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On the Development of Criminal Punishment Institution in Russia from the Reign of Peter the Great to Criminal Codes of the Stalin Era

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Abstract

Introduction: the article considers problematic aspects of the evolution of the institution of criminal punishment in Russia from the time of Peter the Great to the first criminal codifications of the Soviet era, as well as cultural, socio-political and economic factors that influenced this process. *Purpose*: to analyze the historical path and identify patterns of criminal punishment development in Russia from the reign of Emperor Peter I, in which the intimidation paradigm prevailed, to the stage of operation of the first criminal codes of the Soviet state, focused on positivist ideas of protecting society and correction. *Methods*: structural analysis and synthesis, documentary, historical-legal and comparative-legal methods of cognition. *Results*: the author substantiates the point of view that the repressiveness of criminal punishments of the Petrine era is associated with the desire of the political authorities to ensure the implementation of fundamental, large-scale and unprecedented social transformations for that time. It is argued that the enlightened absolutism ideology of the Catherine era had no humanizing effect on penitentiary practice, which remained unchanged and conservative. The long-term codification and systematization of legislation under the leadership of M.A. Balug'yanskii and M.M. Speranskii is assessed and successful reforming of criminal legislation during the reign of Alexander II is described. A high legal significance of the 1903 Criminal Code is associated with the involvement of prominent legal scholars N.A. Neklyudov, N.D. Sergeevskii, N.S. Tagantsev, and I.Ya. Foinitskii in its drafting. Ideological and scientific-theoretical foundations of the first criminal codifications of the Soviet period are revealed in detail, reasons for the appearance of the institution of social protection measures are analyzed, and scientific judgments about the excessive repressiveness of penitentiary practice of that time are commented on. *Conclusions*: it is summarized that criminal punishment at each phase of its development in our country clearly reflects not only a socio-economic way of life, but also a current cultural and spiritual and moral level of Russian society; therefore, criminal punishment is a phenomenon reflecting socio-cultural processes at a certain stage of social development.

Keywords: criminal punishment; history of Russian criminal law; criminal legislation; penology; evolution of punishment; penitentiary system; doctrine of criminal punishment.

5.1.1. Theoretical and historical legal sciences.

5.1.4. Criminal law sciences.

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Introduction

The criminal law policy of Peter the Great, while maintaining its former orientation towards intimidation (as it is stated in the decree of November 17, 1718 "and for greater fear, gallows should be erected on noble roads"), became more utilitarian; convicts began to be involved in labor everywhere. For example, the decree of Peter the Great of February 13, 1719 "On sending guilty women and girls who are subject to the death penalty to the spinning yard" prescribes the following: "guilty women and girls who are subject to the death penalty ... should be sent to a certain spinning yard". Such types of criminal punishment as exile and penal servitude (exile to work in mines and manufactories forever or for a certain period of time and to work on the construction of harbors and fortresses) began to be intensively applied. In the Petrine era, Russian convicts were actively engaged in the construction of Saint Petersburg. Gradual spread of exile, penal servitude and isolation from society (arrest by a professional (executioner), "keeping under guard", etc.) reinforced the component of private prevention in criminal punishment. At the same time, the legislation of that time reflected the Orthodox idea of retribution. For example, Article 154 of the 1715 Military Code stipulates that "whoever, voluntarily or intentionally, without need and without mortal fear, kills someone, their blood shall be avenged, and the head of a murderer shall be cut off without any mercy".

Along with the widespread use of a death penalty (it was provided for in 122 articles of military codes of Peter the Great [1, p. 191] and characterized by multiple variations (arquebusier – shooting became an absolutely new type of punishment and was performed, as a rule, in public), painful and self-mutilating corporal punishments, criminal punishments associated with the loss of rights (in particular, such an analogue of civil death as defamation (deprivation of civil rights, which was preceded by the breaking of a sword over a person's head or by nailing a board with the name of the criminal to gallows), which were used as both basic and additional punishments. A characteristic feature of the punitive practice of the time of Peter the Great was the bringing of civil officers to legal liability without any legislative grounds for this under the 1702 Code of Conduct of Field Marshal B.P. Sherem'etev, the 1706 Military Code, the 1706 Charter of Former Years, the 1715 Military Article, the 1716 Military Regulations and the 1720 Naval Charter), which were to be used only by specialized military courts (kriegsrechts, etc.) and only in relation to military personnel.

