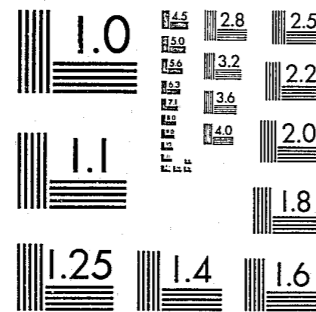


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MARCH 1983

Correctional Practices in the Soviet Union

BY JAMES P. ROWOLDT AND CHRIS W. ESKRIDGE, PH.D.*

THE SOVIET UNION is officially composed of fifteen republics, who work cooperatively as a federation. This federation, known as the Union of Soviet Socialist Republics (U.S.S.R.), is governed by a centralized bureaucracy, controlled by the Communist Party. From the onset, the Soviet Union has clung to the traditional Marxist tenet that crime is based on private ownership. Partially in an attempt to eradicate crime, the Soviet government has historically outlawed private ownership. Yet crime continues to persist as an entity in that society. The existence of crime, has been, for many years, attributed to the remnants of the bourgeois capitalism and the aftereffects of World War II.¹ The war, however, is becoming a rather tenuous excuse with the passage of time. Consequently, many Soviet leaders are now looking to industrialization, migration, and urbanization for the roots of criminal behavior. They have projected that these factors tend to break down social organizations and thus serve to increase the incidents of deviant behavior. This article will examine the response of the Soviet government to their contemporary crime problem, and will compare and contrast their methods and techniques with those employed by the United States.

Correctional Law in the Soviet Union

The principles upon which the Soviet correctional system operates were laid down in a law approved in July 1969 by the U.S.S.R. Supreme Soviet, entitled *Fundamentals of Corrective Labour Legislation in the U.S.S.R. and the Union Republics*.² After the passage

of this law, each union republic passed individual laws which encompassed the principles of the national law. The edict retains most of the system of theory, regulations, and practices laid down in official decrees in 1954, 1958, and 1961. The maximum term of deprivation of liberty is 15 years and is reserved for those convicted of particularly serious crimes or recidivists, deemed to be quite dangerous.³

The law provides for a blend of two features of corrections: the negative feature of inflicting suffering, and the positive feature of reforming and correcting the individual. The official explanation of this anomaly is that corrections is by definition characterized by some degree of suffering, both physical and moral. The elements of the suffering and other forms of punishment serve as a necessary deterrent, both for the individual prisoner and for unstable elements of the population who might be tempted to commit crime.⁴ Therefore, while Soviet literature on penal policy features frequent warnings against infliction of unnecessary suffering on prisoners, official policy is characterized by prohibition of undue mildness in the treatment of prisoners. The Soviet system basically attempts to inflict hardship on offenders with relevance to the seriousness of their crime. One sanction limits the food available for consumption by stating, "convicted persons shall receive food providing for the normal functioning of the human organism."⁵

¹ David W. Patterson and Anne Doak, "Constitutional Changes and the Russian Philosophy of Justice," *International Journal of Comparative and Applied Criminal Justice*, Vol. IV, Spring 1980, pp. 29-34.

² "Prisoners of Conscience in the U.S.S.R.: Their Conditions, Treatment, and Corrections," *Amnesty International Report*, Quartermaine House, Ltd., Sunbury, U.K., 2nd Edition, April 1980.

³ David W. Patterson, "Criminal Justice in the Soviet Russia," *International Journal of Comparative and Applied Criminal Justice*, Vol. 4, Winter 1980, pp. 120-124.

⁴ For one of the most well known and moving accounts of life in the Soviet correctional system, see, Aleksandr I. Solzhenitsyn, *The Gulag Archipelago*, New York: Harper and Row, 1974.

⁵ *Amnesty International Report*, p. 91.

This in itself is contrary to United Nations guidelines calling for nourishment that is both nutritional and minimally appetizing.

Current Soviet correctional legislation also abides by long-established Soviet tradition in asserting that a primary goal of the correctional system is, "the correction and re-education of convicted persons."⁶ Earlier codes did not support such a notion for political prisoners, but rather for criminal elements. This distinction no longer exists.

Legislation also regulates the conditions of the five types of punishments which are imposed by the courts on convicted adults: imprisonment, capital punishment, exile, banishment, and corrective work without imprisonment. All these punishments are administered by the Ministry of Internal Affairs.

Prisons

There are different types of detention facilities in the U.S.S.R. Prisons are especially high security institutions intended for those who have committed serious crimes and for recidivists. Such detention can also be given in conjunction with punishment for disciplinary action from other correctional facilities. The other types of institutions are known as corrective labor colonies. They are designed to serve as treatment centers, while prisons are designed as a mode of punishment. Another major difference between the two types of institutions is that inmates of prisons live in cells, while those assigned to labor colonies live in communal barracks. More restrictions are also placed on those individuals housed in prisons in areas such as visitation, and personal correspondence.

