Introduction

This book, titled Situation of Prisoners in Contemporary Russia, is the second publication in a series of thematic human rights monitoring studies carried out by the Moscow Helsinki Group (MHG) and a network of regional human rights organizations all across the Russian Federation.(1) The summer of 2001 saw the appearance of the first report in the given series, Nationalism, Xenophobia and Intolerance in Contemporary Russia, which has been extensively covered in Russian and international media and broadly welcomed by a number of domestic and international organizations and experts. In the fall of 2002, MHG and the regional human rights organizations launched a new thematic monitoring effort aimed to look at the conditions of prisoners.

Notably, the human rights situation at Russia's closed establishments has been defined from the very beginning as a key monitoring issue under the project *Human Rights Monitoring Network in the Russian Federation*. It is precisely in those facilities, devoid of civilian oversight mechanisms, that the human rights situation has become particularly worrying.

The conditions of detention and the observance of the rights of prisoners have been closely watched by local human rights activists from the very first days of the human rights movement in the former Soviet Union. Given the rather large numbers of political prisoners in the former Soviet Union, the flow of information from "prisoners of conscience" to the outside world had been put on a solid footing. After the massive release of political prisoners at the end of the 1980s, reports on the confinement conditions at Russian penitentiary facilities ceased to be delivered on a systemic basis. In the years that followed, human rights activists carried targeted surveys of institutions of the Criminal Implementation System (UIS), and staged actions aimed to provide humanitarian and other kinds of assistance to prisoners. Nowadays, the living conditions of prisoners have become even more dire than in Soviet times, according to evidence received from penitentiary facilities. Apparently, this trend has primarily been related to the growing numbers of prisoners. Throughout the 1990s and until recently, Russia had steadily held the first place in numbers of prisoners in relation to the population, with this infamous championship yielded to the United States only quite recently.

Clearly, the compelling need for a large-scale effort to look at the current conditions of prisoners was long recognized by the human rights community. Now, a whole range of Russian non-governmental organizations (NGOs), with the Center for Assistance to the Criminal Justice Reform first and foremost, have focused their efforts on the problems encountered at penitentiary facilities. Furthermore, they are actively seeking to change the conditions at those institutions, including through the application of alternative punishments and the radical reduction in the number of prisoners.

At the same time, it is evident that in Russia, with its 89 regions, any country-wide monitoring initiative can be carried out only under the proviso of an accessible and smoothly run monitoring network with organizations-members in all Russian provinces. MHG has created and is now coordinating the activities of the only such network in Russia today, and thus became the facilitator of this monitoring effort.

The completed monitoring survey has been multidimensional in character. In addition, the effort undertaken with our regional partners in the area of prisoners' human rights, appears to be without precedent, since this is the first time such an effort has been accomplished on an All-Russian scale, using a single set of thoroughly developed and detailed methodological guidelines.

Regional NGOs have been involved in gathering statistics and other valuable information, approaching relevant authorities (local penalty execution departments, prosecutor's offices, and other), and conducting interviews across the social spectrum. Something of great relevance and

without precedent was the inspection (with the filling out of detailed site survey maps) of 117 penitentiary facilities (41 pretrial detention facilities (SIZO), 74 colonies, two prisons).(2) The fact that in the months of October-November 2002 human rights activists managed to penetrate such a large part of penitentiary institutions in the Russian Federation has become a high-profile public campaign in itself. This action revealed the great concern of civil society over the plight of this special category of people, whose rights have been seriously restrained and who are in urgent need of protection against the widespread practices of cruel and degrading treatment. It also represents a very big step on the way to the establishment of a permanent system of public oversight with regard to penitentiary facilities.

The basic international standards for the treatment of prisoners are proscribed in the Standard Minimum Rules for the Treatment of Prisoners (SMR) adopted by the UN General Assembly in 1955.

SMR are one of the oldest baseline documents adopted by the United Nations. In 1957, SMR were endorsed by the UN Economic and Social Council, and in 1977, SMR were updated to cover those prisoners who were not yet formally charged.

Although SMR were not adopted as a legally binding treaty, their provisions have been broadly regarded as basic rules that “have tremendous significance and huge implications for the progressive development of criminal justice policies and practices.”(3)

Hence, following the principles of human rights monitoring, it was logical for us to structure the monitoring methodology and design an outline for the prospective report on the basis of this fundamental comprehensive standard for the protection of human rights of prisoners.

To be more specific, our methodology was built exclusively on the first part of SMR, particularly since this part of SMR carries rules applicable to any and all categories of prisoners. In view of the grand scale and tremendous complexity of this monitoring effort, we chose not to cover some specialized penitentiary institutions (educational colonies, special psychiatric establishments, disciplinary battalions, medical correctional facilities, etc.).

Following the completion of the field research, we found ourselves with a huge body of qualitative and quantitative information about the condition of prisoners held at numerous penitentiary facilities. Given the very impressive diversity of data, we had been able to paint a rather comprehensive picture of the situation in this sphere. Significantly, different types of data complemented and cross-checked one another. All survey maps, questionnaires, transcribed in-depth interviews and statistical data have been thoroughly verified and subjected to comparative analysis.

We believe that under the current conditions, a fully credible and wholesome monitoring project cannot be completed without interviewing, because neither statistical reports nor one single inspection a number of penitentiary facilities would provide sufficient grounds to draw general conclusions. In the course of the monitoring effort, we conducted interviews with the following three groups of respondents: heads of penitentiary facilities, recently released convicts, and relatives of prisoners. The motivation behind this strategy was to cross-check the information accumulated from these different sources in order to be able to create as objective a picture as possible. Whilst site-visits to places of confinement enabled us to acquire first-hand knowledge of living conditions of prisoners today, interviews with former prisoners and relatives of those currently held in penitentiaries made it possible to collect data about the whole array of problems relevant to the past three years.

In this way, we succeeded in fulfilling our principal goal: to investigate the situation, to provide descriptions of the more widespread abuses, and to reveal established trends. It is too early to speak about the exact extent of each identified phenomenon or problem attributable to penitentiary practices, or about one single major trend in this area. What we had done is only the

first systemic undertaking along this challenging path. The overriding human rights monitoring goal is to continue tracking the problem on a systematic basis to change things for the better.

As we proceeded with the monitoring work, we sought not only to build up a comprehensive picture of prisoner conditions across penitentiary facilities, but also to make an assessment of the changes generated by the ongoing multi-tiered penitentiary system reform launched after the Chief Department of Penalty Execution (GUIN) was transferred from the jurisdiction of Ministry of Internal Affairs to the jurisdiction of the Ministry of Justice. The obvious, positive consequence from that structural change had been a dramatic fall in the numbers of prisoners (over 100 000) in the course of the year 2000.

The willingness to carry on with the reform and achieve progress at the GUIN-run penitentiary facilities appears to be sustained. Importantly, our monitoring survey could not have been a success without a good measure of cooperation on the part of GUIN, which instructed its regional units to provide access for human rights monitors into penitentiary institutions.

While understanding that much of the problems at penitentiary establishments are rooted in the Soviet system of penal camps and that no major change in this area can be achieved in a short term (particularly, under the current social and economic conditions), it never has been our intention to uncover the wrongdoings or infringements of those directly running the inspected penal facilities. Instead, we did our best to define the more pressing problems and to reveal the more obvious deficiencies.

Judging from our experience, GUIN has been one of the most open government structures from the point of view of cooperation with NGOs. At the same time, our interaction was not free of differences in opinion, which is only natural, taking into account the different approaches that human rights organizations and governmental agencies take with regard to the problem of human rights observance. When assessing the situation in their field, GUIN leadership and staff mainly focus on the improvement of relevant legislation as well as on statistical data. For us, on the other hand, it is very important to create as well rounded a picture of the actual state of things as possible, and therefore, in addition to legislative and statistical information, we also rely on the kinds of data that cannot be formalized or processed quantitatively (such as interviews, individual petitions to human rights NGOs, etc.).

Thus, having thoroughly considered the draft of our report based on the monitoring findings, GUIN experts indicated that “certain assessments made by the authors are of tendentious character.”(4) In particular, GUIN experts treat as unacceptable all references to the data provided by former prisoners, as such data is “unverified.”(5) From our viewpoint, information provided by former prisoners in their interviews and correspondence to human rights organizations, though not standing as an *apriori* proof of a concrete violation, is nevertheless particularly important when making a quality assessment of the situation and identifying systemic problems.

It must be also noted that in a number of cases GUIN experts indicated that certain conclusions of ours were not in line with the actual situation due to the fact that there exist orders or other normative documents banning or not recommending specific practices. In this respect, a typical example would be the use of blinds on cell windows that severely limit access of light and fresh air into the cells. GUIN experts point out that our observations in connection with this problem are inaccurate and refer us to a directive by Yu. Kalinin, Deputy Minister of Justice of the Russian Federation, “in compliance with which blinds of all kinds have been taken off the windows in the cells.”(6) However, according to the monitoring findings (including the evidence given in interviews by superintendents of several penitentiaries who are quite familiar with the aforementioned directive), those instructions are neglected in many prison facilities. Thus, in this case as well as in many other cases, the adoption of a progressive normative document *per se* does not mean that the relevant problem is automatically solved.

We appreciate GUIN's serious attitude toward our report and the analytical comments provided by GUIN experts. Some of their remarks were truly well-grounded and helpful and we took them into account in process of final revision of the report.

The penitentiary system reform is still underway and we agree with GUIN experts when they stress that solutions to some of the identified problems "are now in process of being elaborated," with regard to both legislation and practice. We very much want to believe that the problems outlined in this book shall be resolved in a satisfactory manner in the near future and hope for further constructive cooperation with GUIN, particularly in connection with implementation of the recommendations that we have made on the basis of the monitoring findings.

Finally, we would like to provide a brief description of the book's structure. Following this introduction, is a set of recommendations developed by MHG with participation of a renown international NGO "Medecins Sans Frontieres" (MSF). Next is a brief overview of Russian law from the point of view of its compliance with relevant international standards (Standard Minimum Rules for the Treatment of Prisoners, Code of Principles for Protection of All Persons Subject to Detention of Incarceration in Any Form, Basic UN Principles for the Treatment of Prisoners, European Prison Rules). After that, comes the MHG's comprehensive report in itself, namely "Report on Compliance with the UN Standard Minimum Rules for the Treatment of Prisoners (Part 1) in Russian Regions: Based on the Findings of a Countrywide Monitoring Effort Conducted by the Moscow Helsinki Group and its Regional Partner-Organizations in 2002."(7) Also, the book features some thematic articles written by experts in general or particular aspects of prisoner rights. It should be noted that they latter materials only reflect expert assessments of their authors, supporting relevant recommendations. Although regional reports are expected to be released separately, we deemed it necessary to honor a tradition already established in the MHG's publications, and feature in this book the materials of a special investigation on the status of prisoners in the Chechen Republic, since the Chechen situation cannot be compared with that in the rest of Russia.

(1) The monitoring, development and release of reports and publications has been done under the project "The Network of Human Rights Monitoring in the Russian Federation," with financial assistance of the European Commission. For a more detailed description of the project visit the MHG website at: http//www.mhg.ru.
(2) The list of facilities inspected is given in Annex II to this book.
(3) UN General Assembly Resolution #45/111 of December 14, 1990.
(4) Letter #18/1/4-76 by V. Yalunin, Chief of GUIN of the RF Ministry of Justice, "On the Results of Monitoring Conducted in Penitentiary Institutions," to Ludmilla Alexeeeva, Chair of Moscow Helsinki Group, dated April 23, 2003. Attached to the letter are analytical conclusions of GUIN staff experts in connection with the book Situation of Prisoners in Contemporary Russia.
(5) Ibid.
(6) Ibid.
(7) List of regional organizations-members of the human rights monitoring network coordinated by MHG is provided in Annex I to this book.

Recommendations

Recommendations on Improving Legislation and Law Enforcement Practices Maintained by Russian Criminal Implementation System Facilities to Meet UN Standard Minimum Rules for the Treatment of Prisoners

1. PROTECTION AGAINST DISCRIMINATION

1.1. To assure implementation of the principle calling for protection against discrimination, the applicable Criminal Implementation Code of the Russian Federation (UIK) should be amended

(namely, Article 12, “Principal Rights of Convicts”) to include rules that would have penal facility administrations bound not to pass decisions serving to violate equality of selected convict groups, except for the cases when such rulings have nothing to do with well grounded penalty or commendation measures.

1.2. Articles 96, 97 of UIK should be updated to lift the ban for HIV-infected prisoners to move about unescorted and leave the grounds of the facilities. Concurrently, an effort ought to be undertaken to expand the program for preventive measures designed to counter contagious diseases within penitentiary institutions.

2. PUNISHMENTS AND MEASURES TO MAINTAIN ORDER

2.1. Pursuant to Rule 29 of SMR, the applicable UIK provisions should be updated to receive a definition for a “breach of discipline.” To prevent disparity in penalties for one and the same category of disciplinary infractions, an effort should be made to develop and adopt an approximate register of that kind of infringements and pertinent punishments, with the latter being graded to appropriately match the gravity of transgressions committed. Special regulations should be developed and passed for a convict to be categorized as “confirmed violator” and for relevant decisions to be appealed and reviewed.

2.2. The applicable UIK provisions should be updated to feature a rule that would have penal facility wardens, in the event of a convict committing a disciplinary infraction, obligated to have such convicts duly notified of the nature of infringements made and get them to submit written explanations of their transgressions. Pursuant to Paragraph 2, Rule 30 of SMR, an effort should be made to introduce a procedure under which any inquiry into a given disciplinary infraction would provide for thorough examination of the written arguments presented by the convict in question.

2.3. To minimize the cases of unjustifiable violence against and cruel treatment of convicts, the relevant rule from Article 3 of UIK (banning torture and cruel treatment) should be made more specific and appropriately translated into the internal rules for penal facilities. In particular, such rules should feature a ban on those forms of treatment/handling that may cause excessive suffering of the person. By way of specific suggestion, an amendment should be introduced to rule out lengthy confinements of convicts in unequipped premises or the premises failing to meet the established hygienic standards. A rule should be introduced to fix the time limits for application of uncomfortable physical position techniques with regard to prisoners (which primarily applies to the so-called “brace” technique, with a convict being escorted “hands-back” in a bent-down position) and prescribe a procedure and time limits for the use of handcuffs.

2.4. To prevent the unjustifiable or excessive use of special tools, Federal Law “On Establishments and Bodies Involved in Implementation of Penal Punishments in the Form of Imprisonment” should be amended to feature an article that would provide grounds for special tactics units to be employed within the confines of penitentiary institutions. Besides, that article also should establish a procedure for oversight of activities performed by any special tactics unit deployed on assignment to tackle a contingency within a penal colony.

2.5. To minimize the cases of solitary *sine die* confinement of prisoners, Article 115 and Article 32 of UIK should be amended accordingly. Also, an amendment should be introduced to repeal the requirement for mandatory solitary confinement of prisoners with capital punishment sentences (Article 184 of UIK).

2.6. To help convicts maintain benign exchanges with their relatives, the internal rules of penitentiaries should be updated to include augmented rights for the prisoners that have been punished for their misconduct and confined to strict-regime wards, high-security or disciplinary cells. Relevant improvements should enable that category of prisoners to enjoy short-term meetings with their relations while serving the established penalties.

3. FREEDOM OF CONSCIENCE

3.1. The applicable penal facility internal rules should be updated to feature specific provisions designed to prescribe a certain procedure for prisoners to enjoy their freedom of conscience or worship, with relevant wardens committed accordingly. Those regulations, for one, should prescribe a procedure for establishing religious premises or worship rooms, introducing safeguards for prisoners and priests to have access to those worship premises or rooms within penitentiary facilities, and altering the standing daily routine to allow for the scheduled religious services. Also, the internal regulations should feature safeguards and general rules for members of the clergy engaged to conduct religious services within penitentiary institutions.

3.2. Article 14 of UIK ("Assuring the Freedom of Conscience and Worship for Convicts") should be amended to include a range of safeguards to provide for application of "moral convictions," particularly given that the principle of freedom of conscience implies unconstrained respect not only for religious beliefs but also for any other conviction that falls within the meaning of universally accepted or constitutional norms.

4. PROCEDURE FOR NOTIFICATION OF CONVICTS, SUBMISSION, AND CONSIDERATION OF APPEALS

4.1. Pursuant to Paragraph 1, Rule 35 of SMR, Article 12 of UIK should be extended to feature a procedure for mandatory written notification of convicts about their rights and obligations, rules for serving their sentences, and relevant safeguards to enable them to enjoy access to related information.

4.2. To assure public oversight of penitentiary facilities through activities maintained by the state authorities, local administrations and public organizations, the Ministry of Justice of the Russian Federation should pass dedicated rules prescribing a procedure for penal facilities to be visited for inspection purposes by members of the aforementioned structures (through providing pertinent accreditations for authorized representatives).

5. REQUIREMENTS FOR IMPRISONMENT CONDITIONS

5.1. Russian Federal Program for Construction and Reengineering of Pretrial Detention Facilities and Prisons should be revised to include provisions designed to have penitentiary facilities outfitted to provide for separate overnight detention of on-remand prisoners and convicts.

5.2. An effort should be made to develop and pass a statement of basic sanitary requirements and standards for prison wards and shipping conditions (with special attention being paid to vans or rail cars designed to transport prisoners). That statement should include balanced standards for ventilation, light and water supply. A ban should be placed on the use of premises or special transportation means that fail to meet the prescribed standards, with relevant oversight procedures and non-compliance liability sanctions appropriately established.

5.3. To assure implementation of sanitary requirements and hygienic standards, the internal rules of penitentiaries should be updated to include a list of hygienic items that are supposed to be made available by penal colony administrations.

6. HEALTHCARE SUPPORT

6.1. UIK and Federal Law "On Establishments and Bodies Involved in Implementation of Penal Punishments in the Form of Imprisonment" should be amended to feature dedicated rules designed to provide for introduction of mandatory and immediate medical examination of convicts that happen to have fallen victims of violent physical attacks (in the course of an operation to restore order within a give penal institution), with the local in-house doctor documenting the

findings of his efforts in line with the established procedure.

6.2. For the purpose of enabling convicts to enjoy access to healthcare services provided by state or municipal health providers, the Government of the Russian Federation should develop and pass a procedure for the healthcare system of the Chief Department of Penalty Execution (GUIN, Ministry of Justice of the Russian Federation), to be integrated in the national system of healthcare insurance, with the GUIN health system over the longer term being placed under supervision of the Ministry of Healthcare of the Russian Federation.

6.3. Given the urgent need for passage of measures to assure epidemiological oversight, the Government of the Russian Federation should adopt a program for expanding healthcare assistance to TB (while primarily helping out the medication-resistant cases) and HIV-infected prisoners, including consulting, diagnostics and medication-provision services.

6.4. Requisite resources should be made available to assure adequate and effective treatment of all TB cases, including the medication-resistant ones). The authorized funding should primarily be allocated to develop the deployed GUIN medical lab facilities designed to timely reveal the emergence of infectious diseases and assure separate confinement of sick prisoners. Conditions should be put in place for cases with different medication resistance curves to be appropriately and timely separated in order to prevent a contagious ailment from spreading.

6.5. Measures should be undertaken to launch a special program for putting in check the HIV/AIDS growth rates, with doctor's ethical rules being observed and consulting services being necessarily provided before and after testing out each case.

7. JOBS AND EMPLOYMENT

7.1. The Government of the Russian Federation should develop and pass a program for employment of prisoners held by penitentiary institutions in Russia, the top priority being to provide jobs that would enable convicts to acquire or perfect useful professions and skills. Article 103 of UIK should be updated to include provisions designed to assure the prisoner right to choose from available job and have a refusal to do a job qualify as a regular, rather than flagrant, infringement.

7.3. Pursuant to Paragraph 2, Rule 74 of SMR, an effort should be undertaken to repeal ungrounded constraints for the payment of temporary incapacity benefits (while being confined to an infirmary or subject to mandatory treatment in keeping with a court order) established by Section 2, Regulations #727 of March 15, 2001, passed by the Government of the Russian Federation.

8. EDUCATION, LEISURE

8.1. To help implement the safeguards for provision of primary education opportunities, an amendment should be introduced to repeal all relevant constraints bearing on the convicts sentenced for life.

8.2. The applicable internal rules of penitentiaries should be updated to feature a provision designed to have the wardens committed to build up local libraries by way of acquiring fiction, law, educational literature and periodicals, with dedicated reading rooms being made available and outfitted accordingly.

8.3. UIK should be amended to include an article designed to assure the right for convicts to engage in sports or physical exercises. In addition, the internal regulations for penitentiary facilities should also carry some provisions committing the wardens to create conditions for convicts to engage in sports or physical exercises.

9. SOCIAL ADAPTATION OF CONVICTS

9.1. The applicable UIK provisions (on the guidelines and objectives for the facilities of the Criminal Implementation System (UIS)) should be updated to be in line with the goal of “having former convicts restored to the society” which is carried by SMR. Measures should be passed to repeal obligations for the convicts to participate in collective educational activities or functions, with personalized efforts to that effect being the top priority.

9.2. To create a system of social rehabilitation for just-released former convicts, an effort should be made to develop and launch a state-backed program to set up a network of activities tasked to tackle the social custody or re-socializing matters in support of the former convicts.

9.3. Steps should be made to draft and pass a set of guidance materials designed to provide for social activities maintained at penal colonies, the overriding goals being to provide training to social workers specializing in penitentiary problems and initiate a sustained effort to assure social rehabilitation of convicts starting from their very first day of imprisonment.

9.4. Pursuant to Article 181 of UIK, the Government of the Russian Federation should establish the one-off life-support benefit for convicts subject to release, the amount being at least within the level of current minimal monthly living wage.

10. PERSONNEL

10.1. Given that following the introduction of mandatory healthcare insurance the UIS personnel continue to have problems receiving effective healthcare services, measures should be taken to have that matter sorted out. To this effect, UIS personnel should be encouraged to enjoy access to the national healthcare insurance schemes, with the UIS healthcare service being integrated in the national system of mandatory health insurance. In the interim period, regional UIS authorities, for one, might conclude agreements with local civilian healthcare providers.

10.2. Provisions under Paragraph 3, Rule 50 and Paragraph 1, Rule 52 of SMR (emphasizing the importance and feasibility for the warden and in-house medical doctor to reside on the premises of a given penitentiary facility or in direct vicinity) continue to be unimplemented by Russian UIS establishments. For those major provisions to be put into effect, GUIN should draft a special program for construction of service housing close to relevant penal colonies. With the requisite housing assets put in place, the accommodation matters should be decided in keeping with the temporary occupancy principle, under which the given officials could hold the service quarters as long as they hold their jobs.

In addition, to have penal institutions staffed with qualified personnel, it appears to be vitally important that housing construction allocations should be boosted, primarily in the regions where the staffing problems are most pressing.

10.3. The Ministry of Justice of the Russian Federation should introduce a ban on GUIN personnel or specialized elements being committed to tackle tasks that have nothing to do with their terms of reference (some of those “non-standard” functions including missions of the counter-terrorist or war-fighting nature).

International Standarts for the Treatment of Prisoners and Russian Legislation: General Outlook

INTRODUCTION

Russian penalty system reform is one of the criteria which can be used to assess the country’s democratic development. The need to launch the reform was, in the first place, related to the

Criminal Implementation System (UIS) having been established and long functioning as a tool of repression and prisoners exploitation. It is no coincidence that GULAG — Soviet penal system — stands as a symbol of totalitarianism and human rights violation. But the complexity of the reform which is being implemented, to a greater extent is the result of excessive numbers of prisoners and UIS‘s bulky structure. UIS is an enormous network of facilities and institutions — penalty colonies, pretrial detention facilities, prisons, inspectorates. The total number of people involved in UIS-related activities including the personnel and prisoners is about two million. Russian prisoners account for over 40% of the total prison population of European countries. That is why the core of the Russian reform was to cut down the number of prisoners. Now that the initial results with regard to the prisoners population reduction have been obtained, particularly in connection with those kept in pretrial detention facilities (SIZO), follow up transformations become possible. We hope that these transformations will bring actual situation in the Russian penitentiary system closer to international and domestic standards.

June of 1992 may be regarded as the beginning of Russia’s UIS reform aimed at complying with international standards of treating prisoners. At that time, more than 50 articles of the Correctional Labor Code of the RSFSR (ITK RSFSR) were amended to make prisoners’ living conditions more humane. The decade since then has seen a gradual process of legislation improvement in this area. And the process is far from being complete.

Initial amendments introduced to the ITK RSFSR in 1992 were largely triggered by a major strike attempted in penal colonies by prisoners a year before. Those amendments were actually a forced measure taken by the authorities of the country in the context of destabilization and general degradation of the situation in penal facilities. However, even at that time some principal provisions of UIS formation concept were included in the bill on ITK amendments, worked out by the Human Rights Committee of the Supreme Soviet of Russia. These provisions were the following:

• determination of the legal status of prisoners in accordance with legislative, rather than statutory acts;
• establishment of procedures for control over penal facilities and over the process of filing complaints against decisions made by administration, including judicial and public control;
• consolidation of legal safeguards for prisoners, namely the right to personal safety and freedom of faith;
• aid with social adaptation.

ITK RSFSR also reflected the principle of criminal policy related to differentiated conditions for serving sentences in penal facilities depending upon prisoners’ behavior.

At the same time, initial modifications in the statutory framework were introduced without a clear-cut concept of the penal system reform from the point of view of doing away with the system's repressive functions. Some provisions were not practically implemented. Part of the innovations happened to be of a more restrictive nature. Despite the follow up improvements in the legislation in general, such contradictions and failure to match humanitarian principles persist even today.

For instance, up till now the number of cleared crimes committed before, remains as part of the reporting system used to estimate the penal colony performance. And operative and investigation activities, *inter alia* are regarded as top priority for penal institutions administration.(1)

The second stage of the reform started in 1997. Adoption of the new Criminal Implementation Code UIK of the Russian Federation brought the national legislation much closer to the international standards.

For instance, a clear system of control and supervision over UIS institutions, activities was identified. For the first time the criminal penalty execution in Russia started to regulate functions of judicial control (Article 20 of UIK), departmental control (Article 21), prosecutor supervision

(Article 22), an opportunity for public organizations to be involved in the work of penalty executing institutions (Article 23).

Of substantive nature is the rule on division of conditions for prisoners in each facility — into regular, easy and strict (Article 87). Condition improvement became dependent upon the length of the term served and on the prisoner conduct.

Under Article 98 of UIK, those sentenced to imprisonment become entitled, as ordinary citizens, to state pensions upon reaching an appropriate eligibility age, in the event of disability or loss of breadwinner. New types of punishments are provided for: mandatory labor, restricted freedom (in correctional centers) and arrest (in arrest houses), which were included in the new 1996 Criminal Code. Application of such penalties are to start in 2004—2006 (penalty in the form of "mandatory labor" — not later than 2004; "penalty in the form of restricted freedom" — not later than 2005; "penalty in the form of arrest" — not later than 2006).

On October 8, 1997, a presidential decree was passed, which moved UIS from the jurisdiction of the Ministry of Internal Affairs to the jurisdiction of the Ministry of Justice. The act to this effect was signed on August 31, 1998. Turning UIS into a Ministry of Justice structure made the system independent of law enforcement bodies, which in its turn opened up opportunities for the development of the humanitarian component of UIS.

The adoption of the Criminal Procedure Code of the Russian Federation (UPK RF) on December 18, 2001, had a material impact on UIS. Introduction of a judicial procedure for a pretrial detention starting July 1, 2002, according to the statistics provided by the Prosecutor General's Office(2) brought down the number of the detained by 150%. Reduction in population of pretrial detention facilities led to improved conditions for prisoners in SIZO and temporary detention wards (IVS).

INTERNATIONAL STANDARDS SYSTEM AND NATIONAL LEGISLATION.

Not all international standards dealing with prisoner treatment contain obligations which are categorically binding for states. But part of the obligations such as bans on discrimination, torture and cruel treatment, as well as the right to social security, are among the rules which are absolutely mandatory.

Such documents as Standard Minimum Rules for the Treatment of Prisoners (SMR), as well as Rules Related to Course of Justice with Regard to the Underaged (Beijing Rules), The Code of Principles for Protection of All Persons Who are Subjected to Detention or Incarceration in Any Form, UN Basic Principles for the Treatment of Prisoners, European Prison Rules are recognized by international community as binding whenever states organize penitentiary systems and while managing such systems. International courts, and in many cases national course as well, rely on these penitentiary standards in making decisions on human rights.

During the penitentiary system reform, it is considered very important to compare national rules to be adopted and relevant practice of the national penitentiary system with international standards since any transformations must conform to the norms of international law.

Greater part of the provisions in the Russian penal legislation is in conformity with international standards. But we need to single out some areas where contradictions have not yet been resolved. These areas include:

• Social rehabilitation (due care of released prisoners);
• Procedures of informing prisoners about their rights;
• Procedures of involving prisoners in labor activities and labor organization principles;
• Public organization involvement in assisting prisoners and in penal facility monitoring;
• Ensuring prisoners involvement in sports activities and physical exercises.

Besides, the concept of correction based on formal, inadequate definitions of law-abiding behavior does not match international standards. And from the point of view of international standards, some of the provisions of UIS remain unregulated including those which deal with discipline and punishment, with objectives of medical and sanitary service and doctors' special status, regulation of sanitary conditions of premises used for keeping prisoners, those which deal with transportation of prisoners.

NATIONAL RULES AND INTERNATIONAL STANDARDS — COMPARATIVE ANALYSIS(3)

1. FUNDAMENTAL PRINCIPLES

Fundamental principles of national legislation must be international rules which guarantee human rights and freedoms (including the UN Basic Principles for the Treatment of Prisoners and UN Standard Minimum Rules for the Treatment of Prisoners, (SMR)).

1.1. The Principle of Defending the Right to Life, Health and Personal Inviolability

This principle is defined as indisputable in the Universal Declaration of Human Rights (Article 3) and is reflected in international documents including those dealing with penitentiary systems. According to SMR,(4) prisons must be institutions so well-organized as not to pose threats to life, health and personal inviolability. At the same time, the need for strict discipline and order in the institutions is recognized (Rule 27 of SMR) but allowing only those restrictions which are really indispensable for "reliable supervision and compliance with due conduct rules in the facility." The priority and reason for that is an intent to ensure safety of both personnel and prisoners. Measures on human life and health protection contained in the national legislation cannot be referred to as sufficient, and the rules that are included in the Russian legislation are not represented in a systemic manner. For instance Article 8 "Principles of Criminal Penalty Execution Legislation" which forms UIS concept does not establish the priority of respect and protection of fundamental human rights in the comprehensive list of principles. UIK and Federal Law "On Keeping in Custody Suspects and Those Charged with Committing a Crime" ("On Keeping in Custody") demand that rule of law, humanism be observed, prescribe differentiated and individual approach to penalty execution, the principle of rational use of measures of compulsion. Federal Law "On Institutions and Agencies Which Execute Criminal Penalties in the Form of Incarceration" states principles of "legality, humanism, human rights respect."

