

Washington Law Review

Volume 25 | Number 2

5-1-1950

Penalties and Rewards in Soviet Law

George C. Guins

Follow this and additional works at: <https://digitalcommons.law.uw.edu/wlr>



Part of the [Comparative and Foreign Law Commons](#)

Recommended Citation

George C. Guins, Far Eastern Section, *Penalties and Rewards in Soviet Law*, 25 Wash. L. Rev. & St. B.J. 206 (1950).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol25/iss2/6>

This Far Eastern Section is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review by an authorized editor of UW Law Digital Commons. For more information, please contact lawref@uw.edu.

FAR EASTERN SECTION

PENALTIES AND REWARDS IN SOVIET LAW

GEORGE C. GUINS*

THE SOVIET system and practice of penalties and rewards have several peculiarities which are undoubtedly bound up with Soviet socialism.

Long before the Revolution of 1917, the eminent Russian scholar L. J. Petrazicki pointed out that with a transition to socialism there would be greater emphasis on the system of compulsion and rewards.¹ When the government becomes the supreme monopolist and arbitrator of all earnings and prices, when the livelihood of all its citizens is placed in direct dependence on the state, the stimuli of acquisition, gain, and risk lose their power. The incentive to work is derived from disinterested devotion to national and humanitarian causes, or from anticipation of favors from the powers that be. Lofty ideals and altruistic psychological motives are, however, not common among the masses. Any impairment of personal interests produces indignation, retaliation, and sabotage. The authorities, on their side, have recourse to harsh measures for dealing with the "enemies of the people" and, conversely, lavishly distribute rewards as encouragement to devoted and zealous workers.

A system of penalties and rewards is being practiced in the Soviet Union not only to stimulate economic activity, since profits as stimuli have been completely uprooted, but also because every act inimical to the interests of the state can be considered a crime. This is one of the peculiarities of Soviet "socialism" in its present form. Concentration of all economic and political power in the hands of the central government deprives everyone of the possibility of existing otherwise than by serving the state. An engineer, worker, peasant, or even scholar, writer, or artist, is in the service of the state, and for every violation of his duties, nonfulfillment of plans, or failure in performing contracts he can be charged with negligence, sabotage, and even conspiracy against the state. In spite of comparatively mild penalties established

*Lecturer in Political Science and Russian, the Institute of Slavic Studies, University of California.

¹ 2 PETRAZICKI, *TEORIA PRAVA* (Theory of Law) 709-10 (St. Petersburg, 1910).

in some sections of the Soviet Criminal Code, the Soviet penal system is known as excessively cruel. This is counterbalanced by the lavishness of rewards. These peculiarities are inherent in the system of the Soviet socialism and deserve special study

I

In a country where the national economy is based on property rights and on a system of private enterprise and competition, those who do not work efficiently do harm primarily to themselves. It is not necessary to charge and prosecute them for their negligence unless there is some direct offense against a third person or against society. This is not the case in the Soviet Union. Directors, chief engineers, managers of factories and plants, their assistants, and chief supervisors are held responsible for producing goods of inferior quality, for any failure to conform to the established standards, or for the release of unfinished products which are lacking in some component parts and are not entirely fit for use. This defective production is considered equivalent to sabotage and entails sentence to ordinary prisons for a period of from five to eight years.² But if fraudulent intent is ascertained, then the accused are indicated as "wreckers" (saboteurs),³ punishable prior to May 26, 1947, by the death penalty, and after that date,⁴ by twenty-five years imprisonment in a correctional labor camp and only in extenuating circumstances by deprivation of liberty for a shorter period with confiscation of property in whole or in part.

Directors of industrial establishments are also responsible for "non-fulfillment of any contractual agreement with a state, public institution, or enterprise," and if bad faith is established in the course of civil proceedings, they are imprisoned for a period of not less than six months with confiscation of property in whole or in part.⁵

² Ukase of the Presidium of the Supreme Soviet of the USSR of July 10, 1940. This Ukase is incorporated into the Criminal Code of the R.S.F.S.R. in the form of an amendment to paragraph I of Art. 128 (a). Although several Union Republics have their own criminal codes, they do not differ essentially and it is usually sufficient to refer to the Criminal Code of the R.S.F.S.R. of 1926 (referred to hereafter as *Crim. C.*). See English edition *The Penal Code of the R.S.F.S.R.*, text of 1926 (with amendments up to December 1, 1932) with three appendices. London, H. Majesty's Stationery Office, 1934.

³ Art. 58, *CRIM. C.*

⁴ Ukase of May 26, 1947 (*Izvestia*, May 27, 1947).

