

# THE SOVIET CRIMINAL CORRECTION SYSTEM: CHANGE AND STABILITY

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## I. INTRODUCTION

The publication in July, 1969, of the "Principles of Corrective-Labor Legislation of the USSR and the Union Republics" was notable for a lack of fanfare. This was in itself not surprising, since in the area of corrective-labor law, even since the death of Stalin, unpublished statutes have been the main guides for the operation of corrective-labor colonies and prisons. The old corrective-labor codes of the union republics, while still legally in force, had admittedly lost any real legal power.<sup>1</sup>

While the new Principles came upon the scene with little advance announcement, this fact should not obscure the more important one that "reform," clarification, and codification have been on the minds of Soviet jurists for the preceding thirteen years—years which have seen the promulgation of two successive statutes (*polozheniia*) to guide the operation of the corrective-labor system in the RSFSR but, until 1969, little by way of publication or systematization of new provisions.

This paper is a preliminary attempt to analyze some key provisions of the new Principles in the light of the discussions of the last decade, of earlier legislation, and of some contemporary problems in the operation of corrective-labor institutions.<sup>2</sup> It limits the consideration of "Soviet criminal corrections," by and large, to the regulation and operation of penal institutions, and does not consider the administration of such legal penalties as fines, corrective works without deprivation of freedom, exile or banishment.

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## II. THE PROBLEMS OF LEGISLATION

### Toward Reform — 1957-1961

The changed atmosphere in Soviet legal thought and writing, produced by the post-1953 "thaw" and given an even greater impetus by Khrushchev's 1956 denunciation of Stalin's crimes, was vividly reflected in discussions by corrective-labor law specialists which began to reach the pages of major legal journals in 1957. "Atmosphere" alone, however, cannot fully account for the rapid development of these discussions. Important as well was the return, in the years 1954-1956, of many survivors of the purges of 1937-1938 and of those arrested and sent to labor camps in the late 1940s and early 1950s. To a degree, this legitimated inquiry into the penal system from which the returnees had emerged. Mistakes were, in a sense, being admitted. Hence, at least within the confines of professional legal periodicals, they could be discussed, and proposals might be made for reform of the system.

In its more public aspects, the discussion emerged with an article on "fundamental questions" of corrective labor by B.S. Utevsii, the *doyen* of Soviet specialists in this area, in *Sovetskoe gosudarstvo i pravo* (Utevsii, 1957). Utevsii made observations which others would repeat in the ensuing months: that by the later 1930s the corrective-labor codes of the various republics were "ignored and factually ceased to be applied" due to Beria's "wrecking" activities; that the institutional framework of the penal system had been changed so much by special decrees that it little resembled that specified in the still-formally-in-force 1933 RSFSR Corrective Labor Code, and that there was now a need to "codify" the changes that had taken place and bring some order into the sets of regulations, acts, decrees, and the like by which the system now, in practice, ran. Codification and the observance and strengthening of "socialist legality" were the keynotes.

In May, 1957, a "scientific conference" was held on corrective-labor law by the all-Union MVD in Moscow (SGIP, 1957). Here again, Utevsii emphasized that the working out of corrective-labor law problems then beginning could only succeed on the basis of the Twentieth Party Congress instructions regarding the "strengthening of socialist legality and upgrading the role of the Soviets." He went on to argue for a more differentiated approach to each criminal offender, including greater rights for penal institution administrators to shorten terms for convicts already "corrected."

Among other participants, N.A. Struchkov made the main case for "codification," arguing the necessity for new all-Union "fundamental principles" of corrective-labor law, and new corrective-labor codes for each of Republics.

The basic principles of corrective-labor legislation of the USSR and the union republics should define the tasks of corrective-labor legislation, the system of corrective labor institutions, methods of corrective-labor influence, and principles of carrying out measures of punishment . . . . The corrective-labor codes of the union republics, from the provisions of the basic principles, should characterize each type of corrective-labor institution, reveal the content of each method of corrective-labor influence, [and] regulate the order of serving out this or that punishment. . . . (SGIP, 1957: 130)

While the conference presented some points of disagreement between participants, no one is recorded as seriously objecting to a new "codification." 1958 saw a halting step in this direction, with the promulgation of a new "Statute (*polozhenie*) on corrective-labor colonies and prisons."<sup>3</sup> This appears largely to have been a stop-gap measure, a drawing together into one legal instrument of many procedures already sanctioned by post-1933 ad hoc decrees and instructions, with perhaps certain improvements in the conditions under which inmates were confined.<sup>4</sup>

The unpublished 1958 statute was, of course, neither a "codification" nor a set of fundamental principles. Thus the discussions continued, in more explicit terms. A very detailed article, amounting to a plan for codification, appeared in *Sovetskoe gosudarstvo i pravo* in 1960, by Iu. B. Utevkii (son of the earlier-mentioned) and A. M. Iakovlev. Arguing for the new codification, they made the same point as previous entrants into the discussion:

Most important of the circumstances testifying to the necessity for publishing new union republic corrective-labor codes is the situation which has developed, wherein existing corrective-labor codes, formally not repealed, have, as is well known, no practical application (Utevkii and Iakovlev, 1960: 44).

The authors<sup>5</sup> came to grips with one of the phenomena where the concerns for regularization via codification and for "socialist legality" met: the whole series of "normative acts" which had become at least the formal "source" for regulating penal institutions—Supreme Soviet *ukazy*, decrees of the USSR Council of Ministers, various "statutes, instructions and orders of the MVD." Admitting that legislation of the all-union and republican "code" type could not provide a complete

guide, and thus that other rules would have to be supplied, they argued nonetheless that the practice of depending solely on such rules

. . . adds in no way to the strengthening of socialist legality, the stability of legal norms and leads in some instances to contradictions between these normative acts and existing legislation (Utevskii and Iakovlev, 1960:38)

Through all this time, work of some sort was apparently proceeding on a draft set of "fundamentals," referred to in late 1960. Though it is extremely difficult to trace any interplay of interests between those who favored a full set of "fundamentals," to be published openly as had been the fundamentals of criminal law and criminal procedure a short time before, and those who opposed such publication, there is evidence that the latter prevailed. The new 1961 *Polozhenie* (Komakhidze, 1960: 99)<sup>6</sup> was in the same category as the 1958 version—a "non-law," a normative act—and was not published.