Corrective Labor Colonies

In 1969, with the passage of the Principles of Corrective Labor Legislation, the Soviet Union began to place increased emphasis on assignment of mandatory labor, as opposed to a penalty of merely depriving offenders of their freedom. The majority of offenders sentenced to deprivation of freedom now serve their terms in corrective labor colonies where inmates are housed in dormitories, work at local industries, and take part in general and vocational education.

Since inmates are separated based on the severity of their crimes, there are four styles of confinement or regimes found within Soviet corrective labor colonies: general, intensified, strict, and special.⁷ There may be several separate regimes in each colony. The Courts make the initial determination as to who is

to serve in what regime, though correctional officials may adjust that assignment as a result of inmate behavior. The actual number of corrective labor colonies is classified information. However, Amnesty International has worked for the release of prisoners of conscience in several hundred colonies.⁸ Colonies known to Amnesty International exist in every Union Republic and at almost every intermediate level territorial unit in the country. Those receiving the harshest punishments are those who commit especially dangerous crimes against the state, and recidivists. While prisoners generally serve their terms near home, they may be transferred to prison facilities in other parts of the country. An interesting fact is that prisoners not speaking the Russian language, such as political prisoners from certain areas, may be treated with more severity.

As an incentive to motivate offenders toward a correctional attitude, persons incarcerated in more restrictive labor camps may be transferred to less restrictive camps, including a special settlement. The Principles of Corrective Labor Legislation (as amended in 1977) established as a reward, the possibility of transfer of convicts to colony settlements after they have served no less than one-third of their terms in the case of most crimes, or no less than one-half to two-thirds of their terms in the case of certain serious crimes. Those working up to this privilege may also be afforded the opportunity of parole.

When individuals prove that they have corrected themselves, then on the grounds specified by law, they may be paroled.⁹ Parole involves an obligation to work in the community and is possible only for persons whose model behavior and honest attitude for work while in custody offered proof that they had taken the path of correction.

Officials in inmates' hometowns are notified 2 weeks prior to a parole release. These local officials are responsible for finding former inmates a home and a job, and must also monitor their economic and social progress. Supervisory commissions check on places where ex-offenders are employed and are to work actively to help ex-offenders maintain their jobs.

Special corrective labor colonies are in many ways quite different than the other three styles of corrective labor colonies and require a more detailed review. In 1977, the Supreme Soviet provided legislation for the separation of persons sentenced to deprivation of freedom by degree of criminal intent. This meant that persons convicted of crimes of negligence would be separated from those convicted of committing intentional crimes. The more serious offenders are placed in more restrictive and harsher penal environments. The colonies for negligent offenders are mainly for first offenders sentenced to not more than 5 years.

⁶ *Amnesty International Report*, p. 92.

⁷ Patterson, "Criminal Justice in the Soviet Union," p. 121.

⁸ *Amnesty International Report*, p. 100.

⁹ Eraksin, "Corrective Labor," p. 48.

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They are referred to as special settlements.¹⁰ These special settlements extend many freedoms to the individual. According to Patterson and Doak:

The population of the colony settlement is supervised, but there are no restrictions on visitors, mail or money. The colonies operate on a system of incentives, where evidence of improved rehabilitation results in improved conditions or various forms of early release. Colony inmates do socially useful labor and are paid normal wages (a part of which is withheld to cover living costs). However, regardless of the amount of money withheld from their wages, inmates are guaranteed minimum earnings to purchase food and other necessities.¹¹

Additionally, inmates of these facilities may be permitted furloughs for up to 7 days for a variety of reasons, including, the death of a close relative, a severe illness threatening to the life of the convict, or a natural calamity that has done considerable material damage to the convict or his family. The cost for such travel must be born by the offender. Settlements are distinguished from regular colonies in other ways.

In colony settlements, convicts wear the clothing customary in civilian life and not clothing of a single style, as in other types of correctional labor colonies. They are allowed to possess money and valuables, and may have unlimited conjugal visits; no limitations are made on the number of packages, money orders, and parcels of reading materials that they may receive.¹²

If the necessary conditions exist, prisoners may, with the permission of the colony administration, dwell within the limits of the colony with their families. They may receive their wages in hand for the work they perform and have the right to dispose of it at their own discretion. No matter what deductions there may be, they must be paid no less than 50 percent of their earnings. Settlements require the inmates to work hours of employment similar to those in normal society. Some of these settlements are designed to promote the educational endeavors of the offenders.