⁵ *CRIM. C.*, Art. 131. Early in 1948 (*Izvestia*, No. 89) there began a series of prosecutions of engineers, factory and plant managers indicted for the production of poor quality goods. Engineer Vikhota of the Grodno factory was sentenced to five years' imprisonment for the production over a long period of poor quality bicycles; in Leningrad, Malinovskiy, a chief engineer, was sentenced to two years' imprisonment for pro-

Rank and file workers and employees are also under the threat of prosecution. For nonappearance at work without an acceptable reason they are liable to sentence to correctional labor at their regular place of employment for a term not to exceed six months with a reduction of wages not to exceed 25 per cent. Violations of labor discipline without a valid excuse, such as tardiness, leaving work before the scheduled time, undue prolonging of the lunch recess, and loitering on the job, are considered criminally punishable as shirking. If the period of tardiness is less than twenty minutes or if the quitting of work occurred less than twenty minutes before the end of the work shift, then the accused is subject to disciplinary action. However, if a similar violation occurs three times in a single month, or four times in two months, it is considered shirking, for which corrective labor is prescribed for a period of up to six months.⁶

Arrival at work more than twenty minutes late without a legitimate reason means a fine of twenty-five per cent of a half year's wages. The court sends a demand for payment to the institution or plant where the sentenced person is employed, and for the six-month period the enterprise is obliged to withhold a portion of the wages of the sentenced person and turn it over to the state treasury. A repeated instance of coming late to work involves prison sentence of not less than one year. Absence from work without a justifiable excuse involves imprisonment for a period of from one to two years. Arbitrary quitting or changing one's place of employment can also incur a sentence at correctional labor for a period of up to three years.

In the cases just cited the following are considered justifiable reasons: (1) serious illness of the employee, if the fact is confirmed by a doctor of a State medical institution, (2) an accident to a member of the family, with the fact confirmed by the "militsia" (police), the house administration, or some other responsible authority; (3) an official court summons; (4) a breakdown in the transportation system which prevents the employee from appearing at work on time.⁷

ducing poor quality felt boots (valenki), the manager of the Totsk Bakery in the Chkalov region was sentenced to five years' imprisonment for baking poor grade bread, etc. At the same time the General Prosecutor's office instructed all its local organs to prosecute mercilessly all those responsible for manufacturing inferior goods.

⁶ Ukase of June 26, 1940, part 2, Art. 5. (See *IZVESTIA* and *PRAVDA*, June 27, 1940; *VEDOMOSTI VERKHOVNOGO SOVETA*, July 5, 1940, No. 20, and August 22, 1940, No. 28.) Liability for leaving military enterprises during the war was determined by the special Ukase of December 26, 1941 (*VEDOMOSTI*, 1942, No. 2), cf. *GSOVSKI, SOVIET CIVIL LAW* 816-820 (Univ. of Michigan 1948).

⁷ The failure to get on a street car or train because of its being accidentally detained, or the cars being overcrowded, the illness of one's children or wife, or the necessity of

Any person from watchman to chief engineer of any enterprise can be indicted for any breach of labor discipline. The excusing of any such violation is absolutely prohibited. On the contrary, it is the administration's duty to prosecute those at fault immediately and without fail. Otherwise the administration itself is subject to trial not only for neglect but also for concealing the crime, and is punishable as an accomplice.⁸

Graduates of universities and institutions of higher learning are indicted for loafing if they refuse to accept appointment to a designated position. Under threat of punishment, after graduation they must serve for five years in their respective fields at the order of the commissars (ministers) "for having been taught at the expense of the State."⁹

Serious penalties also threaten negligent kolkhoz farmers. Every able-bodied farmer is obliged to work for a fixed number of labor days. Any person who fails to work the obligatory minimum during the course of the year without a justifiable reason "is to be expelled from the kolkhoz, and forfeits his rights as a member of the kolkhoz, and also the rights to his household plot."¹⁰

In the Soviet Union the simple nonfulfillment of obligations of a

standing in line for articles of primary necessity are not considered justifiable reasons for being late or for nonappearance at work. *Osnovy Sovetskogo Gosudarstva i Prava* (Foundations of the Soviet State and Law) (Moscow, 1947). *Yuridicheskoe Izdatel'stvo Ministerstva Iustitsii S.S.S.R., M., 1947* (referred to hereafter as *Osnovy*), pp. 428-431.

⁸ U.S.S.R. Ukase, June 26, 1940, Art. 6. Resolution of the Supreme Court of August 15, 1940, No. 29/15/u. See *Sbornik deystvuyuschikh Postanovlenii i Direktivnykh Pisem Verkhovnogo Suda S.S.S.R., 1924-1944*, Moscow, 1946, pp. 29, 30.

Prof. Haensel in his article, *A Survey of Soviet Labor Legislation, 1917-1941*, 36 *ILL. L. REV.* 529-544, cited the following facts: "For instance, a chief of transport in a factory was sentenced to a two-year prison term for having several times sent home a worker who came to work intoxicated, instead of prosecuting him. *Izvestia*, August 16, 1940. An apprentice was found loafing during working hours. In revenge he attacked his master in the street and beat him. *Izvestia*, August 17, 1940. Several judges were deprived of their positions for rendering too mild sentences or for delaying in passing sentences. *Izvestia*, August 9 and 13, 1940."