Though the 1716 Military Code of Peter the Great stipulated decimation (execution of every tenth guilty person by lot used in the ancient Roman army) for witchcraft (sorcery), it contained progressive norms on the alternative nature of criminal punishments and their classification. So, they were divided into five classes: light honor violations, severe honor violations, ordinary corporal punishment, severe corporal punishment, and death penalties. It is noteworthy that this law established such a measure as asking for forgiveness, the essence of which was that the court imposed on the offender the obligation to publicly admit guilt and ask for forgiveness from the victim.

An important step towards development of the criminal liability institution was the official consolidation of the rule that ignorance of the law does not exempt from liability (*Nemo ignorantia iuris recusare potest*), which was initially addressed to judges, but in practice was quickly extended to the entire population: "so that in the future no one would be dissuaded by ignorance of state statutes". Under Peter the Great, secular punishments were supplemented by ecclesiastical punishments, in particular the 1721

Ecclesiastical Regulations. Archbishop Feofan (Prokopovich) was punished with anathema, the highest form of expulsion from the bosom of the Orthodox Church (excommunication). As is known, Hetman I.S. Mazepa was anathematized in 1708 for high treason.

The repressiveness of criminal punishments of the Petrine era is largely associated with the desire of the supreme power to ensure the implementation of fundamental, large-scale and unprecedented transformations of the entire socio-political life at that time. These novels contradicted old habits, foundations and traditions of society and were unwelcome by the society. On the other hand, the tightening of criminal penalties was in itself an element of reform and part of Peter's innovations aimed at consolidating and mobilizing social forces for a powerful socio-economic and cultural breakthrough achieved by Russia at the cost of great efforts of society and the state in the first quarter of the XVIII century.

Criminal punishment during the reign of Empress Anna, Empress Elizabeth and Empress Catherine the Great

In the second quarter of the XVIII century, the state policy in the penitentiary area was not focused on humanization. On the contrary, during the reign of Empress Anna, repressive measures were strengthened. Empress Elizabeth had an extremely negative attitude towards capital punishment, introduced a special procedure for imposing a death penalty (the requirement of mandatory "highest confirmation" of all death sentences and political death), and did not sign a single death sentence submitted to the Governing Senate. However, in practice, the established procedure was bypassed without any significant consequences and the death penalty was often applied, most often in the Baltic provinces and in the Zaporozhian Sich on the basis of the customary law of the Little Russian Cossacks [2, p. 138]. Besides, the execution of criminal punishment in the form of whipping drove many convicts to a painful death. Despite the empress' negative attitude towards the death penalty, the 1754 draft Criminal Code stipulated the death penalty for many crimes and in case of aggravating circumstances to "tear a person into five pieces by five harnessed horses" for insulting a royal person and to "hang by ribs" for robbery involving murder, etc.) [3, p. 28]. Although this long-prepared draft was approved in the Senate, it was not backed by Empress Elizabeth; however, legislative work on the preparation of a new code was continued during the reign of Catherine II.

An instruction for the Legislative Commission worked out by Catherine II reflected principles of the enlightened absolutism policy and was based on the French collection "Encyclopedia, or explanatory dictionary of sciences, arts and crafts", works of C. Beccaria "On crimes and punishments" and S. Montesquieu "The spirit of the laws" (Catherine II called it her "prayer book"). The instruction contained contradictory views on a death penalty. For example, articles 209–212 deny benefits and the necessity of a death penalty in case of "an ordinary state of society", while Article 79 states that "a citizen is worthy of death when he/she violated security even before he had killed someone or tried to do it". An accurate interpretation of the latter provision allowed N.P. Zagoskin to draw a correct conclusion that "Catherine, seeing in the death penalty "some medicine for a sick society", was inclined to use it not only for murder, but also for attempted murder" [4, pp. 83–84]. The 1782 Statute of the Deanery developed during the reign of Catherine II established a closed list of punishments applied by police authorities (imprisonment in a workhouse, fine, censure, etc.), which, according to the authors of this statute, were supposed to educate and form high moral qualities in members of the society.