### The 1961 Statute

It is difficult to assess the significance of the *polozhenie* of 1961. It is a document covering a good deal of the same ground as the new all-union Principles of 1969. Indeed, the 1969 document closely resembles it in many respects, and the fact of its publication is perhaps the single most striking departure. It seems clear that the 1961 statute was intended to be a functional equivalent of a fully-articulated code, or something closely approximating it: a systematization in the form of a single "normative act" of the post-1933 developments in penal practice, especially those of the preceding ten years. As such, it specified the division of penal institutions into six categories: general-, intensified-, strict-, and special-regime corrective-labor colonies, and general- and strict-regime prisons, and detailed some of the conditions of confinement for inmates in different categories of institution. An appendix to the statute defined daily nutritional norms for different varieties of prisoner. (No new provisions on this have been incorporated in the 1969 Principles, and it seems likely that new republican codes will remain silent on it, leaving such matters to internal "regulations.")

The matter of internal "regulations" itself points up one of the most perplexing issues in dealing with problems of change and/or stability in the operation of Soviet penal institutions—the extreme (even for the USSR) degree of secrecy in which most relevant information is shrouded. Neither the 1961

statute nor the 1969 Principles (which provide a model for new republican codes) are sufficiently detailed to give a “feel” for even the “ideal” way of running a penal institution. In general, scholarly specialists in corrective-labor law have recognized that a larger role for “regulations” in this area of law than in other spheres (e.g., criminal law itself) is inevitable, due to the special problems of regulating large-scale “closed” institutions operating in varying economic contexts and geographic areas and the need for a shorter “lead time” between discovery of “problems” and actions to resolve them when dealing with institutionalized populations (Tikunov, 1966: 44, 50). While the expected new republican codes will, when enacted, provide some information on the penal system in “ideal” terms,<sup>7</sup> information about its day-to-day performance is likely to remain scanty.

Given the general paucity of information, it is also difficult to fill in the almost-eight-year period which elapsed between the ratification of the 1961 statute and the publication of the 1969 Principles. A few points emerge, however, with relative clarity. The 1960s were a period of discussions and disputes over what a new set of Principles should look like, during which, apparently, a number of “draft” versions came into existence, each of which only represented the suggestions of a minority of the parties to the debate. (In early 1964, A. E. Natashev, a frequent writer in the area who holds a position at the MVD’s research institute in Moscow, noted that so many suggestions as to the content of the “Principles” had been made that accepting them all would have pushed the eventual document far beyond any reasonable size [Natashev, 1964: 104].)

MVD officials and researchers, judges, and academics all became involved to a degree in the discussion, some of which took place in “open” journals such as *Sovetskoe gosudarstvo i pravo*, but much more of which was available only in restricted publications. A judge of the RSFSR Supreme Court referred in 1964 to the “recently begun process of renewal of corrective-labor legislation” (Smirnov, and Novikov, 1964: 66), and the new textbook in corrective-labor law (1966) referred to a draft of an all-union law—a set of “Principles”—already “created.” (Tikunov, 1966: 49).

On the relatively formal matter of the “shape” of the Principles and the whole issue of codification, little was written in the legal press available to the public from about 1965 onward. But during the same period, both public and “restricted”

sources devoted a great deal of attention to the practical problems of penal institutions and to assessing the effectiveness of the whole penal system. We turn now to a discussion of the practical side of the Soviet penal system, to bring into clearer focus the phenomena which, to a degree, the "codes" are designed to regulate. In a later section, we shall attempt to assess the extent to which the 1969 Principles reflect recognition of some of these problems, and to what degree they incorporate the suggestions made during the decade preceding their publication.

### III. THE PENAL SYSTEM IN OPERATION

In official policy statements, the aims and methods of the Soviet penal system seem rather "enlightened" by conventional standards. In the corrective-labor colonies, the system of "rehabilitation" (which, rather than punishment per se, is expressed as the aim) rests on three bases:

- (1) the "regime" itself: the system of rules, regulations, and restrictions which, while they have a punitive effect, are also regarded as necessary for internal order and for introducing elements of regularity into the lives of persons who have been living beyond the fringes of law and order;
- (2) "socially-useful labor" which will allow the inmates to make a contribution to the economy while earning remuneration of their own in an honest manner (for inmates without any "speciality," training in some line of skill is to be provided);
- (3) general education, and "moral-political resocialization" through lectures, discussions, and participation by the inmates in their own "organiaztions" (Tikunov, 1966:92).

While no institution, or system of institutions, lives up to the ideal programmatic descriptions of its operations, the divergence from this ideal in the case of corrective-labor institutions is large indeed, as the relatively frank discussions in restricted Soviet sources (especially the monthly journal, *K novoi zhizni*, published by the MVD for the administrators and staff of corrective-labor institutions) show.

#### Staff-inmate Relations

To a great degree, the success or failure of "rehabilitative" efforts in a penal institution will depend on the quality, train-

ing, and attitudes of the staff who are involved in daily interaction with the inmates. Much has been made in Western penological writings of the conflict between “custodial” and “rehabilitative” emphases in running penal institutions, with a stress on the costs of the former — the lack of serious attention given to actually “refitting” the convict for post-release life, and the concomitant emphasis on behavior which makes for a “model inmate” but leaves the convict less fit for life on the “outside” after his term than he was at the time of conviction.

The principles noted at the beginning of this section are very much “rehabilitative” in content: their application is another matter. Even in the Stalinist period the corrective-labor camps, operating under the 1933 code, showed some evidence of the “commitment” to rehabilitation. An East European economist who experienced conditions in the late 1930s notes:

In our camp we were visited sometimes by a ‘tutor’ (*vospitateľ*), a half-literate youth of eighteen, with the pale face and dull eyes of a born idiot. He read aloud to us articles from a regional newspaper, stuttering heavily in spelling out the more difficult words. It was obvious that he was given this job because he was not capable of any useful work in production or administration. Each camp had a Cultural and Educational Department (KVC) which distributed newspapers, lent books, organized, though very seldom, films and concerts, and dealt with the censorship of prisoners’ letters. Sometimes they tried to raise the spirit of hungry and exhausted men by playing a lively march tune for them on their departure to work. The influence of the KVC on the life of the camp was negligible; its existence, however, was evidence that, at the inception of forced-labour camps in the Soviet Union, the aim had not been the annihilation of the enemies of the regime, as in Nazi Germany, but their conversion to the new religion (Swianiewicz, 1955:18).