⁹ *Sobranie Zakonov S.S.S.R.*, 1933, No. 59, 356. Cf. *Sbornik* (referred to in note 6), Resolution of the Plenum, March 17, 1934, pp. 37-38.

¹⁰ *Osnovy*, p. 504. Because of unfavorable climatic conditions, the absence of seed, the damaging of agricultural equipment, etc., the farmer on the collective farm field may, despite his intensive labor, find himself without remuneration since there may remain nothing for his share after delivery of the government quota, and after payment to the Machine Tractor Station (M.T.S.) of its required amount of grain. The collective farmer prefers to work his own garden plot, but if in consequence of such work he obviously neglects the interests of the kolkhoz, he is subject to exclusion from the collective farm and simultaneously risks losing his garden plot, by means of which he subsists. In such case he is completely dependent on the state, which gives him work when it is more profitable for the state, and when not exiles him to correctional camp.

The collective farmer is not a hired worker and is not subject to the Labor Law of 1940. However, in conformity with Art. 18 of the Charter of Collective Farms, a collective farmer may be prosecuted in accordance with the Criminal Code for a "Betrayal of the common cause and aid to enemies of the people."

material nature may be considered a crime. This will be shown in the following example. On November 2, 1940, the N.K.K.Kh.¹¹ of the R.S.S.R. issued an order, No. 854, "To impose on house administrators disciplinary penalties for not taking the necessary steps, or for not taking such steps in good time, to collect apartment rents, and in indictable cases, to be criminally prosecuted." It is clear that when the house management does not collect the rent on time this is an indication that the tenant is unable to pay and asks for an extension of time. A humane administrator knowing the home conditions of the tenant may find it difficult to refuse this request. But the law demands a heartless attitude on the part of the communal administration, and the courts are instructed to issue orders for the immediate eviction of delinquent tenants, since both the nonpayment and the nonreceipt of payment are classed as crimes.

The examples cited are sufficient to illustrate the consequences to private individuals in a state where all economic life and all social relationships come under the realm of public law supported by criminal penalties. There is an old Russian saying which probably originated in the Muscovite period: "From prison and beggary one cannot disavow himself." The Soviet Union, as its penal code proves, has revived this saying.

Criminal prosecution extends even to minors. A Ukase was issued on December 28, 1940, regarding "the responsibility of students of industrial schools, railroad schools and schools of F. Z. O. [Factory-Plant Training] for violation of discipline and for arbitrary departure from school, as well as for systematic and gross violation of school discipline involving expulsion from the school," being subject by court sentence to imprisonment in labor colonies for a period not exceeding one year.¹²

II

The Soviet Penal system is peculiarly contrasted with the systems in democratic countries not only by the use of criminal punishment in such instances where countries of a free economy apply civil law lia-

¹¹ People's Commissariat of Communal Economy (Ministry of Communal Economy at present).

The decree of the S.N.K. of the R.S.F.S.R., on October 10, 1940, established that for late payment of rent and for payment of fines, the members of the tenant's family having independent incomes, as well as the tenant himself, are jointly and severally liable. See *Zhilishehnye Zakony* (Dwelling-House Laws) published by the Ministry of Communal Economy, Moscow, 1947, comprising collections of decrees about securing timely payments of apartment rents.

¹² GOLIAKOV, *UGOLOVNOE PRAVO* (Criminal Law) 278-279 (Moscow, 1947).

bility or a disciplinary penalty, but also by a marked difference in penalties. The Ukase of June 4, 1947, regarding Protection of Government and Public Property, established the following penalties:¹³

For larceny, misappropriation, and embezzlement or other plundering of state property—confinement of from seven to ten years in a corrective labor camp with or without confiscation of property. For repeated plundering committed by a gang or on a large scale—confinement of from ten to twenty-five years with confiscation of property.

The same crime against collective farm property entails in the first instance a five-to-eight-year confinement with or without confiscation, and in the second instance, or if committed by a band or on an especially large scale, confinement for a period of from eight to twenty years with confiscation of the property of the criminals. The law strictly punishes not only direct participation in the crime, but also the failure to inform the authorities of a committed or intended plundering of government property.

On the same date another Ukase was issued which increased protection of personal property of citizens. According to this Ukase, larceny entails confinement to a corrective labor camp for a period of from six to ten years, and, if committed with the use of force or by a gang, it entails imprisonment for a period of from fifteen to twenty years with confiscation of the property of the criminals. Failure to report, as in the instances of plundering of state or public property, is also subject to severe penalties.

In comparing penalties established by Soviet Law a striking fact stands out: Premeditated murder, if committed without aggravating circumstances, involves a prison sentence for a period not exceeding eight years (Art. 137 of the Crim. C.), while larceny is punishable by imprisonment up to ten years. Larceny committed with aggravating circumstances entails a prison sentence of up to twenty years, while manslaughter with aggravating circumstances involves up to ten years' imprisonment. Material well-being is more highly valued in the Soviet Union than is human life.¹⁴

"Socialist property—the basis of the Soviet structure—is the source of wealth and power of the U.S.S.R., the source of a prosperous and

¹³ *Vedomosti*, 1947, No. 19.