During the reign of Empress Catherine, humanization of the domestic policy was only formally expressed in official declarations and imperial philosophical and legal arguments, notations and "orders". Penitentiary practice remained conservative and stagnant. In some cases, the empress was very repressive. The Decree of August 22, 1767 "On peasants being obedient to landlords and on not giving petitions to Her Majesty" forbade serfs to complain about their owners under threat of criminal punishment. The decree of January 17, 1765 "On the admission of serfs by the Admiralty Board and imposing hard labor on them" endowed

the Russian nobles with the right to send serfs "deserving just punishment due to their forward behavior" to hard labor. As L.R. Safin correctly writes, it was the strictest punishment of those that could be provided to landlords in the era of serfdom in Russia [5, p. 146].

Criminal punishment in Russia in the XIX century and in the pre-revolutionary period

Attempts to draw public attention to the need to reform, update and improve the practice of executing criminal sentences were made by individual prominent personalities, including the English prison reformer, lawyer, physician and philanthropist D. Howard, who died in Russia in Kherson and was honored with the following epitaph on the obelisk "Alios salvos fecit. Vixit propter alios" ("Made others healthy. Lived for others"). In 1819, another English philanthropist, W. Venning, who had been studying the state of Russian prisons for two years, submitted a note to Alexander I on improving conditions of detention in them and founded the Prison Trust Society in Russia. Not only Alexander I and other Russian monarchs were interested in penitentiary institutions in the traditions of Russian Christian charity. "On state, religious and family holidays (for example, the emperor's birthday), Russian sovereigns and dignitaries visited prisons, listened to prisoners' complaints, provided them with financial assistance, and sometimes released prisoners" [6, p. 19].

Since the beginning of the XIX century, the Russian authorities had taken decisive steps towards the codification and systematization of criminal legislation: in 1801, Alexander I supervised the Law Drafting Commission. In 1826, Nicholas I transformed it into the Second Branch of His Imperial Majesty's Own Chancellery. Its long and painstaking work under the leadership of M.A. Balug'yanskii and M.M. Speranskii resulted in the Complete Collection of Laws of the Russian Empire and the Code of Laws of the Russian Empire. Volume XV of the Code of Laws of the Russian Empire contained criminal law norms divided into two parts – General and Special. The code included the 1832 Statute on the Prevention and Suppression of Crimes, which entered into force on January 1, 1835. It is important and interesting primarily for criminologists and penologists, because crime prevention activities were for the first time systematically consolidated at the legislative level (the statute, in particular, provided for crime prevention measures, such as prohibition of residence in capitals and other places, police supervision and expelling foreigners abroad). The 1831 Instruction to the Caretaker of the Provincial Prison Castle is also of penological interest, since it formulated the goals of penitentiary activity: "so that, upon returning to the society, they will become useful to themselves and their families, try to correct and get used to working" (Art. 237).

After the publication of the Code of Laws of the Russian Empire, the Code on Criminal and Correctional Punishments was developed. After being considered by the State Council, it was approved by Nicholas I on August 15, 1845 and put into effect on May 1, 1846. This code is considered the first Russian criminal code, since all previous legislative acts combined norms of various branches of law. Despite careful elaboration of the issues of punishment, it had a number of drawbacks: first, Article 90 "Definition of punishment in general" did not present a definition of criminal punishment; second, at the same time, the 1857 Statute on Exiles, the 1864 Statute on Punishments imposed by Justices of the Peace, the 1868 Military Statute on Punishments, the 1870 Naval Statute on Punishments and other laws were in force in Russia, which also contained lists of punishments imposed by the courts; third, the system of criminal penalties presented in the code, which consisted of 12 sections, 81 chapters, 98 branches and 2,224 articles, was too voluminous, complicated and difficult to apply (N.D. Sergeevskii drew attention to this disadvantage more than once [7, p. 877]); fourth, there persisted inequality in criminal punishment (in particular, nobles, merchants and other privileged classes were exempt from corporal punishment); fifth, this code allowed the use of criminal punishment by analogy if there were gaps in the sanctions. The main advantage of this codification, in our opinion, is that its authors sought to implement a complex penitentiary task – to measure and correlate the content of criminal penalties not only with the degree of public danger of the crime, but also with its nature.

