to great lengths to verify the accusations brought forth against soldiers suspected of military crimes: “In all the cases we checked, all the requirements of the law were observed.”¹⁰⁶ Whether that was indeed the case, or whether he only later in life felt a greater need to justify the actions of the military prosecutors – that question will remain unanswered. The picture that he paints in his memoirs is that of a committed lawyer, one who was concerned above all with the proper technical application of the law – yet who did not seriously doubt whether the law as such was reasonable. While Nikolai Afana’shev remained entirely silent about personal responsibility and guilt, Abdullah Valiev was more conflicted and able to critically reflect on the measures taken against soldiers deemed deserters. Yet ultimately, it seems, he was convinced of the rightfulness of the Soviet military justice system. In his memoirs, Valiev, like Afana’shev and Sorotin, not only expressed pride in the contribution of the Soviet legal profession to the victory over Nazi Germany. When mentioning Soviet citizens accused of wartime collaboration with the Germans, he did not doubt the regime’s understanding of what acts counted as treason. He was also not reflective of the grey zones of occupation, the choices that individuals made and the choices that they were forced to make in extreme moral circumstances.¹⁰⁷ Likewise, soldiers arrested on charges of espionage or terrorism were for him “enemies of our state.”¹⁰⁸ Valiev, in other words, was not critical of the Soviet state as such. On the contrary, as someone who served as the advocate of the state in military trials, he

104 For descriptions of Soviet killing sites during the Great Terror: Snyder, *Bloodlands*, 99; David Marples, “Kuropaty: The Investigation of a Stalinist Historical Controversy,” *Slavic Review* 53.2 (1994): 513–514.

105 All three quotes from: Valiev, *Zapiski voennogo prokurora*, 27.

106 Quoted from: Valiev, *Zapiski voennogo prokurora*, 26.

107 Valiev, *Zapiski voennogo prokurora*, 122–123. On choices and choiceless choices under Nazi occupation, see Exeler, *Ghosts of War*.

108 Quoted from Valiev, *Zapiski voennogo prokurora*, 29.

understood himself as a defender of its laws – and was thus implicated in the severity of the Soviet military justice system.

Conclusion

In the military, obedience and subordination are seen as key to the functioning of the army, especially in times of war. Yet how obedience and subordination are enforced and what disciplinary and punitive means an army employs against its soldiers differs from army to army, state to state. The Red Army was a particularly violent institution – and internal violence only intensified after the German invasion of the Soviet Union in June 1941. During the Second World War, the Soviet state security organs and political commissars held great power over Red Army soldiers. Even smaller disciplinary infractions could, depending on the individual situation, lead to severe punishment. Extrajudicial executions were common: NKVD officers and political commissars had the right to shoot soldiers on the spot, without trial. Despite the prevalence of extra-legal measures, Soviet military tribunals were not marginal to the disciplining and punishment of Red Army soldiers. Rather, they formed an important part of that process.

As in many other belligerent countries during the Second World War, in the Soviet Union, desertion (the act of abandoning one's military post without permission) carried the death sentence. Yet what behaviour counted as desertion – whether a soldier who got separated from his unit in the course of fighting and was unable to rejoin later on would be considered a deserter or not – that differed from army to army. Military justice systems usually also have mechanisms in place that enable sentences, including death sentences, to be commuted. In other words, how military law is translated into practice varies not just from country to country, but, within limits, also within one army, from individual court to court.

In the Soviet armed forces, members of the state security organs and political commissars, as well as ordinary commanders and officers, brought military infractions to the attention of the military tribunals (that is, if they were not dealt with extralegally, by shooting a soldier on the spot). In that process, the Soviet state security organs fulfilled an investigative function, if only cursory, before military prosecutors took over who determined whether a particular act was to count as a criminal offence or not. Put differently, as in Soviet general jurisdiction courts, it was the prosecutors and not the judges who occupied the most powerful position within a tribunal. As such, military prosecutors had some leeway in their interpretation of what counted as military desertion. Yet as the recollections of

military prosecutors Abdullah Valiev, Nikolai Afanas'ev and others show, the prosecutors usually followed the harsh line given out by the regime. Even someone like Abdullah Valiev, who, when reflecting on the execution of a soldier sentenced for desertion, expressed some doubt, perhaps even regret over the act he had to witness, quickly justified it as a necessary measure, one that fulfilled both educative and punitive functions. During the war, military prosecutors and NKVD members did come into conflict with each other, usually over the correct application of the law. Some military prosecutors like Valiev complained, for example, that the NKVD had not carried out proper investigations, had improperly qualified a crime before handing over the case to the prosecutors, or had mistreated a suspect. However, these were conflicts over technical and procedural questions, not conflicts over the essence of Soviet law. The military prosecutors analysed in this chapter did not question whether the severity of legal measures taken to punish infractions of military law was morally justified. Both institutions, the military's judicial apparatus and the state security organs, depended on each other and cooperated closely – in peacetime, but even more so in times of war. The same held true for the political commissars, on the one hand, and members of the military judiciary, on the other. By and large, they found common ground in their belief that Soviet military justice served a higher purpose. In their eyes, a harsh military justice system was necessary to defend the state against its alleged internal enemies, to educate soldiers, and to teach them proper military conduct – and to contribute, thereby, to the military success of the Red Army during the Second World War.