Today, if conditions have changed somewhat for the better (for criminal prisoners at least, as opposed to “politicals”) personnel in the colonies still fall far short of the ideal. Complaints about poorly qualified staff entrusted with the mission of “rehabilitating” criminals and lacking any training for such a job are frequent. Rank-and-file staff members are criticized for grossness in speech and behavior toward inmates, for drinking on the job, and generally for providing an image almost the opposite of what an “educator” (*vospitateľ*) should project (Ivanov 1967:61).<sup>8</sup> Some colony officials apparently regard the guidelines for running their institutions as too lenient, or too troublesome, and bring about a planned deterioration in the living standards of inmates. A text printed for trainees in the MVD Higher Schools singles these officials out as having forgotten

the importance of at least minimal "esthetic" standards within an institution. "Some" of them "underestimate the necessity of clean bed linen." (Glotochkin and Pirozhkov, 1968a:13-14.)

General indications point toward a punitive attitude toward the inmates on the part of colony personnel. Despite an emphasis in Soviet criminal-legal thought on certain procedural guarantees in matters of parole and release, despite general denunciations of indefinite sentences as examples of bourgeois inhumaneness, and despite an insistence that colony personnel see the inmates they work with as "reformable," many contrary attitudes seem to flourish among the personnel themselves. In an article devoted to the "thoughts and proposals" of readers, *K novoi zhizni* published suggestions from colony staff that (1) convicts not be automatically released upon completion of sentence, but only by a special court order, (2) that colony administrators have the right to retain convicts in custody until "fully corrected," regardless of length of sentence, as well as suggestions that days during which convicts fail to fulfill their work norms not be counted in their sentence (*K novoi zhizni*, 1964). While these proposals were disputed by other readers, they demonstrate a "tough-mindedness" somewhat out of line with officially enunciated policies among some colony personnel.

Two major problems, at least, underlie the personnel problems depicted here. First, persons in the MVD schools undergoing training for work in the penal system, along with Soviet graduates in other fields, do not relish leaving Moscow or some other metropolitan area to work in a remote colony. The best-qualified students often, it seems, remain in the cities in administrative jobs, and the less successful provide the pool from which colony staff is drawn.<sup>9</sup>

Secondly, there are few effective "brakes" on the behavior of colony *nachal'niki*, (commandants); and hence on the mood they create and its effect on the operational style of lower-echelon personnel. While both the 1961 statute and 1969 Principles specify inmates' rights to receive packages, mail, visits, and to spend sums of earned money in the colony commissary, the "rights" are not inalienable — "infringements" of the regime, which are not clearly defined, can result in loss of any or all of these privileges.<sup>10</sup> Within the colonies, then, the latitude of administrative action is great indeed. (Some colony heads seem to be holdovers from the pre-1953 period, and presumably employ a "style" of administration far from the "ideal" pattern of



the textbooks. While commandants no longer enjoy the almost complete powers over the inmates they had in the Stalin era, complaints about their abuses seem to indicate that administrative supervision of their activities is often intermittent and/or weak.)

While one can read, from time to time, of colony heads who abuse their authority, there is little indication that this results in loss of office. The MVD colony administration as a whole works within a larger party-governmental set of priorities, the most important of which appears to be economic performance — in our case, plan fulfillment by working inmates. A *nachal'nik* whose inmate-workers fulfill their plan is generally “safe” in his position. A secondary indicator of “performance” is how “quietly” one’s colony is run. Violent assaults and “hooliganism” are not uncommon among inmates, and while “policy” demands these be reported as *new crimes*, more often they are handled via “administrative” discipline within the colony. Thus, they do not reach higher echelons of the MVD and are not recorded against the performance record of a colony commandant (Dymerskii, 1967). These two problems — the conflict between production and correction, and the response of prisoners to the “regime” — will be discussed in greater detail below.

### **Conflict of Goals: Productivity vs. Rehabilitation**

A main point of corrective-labor policy is that the work done by convicts be meaningful — in the sense that they receive pay, that the work be related to the goals of the national economy, and that it be of a sufficient level of skill to allow released inmates to find jobs. Another point, stressed as much as the first, in theory at least, is that the task of rehabilitation not be sacrificed in any way to economic goals: while there should be “unity” between the aims, work in the corrective-labor institution is an obligation primarily of a civic character. Since *all* Soviet citizens must work, so must prisoners — and work itself is not regarded as part of the punishment element of corrective-labor influence.<sup>11</sup>

That production and rehabilitation do conflict in practice is, however, admitted (Glotchkin and Pirozhkov, 1968: 10).<sup>12</sup> As noted before, in a very real sense the colony commander’s subordination is dual — to those whose main concern is fulfilling economic targets, and to those who are concerned both with discipline and order among the inmates and with

training for a nondeviant post-release life. By far the most easily "quantified," the most easily measurable, index of success is economic output. Hence, many colony heads tend to "maximize" the economic dimension, overworking inmates, or granting illegal privileges to "over-producers" (such as sale of beer and/or liquor in the colony commissary)<sup>12</sup> to insure success along the most "relevant" dimension of performance.

(It might be argued that the "strain" in this direction is strong directly in proportion to the centrality of concern with economic output on the national scale. Concern with production and growth is *always* "relatively" central, but at times of unsatisfactory growth, as in recent years, *more* central. In addition, one gets the impression that law enforcement and the penal system in general are relatively disadvantaged competitors for scarce resources (as in the USA) among other claimants at the national and republican levels. With some notable exceptions, societies, of whatever political stripe, seem reluctant to allocate large amounts to cope with and contain those who violate laws and offend the society's sensibilities.)