The Code divided punishments into criminal (death penalty, exile to Siberia, etc.) and correctional (reprimand in the presence of the court, remarks and admonition on the part of the court or government, short-term arrest, etc.). In our opinion, it demonstrates the Russian legislator's desire to strengthen a correctional function of criminal punishment. This is how to ensure the principle of punishment individualization (this intention is reflected in the very title of the code). The system of punishments was presented in a hierarchical form: from the most severe to the least severe. Most punishments were accompanied by the deprivation of all rights of the state (estate (both non-noble and taxed estates), civil and political rights) and the deprivation of all special rights and advantages (honorary and noble titles, ranks, insignia, the right to enter the service, etc.).

The judicial reforms of Alexander II, approved in 1864 and carried out in 1866–1899, led to an updated version in 1866 (preceded by the 1857 edition) of the Code on Criminal and Correctional Punishments. As a result, class distinctions were mitigated, although the class principle itself was not abolished. The year of 1863 witnessed the abolishment of corporal punishment was officially abolished as a form of criminal punishment (in practice, especially in relation to exiles, including women (caning of a female prisoner led to mass suicides at the Kariya penal servitude in 1889), they were used until the beginning of the XX century) and the stigmatization of convicts to hard labor (tearing criminals' nostrils was abolished much earlier – in 1817). In 1885, the system of criminal penalties was liberalized to a certain extent. Thus, public execution of the death penalty was abolished, and imprisonment in workers' and straitjackets was excluded from the text of the code, instead of which ordinary imprisonment was used.

Changes in criminal legislation in the middle and the end of the XIX century contributed to the increase in the social and legal role of prison institutions, as well as to the promotion of the institution of exile, which had been previously used on a much smaller scale (especially in relation to political (state) criminals). N.M. Yadrintsev in his famous work "The Russian community in prison and exile" dwelt on the colonization and correctional significance of Russian exile, stating that "it has not achieved its intended goal to colonize Siberia. Settlers are not only not the predominant part of the Siberian population, but, on the contrary, constitute the smallest and rapidly dying part of it" [8, p. 600], and also gave a low assessment of the preventive role of exile. While agreeing with his opinion on the colonization aspects of exile in Russia, we cannot accept his point of view on the purpose of private prevention in exile as correct and justified. In this respect, it is similar to imprisonment, since exile not only deprives a person of an objective opportunity to commit criminal acts, but also gives him/her time for correction and reassessment of his/her life ideals and values. In Russia in the XIX century, a system similar to the Irish (Crofton) system was implemented. Those exiled to penal servitude were divided into the category of subjects and the category of those being reformed, i.e. those who, thanks to good behavior and the desire to improve after a certain time, were endowed with various benefits and advantages, such as the right to receive a salary, to live outside the prison, to build a house on a factory land, to marry, to receive in-kind benefits (inventory, tools, seeds, etc.) for household management, to move after penal servitude into the category of exiled settlers.