Nevertheless, measures on ensuring life and health guarantees are provided for in legislative acts to be applied to various situations. For instance, the principle of guaranteeing life and health is mentioned in connection with the procedure of ensuring prisoner's isolation,(5) use of physical force, special means and arms,(6) introduction of special regime in the facility.(7) The right to health protection (Article 12 of UIK) is mentioned among basic rights of prisoners, but in Federal Law "On Institutions and Agencies Which Execute Criminal Penalties in the Form of Incarceration" (Article 2) as one of the objectives of the criminal penalty execution system.

The rights to personal inviolability is not reflected in the legislation directly, but indirectly it is reflected to the extent it deals with the rights to personal safety ("Personal Safety in the Course of Executing Penalties," Article 10 of UIK). The application of such a principle is ensured in particular through commitments of the administration to guarantee personal safety of the prisoner by taking "immediate measures" including *inter alia* isolation (in a separate cell) and transfer to another facility."(8) The obligation to take measures which eliminate threat to personal safety of the prisoner is imposed on the facility superintendent. The requirement for the administration to ensure safety applies both to the personnel, and to the officers and people who are present on the grounds of the facility.(9)

1.2. The Principle of Inadmissibility of Discrimination

It is one of the most important principles contained in all the basic international agreements

related, *inter alia*, to prisoners treatment. Ban on “any forms of people’s rights restriction on social, racial, national, linguistic or religious grounds” is consolidated in Article 19 of the RF Constitution. The guarantee to implement the equality principle is stipulated in Article 136 of the RF Criminal Code, which established criminal responsibility with respect to officials who are charged with violating people’s equality.

The provision on discrimination inadmissibility in criminal penalty execution legislation is set forth in full only in Federal Law “On Keeping in Custody” (Article 6). There equality observance is comprehended as the procedure of prisoners separate keeping with due account for the type of penalty, degree of punishment and encouragement impact on the prisoner, nature and degree of public threat the committed crime poses, personality of the convicted and his/her behavior.

UIK does not establish legislative restrictions which would provide additional guarantees against discrimination on the above grounds. Sometimes, this leads to adopting discriminatory rules at the level of departmental documents. For instance, while determining norms for keeping of AIDS suffering prisoners, UIK introduced ungrounded restrictions for such prisoners, banning them any unguarded movement and leaving the facility grounds(10) which, in the first place is related to prejudice against AIDS suffering prisoners.

1.3. Ban on Torture and Experiments on Prisoners

The criminal implementation legislation of the Russian Federation contains the most important principle of human rights observance — ban on torture and degrading treatment and punishments. Paragraph 2, Article 12 of UIK states: “Prisoners are entitled to polite treatment on the part of the penal facility personnel. They should not be subjected to cruel or degrading treatment. Measures of compulsion may be used against them only as prescribed by law.” Article 4 of Federal Law “On Keeping in Custody” states too that keeping the prisoner in custody must not be accompanied with torture, other actions aimed at inflicting physical or moral anguish on suspects and convicted kept in custody (hereinafter, suspects and convicted). Moreover, Article 3 of UIK stresses that Russian criminal implementation legislation and its practical application are based on “strict observance of guarantees to prevent torture, violence and other cruel and degrading treatment of the convicted” in accordance with generally accepted principles and rules of international law and the Constitution of the Russian Federation

At the same time, the legislation lacks rules that guarantee protection against torture and cruel treatment. For instance, the Criminal Code(11) and departmental statutory acts do not provide for any punishment for torture and cruel treatment against those serving sentences in penal facilities. Nor does the legislation define inadmissible forms of prisoner treatment, hence opening up ways to resort to actions which are termed as cruel and degrading treatment in the international law.

Ban on medical experiments on prisoners, which conforms to Article 7 of the International Covenant on Civil and Political Rights, is fully reflected in Article 12 of UIK: “Convicted people irrespective of their consent cannot be subjected to medical or any other experiments which could jeopardize their life and health.”

1.4. Freedom of Religious Beliefs and Ban on Religious Compulsion

Freedom of religious beliefs is guaranteed by Article 18 of the International Covenant on Civil and Political Rights. Rule 6.2 of SMR states the necessity to respect religious convictions and moral values of prisoners. Besides, Rule 41 of SMR recommends that clergy of the religions which have numerous followers in the penal colony be invited to work at the facility full time, guaranteeing them permanent access. At the same time, prisoners are legislatively granted access to “representatives of any religion” regardless of the number of this religion followers in the colony.

Article 14 of UIK, which was supposed to guarantee freedom of conscience and freedom of faith of prisoners, contains rules that imply only a possibility, since the legislation lacks articles which

obligate penal facility administration to provide proper conditions for prisoners to implement their rights to freedom of conscience and faith. The need to observe rites and religious rules remains at the discretion of the administration, which actually means a ban on any deviation from the regime requirements.

Thus, the national legislation does not impose on a facility administration any indispensable obligations related to guarantee freedom of conscience and faith, both with respect to prisoners and clergy. The same article of UIK declares guaranteed freedom of conscience for prisoners. At the same time, there is not a single provision in the legislation that stipulates administration, obligations to respect moral and religious principles and convictions of prisoners.

1.5. Registration For the Purpose of Preventing Illegal Custody

The general principle of holding someone in custody established by the “Code of Principles for Protection of All Persons Detained or Incarcerated in Any Form”(112) is detailed in the SMR requirements. For instance, Rule 7 determines accounting and documenting procedures for incoming prisoners and prisoners already kept in custody, information about whom should be entered into a special register, and in case of those detained — in a protocol.(13)

The national legislation, in general, conforms to international standards on prisoners registration. And though federal laws identify only the basic grounds for custody, i.e., detention protocol or court decision,(14) current statutory acts establish precise and comprehensive procedure and conditions for prisoners accounting.(15)

1.6. Adaptation Principle. Society-Oriented Concept

International standards determine not only legal principles of keeping prisoners in custody but the goals of such custody. Hence, in Russia, these goals must also be reflected in UIS’ objectives, and in the personnel work priorities in their dealing with prisoners.

Rule 60 of SMR prescribes that the regime established for a facility should be aimed at minimizing the gap between life in a prison and life at large, which destroys the prisoners’ the feeling responsibility and human dignity.” The goal which ought to dominate the work of the penal system is to get people back to normal life in the society (Rule 58 of SMR).

Under Article 1 of UIK, “Criminal Implementation Legislation of the Russian Federation is aimed at correcting the convicted and prevention of committing new crimes both by prisoners and other persons.” Furthermore, Article 9 of UIK sets forth that “prisoners correction means forming their respectful attitudes towards man, society, labor, norms rules and traditions of human community, and encouraging their law-abiding behavior.”

It should be noted that the goals of Russia’s UIK do not entirely meet the main priority of SMR if we compare them with international standards. UIS basic goals are “correcting prisoners in order to prevent new crimes” and protecting the society against criminal infringements. This approach reflects too limited comprehension of the gist of criminal penalty, which has detrimental impact upon basic elements of UIS organization. UIS modification in favor of being guided by the priority need to “return prisoners to society” projected in the reform planned within the Concept of UIS Reorganization. The reform implementation is to promote the development of alternative penalty measures and to expand means and forms of prisoners resocialization.

2. COMPLAINT LODGING AND REVIEW PROCEDURE. MAINTAINING ORDER

2.1. Prisoners Informing

SMR obligations related to complaint lodging and review mechanisms include guarantees to inform prisoners about their rights. The personnel is obligated to provide to each prisoner “written

information concerning prisoner treatment rules for the specific prisoner category, disciplinary requirements of the facility as well as allowable ways of getting information and filing complaints, and all other issues which permit him/her to know his/her rights and obligations and adjust to living conditions in a specific facility."(16)

Article 12 of UIK provides only in general terms for administration obligation regulation concerning prisoner information. More detailed procedures are set forth in statutory acts, in particular in Paragraph 2 of Internal Rules of Correctional Institutions:

While in the quarantine ward, prisoners familiarize themselves with procedures and conditions of serving their sentences in the penal facility, with their rights and obligations established by the legislation of the Russian Federation and these rules, they are warned about their responsibility for violation of the set rules of the penal facility. They are informed about audiovisual, electronic and other technical means of supervision and control, about legislatively prescribed cases of physical force, special means and weaponry use.

It should be noted that while UIK articles generally appear to be in line with the requirements of SMR, the established information procedure cannot be recognized acceptable because of its briefing nature. SMR insist upon written information to be provided, whose simplicity and laconicism, as well as obligations with regard to its presentation, cannot be replaced with just a briefing procedure.

Besides that, statutory acts for convicted servicemen do not provide information guarantees, and the procedure of getting information is set forth as "conveying and explaining RF legislation" in the course of educational work with the military.(17)

2.2. Complaint Lodging Procedure

International standards prescribe precise complaint lodging and review procedures. These procedures, in particular, provide for an opportunity to turn to the facility superintendent, to higher bodies of penalty system management, and to court. They guarantee confidentiality and prohibit censorship of prisoners' complaints. The complaint review timeframes are established as well as requirements for inspections to have certain qualification level and authority to work with prisoners complaints (Rule 36 of SMR, Principle 29 and Principle 33 of Code of Principles for Protection of All Persons Subjected to Detention or Incarceration in Any Form).

Current legislation of the Russian Federation, after being amended during the past five years, includes practically all international standards concerning complaint lodging procedure. Such rules are set forth in Article 15 of UIK and are specified in departmental statutory acts. The legislation is continuously on being improved. In particular, on July 8, 2002, Order#191 of the Minister of Justice of the Russian Federation amended the Internal Rules of Correctional Institutions introducing guarantees for prisoners to receive and keep replies to their complaints. Besides that, the amendments set the time frame for providing an answer to the prisoner, i.e., three days upon the receipt of the reply by the facility.

The requirement which is to be met by prison inspections is formally in conformity with the standards. Inspectors overseeing compliance with laws and regulations must have adequate qualification, competence and be independent of the authorities which directly manage detention or penalty facilities.(18) Such inspections, under Article 22 of UIK, are the responsibility of prosecutor offices. Besides that, UIK provides for the control over penal facility by federal and local governments, as well as by public associations. But since their competence and relevant visit procedures are not identified, such control remains mere declaration.

2.3. Requirements to Maintain Order

International principles demand that administrations establish punishments commensurate with

the committed disciplinary misdemeanor (Rule 27.1 of SMR).

Legislative requirements on ensuring discipline in penal facilities of Russia to a greater extent meet international standards. They include the following:

• Ban on a repeated punishment for the same misdemeanor (Rule 3.1 of SMR). Article 117 of UIK prohibits “several punishments for the same violation.”
• Mandatory legislative stipulation for the type and duration of punishment, and the responsible authority which imposes the punishment (Rule 29 of SMR) — such rules are contained in UIK (Articles 46,58, 115, 116, 117, 119, 136,138, 153, 168), as well as in legislative and statutory departmental acts.

However, it should be stressed that UIK does not define a routine violation. An exhaustive list is provided only for gross violations. The lack of legislative identification of a violation actually nullifies the set procedure of imposing punishment since the law fails to clearly state the link between the violation and appropriate punishment. This leads to improper punishments, and at times to arbitrary identification of a disciplinary misdemeanor and the type of punishment.

Apart from that, the obligation of the administration, while imposing a punishment, to inform the prisoner about the violation and grant him/her the right to speak to defend himself/herself (Rule 32.2 of SMR) is not fully reflected in the legislation.

For instance, Paragraph 3.1 of the Internal Rules of Correctional Institutions stipulates the obligation of prisoners to provide written explanations upon the request of the administration concerning facts of established rules violation. Article 39 of Federal Law “On Keeping in Custody” contains a more precise definition: “Prior to being subjected to a punishment a suspect or a prisoner should give a written explanation of his/her behaviour.” However the procedure of informing the prisoner of the violation is not defined legislatively, nor is the exercise of the prisoner’s right to provide his excuse determined in the legislation.

2.4. Forms of Punishment

International standards prohibit torture and other types of cruel treatment, and they guarantee prisoners health protection. For instance, Rule 31 of SMR stipulates that strict punishments, including those which limit nutrition and which can be detrimental to health, may be used only after a written consent of a doctor and under his/her supervision.

The doctor should not be related to the process of punishing the prisoner, and his functions must be confined to “medical check ups, protection and improvement of physical and psychological health” of prisoners.(19)

On the whole, objectives and functions of medical and sanitary units in the penitentiaries in Russia meet these requirements and the punishment is selected and applied with due regard for doctor’s recommendations: “All punitive measures set forth in the criminal penalty execution legislation can be used to punish prisoners violating regulations set at the penal facility unless their application runs counter to medical indications.”(20)

At the same time, the principle of doctor’s independent role and his/her independence in making decisions on using this or that punishment or special means is not determined in legal norms. Though the legislation does not prescribe that the doctor must get approvals from the colony administration, nevertheless, medical personnel is part of the facility staff and reports directly to the superintendent.

International standards impose restrictions on punishment forms. The following punishments which are used in Russia, are included in the list of inadmissible ones: long solitary incarceration(21) and solitary incarceration for an unlimited period of time.(22)

Long solitary incarceration is provided for in the measures of disciplinary responsibility for prisoners kept in penal colonies of special regime (with a maximum punishment term of 6 months), and for the military servicemen (up to 10 days). With respect to convicts who are in prison, sentenced to capital punishment, as well as those isolated to ensure their own safety — terms of their solitary incarceration have no limits.

With respect to those kept in prisons and in pretrial detention facilities, solitary incarceration is resorted to "in cases of necessity on the grounds of a motivated decision of the prison superintendent and with the prosecutor's consent."(23) With respect to those sentenced to death, requirements dictate only their "solitary incarceration under conditions which provide for his/her being duly guarded and isolated" (Article 184 of UIK).

Use of Handcuffs, Straight Jackets as Punishment

Possibility to use such means is identified in SMR and is confined to the following objectives only: "to prevent escape, due to medical reasons," and "to prevent the prisoner from inflicting injury to himself and others" (Rule 33 of SMR).

Out of the above-mentioned means, the Russian legislation permits the use of handcuffs. The procedure to use them is set forth in Article 30 "On Institutions and Agencies which Exercise Criminal Penalty in the Form of Incarceration." And though the handcuff use procedure is related to the task of prisoners suppression,(24) the fact that the timeframe is not specified allows the administration to use them as punishment. This is a direct violation of international standards, in particular Rule 34 of SMR, which says that "suppression means should not be use longer than the necessity dictates."

Punishment Which Causes Excessive Physical Anguish

Such unacceptable forms of punishment are incarceration in a dark cell (Rule 31 of SMR), depriving prisoners of food and water, subjecting them to noise, depriving them of sleep, making them stand by the wall (protracted compulsion to remain in an inconvenient posture).(25) It pays to dwell on two of them: incarceration in a dark cell and protracted compulsion to remain in an inconvenient posture.

Lighting norms matching natural light are prescribed by the UIK sanitary requirements, and the control over the compliance is the responsibility of the sanitary-epidemiological service. At the same time, the legislation lacks any ban on placing prisoners on the premises which do not meet sanitary norms. Nor does it provide for any responsibility for using such premises which creates conditions to punish prisoners subjecting them to such unacceptable treatment.

Protracted compulsion to remain in inconvenient postures normally implies making the prisoner stand by the wall with his/her feet wide apart and his/her hands over his/her head. That is exactly the method of the compulsory control prescribed for the special purpose units (SPETSNAZ) of the Chief Department of Penalty Execution (GUIN) when dealing with prisoners at penalty facilities. The time for prisoners to remain in such a posture is not determined either.

3. INCARCERATION CONDITIONS

Basic requirements of SMR related to incarceration conditions obligate the administration to guarantee elementary (essential to the health of inmates) sanitary and safety norms. Rules 9 and 86 of SMR dictate that there should not be more that two prisoners staying in a cell overnight, and there are plans to ensure a separate cell for each prisoner. But the Russian penalty execution legislation does not have similar norms.

Such accommodation regulations are directly linked with objectives to ensure safety and health of prisoners. This requirement is implemented in Rule 9 of SMR, which mandates a thorough selection while placing prisoners in a mass cell.

The principle of prisoners selection to share the same cell is not yet consolidated in all statutory provisions of UIK. Such a requirement applies only in SIZO and temporary detention wards (IVS) where prisoners are put together in a cell “with due account for their personalities and psychological compatibility.”(26)

International standards set the list of sanitary requirements that premises for prisoners must meet. Sanitary requirements are sufficient to maintain health of prisoners and establish standards in terms of the area, illumination, ventilation. They also prescribe adequate equipment for sanitary and bath premises (Rule 10 of SMR). The penalty execution legislation of the Russian Federation establishes the following room space norms per person: in places where prisoners are kept in custody(27) — 4 m,2 in penal colonies — 2 m,2 in prisons — 2.5 m,2 in female penal colonies and medical correctional institutions — 3 m,2 in educational colonies — 3.5 m,2 in medical and decease prevention facilities — 5 m2 (Article 99 of UIK). At the same time, no obligation has been established concerning compliance with the norms.

Other standards related to ensuring minimal sanitary requirements for premises are to be included in the departmental acts of the sanitary-epidemiological service of GUIN. According to calculations at the designing and construction stage, 5 m2 per person is the norm to be observed for a room meant for long visits in a correctional facility. Ventilation, illumination, temperature norms (18o C for winter) are also stipulated for. However, there is no guarantee that prescribed procedures will be observed.

The administration of penal institutions, in accordance with sanitary requirements, are to provide conditions for prisoners to be able to take care of their appearance, meet hygiene requirements. Prisoners are to be issued proper bedding articles and clothing, which should not be of any humiliating or degrading nature (Rule 17 of SMR).

Article 11 of UIK, as well as the Internal Rules of Correctional Institutions demand that prisoners observe hygiene regulations. At the same time, the legislation does not establish the obligation of the administration to provide necessary conditions for that. Prisoners, for instance, are not issued the items needed to meet hygiene requirements; they have to purchase such items with their own money.

Russian norms which regulate nourishment issues generally meet the SMR recommendations, but the international standards concerning permanent food and potable water availability have not been reflected in the Russian legislation (with the exception of the rules for confinement of inmates in pretrial detention facilities).

4. MEDICAL AND HEALTH CARE

The right to receive medical care for the detained, those kept in custody and the convicted is guaranteed by Article 29 of the Fundamentals of the Legislation of the Russian Federation “On People’s Health Care,” (#5487-1, July 22, 1993) and Paragraph 6, Article 12 of UIK.

International standards stipulate for the organization of health care in hospitals and provision of all the necessary medicine and equipment. The international norms stress the appropriate level of medical personnel qualification and implies a possibility to treat prisoner patients in ordinary medical institutions (Rules 22 and 91 of SMR, Principles 24—26 of the “Code of Principles…”).

According to the Russian penalty execution legislation, prisoners’ medical care is organized through the system of medical-prevention and medical-correctional institutions. In Russia, prisoners are entitled to receive medical assistance by specialists outside of correctional

institutions, both as out-patients and through hospitalization. In general, the situation with medical assistance is improving, in particular, through introducing the system of medical insurance.(28) Procedures for visiting a doctor and conducting medical examinations established in the Russian legislation meets relevant international norms. In other words, the doctor authorizes disciplinary punishments, checks food quality and sanitary state of premises.(29)

At the same time, international standards assign an important role to doctors' independence when he/she renders medical assistance to prisoners (Rules 24, 25.2, 32.3 of SMR). Russian legislation, on the other hand, does not identify independent role of medical personnel, and the right to appoint doctors to work in penal institutions is the prerogative of the Chief Department of Penalty Execution. For instance, heads of the State Sanitary and Epidemiological Inspection (Gossanepidemnadzor) are appointed and dismissed by heads of the territorial bodies of the Criminal Implementation System of the Ministry of Justice of Russia.(30)

5. PRISONERS' CONTACTS WITH OUTSIDE WORLD

Maintaining contacts with the family is interpreted in international standards as the right of the prisoner to communication and as an important component of resocialization (Rules 37 and 92 of SMR, Principle 19 of the "Code of Principles…"). UIK provides for the prisoners' right to correspondence (Article 91), to telephone conversations (Article 92), visits by relatives and friends (Article 89), as well as short-term trips outside the facility (Article 97). Thus, Russian legislation provides for all the internationally recognized forms of communication with family members.

"The Code of Principles…" (Principle 20) strongly recommends that the prisoner be placed in a facility "at a reasonable distance from his/her ordinary place of residence. Such a norm is adopted in Russia by Order #207 of the Minister of Internal Affairs of the Russian Federation, dated April 7, 1997, which makes effective "The Instruction on Procedures of Assigning Prisoners to Penal Facilities and their Transfer from One Penal Facility to the Other."

Under Rule 44.3 of SMR and Principle 16.1 of "The Code of Principles…" the prisoner is entitled to inform his/her family members about the arrest, transfer to another facility, which is consolidated in Article 75 of UIK. Guarantees to inform prisoner's relatives "no later than within 12 hours after the detention," are provided for in Article 96 of the RF Criminal Procedure Code.

Prisoner's access to legal protection and confidential contacts with his/her defense council are set forth in Rule 93 of SMR, and by Principle 18 of "The Code of Principles…" Such a right is guaranteed by Paragraph 7 of Article 12, Paragraph 2 of Article 69, and Paragraph 4 of Article 89 of UIK.

Thus, national legislation contains basic requirements related to ensuring external contacts for the prisoner.

6. PROGRAMS FOR PRISONERS

Practical recommendations contained in a number of SMR Rules (56—64) underscore a decisive objective for any penal system, i.e., "prison society orientation" where interests of the prisoner, rather than those of the penal facility, are of highest priority.

As was mentioned earlier, such landmarks are key international principles and must be reflected in the legislation and in all the aspects of penalty execution policies. In practical implementation terms, they should be translated into special programs of work with prisoners based on individual approach.

6.1. Social Work and Assistance After Release

Rule 69 of SMR states that an individual program is to be developed on the basis of personal scrutiny of each prisoner, which would account for the prisoner's needs, inclinations and abilities. The program is to be implemented during the whole term of incarceration. Proceeding from such individual programs, prisoners should be grouped accordingly. It means that appropriate conditions must be in place to make such individual approach possible, and prisoners should serve their terms in the groups established on the basis of a thorough selection, and possibly witnessing the reduction of prisoners population in penal facilities (Rule 63 of SMR).

Social adaptation of prisoners is mentioned as a priority in Article 1 of UIK. However, this objective was worded as a secondary rather than as a key one. Low priority in this objective implementation is reflected everywhere in the legislative framework of the Criminal Implementation System. For instance, Article 109 of UIK ("Educational Work with Those Sentenced to Incarceration") mentions accounting in educational work "for individual traits and personality of the prisoner, and circumstances of crimes he/she committed." But such an approach is presented along with mandatory collective and mass forms of education — "participation in mandatory educational events." And what is more, prisoners' involvement in such educational events is a measure of his/her "correction." Such a perception is justified by the necessity to formalize "education impact" results, which is to guarantee objectiveness of punishments, decisions about parole, amnesty and pardon. In this connection, we ought to state that forms and methods of social work prescribed by the Russian legislation do not meet SMR requirements.

It should be noted that individual approach principles are winning growing recognition and reflection in the Russian penal legislation reform. The first step was the adoption in 1997 of the Instruction on Educational Work with Juvenile Prisoners Kept in Penal Educational Colonies. The Instruction was the first document to adopt work patterns on the basis of individual plans. From this perspective, educational work is to be organized "with due account for psycho-physical peculiarities of teenagers, and with the use of advanced forms and techniques of psycho-pedagogical and educational impact on juvenile prisoners."(31)

The Russian legislation does not consider social assistance to those being released as a top priority task, though such an assistance is indispensable under international norms (Rules 64 and 84 of SMR). These rules state the necessity of establishing a special system of social rehabilitation, capable of "taking effective care" of prisoners being released. Under this system, the prisoner to be released is to get necessary assistance in ID processing, housing, and employment. Besides, released prisoners should have clothing and footgear appropriate for the climate, and money not only to travel but to live on for some time after the release.

However, Article 182 of UIK confirming such a right, also indicates that the procedures for granting this kind of assistance belong with the general federal legislation on people's social security. At the same time, no dedicated statutory acts have been adopted to this effect. For instance, employment of the released is the responsibility of the employment service under Federal Law "On Employment of the Population," assistance to a released prisoner seeking a job is regulated by general procedures and is based on the initiative of the released. Likewise, unemployment benefits payment period for released prisoners is calculated only from the date of applying for these benefits. Besides, the amount of the unemployment allowance depends upon the prisoner's pay in the penal facility. As it is quite common that he/she did not work a single day in the penal facility, the allowance typically amounts to 20% of the survival minimum.(32)

Thus, social assistance and rehabilitation boil down to notifying social security authorities about the future release of the prisoner (see Article 180 of UIK).

Obligations of the facility administration to provide the prisoner ready to be released with appropriate ID, clothing, footwear and money are defined more clearly by the Russian legislation. ID processing procedure, in line with Rule 81 of SMR, is established by Article 181 of UIK. It should be noted that the obligation to provide the released with the necessary amount of money

to keep him afloat right after the release, is not established for the administration. Under Article 181 of UIK, the relevant obligation must be established by the resolution of the RF Government but it has not been adopted so far.

7. LABOR

Issues related to prisoner labor organization are detailed in SMR and based on the priority of the prisoner's best interests. This, voluntary nature of labor (unless it is assigned as a punishment by a court decision),(33) a choice opportunity, and benefits from the point of view of skills development are all reflected in such standards (Rule 71). For those under investigation, labor may not be made obligatory. On the contrary, an opportunity to work may be given upon the request, and work must be paid (Rule 89). It is important to organize work of prisoners in such a way that working conditions be as close to free labor as possible, including remuneration and working hours. The system of limited payments can be applied, but in such a manner that prisoners may get and spend part of what they earn, with the other part being deposited with the administration of the facility and paid at the release (Rules 72, 73, 75, 76). Rule 37 stipulates that safe labor and health protection be ensured, and compensation guaranteed in case of an injury.

Proceeding from the established system of international standards, Russian penal legislative norms appear to be incomplete, controversial, and in some rather important aspects — inadequate.

Article 103 of UIK consolidates a principled provision that "each person sentenced to incarceration ought to work wherever penal facilities administration determines." At the same time, Article 103 contains an important norm that "production activities of prisoners must not prevent the execution of the main task of the penal facility — prisoners' correction" (Paragraph 5), which corresponds to Rule 72 of SMR stipulating that "the interests of prisoners and their vocational training should not be guided by profit gaining as a result of a prison-based production." There is also a provision that assigning work to a prisoner, the administration should take into account "gender, age, ability to work, health, and if possible the profession" of the prisoner.

UIK fails to reflect most important principles, such as endowing the prisoner with an opportunity to choose the work he/she is to perform, and requiring the administration to organize labor in such a way as to ensure that prisoners get necessary skills and qualifications.

Moreover, repressive and profit-seeking approach to prisoners' labor are further codified in the Russian norms. For instance, Paragraph 6 of Article 103 of UIK stipulates that "prisoners are not allowed to stop work in order to settle labor conflicts. Refusal to work or work termination is a gross violation of the established order and may bring about reciprocal material liability and punishment." Conduct of all the assigned work becomes the basis for the estimate of "conscientious attitude to work" and is taken into account by the administration in its decision-making concerning the application of disciplinary and encouraging measures, regarding submission about paroles. Article 164 of UIK on obligatory labor on the part of servicemen uses a more categorically defined principle: "Labor in this case is a means of correction."

It should be noted that some other labor procedure that on the whole meets appropriate SMR standards has been established for the convicted and those under investigation. For instance, Articles 17 and 27 of Federal Law "On Keeping in Custody" define that suspects and convicted must be granted an opportunity to work if they wish to work and if there are conditions in place for them to work.

Considerable differences with SMR do exist in the established procedure of setting the wage amounts and deductions from prisoners' salaries. UIK guarantees that prisoners may use part of what they earn (from 60% of the Established Minimum Pay (MROT) up to 7 MROT), and for pregnant women — without any limitations (Article 88 of UIK). It should be specifically noted

these norms were considerably increased after UIK had been amended in 2001.(34) Recently, MROT has also been raised, and since May 2002 it amounts to 450 roubles.(35) In the regions, the share which can be spent by prisoners may be increased by the decision of authorities in the subjects of the federation (Article 88 of UIK). Also established and guaranteed is the amount of the salary to be transferred to the prisoner's account "regardless of any deductions," i.e., no less than 25% (Article 107 of UIK).

Nevertheless, production norms are established by the enterprise administration. And facing a very common scenario of incomplete employment, production norms are something which is rather hypothetical and salary amounts go down materially.

The most contradictory issue is the procedure of obligatory deductions from the salary and, for the convicted servicemen, deductions for "the facility development, creation and development of the facility's production assets, formation of material incentive fund and resolution of social and household needs of the prisoners" (Article 164 of UIK). This procedure not only contradicts SMR but, along with the principle of self-financing and commercial risks of the facility production,(36) nullifies the rule about the priority of employment over profit.

Standards related to ensuring prisoners' labor safety are reflected in the legislation in a rather detailed manner. For instance, UIK (Article 104) extends to the penal facilities all regulations concerning "working hours, labor safety rules, labor protection and industrial sanitary rules." Besides, prisoners' labor records are taken into account and a leave is guaranteed. Article 98 of UIK establishes the procedure of obligatory state social insurance of prisoners and harm recovery which is in line with the labor legislation of Russia, under which compensation for the health harm or vocational injury inflicted is recognized and defined.

At the same time, some unjustified restrictions are applied in granting temporary physical disability benefit. For example, the benefit is not granted "for the time of periodic medical examinations, including during a stay in a medical and desease prevention facility" or "for the period of forced medical treatment prescribed by a court decision."(37)

8. EDUCATION AND CULTURAL ACTIVITIES

Principle 6 of the "Code of Principles…" stipulates that "all prisoners have the right to participate in cultural and educational activities aimed at comprehensive development of personality." A high quality education system underlies the development of education programs. Mandatory initial education should be organized for the youth and the illiterate. Besides, education in prison facilities must meet general educational requirements for the prisoners to be able to continue their education after the release (Rule 77 of SMR). In this connection, access to information becomes an important means for education and development. For this purpose, all prisoners should have an opportunity to buy books, newspapers, use libraries (Rules 40 and 90 of SMR).