¹⁴ "Crimes which we consider extremely serious, such as murder and manslaughter, are punished by comparatively short prison sentences," remarks a student of Soviet Law, "while crimes involving theft of communal property or affecting society as a whole more than individuals are visited with comparative severity." (N. Z. L. J., Feb. 16, 1943.) After 1943, this difference became still more striking.

cultural life for all the toilers of our country," states *Izvestia* in explaining the cited Ukases.¹⁵

All crimes directed against Soviet rule or against the Soviet political and economic structure are subject to extremely severe punishment. At various times supplementary statutes were added to the Criminal Code (to Art. 58 and 59, especially) in which punishment was declared to be death by shooting with confiscation of property. Such punishment was designated not only for treason to the motherland, armed rebellion and for communication, with counter-revolutionary intent, with foreign governments or with their individual representatives—a crime for which so many outstanding political figures in the Soviet satellite countries have been sentenced to death—but also for a whole series of other crimes against the state. According to the decree of the Plenum of the Supreme Court of the R.S.F.S.R. of November 1, 1942, the murder of "rabkors" (worker-correspondents), "selkors" (village-correspondents), "voenkors" (military-correspondents), and others, in connection with their activity as correspondents, is classified as an act of terrorism and is punishable by death by shooting. According to the decree of August 6, 1931, of the Plenum of the Supreme Court of the R.S.F.S.R., murder of a shock worker ("udarnik") in connection with his activity on the job is classified in the same way.¹⁶

According to the instruction of the Commissariat of Justice of the R.S.F.S.R.,¹⁷ murder, beating, and other violence, on the basis of a class struggle, against teachers engaged in social work, are also to be considered as terroristic acts.¹⁸

These severe penalties aim to protect Party members as well as persons promoted by the government for exceptional merit in advancing socialism. In addition to the severity of the penalties, the very procedure of trying those accused of terroristic acts is not less peculiar and is reminiscent of court-martial proceedings. In this connection the law of December 1, 1934, prescribes that investigation be completed in a period not to exceed ten days, that the indictment be returned one day before the trial, that the case be tried without the participation of the parties involved, that no appeals or requests for clemency be accepted,

¹⁵ *IZVESTIA*, August 20, 1947

¹⁶ GOLIAKOV, *op. cit.* *supra* note 14, 174-175.

¹⁷ Circular of 1929, GOLIAKOV, *ibidem*.

¹⁸ CRIM. C., Art. 58 (8) "The commission of acts of terrorism against representatives of Soviet authority or executive officers of revolutionary workers' and peasants' organizations, or participation in such acts, even by persons who do not belong to counter-revolutionary organizations, entails the measures of social defense prescribed in Art. 58 (2)."

and that the sentence be carried out immediately after it has been announced.¹⁹

Death by shooting was also applied as a court punishment for wrecking (so-called economic counter-revolution), diversionist acts (destruction or damage of railroad bridges, telephones, warehouses, etc.), as well as sabotage (willful neglect or careless fulfillment of duties), and active participation in the counter-revolutionary struggle during the tsarist period or during the period of the Civil War.

By the Ukase of May 26, 1947, the death penalty was replaced by twenty-five years confinement in correctional camps. Actually, this substitution is nothing but a slow death since no one can endure twenty-five years in camps where people die like flies from exhaustion, epidemics, and cold. The capital punishment is once again restored, however, by the Ukase of January 12, 1950, concerning traitors, spies, and wreckers-diversants.²⁰

The cruelty of the contemporary Soviet penal system strikingly contradicts the original trends of Soviet criminology "Punishment," declared the Commissariat of Justice in December, 1919, in a document of the Civil War period, "must be devoid of any semblance of torture and must not subject the prisoner to useless and unnecessary suffering." These humane trends were reflected in the first Soviet Criminal Code of 1922, but subsequent legislation, especially since the introduction of the Five-Year Plans, has transformed the Soviet penal system into one of the most ruthless in human history.²¹

Soviet criminal law differs from the criminal law systems of modern cultured nations not only by the severity of its penalties, but also by a number of other peculiarities. For example, it permits children over twelve years of age to be put to death by shooting. According to the law of April 7, 1933, minors from twelve years up are subject to crim-

¹⁹ As far as judicial procedure is concerned, here again is the same distinction in the Soviet legal system which was already stressed in regard to regulations about the punishment of a crime against a private person and of an act against Socialist property and the Soviet state. R. L. Meck, in his above cited article, characterizes the Soviet court as "a working-class meeting for a particular purpose—the passing of judgment on a comrade who has committed an offense."

²⁰ *IZVESTIA*, January 13, 1950.