Under the 1900 law, the division of exile to Siberia and exile to Transcaucasia (for heretics, schismatics, sectarians, etc.), as well as "exile to the settlement in the most remote places of Siberia" and "exile to the settlement in places of Siberia not so remote", was abolished. The Criminal Code of March 22, 1903 contains penal servitude and banishment for settlement as a type of exile that is not divided into degrees. In general, the system of criminal penalties in this legislative code of the turn of the XIX–XX centuries was significantly simplified; its framework consisted of only three categories of punishments: main, additional and substitutive, and only eight types comprised the closed list of criminal punishments. The categories of criminally punishable acts (grave crimes, crimes and misdemeanors) were constructed depending on the severity of the penalties provided for

them, and the differences between criminal and correctional punishments were leveled by the legislator. Though Article 1 of the latter codified criminal law collection of the Russian Empire had a definition of crime, it contained neither a concept of criminal punishment, nor its purpose. Nevertheless, many Russian researchers note a high scientific and theoretical significance of the 1903 Criminal Code, which had been worked out for more than 20 years. Prominent legal scholars of that time N.A. Neklyudov, N.D. Sergeevskii, N.S. Tagantsev, I.Ya. Foinitskii took part in its drafting. N.D. Sergeevskii's made critical comments on it in a letter to the special editorial commission established in 1881 by Alexander III. He believed, the penitentiary system "remained only on paper in current law, but in real life led to complete decomposition and even demoralization of criminal justice, precisely because of the discrepancy between a complex system and the monotony and scarcity of available resources in society" [9, p. 37].

Nicholas II, who intended to reform the penal system, refused to enact the 1903 Criminal Code in full and introduced its individual chapters and articles. The events of the 1905 Revolution mediated the publication of the Decree of December 2, 1905, which tightened responsibility for participation in strikes at enterprises of national importance. The onset of the First World War in 1914 required introduction of amendments to criminal legislation aimed at tightening criminal penalties for a number of crimes, the public danger of which increased due to Russia's entry into the war (for example, the Decree of January 12, 1915 increased the punishment for desertion, unauthorized absence and evasion from military service).

Amendments to criminal legislation introduced by the Provisional Government during the February Revolution of 1917 were characterized by haste, inconsistency and thoughtlessness. For example, it declared an amnesty, but six months later the amnestied had to be returned to places of detention; the death penalty was abolished, but three months later it was restored because of anti-government protests in Petrograd and the deterioration of the situation at the front in July 1917.

Criminal punishment during the time of the young Soviet Republic

The 1917 October Revolution led to the total dismantling of the former social structure and state apparatus and elevated Marxism to the rank of the dominant ideology in our country, the revision of conceptual foundations of criminal policy, including changes in views on the essence, social purpose and goals of criminal punishment. In the early years of Soviet power, criminal liability for crimes was established by separate decrees, resolutions and instructions, which were based on the ideas of revolutionary violence and the dictatorship of the proletariat and had a pronounced class character. Thus, the Instruction of the People's Commissariat of Justice of the RSFSR "On the revolutionary tribunal, its composition, the cases subject to its jurisdiction, the punishments imposed by it, and the procedure for conducting its meetings" adopted on December 19, 1917 established an exhaustive list of 8 types of punishments, which included "sequestration or confiscation (partial or total) of the perpetrator's property", ""declaration of public censure" and "declaration of the culprit as an enemy of the people". The Decree of the Council of People's Commissars of the RSFSR of July 22, 1918 "On speculation" established a sanction for speculation, providing for imprisonment combined with forced labor and confiscation of the perpetrator's property. Decrees on the court of the Central Executive Committee and the Council of People's Commissars of the RSFSR No. 1 of November 24, 1917 and No. 2 of March 7, 1918 allowed the application of legal norms of the criminal codes of 1845 and 1903 and other pre-revolutionary legislation "insofar as they were not abolished by the revolution and do not contradict the revolutionary conscience and revolutionary legal awareness" (a complete ban on the use of pre-revolutionary law was fixed in Note 22 of the Regulations of the Central Executive Committee on the People's Court of the RSFSR of November 30, 1918), which suggests that there is continuity between Soviet criminal legislation and pre-revolutionary legislation. Our conclusion confirms the content of the Soviet Criminal Code of 1918, which was not applied in prac-

tice, known as the "Code of Laws of the Russian Revolution. Part 5. The Criminal Code. 1918 Edition" and developed by the People's Commissariat of Justice of the RSFSR on the basis of the Criminal Code of 1903. We have identified a genetic link between norms of this legal monument and the criminal law of the Russian Empire, including in approaches to criminal punishment.