Article 112 of UIK sets an obligatory procedure for getting primary education. Article 112 also stipulates that getting secondary education is encouraged and regarded as a sign of "being corrected." These provisions are extended onto vocational education and training. Organization of education and relevant programs for prisoners are to be approved by the Ministry of Education of the Russian Federation. The operation of schools established in penal facilities and their certification falls within Federal Law "On Education."(38)

Besides that, administrations of penal facilities are supposed to assist prisoners (whenever possible) with getting secondary (complete) general education and higher vocational education (Article 108 of UIK). However, with respect to those sentenced to limited freedom and those who live in colonies-settlements, only the general right to get an education is mentioned. (Articles 50 and 126 of UIK).

The organization of primary education in penal facilities faces various legislative restrictions. For

example, the mandatory nature of education does not apply to prisoners older than 30 years of age and the disabled (first and second category) — they can learn if they wish to, though. But besides that, there are education restrictions which directly contradict Rule 77 of SMR. For example, education is not provided to those serving life sentences.

With regard to access to periodicals and literature, it should be noted that penalty execution legislation allows the receipt of literature through subscription and in parcels and the use of libraries, both at detention facilities and in penal institutions. The legislation is not establishing the administration's obligation to create a library stock in penal facilities, which in practice leads to shortage of necessary literature.(39)

9. LEISURE AND SPORTS

Rule 21 of SMR grants prisoners the right to one hour sports activities daily and determines forms of maintaining good health of prisoners. Under SMR, teenagers must be provided with adequate conditions for physical exercise and games.

Russian national legislation interprets those international standards in a different way. For teenagers, only the right to physical exercise and games is established (Article 31 of UIK), whereas for all the prisoners the right to physical exercise is turned into an “obligation.”

UIK mentions the right of the prisoner to have a walk during at least one hour per day. Nevertheless, forced sports activity is provided for. For instance, a facility superintendent is entitled to establish the daily routine, of which morning physical exercises may be an obligatory part. In that case, a prisoner who ignores these physical exercises may be punished.(40)

In educational colonies, there is a position of a senior inspector on sports whose responsibility is to develop sports activities. However, budgetary provisions for penal facilities or educational colonies do not include allotments for construction of sports grounds, installation of gym equipment, etc.(41)

* * *

In conclusion, we would like to stress that despite some achievements in improving statutory and legislative framework of the Russian Criminal Implementation System, there still are considerable contradictions with SMR requirements. The need to bring Russian legislation in concordance with international standards remains urgent, and the ongoing reform of the Criminal Implementation System facilitates work in this direction.

(1) Article 14 “On Institutions and Bodies Executing Criminal Penalties in the Form of Incarceration” dated July 21, 1993, #5473-I.
(2) “Monitoring of Introduction of the New Criminal Procedure Code of the Russian Federation.”Criminal Justice Reform in Russia (Moscow: 2002).
(3) The section’s structure follows the codification of the Practical Guidelines on Effective Application of International Standards “How to Make Standards Work” (PRI, 1995).
(4) Hereinafter, the term “prisoners” will be used which includes all categories of people in confinement — “those under investigation,” “those being tried,” “those convicted.”
(5) Article 2 of Federal Law “On Keeping in Custody.”
(6) Articles 28, 30, 31 of Federal Law “On Institutions and Agencies,” Article 47 of Federal Law “On Keeping in Custody.”
(7) Article 85 of UIK.
(8) Article 13, 127 (1) of UIK, Article 19 of Federal Law “On Keeping in Custody.”
(9) Article 13 of Federal Law “On Institutions and Agencies.”
(10) Articles 96 and 97 of UIK.
(11) The term “torture” is contained in two articles of the Criminal Code (Paragraph 2.d,, Article

117 — “Torture”; Paragraph 2, Article 302 — “To Force to Testify”), but not as a main sign of a crime — only as one of the qualifying features augmenting penalty for the main crime.
(12) Article 9.1 of the International Covenant on Civil and Political Rights: “Nobody can be subjected to arbitrary arrest or keep in custody. Nobody may be deprived of his/her freedom other than on the grounds and pursuant to procedures established by Law.”
(13) In accordance with Principle 12 of the “Code of Principles of Protecting All Persons Subjected to Detention or Custody in Any Form.”
(14) Article 5 of Federal Law “On Keeping In Custody,” Article 7 of UIK.
(15) For instance, Paragraph 2 of the Internal Rules of Pretrial Detention Facilities of UIS of the Ministry of Justice of the Russian Federation (approved by Order #148 of the RF Minister of Justice, dated May 12, 2000).
(16) Rule 35.1 of SMR.
(17) Rule 64 of the “Rules of Serving Criminal Sentences by Military Prisoners” approved by Order #302 of the Minister of Defense of the Russian Federation, dated July 29, 1997.
(18) Principle 29.1 of the “Code of Principles...”
(19) Principle 3 of “The Principles of Medical Ethics Related to the Role of Medical Workers, Especially Doctors in Protecting Prisoners and Detained Against Torture and Other Cruel, Inhuman and Degrading Types of Treatment an Punishment,” adopted by the UN General Assembly in December 1982.
(20) Article 20 of the Internal Rules of Correctional Institutions, approved by Order #224 of the RF Minister of Justice, dated July 30, 2001, and amended on July 8, 2002.
(21) General Comment #20/44 dated April 3, 1992, of the UN Human Rights Committee; case of Larrosa v. Uruguay, #88/1981.
(22) UN Human Rights Committee, case of Dave Marais v. Madagaskar, Communication #49/1979.
(23) Article 115 of UIK “On Keeping in Custody.”
(24) Handcuffs are used in the following cases: to suppress riots, violations of public order by groups of prisoners and convicted persons, as well as in the course of stopping perpetrators who refuse to obey or resist the facility personnel, while guarding prisoners whose behavior indicates that they are likely to escape or inflict injury on themselves or others.
(25) Ruling of the European Human Rights Court. On Human Rights Case of Ireland v United Kingdom. January 18, 1978, #25, 2 E.H.R.R.25.
(26) Article 33 of Federal Law “On Keeping in Custody.”
(27) Article 23 of Federal Law “On Keeping in Custody.”
(28) Namely, the RF Government Resolution #727 of October 15, 2001, “On Provision of Allowances for Mandatory Medical Insurance of Persons Sentenced to Incarceration and Persons Engaged in Forced Paid Labor.”
(29) Article 19 of the Internal Rules of Correctional Institutions.
(30) Paragraph 6 of the Guide “On the Procedure of Conducting State Sanitary-Epidemic Supervision at UIS Facilities of the Ministry of Justice of the Russian Federation,” approved by Order #218 of the Minister of Justice, dated July 17, 2001.
(31) Paragraph 1.4 of the Instruction, approved by Order #201 of the Minister of Internal Affairs of the Russian Federation, dated April 2, 1997, “On Approving Instruction on Organization of Educational Work with Prisoners in Educational Colonies of the Ministry of Internal Affairs RF and Tentative Statute on Amateur Performers Organizations of Prisoners in Educational Colonies.”
(32) Articles 34 and 36 of Federal Law “On Employment of Population” of April 19, 1991. *Vedomosti UIS* (1991, p. 565); Collection of Laws of the Russian Federation (#17, 1996).
(33) Taking into account Article 83 of the International Covenant on Civil and Political Rights.
(34) Federal Law #25 of March 9, 2001 “On Amending Criminal Code of the Russian Federation, Criminal Procedure Code of RSFSR, UIK of the Russian Federation and Other Legislative Acts” (as amended on December 18, 2001).
(35) Federal Law #82 of June 19, 2000, in the wording of April 29, 2002, #42. (To note, the rouble/dollar rate for April 2003 is 31.2 roubles per 1 US dollar.)
(36) Article 18 of Federal Law “On Institutions and Agencies.”
(37) Statute on Providing Benefits of Mandatory State Social Insurance to Persons Sentenced to Incarceration and Involved in Paid Labor (Part 2). Approved by Resolution #727 of the RF

Government, dated October 15, 2001.
(38) Statute on Procedure of Organizing General and Secondary (Complete) Education for Persons Serving Sentences in Correctional Institutions and Prisons, approved by Order #1/321 of the Minister of Justice of the Russian Federation, dated February 9, 1999.
(39) In accordance with Order "On Endorsement of the Directive on the Organization of Educational Work with the Inmates in Educational Colonies of the Criminal Implementation System of the RF Ministry of Justice" issued by the RF Ministry of Justice on February 28, 2000, this obligation belongs with the librarians of the facilities. As a rule, though, it is prisoners themselves that work as librarians.
(40) Article 115 of UIK.
(41) Resolution #974 of the RF Government, dated August 2, 1997, "On Approving Norms for Creating Material and Technical Basis for the Organization of Educational Work with Prisoners in Penal Facilities."

Basic Principle

6. 1) The following rules shall be applied impartially. There shall not be discrimination on grounds of race, color, sex, language, religion, opinion, national or social origin, property, birth or other status.

2) Equally, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belong.(1)

Banning discrimination is the objective of numerous international legal documents, including the Universal Declaration of Human Rights, and international recommendation-type documents aimed to help to introduce tolerance, equality and protection of vulnerable social groups. These documents apply to any and all persons, irrespective of whether their civil rights had been curtailed following a court ruling. The provisions of Rule 6 of SMR and Principle 2 of the UN Basic Principles for the Treatment of Prisoners stand as extra safeguards to the legal protection of prisoners against any discrimination on the grounds of self-identification, origin, or social status, particularly since the current anti-discrimination legislation is fully applicable to prisoners, according to other more comprehensive international documents.

The Russian legal acts and norms designed to prevent and counter discrimination are part of a certain hierarchy. Firstly, the international legal commitments of Russia have been made integral part of domestic law. There are a number of specific anti-discrimination documents, designed to give guidance for the development and application of national laws, which have provided increasing protection against the intentional abuse of the rights of prisoners. It would be appropriate here to highlight just a few of those consequential documents. Declaration on Elimination of All Forms of Intolerance and Discriminations on the Grounds of Religious Beliefs or Convictions (November 25, 1981), Concluding Act of the Conference on Security and Cooperation in Europe, Chapter VII (August 1, 1975), UN Convention on Elimination of All Forms of Discrimination against Women (1979), UN Convention on Elimination of All Forms of Racial Discrimination (1998), Document of the Copenhagen OSCE Conference on Human Dimension, Section 40 (June 29, 1990), Council of Europe Convention on the Protection of Human Rights and Basic Freedoms, Sections 9 and 14 (May 5, 1998), CIS Convention on Human Rights and Basic Freedoms, Sections 10 and 20 (November 4, 1995). States are bound by these documents to provide adequate safeguards in order to protect people against discriminatory practices, to defend the rights of minorities, and to legally ensure diversity in the areas of individual opinion, religious beliefs, and others.

Secondly, while recognizing the priority of international rules, federal laws and in particular the Constitution of the Russian Federation, carry a number of articles that replicate provisions from the current international guidelines for protection against discrimination. Among those are articles ruling out discrimination on the grounds specified by international documents, like Rule 6 of SMR

and Principle 2 of the UN Basic Principles for the Treatment of Prisoners. Article 19 of the Russian Constitution guarantees equality (Section 1) and protection against any form of discrimination (Section 2). Separately, the RF Constitution confirms the equality of men and women, thereby introducing a constitutional ban on discriminatory practices based on gender (Section 3, Article 19).

Freedom of religious beliefs and moral convictions, imperatively recorded under Paragraph 2, Rule 6 of SMR, concerns freedom of conscience. Acknowledgment of religious diversity, respect for the choice of religion, and other matters falling within the meaning of freedom of conscience are duly recorded in the RF Constitution (Articles 28 and 29). It is worth recalling that the Code of Russian Federal Laws includes Federal Law “On Freedom of Conscience and Religious Associations” (1997), which enjoys priority over the rules of the Criminal Implementation Code of the Russian Federation (UIK) regarding the right to freedom of expression under Article 14(2) in penitentiary institutions.

Although based on the principles of humanity and equality (Article 8 of UIK), Russian criminal legislation does not contain separate articles specifically ruling out discriminatory practices. However, the strong emphasis on the equality of all citizens before the law is regarded as a legal safeguard for protection against discrimination. Only SMR include explicit prohibitions on discriminatory practices regarding the special penitentiary legislation throughout the Russian Federation. This can also be said of Federal Law “On the Custody of Persons Suspected of Offenses” (Article 6). In addition, the regulations for penal institutions (a departmental document) adopted to specify the application of the UIK article, are also short of rules prohibiting discriminatory practices on convicts. Although the internal regulations for penal institutions contain a reference to freedom of conscience, it fails to include any regulatory provision that would ensure application of that freedom within penitentiary institutions.

It should be acknowledged that, although indirectly, Article 12 of UIK appears to reflect a ban on discrimination based on language. The intention of Article 12 was to make sure that convicts could engage in verbal communication and correspondence using their own or a foreign tongue, and to ensure that the authorities provide translation services for convicts who do not speak the official language of the country.

It should be noted that the RF Criminal Code guarantees the constitutional principle of equality by instituting criminal liability for discriminatory practices based on specific grounds (Article 136 of the RF Criminal Code).

When assessing the extent of discriminatory practices in penitentiary institutions, we shall come up with a few major specifications. We are talking about persisting violations, biased behavior, curtailments or prejudices against convicts based on those or other grounds. Although discrimination is in many cases the result of xenophobic attitudes, xenophobia in itself does not always produce discriminatory practices. While sometimes it is rather difficult to differentiate between discriminatory and xenophobic actions, as we proceed with our observations, we will do our best to clearly identify and separate those phenomena wherever possible.

The information collected in the course of the monitoring effort does not provide sufficient grounds to reach relatively balanced conclusions about the presence of discrimination based on opinion, social status or property. On the other hand, the findings do not allow to explicitly conclude that such practices are non-existent in the penitentiary institutions of the Russian Federation. In any case, no obvious evidence of this has been found. We are, therefore, going to focus primarily on discrimination based on ethnicity and sexual orientation.

It is necessary to make some disclaimers about the structure of the current prison community, because it would not be fair to consider how prisoners are treated without first examining the dominance of some groups. We should note that the prison community appears to be rigidly structured in relatively self-contained groups of inmates. While those groups have traditionally

had a vertically structure, with subordination between them based on subjugation, ethnic minorities would establish their own isolated communities without becoming part of other groups within the general hierarchical system. Accordingly, the administration of a penitentiary facility would usually deal with each group of inmates respecting the informal rules or conventions developed by the penitentiary community. At least, that much could be said of the largest part of Russian penitentiary facilities. However, as much as ethnic communities try to stay increasingly isolated, other prisoners are not always aware either of their relations with the administration or of the presence of discriminatory practices on the basis of their ethnicity.

The more common response of former convicts has been that, given the ubiquitous arbitrariness, all inmates are treated almost equally, without preferences or restrains based on ethnicity, “Cons have no nationality.”(3) Admittedly, this particular perception comes from former convicts who cannot always asses adequately the attitudes among the administrators of penitentiary facilities. As was already mentioned, many of the former convicts surveyed failed to notice imperceptible acts of discriminatory nature.

However, there are reasons to speak about the existence of ethnic discrimination. Groups subjected to such treatment include Armenians, Azeris, Chechens and others who are generally known as “Caucasians.”(4) Ethnic discrimination based on xenophobic attitudes is spread in those penal institutions located in regions where xenophobia is common. This largely explains why the monitoring findings have been able to reveal which ethnic groups have been especially turned into targets for xenophobic attitudes outside the penal institutions in a particular region. With this observation in mind, some of the responses provided by the former convicts interviewed by the human rights monitors appear to be rather convincing:

Generally, behind bars you have the same relationships as here at freedom.(5)

Also:

You know, intolerance can be confronted anywhere, the more so in prison.(6)

Likewise, religious discrimination at penitentiary institutions is no different from what can be witnessed elsewhere in the community. One of the former prisoners stressed during the interview that “religious people, who have not been recognized or respected by the state, have also been subjected to pressure; some of those groups include religious dissidents or members of sects.”(7)

Not surprisingly, given that some of the employees of the Criminal Implementation System (UIS) have either participated or continue to be involved in the counter-terrorist operation in Chechnya, Caucasophobia is on the rise. Although it can barely be said that prisoners have normally been divided along ethnic lines, there are some wardens with Chechnya experience who have been introducing such divisions, according to former convicts.(8)

At the same time, it cannot be said that ethnic or religious prejudices are common among convicts. Many former convicts have noted that if they want to develop a relationship in the prison community, they would normally grow mutually acceptable bonds with individuals of their choice. This seem to be the principal motivation:

I would not think in terms of ethnic attitudes, at least that is the way things were at my penal colony. If you deserve to be a man behind bars, you can easily make it elsewhere, be you a Georgian, Chechen or anybody else. What really counts is what kind of human qualities you can boast of. If you have integrity, you can be an honorable man anywhere.”(9)

Once in a penal colony, it would be very difficult for a convict to keep a discriminatory attitude even if he/she had shared some ethnic prejudices and approved of some discriminatory practices before being imprisoned.

It should be stressed that the discriminatory practices which prevail amongst prisoners can have an impact on the way prison wardens treat groups of inmates who have been turned into targets for xenophobia or discrimination. Interestingly enough, the prison administrators tend to replicate the attitudes of convicts when dealing with members of those isolated groups of prisoners. Here we are talking about homophobic discrimination, particularly given that this group, most heavily discriminated against both by the prison administrators and by other prisoners, is made of voluntary or involuntary homosexuals. “Neither of the parties (prisoners and wardens) would ever hesitate to insult or ridicule them. I saw that happen all the time.”(10) Although sexual contacts in penitentiary facilities are taboo according to the criminal legislation of the Russian Federation, the special conditions established for this category of prisoners are against the principles of equality and non-discrimination recorded in UIK and current regulations for penal institutions. As we highlight this outstanding problem, we should take into account that the prison wardens have now and again been compelled to use the informal rules and conventions maintained by the prisoners, including the established way of treating homosexuals. The principal reason is that (given the inadequate government funding and shortage of personnel) this approach appears nowadays to be the only practically effective strategy to manage a penitentiary facility.

This is indeed a grave problem, which needs to be tackled imperatively.

(1) Hereinafter, each section of the report opens with relevant SMR provisions.
(2) Fore more details, see Section “Religion” in this report.
(3) This conclusion is taken from the questionnaires filled out by former prisoners that served time at penal facilities in the Rostov region, the Republic of Tyva, the Republic of Bashkortostan, the Adyg Republic, the Orenburg region, the Yamalo-Nenetsky autonomous district, the Nizhny Novgorod region, the Pskov region and in other Russian territories.
(4) Taken from an interview with former prisoners from St. Petersburg, the Stavropol territory, the Republic of Mordovia, the Tver region, the Saratov region, the Oryol region and the Yamalo-Nenetsky autonomous district.
(5) Taken from an interview with a former prisoner from St. Petersburg.
(6) Taken from an interview with a former prisoner from the Yamalo-Nenetsky autonomous district.
(7) Taken from an interview with a former prisoner from the Belgorod region. Fore more detail, see Section “Religion” in this report.
(8) Taken from an interview with a former prisoner from the Tver region.
(9) Taken from an interview with a former prisoner from the Perm region.
(10) Taken from an interview with a former prisoner from the Yamalo-Nenetsky autonomous district.

Register

1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:

a) information concerning his identity;
b) the reasons for his commitment and the authority therefor;
c) the day and hour of his/her admission and release.

2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

This rule is a strictly practical guide to registration of prisoners in order to prevent their illegal imprisonment. The registration procedure is regarded as a factor that is extremely important for ensuring legality of the arrest and imprisonment in the practices of admission and keeping of prisoners at places of imprisonment. Article 9.1 of the International Covenant on Civil and Political

Rights asserts that “No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

Observation of the strict rules of registration assumes great importance from the instant a person is detained, as effective observation of his rights hinges of the compliance with procedural standards related to registration of the detainee.

Under Article 92 of UIK:

After the suspect has been brought to the investigation agency, to the investigator’s office or to the prosecutor’s office, a detention protocol shall be completed within no longer than three hours…

The protocol shall state the date and time of the protocol’s compilation, the date, time, place, grounds and reasons for the suspect’s detention, the results of his personal search, and other circumstances of his detention.

Stating the time of the actual detention in the protocol is of primary importance, as it is from this time that the 24-hour period of detention is counted within which the suspect must be brought before a court of law. Indeed, under Article 22 of the RF Constitution and Article 108 of the RF Criminal Procedure Code, arrest and imprisonment are only permitted if required by a court judgment. The protocol also constitutes grounds for making registration entries when the detainee is placed into the preliminary detention ward.

However, in practice, the time of actual detention is stated in the protocol as the time of the protocol’s compilation. In many cases, a protocol of detention is compiled a significant period after the time of detention, or, if the detainee is released, no protocol is drafted at all.

Thus, on October 1, 2001, during a scheduled check of retail outlets for violations of rules of retail trade, A. Kostromin, head manager of a store, was detained and put into a pretrial detention cell. He spent about four hours in the cell at the district police station.(1) As a result, he had to be hospitalized for arterial hypertension. As A. Kostromin later complained:

My request to show me the detention protocol was ignored by the policemen. Later, they had to confess that no detention protocol had been made, as B. Khalizov, Chief of the Town District Police Department (ROVD), himself had been unable to find any plausible grounds for my detention in the Administrative Code. So, I was put out of the preliminary detention cell. I was told to forget everything…(2)

This deplorable practices are very difficult to do away with, as the supervisory authority — the prosecutor’s office — is extremely reluctant to respond to violations of this kind. We are not aware of any instances when the police were penalized for late documentation of cases of detention the prosecutor’s office steps into such cases at all only if documents are forged and the forgery has been successfully proved.

Thus, in June 2001, in Krasnoyarsk, local policemen detained and took to the police station Mr. B., a student. He was told that he was suspected of having wounded a policeman a few days before. Mr. B. would not acknowledge this, and was beaten up by the police officers. Mr. B.’s friends, students of law, came to the police station and became witnesses to the beating. After more than 24 hours of detention, Mr. B. was released. He promptly filed a complaint with the prosecutor’s office, asking that the wrongdoers be held responsible. In the course of investigation, it was discovered that no protocol of his detention as a criminal suspect had been made. To conceal the circumstances of the detention, policemen made out a set of documents about having detained Mr. B for minor hooliganism. This set of materials was filed with a court of law. However, the judge terminated the case as the documents clearly contained erasures and

corrections, and witnesses confirmed Mr. B.'s alibi. A criminal case was initiated on the grounds of the forged protocol. However, the period of investigation had been extended several times over several months, with no result. In a meeting with representatives of the police, the victim was told that "there is an understanding with the prosecutors about dropping the case; the only thing we want from you is that you do not appeal this decision." Six months down the road, the case was terminated.(3)

Adoption of the new Criminal Procedure Code has brought no reduction in the number of such cases. However, the problem itself has made a new turn as the new UIK reduces the pretrial detention period by one third and tightens up the procedure for making a decision on detention. All these factors have led to a situation when policemen resort to all sorts of tricks to extend the actual period of detention.

At penitentiaries for convicted prisoners, the requirements pertaining to registration of prisoners and verification of the legality of imprisonment are, on the whole, satisfied.

Article 7 of UIK provides the following definition with regard to the grounds for execution of penalties and application of other measures under the criminal law: "Grounds for implementation of penalties and application of other measures under the criminal law are constituted by an effective sentence or an effective modifying judgment or ruling by a court, or an act of pardon or amnesty." The procedure for acceptance of suspects and indicted persons into pretrial detention facilities is set by Rule 2 of the Internal Rules of Pretrial Facilities of the Criminal Implementation System of the Ministry of Justice of the Russian Federation, as approved by Order #148 of May 12, 2000. Under these Rules, the document that constitutes grounds for accepting a person at a SIZO is a court judgment. Article 79 of UIK states that acceptance of persons sentenced to imprisonment "is effected by the administrations of the said institutions in accordance with the procedure established by the Internal Rules of Correctional Institutions. Under the Internal Rules of Correctional Institutions, acceptance of convicts is performed by the duty operative, an officer of the security department, and a medical worker of the institution's medical service. As part of the procedure, personal records of the newly arrived convicts are checked and matched with the convicts, and the presence of requisite documents in the records is verified.

For each prisoner, a personal file, a registration card, and a sentence card are established. The file serves as the depositary of all relevant documents related to the convict (documents proving the date and place of birth, the place of residence, education, references, information about relatives, diseases, prior convictions, if any, etc.).

Monitoring of the prisoners' transfers is reflected with records in the registration logs and in the registration cards; also, an "accompanying list" is compiled. At the institution itself, account of prisoners is kept by five-day statements of prisoner's transfers, with the data put into standard statistical forms.

A sentence card is filed for each convict arriving at the colony in order to ensure timely release of the prisoner, and to monitor the deadlines for possible parole or replacement of the remaining period of imprisonment with a more lenient penalty (such as transfer to a colony or generally to different conditions of serving the sentence). At the end of each year, the cards of those convicts whose sentences expire in the following year are selected and separated for particular monitoring. These cards are sorted by the dates of sentence expiration (month, day). Thus, in the period of serving a criminal sentence, detailed registration documents are maintained for each prisoner in compliance with the SMR registration requirements.

At the same time, correct registration alone is not sufficient to ensure legality of detention or serving the sentence. Thus, the issues of observing the time limits of detention and legality of detention still remain unresolved.

In practice, two thirds of prisoners kept in pretrial detention facilities stay there for the entire

duration of the court proceedings. Particularly, during the period in the course of which the proceedings are initiated, heard by the court, and during the period at the end of which the court judgment becomes effective. Under Article 255 of the Criminal Procedure Code, the period of detention "from the date of filing of the criminal case with the court to the date of passing the sentence may not exceed six months," in extraordinary circumstances the detention period can be extended to a maximum of nine months. However, in many cases, these restrictions are disregarded, there is no court hearings, the court does not consider if there are sufficient grounds for detention, and suspects, therefore, are kept at SIZO without reasonable grounds.

Thus, from 1994 to the early 2002, M. Zvarykina, an invalid of first category who had gunshot wounds, was kept without trial at SIZO #6 (Moscow) as a suspect for particularly grave crimes. Numerous attempts by the attorneys for the defense to secure a different restraint were unsuccessful. In the spring of 2002, the accused had a heart attack during a hearing, and now she is at the prison hospital of SIZO #1 where she has been, in fact, taken to die. Even in such a condition, she has not been released by the court on the grounds that "M. Zvarykina would immediately get herself hospitalized."(4)

Judicial supervision over the legality of detention remains the primary means of protecting prisoners' rights. However, since in practice courts are primary sources of prisoners' rights violations, the effectiveness of the judicial system appears doubtful.

The law-breaking nature of court practices in the Russian Federation — when courts fail to consider the grounds for detention — was reiterated by the European Court of Human Rights, which on July 15, 2002, passed its judgment on the case Kalashnikov v. Russia.(5) This judgment noted, in particular, a violation of the maximum limit on the court proceedings' duration, during which period the court considered neither the defense's arguments nor the very need for V. Kalashnikov's detention.

(1) V. Kisselyov, "A Bone in the Police's Throat." *Nizhegorodsky Rabochy* (October 27, 2001); "Emergency on the Scale of a District." *Birzha* (October 11, 2001).
(2) Quoted from the complaint by A. Kostromin to the prosecutor's office of Nizhnii Novgorod.
(3) Regional Report "The Penitentiary System in the Krasnoyarsk Territory — 2002."
(4) Human Rights in Russian Regions — 2001 (Moscow: Moscow Helsinki Group, 2002).
(5) Application #47095/99 by Valeriy Kalashnikov against the Russian Federation.

Break down into Categories

8. Different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment.

Thus,

(a) Men and women shall so far as possible be detained in separate institutions;
(b) in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;
(c) Untried prisoners shall be kept separate from convicted prisoners;
(d) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;
(e) Young prisoners shall be kept separate from adults.

The differentiated approach to different categories of prisoners, the principle of tailoring the penalty to the individual recommended by international documents hinges on the requirement of prisoner segregation. The primary objective here consists in ensuring category-specific conditions of imprisonment while minimizing the adverse impact of the prison environment.

National laws, in keeping with Rule 8 of SMR, assert the requirement of separate imprisonment for different categories of prisoners. Moreover, they define a big number of such categories. Thus, Federal Law “On Imprisonment of Suspected and Indicted Persons” alone singles out thirteen categories of prisoners (Article 33).(1) Among other things, separate keeping is legislated of men and women, untried and convicted persons, minors (underage persons) and adults.

It should be noted that Russian laws do not provide criminal responsibility for debt, so no such category of prisoners is defined. However, there is a procedure for separate keeping of “persons serving their first sentence, and persons with a past record of imprisonment.”

At the same time, federal laws allow joint imprisonment of minors and adults with the prosecutor’s consent and only in relation to adults “who have shown themselves in a positive way” and are serving their first sentence for offences that do not pertain to the category of grave crimes.

Such a procedure of imprisonment, while in violation of international standards, has been most likely introduced as a forced measure. Placement of an adult inmate into a cell where minors are kept may help reduce the number of conflicts and cases of violence widely spread among teenage prisoners. Such situations are primarily caused by the failure, on the part of penitentiaries, to observe the principle of carefully selecting the inmates to be put in the same cell (Rule 9 of SMR).(2)

Thus, in December 2002, SIZO #4 of the Komi-Permyatsky autonomous district was keeping 14 boys and 4 girls in three cells. In each of the cells, an adult of the relevant sex convicted under a “light” criminal offence(3) was kept together with the minors.

Likewise, according to the chief of SIZO #3 of the Voronezh region:

Underage girls are placed together with women of a positive attitude who are on their first go under a non-grave article. We now have just one underage girl. Should we lock her up alone? If there had been at least four of them, then it would have been different, they must have company after all.(4)

At the same time, our monitoring in the regions has shown that in most cases minors are still kept in cells with no adults, although the administration can, under Article 33 of Federal Law “On Imprisonment,” also put adults in those cells. Such opportunities and such adult prisoner candidacies cannot always be found. Open regret in this regard was expressed by the chief of SIZO #1 in Stavropol.(5)

Cases of violence and cruelty occurring in joint keeping of minors in the same cells are very telling in terms of evaluating the situation with regard to the observance of the principles of separation of individual categories of inmates.

The great number of prisoner categories defined by the national laws (13 categories according to Article 33 of Federal Law “On Imprisonment”) has a negative impact on the practice. In particular, it is extremely difficult to provide acceptable conditions of imprisonment to each of such categories. Temporary detention facilities existing at district police stations in many cases have fewer cells than the number of categories that must be kept in separation. Due to this, the requirement about separate keeping leads to a disproportionate distribution of prisoners between the cells. In some cases, prisoners are kept in single cells, while in other cases cells are filled to a squeeze. In the latter cases, cells are overcrowded not only in terms of square meters per inmate, but also in terms of sleeping places per prisoner. However, technically the average figures for the number of prisoners and the capacity of the institution meet the requirements.