²¹ "The Criminal Code of 1922, seeking to draw a contrast with the capitalistic world, limited imprisonment to a minimum of ten years. This was humane as compared not only with old Russia but with democratic countries. Regarding the United States in particular, Soviet textbooks and lectures on criminology sought to expose the cruelties of its prisons and drew comparisons between the principles—the principles, to be sure, not the practice—of American and the Soviet penal systems. "Meanwhile practice remained strangely remote from principle." MAXWELL, *THE SOVIET STATE* 234 (1934).

inal responsibility for the following types of crimes: theft, rape, bodily injury, mutilation, murder, and attempt to commit a murder, as well as destruction or damage with counter-revolutionary intent, by fire or other means, of any of the national systems of communication (telegraph, telephone, etc.), and the commission of acts liable to cause train wrecks. According to the Ukase of December 10, of the Presidium of the Supreme Soviet of the U.S.S.R., minors from twelve years of age on, convicted of actions capable of causing train wrecks (the unbolting of rails, placing of various objects on the rails, etc.) are liable to *all measures* of social defense. Among the crimes listed in the Ukase there are some entailing punishment according to Art. 58, 59, of the Criminal Code. Thus, this last provision of the cited Ukase cannot be understood otherwise than as authority to apply capital punishment even to minors.²² A not less odious peculiarity of the Soviet penal system is the responsibility borne by the members of a convict's family. In this connection the Ukase issued June 8, 1943, against traitors of the socialist motherland deserves special attention.²³ According to this exclusive law the members of the family of a Red Army officer or soldier who is sentenced as a traitor—provided they knew of the intended act—may be deprived of liberty for periods of from five to ten years even though they did not aid in the carrying out of the act. The remaining adult members of the family, as well as dependents living with the criminal at the time of the act of treason, are to be deprived of their electoral rights, and exiled to remote regions for five years, even though they had no knowledge of the plans.

Such serious digression from the principles of criminal law as the punishment of persons whose only guilt is that they are relatives or dependents of convicts can be explained, but certainly cannot be justified. Exile to concentration camps, which are called corrective-labor camps, and are usually in very remote parts of the country, is, incidentally, very widely applied in the Soviet Union to all those who are suspected of disloyalty. This type of exile is carried out by administration without court trial. Sentences of exile for periods of up to five years

²² See Goliakov, *op. cit. supra* note 14 at 200. The Ukase of December 10, 1940, as a special and more recent law, repeals the general rule of Art. 22 of the Crim. C. prohibiting capital punishment for minors (*lex posterior specialis derogat legi priori generali*).

²³ Crim. C. Art. 58, §§ 1a-1g.

by a committee of the M.V.D. and a chief of "militia" are passed solely on the ground that the person is deemed to be socially dangerous.²⁴

Strange as it may seem at first glance, the system of exile to corrective-labor camps, as well as some other penalties applied in the Soviet Union are measures of commercial rather than judico-correctional character: the Soviet State is interested in carrying out various economic plans and industrial enterprises by the use of free or cheap labor.

One of the most commonly applied penalties in the Soviet Union for comparatively insignificant crimes or offenses is the use of so-called compulsory labor without loss of liberty. The Corrective-Labor Code²⁵ differentiates between two ways of serving this labor sentence: at the regular place of employment or permanent work of the sentenced person, or at enterprises organized by the corrective-labor organizations.²⁶ The court determines the percentage to be deducted from the wages of a person sentenced to compulsory labor. This portion is not to exceed 25 per cent. While he is serving a sentence at corrective-labor, the accused is deprived of the right of a wage increase, of his regular vacation and of other privileges. Time spent at this work is not applicable for social security benefits, for qualification and priority rights in his occupational classification. In addition, the accused person can be transferred to a less responsible job or inferior position.

It is easily seen that by means of a wide application of this type of punishment the state, as an entrepreneur, achieves great savings. The state pays less wages, cuts down social securities and vacation time, and is in a position by means of pressure to impose upon a condemned person, who must strive to get back to normal conditions of work.²⁷

Even more profitable for the state are the correctional-labor enterprises that are established by the corrective-labor agencies. In regard to remuneration, as well as to feeding and rationing, these enterprises are treated in an identical manner with those established for persons

²⁴ Resolution of TSIK and S.N.K. of the S.S.S.R. of November 5, 1934 (U.S.S.R. Laws 1935, No. 11, text 84). Cf. Hazard, *Reforming Soviet Criminal Law*, 26 JOURNAL OF THE INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY, 157-169.

²⁵ Correctional-Labor Code of the R.S.F.S.R. of October 16, 1914 (R.S.F.S.R. Laws, 1924, text 870). There is an official edition with amendments, 1927. See article about this code in THE SOVIET ENCYCLOPEDIA OF STATE AND LAW (in Russian), v. II.

²⁶ According to the Resolution of the Presidium of TSIK of the U.S.S.R., passed in 1933, workers, employed persons, and farmers of kolkhozes, sentenced to compulsory labor without deprivation of liberty, have to serve as a general rule at the place of their permanent job.

