

BOOK REVIEW/ COMPTE RENDU

Daly, Jonathan. *Crime and Punishment in Russia: A Comparative History from Peter the Great to Vladimir Putin*. London: Bloomsbury Academic, 2018, pxx-236, \$30 paper (9781474224352).

How did the Russian criminal justice system evolve from the reign of tsar Peter the Great to the rule of president Vladimir Putin? This is the question that Jonathan Daly (University of Illinois, Chicago) answers in this well-crafted and well-written monograph. In a nutshell, dramatic change and striking continuity characterized the evolution of criminal justice in that country; furthermore, unlike in the rest of Europe, reform occurred mostly from the top down rather than from intellectual and political movements sponsored by influential nongovernment elites.

Crime and Punishment in Russia is based on a wide array of secondary sources and proceeds chronologically, starting with the pre-Petrine period. The absence of legal theorizing, of a legal profession, of permanent judges, of the possibility of appeal, and of a system of courts best described criminal law before Peter the Great (1682-1725). Instead, officials of the prince presided over judicial proceedings that, given the arbitrariness of the political power, often resulted in bodily mutilation, flogging, branding, and death sentences. Chapter I surveys the Russian criminal system in the eighteenth century. Both Peter I and Catherine II (1762-1796), the key figures of this period, shared the same priorities – to Europeanize their country by inculcating respect for the law and creating a uniform hierarchy of courts. Their efforts were only partially successful, largely because the power of social elites (nobles and merchants) and the bureaucracy was hardly constrained by administrative or constitutional rules. Huge backlogs, the lack of trained jurists, and the absence of an up-to-date law code were further obstacles to the triumph of the rule of law. Chapters 2 and 3 outline the judicial developments in the nineteenth century. Here, the author rightly emphasizes the major judicial reform introduced by tsar Alexander II in 1864 – new judicial institutions, trial by jury, equality before the law, public court proceedings, and irremovable

judges. These innovations were all important steps on the path toward the rule of law.

The Russian revolution that ultimately brought the Bolsheviks to power in 1917 resulted in the introduction of even more radical changes. The early Soviet regime “viewed prerevolutionary criminal law as hopelessly integrated with structures of class exploitation” (79), hence the need to jettison it. Furthermore, Lenin’s conviction, as outlined in *State and Revolution*, that under communism the conscious proletarian masses would replace the police, lawyers, the law courts, criminal investigators, and prisons of tsarist Russia, was soon confronted with the harsh reality of a bloody civil war. Indeed, repressive agencies, like the Cheka, emerged, “endowed with far more unchecked power than their prerevolutionary counterparts” (80). Thus, the very idea of the rule of law was rejected. Stalin, for his part, engineered a break toward almost complete lawlessness, as evidenced in the collectivization drive and the Great Terror – a time period when the justice system was used to provide a coerced labour force and to punish presumed enemies of Soviet power. With the dictator’s death in 1953, however, state terror ended and, subsequently, criminal justice became more predictable and more lenient – a process facilitated by the institution or revival of mechanisms for popular participation in the administration of justice, a tighter supervision of the Procuracy, and an enhancement of the independence of the judicial system. The amnesty decree of March 27, 1953, for example, that released millions of prisoners from the Gulag illustrated this commitment to legality on the part of the Communist Party. However, the recent past still cast a long shadow. Indeed, old habits of official micromanagement, self-serving administrative interference in the execution of justice, arbitrary governance, as well as persistent fears of political dissidence and pervasive social control undermined and at times – in particular, during the Brezhnev era – reversed this trend of liberalization.

The last chapter tells the story of the significant changes in criminal justice introduced, in the wake of the collapse of the Soviet Union in December 1991, by presidents Yeltsin and Putin – the latter trained, like Lenin, as a lawyer. A case in point would be the adoption of a new Code of Criminal Procedure in 2001. Nevertheless, Daly notes that the rule of law has yet to put down deep roots in Russia. Such a statement should not surprise: one does not easily erase seven decades of Soviet tradition and practice that had witnessed the politicization of the criminal justice system.

In a short but important conclusion, Daly summarizes the key themes of his study: 1) in their relationship with Europe and the West, the elites of Imperial Russia “engaged in creative adaptation rather than mere imitation of foreign models” (179); 2) Russian monarchs acknowledged the importance of law, but were not willing to rule under the law – a refusal shared by Soviet leaders to an even higher degree; 3) the self-perpetuating propensity in Russian culture and society “to seek to influence the law rather than appeal to it” (181); 4) the dualistic nature of the criminal justice system illustrated by the conflicting tendencies between informal practices and institutions, popular norms and official law, and ordinary criminal procedure and special variations deployed in emergency circumstances; 5) the deeply rooted inclination toward ascribing a higher value to official and state interests than to personal and private interests, preferring informal legal practices and rules, resisting checks and balances, and wielding arbitrary power, and 6) the long-term continuities, like arbitrariness, partiality, uncertainty, pervasive corruption, and dependence on the powerful. In his epilogue, Daly sounds a rather pessimistic note: though it did not have to, Russia has remained a prisoner of its political culture. Many of its leaders and rulers have introduced dramatic reforms, which suggests “that multiple paths were possible”; nevertheless, “the historical record shows that the actual path followed was one mostly of continuity” (184).

Crime and Punishment in Russia, a highly detailed overview of the many approaches to crime over the centuries, will appeal first and foremost to lawyers, investigators, procurators, and judges. (Incidentally, the book is dedicated to “Upholders of Justice Everywhere”). Some historians and sociologists will likely lament the fact that the author did not give a louder voice to those who were the subjects and often the victims of such a transitional and mutating judicial system. If he had done so, it would have made for a more engaging narrative. However, such a choice will not surprise readers familiar with Daly’s well-received previous work – *Autocracy under Siege: Security Police and Opposition in Russia, 1866–1905* (c. 1998) and its follow-up *The Watchful State: Security Police and Opposition in Russia, 1906–1917* (c. 2004) –, that focused mainly on the late tsarist government’s efforts to maintain order as it struggled against political opposition and threats of violence. To the author’s credit, however, is not history written from the top down and that privileges an institutional framework, the way this one does so emphatically,

still very much worth paying close attention to? This is a book that deserves to be widely read.

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