A similar situation largely prevails in pretrial detention facilities. In recent years, HIV-infected inmates have been kept in separate cells, the number of which is rather limited. With

overcrowded cells, inmates find themselves in unbearable conditions undermining their health.

HIV-infected inmates are, in a sense, a new challenge for the Russian Criminal Implementation System. To add to the difficulty of this challenge, the sharp rise of the number of infected inmates (in the period between 2000 and 2002 alone, the number of HIV-infected prisoners multiplied by a factor of eight) combined with the regulatory requirement of their separate keeping, which further, and badly, aggravated the conditions of their imprisonment. The very idea of identification and isolation of HIV-infected prisoners as a separate category seems fallacious considering the high latency of the infection. However, since March 13, 2001, the new amendments to UIK came into effort. According to these amendments the norms stipulated separate stay and transferring of HIV-infected prisoners were excluded. At the same time, the practice of isolating HIV-infected inmates is linked not so much with the legislative requirements but rather with social prejudice. And this practice of segregation and isolation continues to exist, being enforced both by personnel and by prisoners. Thus, the facility IR 91/1 of the Altai Republic has a ward for TB-infected prisoners, but no ward for HIV-infected ones. Two HIV-infected inmates confined to the facility are simply held at the medical center at all times.(7)

The shortage or lack of specialized correctional institutions also brings about violations of the required conditions of imprisonment. Although the Criminal Implementation System is struggling to implement a program of building new specialized institutions, the situation, due to the limited funding of the program, is slow to improve.

Thus, the situation is extremely difficult at the Shakhov female strict regime colony (Oryol region), which is filled to 180% of its capacity.

The situation is even worse, or, to put it properly, more dangerous, at the prison's tuberculosis hospital. The current situation when we have over two persons per place appears almost satisfactory. There was time when the hospital designed for 50 patients was holding 438 inmates!(8)

In January 2002, Russia had, among other institutions, 13 female prisons and 37 female correctional colonies (only 11 of which had nurseries), 64 juvenile colonies (of which only three were for girls).(9) In 2002–2003, thirteen isolated strict regime units and one colony also started functioning.(10)

The limited number of specialized institutions, and their uneven distribution between the regions create persistent problems in the form of continual overfilling of some types of institutions, excessive forwarding of inmates, and remoteness of penitentiaries, all of which combine to make it extremely difficult for prisoners to keep ties with their relatives.

Separation of inmates to minimize the negative influence of those prisoners that have earned the stamp of "uncorrectable" is viewed by the administrations of correctional institutions as an important factor in their correctional work. In practice, this is manifested as isolation in disciplinary wards of individual prisoners who violate the internal rules. Currently, used as disciplinary wards are dedicated local areas set up at correctional colonies. Imprisonment there features enhanced strictness and isolation (among other things, restrictions on movement inside the colony are imposed). It should be noted, however, that decisions on isolation of individual prisoners are based not only on negative assessment of their conduct, but also on the so called "prison customs." Such "prison customs" — a well-established subculture — include both their own sets of rules used to counter orders issued by the administration and traditions of self-government. Due to this, any division of convicts using their conduct as a criterion is very superficial an cannot produce a significant effect.

Most convicts, as they are placed into "detachments" of one hundred persons housed in the same room, are not divided into those who have been sentenced for violent crimes and those sentenced for non-violent crimes. Decisions on distribution of convicts into the colony's

detachments are made by a commission that includes security officers, correctional workers, production managers, security supervisors, and a psychologist. However, the interests of security and those of the production facility come first and foremost as the top priorities. It should be mentioned here that almost all research projects in the regions of Russia have noted that, in distribution and division of convicts into wards and detachments, no account is taken of their mutual compatibility and no personalized correctional work is done.

The tradition of prison subculture has its own system of castes that is unrelated to the nominal division into convicts' categories. That system is not formal but is normally strictly observed by convicts. In many cases, the administrations of institutions follow these traditions in their treatment of convicts. Thus, convicts pertaining to the "lowered" caste(11) have their meals at a separate table. What is important here is that the structure of convict groups matters in the practice of discrimination as well as in the other practices.

The task of separating convicts in order to prevent discrimination and ensure their security reflects, in many respects, the wide scope of problems existing in the society at large. Thus, after the 1992 ethnic conflict between the Osetins and the Ingushes, SIZOs of North Osetia keep these ethnic groups separately. The administrations of penitentiaries believed that division into these categories "is helpful for maintaining discipline and order in penitentiary institutions."(12)

In conclusion, it should be noted that the principle of separating prisoners into categories must be linked to the ability to create necessary and sufficient conditions of imprisonment for each such category. Ironically, it is the difficulties in creating appropriate conditions of imprisonment at institutions of Russia's Criminal Implementation System that whittle away the importance of separate keeping of convicts.

(1) For members of the Armed Forces, the regulations require separate keeping of four categories (Article 150 of UIK); former members of law enforcement and judiciary agencies are also kept separately.
(2) Rule 9.2 of SMR stipulates, "Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution."
(3) Regional Report "The Penitentiary System in the Komi-Permyatsky Autonomous District — 2002."
(4) From an interview with A. Podorozhny, chief of IZ 36/3 (SIZO #3, Voronezh), November 14, 2002.
(5) Regional Report "The Penitentiary System in the Stavropol Territory — 2002"
(6) Amendments to UIK were adopted by Federal Law #25 of March 9, 2001
(7) Regional Report "The Penitentiary System in the Altai Republic — 2002."
(8) Regional Report "The Penitentiary System in the Oryol Region — 2002."
(9) See the website "Prison and Freedom" of the Center for Assistance to the Criminal Justice Reform at http://www.prison.org/penal/stat/doc001.htm.
(10) Letter #18/1/4-76 by V. Yalunin, Chief of GUIN of the RF Ministry of Justice, "On the Results of Monitoring Conducted in Penitentiary Institutions," to Ludmilla Alexeeeva, Chair of Moscow Helsinki Group, dated April 23, 2003. Attached to the letter are analytical conclusions of GUIN staff experts in connection with the book Situation of Prisoners in Contemporary Russia.
(11) A "lowered" man is a member of the lowest group in the informal hierarchy of prisoners, corresponding to the untouchable caste. See: Concise Dictionary of the Prison World (Public Center for the Assistance to the Criminal Justice Reform).
(12) Regional Report "The Penitentiary System in the North Osetia-Alania Republic — 2002."

Premises

9. 1) Where sleeping accommodation is in cells or rooms, every prisoner shall occupy by night a cell or room by himself. If for any special reasons such as temporary overcrowding of the prison,

it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

2) Where common cells are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night in keeping with the nature of the institution.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to the climatic conditions and particularly to the cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live and work:

a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

The requirement of SMR to the effect that every prisoner shall occupy a cell or room by himself (where sleeping accommodations are in rooms or cells), is inapplicable to the Russia's penitentiary system since by and large the Russian system requires the use of common cells for prisoners. UIK provides for solitary confinement of prisoners under sentence and of prisoners on remand only as a measure of disciplinary punishment and exclusively for a period fixed under the law. The only category of prisoners who, in accordance with UIK, shall be placed for the whole period of detention in cells "intended for two as a minimum," are those sentenced to life imprisonment. Moreover, it is provided that such prisoners be kept in separate cells but only "at the request of prisoners under sentence and in other special circumstances by direction of the chief of the correctional colony when there is a threat to personal security of prisoner under sentence."(1)

The conditions of placing prisoners in common cells prevailing in Russia are obviously inconsistent with the requirements of SMR.

In almost all penal institutions of Russia the number of prisoners kept in custody is more than what they can actually hold. In dormitories where prisoners are required to live and sleep, there are two- and three-tier bunk beds. Especially grave situation is observed in pretrial detention facilities (SIZOs) and prisons. Given the shortage of those institutions, they most often are overcrowded (in some regions, by as much as 200% of their total capacity).(2) It is noteworthy that according to the data of the Chief Department of Penalty Execution, about 60% of the buildings housing detainees and prisoners under sentence were built before 1917. Another 20% were built prior to the middle of the twentieth century and many of them have seen no capital repairs ever since.

In view of the above, on the initiative of the Chief Department of Penalty Execution, there was developed a Federal Program of Construction and Reconstruction of Pretrial Detention Facilities and Prisons and of Construction of Housing for the Personnel of the Said Institutions for the Period until the Year 2000. The Program was approved by Decision #1231 of the RF Government of November 3, 1994.(3) The Program, however, received almost no funding from the federal budget. The amount of budgetary allocations set aside for the implementation of the Program totaled over three years (1997—2000) less than 3% of what was originally planned. Considering the expiration of the Program in 2000 and the insufficient funding it received, the RF Government was asked to extend it until the year 2005.(4) Given this situation, even the few newly constructed buildings turn out to be overcrowded in a little while.

The overpopulation of pretrial detention facilities contributes to the high incidence, primarily, of tuberculosis among prisoners on remand and prisoners under sentence. One may identify several main factors in this respect. First, it is the lack of funding, the shortage of specialized beds in medical institutions and the shortage of modern diagnostic and medical treatment facilities. Secondly, persons afflicted with infectious diseases are often kept together with healthy persons, especially in pretrial detention facilities. These conclusions are strongly confirmed by the information provided in numerous questionnaires filled out by former prisoners within the framework of our monitoring effort. Another key factor is the lack of possibility to diagnose diseases in prisoners at an early stage.

The responsibility for non-compliance with the established sanitary-hygienic and anti-epidemic requirements designed to protect the health of convicted prisoners lies with the administration of the penal institution.(5) However, the situation is beyond control to such an extent that instances of getting infected with tuberculosis directly in places of detention are common not only among prisoners but also among the institutional personnel. One of the reports of the Ombudsman of the Russian Federation O. Mironov, in particular, indicates:

The tuberculosis has become an occupational disease of officials of institutions of the Criminal Implementation System (UIS) and of anti-tuberculosis institutions where, in connection with to the occupational risk, the incidence of tuberculosis exceeds a similar indicator for the rest of the population by ten or twelve-fold. Eighty per cent of the afflicted officials of anti-tuberculosis institutions are suffering from grave forms of the disease that are poorly susceptible to medical treatment.(6)

The conditions of detention of persons sentenced to life imprisonment are likewise inconsistent with the regulatory acts that prescribe that such prisoners shall be kept in a cell “designed for two as a minimum.” Following the introduction of a moratorium on the death penalty, the Criminal Implementation System turned out to be unprepared to receive that category of convicted prisoners. As was reported by the Chief Department of Penalty Execution of the RF Ministry of Justice “as of the early 2000, the correctional special regime colonies were holding 671 criminals sentenced to life imprisonment. Due to the lack of funding, another 208 persons sentenced to a similar measure, were kept in pretrial detention facilities.”(7)

In cases when life-term prisoners are provided with separate cells, measures undertaken to ensure their security tend to considerably worsen their living conditions. Thus, in 2000, in YaB 257/1 facility in the Khabarovsk territory, a whole building was made available for sixty life-term prisoners:

All cells are intended for two. We were unable to provide individual cells as is required by European standards. The floor in the cells for life-term prisoners is covered with a half meter thick layer of concrete. The electric bulbs are thoroughly isolated to prevent potential suicides. Persons inclined to commit suicide put into tiny closets lined with a thick layer of rubber totally without lighting. The section for life-term prisoners is not just set apart from the rest of the zone, it is literally sealed off. It is separated by a metal fencing about six meters high… The officials of the colony dubbed the new section “a burial-ground.” Not only because the only way out of it is to the

graveyard. The existence within so limited a space, being completely immured in concrete, in principle, does not differ much from physical death.(8)

Similar testimonies are received from other premises for life-term prisoners:

Life-sentence prisoners are kept in inhumane conditions, in frozen concrete bags. It is a long-term agony. Here, one may, at best, become totally embittered or go insane… Nobody knows what is on the mind of the inmates of the high-security prison for life-term prisoners, that mournful arc on the Ognenny Ostrov (Fiery Island), but we know that they are sending not only pleas for mercy. The Pardon Commission is receiving from them quite a number of letters with the only request to finally execute the death penalty.(9)

As we have already mentioned, according to SMR, prisoners to be kept in common cells shall be carefully selected as being suitable to associate with one another in those conditions. Due to the overpopulation, it is hardly possible to comply with that rule. As was revealed by the monitoring of places of confinement, it is rare that a penal institution has a full-time psychologist on staff (not every institution may afford to invite non-staff specialists). Therefore, issues of prisoners' individual peculiarities and the so-called psychological compatibility are generally dealt with by non-professionals.(10) Most often, it only amounts to taking actions after the event, such as having a prisoner transferred to another cell after a conflict between cellmates, etc. In some places of confinement, the personnel when placing prisoners into cells are guided by the traditions of the prison subculture and select prisoners as suitable cellmates according to the principles of informal prison hierarchy.

In the course of our monitoring effort, no information was obtained suggesting it is a problem to ensure regular supervision of prisoners. However, according to the Chief Department of Penalty Execution, such problem does exist, especially, in pretrial detention facilities and prisons, where the efficiency of supervision tends to decline due to the lack of personnel in the Criminal Implementation System: "In the majority of pretrial detention facilities and prisons, each staffer works in two or three shifts at a time, which adversely affects not only the performance by them of their duties but also the observance of rights of untried prisoners and prisoners under charge."(11)

LIVING PREMISES

Federal Law "On the Ratification of the Convention on the Protection of Human Rights and Fundamental Freedoms and Protocols thereto" stipulates a minimum living space per person to be 4 sq. meters of the cell floor space. However, the penal system currently fails to secure the implementation of even lower norms of the Russian legislation. Under Article 99 of UIK, the living space norms per person "in correctional colonies shall be not less than 2 m,2 in prisons — 2.5 m,2 in colonies where women are serving sentence — 3 m,2 in educational correctional colonies — 3.5m,2 in medical correctional institutions — 3 m,2 in medical preventive institutions of the Criminal Implementation System — 5 m.2"

According to the data of the Chief Department of Penalty Execution, on the average, across the country, the size of the living space available to an inmate is only 1.7 m2 and in some SIZO— as little as 0.5 m2.(12)

The provision of utilities in some colonies still remains a problem. Under UIK, "the prisoners under sentence who receive wages and those who receive pensions shall compensate for the value… of utility and personal services… The prisoners under sentence who refuse to work shall have those costs deducted from the assets available in their personal accounts."(13) However, not all institutions of confinement are capable of offering prisoners an opportunity to work. In that case, the payment for utilities shall be entirely at the expense of the state budget funds and those funds, as a rule, are not sufficient to cover all utility services.

Over the last two years, there were instances when utility suppliers cut off the supply of water and electric energy to penal institutions because of payment delays. Such actions are, undoubtedly, unlawful as, according to Decision of the Government of the Russian Federation #781 of July 5, 1999, the correctional and labor institutions, pretrial detention facilities, and prisons are put on "List of Strategic Organizations Providing for Security of the State and Financed with the Funds of Federal Budget the Supply of Fuel and Power Resources to which May Not Be Terminated or Limited Lower than the Quotas Fixed to Them in Kind or in Terms of Value by Relevant Federal Executive Authorities."

However, in similar instances, penal institutions usually prefer not to go to court but to solve the problem of arrears to utilities suppliers by their own means. To avoid such problems in the future, penal institutions tend to switch over to austerity measures:

We do encounter problems with electric energy supply. Especially in connection with the production. If there are arrears in payment, power suppliers are making an attempt to cut us off. Then, we would tackle the problem, look for funds elsewhere and sometimes pay the debt with our own products. Generally speaking, we do our best to solve the problem. We are constantly faced with the need to save electric energy. The problem is especially acute in wintertime. We have to save energy also within the detachments, being careful not to spend excessive energy, especially at the end of the year. A thrifty master is saving on everything. First of all, we have to reduce the costs of electric energy. The functioning of the institution is not affected because of that.(14)

VENTILATION

The premises where prisoners are kept shall be dry, well ventilated, have natural and artificial lighting, be provided with all the necessary implements the list of which is given in the departmental act regulating general requirements to facilities of penal institutions.(15)

As a rule, no artificial ventilation is provided in premises housing prisoners:

The airing of the cell was done only when the door was opened to let somebody in or out. That was the sort of airing we had. The window was bricked up. There was no ventilation. No supply of fresh air.(16)

Also:

No ventilation was available. The administration of the colony would deliberately splash chloride of lime (disinfectant) from containers over the floor. In summer it was so hot one could hardly breathe, a regular sweating bath. In winter, it was very cold, in rainy weather — humid.(17)

Also:

All the ventilation we had was through a broken window. When it was hot outdoors, it was stuffy inside the cell. When it was cold, it was chilly and humid inside.(18)

Also:
The airing was done with the help of a towel. You open a small hinged window-pane and begin waving a towel to air the cell.(19)

Both former prisoners and monitors alike point out that fairly often it is stuffy inside and no possibility for airing is provided. The situation is associated with a number of problems. Thus, under the Internal Rules of Correctional Institutions, prisoners are forbidden to smoke in places not specially designated for the purpose.(20) In colonies where such places are available this rule is generally complied with. On the other hand, no areas for smoking are provided for persons under investigation. The SIZO personnel is recommended "so far as possible" to keep smoking

prisoners separate from non-smokers,(21) which is virtually impossible to implement in practice:

The ventilation pipe was in place but with that number of people inside, it was of no avail; it was especially hot and humid when meals were cooked and also damp. Just imagine how it feels in the room where the smoking, cooking and washing is done. <…> We breathed the fresh air only while on walks-out. When you come back after the walk, the stench is overpowering…

LIGHTING

In places of detention, the cells are often fitted out with blinds so constructed that they do not let in natural light or fresh air:

There are dense blinds over windows in all the cells which makes the reading by natural light impossible. Daylight lamps are generally used for lighting, they are bright enough but uncomfortable to the eye. According to SIZO directors, the window blinds in all cells are installed in accordance with the norms of security."(22)

The possibility (not a requirement) to install window blinds in cells is mentioned in instructions orders of the Russia's Ministry of Justice,(23) which in particular, say as follows:

In the process of reconstruction of pretrial detention facilities and prisons when it is not possible to achieve with the help of architectural-planning or regime-technological solutions the prevention of visual and other types of communication between cell-type premises within the same building, between cell-type premises of adjacent buildings or between cell-type premises and territories adjoining the regime and administrative zones, there may be installed white-painted louver-type bars from the outside of window openings of cell-type premises.

At present, with the objective to remove technical barriers to the entrance into SIZO cells of natural light and fresh air, Deputy Minister of Justice of the Russian Federation Yu. Kalinin issued Instructions to Directors of the Territorial Bodies of the Criminal Implementation System #18/6/2-617t of November 25, 2002, "On Removing All Blinds From Windows of the Cells to Be Replaced with Cut-Off Bars."

However, SIZO directors doubt that the said order is advisable. Thus, SIZO director of the city of Tomsk made the following comments:

Presently, we have window blinds; we have received an order to replace them with cut-off bars (by July 28, 2003). We have already purchased them. But in my view, this should not be done because of considerations of security and also because it involves the spending of huge funds, which is inappropriate.(24)

Similar opinion is held by director of SIZO #1 in the Republic of Mordovia:

Instructions of the Chief Department of Penalty Execution of the RF Ministry of Justice #18/6/2-363 of June 27, 2001, recommended that window blinds be removed in cells accommodating juveniles and women. We put the window blinds away in some of the cells located in buildings #6 and #8 as a result, there has been a sharp rise in violations against the regime of security; the number of prisoners planning an escape has also grown, whereas sanitary and hygienic situation in the cells improved insignificantly.(25)

Thus, the process of removing window blinds is proceeding reluctantly and at a slow pace.

According to the monitoring findings, apart from restricted entrance of natural light, the artificial lighting in many places of detention is also insufficient. Some former prisoners have noted that a poor lighting in the cell (barrack) made the reading hardly possible:

It was impossible to read. The only electric bulb above the door was immured in the wall.(26)

Also:

The cell was very badly lit. It was hardly possible to read or write in the evening because the lighting was so dim.(27)

Also:

The premises were poorly lit with an about forty watt electric bulb.(28)

Also:

There were daylight lamps. Reading and writing was possible but with much difficulty.(29)

Also:

The lighting was very bad because of two-tier bunk beds. Had there been one-tier beds, the lighting would have been sufficient.(30)

SANITARY INSTALLATIONS

The information obtained from the interviews with former prisoners makes it possible to conclude that not all the cells of the Russia's pretrial detention facilities have sanitary installations (in the given case, WC pans). Up to now, WC pans are replaced with alternative facilities such as "parashi" (removable sewage baskets), gut buckets, containers for defecation, "ochko" (hole opening into the sewerage system), etc. The directors of pretrial detention facilities point out that the situation is gradually changing for the better but it is still far from acceptable conditions: "It has been a long time since "parashi" were used in the cells. Nowadays, there is a hole opening into the sewerage system, the only thing prisoners have to do is to flush water from the bucket, since there is no shortage of water."(31)

In pretrial detention facilities, places for satisfying the needs of nature are situated directly in the cell. They are either of open or semi-open type (in some cells, they are set apart with low concrete barrier of up to one meter high or with a makeshift screen of bed sheets and blankets): "In the cell, there were no partitions. On the second day I could hardly stand it, I was so ashamed. Every one is sitting and staring at you on purpose. One gets used to it later on."(32) In some pretrial detention facilities, the administration, being unable to meet the requirements of sanitation, does not allow prisoners to rectify the situation by their own efforts, this being an additional means to exert moral pressure upon prisoners:

A facility designed for satisfying the calls of nature is located right in the cell. Prisoners are trying to cover it with a makeshift screen but the initiative is suppressed by the administration.(33)

Also:

We used to screen the "tolchok" (water closet) with a bed sheet, although it was prohibited. We would take it away every time the rounds and inspection of the cells were made and put it back afterwards.(34)

Any mention of cleanliness and decency seems to be irrelevant here.

In correctional colonies the situation is somewhat better. As a rule, closed water closets are arranged in separate rooms although not everywhere; in some places of confinement, water closets are directly in the barrack. According to the data obtained by the monitoring of places of confinement, the sanitary and hygienic conditions in colonies cannot always be described as

adequate either. According to the monitors, dirt and objectionable smell is often observed inside the premises which is confirmed by unsatisfactory assessment given by some former prisoners: “The paint was peeling off, the walls were in need of repairs, there was a fungus in the toilet.”(35)

BATHING INSTALLATIONS AND BATHING PREMISES

Bathing installations are available in virtually every correctional institution. The monitoring effort revealed only one case when those were not available: “There was no shower or bathing room in the colony. We washed ourselves as well as we could arrange it in the absence of bathing premises.”(36)

According to former prisoners, they were usually able to wash themselves and take a shower. However, the time they were given for the purpose and the conditions in which they had to wash themselves were quite inadequate:

How much time was given for bathing? — about two minutes, water temperature being adjusted by the administration from the other side. They would adjust it just as they liked…(37)

Also:
Only “patsany” (young boys) or “blatnyie” (criminals of a certain high category in the prison hierarchy) were allowed to use the shower as they wanted, while the rest, by twos and threes, were crowded under a single shower sprayer…(38)

Also:

I went to take a shower almost every day. However, the water was so hot that until I got used to it, my skin had been coming off in strips…(39)

Also:

The bathing room was cram-full of people with every one hanging on wash basins, some receiving none at all, there were wash basins full of holes, all sorts of them… There was a shortage of everything...(40)

Also:

Five of us would use one shower at a time, with the water hardly running at all. They would switch off the water while you are still in lather and kick you out back to join the detachment…(41)

Also:

One shower would be used by ten persons in the space of twenty minutes.(42)

According to prisoners, the bedding was not always changed after the bath (as is required by the Instructions “On the Organization of State Sanitary and Epidemiological Supervision of the Provision of Bathing and Laundry Services to Prisoners”). Moreover, “roasting of the bedding” (disinfection) was often done only at urgent requests or demands made by prisoners.

Prisoners are obligated to maintain in due order and keep scrupulously clean all premises of the institution regularly used by them.(43) The monitors noted that, on the whole, the premises were maintained in due order and clean. However, the presence in the cells of flies, cockroaches and rats in some places of detention which is mentioned by both former prisoners and monitors, testifies to the lack of sufficient sanitary and epidemiological supervision on the part of overseeing authorities.

As it was already pointed out, the majority of the buildings of the penal system are unsafe and in

need of emergency repairs (basically, those of pretrial detention facilities). At present, the conditions of detention of prisoners may be improved only through the renovation of premises to be accomplished by prisoners themselves at the expense of their relatives and upon agreement with the administration:

Every spring, we do the repairs by our own means. My mother sent me wall paper from home, I papered my room together with other guys…(44)

Also:

The rooms were in good repair. We did the repairs ourselves at the expense of our parents...(45)

Also:

The walls and ceiling were in fairly good condition as once a year we did capital repairs thanks to our parents' "humanitarian assistance…"(46)

Also:

It was our home. Therefore, we had to put our rooms in order ourselves. We would purchase materials with our own money (through the administration, of course) such as wall paper, glue, paint, and carry out the repairs.(47)

There were instances when in protest against inhuman conditions of detention, prisoners went on hunger strikes. Sometimes, following a series of inspections, the strikers succeeded in getting their requirements satisfied, although most often, those were only half measures.

It was a rebellion. Prisoners refused to take food protesting against freezing temperature in the cells, there were no windowpanes, windows were covered with blankets. The administration purchased cellophane right away and used it to cover windows.(48)

Most often, the improvement of conditions of detention of individual prisoners is linked with corruption of the personnel of a particular institution of the Criminal Implementation System.

Thus, in the course of inspection of Russia's penal institutions, experts of the European Committee for the Prevention of Torture (CPT) paid attention to the fact that:

In some cells, the conditions of detention… were much better than in other prison premises. The cells were in good repair and remarkably clean. Besides, there was a better variety of personal articles and appliances than in ordinary cells (even a hot-water shower bath and a refrigerator was available). Especially noteworthy was the fact that metal window shutters commonly used in all other cells were put away. As a result, prisoners were enabled to enjoy natural lighting and breathe fresh air. The delegation was unable to identify the criteria according to which prisoners were placed under those more favorable conditions of detention.(49)

In the course of the monitoring effort, it became known that sometimes prisoners succeed in getting better conditions for themselves (by being transferred to the so-called "sherstyanyie" (privileged) cells) by illegal means: "The prisoner is usually relocated to another cell… when he has bought for himself a possibility of living in better conditions."(50)

It is, therefore, not surprising, that in recent times Russia's media has been widely discussing the idea of opening the so-called private prisons for prisoners who are in a position to pay the costs of their own upkeep. In that connection, the RF Minister of Justice Yu. Chaika made a comment to the effect that for the time being it does not seem advisable to set up in Russia private prisons and isolation wards as "in the conditions of pronounced social stratification in society, that would inevitably result into inequality, violation of human rights and legality."(51)

Cutting off an offender from the outside world, the state at the same time assumes an obligation to provide him with the necessary material and living conditions. The deprivation of liberty is afflictive by itself, it should not be aggravated still further by conditions of detention in institutions of confinement. In that sense, the conditions of detention should not be much different from a general standard of living of citizens that has been achieved in society so as not to become a factor of pressure upon the personality of prisoner. Today, however, issues of providing adequate material and living conditions to prisoners are among most complicated and important ones in the activity of correctional institutions and pretrial detention facilities.

(1) Article 127.1 of UIK, “Conditions of Serving Imprisonment in Correctional Colonies of Special Security For Persons Sentenced to Life Imprisonment.”
(2) A. Leonov (Colonel of Internal Service, Deputy Chief of Department of Pretrial Detention Facilities and Prisons under the Chief Department of Penalty Execution of Russia’s Ministry of Justice), “In Need of Concrete Measures.” *Vedomosti UIS* (2000, #3).
(3) Ibid.
(4) Ibid.
(5) Article 101 of UIK, “Provision of Medical and Sanitary Facilities to Persons Sentenced to Imprisonment.”
(6) Report on Activities of the Ombudsman of the Russian Federation in 2001, http://ombudsman.gov.ru
(7) “The Colonies Have a Shortage of Cells for Prisoners Sentenced to Life Imprisonment,” *Moskovsky Komsomolets* (February 4, 2000).
(8) *Tikhookeanskaya Zvezda* (November 28, 2002).
(9) A. Alev, “Punishment or Revenge?” *Nezavisimaya Gazeta* (May 11, 2002).
(10) Federal Law “On the Custody of Suspects and Persons Accused of Committing Crimes,” adopted by the State Duma in June 21, 1995. (Section III, “Ensuring the Isolation and Prevention of Offences in Places of Detention,” Article 33, “Placement in Separate Cells”).
(11) A. Leonov, “In Need of Concrete Measures,” *Vedomosti UIS* (2000, #3).
(12) Ibid.
(13) Paragraph 4, Article 99 of the UIK (“Provision of Material and Living Conditions to Persons Sentenced to Imprisonment”).
(14) From the interview with a penal colony head. Altai territory.
(15) Instructions “On the Supervision of Prisoners Kept in Correctional Colonies” (hereinafter referred to as Instructions) and General Requirements to Equipment of Correctional Colonies (hereinafter referred to General Requirements) were endorsed by Order #290 of the Ministry of Internal Affairs of the Russian Federation of June 17, 1993. Subsequently, Order #83 of the Ministry of Justice of the Russian Federation of March 7, 2000, endorsed new Instructions. However, it was impossible to find out whether the new general requirements were endorsed or the former ones still remain valid.
(16) From the interview with former prisoner. Belgorod region.
(17) From an interview with a former prisoner. Rostov region.
(18) From an interview with a former prisoner. Nizhnii Novgorod.
(19) From an interview with a former prisoner. Altai.
(20) Internal Rules of Correctional Institutions. Basic Rules and Obligations of Persons Under Sentence Held In Correctional Institutions).
(21) Federal Law “On Custody of Suspects and Persons Accused of Committing Crimes.” (approved by the State Duma in June 21, 1995) Section III “Ensuring the Isolation and Prevention of Offences in Institutions of Confinement.” Article 33, “Placement in Separate Cells.”
(22) Regional Report “The Penitentiary System in the Republic of Bashkortostan — 2002.”
(23) Order #60 “On Approval of Instructions on the Provision of Facilities of the Criminal Implementation System of the RF Ministry of Justice with Means of Protection and Supervision” of April 1, 1999; and Order #161 “On Approval of the Norms of Designing of Pretrial Detention Facilities and Prisons of Russia’s Ministry of Justice” of March 28, 2001.
(24) From an interview with the head of SIZO #1. Tomsk region.