Despite the borrowing of some legal structures from the laws of tsarist times, the socialist state in the penitentiary sphere sought to break doctrinal ties with the classical idea of retaliation and the model of intimidation, as well as to update, diversify the range of ways and means of criminal legal influence on delinquents. In practice, this focus was expressed in the use of new and updated legal measures, such as public censure, depriving public trust, declaring an enemy of the revolution or the people, banning from holding office, prohibiting from speaking at meetings, movement from capitals, certain localities or borders of the Russian Republic, announcement of a reprimand or remark by the court, etc. We fully share the opinion of R.B. Osokin and M.V. Denisenko that these punishments "are very interesting from the point of view of social reality, attracting and rallying citizens, and showing collective will towards one citizen who has violated the law" [10, p. 52]. In our opinion, the introduction by the Soviet government of a system of widespread public involvement in the treatment of offenders (including introduction of friendly courts, party courts, courts of honor, rural public courts, bail practices, etc.) can be recognized as a solution that contributed to the liberalization and democratization of crime prevention.

The focus of the new criminal policy course, first of all, on the prevention of criminal behavior and the individualization of criminal law measures with consistent disregard for the ideas of retribution and atonement is clearly expressed in the Guidelines on Criminal Law of the RSFSR of December 12, 1919, which in the list of "exemplary" punishments contained a large number of alternative, unrelated to isolation from society, measures of influence, such as admonition, boycott, deprivation of political rights and outlawry. According to Article 10, "punishment is not retribution for "guilt", is not atonement for guilt". This normative legal act is also interesting because, for the first time in the history of Russian criminal law, it gave a legal definition of criminal punishment as such "punishment is those coercive measures by which the government ensures the order of public relations from violators (criminals)" and presented its task as "protection of public order from a person who has committed a crime or attempted to commit such a crime and from future possible crimes of both this person and other persons".

Some Russian researchers believe that in 1918–1920, the task of eliminating or isolating representatives of the exploiting classes from society was put at the forefront of criminal law practice. V.S. Egorov, mentioning the Decree of the Council of People's Commissars of the RSFSR "On the red terror" of September 5, 1918 and the Instructions to the emergency commissions at the local level of December 1, 1918, writes in support of this position, "A new type of punishment is being introduced – isolation in concentration camps. The death penalty is actively used – according to some data, 9,641 people were executed during the period from 1918 to 1919" [11, pp. 24–25]. However, according to criminal law statistics, the most common type of criminal punishment during this period was a fine [12, p. 49], and People's Judge N.K. Lomakin, who was working at the same time, recalled, "When we first handed out a suspended sentence, the whole audience reacted to it with some kind of joyful sympathy.... In general, I must say that our first sentences were very humane. We often passed public censure and imposed small fines; I don't remember anyone being sentenced to more than two years in prison" [13, p. 25]. Moreover, the tendency to humanize criminal repression persisted in subsequent years. Analyzing criminal sentencing in 1922, Ya.N. Brandenburgskii provided the following statistical information, "Both before and after the introduction of the Criminal Code, 75 out of 100 defendants were convicted and 25 acquitted" [14, p. 337].

We also cannot agree with the point of view of P.E. Suslonov that "the very concept of punishment has been rethought by the new government... Punishment is a defensive measure

to protect the social order, a measure of social protection ("Guidelines on Criminal Law of the RSFSR", 1919). Although the idea of correction is declared, logically it does not fit into the scheme of this concept" [15, p. 8]. The Guidelines on Criminal Law of the RSFSR of December 12, 1919 has no mention of a "measure of social protection" (this construct will be added to punishment later), it refers to punishment in its traditional meaning and not as a "defensive measure to protect the social order", but as a measure of coercive influence, the task of which is to protect public order from criminals; the idea of correction ("adaptation to this social order"), declared in it and provided for in the plan of implementation, logically fits into its concept.