Restrictions include the obvious deprivation of freedom for the offender. Additionally, convicts in settlements may not, without the permission of the administration, leave the limits of the colony, move around at night, or change their place or type of employment. As previously mentioned, they are not guarded, but the administration exercises constant supervision and monitoring of their behavior. Infractions, such as gambling or drinking, may result in confinement to an isolation structure for a period not to exceed 15 days. Serious violators of the rules generally are regarded as those who hamper the administration of the correctional labor institution in carrying out its tasks of resocializing and rehabilitating convicts.

¹⁰ V. Eraksin, "Corrective Labor Colony Settlements," *Soviet Law and Government*, Vol. 16, Spring 1978, pp. 44-51.

¹¹ Patterson, "Criminal Justice in the Soviet Union," p. 122.

¹² Eraksin, "Corrective Labor," p. 47.

Inmates in special corrective labor colonies, and to some extent in all Soviet correctional settings, are allowed to participate in some forms of self-government. This applies not only in disciplinary measures, but also to meeting educational and motivational needs. This is perhaps indicative of a general perspective that pervades the entire country where civilians (as well as inmates) have a national duty to mind other people's business. It should be noted that labor colonies rely on group influence and peer pressure to instill good work habits in inmates so that they may experience the joys of socialist labor.

Corrective Work Without Imprisonment

Another form of Soviet corrections is corrective work without imprisonment. This practice involves the suspension of a harsh sentence, which would have involved deprivation of freedom, on the condition that the offender be employed in corrective work. In 1973, about 20 percent of all convicted people were sentenced to corrective work without imprisonment.

Corrective work without imprisonment lasts from 1 to 5 years. It is expected that individuals work in the place in which they have been assigned, yet they may be transferred to another place at any time, without their consent. Offenders must pay 5 to 20 percent of their salary to the state, are granted no vacation time, and are subject to disciplinary action. Families may also be prohibited from living with the offender. For avoiding work or leaving their district of assigned residence, offenders may, by court decision, be sent to serve their full sentence in a corrective labor camp.

The intent of this form of probation through the suspension of the sentence is the reform and re-education of offenders under supervision, using coercive measures of the state, and the social pressure of the collective responsible organization. In the long run, it is the anticipation of the Communist Party that this type of alternative can replace institutional confinement. For offenders to be eligible for this type of penalty, their crime must not represent social danger, and the penalty under the criminal code must not exceed 1 year's deprivation of freedom. Like contemporary American probation and parole, it permits the law breaker to retain socially useful ties, especially to his labor collective, and to continue a somewhat normal life within society.

The Death Penalty

As in other areas of the Soviet correctional system, there is little information on the sentence of death. Such a sanction, however, is known to exist. The death penalty, usually by shooting, may be applied for treason, espionage, sabotage, aggravated homicide,

terrorism, banditry, counterfeiting, currency speculations, theft of state property, rape, flying abroad and refusing to return, desertion, and various war crimes. Statistical information on the numbers subjected to the death sentence are not made available by the Soviet government.

Exile

Exile is another form of correctional sanction used in the Soviet Union. Offenders who are exiled are generally sent to specific areas where they are guarded by some type of local authority. Exile is a form of isolation through relocation. Individuals may be sent to a variety of areas. The basic restriction imposed by such a sentence is a strict confinement to a particular locality, along with surveillance by local internal affairs officials. Internal passports are taken away for the duration of the sentence, and in its place, offenders receive identity cards. The local Minister of Internal Affairs (M.V.D.) may strengthen surveillance by requiring individuals to report to M.V.D. officials in person as often as four times a month. In addition, exiled persons' presence is usually made known to the community. The authorities forewarn area inhabitants and frequently seek their assistance in surveillance. For violations of discipline, or failing to report regularly to one of the internal affairs authorities, the local M.V.D. may impose various punishments on exiled persons, including an extension of the term in the exiled area for up to 6 months.

Exiles are required to perform socially useful, though often mundane, labor. Since the Soviets emphasize work as a corrective tool, this is considered to be one of the most important aspects of the exile process.

Banishment

The Soviets also employ a sanction known as banishment. The main component of this sentence is the expulsion of the offender from a particular locality and prohibition of return for the duration of the sentence. In addition, the Council of Ministers and the Union Republic Council of Ministers establish and maintain lists of other localities from which persons serving this punishment are banned. Any locale not included on this list can be selected as a place for banishment. While serving the sentence, banished persons do not have to report regularly to the local M.V.D., but must inform them that they have taken up residence in the particular locality, giving their

address or place of work. It should be noted that sentences of banishment are relatively rare.

Community Corrections

There are a variety of sanctions in the Soviet Union other than exile, banishment, imprisonment, death penalty, and corrective work without imprisonment which may be imposed. These include public censure, public apology, restitution, fines, full or partial confiscation of property, deprivation of titles, ranks, and medals, and/or disqualification from holding office (1-5 years). The frequency of their administration is unfortunately unknown at this time.