(25) From an interview with the head of SIZO #1. Mordovia Republic.
(26) From an interview with a former prisoner. Belgorod region.
(27) From an interview with a former prisoner. Bryansk region.
(28) From an interview with a former prisoner. Republic of Komi.
(29) From an interview with a former prisoner. Nizhnii Novgorod region.
(30) From an interview with a former prisoner. Perm region.
(31) From an interview with the head of SIZO. City of Novokuznetsk.
(32) From an interview with a former prisoner. Chelyabinsk region.
(33) Regional Report "The Penitentiary System in the City of St. Petersburg — 2000."
(34) From an interview with a former prisoner. Tver region.
(35) From an interview with a former prisoner. Republic of Komi.
(36) From an interview with a former prisoner. Kamchatka region.
(37) From an interview with a former prisoner. Belgorod region.
(38) From an interview with a former prisoner. Bryansk region.
(39) From an interview with a former prisoner. Nizhnii Novgorod region.
(40) From an interview with a former prisoner. Perm region.
(41) From an interview with a former woman prisoner. Rostov region.
(42) From an interview with a former prisoner. Rostov region.
(43) The Internal Rules of Correctional Institutions (endorsed by Order #224 of the Ministry of Justice of June 30, 2001). Basic Rules and Duties of Prisoners in Correctional Institutions.
(44) From an interview with a former prisoner. Republic of Bashkiria.
(45) From an interview with a former woman prisoner. Rostov region.
(46) From an interview with a former prisoner. Rostov region.
(47) From an interview with a former prisoner. St. Petersburg.
(48) From an interview with a former prisoner. Altai territory.
(49) Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to the Government of the Russian Federation (visit to SIZO #1 of the city of Vladivostok). *Vedomosti UIS* (2002, #8, pp. 81–96).
(50) From an interview with a former prisoner. St. Petersburg.
(51) "Chaika Has Changed Penal Policies," www.kolokol.ru (October 15, 2001).

Personal Hygiene

15. Prisoners shall be required to keep themselves clean, and to this end they shall be provided with water and with those toilet articles necessary to health and hygiene.

16. Facilities shall be provided for the proper care of the hair and beard, so that prisoners can maintain a good appearance compatible with their self-respect. Men shall be enabled to shave regularly.

Rules 15 and 16 of SMR require that prisoners maintain their appearance in line with standards accepted by the society. Russian laws also require the observation of rules and social standards of personal hygiene. UIK (Paragraph 1, Article 11) categorically states the requirement to observe standards of personal hygiene, "prisoners shall observe the requirements of sanitation and hygiene accepted by society." The Internal Rules of Correctional Institutions, "Basic Rights and Duties of Convicted Persons" (Paragraph 2, Rule 3), also state clearly that "convicts shall maintain the living quarters… (and) clothes clean and tidy… observe personal hygiene, wear short haircuts, (men shall) cut their beard and mustache short…"

In general, we can say that the Russian laws are in line with Rules 15 and 16 of SMR, and that Internal Rules of Correctional Institutions deal in more detail with issues of personal hygiene than UIK.

At the same time, it should be noted that UIK and the Internal Rules of Correctional Institutions emphasize only prisoners' responsibility to keep themselves clean, while SMR require the

administrations of the institutions to provide convicts with water and toilet articles. Therefore, there is some conceptual difference between Rule 15 of SMR and the above Articles of UIK and Internal Rules of Correctional Institutions, since the Russian standards do not assign responsibilities to the administrations of correctional institutions.

In practice, violations of Rules 15 and 16 of SMR can tentatively be divided in two categories. Firstly, there are violations caused by the lack or shortage of resources allocated to the penitentiary. Many of the problems faced by administrations trying to improve living conditions for the prisoners, including the provision of rooms for personal hygiene, are caused first of all by insufficient state funding. The administrations of colonies have to apply to charities,(1) or establish the so called “parents’ committees”(2) in order to arrange at least partially acceptable living conditions for the inmates, and to make personal hygiene possible.

There is the issue of short supplies of soap and detergents. To solve this problem we rely on the families of inmates. The Board of Patrons (made up of people from artistic associations, film studios, parents of prisoners) also helps.(3)

Also:

State funding is short by 30—40% on some articles.(4)

Moreover, violations in this respect are sometimes committed by the administration of the institution:

When the weather was hot, we had to beg the administration to authorize the use of showers. This is how it was. They would not always let us. (5)

Also:

But no water in summer, although you could buy water from the service personnel with tea and cigarettes. The service personnel were under control of the administration of the colony.(6)

The issue of water supply to correctional institutions should be put into the first category of violations:

Because there was no cold or hot water, they would often skip the scheduled bathing.(7)

Also:

In the Komi Republic, there were long interruptions; we would not have a chance to wash ourselves for as long as three weeks on end.(8)

Also:

Water is a problem.(9)

Also:

The water supply systems are old. In some cases water is in very short supply.(10)

It follows from interviews with former prisoners that in many cases correctional institutions have no water supply systems.

There was no water at all in the room.(11)

Also:

There was no running water. Water was kept in buckets, in flasks. Stale water.(12)

The interviews showed that in terms of water supply the situation was very difficult at correctional institutions in the Yamalo-Nenetsky autonomous district and in a number of other regions. Obviously, in cases like that, where there is no water in their living quarters, it seems useless to discuss the requirement that the prisoners have to maintain personal hygiene.

Quite often, former convicts report the poor quality of the water they had in their living quarters.

Dzerzhinsk is a chemical industry city, so the water also had chemicals in it. You could not drink it even after boiling it. Over the first two weeks, my skin peeled off every time I washed my face with that water… Teeth were damaged badly.(13)

The poor quality of water is directly related to the lack of funds in correctional institutions. The buildings, the utilities, as well as the equipment are in many cases in a lamentable condition. Construction of wastewater treatment plants or renovation of decrepit water pressure towers would entail extra costs and thus aggravate the already difficult situation of many correctional institutions.

The fact that no hot water is supplied to living quarters is another serious problem.(14) In most cases, though, hot water is supplied to dinning facilities, bathing/laundering facilities, and medical facilities. In the same way as the issue of water supply, the lack of hot water is related to the lack of funds available to correctional institutions:

There is no hot water in the dormitories, but once a week we must let our prisoners wash themselves. We take prisoners to the baths. In the past, it was simply not required to have hot water in dormitories, and now such extra construction work would cost a lot of money(15).

Also:
We do not have hot water. Hot water can only be found at the baths. In summer, they can have a rinse from the hose.(16)

At some correctional institutions, the situation regarding the supply of hot water is somewhat better, but even at those colonies where there is running hot water the administration has to limit its usage. This is mostly because the institution has to pay for the utilities from its own pocket, and considering the lack of state funding, this can only be done at the expense of other spending needs. To solve this situation, the administrations of some colonies suggest that the utility costs be recovered from residential buildings that use heat and water from facilities operated by the correctional institution. This way, some funds could be directed towards the construction and renovation of the heating grid. Obviously, a situation where correctional institutions are left by the state to support themselves and have to resort to such economic arrangements is not acceptable.(17)

Hot water is supplied from six in the morning to nine in the evening. However, water consumption is seriously limited; overuse is never allowed. For instance, at lunchtime hot water is only supplied to the kitchen and to the dining room, the rest of the facilities are cut off.(18)

The lack of hot water in the living quarters of most correctional institutions does not allow for the adequate observation of personal hygiene in line with the requirements of Rule 16 of SMR.(19)

Today, there still are individual colonies (a single report has been received) that have no bathing facilities for prisoners. To quote, “We did not go to baths. We would wash ourselves whatever way we could find, but there was no bathing room.”(20) This is a direct violation of GUINs own Instructions “On Organization of State Sanitary/Epidemiological Supervision Over Bathing/Laundering Services Provided to Convicted Persons” (Paragraph 1, Article 5).(21)

In many cases, bathing facilities in correctional institutions are not equipped with showers. If there are not showers, the bathing room is usually equipped with several hot water taps and basins:

We give each detachment twenty minutes to wash themselves. We do not have individual shower booths.(22)

Also:

At the colony's baths, there was not even a single shower, you had to wash yourself using a basin. Because you could not wash properly, you would get ulcers on your body.(23)

The poor condition of steam boilers and other hot water equipment force the administration to limit the use of showers to the minimum, as the use of showers tends to result in over consumption of water.(24) It follows from most interviews with former prisoners that sometimes five people or more would have to share a shower, "ten people had to wash themselves in a single shower over twenty minutes."(25)

The short time that prisoners are given to wash themselves and the shortage of bathing equipment (such as showers, benches, basins) remain a major problem for institutions:

On washing day, fifty to eighty people would be brought into the room at a time. They would be given a maximum of ninety minutes to wash themselves, that is, an hour while their clothes would be steamed, and half an hour for proper washing. There would be a total of six showers, and nine washing benches with basins. There would be three separate benches for those who had scabies, and they would wash in the same group as healthy people.(26)

Rule 15 of SMR state that the administration of a correctional institution shall supply prisoners with toilet articles. However, in Russia's correctional institutions, prisoners are supplied with soap at best, and in most cases with laundry soap. Also, in many cases soap has to be bought by the convicts themselves or provided by their families:

You had to have your own toilet soap, although laundry soap was issued, a bar per month.(27)

Also:

State — issued soap was in short supply, you had to use your own soap.(28)

Also:

They gave us half a bar of laundry soap per month. Of course it was not enough.(29)

Also:

It was always in short supply, even for washing yourself. No extra soap was given for laundry.(30)

There are instances when prisoners are not supplied with soap at all, even in such meager quantities. To quote another former prisoner, "No soap was issued even to those who had just arrived at the colony and were still in quarantine."(31) In most cases, such situation is due to the insufficient budget of colonies.(32)

Colony administrations are unable to create conditions that would be in line with the requirements of Russian laws and SMR. In fact, actual violations cannot be entirely attributed to the administrations of the institutions, but to inadequate funding by the state. Nowadays, a practice of self-financing is taken shape, according to which correctional institutions are expected to take care of the problems themselves:

Our problems are due to the shortage of funds available to buy hygienic articles such as soap, detergents, toothpaste and toothbrushes.(33)

Also:

Prisoners buy personal hygiene articles themselves at the shop. We do not provide them with soap or toothpaste or other articles of personal hygiene.(34)

Also:

There are occasional complaints about soap, but we cannot provide it for everybody. We issue soap to the poor, to the handicapped, and to those people who do not receive parcels from their families.(35)

In addition to the above problems that highlight the difficulty of the situation, there are instances where families are not allowed to bring personal hygiene articles to convicts. Thus, disposable razors can be rejected, although they are on the list of articles allowed to be given to prisoners (Annex 2 to the Internal Rules of Correctional Institutions). In that particular case, this was apparently the way the administration tried to make prisoners buy shaving articles at the institution's shop and thus replenish the budget of the colony. It should be noted, however, that in most cases razors are accepted without any restrictions.

We should also mention a practice that exists at some colonies where the relatives bringing hygienic items are required to squeeze the toothpaste into a plastic bag.(37) In all likelihood, this is done for the sake of security, but it is clear that the toothpaste will quickly become unusable in a plastic bag.

In conclusion, we would like to note that the current difficulties in making personal hygiene articles available to prisoners are of an objective nature and cannot in most cases be blamed on the administrations of correctional institutions solely. As a rule, the administrations try all sorts of methods to solve these issues. However, there are some directors of correctional institution who do not believe that the lack of hot water, or the scarcity of soap constitute a problem.

There are no problems with personal hygiene at the colony. Everything depends on the cultural level of particular individuals.(38)

Also:

There are no showers as their use results in over-consumption of water.(39)

We should note that in addition to the lack of showers, this particular colony has a limited supply of hot water and does not issue toilet soap to prisoners. The impossibility to observe personal hygiene in full is seen by such colony directors as merely unwillingness on the part of prisoners to keep themselves tidy. They asserts that "the problem is that prisoners do not observe hygiene. For instance, they would go to the baths but they would not wash themselves," and this convinction is particularly emphasized when water is in short supply at the colony, and dormitories have no hot water at all.

(1) Regional Report "Penitentiary System in the Karelia Republic — 2002."
(2)From an interview with L. Mkrtchan, head of the colony YaP 17/11, Stavropol territory.
(3)From an interview with S. Vetoshkin, head of the colony USh 349/1. Sverdlovsk region.
(4) From an interview with N. Bardukov, head of the colony UYe 394/9.
(5) From an interview with a former prisoner. Belgorod region.
(6) From an interview with a former prisoner. Rostov region.

(7) From an interview with a former prisoner. Tomsk region.
(8) From an interview with a former prisoner. Yamalo-Nenetsky autonomous district.
(9) From an interview with Mr. A. Sushko, head of the colony IK 8, Buryatia Republic.
(10) From an interview with Mr. P. Seleznyov, head of the colony UM 220/7, Karelia Republic.
(11) From an interview with a former prisoner. Bashkortostan Republic.
(12) From an interview with a former prisoner. Yamalo-Nenetsky autonomous district.
(13) From an interview with a former prisoner. Nizhnii Novgorod region.
(14) Astrakhan, Vologda, Chelyabinsk, Perm, Voronezh, Orenburg, Lipetsk, Archangelsk, Kurgan regions, Republics of Buryatia, Kalmykia, Altai, Komi, Karelia, Adygea, and other regions where interviews were conducted.
(15) From an interview with Yu. Zamorin, head of the colony UT 389/29. Perm region.
(16) From an interview with S. Vdovikin, head of the colony IK-1 (OL-27/1). Kalmykia Republic.
(17) The administration of a correctional institution has to pay costs that are not directly related to the institution's function. Thus, historically most colonies were set up in uninhabited areas as settlements consisting of the institution proper and an adjacent township, with the two sharing the same infrastructure. After the post-Soviet reform of the Criminal Implementation System and because of the general deterioration of the economic situation, maintenance of such townships became too hard a task for the correctional institution. Over the last five years, residential buildings in such townships were transferred to the municipalities. However, heating and water supply supporting the residential buildings and bringing heat and water from the colony remained unchanged. The local authorities, crippled with severe budget deficits, are unable to pay for the heating and water supply services in full. Due to all this, the penitentiary's administration has to adhere to an extreme saving regime affecting both the township where the penitentiary's workers live, and the institution itself.
(18) From an interview with V. Lashenko, head of the colony YaL 61/5. Pskov region.
(19) E.g., it is difficult to shave regularly using cold water.
(20) From an interview with a former prisoner. Kamchatka region.
(21) "Bathing of prisoners shall occur at least once every seven days…"
(22) From an interview with S. Piskunov, head of the colony OYe 256/2. Vologda region.
(23) From an interview with a former prisoner. Tatarstan Republic.
(24) From an interview with V. Lashenko, head of the colony YaL 61/5. Pskov region.
(25) From an interview with a former prisoner. Rostov region.
(26) From an interview with a former prisoner. Tomsk region.
(27) From an interview with a former prisoner. Stavropol territory.
(28) From an interview with a former prisoner. Leningrad region.
(29) From an interview with a former prisoner. Bashkortostan Republic.
(30) From an interview with a former prisoner. Yamalo-Nenetsky autonomous district.
(31) From an interview with a former prisoner. Tatarstan Republic.
(32) See also Section "Clothing and Bedding."
(33) From an interview with R. Abdyushev, head of the colony YuK/25/6, Orenburg region.
(34) From an interview with head of a colony. Kirov region.
(35) From an interview with A. Veshtelyuk, head of the colony IR 91/1, Altai territory.
(36) From an interview with a relative of a former prisoner. Kamchatka region.
(37) From an interview with a relative of a former prisoner. Novgorod region.
(38) From an interview with V. Lashenko, head of the colony YaL 61/5. Pskov region.
(39) Ibid.
(40) From an interview with P. Seleznyov, head of the colony UM 220/7. Karelia Republic.

Clothing and Bedding

17. 1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and

washed as often as necessary for the maintenance of hygiene.

3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

SMR places extraordinary importance with the nature and external appearance of clothing. In addition to requirements directly related to considerations of health and hygiene, SMR state that clothing must in no way be humiliating. This is in furtherance of the core concept of the UN Basic Principles for the Treatment of Prisoners, “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.”(1)

In other words, one of the core objectives of the penitentiary system consists in creating such conditions in which delinquents kept in a colony would perceive themselves as normal human beings and citizens, albeit incapacitated in part of their rights. It follows from this that conditions in places of imprisonment must not be of a humiliating nature. Therefore, decent living conditions of prisoners, their clothing and bedding in particular, are a matter of considerable importance.

On the whole, we can state that Russian laws(2) comply with the principles stated in the “Clothing and Bedding” section of SMR. Thus, Paragraph 1 of Rule 17 of SMR is, to a certain varying degree, reflected in a number of provisions of UIK (Paragraph 4, Article 76, “For transfers, convicts are supplied with clothing according to the season…” Paragraph 4, Article 82, “The Administration of a correctional institution must provide convicts with clothing prescribed by the regulations…;” Paragraph 2, Article 99, “They are supplied with seasonal clothing according to their sex and climatic conditions…”). Also in the Internal Rules of Correctional Institutions (Paragraph 2, Article 3), prisoners must “wear clothes as prescribed by the regulation.” Rule 19 of SMR is reflected in Paragraph 2, Article 99 of UIK: “Convicts are provided individual sleeping places and bedding.”

Russian criminal implementation legislation requires that the administrations of correctional institutions provide prisoners with clothing that would be suitable for the season and the climate of the area where the colony is located. However, the above Articles of the Russian laws make no mention that the prisoner’s clothing must not be offensive or humiliating.

It should be noted that the SMR requirement about clothing and its acceptability from the human decency perspective is a strict and straightforward rule and not an option. On the same lines, Russian criminal and criminal implementation laws endeavor to embrace all recommendations of this nature. It is important to note here that indecent appearance of clothing may be regarded as humiliating treatment prohibited by UIK (Paragraph 3, Article 3) that requires guaranteed protection against such treatment.

The Internal Rules of Correctional Institutions(3) assert general requirements to “special clothing with prescribed insignia.”(4) In the course of the monitoring effort, no evidence was obtained that the appearance of the established clothing humiliates prisoners.

The greatest problems related to provision of prisoners with clothing and bedding are rooted in the shortage of state funding. Thus, according to the prosecutor’s office of the Karelia Republic, “prisoners receive 94% of the supplies due to them, but what they receive almost totally come, in the form of humanitarian aid and sponsorship.” Federal Budget provides only 2% of the funding.(5) Such a situation is characteristic not only of Karelia’s institutions, but of most of

Russian penitentiaries. (“In the zone, they now get nothing, no robes, no footwear, no rubber boots. We have to bring everything from home every time we go there, even bed items,”(6) “We have to buy all linen and clothes”(7)).
In most cases, colonies’ administrations try to remedy the situation by organizing own clothes production at the colony, or by looking to prisoners’ relatives for help (“Parents’ Committee helps with sewing clothes”)(8) but such efforts are far from sufficient to resolve the problem.

Under Paragraph 4, Article 99 of UIK,(9) working prisoners must reimburse the cost of their clothing. However, not all prisoners have jobs. In such cases, the administration sometimes cannot provide convicts with clothing. To quote, “If we provide them with clothes, then we must withhold the cost, but at our institution most prisoners have no job.”(10) On the other hand, the monitoring effort did not reveal a practice of collecting the cost of clothing from convicts’ personal accounts in the event that they are not provided with clothing or provided incompletely.

According to heads of correctional institutions, prisoners are provided with clothing and bedding to a level of 70% at the most. Particularly difficult, according to correctional institutions’ administrations, is the situation with footwear.

Prisoners get minimal clothing supplies…(11)

Also:

I allow them to wear their own dark footwear, as we cannot yet issue boots or high boots to all, we also allow them to receive underwear in parcels from the outside…(12)

Also:

We cannot provide all prisoners with footwear, so we allow them to wear their own, but it has to be such that it is not too different from the institution’s footwear.(13)

Currently, there exists a curious legal collision in the Russian system of correctional institutions, namely, the government, on the one hand, has the obligation to provide prisoners with clothing, with criminal and criminal implementation laws clearly specifying the form of allowed clothing. But, on the other hand, funding from the government is so meager that colonies’ administrations have to allow prisoners to wear their own clothes. To quote yet another official, “In the winter, convicts are allowed to wear dark sweaters they brought from home, but they must wear such sweaters so that they cannot be seen under the prison uniform.”(14)

Another aggravation here is that by placing the issue of clothing into the administration’s hands, the government encourages, in an indirect way, possible abuse of prisoners and their relatives:

But sure, there have been difficulties. This depends on the mood of the colony’s personnel. At one time, they will clear such items. At other time they will reject, but we never argue as we are afraid we can harm those behind the bars.(15)

Also:

For example, I brought a sports suit, and the receptionist said that the stripes on the sides must be removed…(16)

Also:

Previously, boots with a warm lining had been allowed. I bought a pair, but they did not accept them…(17)

In the last case it is possible that the boots were not accepted from the relatives because supplies

of prison boots had been received by the colony. However, the relatives had not been informed about this.

It should be noted in this connection that many prisoners' relatives complain about the arrangements for passing items and food to the prisoners:

The procedure is too long… and the colony's personnel are rude. Yes, those who are serving time are guilty, they have broken the law. But then their relatives are not guilty, and they have to take a lot of rudeness and abuse…(18)

Also:

The way we are talked to, dogs are talked to in a better manner than we are. Or they refuse to talk at all. They simply shut the door if they do not feel like answering questions…(19)

The provision of SMR that requires that each prisoner be provided with a separate bed cannot always be met, especially at detention facilities. Of particular concern are conditions of imprisonment at pretrial detention institutions. In spite of a considerable reduction of the number of prisoners kept in SIZOs over the last six months, the issue of SIZO overcrowding still exists. At most pretrial detention facilities, even the minimum requirements to living conditions are not met, including those stated in Federal Law "On Detention of Persons Suspected or Accused of Crimes."(20)

There is not enough room to stand up. There are people on the beds, under the beds, everywhere. It was in Novosibirsk, in SIZO, prisoners were like herrings in a barrel. First, they dispatched the minors, then us, so I open the door and what is it that I see? I am standing at the door with my mattress, and the cell is packed with people, there is no room even to stand they really packed us, no air, crowded cell, terrible!(12)

Overcrowding is a major reason why suspects and the accused are not provided a separate bed in many cases.(22) To quote, "There were ten beds, so we slept two or three people on each. Or we took turns…"(23)

The situation is also difficult in terms of providing people kept in SIZOs with bedding items. Federal Law "On Detention," Paragraph 12, Article 17, allows the use of prisoners' own bedding. Article 23 of the same law states that the administration must provide prisoners kept in SIZO with bedding. However, apparently due to the short funding or due to overcrowding the administration in most cases does not issue any bedding, delegating this problem the accused or suspected persons. It turns out that the right of SIZO prisoners to use their own bedding is interpreted by the administrations as prisoners' responsibility. So the administrations, instead of allowing such use, in actuality force prisoners to "somehow get" their bedding. A logical consequence of this situation is that not every prisoner can use linen (e.g., due to a tight financial situation):

I was issued a mattress, a blanket, something that was supposed to be a pillow. As to linen, what my family brought me from home was what I had.(24)

Also:

They did not change linen at SIZO at all because there was none, only mattresses.(25)

Also:

Mattresses were in short supply, as were pillows, and there was no linen at all.(26)

Based on the above, we can speak about direct violation of SMR, Rule 19, at Russian pretrial detention facilities. Suspects and accused persons are in most cases provided no separate bed

(one bed for two persons at best); often, SIZO prisoners have to use their own linen as no bedding is issued by the institution;(27) there are numerous cases when prisoners sleep without any bedding at all, mattresses and blankets are in short supply, etc. The situation is very much the same at temporary detention wards (IVS).

It is often not possible to maintain cleanliness, perform hygienic treatment or timely wash the bedding. This is above all due to the fact that people kept in SIZOs use their own linen, so the administration leaves these issues to be taken care of by the owners. However, there are no conditions for linen washing or drying in SIZOs. The air in the cells is very stale and damp because of the overcrowding. Washing in such conditions would only aggravate the hard circumstances of detention and increase the risk of contracting tuberculosis:

The bed linen was never changed unless you took care of it yourself. That is, you had to have two sets of linen of your own.(28)

Steaming [treatment of linen with steam] was done on the way to the cell, and later we tried to avoid it as after this procedure everything would get damp, and there was nowhere to dry the linen.(29)

At correctional institutions, the situation is somewhat better. As a rule, most prisoners have beds of their own. However, supply of prisoners with bedding (pillow cases, sheets, towels, mattresses, blankets) is short, on the same level as their supply with clothing. Attempts by the administration to resolve the issue relying on their own resources run into a number of difficulties. Although from the technological perspective manufacturing of bedding is less labor-intensive as compared to clothing, items like sheets, pillow cases, towels, etc., wear out much faster then clothing. It is not always possible to rely on relatives for help as relatives of some prisoners are not able, for financial reasons, to bring bed linen often enough.

However, Rule 19 of SMR clearly states that bedding “shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.” Thus the situation, according to the findings of the former prisoners interviewing, remains in violation of the SMR hygienic requirements.

Short funding by the government is the main reason why SMR Rule 19 is not observed. In many cases, colonies have no facilities for steaming(30) clothing and bedding (also known as “DEZ chambers”), in some cases steaming is done only if insects are detected:

We never had it. No steaming.(31)

Also:

You could bring your stuff with you to the baths and steam it there if you wanted, but if you steamed something then you would certainly have no time to wash yourself.(32)

Also:

You could get your stuff steamed if you claimed you had insects.(33)

Also:

Unless someone got lice, only then there would be steaming.(34)

In addition, correctional colonies sometimes fail to observe the standards for changing bed linen. To quote, “It was washed once a month. They would take it away in the morning and bring it back at night. But it was all wet. We were told that the financial situation did not allow drying. We had to look for our own ways to dry it.”(35) This satiation is due to a number of reasons. First, it may

have to do with the administration's desire to extend the useful life of the meager stocks of bedding items. Frequent washing quickly makes linen unusable, and its stocks cannot be easily replenished.

It depended on when your relatives brought you a set of linen.(36)

Also:

Steaming was done rarely. Mattresses and pillows would wear out to threads.(37)

Secondly, prisoners prefer to do their washing themselves by making agreements with the workers of the "bathing and laundering facility." As was said above, due to short supplies, many prisoners use their own bedding, and with centralized washing and linen change there is no guarantee that prisoners will get back their own linen and not an old government issue set. At the same time, poor quality of service provided by some bathing/washing facilities prompts prisoners to look for other ways to do theirк laundry:

When you have your own stuff, then whatever items you cannot wash yourself, you do not hand these over. You go to those inmates that work at the baths, talk to them, so if you have served a long time and they know you, then they will wash your stuff all right, and iron it.(38)

It must be noted that such unresolved issues of supplying prisoners with primary necessities undermine the main goal of correctional institutions. Poor living conditions make prisoners apathetic while building up the hardships, which are perceived as extra penalties and strengthen the perception that imprisonment in a colony is intended to punish rather than correct the convict.

(1) UN Basic Principles for the Treatment of Prisoners, Principle 1.
(2) Criminal Implementation Code of the Russian Federation; Internal Rules of Correctional Institutions.
(3) Paragraph 2, Article 3 of Annex 2 to Internal Rules of Correctional Institutes.
(4) Internal Rules of Correctional Institutes, Annex 1, Paragraph 6, Notes to Annex 1.
(5) Regional Report "The Penitentiary System in the Republic of Karelia — 2002."
(6) From an interview with a prisoner's relative. Aginsky Buryatsky autonomous district.
(7) From an interview with a prisoner's relative. Kostroma region.
(8) From an interview with L. Mkrtychan, head of the common regime colony YaP 17/11. Stavropol territory.
(9) Paragraph 4, Article 99 of UIK: "Convicts receiving salaries and convicts receiving pensions shall reimburse the cost of meals, clothing, and utilities, except for the cost of special meals and special clothing. Reimbursement of the costs of meals, clothing, and utilities shall occur monthly in the amount of the actual costs incurred within this month."
(10) From an interview with A. Veshtelyuk, head of the strict regime colony IR 91/1. Altai territory.
(11) From an interview with V. Lashenko, head of the common regime colony YaL 61/5. Pskov region.
(12) From an interview with Yu. Zamorin, head of the common regime colony UT 389/29. Perm region.
(13) From an interview with the head of a colony. Kirov region.
(14) From an interview with L. Mkrtychan, head of the common regime colony YaP 17/11. Stavropol territory.
(15) From an interview with a prisoner's relative. Novgorod region.
(16) From an interview with a prisoner's relative. Bashkortostan Republic.
(17) From an interview with a prisoner's relative. Kostroma region.
(18) From an interview with a prisoner's relative. Belgorod region.
(19) From an interview with a prisoner's relative. Voronezh region.
(20) Article 23 of Federal Law "On Detention of Persons Suspected or Accused of Crimes": "For suspected and accused persons, such living conditions shall be created that comply with requirements of hygiene, sanitation, and fire safety… A separate sleeping place shall be

provided. Bedding shall be issued."
(21) From an interview with a former prisoner. Altai territory.
(22) From interviews with former prisoners. Adyg Republic, Bashkortostan Republic, Komi Republic, Tyva Republic, Kamchatka region, Yamalo-Nenetsky autonomous district, the cities of Belgorod, Bryansk, Krasnodar, Nizhnii Novgorod, Oryol, Perm, Rostov, St. Petersburg, Saratov, Smolensk, Tver, Tula, Chelyabinsk, Chita.
(23) From an interview with a former prisoner. Stavropol territory.
(24) Interview with a former prisoner. Stavropol territory.
(25) Interview with a former prisoner. Smolensk region.
(26) Interview with a former prisoner. Yamalo-Nenetsky autonomous district.
(27) Article 23 of Federal Law "On Detention of Persons Suspected or Accused of Crimes" is violated.
(28) From an interview with a former prisoner. Tula region.
(29) From an interview with a former prisoner. St. Petersburg.
(30) Used as a prevention measure against pediculosis and similar diseases.
(31) From an interview with a former prisoner. Belgorod region.
(32) From an interview with a former prisoner. Komi Republic.
(33) From an interview with a former prisoner. Perm region.
(34) From an interview with a former prisoner. Rostov region.
(35) From an interview with a former prisoner. Belgorod region.
(36) From an interview with a former prisoner. Kamchatka region.
(37) From an interview with a former prisoner. Tver region.
(38) From an interview with a former prisoner. Tyva Republic.

Food

20. 1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

2) Drinking water shall be available to every prisoner whenever he needs it.