This goal-conflict occurs within a system where, for all the declarations of policy, the inmate frequently receives extremely little or no compensation for his work, due to the operation of the rules rather than to any abuse of them. An inmate receives for his work base pay calculated at 50% of pay for the same job "on the outside." (An exception is made for inmates working in colonies engaged in timber industries, where only 40% is deducted from standard "civilian" pay.) From this base pay, sums are deducted for income tax and costs of food, housing, and clothing. (For prisoners who have civil judgments or alimony payments entered against them, additional deductions may be made.) The result often is that work results in no pay remaining after deductions. A 1966 study of inmates in general-regime colonies in Kirov and Perm *oblasti* showed the average monthly base pay of inmates amounted to 23 *rubles* 10 *kopeks*. Deductions for food alone averaged 16-18 *rubles*. With other deductions, the result was that for 28% of the convicts, the deductions exceeded their base pay (Melent'ev, 1968).<sup>14</sup>

This is a problem common enough for some corrective-labor specialists to have suggested that some minimum wage be guaranteed all working prisoners in order to motivate higher output and give work a more personally profitable character

in the inmate experience (Melent'ev, 1968: 63). One specialist suggests that the across-the-board 50% reduction in pay contradicts the principle of "individualization" of punishment. Arguing that just as rights differ by type of regime, pay reduction from civilian norms should differ according to regime also,<sup>15</sup> he calculates a possible scale of reductions at

- 30% for general-regime colony
- 40% for intensified-regime colony
- 50% for strict-regime colony
- 60% for special-regime colony

Outside strictly economic matters, the typical work experience of an inmate falls far short of avowed goals in a number of ways. Work is frequently relatively unskilled, providing, even in the free labor market, only a marginal income. Some varieties of convict work (making overalls, knitting mesh shopping bags) are not only "light" and relatively simple, but are performed in the "outside" economy predominantly by women, and provide no marketable qualification for released inmates. (*Sovetskaia Rossiia*, 1960: 2-3). In the special-regime colonies, where "especially dangerous" repeated offenders are held, the 1961 statute dictated their employment in "heavy physical labor." One student of these institutions noted that "heavy" had come practically to mean "unskilled," and criticized some corrective-labor personnel who feel that this is "how it should be." Strenuous but skill-producing jobs, he argued, prepare hardened criminals, who need rehabilitation and marketable skills most, better for eventual release than will their utilization at unskilled heavy labor. On the basis of observations in special-regime colonies, the author claims that fewer violations occur among those in shops doing skilled labor than among those whose work, while "heavy," is also unskilled (Zhuravlev, 1967).

### **The Inmate Population and its Problems**

While few of the problems the inmate populations of corrective-labor institutions present are unique to the Soviet case, the frank discussions of these problems in relatively restricted sources show that they are persistent and difficult ones.

There is much evidence for the not-so-striking conclusion that some prisoners find life in the colonies unbearable. Marchenko, in his book *My Testimony*, mentions from time to time cases of inmates who consciously walk into forbidden border strips to provoke fatal gunfire from the guards. An MVD textbook testifies to the reality of this problem, its authors

noting that convicts, especially those sentenced to long terms, or repeated offenders, sometimes "lose hope of a better future and abandon themselves to 'fate' "—some of these, when in extreme periods of depression, "try to bring off escapes under the eyes of the guards, in order to be killed." (Glotochkin and Pirozhkov, 1968b: 28-29.)

Those who react to penal institution life in this way are clearly not a majority, but even disregarding this extreme many behavior patterns observable in the inmate *kollektiv* manifest deep problems in institutional management, both for staff whose main function is custodial and for those whose job is "rehabilitation."

These problems for the administration emerge from an "inmate culture"—a set of orientations, norms, and practices which represent the inmate population's response to the problems engendered by their confinement, as well as the importation of a "criminal culture" from the outside.<sup>16</sup> The existence of an inmate culture (something penal administrators generally have to face), among *criminal* prisoners at least, was evident in the 1930s, when, indeed, a sort of coexistence arose between them and camp administration, the criminals becoming auxiliaries of administration in keeping the large political prisoner populations disorganized and defenseless.<sup>17</sup> As it exists today, however, the inmate culture<sup>18</sup> appears mainly to be viewed as an obstacle to the tasks of production and rehabilitation.

The apparent vitality of the culture is especially striking in view of one element in Soviet corrective-labor "philosophy": a commitment to penetrating the inmate population and utilizing inmates "on the road to rehabilitation" to aid in the rehabilitation of more recalcitrant types. Glotochkin and Pirozhkov, in an MVD textbook, define the "inmate *kollektiv*" as

. . . . an organized community of persons, having the purpose of rendering aid to the administration of the corrective-labor institution in the correction and resocialization of convicts, and above all in the education in the spirit of collectivism" (Glotochkin and Pirozhkov, 1968c: 4).

In practical terms, bringing this ideal into reality involves first the penetration of inmate groups by rehabilitative staff (*vos-pitatelny*); second the co-optation of "promising" inmates to "mobilize" pro-reform sentiments among their fellows (including recognition of the "justice" of their convictions); and third the isolation and "conversion," through public-opinion pressures, of those inmates who still hold back from admitting that they were justly punished and from any sort of cooperation with

the administration (Glotochkin and Pirozhkin, 1968c: 6-7).<sup>19</sup> Here also "inmate organizations" concerned with hobbies, artistic interests, internal order, and maintenance of sanitary conditions are supposed to play a role, bringing inmates together in joint, socially-useful work on a "volunteer" basis, as opposed to the obligatory production work (Tikunov, 1966, 230-234).

The obstacles to the realization of such a "scenario" are admittedly many. The "spontaneous" social arrangements among the inmates are exceedingly difficult to manipulate, and bear no relation to the rehabilitative (nor, in most cases, to the economic) purposes of the institution. Writers complain of the development of a system of "stratification" within the colonies, whereby convicts differentiate themselves on the basis of length of sentence and/or previous convictions, and the old, "hardened" criminals generally band together to distinguish themselves from the younger and less experienced. In numerous cases, groups crystallize around an older or more experienced convict who assumes a sort of leadership, gives orders to his "followers," helps himself to extra rations at their expense, etc. (Glotochkin and Pirozhkov, 1968c: 14).

The general phenomenon of spontaneous group formation within the colonies perplexes specialists in rehabilitation. While some groups have a "positive" orientation (those formed by persons with similar moral interests, views, or personal sympathies, with similar liking for work, or with links in the same type of training or profession) or an "indefinite" one, groups with a "negative" thrust bother administrators most.<sup>20</sup> These appear in three variants: (1) groups made up of those who "hold to criminal rules and traditions," (2) groups interested in the violation of some rule of the regime (e.g., procurement of alcohol or narcotics), and (3) groups whose members know each other from previous joint participation in criminal activities.

