Two Ways to Convict Nobody

XDA · 🇨🇳莫須有 and 岳飛, 1142 × 🇷🇺Prikaz 00447, 1937 · how two states both abolished evidence, eight centuries and four thousand miles apart — and did it in opposite directions

Start here · the names and words

岳飛 · Yue Fei (Cantonese roughly *Ngok Fei*, 1103–1142) — a Song dynasty general, and still one of China's great folk heroes. He was winning. He was recalled anyway, charged, and executed at 39.
秦檜 · Qin Hui (1090–1155) — the chancellor who had him killed.
莫須有 · "mook sui yau" — the phrase 秦檜 is recorded as giving when 韓世忠 asked what the evidence against Yue Fei actually was. It survives in Chinese as the standard term for **a charge invented to fit a man you have already chosen**. **Its sourcing is contested and its translation is disputed — see the limits section, which you should read before relying on it.**
Jurchen · 女真 — the people Yue Fei was fighting. They ruled north China as the **Jin dynasty**, and their descendants became the **Manchus**, who later ruled all of China as the Qing. **They are not Russians** — different language family entirely. Hold that thought; the Russian connection is real but it runs through land, not blood.
Prikaz 00447 — the 1937 NKVD order that gave each Soviet region a **number** of people to arrest. **NKVD** = the Soviet secret police of the period.

The one idea

> **Both states stopped needing evidence. China's method picks the person first and invents the charge. Russia's method picks the number first and finds people to fill it.**
> Same crime, opposite ends of the chain. Call it retail and wholesale.

Side by side

Stage	莫須有 · China, 1142	Prikaz 00447 · USSR, 1937
What comes first	**The man.** Qin Hui wants Yue Fei gone	**The quantity.** A region is told how many to arrest
What comes second	A charge, written to fit him	Names, found to fit the number
What's missing	The evidence	The evidence *and* any reason it was you
Scale	One general	Hundreds of thousands
Was it legal?	The courts were used and **refused to convict** — the emperor killed him by edict anyway	A lawful order from the head of state, executed by a purpose-built body
Machinery required	**One edict.** No new institution	**A parallel apparatus** — NKVD troikas, built for throughput

The Soviet half is documented in the regime's own paperwork. Stalin's 1937 orders listed "quotas of people to be arrested **(no cause was given)**." **First category** meant death; **second category** meant eight to ten years in the camps. And officials asked for *more*: the Armenian NKVD wrote, "We ask permission to shoot an additional 700 people." Stalin, in his own hand: "**I raise the number of First Category prisoners in the Krasnoyarsk region to 6,600.**"

Why the wholesale version is worse in one specific way

This is the part worth sitting with, because the instinct runs the other way. You would think being personally targeted is worse than being swept up at random. In one respect it is not.

Yue Fei knew who his enemy was. He had a named opponent, a reason, a side he had been on. Being hated is terrible, and it is also *legible* — there is something to understand, and something to be innocent of.

A quota removes even that. Shalamov, who survived seventeen years in Kolyma, describes exactly this: the prisoners "were neither enemies of the government nor state criminals, and they **died, not even understanding why they had to die. Their self-esteem and bitterness had no point of support.**"

> **"No point of support" is the key phrase.** Bitterness needs somewhere to attach. Yue Fei had Qin Hui to be bitter at. A man arrested to complete a regional total has nobody — **not even an enemy.** He has an administrative figure.
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> This is also why Shalamov and Solzhenitsyn disagree about whether the camps taught anything. A man who can name his enemy can build a moral story. A man filling a quota cannot. (See the companion analysis, *Two Prisoners, One Camp, Opposite Verdicts*.)

The loop · China's own symbol of this got desecrated by the next version of it

Yue Fei's tomb stands in Hangzhou, and has been a place of pilgrimage for eight centuries — the monument to a man destroyed by a charge that needed no evidence.

In August and September 1966, the Red Guards trampled it. The sweep known as **Destroy the Four Olds** — *the campaign to wipe out "old thought, old culture, old customs, and old habits"* — hit it along with everything else. The same passage records what else those weeks produced: valuables ransacked from **33,695 Beijing households** with an estimated **1,700 people beaten to death**; Shanghai managing **84,222 households in fifteen days**; mosques stormed and Qurans burned in Xinjiang; some sixty Buddhist temples pillaged on Mount Wutai.

The manifesto was explicit about the goal: "turn the old world upside down, smash it to pieces, pulverize it, **create chaos and make a tremendous mess, the bigger the better.**"

> **So the state running the industrial-scale version of conviction-without-evidence smashed the memorial to the retail version.**
> Not out of sympathy for Qin Hui. Out of indifference to the whole category — and that indifference is the point. A regime that fixes numbers in advance has no use for a story about one man wrongly accused, because under its system nobody is accused of anything in particular.

And China had a word for this long before Russia had the practice

秦檜's name stayed in service as a weapon for seven hundred years. Hsü records Chinese officials in the 1880s, arguing over whether to fight France for Annam (Vietnam), attacking the statesman **Li Hung-chang** by comparing him "with the notorious historical traitor **Ch'in Kuei (A.D. 1090–1155)**" — and the tactic worked; it "cowed other advocates of peace."

Li's complaint about it is almost modern: "I am plagued by the irresponsible talk of officials not in positions of authority… They discuss matters of policy, and after matters of policy, **they discuss men.** Most engage in bullying."

> *"They discuss matters of policy, and after matters of policy, they discuss men." That is the mechanism, described from inside, by its target, in the 1880s.*

The Russian connection you were reaching for · it runs through the land

You asked whether the Jurchen were "similarish tribes" to the Russians. Ethnically, no — not remotely. But the hunch has a real answer, and it is better than the one you were after.