The RF legislation does not directly account for the nutrition of inmates in all penal institutions. At the same time the domestic legislation (in particular, Article 99 of the RF Criminal Code) use the notion of "minimal nutrition standards" for convicts. The state provides nutrition for convicts who do not work, and for those who do not receive retirement benefits. Nutrition standards for various types of facilities and categories of convicts have been adopted in compliance with Resolution #833 of the RF Government of July 8, 1997, "On the Establishment of Minimal Nutrition Standards and Material Provision of Convicts."

Nutrition standards are based on the nutrition value of products and physiological indicators. Thus, in compliance with Article 17 of Federal Law #52 of March 30, 1999, "On Sanitary and Epidemiological Welfare of the Population:" "nutrition standards for individuals in pretrial detention facilities or serving penalty terms in correctional facilities" must be scientifically justified.

Order #136 of the RF Ministry of Justice of May 4, 2001, "On Nutrition Standards of Individuals Sentenced to Imprisonment, and Individuals in Pretrial Detention Facilities of the Penitentiary System of the RF Ministry of Justice" specifies nutrition standards (including the minimal standards of 17 products) and dry rations and determines their rules of application. In accordance with them, there has been established an order of replacing products accounting for adequate parameters of nutritional value. A single system of nutrition standards has been established for all penitentiary facilities, including those belonging to the Ministry of Internal Affairs (MVD).(1) There is also a flexible scheme of supplementary nutrition for certain categories of inmates (for example, the ill or breast-feeding mothers). In addition, weather conditions and even the height of the convicts are taken into account. The ration of the suspects and the accused includes

polyvitamin Geksavit.

At the same time, the legislation does not force the administration of penitentiary facilities to abide absolutely by existing nutrition standards. It is the administrations themselves that are responsible by law to exercise all the necessary control over observance of they nutrition standards.(2) The resulting conditional liability of the administration combined with the limited funding of penitentiary facilities negatively affects the compliance with nutrition standards.

For example, in 2001, the federal budget provided 20.1 roubles for feeding one convict per day, which is admittedly too little to comply with the established nutrition standards. Moreover, only 15—17 roubles per person per day were in fact allocated. At the same time, according to our surveys, almost all heads of correctional facilities replied that nutrition standards were complied with in one way or another. Note that 40% of them solve the problems of insufficient funding and supplies by organizing farms on the territories of their correctional facilities. It is also worth noting that foodstuffs distributed centrally from the storehouses of the Chief Department of Penalty Execution (GUIN) cost less but are of inferior quality.(3)

According to the results of our monitoring effort, the situation with nourishment of convicts in regions of the country varies and depends on a number of circumstances: type of production and location of the facility, presence of an own farm, assistance of charity organizations and trustees, cook's qualification, etc. Sometimes, situations in correctional facilities located in the very same region differ significantly.

On the whole, funding from the federal budget of facilities operated by the Chief Department of Penalty Execution increased over the past year, improving the quality of everyday life as well as the diet of the suspects. Prior to 2000, when the funding of the penitentiary system was conducted through the Ministry of Internal Affairs, serious problems would constantly arise to impede the implementation of the funding plan. For example, the correctional facilities would receive from the budget only 50% of the funds necessary to provide nutrition to convicts, and 30% of the funds necessary to pay for utility services. Today the funding of the penitentiary system comes entirely from the treasury system. However, the latter does not account for sufficient funds to pay off former debts, whose payment diverts vital funds, but also limits the number of contractors authorized to supply foodstuffs to correctional facilities.

On one hand, according to regional departments of penalty execution (UINs), "if not 100%, then 95%" of nutritional needs of prisoners are currently covered by budget funds." On the other hand, letters from inmates received by NGOs and evidence given to human rights monitors by former prisoners within our monitoring effort indicate that the diet of convicts in penitentiary facilities is scarce and monotonous.

Penitentiary institutions solve a number of problems associated with the provision of a necessary assortment of products on their own, by supplying convicts' dining-rooms with vegetables, bread, and partly with meat from their own farms. This, however, demands significant efforts and remedies. To quote, "Our state is obliged to provide prisoners with everything that is necessary. But today, the state has delegated many of its functions to correctional facilities. Therefore, we have to raise rabbits, grow vegetables, and keep cattle."(5) Centralized storage of foodstuffs is conducted in a planned order. Reserves of the basic products are sufficient to cover nutrition needs for 30—170 days.

When visiting correctional facilities, the monitors studied menus and rations of convicts. Facilities in approximately half of the monitored regions did not receive any criticisms as to the preparation of food, its quality, the sanitary condition of kitchens, dinning rooms, and the dishes. At the same time, reports from a large number of regions contain information indicating that rations in pretrial detention, as well as correctional facilities are incapable of providing food "of nutritional value adequate for health and strength" for extended periods. Kitchen personnel in penitentiary facilities undertake to comply with calorie standards using soy substitutes for meat and milk, as well as

heavily relying on pasta, groats, and bread. According to the monitoring finding, correctional facilities experience a permanent deficit of natural products rich in proteins and vitamins. Fruits and vegetables are very rarely found in menus. The minimal ration is maintained for extended periods using a limited assortment of products.

Such a situation, in particular, is observed in certain facilities in the Republic of Karelia, as well as in the Astrakhan, Bryansk, Voronezh, Kirov, and Rostov regions. Interviews with former convicts indicate that foodstuffs are insufficient: many have answered that their rations lacked meat products, sometimes a soy substitute was offered instead of meat. The majority of respondents stated that they had rarely received meat products.(6)

When inspecting kitchen facilities, monitors registered a number of cases when food was cooked improperly (perished products were used, foreign objects were found in food), sanitary rules were not complied with (poorly washed dishes, dirt, rodents, and insects on the premises). In addition, in some facilities the products indicated in the menu did not correspond with those actually available on the ration (i.e., in the facility YM-220/7 in the Republic of Karelia there was gruel for breakfast, dinner, and supper, while the menu indicated vegetables).(7)

Cases of dystrophy have been registered in correctional facilities, but in comparison with previous years they are becoming less frequent. Unfortunately, exact statistics are not available, but this conclusion is made possible by the decreased number of complaints filed with human rights and other organizations, as well as by data received from certain regions.

Note that as opposed to other inmates, vegetarians are in a more complex situation, as are those who observe religious taboos on consumption of certain products (e.g., Muslims, Jews, etc.), since the legislation (rules of internal order, established nutrition standards, order of foodstuffs supply, etc.) does not account for individual dietary needs.

Some correctional facilities do not comply with nutrition standards for certain categories of convicts. Non-compliance with nutrition standards for convicts with tuberculosis — for whom full-value nutrition is vital — raises special concern. Thus, according to the prosecutor's office, in the medical (tuberculosis) facility UZ-62/10 "the patients do not receive special nutrition and the regular diet is poor in calories."(8)

Despite the tendency to differentiate nutrition standards for different categories of convicts, supplementary nutrition is most frequently provided through deductions from the wages of convicts themselves (with the exception of underaged, ill, persons with first and second group disability, as well as pregnant and breast-feeding women).

Restriction of food supply is used to regulate discipline. Thus, in compliance with Article 118 of the RF Criminal Code, "inmates in isolation wards of strict regime, punishment cells, common punishment-type wards, or solitary wards have reduced nutrition standards." The problem is that given the fact that the food usually provided to convicts is drab and poor in calories, the legitimate reduction of nutrition standards for inmates in isolation wards turns into permanent undernourishment, which assumes the nature of cruel treatment. Another factor that must be taken into account is that the RF Criminal Code and the Internal Rules of Correctional Institutions forbid the delivery of parcels to inmates in isolation wards, i.e., the parcel is not confiscated but its delivery is postponed. In reality it means the deprivation of inmates in isolation wards of their right to receive a parcel and becomes a popular disciplinary penalty.

A supplementary ration can be supplied to working convicts "provided that they meet the established output standards and observe the Internal Rules of Correctional Institutions."(9)

Convicts coming out of prisons also find a discrepancy between the standards and the practice. Thus, they are provided with cash instead of dry rations, the amount of which depends on the time needed to reach their respective destinations. This amount equals the total cost of food

items constituting the dry ration. In practice however, the cost of products used in correctional facilities is significantly lower than the cost of analogous products in retail stores. As a result, the released inmates do not receive enough cash to buy themselves food.

Article 88 of the RF Criminal Code allows convicts to buy foodstuffs in the facility store (kiosk). In practice the implementation of this right is impeded. The law limits the amount they can spend. It equals 20—120% of the minimum wage and depends on the type of institution, the severity of the sentence, as well as the health condition and behavior of the inmate. The procedure to visit the store is established by the daily regulations of each particular institution. As a rule, an inmate is allowed to buy food from the store once a week.

A significant problem that limits the possibility of the convicts to use the facility store is associated with the status of their personal accounts. Since some of the convicts have no jobs and consequently no income, not all the convicts can use the kiosk and buy food. In addition, stores owned by correctional facilities are not provided with a sufficient assortment of products. This is caused by the lack of funding and cash of the majority of the institutions. The stores (kiosks) are established and maintained by the facilities themselves, therefore, they are in many cases simply not able to acquire the needed assortment of products.

Practically in all regions, the convicts indicate that the food assortment in kiosks is meager and the stores are difficult to access:

The assortment is poor: "Prima" cigarettes, Georgian tea (sold by weight), cheap cookies, sometimes tinned goods.(10)

Also:

Mostly there was only rye bread in there.(11)

Also:

The range of products in the kiosk was poor: canned fish whose sell-by-date was expired, bad quality tea, very expensive or the cheapest cigarettes, sweets, biscuits, soap, gingerbread.(12)

The access to the kiosk is limited — in some facilities only one or two times per month — and prices are higher than in the general retail: "You could only come to the kiosk once a month — it was a real problem, there was often a queue there."(13)

Parcels and packages are very important to inmates, especially for those in pretrial detention facilities. The diet in such facilities is much worse than in correctional institutions. Unlike in correctional institutions, the number of parcels in pretrial detention facilities is not limited (only the weight of the parcel is limited),(14) but delivery of parcels is complicated. Excessive queues at parcel reception offices, specific list of products allowed for delivery (for example, sugar, sweets, and tinned goods are excluded), as well as the lack of conditions necessary to keep the foodstuffs, prompt complaints of those under investigation and their relatives.

Delivery of parcels to inmates of correctional facilities is also complicated. According to the monitoring findings, many of those surveyed indicated that the administration deliberately crumbled and smashed food items when receiving parcels from relatives of inmates. They would not accept transparent honey in transparent plastic containers and made visitors decant it into plastic bags. They would not accept homemade food, as well as products in glass, tin, or aluminum containers. They would open each container and move all the products into plastic bags and the food quickly perished. Meat products were not accepted. The delivered products were kept in a separate room and access to it was granted approximately twice a week for about 30 minutes.(15) Some of those surveyed indicated that products would disappear from that room but it was useless and dangerous to complain since those responsible were protected by the

administration. There were no refrigerators to keep the products in; the food brought by relatives would soon perish.(16)

Parcels and packages are the only real opportunity for inmates to diversify their diet. However, relatives of the majority of inmates are people of such limited means that they cannot afford sending parcels. And, according to an interviewed prisoner: “If there is no help from the relatives, then living off of the food provided in the facility is very hard. Maybe enough to subsist but far from being enough to recover.” It is worth noting that some of the surveyed inmates did not consume dining-room food, eating exclusively “their own” products.

The obligation to provide drinking water to convicts is not stipulated by the Russian legislation, nor is there an established procedure on its use. It is only because of the “potable water container,” mentioned in the list of equipment for temporary detention wards,(18) and the “drinking water fountains” in the bathhouse lobby, mentioned in sanitary requirements for bath and laundry facilities of correctional institutions, that it can be presumed that drinking water is allowed to be used.(19)

At the same time, not only access to potable water is not guaranteed, and it also has a normative limitation. Thus, the provision of water to inmates contained in isolation facilities with strict regime is limited by the established daily regulation.(20) Potable water guaranties are not provided in prisons. Inmates are allowed to use portable boilers instead.

Results of the study of penitentiary institutions in Russian regions indicate that water is freely accessible both in pretrial detention and correctional facilities through a system of conduits. During periods when conduits are not functioning, drinking water is provided on a limited basis. In such cases the facility and its inmates make water reserves (for example, in the Oryol pretrial facility). Serious interruptions of water supply were identified in strict regime facility OV-94/8 (Buryat Republic), as well as in the Rostov region:

All the surveyed indicated that the supply of drinking water was insufficient. The water was rusty and it would only be supplied for short periods of time. We would drink what we could manage to collect in a plastic bottle. In another facility, the water would only be provided one hour before retreat and there would only be a thin stream of it. It was not enough for all. Other convicts mentioned that in summer there was not enough water, although it could be purchased from certain individuals in exchange for tea and cigarettes.(21)

According to convicts, complaints about water were mostly caused by its quality rather than its accessibility. Regularity does not equal a sufficient supply. The quality of water is affected by environmentally unsafe territories on which many of the correctional facilities are located, as well as by the lack of appropriate waste disposal systems. Sanitary-epidemiological inspection bodies control water quality in compliance with established norms.(22) However, the supply of good quality water to correctional facilities requires significant means, including the construction and reparation of waste disposal facilities, which the penitentiary system does not have.

(1) Including temporary detention wards (Rule 6.39 of the Internal Rules of Pretrial Facilities stipulates for law-enforcement bodies on temporary detention wards for suspects and accused. Approved by Order #41 of the RF Ministry of Internal Affairs of January 26, 1996), special custody facilities (Rule 21 of the Internal Rules of Special Custody Facilities for individuals apprehended for administrative offences. Approved by Order #605 of the RF Ministry of Internal Affairs of June 6, 2000).
(2) Article 15 of the “Rules of Application of Nutrition Standards in Penitentiary Facilities to Individuals Sentenced to Imprisonment, Suspected or Accused of Committing Felony.” Supplement #4 to Order #136 of the RF Ministry of Justice of May 4, 2001.
(3) Conclusion drawn from information received from heads of correction facilities and former prisoners.
(4) Regional Report “The Penitentiary System in Bashkortostan Republic — 2002.”

(5) From an interview with the head of the Segezh facility YM 220/7.
(6) Interviews with former prisoners, 2002.
(7) Regional Report “The Penitentiary System in the Karelia Republic — 2002.”
(8) V. Savkin (head of the law enforcement control department of the prosecutor’s office of the Nizhnii Novgorod region), “In Outrageous Conditions,” *Nizhegorodsky Rabochy* (April 11, 2001).
(9) Paragraph 7 of the “Rules of Application of Nutrition Standards in Penitentiary Facilities to Individuals Sentenced to Imprisonment, Suspected or Accused of Committing Felony.” Annex #4 to Order #136 of the RF Ministry of Justice of May 4, 2001.
(10) From an interview with a former who served his sentence in the facility UZ-62/9.
(11) From an interview with a former prisoner who served his sentence in the facility UZ-62/4.
(12) From an interview with a prisoner from facility UCh 398/15 of the city of Bataisk on the Rostov region.
(13) Regional Report “The Penitentiary System in the Altai Territory — 2002.”
(14) Article 25 of Federal Law #103 of July 15, 1995, “On Holding in Custody Individuals Suspected or Accused of Committing Felony.”
(15) General conclusion based on results of our country-wide survey of former prisoner in 2002.
(16) Regional Report “The Penitentiary System in the Rostov Region — 2002.”
(17) Interview of members of the Inter-Regional Human Rights Group with prisoner N. detained in the facility OZh-118/6 — LIU 6 (Krivoborye settlement, 2002, December 15).
(18) Rules of internal regulations of law enforcement bodies on pretrial detention facilities for individuals suspected and accused of committing felony. Approved by Order #41 of January 26, 1996, of the RF Ministry of Internal Affairs.
(19) Pretrial detention facilities are an exception from this point of view, as according to Rule 45 of the Internal Rules of Pretrial Facilities, endorsed by Order #148 of the RF Ministry of Justice on May 12, 2000, “if in the ward there is neither water-heating equipment nor running hot water, hot water for hygienic needs and laundry is given to the inmates at an especially fixed time on a daily basis, with their needs taken into account.”
(20) Paragraph 5 of Order #83 of March 7, 2000, of the RF Ministry of Justice “On Approval of Instructions for Control over Convicts Detained in Correction Facilities.”
(21) Regional Report “The Penitentiary System in the Rostov Region — 2002.”
(22) SanPiN 2.1.4.559-96 “Drinking water. Hygienic requirements for quality of water provided through central systems of drinking water supply. Quality control,” SanPiN 2.1.4.544-96 “Requirements for quality of water of central water supply system. Sanitary protection of sources.”

Exercise and Sport

21. 1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

Article 110 of UIK includes physical education in the main forms and methods of educational work with persons sentenced to imprisonment. The internal regulations of both correctional institutions and educational colonies of the Criminal Implementation System grant prisoners the right to participate in cultural and sports events.

In most penal colonies prisoners are able to exercise and engage in sport. We know only of few former prisoners and heads of penal colonies who admitted that there were no sports grounds and sports equipment in the colonies. In some cases, according to them the territory of the colony was simply too small to organize a sports ground (women's colony OE-256/2 in the Vologda region; colony YaP-17/5 in the Stavropol territory).(1)

Lack of regulating documents results in the infringement by the administration of the prisoners'

right to exercise and engage in sport.(2) Thus, in the facilities UShch-349/29 (Sverdlovsk region) the sports hall may be used only by those prisoners who "have proved by their behavior that they have taken a path of correction." In the colony UT-389/29 (Perm region), the gym is accessible only as a reward and, as the colony council decided, only to non-smokers.

The right to engage in sport is denied to prisoners sentenced to life, although there are no legal grounds for such denial. The head of the colony in the Orenburg region where such prisoners are kept explains this as follows: "The reason why prisoners serving a life sentence are not allowed to engage in sport or do physical exercises is to prevent them from building up the strength directed against the administration of the colony."

A separate mention must be made of prisoners' plight in the colony "White Swan" in Solikamsk (Perm region). They are so emaciated because of constant undernourishment that physical exercises are simply out of the question.

Federal Law "On Keeping in Custody the Persons Suspected and Accused of Committing of Crimes" and the Internal Rules of Pretrial Facilities, which regulate the legal position of crime suspects provide for the right of the suspects and the accused only to daily exercise. For adults, the exercise time must be not less than one hour, for juveniles not less than two hours and for prisoners kept in a punishment cell half-an-hour. This contradicts Paragraph 1, Article 21 of SMR.

At SIZO #1 in Arkhangelsk, the administration makes all prisoners come out for exercise under the threat of force, thus turning a right into a duty. The administrations of other pretrial detention facilities act in the same way as does, for instance, the administration of SIZOs in Ulan-Ude (Buryat Republic) and Magadan, where all prisoners are ordered to leave their cells for exercise with the exception of those who are excused for medical reasons. At the same time, in some SIZOs, the exercise time is reduced — in the Blagoveshchensk SIZO (Amur region) to 30—40 minutes, for instance. The administration of SIZO in Birobidzhan (Jewish autonomous area) admits that in winter there is no exercise at all.

The regulatory acts do not provide for sport pursuits of SIZO prisoners but in some SIZOs prisoners have a possibility to engage in sport. Thus, soccer tournaments are organized between prisoners of different SIZOs in Moscow. However, none of SIZOs has any special sports equipment for juveniles and practically everywhere SIZO inmates, including minors, are deprived of a possibility to engage in physical exercises

(1) Here and in the rest of this section, all factual data used is taken from relevant regional reports on the situation with penitentiary system.
(2) Educational colonies are covered by Instruction “On the Organization of Educational Work with the Inmates of Educational Colonies of the Criminal Implementation System of the RF Ministry of Justice,” endorsed on February 28, 2000, by the order of the RF Ministry of Justice.

Medical Services

22. 1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

3) The services of a qualified dental officer shall be available to every prisoner.(1)

(1) Also, Basic UN Principles for the Treatment of Prisoners stipulate that, “9) Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.”
(2) Resolution #727 by the RF Government of October 15, 2001 “On the Procedure for Payment of Compulsory Social Insurance Benefits for Convicted Prisoners and Persons Convicted to Perform Paid Community Jobs."
(3) Order #1115/475 by the Ministry of Internal Affairs and Ministry of Healthcare of the Russian Federation of December 31, 1999, “On Approving the Regulations on Medical and Sanitary Treatment of Persons Held by Temporary Detention Wards Run by the Ministry of Internal Affairs.”
(4) The Regional Report “The Penitentiary System in the Buryat Republic — 2002.”
(5) Taken from an interview by S. Tishin, head of pretrial detention centers, Orenburg region (IZ-54/1, IZ-54/3).
(6) Taken from an interview with L. Mkrtchian, warden of the YaP-17/11 penitentiary facility (common regime colony). Stavropol territory.
(7) V. Savkin, “Scandalous Conditions” (article written by the head of supervisory authority responsible for verification of the applicable criminal implementation code provisions, prosecutor’s office, Nizhnii Nogorod region), Nizhegorodsky Rabochy (April 11, 2001).
(8) Taken from interviews by former prisoners from the Altai territory.
(9) Regional Report “The Penitentiary System in Karelia Republic — 2002.”
(10) Regional Report “The Penitentiary System in Oryol Region — 2002.”
(11) Regional Report “The Penitentiary System in Orenburg Region — 2002.”
(12) Regional Report “The Penitentiary System in Kemerovo Region — 2002;” Regional Report “The Penitentiary System in Jewish Autonomous Area — 2002”
(13) From an interview with the head of infirmary at the UZ-62/11 penal colony. Nizhnii Novgorod region.
(14) Report on the findings following examination of a SIZO facility. Verkhny Chok, Syktyvkar (2002).
(15) Regional Report “The Penitentiary System in Rostov Region — 2002.”
(16) From an interview with S. Alexeev, head of the regional hospital for prisoners.
(17) Taken from an interview by the head of dispensary at the UZ-62/2 penal colony for women-prisoners, Nizhnii Novgorod region.
(18) Report on the findings following examination of the SIZO facility, Saint Petersburg (2002).
(19) Regional Report “The Penitentiary System in Bryansk Region — 2002.”
(20) E. Godlevskaya, “Treatment Under Conditions of… Torture.” Pokoleniye (November 28, 2000).
(21) “Prisoners’ Hospital is Still Waiting for its Turn.” Pokoleniye (July 16, 2002).
(22) Interview by Interregional Human Right Group with a prisoner of OZh-118/3 facility (November 20, 2002).
(23) Regional Report “The Penitentiary System in Astrakhan Region — 2002.”
(24) G. Tiumeneva, “Mommies behind Barbed Wire.” *Smena* (February 27, 2001).
(25) Pursuant to the applicable legislation, prisoners are generally assigned to the penal colonies or other institutions close to their communities. But inasmuch as there are merely 37 women-prisoner institutions for 89 Russian regions, this territorial principle can hardly be properly applied.
(26) Report on the findings following examination of SIZO #4. Komi-Permyatsky autonomous district.
(27) Regional Report “The Penitentiary System in the Yamalo-Nenetsky Autonomous District — 2002.”
(28) From a response (#1-81pr.-02 of November 28, 2002) by the prosecutor’s office, Oktiabrsky administrative district, Murmansk, to a complaint filed by prisoner A. K. from the local SIZO #1.
(29) From an interview by a former prisoner of the UZ-62/4 penal colony in the Nizhnii Novgorod region.
(30) From interviews with prisoners of the IK-5 institution at Naryshkin, Oryol region.
(31) Regional Report “The Penitentiary System in the Perm Region — 2002.”

(32) Report on the findings following examination of the Ozh-118/1 (Voronezh region) and IZ-36/3 (SIZO #3, Voronezh region) institutions carried out November 14 and 20, 2002, by members of the Inter-Regional Human Rights Group.
(33) Particularly, owing to the targeted financing for Federal Program “On Preventing and Countering Social Maladies.”
(34) From an interview with A. Sakikhin, head of inspection division, penalty execution department for the Tver region.
(35) Ruling by Meeting of August 1, 2002, of penalty execution department for the Khabarovsk territory.
(36) S. Sidorova, “TB in Penitentiary Facilities and Measures to Defeat It,” *Vedomosti UIS* (2001, #3, p. 11).
(37) “Principal Performance Results of Institutions Run by the Criminal Implementation System, Ministry of Justice of the Russian Federation, 2001” *Vedomosti UIS* (2002, #2, pp. 74—75). V. Yadunin, “Normal UIS Functionality to be Assured,” *Vedomosti UIS* (2002, #2, p. 10).
(38) Taken from an interview with S. Vdovikin, warden of IK-1 conventional-security penal colony (OL-27/1), Republic of Kalmykia.
(39) “IK-8 (Khokhriaki, Republic of Mordovia),” *Stupeni* (August 20, 2002).
(40) Yu. Ardysheva, “Fairytale of Cinderella Behind Bars,” *AIF Udmurtii* (October 31, 2002).

The commitments of protecting the health of and providing the requisite medical services for prisoners are guaranteed by the applicable Russian legislation (Paragraph 6, Article 12 of UIK). In addition, the necessary sanitary-hygienic and preventive treatment services are rendered to convicted prisoners pursuant to the pertinent civil legislation — Federal Law “On Protecting the Health of Citizens” of July 22, 1993.

The domestic network of healthcare services for convicted prisoners is primarily built around healthcare establishments set up, maintained and developed within the Criminal Implementation System. Admittedly, the effort implies a possibility in principle for those facilities to cooperate with external state and municipal-run healthcare institutions. To point out, that sort of cooperative links are yet to be fully developed, the circumstance serving to seriously hamper any effort aimed to render some comprehensive or urgent medical help (like providing surgery or HIV therapy) to convicted prisoners. Notably, the insurance principles (designed to radically improve the healthcare conditions) only started to be applied within the Criminal Implementation System in 2002.(2)

Sustained links with the external state or municipal-run medical institutions are merely supported by infirmaries maintained by temporary detention wards operated by the Ministry of Internal Affairs (MVD), with the Ministry of Internal Affairs running no specialized healthcare establishments for prisoners. The medical officers attending temporary detention wards (IVS) are supposed not only to render specialized aid to the inmates but also “run physicals in order to reveal any dangerous ailments.”(3) A good example of IVS facilities cooperating with external state and municipal-run medical establishments has been provided by the Buryat Republic. By way of example, given the local IVS-based infirmaries collaborating with the republican ministry of healthcare, the patients from amongst the convicted have been enabled, as necessary, to receive specialized services from the republican and emergency-aid hospitals, with Criminal Implementation System medical personnel being trained in different specialties on easy conditions. What is more, the republican ministry of healthcare has offered assistance by providing requisite medications.(4)

The penal healthcare system covers all penal institutions and features a network of specialized medical establishments. Today, every penal facility operates an infirmary or dispensary, with as many as 119 specialist hospitals offering their services for convicted prisoners and inmates held by pretrial facilities (SIZO).

In Russia, since early 1990s, the Criminal Implementation System (UIS) has been maintaining a psychological service incrementally staffed by psychologists (trained by relevant educational

establishments) that have grown their experiences and honed their skills to be effective. These specialists have been persistently proving out and testing advanced strategies for tackling their professional tasks. For example, the Oryol region-based department for penalty execution, running a focused project to help re-socialize the freshly released convicts, has become one of the first-in-Russia facilities where the staff position of psychotherapist was authorized. Also, some correctional institutions now maintain psychological relaxation rooms (run by most of the progressive colonies for women-convicts). Admittedly, the psychological service's visibility at domestic penitentiary facilities continues to be rather low. The wardens and other managers still need to embrace the principles of personalized approach in order to achieve the desired behavior correction goals. Forced-approach educational stereotypes (largely perceived as more effective methodologies) continue to be applied as dominant strategies. The effort to put in place and reinforce the psychological service will take some time. Many institutions, particularly penal (either conventional or high-security) colonies and pretrial detention centers, are yet to see psychologists on staff.

The job of caring for the health of convicts directly depends on the proper work conditions being assured and on the available medical personnel being fully equipped to perform their functions. Importantly, even with these requirements observed, one would still encounter some debilitating problems that could prevent a conscientious doctor from offering high-quality healthcare services.

The human rights monitors have uncovered major difficulties (some of those being produced by excessive wear and tear of the available equipment) relating to non-functional medical equipment and its supply. "The currently deployed equipment (that we received as second-hand assemblies), especially X-ray units, have already completed three specified service lives."(5) The effort to rejuvenate the UIS-based medical equipment has been rather slow. On the other hand, the data collected shows that things have been on the mend at some penitentiary institutions.

Overall, the obsolescent medical assemblies and units at the UIS-base healthcare establishments have been replaced at a very slow pace, though some isolated positive developments, indeed, have been indicative of changes for the better. By way of example, the Bryansk-based SIZO acquired a new X-ray assembly, and UZ-62/2 facility (Nizhnii Novgorod-based penal colony for women-convicts) purchased a new set of modern dental chairs and relevant supplies.

Particularly pressing has been the problem of staffing the penal colonies with qualified medical personnel. While the problem appears to be generally manageable when it comes to correctional institutions located in the vicinity of towns and cities, all far-away penitentiary facilities continue to suffer from the permanent lack of trained medical personnel.

The infirmary's ten staff positions have never been filled. Now, just five doctors are employed. We merely have one therapist instead of three specified by the staffing tables. We have neither dermatologist no narcologist, with the latter's functions currently performed by the psychiatrist. Specialists are hard to attract on account of compensation packages being too poor. Whenever necessary, we need to use external skills on a commercial basis, which is to say that receiving the desired healthcare services are only those who can afford them.(6)

Things appear to be no different at UZ-62/10 penal colony (Nizhnii Novgorod region), which "has been only staffed by medical personnel at 50% of the prescribed levels, with the housing for doctors being unavailable."(7)

Prosthetic dentistry services have normally been provided in keeping with the registered and appropriately scheduled requests. The dental chairs at most of the domestic penal colonies have largely been by far outdated, with the limited number of available dentists and request-based procedure making the dental services the kind of medical aid that can hardly be secured at the desired time at most of the penitentiary facilities. To provide another example, some former convicts indicated that "now and again they would just offer to pull the aching tooth out, rather that have it carefully treated and saved, the prevailing motivation being the lack of requisite

supplies."(8) Also, prisoners have encountered difficulties while trying to be examined by an ophtolmologyst.