Within the "negative" groups, there is apparently a great deal of competition, often violent, for the "top" positions. Unlike "positive" or "indefinite" groups, the strong prevail here, and "lord it over" other members. Leadership, however, is unstable and always open to challenge. As two writers put it, there is no "equality" in these groups, but neither is there any reliable subordination. Each man is for himself (Platonov and Zotova, 1966: 51). It appears that "strong" negative groups depend for their existence on the presence of older, experienced convicts who possess a well-defined criminal "self-image." Though probation and parole are fairly widely applied for first and petty

offenders, the "stock" of "professional" prisoners apparently remains adequate to insure continued negative group formation. This is evident in Glotochkin and Pirozhkov's complaint that the groups themselves are ever-present in the colonies, though their membership may change completely over the course of a few years (Glotochkin and Pirozhkov, 1968c: 18). At the far end of the spectrum, even "massive disorders" in the colony may result from the activity of those whose attitudes remain deeply hostile and whose "mood" infects those of other inmates. (Glotochkin and Pirozhkov, 1968c: 29). Group refusals to go to work in the colony enterprises are another aspect of this problem (Pirozhkov, 1966: 26).

The structure of negative groups and the general conditions of colony life, where individuals seek out the most "advantageous" adjustment to confinement, combine to subvert the delegation of functions to prisoners which is a part of the co-optation process. The "brigadiers" — prisoners appointed by the administration to responsibility for their brigade's activity at work and in the barracks — frequently either abuse their position by using force or threats against their "subordinates," or, in the case of less self-assertive types, are often terrorized by the "confirmed" criminal groups, and through fear of reprisal become virtual executives of their desires, awarding them the best labor arrangements, places in the barrack, etc. (Glotochkin and Pirozhkov, 1968c: 14).

The effects of the situations described, in terms of *individual* rehabilitation, are predictable. Even for a convict "convinced" of the justice of his sentence, there is the problem of reconciling the administration's demand that he be forthright, industrious, and cooperative, and the demand of the inmate subculture (to which he is, *volens volens*, exposed) that he demonstrate his solidarity with his fellows by avoiding such "toadying" and maintaining silence about violations of the roles that he may witness. (Glotochkin and Pirozhkov, 1968c: 22-23). Rehabilitation is made all the harder since, whatever the actual merits of a given case, Soviet penal administrators are faced with a problem familiar to their counterparts elsewhere: many convicts see little, if any, "justice" in their sentences.

Sometimes the cause of a negative attitude toward the rules of the regime may be a misunderstanding of the wisdom, purposefulness and necessity of their demands. It often happens that because some convicts cannot correctly relate the general purposes of criminal punishment to the concrete circumstances of their

undergoing [it], it seems to them at times contrived and unnecessary, like revenge according to the principle of "evil for evil" (Glotochkin and Pirozhkov, 1968a: 20).

Adding to the problems discussed above are the living conditions in the colonies and prisons, which, while they vary not only according to regime but also according to the location and type of economic "specialization" of the institution, are stringent. Life in the colony barracks is rough and crowded. (The 1961 statute "guarantees" 1.75 square meters of living space per inmate.) The eight-hour work day, extendable to ten hours, is apparently often prolonged beyond the legal limit.

The rights of prisoners to visits, packages, and correspondence (see Appendix I), as we have seen, may be, and are, rather easily revoked. In the more critical manner of nourishment, the range of approximately 2400-2800 calories per day guaranteed for working prisoners is, even if adhered to, hardly sufficient for persons engaged in heavy physical labor. "Punishment rations" (see Appendix II), of course, are much worse. In any case, there is little by way of enforcement procedure to assure prisoners even this minimum of food intake, and there is evidence that the minimal "norms" are often violated.

This, then, is a short, and unavoidably incomplete, description of some of the characteristics of life in Soviet penal institutions that made their administration a task of considerable difficulty. In the concluding section, we shall examine the 1969 Principles in an attempt to discover their significance in the light of these problems, and in the perspective of the proposals Soviet legal specialists have advanced in the last ten to twelve years toward the improvement of corrective-labor legislation.

#### IV. 1969 — AND BEYOND

In view of the picture of day-to-day operations in penal institutions just discussed—a picture which perplexes Soviet penologists hardly less, it seems, than it bothers Western observers who have, in the late 1960s, become aware through the works of Marchenko, Chornovil, and a large volume of *samizdat* of the conditions under which political dissidents are imprisoned—it is somewhat frustrating for the author to admit that linking the 1969 Principles to changes in the day-to-day situation is a difficult task indeed. The Soviet specialists most vocal from the late 1950s through mid-1960s in the discussions on changing corrective-labor law generally agree that "regulations" rather than codes will continue to play a large part in regulating day-to-day life in colonies and prisons. The gen-

erality of the 1969 Principles confirms this consensus. So many aspects of convict life are passed over in this "model" draft statute that one can only assume that "regulations," not to be published, will become the main boundaries of that life.

The 1969 Principles can provide us, however, with a guide to answering some pertinent questions: (1) Are any changes detectable which might be attributed to the discussions and proposals dwelt upon in the earlier sections of this paper? (2) Can we make any judgments concerning the probable direction of new "regulations," in or away from the direction of "stringency," on the basis of the general statements embodied in the Principles? (3) Do the Principles give us any basis upon which to assess the level of Soviet concern with the "effectiveness" of penal institutions—measured mainly by the rate of recidivism among their "graduates"? We shall now attempt to answer these questions in turn.

There are some elements in the 1969 Principles which reflect suggestions made between 1957 and 1964. In this, the first "public" document on the topic since 1933, article 4 stipulates that "the sole basis for the serving of criminal sentences and the application of corrective-labor measures is court sentences that have entered into legal force": This commitment was desired by many jurists (Smirnov and Novikov, 1964: 74-75). If, as a guarantee, it does not extend to the mode of conduct of court trials, especially in the cases of political dissidents, it does satisfy a desire for *express* commitments to observance of elementary legalities.