²⁷ "Corrective-labor work without deprivation of liberty is at the present time one of the most commonly practiced forms of punishment." Osnovy, 540.

in places of imprisonment. In this way these enterprises cost even less to operate.

Finally, still another form of exploitation of labor as a means of punishment is exile combined with corrective labor,²⁸ and loss of liberty for a period of up to twenty-five years, connected also with work in special corrective labor institutions ("isolators") of the so-called concentration camps. No one knows exactly the number of prisoners in these camps, but these prisoners have completed work of tremendous scope: the construction of the White Sea-Baltic Canal, the construction of towns (the city of Magadan, for example) and railroads in the extreme North-east region of the Far East, various works in the Arctic Zone of Siberia, etc. One may judge from the scale of these enterprises how widely penal servitude is applied in carrying out various phases of socialist construction.²⁹

Another type of punishment, which at the same time serves as a source of income for the government, is confiscation. The property of a condemned person can be confiscated only for the benefit of the state.³⁰

The application of confiscation as a measure of punishment is limited in the criminal code of cultured nations since such measure removes the means of subsistence of not only the criminal, but also of his family. However, in Soviet criminal law this motive is ignored and confiscation is a supplementary punishment to a sentence of death by shooting, (and since the Law of May 26, 1947, by confinement to a camp of correctional labor for twenty-five years) and also to other penalties for a number of various counter-revolutionary crimes and crimes against the government, or public property.

III

In Soviet practice various kinds of rewards are as extensively applied as penalties. Both penalties and rewards serve as an incentive for arousing the interest of military and civil employees and of working people. "Rewards have made the people of the U.S.S.R. the greatest title-bearing and medal-wearing nation in the world," justly remarks J Towster, referring to the Soviet statistics on this subject.³¹

²⁸ CRIM. C. Art. 35. In 1930, in the R.S.F.S.R., the application of the exile penalty was broadened. COLLECTION OF LAWS, 1930, text 344.

²⁹ Chronologically, concentration camps with their cruelties and inhuman exploitation of human labor, were established in the U.S.S.R. earlier than in Germany.

³⁰ GOLIAKOV, CRIMINAL LAW, 130.

³¹ "As a rule nine-tenths and often the entire space of a four-page *Vedomosti Verkhovnogo Soveta* are taken up with lists of awards of orders, medals, pins, certifi-

The Soviet law not only reestablished various kinds of rewards which had existed before the Revolution—decorations, ranks, titles of honor, gold braid, epaulets, dress insignia, having only changed their form or denomination—but it has also authorized many new emblems and symbols of distinction, and many more are constantly being added as time goes on.³² Most of the rewards in the Soviet Union not only promote those rewarded to the rank of “persons of distinction,” but also bring them concrete benefits and privileges, such as tax exemptions, the right to extra housing space, pensions, free travel on street-cars and railroads, etc.³³

Military and civil servants are encouraged in the following ways: by a testimonial of gratitude for services rendered, bestowal of a personal gift of value, a certificate of honor, special badges, placing on the Board of Honor, awards of orders and medals of the U.S.S.R., honorary titles of “Hero of the Soviet Union” or “Hero of Labor.”

The title “Hero of the Soviet Union” is considered to be the highest possible distinction. It was established in 1934, and was granted for personal or collective services. The Heroes of the Soviet Union are simultaneously decorated with the Order of Lenin, (the highest award in the Soviet Union) the Gold Star Medal, and receive a special citation. In case the same award is received for the second time, a bronze bust of the hero is erected in his native town or village; and in case of a third award, a bronze bust is erected in the Palace of the Soviets, in Moscow.³⁴

The title “Hero of Labor” is awarded for excellent performance in industrial development, for work in the field of culture, for cooperation in building up the national economy, for development of culture and science, and for merit in development of the might and glory of the

cates, dress insignia, and special designations and titles of honor.” (J. Towster, *op. cit.* p. 270, note 74.) On March 8, 1946, PRAVDA listed 3,731,194 recipients of different medals and awards during the recent war. Before its termination and up to October, 1944, 2,868,962 persons were decorated with government orders and medals for excellent performance of their duties in defense of their country. (J. Towster, *ibidem*, p. 239, note 52, p. 331, note 58.)

³² Descriptions of uniforms and epaulets occupy a prominent place in Soviet papers and collections of laws. (See *Sbornik Zukonov S.S.S.R. : Ukaz ov Presidium Verkh. Soveta*, 1945-1946; 1944 pp. 142-144.)

³³ General Statute on Decorations of the U.S.S.R. of May 7, 1936, Arts. 10-16, U.S.S.R. Laws, 1936, text 220(b). See also *Administrativnoe Zakonodatelstvo* (Administrative Law). *Sbornik vazhneishikh Postanovlenii. Ogos.* 1936, pp. 90-106.