The position that "crime in a class society is caused by the way of social relations in which the criminal lives" is based on Communist ideas about variability – the dependence of the individual on social conditions of life, which in the Marxist doctrine is a prerequisite for its correction. The personality of a criminal was considered by Marxists as a victim of external circumstances. We emphasize that they were sincerely convinced of the possibility of correcting criminals. Principles of the correctability of criminals and the subordination of criminal punishment to the goal of re-education became basic in their penological concept.

In the Marxist penal model, great importance is attached to labor as a means of correction. Emphasizing the importance of labor as a means of correction, K. Marx wrote, "Workers do not want... that criminal offenders should be treated like cattle and especially that they should be deprived of the only means of correction – productive labor" [16, p. 34]. The Criminal Code of the RSFSR of May 26, 1922 contained criminal punishment in the form of forced labor without detention and the requirement that "deprivation of liberty must be combined with work. Types of places of deprivation of liberty in Article 34 indicated the role of labor in the correction of convicts (correctional labor houses, labor agricultural and craft colonies, transitional correctional houses)". This code, along with criminal punishment, enumerates "other social protection measures", such as placement in an institution for the mentally or morally disabled, compulsory medical treatment, prohibition to hold a particular position or engage in a particular activity or trade).

In 1922, the term "social protection measures" was used along with the term "punishment" (here we agree with A.N. Trainin that "the first Criminal Code is not very attentive to words. Its terminology is ... unrestrained; the law says something about "punishment and other social protection measures" (Chapter IV), then even about "punishment" as opposed to "social protection measures"" [17, p. 40]). According to E.G. Shirvindt and B.S. Utevskii, "Soviet law sees punishment not as a penalty, not as retribution, but only as a measure of social protection against acts directed against the proletarian state or harmful to socialism" [18, p. 20]. This concept (the first attempt to consolidate social protection measures along with punishment in criminal legislation was made by C. Stooss in 1893 in the draft Criminal Code of Switzerland, before that F. Turati proposed G. Zanardelli to reflect them in the 1889 Italian Criminal Code (The Zanardelli Code), but he did not incorporate them) was taken from the works of E. Garson, A. Prince and the Marxist E. Ferri. E. Ferri considered social protection not only as the protection of society from crime (especially from crimes of "mentally ill criminals" and "criminals by birth"), but also protection from criminal acts on the part of the ruling classes, as well as developed a synthetic positivist criminological model based on the unification of doctrines of "public defense" and "class defense".

Among the goals of punishment and other social protection measures outlined in the Criminal Code of the RSFSR of May 26, 1922, special attention should be paid to such a goal as adapting the offender to conditions of the dormitory by means of correctional labor. So, the legislator intended to use the resocialization resource of criminal punishment, integrate and adapt convicts to life in a socialist society, the society of working people. The Fundamentals of Criminal Legislation of the USSR and the Union Republics of October 31, 1924 lack this goal is (it is reproduced in the Correctional Labor Code of the RSFSR of October 16, 1924 as one of the goals of establishing correctional

labor institutions), as well as the very concept of punishment. They present social protection measures for preventing crimes and depriving socially dangerous elements of the opportunity to commit new crimes and correctional labor effects on convicts. At the same time, it is emphasized that "criminal legislation of the USSR and the Union Republics does not set itself the tasks of retribution and punishment". Social protection measures were divided into measures of a judicial and correctional nature, measures of a medical nature, and measures of a medical and pedagogical nature. In fact, the first group consisted of criminal penalties named in a new way. Medical measures included compulsory treatment and placement in medical isolation facilities, while medical and pedagogical measures included the transfer of minors in care of parents, relatives or other persons, institutions and organizations and their placement in special institutions.