It is, however, in the area of work and payment for it that the new Principles show some real response to the sorts of complaints noted earlier. Under the new procedures specified in article 29, before *any* deductions are made, inmates of colonies and prisons who fulfill their norms or tasks and do not violate the regime, *must* have "at least" 10% of their monthly earnings deposited to their accounts. While real benefits here will depend on the realism of the work norms and a retreat from capriciousness and abuse in deciding who is a regime violator, in theory the change amounts to an income guarantee and is probably viewed as an incentive to productivity. (For working *invalid* prisoners of groups I and II, 25% monthly must be deposited; and for those who work in the minimum security "colony-settlements," the "guarantee" is 50% before any deductions. The latter case responds to complaints that, since inmates of colony-settlements must purchase their



own food at market prices, the structure of deductions often left them in worse circumstances than their fellows in "tighter" institutions.) (Rozhnov, 1967: 52.)

The Principles leave, however, one ambiguity regarding work unresolved. Since "doctrine" specifies that work in the colonies is not an element of punishment, but merely the enforcement of a civic obligation incumbent on all citizens, some specialists (Utevskii and Iakovlev, 1960: 41) have argued that the *noninclusion* of the time worked in colonies in the labor record, for pension purposes, etc., is without foundation. The Principles, however (article 28), continue this exclusion.

Little change is evident in the matter of punishments to be applied to prisoners who violate the regime. "In-colony" measures still extend to confinement in punitive cellblocks, with or without the right "to be let out to work or to receive instruction" for up to 15 days. For prison inmates, confinement in "punitive dungeon cells," with no releases for 15 days, may be imposed. Colony inmates who are "persistent" violators may still be "recommended" for transfer to prison for up to three years, a provision which, while it may satisfy administrators who wish to rid themselves of "troublemakers," was argued against in 1961 by writers who felt the job of "rehabilitation" within the colony of original confinement should not be passed on so easily (Kuznetsov and Podymov, 1961: 99).

The post-release problems inmates find in securing jobs (which, because of their potential for creating a strain toward "old" criminal means of support, have been frequently discussed [Komakhidze, 1960: 100; Kuznetsov and Podymov, 1961: 100] are reflected in article 47 of the Principles. It is stipulated that releasees *must* be provided with work by the executive committees of local Soviets within 15 days after colony or prison administrations have requested such action. The Soviets' instructions are to be "binding" on potential employers of the released inmates.

To the second question — what predictions can we make of the direction of new "administrative regulations" on the basis of the Principles — our answer must remain extremely qualified. While the changes just discussed are not to be minimized, the next section will show that, in some other ways, internal conditions in penal institutions are being "tightened" somewhat: thus, there is no clear victory for "leniency" nor, it seems, for "severity." It may well be that new regulations, if a need is felt for them, will reflect not so much any crucial change in

the way the "rehabilitative" apparatus approaches the inmate, as they will a greater concern with the smooth functioning of the *production* end of the institution. If the "10% wage guarantee" is meant as an incentive to increase enthusiasm and productivity, then the structure of regulations may move in the direction of encouraging extended privileges for "overproducers," more reasonable setting of output norms, rational distribution of tasks, and the like. Beyond this tentative forecast, the somewhat contradictory changes embodied in the Principles do not allow us to go.

Finally, we approach the question of "effectiveness" of penal institutions, and to what degree concern with it is manifested in the 1969 Principles. The 1960s saw a relatively critical light focused on the performance of the whole crime prevention-criminal correction system, with a multiplicity of articles and monographs on the topics of recidivism and effectiveness of penal measures.<sup>21</sup>

Though Soviet statistics do not give any clear picture of the incidence of recidivism among released convicts as a whole, percentage distributions of various characteristics *among* the recidivist population point up some aspects of the problem.

Soviet specialists have noted for some time that recidivism rates are highest for the "graduates" of strict- and special-regime colonies (not surprising, in light of the fact that many inmates there are under confinement for a recidivist crime); *next* highest for general-regime colonies.<sup>22</sup> The "serious" first offenders, sent to intensified-regime, generally "repeat" at a lower rate than the more petty first-timers sent to general-regime colonies. This somewhat paradoxical result is attributed by many Soviet writers to the much shorter factual length of stay in general-regime colonies (about one third to one half that of average time in intensified-regime) and by some to what are regarded as too lenient conditions under the general-regime.

Appendix I provides some basis for arguing that complaints about the "soft" life in general-regime colonies have been heard. The 1969 Principles in general "toughen" both general and intensified regimes, and make some modifications toward strictness, and others toward less strictness, in strict and special regimes. In general, the "distance" between rights at the ends of the continuum (i.e., between general and special regimes) has been reduced. This is in line with complaints that general-regime conditions had an insufficient "deterrent" effect and

may be seen as an attempt to cope with the problem of recidivism among general-regime "graduates."

Among the problems connected with recidivism among young adults which the Principles leave untouched is the matter of transferring delinquents who have reached the age of 18 (legal majority), and who are serving terms in labor colonies for juveniles, to corrective-labor colonies for adults. This is a matter of common practice (Kliuchinskaia, 1966: 107) and one which has frequently drawn the criticism of jurists as violating the principle of separate containment of relatively petty and relatively serious offenders. Except for special cases, 18-year-old offenders who committed offenses while minors will still routinely be transferred to colonies where they will mix with older offenders, often with undesirable results.<sup>23</sup> The commitment to ensuring the job-placement of released inmates, discussed earlier, is a potentially important response to the observations of students of recidivism in the USSR that many of this category had to wait months before getting a job after their first release, and that a large number never succeeded, nor were compelled, to find work between last release and latest conviction. The measure of success here will depend on the willingness of local Soviets to cooperate with penal administrators in securing job placements, and the bargaining power the Soviets possess (often not great) in dealing with those "enterprises, institutions, and organizations" whose directors theoretically are "bound" by the instruction of the Soviets' executive committees.

## V. CONCLUSION

Given the number of questions the lack of data forces us to leave unanswered in a paper of this sort, it is extremely difficult to come to any firm conclusions. Essentially, we have moved along two tracks in the foregoing discussion: first, the question of changes in corrective-labor *law* at the most general level and, second, the dynamics of operation of corrective-labor institutions. The force of any conclusions made about probable changes in institutional operation from changes between 1961 and 1969 in statutes and Principles is limited by the assumed presence of unpublished "regulations" which play the main role in providing a formal framework for running penal institutions.