Some benefits, however, were repealed in the Ukase of September 10, 1947 *Vedomosti Verkhovnogo Soveta*, No. 41.

³⁴ Statute on the title Hero of the Soviet Union of the U.S.S.R. Collection of Laws, 1934, text 168, and of 1936, text 357(b).

U.S.S.R. The Hero of Labor is also granted an Order of Lenin with all pertaining rights and privileges.³⁵

In addition to the Order of Lenin, which is awarded for exceptional services in the field of socialist advancement and defense, there are several other high orders in the Soviet Union. The Order of the Red Banner is granted for outstanding heroism, unselfishness and valor displayed on the field of battle.³⁶ The Order of the Red Star is awarded for outstanding service for defense in time of peace or war. The Order of "Labor's Red Banner" is granted for exceptional merit in the field of production, scientific activity and of government or social work.³⁷ The Mark of Honor is awarded for high productivity, special achievements, inventions and improvements, as, for instance, in the field of socialist construction, and for strengthening the defensive capacity of the U.S.S.R.³⁸ The title "Hero of Socialist Labor" is the highest award, the medals "For Labor Prowess" and "For Labor Distinction," the lowest for similar distinctions.

Those awarded high orders and titles compose a privileged group in the Soviet Union. They win rapid promotions and reach the highest positions.³⁹ However, they enjoy not only special benefits and privileges, but also have special duties:

Those awarded one of the Orders of the U.S.S.R. must give an example of having properly fulfilled the duties imposed upon citizens by law (Art. 17 of the Statute of Decorations)

A person awarded the Order of Lenin is obliged (a) to assist socialist development by active participation in socialist competition, shock brigades, detachments, etc., (b) to carry on social work in Soviet social organizations, in connection with his permanent job etc. (Art. 12 of the Statute of Order of Lenin)

Similar obligations are imposed upon those awarded the Orders of Red Star and Red Banner; who have to meet not only certain demands concerning valor in their professional fields and military discipline, but must take part in socialist competition and in social work of organizations attached to the army units. (Art. 11 and 14 of the statutes concerned)

³⁵ Statute on the title of Hero of Labor of July 27, 1927 U.S.S.R. LAWS, 1927, text 456 (amended in 1930, text 1, and in 1931, text 118). Statute of Order of Lenin, May 5, 1930 (U.S.S.R. LAWS, 1930, text 269).

³⁶ Statute of Order of Red Star, U.S.S.R. LAWS, 1932, text 74.

³⁷ Decree of the TSIK of the U.S.S.R., Sept. 7, 1928 (U.S.S.R. LAWS, 1928, text 524).

³⁸ Decree of the TSIK of November 25, 1935 (U.S.S.R. LAWS, 1936, text 223).

³⁹ Sixty-eight per cent of the deputies in the Council of Nationalities and 78 per cent in the Council of Union are holders of government awards, among these are 102 Heroes of the Soviet Union, 52 Heroes of Socialist Labor, and 35 Stalin Laureates. (See IZVESTIA, March 15, 1946. Quoted from Towster, *op. cit.* p. 237, note 43.)

Those persons receiving awards must carry on a twofold work. In addition to the permanent obligations of the rank and file Soviet citizen, which are far from being light, they have to maintain the honor of their high titles or of the special distinction which promoted them to the upper steps of the social ladder. Failure to perform these obligations or the committing of some reprehensible act entail deprivation of title or decoration.⁴⁰

Since 1947, many farmers of collective farms are also being awarded the title of Hero of Socialist Labor.⁴¹ However, the usual method of stimulating the efficiency of workers is a system of a progressive scale of wages on the basis of piecework.⁴² Work done over and above the standard output is paid according to a differentiated progressive scale of piecework rates, with bonuses for extra efficiency. This same method is applied to Kolkhozes.

Payment of additional recompense to collective farmers for obtaining greater harvest yields, rearing young cattle, and increasing their productivity shall be widely practiced. (The Law on the Five-Year Plan for 1946-1950, section 30)

A special system of bonuses is established for chiefs, managers, and engineers. They receive bonuses for completion and fulfillment of the production schedule, provided this is done at a reduced cost. Premiums are also granted to certain groups of workers, who receive, in addition to their time or piecework rates, bonuses for improvement of quality indices, such as adjustment of machinery, reduction of repair expense, economical use of raw material, fuel, etc.⁴³

With a view to stimulating activity in the scientific field, in military technique, inventions, art and literature, inventors, writers, artists, com-

⁴⁰ General Statute on Decorations, Art. 18, and special statutes of particular orders provide regulations on the right of TSIK (at present of the Supreme Soviet) to deprive rights on decorations and titles.

⁴¹ The Ukase of March 29, 1947 (*Vedomosti*, 1947, No. 12) "Concerning the conferring of the title 'Hero of Socialist Labor' and the awarding of orders and medals of the U.S.S.R. to kolkhoz, M.T.S., and Sovkhoz laborers for obtaining large crops of wheat, rye, corn, sugar beets, and cotton."