Attesting to deficiencies in the UIS healthcare system have been numerous complaints from the convicts. Just in the course of 2001, the oversight prosecutors in the Karelia Republic filed 31 complaints about the requested medical aid failing to be provided.(9)

Understandably, the state of things at infirmaries run by the domestic penal colonies varies a great deal. While in some cases (like at IK-6 penal colony in the Oryol region) local sick bays are equipped with top-of-the-line medical sets, with functional premises being spacious and clean and all staff positions being properly filled by qualified medical officers,(10) in other cases the local infirmaries look much less inviting than any regular ward or cell. At the Orenburg region-based SIZO, in the medical facility, an inmate merely gets 2 m.2 of floor space in a regular ward, with filth being ubiquitous. The toilets are not separated by any partitions, with one cell featuring a bedding sheet to isolate a toilet seat. All wards are very stuffy. There was one inmate that had been going on without any bedding sheets for three days."(11)

The penal colony-based infirmaries and hospitals merely have access to the more basic medications, according to the Chief Department of Penalty Execution (GUIN), the observation being confirmed by the human rights monitors. Admittedly, things have somewhat improved over the past year. For example, penitentiary institutions are nearly fully supplied with core TB medications. Meantime, the TB service has been particularly emphasizing the lack of relevant backup drugs needed to provide treatment for medication-resistant forms of tuberculosis. Also, there has been a tremendous deficiency in the availability of drugs for treatment of assorted acute conditions and ailments, with anti-inflammatory, stomach and gynecology medications, like poly-vitamins and antibiotics being permanently in short supply. Notably, some infirmaries and sick bays have been lacking in such basic items as expendable syringes, X-ray film and dressing materials.(12) Meantime, some local infirmaries have been equipped with requisite medications much better. By way of example:

Over the last one-and-a-half or two years, the available selection of medications (antipyretics, pain killers, antiseptics and other essential drugs specified by the relevant documents) maintained by the local dispensary at the UZ-62/11 correctional institution has been more than in keeping with the prescribed minimal standards, with the choice of antibiotics alone nearly reaching ten titles.(13)

However, more often than not, the requisite drugs are purchased by the relatives of prisoners. To illustrate:

Though you can always pass over the medications, you first need to have the relevant request signed by the local doctor. The procedure works like this: your son files a request for drugs with the local doctor who provides the mandatory authorization. Then, you have the request appropriately serviced or filled out. Of course, vitamins are allowed with no prior authorization.(14)

Normally, medications from the relatives are passed over without any undue constraints. However, some facilities practice rather complicated procedures that inevitably produce tensions and even conflicts:

As a rule, they would not consider your application for two-three days, following which time, with your suffering being muted, they would let you see a doctor. And then, the prison officer would insult you by suggesting that you are basically a malingerer because you have nothing to complain about after all.(15)

Also:

We do not accept any medications from outside because they all need to be appropriately certified. It is much easier for us to acquire drugs in large lots.(16)

In other cases, while seeking to prevent any tensions, the penal colony staff resort to the following strategies:

Inasmuch as the leading-edge and effective drugs come to be pretty expensive nowadays, we often ask the relatives to get those for convicts. There had been situations when we accepted drugs whose certified lives had expired. We normally take those because we proceed from the understanding that the relatives had spent their last roubles to help out their loved ones. Of course, we then decide ourselves whether to hand over those expired medications to the ailing prisoners or not.(17)

Whenever some severe ailments (warranting specialized treatment) need to be diagnosed, the suffering prisoners are taken to specialized hospitals run by the department of penalty execution (UIN).

To provide another example, the St. Petersburg-based inter-regional hospital comes to be one of the largest and oldest healthcare establishments maintained by the Russian penitentiary system. Such hospital divisions as neural-surgery, dental surgery, oncology, TB-diagnostics and tracking, thorax treatment and surgery continue to be unique across the country. The hospital was designed to carry 520 beds, with the actual average of patients being inevitably higher. Two- or even three-level beds are tightly installed both in the wards and corridors. The so-called "scheduled" patients normally wait for up to two years before getting hospitalized. The hospital "makes the only bright spot in our current lives," according to numerous patients. This is only understandable because the living conditions are favorable relaxed, the bedding is top-quality, the meals are good and nutritious, and the attending personnel are obliging. Unfortunately, since 1979 the hospital building has been passed as "emergency" or unfit for operation, with the structure-holding beams rotting away, roof leaking and ceiling plaster falling off. The doctors are now merely engaged to take urgent cases. The financing being inadequate, even the scheduled surgery effort has been minimized.(18) The Bryansk-based regional hospital OB-21/1 likewise has the total of surgical operations drastically reduced on account of the stitching threads nearly always being in short supply.(19)

Notably, prison hospitals have nearly been overcrowded across the land. In particular, the Oryol SIZO-based TB hospital, designed to carry 50 beds, is normally filled with 120-140 patients.(20) In the course of 2001, five members of the attending personnel contracted TB while working at that facility. Alarmingly, the regional program "On Urgent Measures to Counter TB," extended through 2004, features no measure aimed to put in place a new TB facility or expand the capacity of the existing hospital.(21)

The problem of treating the ailing prisoners has been universally compounded by the ongoing constraints on the total of the penitentiary system's medical establishments, forwarding opportunities and security-motivated bans for certain prisoners to be hospitalized:

Not all ailing prisoners would be allowed to proceed to a hospital. There have been a few cases when the security regime division just would not allow for some convicts to be moved to a hospital. Apparently, some very special consideration have been taken into account. The security regime officers go through the lists submitted by the doctors and just cross out the ones that could not be cleared to go to a hospital.(22)

In addition, the problem of creating the right conditions when moving the prisoners (the ailing ones included) to new penitentiary facilities continues to be most pressing. All those queried have inevitably attested to absolutely horrid conditions (overcrowding, poor sanitary conditions, lack of ventilation or lighting) under which prisoners continue to be moved from one place to another. To quote a prisoner who was ill when moved, "We were just overcrowded, with some people sitting

on each other's lap, and others standing. Just like sardines in a jar. There was no fresh air, no proper lighting, no sanitation, nothing whatsoever."(23)

23. 1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers

The penitentiaries' regulations hold special rules for treatment of pregnant women and those with nursing infants. However, the specified conditions for this category of convicts have not always been observed. Merely 11 out of 37 penal colonies for women carry in-house nursing homes.

In some Russian regions, the expectant mothers are kept in special isolation premises, with the deliveries being supported by external maternity hospitals:

The women willing to keep their pregnancy generally remain in common wards through their reaching 30 weeks into the pregnancy. Just like all other prisoners, they are daily allowed to go out for an hour-long walk in the fresh air and have the same scanty meals reinforced with a glass of milk and portion of fish. As you reach week 30, you are moved into an isolation ward that generally holds fewer inmates than the total of 25 prisoners that the room had been originally designed for. The women are normally taken to an external maternity hospital for delivery. Of course, they would provide an armed escort while taking you to the hospital and back to the prison after the delivery. The wards where mothers are kept with their nursing babies are usually rather clean rooms, each holding one or two mothers and reminding you of regular dormitory rooms, if you pay no attention to the grilled windows and iron-plated doors, of course. The crib is positioned right next to mother's bed. Normally, the management provides a good number of toys that are made available as gifts from numerous foreign public and religious organizations. Mothers are allowed to take their babies out for a walk in a fully enclosed yard where they push their government-issued prams for two hours each day. A major problem here continues to be made by the persisting unavailability of baby foods, which is not regulated in any way by the applicable SIZO rules. Inasmuch as the babies are generally not registered with any specialized medical establishment, there have been unending problems related to fixing appointments with the requisite children's doctors and making the pertinent preventive vaccinations.(24)

To point out, women-prisoners generally experience serious difficulties connected with their menstrual cycles. They normally fail to be issued any hygienic items. Somewhat better off are the ones with relatives living in the nearby community that can always help out. Women-convicts from far-away places (that make the absolute majority of the female prison population(25) have to survive in unacceptable conditions.(26)

24. The medical officer shall see and examine every prisoner as soon as possible after his admission, and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

In Russia, medical officers normally perform physical examinations of prisoners upon the latter arriving at the given institution. For the period of diagnostic checks and evaluation of the prisoners' health, whenever necessary, the use is made of standard quarantine wards at regular penitentiary facilities and of segregated wards at SIZO pretrial detention centers, according to the provisions of Article 79 of UIK and the applicable penal colony regulations. Convicts can be segregated for health reasons for as many as 15 days. Should a convict be diagnosed with a

contagious disease, he/she would be moved to a specialist healthcare establishment, with his/her original contacts being assigned an extended quarantine regime.

Meantime, there are grounds to believe that now and again physicals have failed to be performed in a conscientious and thorough manner, which for the most part has come from the persisting lack of specialist doctors. This, in particular, was revealed during a visit of human rights monitors to the local SIZO facility in the Yamalo-Nenetsky autonomous district. What is more, most of the domestic temporary detention wards have no staff medical officers because the applicable Ministry of Internal Affairs policy does not provide for availability of such specialists at those institutions. Given the circumstance, nearly all responsibility for rendering medical aid to the prisoners lies with the current temporary detention wards duty officer that normally possesses no medical skills or knowledge. However, it is exactly that officer who is supposed to evaluate the physical condition of any given prisoner and decide whether to call for a doctor or render first aid.

All prisoners held by penal colonies undergo mandatory physicals only once a year. Also, the prisoners that are dispatched to strict-regime isolation wards, isolation cells, other institutions or those that are assigned to a new job, are sometimes examined by medical doctors.

It is yet to be determined what should be done by the medical officer that has performed a physical of a prisoner and uncovered injuries allegedly inflicted by some members of the given institution's security personnel when on duty. Should this kind of situation crop up, the prisoner in question would generally be examined by a medical officer on the orders from the local security division. Notably, the medical officer would merely render the requisite first aid, rather than appropriately record the sustained injury. The medical officer would only be committed to report the case to his/her immediate superior, with the prisoner's injuries being left undocumented. This state of affairs merely serves to perpetuate impunity on the part of the institution's administrative personnel in the event of the latter resorting to unlawful and unprovoked actions with the use of physical force or special tools.

It would suffice to refer to a situation that developed in 2001 at the Murmansk-based SIZO #1 where prisoner A. K. was badly manhandled. Though he had his nose broken, the injury was never recorded by anyone. Following his complaint filed by the local prosecutor's office, A. K. received the following response: "Following the on-site examination of the circumstances related to your allegation, the fact of your suffering a body injury at the hands of SIZO personnel has not been confirmed." To point out, after a special official investigation, the local SIZO medical assistant G. Stupikova was duly disciplined "for failing to report the case to the duty officer and medical officer."(28)

Despite a notable drop in the numbers of under-investigation prisoners in the course of 2002 (the reduction tentatively standing between 25-35%), the situation continues to remain rather dangerous because of the pretrial detention centers being overcrowded.

Also, most of the domestic remand prisons (with only a few of those being rebuilt) continue to be in a bad need repair. As many as 26 pretrial detention wards and prisons are on the brink of collapsing from old age and disrepair. Overcrowding and lack of proper sanitary conditions merely compound the plight of prisoners held by SIZO facilities based in Moscow and St. Petersburg; Nizhnii Novgorod, Omsk, Samara, Tver, Tula, Leningrad and other Russian regions.

Given the severe incarceration conditions, prisoners have particularly suffered from varied infections. The health of sick inmates has generally worsened. Regrettably, the administrations have been reluctant to acknowledge that many prisoners have been falling sick on account of local sanitary conditions being inadequate. Clearly, this circumstance is indicative of the fact that managers of the domestic penitentiary institutions do not feel duly responsible for providing the right health-protection conditions for the prisoners. Unfortunately, the same is true for the Russian judicial system. Alarmingly, over the last few years, numerous complaints and applications on the part of prisoners notwithstanding, the local judicial authorities have not passed even a single

positive judgment on compensations payable to prisoners for their loss of health while behind the bars.

25. 1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.
2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

Nearly throughout the domestic penitentiary facilities, remand prisons included, the prisoners (especially those under investigation) have experienced major difficulties in connection with access to medical help or examination. To point out, the applicable law reads that “prisoners shall be received by medical officers following preliminary requests being filed or as prescribed by the medical personnel and pursuant to the local infirmary’s business hours” (Paragraph 4, Article 101 of UIK). The relevant requests are normally collected by the local administration officers. In reality, prisoners would almost inevitably encounter problems related to their being dependent on the guards or inspectors (with that sort of complaints coming in large numbers from correctional facilities and remand prisons):

Getting to see a doctor was quite a big problem. The matter is that doctors would receive you between 10 a.m. and noon and then between 6p.m. and 7p.m. People would usually come to see a doctor from all detachments that are as many as thirteen. The crowd would nearly reach a hundred, and we merely have two medical doctors. We would wait for hours, with the doctors being unable to receive all of us anyway.(29)

Also:

In the morning I registered with the duty warden to see a doctor that was available within 1p.m. — 4 p.m. People would generally stand in line outside irrespective of the elements, even in the winter. At the Shakhovo correctional facility we would be allowed to wait inside, but not here. Whether you make it or not is entirely your problem.

Also:

If you are smart enough, you would “stake out” a place in the waiting line in advance. And you can only succeed if you do not go to work on that day , which is rather risky because the guards might see you through and take you for a faker. (30)

Many prisoners have spoken of the risk of being accused of malingering or shirking.

Each time we asked to see a duty doctor after the working hours, we would be turned down. The administration officials would normally explain that some prisoners are sheer idlers. A prisoner (especially the one assigned to do some job) can always run a risk of spending 15 days in an isolation ward as idler without any prior investigation.(31)

At some correctional facilities the local medical officers pay little attention to the prisoner-patients that require special treatment:

At OZh-18/1 high-security institution (Voronezh region) the patients communicate with their doctor through the ward grille (measuring m.2) that faces the corridor, with no chair or desk being available.

Also:

At IZ-36/3 (Voronezh-based SIZO #3), the doctor’s office has no chair for a patient to sit on or

utility screen that might be useful for removing or changing clothes. Importantly, the gynecology offices maintained by Russian penitentiary institutions (penal colonies and pretrial detention centers alike) generally lack screens, with specialized chairs facing the doors. (32)

26. 1) The medical officer shall regularly inspect and advise the director upon:
(a) The quantity, quality, preparation and service of food;
(b) The hygiene and cleanliness of the institution and the prisoners;
(c) The sanitation, heating, lighting and ventilation of the institution;
(d) The suitability and cleanliness of the prisoners' clothing and bedding;
(e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

The medical officers employed by correctional facilities are likewise committed to run daily hygiene inspections to check out the quality of meals cooked and sanitary condition of the premises, with the findings being duly reported to the wardens. At pretrial detention centers the medical officer is supposed to participate in running morning inspections. Admittedly, at many penal institutions those inspections are merely conducted superficially, the circumstance being explained by the medical personnel having too many burdensome functions. Human rights monitors have revealed, for one, that at some correctional facilities (based in the Rostov, Astrakhan and Kemerovo regions, in particular) the prescribed daily inspection routines occasionally failed to be duly observed. The polled former inmates from those institutions testified that medical inspections had not been held properly, with the medical personnel refusing to register the prisoners complaining about acute pains or sickness.

Admittedly, the Russian Criminal Implementation System operates a number of specialized healthcare establishments designed to accept the patients requiring special treatment strategies, with focused TB centers providing one such example.

Starting from 2000, the level of TB cases amongst the prisoners appears stabilized (and in 2002 TB contagion rate dropped by 27% and TB death rate dropped by 13%), which has largely been secured through higher budget financing released for the purpose(33) and a dedicated WHO-sponsored healthcare program being effectively completed. Notwithstanding, the current numbers of TB cases remain quite high, with the risk of social hazards being quite pressing. The total of TB cases among the prisoners held by all Russian penitentiary facilities (remand prisons included) came to stand in the area of 88 000, according to the expert data for 2001.

Understandably, the TB hazard has been effectively muted through employment of highly qualified medical personnel with the experience of countering the TB danger that can be passed as epidemic:

We have received a lot of external inspectors. For example, we have seen the leading TB talents from Moscow. Notably, they have come to be convinced that the quality of medical assistance rendered here is better than that offered elsewhere in civil communities. If you look at the equipment installed at LIU-3 TB treatment center, you will see that a rare municipal clinic or hospital can boast of such capabilities. Importantly, we provide high-quality therapies, especially given that the patient is generally tracked by one and the same doctor through the close of the given prisoner's term behind bars, which is of some relevance.(34)

However, many penitentiary institutions in the provinces (particularly those that have not been covered by the dedicated WHO program) continue to suffer from the lack of medications, specialized equipment and, in a number of cases, from inadequate meals offered to the prisoners.

With the targeted medical checks being rather expensive and requisite drugs often unavailable, no high-quality healthcare services (especially those related to tackling the drug-resistant TB cases) can be offered.

Given unavailability of the requisite tools to run bacteriological medical tests, we just are not able to find out whether the given patient can safely take certain anti-TB medications, which circumstance surely serves to degrade the efficiency of the employed treatment strategies and develop new forms of drug-resistant TB condition. (35)

Given that belated applications of TB therapies normally lead to irreversible consequences, the current statistics for prisoners run as follows: nearly 40% of TB cases are resistant to certain medications, with 23% of the registered TB cases resistant to multiple drugs.(36)

Notwithstanding the ongoing effort to build new specialized healthcare facilities or open local dispensaries for prisoners, the numbers of TB cases continue to exceed the capacities held by the currently deployed hospitals and treatment centers run by the Russian Criminal Implementation System. On average, the available in-patient and out-patient TB treatment clinics or dispensaries have been overstrained, the over-capacity load currently standing at 15—20%.(37)

A particularly alarming problem has been the rise of HIV cases among the prisoners (see the chart above). Russian Criminal Implementation System turned out to be ill-prepared to effectively confront the hazardous situation, according to the regional research recently completed. Following examination of some institutions, it has been revealed that HIV-infected prisoners have to survive under difficult conditions, which in many cases has to do with their being discriminated against.

To point out, there are institutions where HIV-infected inmates (known to total within 5% of the examined prisoners) are kept together with other prisoners. The local wardens have displayed a "solid" body of knowledge about what needs to be done in the way of protection against HIV or prevention thereof. "We keep them together with healthy prisoners. This is our initiative. You see, people with HIV in the outside world are not segregated in any way. Why should we be any different?"(38)

Admittedly, most of the institutions maintain special premises to accommodate HIV cases segregated them from the bulk of prisoners. To emphasize, the extent of this segregation largely depends on how knowledgeable local wardens are about the applicable HIV prevention techniques. On the other hand, there have been complaints from prisoners, held by non-segregated institutions (e.g., in the Perm region), voicing their concern about the danger of contracting HIV, which circumstance is indicative of the pressing need to improve the awareness effort aimed to prevent the spread of HIV.

Isolation or segregation of HIV cases often acquires rather extreme forms:

We have special measures carried out to prevent any risk of contracting HIV. Each prisoner is issued his personalized cup and spoon that he takes along to the dining room at mealtimes. Then, each dormitory section has its own shower room.(39)

At some institutions, even segregated rendezvous rooms have been opened.

Considerable problems arise whenever it is necessary to render requisite medical assistance to HIV-infected inmates that have to be tested or effectively diagnosed by specialist doctors. Normally, medical officers from correctional facilities would turn to the regional AIDS centers to secure the needed help. However, this kind of assistance has been rather limited because it is generally offered on a commercial basis. "The institutions just lack the resources needed to run basic tests that come at 200—1300 roubles per test."(40)

Meantime, the year 2002 saw a number of accomplishments related to the introduction of effective HIV preventive methodologies in Russia. This breakthrough has largely been achieved

through implementation of dedicated public awareness programs run by such big-profile international organizations as “Medecins Sans Frontieres” and “Penal Reform International.”

(1) Also, Basic UN Principles for the Treatment of Prisoners stipulate that, “9) Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.”
(2) Resolution #727 by the RF Government of October 15, 2001 “On the Procedure for Payment of Compulsory Social Insurance Benefits for Convicted Prisoners and Persons Convicted to Perform Paid Community Jobs."
(3) Order #1115/475 by the Ministry of Internal Affairs and Ministry of Healthcare of the Russian Federation of December 31, 1999, “On Approving the Regulations on Medical and Sanitary Treatment of Persons Held by Temporary Detention Wards Run by the Ministry of Internal Affairs.”
(4) The Regional Report “The Penitentiary System in the Buryat Republic — 2002.”
(5) Taken from an interview by S. Tishin, head of pretrial detention centers, Orenburg region (IZ-54/1, IZ-54/3).
(6) Taken from an interview with L. Mkrtchian, warden of the YaP-17/11 penitentiary facility (common regime colony). Stavropol territory.
(7) V. Savkin, “Scandalous Conditions” (article written by the head of supervisory authority responsible for verification of the applicable criminal implementation code provisions, prosecutor’s office, Nizhnii Nogorod region), Nizhegorodsky Rabochy (April 11, 2001).
(8) Taken from interviews by former prisoners from the Altai territory.
(9) Regional Report “The Penitentiary System in Karelia Republic — 2002.”
(10) Regional Report “The Penitentiary System in Oryol Region — 2002.”
(11) Regional Report “The Penitentiary System in Orenburg Region — 2002.”
(12) Regional Report “The Penitentiary System in Kemerovo Region — 2002;” Regional Report “The Penitentiary System in Jewish Autonomous Area — 2002”
(13) From an interview with the head of infirmary at the UZ-62/11 penal colony. Nizhnii Novgorod region.
(14) Report on the findings following examination of a SIZO facility. Verkhny Chok, Syktyvkar (2002).
(15) Regional Report “The Penitentiary System in Rostov Region — 2002.”
(16) From an interview with S. Alexeev, head of the regional hospital for prisoners.
(17) Taken from an interview by the head of dispensary at the UZ-62/2 penal colony for women-prisoners, Nizhnii Novgorod region.
(18) Report on the findings following examination of the SIZO facility, Saint Petersburg (2002).
(19) Regional Report “The Penitentiary System in Bryansk Region — 2002.”
(20) E. Godlevskaya, “Treatment Under Conditions of… Torture.” Pokoleniye (November 28, 2000).
(21) “Prisoners’ Hospital is Still Waiting for its Turn.” Pokoleniye (July 16, 2002).
(22) Interview by Interregional Human Right Group with a prisoner of OZh-118/3 facility (November 20, 2002).
(23) Regional Report “The Penitentiary System in Astrakhan Region — 2002.”
(24) G. Tiumeneva, “Mommies behind Barbed Wire.” *Smena* (February 27, 2001).
(25) Pursuant to the applicable legislation, prisoners are generally assigned to the penal colonies or other institutions close to their communities. But inasmuch as there are merely 37 women-prisoner institutions for 89 Russian regions, this territorial principle can hardly be properly applied.
(26) Report on the findings following examination of SIZO #4. Komi-Permyatsky autonomous district.
(27) Regional Report “The Penitentiary System in the Yamalo-Nenetsky Autonomous District — 2002.”
(28) From a response (#1-81pr.-02 of November 28, 2002) by the prosecutor’s office, Oktiabrsky administrative district, Murmansk, to a complaint filed by prisoner A. K. from the local SIZO #1.
(29) From an interview by a former prisoner of the UZ-62/4 penal colony in the Nizhnii Novgorod region.

(30) From interviews with prisoners of the IK-5 institution at Naryshkin, Oryol region.
(31) Regional Report “The Penitentiary System in the Perm Region — 2002.”
(32) Report on the findings following examination of the Ozh-118/1 (Voronezh region) and IZ-36/3 (SIZO #3, Voronezh region) institutions carried out November 14 and 20, 2002, by members of the Inter-Regional Human Rights Group.
(33) Particularly, owing to the targeted financing for Federal Program “On Preventing and Countering Social Maladies.”
(34) From an interview with A. Sakikhin, head of inspection division, penalty execution department for the Tver region.
(35) Ruling by Meeting of August 1, 2002, of penalty execution department for the Khabarovsk territory.
(36) S. Sidorova, “TB in Penitentiary Facilities and Measures to Defeat It,” *Vedomosti UIS* (2001, #3, p. 11).
(37) “Principal Performance Results of Institutions Run by the Criminal Implementation System, Ministry of Justice of the Russian Federation, 2001” *Vedomosti UIS* (2002, #2, pp. 74—75). V. Yadunin, “Normal UIS Functionality to be Assured,” *Vedomosti UIS* (2002, #2, p. 10).
(38) Taken from an interview with S. Vdovikin, warden of IK-1 conventional-security penal colony (OL-27/1), Republic of Kalmykia.
(39) “IK-8 (Khokhriaki, Republic of Mordovia),” *Stupeni* (August 20, 2002).
(40) Yu. Ardysheva, “Fairytale of Cinderella Behind Bars,” *AIF Udmurtii* (October 31, 2002).

Discipline and Punishment

27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

28. 1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.
2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

29. The following shall always be determined by the law or by the regulation of the competent administrative authority:
(a) Conduct constituting a disciplinary offence;
(b) The types and duration of punishment which may be inflicted;
(c) The authority competent to impose such punishment.

30. 1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.
2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defense. The competent authority shall conduct a thorough examination of the case.
3) Where necessary and practicable the prisoner shall be allowed to make his defense through an interpreter.

31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

32. 1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.
2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of the prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.
3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise

the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

As approved by Russian laws, rules of discipline at pretrial detention facilities and correctional institutions are largely in line with the goals and objectives set by SMR. Article 36 of Federal Law "On Confinement of Suspects and Persons Indicted with Criminal Offences"(1) ("On Confinement"), and Annex 1 to the Internal Rules of Pretrial Facilities require that prisoners observe standards of personal hygiene and public sanitation, fire safety rules, and rules of conduct, while they prohibit actions that may compromise safety of prisoners or the regime of their isolation as defined by law. Laws that govern correctional institutions (Articles 1 and 9 of UIK) are not, as a whole, at variance in any way with SMR while they assert the principle that punishment applied must be selected in accordance with the objective of correcting the prisoner (Articles 8 and 117 of UIK).

However, effective Russian laws contain no definition of the disciplinary offence. Instead, it provides a general description of actions that may entail penalties against prisoners. In fact, what is discussed is not a list of offences but rather a certain criterion. Thus, Article 38 of Federal Law "On Confinement" refers to "failure to meet the assigned responsibilities," while Article 115 of UIK mentions "violations of the set procedure for serving the sentence." Regulations also set forth a list of prisoners' duties.(2) Thus, in order to categorize a prisoner's conduct, the committed action is compared against a list of duties in an attempt to conclude whether or not the action constitutes a violation of the set procedures at the confinement facility.

An exhaustive list of actions for the commitment of which the prisoner may be subjected not only to regular disciplinary measures but to more rigorous ones, such as transfer to punishment-type cell or solitary cell or stricter confinement regime, is provided only in relation to "gross violation of the set procedure for serving the sentence" (Article 116 of UIK).(3)

It should be noted that Russian criminal execution laws and regulations use the milder term "disciplinary penalty" rather than "punishment." Exhaustive lists of penalties that may be applied against prisoners are contained in Federal Law "On Confinement" (Article 38), and in UIK (Article 115). As regards the authorities of correctional institutions' administrations and pretrial detention facilities (SIZO), imposition of disciplinary penalties is legal only if the relevant decision is made by the head of the institution. According to Article 39 of Federal Law "On Confinement," a penalty may be imposed by the head of the pretrial detention facilities or his/her deputy. Such a penalty as putting in a penalty ward may be imposed by the head of pretrial detention facility only. Article 117 of UIK establishes that penalties are imposed by a resolution of the head of correctional institution or his/her deputy. Russian criminal execution laws also contain a prohibition of a double penalty for one and the same offence, which is in line with Rule 30 of SMR.

As a consequence of the lack of a classification of simple violations, a legal problem arises. Namely, it is impossible to establish a rigid link between the gravity of an offence and the degree of penalty imposed on the prisoner. In particular, it is not quite clear from the laws which violations of a colony's or SIZO's regime should entail putting the perpetrator in a punishment cell, and which should only call for a reprimand. Such a situation creates a great risk of unduly severe disciplinary measures being applied to prisoners, in spite of the fact that both Article 117 of UIK and Article 39 of Federal Law "On Confinement" require that penitentiaries' administrations consider the circumstances of the offence, personal features of the prisoner, his/her previous conduct, and the gravity of the offence. Notably, these exhaust the list of the administration's responsibilities in relation to application of disciplinary penalty measures.

Apart from the fact that UIK does not require the administration to inform the prisoner about the reason for the penalty, it also gives the prisoner no guaranteed opportunity to present arguments or explanations in his/her defense in the event a penalty is imposed. This right is only granted to persons confined in SIZO. Article 39 of Federal Law "On Confinement" requires that, before a disciplinary penalty is imposed on a suspect or an indicted person, his/her written explanations on

the committed offence must be received.

Considering the fact that regulations provide no definition as to which violations should be followed by a reprimand and which violations should result in moving the prisoner to a punishment cell, we come across yet another problem. Under Article 116 of UIK, a prisoner may be declared a gross offender and subjected to a severe punishment if within one year he/she is assigned to the penalty isolation ward. Notice that Article 115 of UIK allows assignment to the penalty isolation ward for a routine violation of the correctional institution's regime. As a result, a prisoner may be classed as a gross offender for minor violations, and, declared a gross offender, he/she may no longer hope for a milder regime of serving his/her sentence (Articles 78, 113, 120, 122b, 124, 127, 130, 132 of UIK) or for parole (Article 175 of UIK).

Russian laws contain formal provisions that in practice may distort application of disciplinary measures at correctional institutions, as it is often the harsher disciplinary measures that gain a wider usage. This happens primarily because the lack of clear legislative guidance as to which offences must be viewed as serious violations leads to subjectivity in decisions by colonies' administrations and thus substantially hinders correction of prisoners as the primary goal of the penalty (Article 1 of UIK).

Along with discipline, involvement of convicts in productive labor is a most important method of their correction (Paragraph 2, Article 9 of UIK). Law makes labor a duty of the convict, while the administration of the correctional institution must provide jobs to the prisoners. In addition to mandatory labor, the law allows the use of prisoners for improvement of the situation in correctional institutions (Article 106 of UIK). Such work may not take up more than two hours a week, and be done during the time when the prisoner is free from his/her primary job. Apparently, it is believed that such extra work has certain correctional value. At the same time, work in maintenance of and providing services to a SIZO can be prisoner's primary job, according to Article 74 of UIK and in line with the statute of Pretrial Detention Facility.(4) However, consent of the prisoner is needed to retain him/her at the pretrial detention facilities to serve his/her sentence. As to using SIZO prisoners labor, it can only be voluntary (Article 27 of Federal Law "On Confinement").

In order to motivate prisoners to engage in constructive activities and thus improve their conditions of confinement, UIK allows self-managed organizations of prisoners (Article 111 of UIK), and participation in such organizations is encouraged (Paragraph 2, Article 111).

The findings of our monitoring effort undertaken to study the actual situation in Russia's penitentiary system allow conclusions to be made about the most widely used practices of penalizing prisoners. As a rule, penalties happen to be out of proportion to the offences as a result of the aforesaid legal problem. In some cases, actually used penalties are prohibited by law, such as corporal punishment. By far the most widely used penalty is assignment to a penalty isolation ward. The practices of using the penalty ward fall into two categories. First, when the penalty ward is resorted to illegally to exert moral and physical pressure on the prisoner. Second, when assignment to the penalty ward is formally justified but in actuality is a disproportionately severe form of penalty.