Juvenile Delinquency

Juvenile delinquency has long been a problem in the Soviet Union. As Eraksin has noted, the revolution, and the subsequent Civil War that broke out in the country, created favorable conditions for the emergence of criminality, particularly in juvenile delinquency.¹³

Two factors have been identified as contributing to the juvenile delinquency problem. Education level of the parents seems to be important. Zeldes states that approximately 80 percent of the parents whose children have committed crimes have not completed more than seven years of school.¹⁴ Another key factor is alcohol abuse. Studies have shown that up to 80 percent of juvenile delinquents habitually consume alcoholic beverages. Soviet officials maintain special juvenile files that contain information relative to juveniles who have been implicated in various criminal proceedings, and whose behavior gives grounds to suspect them of being crime prone. There are also agents who monitor homes with neglected children, or whose parents lead immoral and antisocial lives.

Several sanctions are available to the courts in dealing with delinquency. They include deprivation of freedom, corrective works without imprisonment, fines, compensation for damages, and public censure. These are similar to adult penalties. However, juvenile delinquents below the age of 18 cannot be sentenced to death, exile, banishment, nor can they receive a prison sentence. The deprivation of freedom cannot exceed 10 years, regardless of how serious the crime or the number of prior convictions of the youth. There are special schools which handle juvenile delinquents. The maximum commitment to these facilities is 3 years.

Comparison Between the Soviet Union and the United States

The Soviet system of corrections has many similarities to the correctional system in the United States. It

¹³ Ilya Zeldes, "Juvenile Delinquency in the U.S.S.R.: A Criminological Survey," *International Journal of Comparative and Applied Criminal Justice*, Vol. IV, Spring 1980, pp. 15-27.

¹⁴ Zeldes, "Juvenile Delinquency," p. 15.

would appear from the literature that the Soviets are presently experiencing some difficulty in determining a singular direction in their correctional philosophy. They seem to suffer from a mixed approach, resulting in a confused application of correctional methodology, and a tendency toward severity, much like the United States.

Soviet prisons vary in degree of security, as do institutions in the United States. Perhaps the major distinction is the Soviet emphasis on work. Most facilities seem to revolve around a staunch work ethic, while many American prisoners must pass their time in idleness. Prisons in the United States are unable, at this present time, to engage in an open market industry, due largely to the resistance of labor leaders and private industry. The Soviets need not contend with this since the government owns the factories. However, a large number of prisoners in the Soviet Union must perform a variety of mundane labor, a practice which has diminished in the United States in recent years. Soviet prisons, like those in the United States, try to re-educate prisoners to conform to societal norms. This is done through both coercive and persuasive means.

The death sentence is imposed in the Soviet Union; however, there is little information released as to how frequently it is actually administered. The death sen-

tence continues to be imposed in the United States, though only five executions have occurred since 1967. This small number is somewhat misleading, however, for the American justice system as a whole, primarily through the police, actually administers the death penalty to probably as many as 600 persons each year.¹⁵ Whether this is more or less than the number executed by the Soviet justice system as a whole is, of course, impossible to determine at this time.

Supervisory methods of community placement are used frequently in both countries. On the other hand, banishment and exile are not formally used in the United States. However, some states do place individuals on probation, transfer them to other parts of the country through the Interstate Transfer Compact, and then refuse to re-call them upon violation of their probation. Prisons and parole operations in the United States also use similar procedures. This method of unloading unwanted offenders is, in many ways, like exile and banishment.

While evidence would indicate that in practice, the Soviet system of corrections is much more harsh than that of the United States, it is interesting to note their substantive orientation toward justice and human rights is not. Indeed, Soviet law provides for citizens' due process rights, analogous to those in the United States. The major difference between the Soviet and American systems is that these rights may be denied Soviet citizens who are charged with certain crimes. However, as the United States continues to adhere to the tenets of the crime control model, this difference may dissipate to some degree.¹⁶

¹⁵ Lawrence Sherman and Robert Longworthy, "Measuring Homicide by Police Officers," *Journal of Criminal Law and Criminology*, Vol. 70, 1979, pp. 554-559.

¹⁶ See, for example, the case, *Murphy v. Hunt*, (No. 80-2165, 30 CrL 3075) in which the Supreme Court of the United States in essence upheld an amendment to the Nebraska Constitution requiring the denial of bail to defendants charged with forcible sex offenses when "the proof is evident or the presumption great."

IN THE UNITED STATES, one of the earliest efforts to develop standards of fairness and justice within the correctional system was begun in the late 18th century by the Philadelphia Prison Society. These reforms represented the first set of standards, or minimum operational guidelines, for the treatment of offenders.

— ILENE R. BERGMANN

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