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On Establishing Origins of the Russian Penitentiary System

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Abstract

Introduction: the article discusses problematic issues related to the definition of origins of the Russian penal system. The terminology and the conceptual framework adopted in the implementation of criminal law norms are briefly analyzed. The relevance of the research is determined by the importance of historical experience of the functioning of the prison system in modern realities. The *purpose* of the publication is to substantiate the need to review the starting point of the history of the Russian penal system. The author uses historical, dialectical, and formal logical *methods*, taking into account various chronological periods and points of view. Special attention is paid to the first cases of legal regulation containing only certain features of modern penal enforcement practice. *Results:* the study of examples containing important regulatory provisions on the execution of criminal penalties is of considerable scientific interest in order to identify current trends. The author substantiates his own position to assessing the time and events to be accepted as the origin of the Russian penal system. The author formulates a controversial problem for wide discussion.

Key words: history of Russia; penal system; prison institutions; organization of the execution of criminal liability; the 1550 Judicial Code.

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Introduction

Issues related to clarifying the time of the origin of the Russian penal system have been long discussed by many scientists and practitioners

of law enforcement agencies. In the period from 1997 to 1999, places of detention were transferred from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice. The

Russian penal system was no longer directly related to the police and it became incorrect to use Police Day as a professional holiday. The date of the creation of the Main Prison Department under the Ministry of Internal Affairs of the Russian Empire (GTU) (March 12, 1879) was initially adopted as a professional holiday at the interdepartmental level and then fixed as a public holiday.

At first, no additional characteristics were attributed to the named event. For example, in 2004, the noteworthy book “The penal system – 125 years” reflected the most important stages in the development of the Russian penitentiary system. In April 2009, the Academy of Law Management of the Federal Penitentiary Service of Russia held the V All-Russian research and practice conference “The place of penal correction in the interaction of government and society in Russia: history and modernity” dedicated to the 130th anniversary of the formation of the Main Prison Department, but the idea of the anniversary of the penal system was not voiced.

Nevertheless, in the same year, the Research Institute of the Federal Penitentiary Service of Russia published an illustrated publication “Penal system: 130 years”. Without scientific discussion, its authors considered the date of creation of the Main Prison Department as the birth of the Russian penal system. However, there is some inconsistency. Thus, the main author of this publication, prominent researcher of the history of the penal system, Professor M.G. Detkov wrote in his previous book, “In 1817–1819, some measures were taken to reform the Russian prison system taking into account foreign penitentiary experience” [1, p. 113]. It is worth mentioning that it was not just about the existence of the system, but also about its next reform. In the most famous book “Prisons, camps and colonies of Russia: on the 120th anniversary of the Main Prison Department of Russia” (1999), the author quite clearly separated the anniversary of the department from the anniversary of the system. But these two events have increasingly become identified in official circles.

Research

Before determining the age of any social phenomenon or government institution, it is important to analyze the terminology used for this purpose.

First of all, the concept “system” should be considered in relation to the totality of special government structures. Philosophers can find a wide range of different opinions on this subject from the perception of a system as a “collection of simple parts” (W. Gosling) or “a multitude of connected active elements” (O. Lange) to much more complex research structures, the study of which is possible only in the complex of a number of sciences. Different authors perceive the term “system” in their own way pointing out distinctive properties inherent in the corresponding objects of research. For example, V.N. Sadovskii found up to four dozen similar definitions [2, pp. 93–99].

We are interested in systems directly related to departmental activities. One can find out a great number of names of structures that are now part of the Federal Penitentiary Service today and in the past. For example, the term “*law enforcement system*” is too extensive, since it includes a wide range of other bodies and institutions that are not related to the execution of sentences. The term “*punitive system*” is also not fully justified. Though it is worth mentioning that in 1918 the Punitive Department of the People’s Commissariat of Justice was established to replace the Main Directorate of Places of Detention and become the main institution for carrying out the execution of criminal penalties in the RSFSR [3]. A year later, it was renamed the Central Punitive Department. The department did not exist for long, but the name was fixed in the national memory.