The territory Yue Fei fought the Jurchen over became Russian. Hsü's account: the Manchu ruler Abahai "had brought the whole **Amur Region** under the Ch'ing rule" by 1643 — the Jurchen-Manchu heartland. Then Russia took it:

- **1858, the Treaty of Aigun.** Nikolai Muraviev spent two decades pushing down the Amur, "constructing fortified posts at strategic points and occupying its lower reaches." By 1858 he was strong enough to "**intimidate the meek Manchu general I-shan into signing**" — handing Russia the north bank of the Amur and joint possession east of the Ussuri to the sea. **The Qing court refused to ratify it**, because it ignored the border fixed by the Treaty of Nerchinsk in 1689.
- **1860, the Supplementary Treaty of Peking.** On 14 November, "within a week of Allied evacuation of Peking," the envoy Ignatiev collected new concessions east of the Ussuri **"and legalized its previous acquisitions under the Treaty of Aigun of 1858."**

> **Read that last clause again: *legalized its previous acquisitions.***
> Russia took the land, was told the paperwork was void, and then obtained paperwork afterwards. **Possession first; legality second.** It is the identical sequence to the quota — act, then produce the authority — applied to territory instead of to people.

So the chain is: the Jurchen homeland → the Manchu empire → Russia, acquired in the same back-to-front order the Soviet state would later use on its own citizens. Different century, different victim, same instinct about what law is for.

What all of this adds up to

The test this series keeps arriving at holds here too, in both directions. Ask: **was the harm allocated before anybody was shown to deserve it?**

- 莫須有 — **yes.** The man was chosen, then the charge was written.
- Prikaz 00447 — **yes.** The number was chosen, then the men were found.
- Aigun and Peking — **yes**, for territory. Taken, then legalised.

And notice what legality did in every case: it arrived on time. The Song courts were used, then overridden by edict. Prikaz 00447 was a lawful order. The Amur became Russian by treaty, backdated. **Nobody in this analysis broke a law — because in each case the authority that would have been broken was the same one doing the breaking.** That is why "was it legal?" is the wrong question to ask of a state.

> **Correction, 5 Oct 2026 — the "parallel system" framing was wrong for the Song case, and the right version is sharper.**
> An earlier draft of this analysis said both regimes built a second legal system beside the first. **That is true of the Soviet case and false of the Chinese one**, and the asymmetry is the better finding.
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> **There was no parallel system in 1142.** Yue Fei went through the regular judiciary — the Censorate and the Court of Judicial Review — and **the machinery refused to convict him**. After two months

> the case "could not be completed" (獄不成), and the officials who declared him innocent were purged. Gaozong then killed him by imperial edict — 賜死, "bestowed death" — with the formal verdict backfilled the same day. Under Song constitutional theory the emperor's edict *was* law, which is why the 1162 exoneration condemned the **facts** (冤) rather than the procedure.
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> **So the law was not broken and not rewritten. It was short-circuited by prerogative.**

And the irony runs the opposite way to the one you would expect. The *wholesale* operation is the one that needed new institutions: troikas, closed sessions, quotas, a bureaucracy built for throughput. **The *retail* operation needed none of that — one man, one edict, one afternoon.**

> **Which revises the whole comparison:** the difference between retail and wholesale is not lawfulness, and not even cruelty. **It is how much machinery the scale demands.** Killing one famous general requires only that the sovereign be willing to say so. Killing hundreds of thousands requires an apparatus — and an apparatus leaves paperwork, which is why we know the Soviet numbers and will never know what Gaozong was thinking.

Honest limits — including one that needs checking

> ⚠️ **The 莫須有 quotation: checked, and it does not say what we assumed.**
> An independent check (5 Oct 2026) found the exchange is **not** first recorded in the 宋史 (1343), as this analysis originally guessed. It appears earlier — **in 1176, inside the Song itself** — in 趙雄's funerary stele for 韓世忠. That sounds better until you read the provenance: the stele was **commissioned by Emperor Xiaozong** at the request of Han's son, written by a future chancellor, calligraphed by another, with the title in the emperor's own hand — produced while Xiaozong was rehabilitating Yue Fei and simultaneously shielding his predecessor Gaozong.
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> So: **34 years late, no contemporary witness, and a state-commissioned rehabilitation monument.** Earlier than we thought and more politically interested, not less. One credible scholar argues the anecdote is an outright fabrication; that is revisionism rather than consensus, but it is peer-reviewed and serious.
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> **The translation is disputed too.** "There need not be any" reads as a confession of fabrication. "Perhaps there is" reads as a bureaucratic hedge. **The sense change matters to this entire analysis**, and there is no scholarly consensus.
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> **Honest position:** Song-attested from 1176, no contemporary witness, commissioned context, historicity unprovable, translation contested. Use the phrase as the proverb it has become — not as a transcript.

The two cases are also wildly different in scale, and the comparison can flatter the smaller one. One execution and a campaign against hundreds of thousands are not morally equivalent events, and nothing here says they are. What transfers is the *mechanism* — the order of operations — not the magnitude.

The land argument is a sequence, not a motive. Showing that Russia legalised the Amur annexation after the fact establishes that the pattern recurs. It does not establish that the same people, doctrine or reasoning produced 1858 and 1937, and no source here claims continuity between them.

One thing this corpus cannot speak to at all: whether Yue Fei's conviction was legally irregular *by Song standards*. He was tried. Whether that trial broke Song law, or merely used it, is a question for

sources these eleven books do not contain — and it is exactly the question that would make the parallel with Prikaz 00447 tight rather than suggestive.