The abolition of criminal punishment and its replacement with "social protection measures" is a category of positivist criminological concepts that deny basic ideas of the classical school of criminal law. The principles of freedom of will and guilt made it possible to legalize objective imputation in the Fundamentals of Criminal Legislation of the USSR and the Union Republics of October 31, 1924. Resettlement from the borders of the Union Republic or from the borders of a particular locality is appointed by the courts in respect of persons recognized as socially dangerous due to their criminal activities or in connection with the criminal environment in the area. This measure can be applied by the courts to persons who regardless whether they are acquitted or found guilty are recognized as socially dangerous.

The Criminal Code of the RSFSR of November 22, 1926 also contained norms on objective imputation that violated the principle of "Nemo punitur pro alieno delicto" (no one is punished for another person's crime). On July 20, 1934, it was amended as follows: in the event of a serviceman's escape or flight abroad, "the rest of adult family members of the traitor, who lived with him/her at the time of the crime commission are subject to disenfranchisement and exile to remote areas of Siberia for five years". In 1934, another amendment was made to the code. So, in the resolutions of the Central Election Commission and the Council of People's Commissars of the USSR (starting with the resolution of June 8, 1934), the term "punishment" is used instead of the term "social protection measure of a judicial and correctional nature", indicating the return of the Soviet legislator to this concept. Then Article 3 of the USSR Law of August 16, 1938 "On the judicial system of the USSR, the union and autonomous republics" fixed that "the Soviet court, applying criminal penalties, not only punishes criminals", emphasizing doctrinal "rehabilitation" and an appeal to the penological concept of retribution (punishment).

As N.V. Azarenok correctly notes [19, p. 51], the Criminal Code of the RSFSR of November 22, 1926 was many times amended, the institution of criminal punishment was reconsidered. So, after the Great Patriotic War, the legislator made amendments to the code, aptly characterized by A.V. Naumov as such: "the limits of punishment were set depending on the object of crimes against property. Punishment for crimes against state property was the most severe, for crimes against public property – less severe, and against personal property – the least severe" [20, p. 124].

The Criminal Code of the RSFSR of October 27, 1960 also did not contain an official definition of criminal punishment. However, Article 20 revealed the approach of the Soviet legislator to it: "punishment is not only a penalty for the crime committed, but it is also aimed at correcting and re-educating convicts in the spirit of an honest attitude to work, strict enforcement of laws, and respect for the rules of the socialist community, as well as preventing new crimes". This provision fully coincided with the wording contained in Article 20 of the Fundamentals of Criminal Legislation of the USSR and the Union Republics of December 25, 1958 and Article 1 of the Correctional Labor Code of the RSFSR of December 18, 1970, in particular, "and also contributed to the eradication of crime". In our opinion, such a high goal – the belief in the achievability of which was inherent in that historical era – should have been fixed not in

correctional labor, but in the Soviet criminal law.

Conclusion

So, Russian historical experience shows that the goals, ideological foundations and content of criminal punishment changed both with the pace of social dynamics, which varied at different times, and due to structural changes within the political and legal system of our state, while maintaining a certain national identity and relative continuity. In the XIX–XX centuries, criminological and criminal law theories and philosophical and political teachings, especially Marxism, began to influence these changes. In certain historical periods, criminal punishment was used as a means of social, ideological and domestic political struggle, whereas its immutable socio-legal purpose is to confront crime and protect society from various manifestations of the criminal phenomenon.

Aggravation of the criminal situation in society at any stage of its development acts as a catalyst for the activity of state authorities to improve criminal punishment and create its new forms and types, and deterioration of the criminal situation is facilitated by the lack of congruence and often gaps between the changed social reality and the content of criminal legislation.

At each stage of its development in Russia, criminal punishment clearly reflects not only the socio-economic way of life, but also the current cultural and spiritual and moral level of society, therefore criminal punishment is also a phenomenon reflecting socio-cultural processes in Russian society. In this regard, it is quite possible to reinterpret and expand the well-known words of Churchill's "show me your prisons, and I'll tell you what kind of society you live in" to "get acquainted with the criminal punishment system used in society and the current practice of its application, and you will be able to assess the level of cultural and socio-legal development of this society". In our opinion, this latent property of criminal punishment can be attributed to functional ones that can be used for scientific and cognitive purposes.

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