Initially, the totality of places of deprivation of liberty in the Russian Empire was called the *prison system* and then in the Soviet Union – the *correctional labor system*. Formally, this was due to the transfer of places of detention to the subordination of the NKVD of the RSFSR in October 1922. As the years and decades passed, the idea of correcting convicts through forced labor gradually became less attractive. By the early 1960s, the abbreviation GULAG had become a thing of the past. The Brezhnev stagnation and Gorbachev’s perestroika made it possible to discuss the formation of a course towards humanizing the process of detention of convicts. However, from a regulatory and legal point of view, the most serious approach was formed only in July 1993, when the Law of the Russian Federation No. 5473-1 “On insti-

tutions and bodies executing criminal penalties in the form of imprisonment” was defined the foundations of the entire law enforcement industry.

In our case, it seems advisable to focus on the terms “prison system”, “penal system” and “system of institutions and bodies executing criminal penalties”. Their common features include the presence of groups of physical objects in a limited space that remain identical over a measurable period of time. The prison system is a set of interconnected institutions united by the common name “prison”. But the claim that it was formed only as a result of the establishment of the General Prison Department is, to say the least, groundless. There is more than enough evidence for this in the scientific literature. In 1889, I.J. Foinitskii pointed out, “The prison system in a broad sense means the totality of all measures in the form of punishment and correction of prisoners used by the prison authorities; in a closer sense, the prison system means a way of placing prisoners in the prison, a factor of punishment, regardless of other prison measures” [4, p. 323]. He emphasized that “for the first time, prison in this sense was mentioned in the 1550 Judicial Code, fixing imprisonment either as an independent punishment, an addition to public whipping, or a punishment instead of bail” [4, p. 314]. S.V. Poznyshov echoes him, arguing that “as an independent criminal punishment, it (i.e. prison) was first appointed by the judicial court of Ivan IV” [5, p. 4; 20]. The creation of the General Prison Department was assessed only as another milestone in the upcoming reforms.

Long before the establishment of the General Prison Department, the prison system appeared to be complex and multidisciplinary. Assessing preparations for large-scale transformations of the prison system, Professor I.V. Uporov notes, “It is obvious that the improvement of cases in places of detention was hindered by their great diversity” [6, p. 52]. N.A. Kozhukhov recalls that significant interest in changing Russian penal policy occurred during the reign of Catherine II, who in her Order, she identified “significant shifts in favor of the prison system development” [7, p. 26]. Although most reforms proposed at that time remained unrealized, they served as the basis for penitentiary reforms in the first half of the 19th century.

Researchers S.G. Kulikova and V.A. Zhabskii clarify that “the first reaction of the supreme power to the unfavorable state of the prison system in the early 19th century was the publication in 1802 and 1803 of the rules on the division of prisoners into categories according to the nature of their crimes and on the separation of prisoners according to these categories” [8, p. 34]. The Code of Institutions and Statutes on Individuals in Custody and Exiled adopted in 1832 established three groups of ordinary places of imprisonment, but this was not all. In addition to prisons, prison castles, and premises attached to courtyards and deanery councils, there were straitjackets and workhouses, monastic prisons, guardhouses, and convict companies [9, p. 3].

In modern scientific literature, we find a large number of confirmations that the Russian prison system is primary and the institution of the Main Prison Department is only one of the stages of its development. This idea is proved in articles of V.S. Kalinin [10], L.K. Ligacheva and T.V. Shitova [11], E.G. Mikheenkova [12], K.S. Krotov [13] and others. For example, D.V. Kolomentsev described in his dissertation research the state of the Russian prison system in the middle of the 19th century, that is, long before the creation of the Main Prison Department [14, p. 9]. The author of this article also published a publication justifying the fact that the origin of the prison system in Russia should be attributed to 1550, linking this with the implementation of the provisions of the Judicial Code of Ivan the Terrible [15].

Let us consider the relationship of the studied structures. Are they essentially one institution renamed under the influence of the demands of the time and the socio-political situation? Or are they fundamentally different structures with partially overlapping functionality? According to V.K. Bakulin, “the concepts of “the system of institutions and bodies executing punishments” and “the penal system” are not identical. In the first case, we are talking about institutions and bodies that execute punishments (Article 16 of the Penal Code of the Russian Federation). The second concept is broader and more voluminous” [16, p. 110]. In our opinion, to solve the problem of determining the time of the appearance of the Russian penal system, the degree of identity of the above-mentioned

concepts is quite comparable. It should be understood that we are talking about the consideration of a complex of interacting components that have existed since the time of early feudal Russia.