This system of encouraging diligence among farmers by individual rewards for record harvests was extended still further by the Ukase of the Presidium of the Supreme Soviet on April 24, 1948. A similar system of awards is established for the outstanding achievements in live-stock breeding. Ukase of Sept. 17, 1947 *Vedomosti* No. 35.

⁴² "A laborer making bricks had to produce 16,000 bricks a day; if he produced up to 10 per cent more, his wage was raised by 50 per cent; up to 20 per cent, the wage was increased 100 per cent; above 20 per cent, the wage was increased 150 per cent, i.e., progressively." (P. Haensel, *A Survey of Soviet Labor Legislation. 1917-1941*, 36 *ILL. L. REV.*, 529-544. Cf. also Gsovskii, *SOVIET CIVIL LAW*, Ch. XII, note 63, and pp. 810-811 (1948).

⁴³ *Osnovy*, p. 426-427

posers, and painters may be awarded the so-called Stalin prize, which consists of a special badge and a considerable amount of money—up to 300,000 rubles—paid in a lump sum. Honorary badges of Stalin laureates have acquired the character of orders.⁴⁴

One last reward worth mentioning in this system of encouragement is that made to mothers of large families. A mother who has given birth to ten children and has reared them is granted the title of "Mother Heroine" and is given a medal with this inscription. A mother of seven to nine children is awarded the medal of "Mother's Glory"—of five to six children—the medal of "Motherhood." All mothers awarded medals receive government assistance, and since the Ukase of July 8, 1944, mothers having two children receive such assistance for the third and fourth child.⁴⁵

IV

Such an extensive range of penalties and rewards, peculiar to the Soviet system, may be explained by the fact that the Soviet system of "universal monopoly" eliminated the traditional incentives for industry and economy

Rewards, as well as penalties, are effective only as supplementary measures for stimulating human behavior. Man is not wholly a social being—he has his ego, personality, and individuality; he demands his personal freedom, the best expression of which is unrestricted creativeness. If creative power is joined to devotion to the high social task it becomes heroism. But genuine heroism cannot be bred by force or for pay

It is not the best chord which is touched by penalties or awards. On the contrary, if a people's existence depends completely on the will of the government, fear of punishment and desire for reward take the place of disinterested and noble incentives. The rank and file man becomes an officious servant rather than a hero. He is either waiting for a favor or trembling with fear of disgrace. This is reminiscent of servilism. Instead of generating a higher type of psychology, the above described system of penalties and rewards may well be regarded as a source of moral decay

⁴⁴ Ukase of September 1, 1945 (*Vedomosti*, 1945, No. 65). There are three classes of badges for Stalin Laureates. Description is given in the Ukase of the Supreme Soviet of December 10, 1946.

⁴⁵ Ukase of July 8, 1944 (*Vedomosti*, 1944, No. 37) amended, November 25, 1947 (*Vedomosti*, 1947, No. 41).

Moreover, reward as well as punishment ceases to be effective if used too often. Medals and awards no longer inspire; imprisonment ceases to frighten. It becomes necessary to increase rewards in order to make them more animating,⁴⁸ and to strengthen penalties in order to make them more intimidating. Then both penalties and awards have to be applied more extensively. The number of those who are empowered to distribute awards and punishments grows immeasurably. The system which aimed at liberating the people from all dependence and exploitation tends to create another form of dependence—dependence upon an arbitrary and unlimited power.

There is, however, also another aspect of the problem. The system of forced labor and confiscations so widely applied in the Soviet Union and, simultaneously, the generous distribution of gratuities and privileges of material character produces a new social stratification. The Soviet system transforms great numbers of people—usually whole families—into completely ruined and meaningless subjects—a multitude of pariahs—so often and on such just grounds called “Soviet slaves,” while another group, though less numerous, consisting, nevertheless of millions of persons, are wealthy and “rewarded.” The deserted abode of nobility or of capitalists is now occupied by the new stratum of “persons of distinction” in the Soviet Union. This latter group is also dependent upon the government. It is a weapon in the government’s hands against the disloyal and the neglected. The gulf between these two groups is the result, not of the usual social stratification, but of sharp contrast. The gulf has become an abyss separating the two different groups. Thus envy and mischief arise on the side of the unfortunate against the favorites and sometimes bring about violent retaliation against the stakhanovites—heroes of labor and Party men. Some acts of retribution or mobbing are explained by the fact that a raise of production index or of a standard or quantity of production results in the subsequent raise of a minimum norm of output, and thus diminishes the average wages of the workers. The reward given to one person is often another’s loss.

The fact that penalties in the Soviet Union are increasing not only for crimes against the “socialist state,” but especially for crimes against

⁴⁸ “There is a shortage in everything in the Soviet Union,” remarks one of its citizens, “except works of Lenin and Stalin, decorations and medals, and fantastic promises.”

public and private property and against those belonging to leading and privileged groups seems to be indicative of a weakening of the system within its own sphere.