However, from the 1969 Principles it may be possible to make one important, though tentative, observation: There is no real indication of any thoroughgoing "reform" in corrective-

labor practice evident in the Principles. They much resemble the "secret" 1961 statute, and in general *tighten* rather than loosen regime restrictions. If the general commitments and philosophy embodied in the Principles are a reflection of the probable thrust of "regulations" to be made or reconfirmed for operating penal institutions in the 1970s, there is little reason to expect any drastic change in the "quality of life" in these institutions.

This observation, however, does not mean that the discussions begun publicly in 1957 were to no avail. A whole area of Soviet law was brought "into the light of day," and a discussion long since lapsed was renewed. A new frankness in discussion of crime, criminal law, and penal theory and practice has developed in the last ten years, and this in itself seems important. The point is that it would, by and large, be wrong to regard the participants in the discussions on codification and "normalization," despite their references to "socialist legality," as reformers aiming at thoroughgoing changes in the way corrective-labor colonies are run. Their main concerns, it seems, were in the areas of rationalization — establishing new codes to reflect the outline, at least, of the penal system that had developed since 1933, and in procedural legalities — the most important being that, in line with "socialist legality," *only* the sentence of a court could provide the basis for sending a convict to a penal institution. (The more frank or "radical" critiques of institutional performance per se lie in the province of the corrective-labor "pedagogists" and psychologists, like Pirozhkov and Glotchkin, who themselves are inside the MVD and have, consequently, ready access to the institutions.) It may well be that, with the publication of the Principles in 1969 the jurists feel a victory of some sort has been gained. Though some might have wished the new Principles to be more explicit about certain matters than they are, and though the victory be partial, they may well be right.<sup>24</sup>

## APPENDIX I

Prisoner Rights Under the 1961 *Polozhenie* and the 1969 *Principles*

	General (or "short") meetings per year		Personal (or "long") meetings per year		Number of packages, parcels in a year (up to 5 kilograms)		Number of letters that may be sent in a year	
	1961	1969	1961	1969	1961	1969	1961	1969
General- Regime colony	6	3	4	2	6	(up to	Unlimited	Unlimited
Intensified- regime colony	4	2	2	2	4	3 per year	Unlimited	36
Strict- regime colony	3	2	1	1	—	after service of	24	24
Special- regime colony	2	1	—	1	—	one-half of sentence)	12	12
General- regime prison	—	—	—	—	2	—	12	12
Strict- regime prison	—	—	—	—	—	—	6	6

In addition, the 1961 statute specifies (but the 1969 Principles only set a 15-ruble ceiling on) the sum of earned money prisoners may spend per month in the colony or prison commissary:

General-regime colony .....	not more than 10 rubles
Intensified-regime colony .....	not more than 7 rubles
Strict-regime colony .....	not more than 5 rubles
Special-regime colony .....	not more than 3 rubles
General-regime prison .....	not more than 2 rubles
Strict-regime prison .....	not more than 2 rubles

## APPENDIX II

## Daily Nutritional Norms for Prisoners

Source: "Sutochnye normy pitaniia zakliuchennykh v ispravitel'no-trudovykh uchrezhdeniakh. Ministerstva vnutrennykh del RSFSR" (appendix to the 1961 *Polozhenie*)

*Prisoners in colonies:*

- 1) working prisoners in general ..... 2413 calories
- 2) working prisoners in "hot shops, ore-mining, timber and peat industries" ..... 2828 calories
- 3) prisoner-invalids of groups I and II ..... Same norm as working prisoners in similar colony
- 4) prisoner-invalids of group III ..... shall work and receive same food as other working prisoners
- 5) prisoners put into colonies' punishment cells, who:
  - work ..... 2090 calories
  - "maliciously refuse" to work or fail to fulfill work norms ..... 1324 calories

*Prisoners in prisons:*

- |   |  |
|---|--|
| 1) those under arrest, under investigation, having sentences reviewed, awaiting entry of their sentences into legal force, and those in transit | 2143 calories  |
| 2) general-regime prisons (for those who work, an extra 100 grams of bread each 24 hours)   | 1937 calories  |
| 3) strict-regime prisons (with reduction of bread norm by 100 grams per 24 hours)   | 1937 calories  |
| 4) prisoners placed in punishment cells for disciplinary reasons*   | same norms as similar prisoners in colonies (apparently 1324 calories) |

(\* "Order of feeding: hot food, according to the established norm, is given every day; on [alternate days] only bread according to the norm, hot water and salt are given out.")

- |  |   |
|--|---|
| 5) prisoners engaged in service activities in the prison | same norms as working prisoners in colonies |
|--|---|

*Other classes:*

- |   |      |
|---|------|
| 1) sick prisoners under treatment in colony facilities      | 2476 |
| 2) sick prisoners in prisons                                | 2190 |
| 3) tubercular prisoners in colonies                         | 3115 |
| 4) tubercular prisoners in prisons                          | 2600 |
| 5) children in "mothers' and childrens houses"              | 1849 |
| 6) pregnant and nursing prisoners (in colonies and prisons) | 3357 |

## FOOTNOTES

<sup>1</sup> The Russian Republic Code was adopted in 1933; those of the Ukraine, Georgia, and Azerbaidzhan in 1925; the Belorussian code in 1926; and the Uzek and Turkmen codes in 1933. (Tikunov, 1966: 43).

<sup>2</sup> Insofar as possible, the discussion here is limited to problems of the containment and "rehabilitation" of criminal, rather than political, prisoners.

<sup>3</sup> This statute remained unpublished, and was seldom referred to in the literature. It was, apparently, an RSFSR statute like its 1961 successor. The fragmentary information available about it is mainly derived from Beliaev (1963).

<sup>4</sup> Beliaev (1963: 124) notes that the 1961 statute proceeded partly from the necessity to establish a more strict "regime" in penal institutions than that provided for in the 1958 statute.

<sup>5</sup> The important question of whether we are seeing here the development of "reformist" trends, aiming at real changes in the conditions of life in penal institutions, is also an exceedingly difficult one. On balance, the concern seems predominantly to be with eliminating confusion and arbitrariness in the penal system: with "regularizing" operations through the making explicit of one new set of laws under which penal institutions would be run. Many writers who argued for greater quantities of "legality" also come down against "laxity" in the administration of penal "regimes" and, throughout the period in question, some writers in the general press expressed convictions that life, even in strict-regime colonies, was "too soft" for the criminals confined there. (See *Sovetskaia Rossiia*, August 27, 1960, pp. 2-3; trans. in *CDSP*, October 26, 1960, pp. 18-20.) Generally, it seems probable that there was much disagreement on the "lenience-severity" dimension; but little of this made its way into published discussions.