We would like to emphasize that the system of institutions and bodies executing criminal penalties, like the penal system, includes a wider range of bodies and institutions than the prison system, and therefore represents a more complex research structure. We understand that the latter should have prisons as its main institutions. The experience of system research shows that taking into account internal and external manifestations of objects, features of their functioning can provide quite sufficient information flow. If necessary, it is possible to detail “their hierarchical structure, the relationship between external and internal determinism, the processes of information transmission and management of purposeful behavior, and the conditions of stability... mechanisms of competition and reflexive management, methods of synthesis... various forms of interrelation between the objects under consideration” [2, pp. 75–76]. However, with a generalized approach, such a need does not arise.

In general, it can be concluded that the penal system has more ancient roots than the prison system itself. So, already at the beginning of the 11th century, a legislative framework appeared that provided for a system of measures of influence for crimes and offenses. There was a list of persons responsible for the execution of these punishments. There was no imprisonment at that time, but corporal punishment and the death penalty were actively and universally used. Consequently, considering the origin of the Russian penal system, we assume that with the adoption of the oldest code of laws “Russkaya Pravda”. However, we will leave this version as too exotic and insufficiently substantiated.

Despite significant differences in the understanding of the terms “prison system” and “penal system”, it is quite justified to take the beginning of the formation of the former as the starting point for determining the time of the latter’s origin. Hence, it is fundamentally important to determine not only, figuratively speaking, “where the Russian prison came from”, but also when the system of execution of punishments took shape.

To summarize, we come to the following conclusions:

The view that the Russian prison system dates back to the establishment of the Main Prison Department on March 12, 1879 is unacceptable. This institution was not even the first central body in the history of Russia responsible for the execution of punishments. The following institutions can be enumerated: the 1st department of the Ministry of Police (since 1811), the 4th expedition of the Ministry of Internal Affairs of the Russian Empire (since January 1803), and the Robbery Order (even earlier). This list is far from complete. Following the formation of the General Prison Department, the Law of December 11, 1879 “On basic provisions intended to guide the transformation of the prison unit and the revision of the Penal Code” was adopted. Its very wording does not indicate the “beginning of all beginnings”, but only the transformation of the system.

The expanded meeting of the Scientific Expert Council on the History of the Penal System at the Federal Penitentiary Service of Russia in July 2025 discussed the possibility of considering as a starting point in the history of the Russian penitentiary system the events related to the first mention of the term “prison” in the chronicle of July 24, 1471. We believe that these events are not of a system-forming nature. Even earlier facts of the use of this term are known in the chronicles, in particular, the word “prison” was used when describing the capture of Prince Rodoslav Ol’govich of Ryazan in 1402 [17, p. 522].

Within the framework of this discussion, it was proposed to estimate the adoption of the 1649 Council Code as the date. After the lawlessness of the Time of Troubles, this document made a huge contribution to strengthening the law enforcement system. For the first time, it fixed an additional circle of officials who held punitive positions, named some of their duties, and separated state crimes from criminal ones. But in general, it should be understood that these changes concerned long-standing legislative acts and executive structures.

So, the adoption of the Judicial Code of 1550 seems to be the most significant event worthy of becoming a starting point in the history of the Russian penal system. The founders of

prison studies and modern researchers state that for the first time the execution of sentences in the form of imprisonment is legally fixed in this document. This is not about any particular event, but about the formation of an integrated system and codification of legal norms that operated throughout the territory of the Russian centralized state.

Given the fact that the Ivan IV Judicial Code contains a wide variety of punishments practiced at that time, the significance of the document should be assessed not only in terms of the origin of the prison system, but also the penal system as a whole. It is important to take into account that the development and imple-

mentation of its provisions were directly related to the activities of the first specialized law enforcement agencies "Gubnye isby" that executed criminal and administrative penalties. "Tseloval'niki", "yaryzhki", "sotniki" and "desyatniki" were subordinated to a central structure, the Robbery Order.

Obviously, hasty adoption of the decision regarding the clarification of the age of the Russian penal system can have negative consequences. Therefore, it would be justified to further discuss the issue. The leadership of the Federal Penitentiary Service of Russia takes into account all opinions and recommendations expressed in this matter.

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