<sup>6</sup> *Polozhenie ob ispravitel'no-trudovykh koloniiakh i tiurmakh Ministerstva vnutrennykh del RSFSR*. *Vedomosti Verkhovnogo Soveta RSFSR*, No. 37, 1961, p. 556.

- <sup>7</sup> Assuming that the codes themselves are published. It is not outside the realm of possibility that unpublished codes might proceed from the Principles, though it does seem unlikely.
- <sup>8</sup> It should be noted that the complaint is applied to staff of *all* types of colony, not only the guards in the strict-regime colonies where "state criminals" are confined. Marchenko's observations on the conduct of guards toward political prisoners seem to be in line with indications in Soviet sources. (Marchenko, 1969.)
- <sup>9</sup> This observation is based on an interview with a lieutenant-colonel in the MVD in Moscow in 1969.
- <sup>10</sup> Prisoners, for instance, must stand when addressing or being addressed by "a representative of the administration," must "greet" them first upon encountering them, etc. (See Glotchkin and Pirozhkov, 1968: 21.)
- <sup>11</sup> Indeed, "work" is regarded by most commentators as a right (as is general educational and vocational training) and the inmate's investment with it an indication that convicted Soviet citizens remain, despite their convictions, the "subjects" of certain rights.
- <sup>12</sup> The MVD official referred to above (in note 9) expressed these concerns in our conversation in 1969.
- <sup>13</sup> The case of a *koloniia-poselenie* in the Komi ASSR (essentially an "open" or minimum-security colony where inmates may have families join them and work outside the grounds) is especially striking. The director made alcoholic beverages available in proportion to overproduction, issued "vacation" papers which took some inmates hundreds of miles away, and generally caused friction with local townspeople. The authors reporting the incident criticize higher administrators for contenting themselves with plan overfillment and for disregarding performance in the area of "rehabilitation." See Afanasiev and Trykin (1966).
- <sup>14</sup> An account by Marchenko, from the perspective of a strict-regime prisoner, follows:
- In general, though, a prisoner's work differs little in essence from work outside. I'm a free man now and since April 1967 I have been working as a loader — we do the same uncredited overtime and we also push wagons about from store to store, and our earnings are about the same: 70-75 rubles (if you don't do extra work). The only difference is that you get a bit more to eat and the deductions from your wage packet are bigger, especially from childlessness. In the camp, too, you pay the same taxes (and they also make deduction from cons for childlessness!) and then 50 per cent of the remainder is assigned for maintenance of the camp and its staff — from warders to the administration and doctors; and it also goes on hut maintenance and supporting the sick and invalids. Out of the remaining 50 per cent they take 13 rubles for food and you have to pay out several rubles a month for that wretched camp uniform that is issued on deferred payment. And out of what's left 5 rubles goes on the shop (if you're allowed). . . . So that you won't get rich as they imply in the advertisements: 'save up and buy a motor car!' God grant that in the course of your term you can save enough for a suit and a pair of boots." (Marchenko, 1969: 231-232.)
- <sup>15</sup> The author argues rather logically that since the original 50% reduction goes to the state for the maintenance of the colony facilities and staff, it should be geared to the costs of operation. Strict- and special-regime colonies, where guards are heavier and better armed, and where prisoners may be held in cells rather than barracks, incur a higher unit cost of operation: hence, the highest reductions should fall here.
- <sup>16</sup> For some general discussion of these matters, see the collection, *Theoretical Studies in the Social Organization of the Prison* (New York: Social Science Research Council, 1960).
- <sup>17</sup> The co-optation of certain inmates to help "manage" the inmate population as a whole is hardly a Soviet invention. For a comparative view of American and Soviet experience in this regard, see Cressey and Krassowski (1957-58).

- <sup>18</sup> We do not imply here that *all* inmates participate, or participate equally, in this culture. A sizeable number, especially first offenders in general-regime colonies, probably have little chance to participate in a fully-articulated "inmate culture," do *not* develop criminal "self-images," and presumably have relatively good chances of never seeing the inside of a penal institution again.
- <sup>19</sup> The idea of using convicts to "reform" other convicts is an interesting one, not without some practical psychological merit (especially in the sense that convict A's involvement in the attempt to rehabilitate convict B may have its greatest effect on A rather than B). For discussions of an American experience along these lines, and some further general observations, see Empey and Rabow (1961), and Cressey (1955).
- <sup>20</sup> The general treatment of the topic of group formation is too lengthy to enter into here. See Glotochkin and Pirozhkov (1968c: 15-20).
- <sup>21</sup> There is neither time nor space in the present context to review this literature adequately. The interested reader is referred to Iakovlev (1964); Kuznetsov, Podymov, and Shmarov (1968); and Nikiforov (1968).
- <sup>22</sup> A recent study of recidivists sent to colonies in the RSFSR in 1965 summarizes their "institution of last release" as follows:
- |   |       |
|---|-------|
| from general-regime colonies:             | 36.1% |
| from intensified-regime colonies:         | 19.1% |
| from strict- and special-regime colonies: | 44.7% |
- The larger number of recidivists from general-regime colonies in these figures is, presumably, influenced not only by the recidivism rate, but by the large size of the general-regime population. (Natashev and Ovsiannikov, 1967: 59.)
- <sup>23</sup> This lack of change in the 1969 Principles comes as no surprise. The 1968 "Statute on Labor Colonies for Minors" (*Vedomosti Verkhovnogo Soveta SSSR*, No. 23, June 5, 1968, pp. 312-325; Trans. in CDSP, July 3, 1968, pp. 3-7), provides, in article 13, for the continuation of this practice, and article 18 of the Principles echoes it.
- <sup>24</sup> Since this paper was written, the situation described has been altered rather little. No new republic corrective-labor codes have been, to the author's knowledge, *published*, although there are indications that codes, based on the 1969 Principles (and, perhaps, embodying alterations of unknown degree) *have* been adopted in several republics. For an extended discussion of the general problems of the labor colonies, and other Soviet mechanisms of criminal correction, see the author's *Deviance in Soviet Society: Crime, Delinquency, and Alcoholism* (New York: Columbia University Press, 1972), pp. 198-235.

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