Thus, in the course of the monitoring effort, we noted cases when the administrations of some correctional institutions used disciplinary measures, including confinement to the penalty ward, in order to force prisoners to collaboration (i.e., reporting on the other prisoners, etc.). According to a former prisoner who served his sentence in the Vologda region, all prisoners at the penitentiary were divided into two categories, those who collaborated with the administration and those who did not. The latter category were a vulnerable target for pressure from the penitentiary's staff. Among other things, the threat of placement into the penalty isolation ward was often used as a tool of psychological pressure against prisoners.(5) According to information received from penitentiaries, disciplinary measures are in some cases used to break prisoners' morale. For instance, in Astrakhan region they make sure that every prisoner is placed into the penalty

isolation ward for no reason whatsoever,(6) which is a direct violation of the Russian law and Rules 29 and 30 of SMR.

Evidence of cases of placement into the penalty isolation ward for minor offences was obtained in the Leningrad region, Rostov region, Ivanovo region, and other territories.(7) Thus, an officer of a correctional institution of the Archangelsk region said that the reasons for placement of prisoners into the penalty isolation ward "most often have to do with violation of sanitation rules, like relieving themselves at an odd place, that is, not anything that you would call a serious offence."(8) Monitoring findings at penitentiaries in Kurgan region revealed that placement to the penalty isolation ward for 15 days was used, in particular, as a penalty for a missing name tag on prisoner's robes, or for dropping a coat on the bed.(9) Such decisions of colonies' administrations are not totally in line with SMR requirements that recommend that only those restrictions that are "necessary for safe custody and well-ordered community life" should be used.

In relation to the issue of cruel penalties it should be noted that in some cases the conditions of confinement in cells or penalty isolation wards are reported to be unbearable and inhumane. Thus, a former prisoner said in an interview:

I was put in a penalty isolation ward at Krivoborye, there was no water, no toilet, the temperature was about zero degrees. In the penalty ward, the wall is wet and it is covered with frost. The temperatures are freezing, and the administration would open the door across the corridor to get the draft, and the smaller the chink the stronger the draft. The sleeping bench is totally covered with frost, you cannot lie down or sit on it. It is frightening to look at. In effect, you would spend five days, or as long as you were given, on your feet. They'd bring you something warm, a soup, you shovel it in and go on walking from corner to corner.(10)

According to another former prisoner who served his sentence at UZ-62/7 colony in the Nizhnii Novgorod region and was released on amnesty with a second category disability, he was, by way of punishment, completely stripped of clothes and put for seven days in the so-called "shershavka" (a concrete cell).(11) Unbearable conditions at penalty isolation wards and penalty cells were also reported by prisoners of SIZO #17/2 of Biysk.(12) According to former prisoners, at correctional institutions of Kurgan region prisoners placed in penalty isolation wards were issued no food but bread.(13)

The problem is further aggravated by the fact that the requirement about medical monitoring of prisoners placed in penalty isolation wards is not fulfilled in some cases. Human rights monitors were most discontent with medical personnel of correctional institutions of the Rostov and Astrakhan regions, and the Primorsky territory.(14) Many former prisoners noted that "before placement in the penalty ward, prisoners are not examined by doctors, and doctors would not call at the penalty ward."(15) In the Astrakhan region, a case of suicide was registered at the colony #8. A prisoner, being in a state of psychological exhaustion and depression, had been beaten up and put in the penalty isolation ward where he hanged himself.(16)

According to former prisoners, the requirement of medical monitoring is satisfied at penitentiaries located in the Chita region, Kemerovo region, Kirov region, Jewish autonomous area, and Khanty-Mansiisky autonomous district.

In the course of the monitoring effort, facts became known that give rather serious grounds to say that methods of bodily punishment of prisoners that are not provided by law have considerable currency, and such methods involve tools as handcuffs and truncheons, used for actions that are not defined by regulations as offences.(17) Also, such methods include beatings-up that are administered without relation to any delinquency or offence on the part of the prisoner.

In interviewing persons that served their sentences in the Leningrad region, human rights monitors heard from one respondent that disciplinary measures were often applied arbitrarily "because the duty officer didn't like your face or he was not in the mood," and disciplinary

measures applied the most frequently to prisoners included placement in the penalty isolation ward, handcuffs, gas, beating up with or without the use of rubber batons.(18) According to a former prisoner who had served his sentence in the Altai territory, staff of SIZO #17/2 of Biysk used to beat up prisoners periodically, although himself and the other prisoners observed the Internal Rules of Correctional Facility. He also cited an incident when “a friend of mine was slandered to have made a knife. He was then put in a cell and beaten.”(19) A former prisoner of a penitentiary in the Mordovia Republic said that prisoners were put in handcuffs and beaten with truncheons for drinking alcohol or smoking outside designated areas. A similar penalty for smoking outside the smoking area was also mentioned by a prisoner who had served his sentence in the Leningrad region. A former prisoner from the Rostov region said that he had been penalized with beating for a violation of the daily routine. According to other reports by former prisoners, in the colonies located in the Oryol region so-called “stretches” were used as penalties, when the subject was put face to the wall, with his legs spread and arms up, and wardens would from time to time come up and beat the subject with rubber batons.(20)

Use of corporal punishments was also reported by former prisoners having served sentences in the Tyva Republic, North Osetia Republic, Buryat Republic, Kursk, Kurgan, Voronezh, Nizhnii Novgorod, Perm, Tomsk, Tyumen regions, in the Altai and Krasnoyarsk territories. It should be noted here that application of physical force to prisoners when it is not absolutely necessary because of their conduct constitutes, in the view of the European Court of Human Rights, humiliation of prisoners’ human dignity.(21)

Use of specialized riot units at penitentiaries for the purpose of intimidating prisoners and providing training to troops is an extreme form of unjustified violence.(22)

Thus, a former prisoner of OZh-118/6-LIU 6, Krivoborye, Voronezh region, reported, “In recent years, the use of OMON (special task police units) by the administration has become far less frequent, but still occurs. This is done for intimidation, for prevention.” Information about such practices was received in the course of the monitoring effort from the Tomsk, Tyumen, Rostov, Perm, Pskov, Voronezh, Kurgan, Leningrad regions, from the Buryat Republic, Adyg Republic, and from the Altai and Krasnoyarsk territories.

Administrations of correctional institutions use special task units not only for prisoner intimidation and surprise searches, but for periodical beatings of those who happened to be in the penalty isolation ward. Monitors in the Leningrad region noted that in this region administrations of correctional institutions consider the use of special task units an absolutely necessary measure not only against prisoner offenders but also against the rest of prisoners. Every visit to correctional colony #3, Fornosovo, Leningrad region, by a special task unit culminated with beating up prisoners kept at the penalty isolation ward. Notably, the likelihood of a visit by a special task unit is higher at places where riot police have their training grounds in the vicinity of the colony. Such a situation exists at correctional colony #5, Leningrad region, as the township of Metallostroi is home to both a colony and riot police’s training grounds.(24)

Occasionally, instances of illegal use of special task units become subjects of formal investigations and public discussion. However, most such cases end up with formal explanations from the administration of the penitentiary in question, as was the case in the Perm region in 2001. Prisoners of colony #244/9-11 sent a letter to human rights defenders complaining against beating-ups by a special task police unit. In its official response, the colony’s administration confirmed that a special task police unit had indeed been brought to the colony on April 17, 2001, but this had been “a scheduled visit.”(25)

There is evidence of cases of excessive violence on the part of penitentiaries’ administrations prompted by offences committed by other parties. Thus, at Moscow SIZO “Butyrki,” the administration subjected prisoners to mass penalty after an escape of an inmate. According to a journalist of *Novaya Gazeta* who conducted an independent investigation, prisoners were subjected to searches and beatings-up, and those protesting such treatment were placed in the

penalty cell. At night, a specialized task police unit was brought in to beat up prisoners. In the opinion of SIZO's administration, such measures were needed to enhance correctional work and as a preventive therapy against escapes from SIZO.(26) A similar case was cited in an interview by a prisoner who had served his sentence in Altai territory. According to him, after an escape from a correctional institution, the prisoners were systematically beaten by a specialized task police unit for four days on end by way of punishment for the failure to prevent the escape.

What is important here is that the practice of unjustified application of mass punishment and brutal force not only is totally illegal but also precludes correction of prisoners. Illegal actions by the correctional institution's administration can never help prisoners develop reverence toward law and law-abiding civil conduct.

Punishment of prisoners for making complaints against illegal actions by the administration also has frequent occurrence. According to a former prisoner who served time in the Perm region, on two occasions he had been penalized for uttering dissatisfaction with the standards adopted by the correctional institution.(27) His complaints were viewed by the administration as a personal offence. Reports about punishment of prisoners for disapproval of the administration's actions or attempts to duly complain against a penalty have also been received from the Kamchatka region and Rostov region.(28) According to complaints received from prisoners, SIZO of Biysk, Altai region, penalized with placement into the penalty cell those prisoners who demanded medical examination after a mass beating-up.(29) Alexander, who served his term in Bryansk region, said that he had more than once been penalized with putting into the penalty cell for disputes with the administration in relation to his rights and responsibilities. According to Aleksander, the administration would tell him by way of explaining the reasons why he was put into the isolation ward; "You are too smart, we'll put you right."(30)

The wide spread of brutal and humiliating practices at institutions of confinement is caused by impunity of the penitentiary system's workers who commit violence against prisoners. The number of cases where such officials held responsible is insignificant. We only received reports from the Omsk region and the Karelia Republic that correctional workers abusing their authority had been penalized, in one case with dismissal from work.(31) In September 2000, a case of severe beating up of two prisoners was revealed in the correctional colony #1 of Karelia. As a result of an internal investigation, the security unit's officers were dismissed from the penitentiary system, and the Prosecutor's office of Karelia is considering their criminal responsibility for exceeding their authority.(32)

Mostly, prisoners are reluctant to complain against illegal actions committed by the administration. According to former prisoners (Rostov region), "the one who complained would be first beaten up by officers or by collaborators, and if this did no help then they would threaten with murder, so prisoners would give up complaining."(33)

On the whole, Russian penitentiary system provides no mechanisms for protection of prisoners complaining against torture or cruel treatment, against persecution or revenge in relation to their filing a complaint. Prisoners who have filed complaints against illegal actions by the administration in most cases are not transferred to a different penitentiary for the time during which the complaint is investigated. Staying in the same institution, such prisoners are subjected to pressure by the administration and, as a rule, refuse to confirm their complaints or give evidence to investigators.

The problem of arbitrary use of disciplinary measures also involves ineffective supervision over the use of "special tools" and force at penitentiaries. It should also be noted that legal penalties would have a wider usage if prisoners could hope for a thorough investigation of their complaints, which is required by law but largely ignored in practice. According to former prisoners, the administration could put offenders into the penalty isolation ward "as part of working procedures," without bothering about complying with legal rules of investigation.(34)

The monitoring findings in the Primorsky territory and in the Buryatia Republic evidence that the requirements of thorough investigation of disciplinary cases and mandatory information of prisoners are not always met. Also, the Nizhnii Novgorod Human Rights Society reports that they have received numerous complaints from prisoners of correctional institutions against illegal disciplinary practices. However, there has been only one case when the resolutions on application of disciplinary measures against seven prisoners were reversed after an audit by the prosecutor's office.(35)

It should be noted that at some correctional institutions the situation is more in line with international and national requirements. Thus, according to the monitoring findings, at penitentiaries of the Omsk region, all complaints by prisoners are always given due consideration. Officers of penitentiaries who exceed their authorities are penalized and even dismissed from service.(36) In the Oryol region, prisoners also have a practical opportunity to file complaints. According to former prisoners, petitions, especially regular ones, can produce results: e.g., at the correctional colony #5, Naryshkino, Oryol region, a head warden was dismissed as a result of prisoners' complaints.(37) Following prosecutor's audits, in the Kurgan region, 11 prisoners were relieved from placement in penalty isolation wards in 2000; 13 in 2001, and 12 in nine months of 2002.(38) Cases of successful appeals against disciplinary penalties have been reported by former prisoners who served time in correctional establishments in the Mordovia Republic, the Chita, Kemerovo, Bryansk, Kirov regions, the Jewish autonomous area, and the Khanty-Mansiisky autonomous district. However, when prisoners are subjected to corporal punishment prohibited by law, there is still no thorough investigation or and no opportunity for the prisoner to speak in his/her defense.

In the course of the monitoring effort, no large-scale or substantial violations of the ban on making prisoners to provide services to the institution were revealed. Individual instances of involuntary use of prisoners to provide services to the institutions of confinement became known from questionnaires received from the Kurgan region, the Stavropol and Primorsky territories, the Republics of North Osetia and Karelia. Thus, a former prisoner told us, "for a violation of the daily routine committed by someone from our team, the entire team was penalized: during the rest time (before working hours), we were ordered to clear the snow in the colony's premises, load it on a sledge and take away."(39)

The monitoring findings indicate that further development of the positive trends that bring disciplinary practices of Russian penitentiaries closer in line with SMR requirements(40) is hampered by excessive brutality in maintaining order at correctional institutions and a wide use of physical violence as a disciplinary measure. These flaws of the penitentiary system can only partially be attributed to deficiencies in the regulatory basis. A much more significant factor is the closed nature of the penitentiary system, lack of public oversight of the observance of prisoners' rights, the low effectiveness of the ministerial and prosecutor's control mechanisms. It must be stressed here that to a large extent the existing poor situation is attributable to a view still widely popular with both penitentiary officers and the public in general that confinement in itself is not a sufficient punishment for criminals.

(1) Federal Law #103 of July 1995 "On Confinement of Suspects and Persons Indicted with Criminal Offences" (as amended on July 21, 1998 and March 9, 2001).
(2) A list of duties of SIZO prisoners is contained in Federal Law "On Confinement" (Article 36) and in Annex 1 to the Internal Rules of Pretrial Facilities. A similar list of rules for prisoners is contained in Article 11 of UIK and in Section 3 of the Internal Rules of Correctional Institutions.
(3) Articles 120, 122, 124, 127 of UIK. Also, under the effective regulations, a limitation of ration may be applied to prisoners put into punishment-type cells or isolation wards as a penalty measure (Article 118 of UIK).
(4) As approved by Order #20 of January 25, 1999, of the Ministry of Justice of the Russian Federation.
(5) From an interview with a former prisoner. Vologda region.
(6) From an interview with a former prisoners. Astrakhan region.

(7) From an interview with former prisoners, 2002.
(8) From an interview with A. Kuvshinov, acting head of the facility UG 42/1.
(9) From an interview with a former prisoner. Kurgan region.
(10) From an interview of workers of the Inter-Regional Human Rights Group with Mr. S. confined at OZh-118/1, Semiluki (Voronezh region), on December 15, 2002.
(11) From an interview with a former prisoner. Nizhnii Novgorod region.
(12) Documents related to a petition by prisoners of SIZO #17/2, Biysk, to Bastion Human Rights Group, 2002.
(13) From an interview with a former prisoners. Kurgan region.
(14) Regional reports on the condition of the penitentiary system in Rostov and Astrakhan regions, in Primorsky territory. 2002.
(15) From an interview with former prisoners. Rostov region.
(16) Documents of I. Rudneva's journalist investigation. Komsomolets Kaspiya (October 23, 2002).
(17) Under Article 86 of UIK, application of physical force or special tools to prisoners can only be permitted if the prisoners offer resistance to officers of correctional institutions, malevolently disobey legal requirements of officers, demonstrate violence, involve themselves in riots, hostage taking, attacks on civilians or staff members, or commit other socially hazardous actions; such force or tools can also be used to prevent prisoners from causing damage to other persons or themselves.
(18) From an interview with a former prisoner. Leningrad region.
(19) From an interview with a former prisoner. Altai territory.
(20) From interviews with former prisoners. Oryol region.
(21) See judgments on the case of Tomasi v. France of August 27, 1992, and judgment on the case of Ribitsch v. Austria of December 04, 1995.
(22) The use of such units in the absence of grave mass violation of the discipline, mass disobedience and riots was widely practiced in the first half of the 90's. In recent years, the number of instances when special task units were used at penitentiaries has reduced substantially.
(23) From an interview of workers of the Inter-Regional Human Rights Group with Mr. N. confined at OZh-118/6 — LIU 6, Krivoborye (Voronezh region) (December 15, 2002).
(24) Regional Report "The Penitentiary System in the Leningrad Region — 2002."
(25) Materials of NTV Television's independent investigation, September 3, 2001, www.ntv.ru
(26) Materials of an independent investigation. Novaya Gazeta. www.novayagazeta.ru
(27) From an interview with a former prisoner. Perm region.
(28) From interviews with former prisoners. Rostov region; Kamchatka region.
(29) Materials of petitions of prisoners of SIZO #17/2, Biysk, given to Bastion Human Rights Group, 2002.
(30) From an interview with a former prisoner. Bryansk region.
(31) Regional Reports "The Penitentiary System in Omsk region — 2002," Regional Reports "The Penitentiary System in Karelia republic — 2002."
(32) Regional Report "The Penitentiary System in Karelia Republic — 2002."
(33) From an interview with a former prisoner. Rostov region.
(34) From interviews with former prisoners. Kurgan region.
(35) From a response by the Federal Department of the RF Ministry of Justice. Reference #09-01-728 of September 20, 2001. Records of the Nizhnii Novgorod Human Rights Society, 2001.
(36) Regional Report "The Penitentiary System in the Omsk Region — 2002."
(37) From an interview with a former prisoner. Oryol region.
(38) Regional Report "The Penitentiary System in the Kurgan Region — 2002."
(39) From an interview with a former prisoner. Karelia republic.
(40) Researchers involved in monitoring of Karelia's correctional institutions have noted "dramatic changes toward humanization of the penitentiary system" occurring over the recent years, to include disciplinary practices. In the course of monitoring effort in the Chita, Kemerovo, Bryansk, Novgorod, Omsk, Orenburg regions, the Jewish autonomous area, the Udmurtia Republic, and the Khanty-Mansiisky autonomous district no material violations of SMR requirements were

revealed in relation to the status of discipline at correctional institutions and their disciplinary practices.

Instruments of Restraint

33. Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:
(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
(b) On medical grounds by direction of the medical officer;
(c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

34. The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

From among the instruments of restraint mentioned in SMR, Russian legislation accounts for handcuffs only. Paragraphs two and four of Article 30 of Federal Law “On Bodies and Organizations Executing Criminal Penalties in the Form of Incarceration” contain a comprehensive, albeit somewhat different than SMR, list of cases when handcuffs are to be used: suppression of mass riots; mass violations of public order by convicts; apprehension of perpetrators putting up malevolent resistance to personnel; escorting and guarding of convicts whose behavior indicates that they may escape or hurt themselves or the others. Special attention is paid to the fact that “application of special instruments and gas weapons must be restricted so as to cause convicts and other individuals minimal harm.” Analogous provisions are contained in Federal Law “On Detention and Custody of Persons Suspected of or Indicted with Criminal Offences.”(1) According to Paragraph 1.8 of the “Instructions on the Surveillance of Convicts Contained in Correctional Facilities:” “the shift on duty… fulfills its surveillance duties without weapons and is equipped with special means of individual protection and active defense: a special “Siren-10” type of chemical, rubber buttons (PR-73), and handcuffs.(2)

Regional monitors report that handcuffs are most frequently used without legitimate grounds when escorting the convicts from pretrial detention facilities to courts. Individuals accused of committing especially grave crimes are not relieved of the handcuffs even during the court proceedings.(3) Guards of the Komi-Permyatsky autonomous district pretrial detention facility handcuff the inmates when escorting them from their cells to the punishment cell.(4)

Alongside with handcuffs the legislation considers as special instruments rubber buttons, light and sound equipment causing a divertive effect, instruments used to destruct barriers, water jets, armored vehicles and war dogs. Of the above-listed, it is rubber sticks that are most frequently used by correction facilities’ personnel. According to former convicts, in institutions of confinement one of the most popular ways to penalize a perpetrator sometimes even for a minor offence is to handcuff him and beat him up with rubber sticks (otherwise known as clubs). Oftentimes, convicts complaining about something, suffer such beatings. In addition to rubber sticks also allowed by law are iron rods(5) and wooden mallets.(6) Such practice is widely spread especially in the so called red zones.(7) Reports from former convicts about mass beatings, in particular when inmates, in the opinion of personnel, do not line up quickly enough, serve as an indicative illustration of the arbitrary use of clubs.(8)

It has already become a norm to welcome or say good-bye to transferring convicts using clubs and war dogs. This is what a former convict has to say about it:

A transport arrives. The inmates are convoyed out. The roll is called and everyone is at the double-quick. If you fail to reach the transport the convoy will beat you up or the dogs will bite you within an inch of your life. Those who are transferred for the first time suffer most, the convoy will humiliate them to the utmost: either beat them up with the clubs or have the dogs bite them. A newcomer never reaches the transport on his own. He is a living corpse when the convoy throws him into the vehicle. (9)

At the All-Russian conference of heads of territorial penitentiary authorities that took place in January 2002, the head of the department for the control of the legality of the execution of criminal penalties of the RF Prosecutor General's Office, lieutenant-general Yu. Yakovlev, named the departments of the Tver, Oryol, and Orenburg regions, as well as the Republics of Buryatia and Tatarstan among the regional penitentiary authorities whose employees commit serious violations of the rights of convicts, including unjustified application of special instruments, most frequently.(10) This list could be extended since practically all the former convicts who have been interviewed within the framework of our monitoring effort on either themselves or their fellow cell-mates and camp-mates having been beaten up with clubs.

Taking into account the recommendations of the European Committee for the Prevention of Torture, Deputy Minister of Justice, Yu. Kalinin, issued on November 25, 2002, Instruction #18/6/2-621t for the heads of territorial penitentiary authorities that regulates the bearing of special instruments. This instruction restricts the permanent bearing of "rubber buttons" by members of shifts on duty to cases when the operative situation within the facility has aggravated and the administration of the facility has authorized the bearing and reported on this authorization to the head of the territorial penitentiary body. The rest of the time, this special instrument is to be kept in duty rooms.

However, the only ban on the permanent bearing of clubs cannot eradicate the corporal punishment practice that has taken deep roots(11) in the correctional facilities. Appeasement of the inspecting authorities and the absence of civilian oversight of Russian penitentiary institutions result in the atmosphere of absolute impunity. And one can only agree with Yu. Yakovlev who concluded at the All-Russian conference that:

The common mission of the Prosecutor General's Office and the Chief Department of Penalty Execution is to execute court sentences and do it in compliance with the law. Therefore, I would like once again to urge us all to observe the law. During the conference, we have spoken about how much has been done to improve the work of the penitentiary system. Indeed, a lot is being done. But one is unlikely to be fully satisfied with what is done as long as the law is broken.(12)

(1) Articles 43, 45.
(2) Approved by Order #83 of the RF Ministry of Justice of March 7, 2000.
(3) Regional Report "The Penitentiary System in the Karachaevo-Cherkessian Republic — 2002."
(4) Regional Report "The Penitentiary System in the Komi-Permyatsky Autonomous District — 2002."
(5) From an interview with a former prisoner. Tomsk region.
(6) From interviews with former prisoners. Rostov and Belgorod regions.
(7) "Red" are colonies in which administrations severely suppress all attempts of the convicts to observe traditions and customs of the prison subculture.
(8) From an interview with a former inmate of facility UE-394/9. Bashkortostan Republic.
(9) From an interview with a former prisoner. Rostov region.
(10) Yu. Yakovlev, "Laws Must Be Complied With," *Vedomosti UIN* (2002, #2, p. 26).
(11) Also see Section "Discipline and Penalties."
(12) Yu. Yakovlev, "Laws Must Be Complied With," *Vedomosti UIN* (2002, #2, p. 27).

35. 1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all

such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

The very first paragraph of Article 12 of UIK ("Legal Status of Prisoners") grants convicts "the right to receive information about their rights and responsibilities, on the procedure and conditions of serving the penalty assigned by the court" and requires that the administration of the penalty execution institution provide such information to prisoners, and familiarize them with any changes of the procedure and conditions of serving their sentences. A similar provision is contained in the Internal Rules of Correctional Institutions. However, neither regulation specifies the form and the procedure for providing such information. As a result, the administrations of confinement institutions make different arrangements in connection with informing prisoners about their rights and responsibilities, about the procedure and conditions of serving their sentences.

Reports are received from different regions that prisoners are informed both in writing and verbally (sometimes, against a written acknowledgement thereof) about their rights, responsibilities, and conditions of serving their sentence in the very first days after arrival, during the so called "quarantine." However, there is at least as big a body of data that constitutes evidence that such in many Russian penitentiaries the situation is different.

According to a former prisoner of the UZ-62/4 colony (Nizhnii Novgorod region), no one from the administration said anything about his rights to him individually: "After about a year in prison, all convicts were given a lecture about this."

At colonies, information about the rights and responsibilities of prisoners, the rules and conditions of serving the penalty is provided in writing on billboards installed at places accessible for reading. However, at many colonies the administration does not inform the convicts undergoing quarantine about this (e.g., correctional colonies US-20/4 and US-20/5 of the Leningrad region, UM-220/7 in the Karelia Republic).

Some former prisoners say that the colony administration only informed them about their responsibilities and said nothing at all about their rights. A former convict of OF-73/2 colony in the Kurgan region recalled that on the very first day a member of the administration had told him that "*zeks*" ("prisoners") had no rights whatsoever. According to a prisoner of UZ-62/9 colony in the Nizhnii Novgorod region, "an officer from the security service reads the rules and requirements, and collects signed statements that we will observe them, and if someone does not sign, he faces repressions."

In the Rostov region, almost all former prisoners interviewed withing the monitoring effort witnessed that when they arrived at the colony, the administration not only failed to inform them of their rights, but, on the contrary, continuously emphasized that the status of a prisoner is similar to that of a slave, with no rights at all. Thus, head of the colony UI-398/12 used to tell newly arriving convicts; "This is a red zone. And here, a year of service will count as three. If you got ten years, they will seem as thirty years in."

Many of those interviewed remained, after all, in the dark about the rights granted to convicts. It must be admitted that, due to the lack of legal culture, prisoners take very little interest in regulatory documents governing their status, and in some cases are even unaware about the availability at colonies of billboards with abstracts from such regulations.

Indifference to effective rules and legal nihilism are to a large extent generated and bred by the administrations of correctional institutions. Obviously, observing the formal procedure of informing prisoners about provisions of regulatory acts does not automatically mean that the administration itself will follow them undeviatingly. For instance, a former prisoner of US-20/7 colony in the Leningrad region said the following about the ways in the colony; "When we were in quarantine,

we were read our rights, but things were totally different in practice. Oh, you would never forget this! We got a full load of it!" The same situation can be found in many penitentiaries throughout Russia.

The situation in pretrial detention facilities is very much the same as that in correctional colonies.

Paragraph 1, Article 17 of Federal Law "On Detention and Custody of Persons Suspected of or Indicted with Criminal Offences" grants suspected or indicted persons the right "to receive information on their rights and responsibilities, the procedure of holding in custody, disciplinary requirements, the procedure for filing requests, declarations, and complaints." Internal Rules of Pretrial Facilities require that the administration provide suspects and indicted persons held at SIZO with information about their rights and responsibilities, the detention procedure, applicable disciplinary requirements, the procedure for filing requests, declarations, and complaints (Paragraph 13). Later on, according to Internal Rules of Pretrial Facilities, such information must be provided to suspects and indicted persons on a regular basis:

On the radio, during cell visits by facility personnel, during personal visits of suspects and indicted persons by the head of SIZO or officials authorized by him. Upon request, suspects or indicted persons are issued for temporary use by the SIZO library the federal law and these Rules. In each cell, information about the core rights and responsibilities of suspected or indicted persons held in a SIZO must be available on a wall billboard.

The reality is way far from punctual observation of laws and regulations. More of less satisfied is the simplest requirement to display information about key rights and responsibilities of suspected or indicted persons. However, considering the scarce light and overcrowded of cells at SIZOs, it can be safely said that this method of informing prisoners about their rights and responsibilities is the least effective.

The situation is even worse in terms of observing the most important right of a prisoner, the right to file requests, declarations, and complaints.

36. 1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.
2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.
3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.
4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Russian regulations grant prisoners the right to file requests, declarations, or complaints with various instances and provide a detailed procedure for exercising this right.(1)

In the absence of civilian oversight of pretrial detention facilities and correctional facilities, and given the negligence on the part of the prosecutor's office towards their supervisory duties in relation to the "fulfillment of laws by the administrations of bodies and institutions executing the penalty and court-assigned measures of forcible nature, by the administrations of confinement facilities for arrested or detained suspects,"(2) the exercise of this right by prisoners is rather difficult. Most former prisoners interviewed had never complained as they were convinced that it was useless and, moreover, fraught with grave consequences for the complainant. This also applies to those colonies and SIZOs where the administration is trying to create "humane" conditions of confinement for prisoners. For example, according to a former prisoner, UB-14/13 colony of the Altai territory "had never been beyond the limits… and there had been no violations on the part of the administration," but at the same time "complaints didn't go out," only "if you

send them with someone… otherwise, no way."

In the view of the dominant majority of respondents, most of complaints (addressed primarily to the prosecutor's office) remain without response as they never leave the colony. This may sometimes be the case, but the core reason lies in everyday violation by the supervisory authority of Article 10 of Federal Law "On Prosecutor's Office of the Russian Federation" that regulates "consideration and resolution, by prosecutors' offices of declarations, complaints, and other addresses." According to lawyers, complaints about the conditions of confinement at penitentiaries are often bounced back to the heads of the institutions where they originated, which constitutes a crying violation of Paragraph 5 of this Article prohibiting such practices.

Some former prisoners cited cases when complainants had been beaten up or subjected to penalties such as punishment ward: "Write a complaint and find yourself in the penalty isolation ward." A former prisoner of the aforementioned UI-398/12 colony in the Rostov region reported that there was no way to complain as the entire "zone" had been frightened.

According to a former prisoner of UT-289/10 colony in the Perm region, you had to be strong and prepared to protracted "pressing" if you wanted a resolution made on your complaint. Another option was to file blanket complaints.

In the summer of 2001, prisoners of SIZO #1 of Irkutsk had to resort to disobedience as their complaints addressed to the department of penalty execution for the Irkutsk region, to the prosecutor's office of Irkutsk region, and to the Governor of the Irkutsk region about repeated violations by SIZO's administration of their rights listed in Article 18 of Federal Law "On Detention" had been left without response. The riot police brought into the facility staged a mass beating of prisoners. In response, they went on a hunger strike and wrote a blanket complaint to the Moscow Helsinki Group. It was only after a public interference that the Chief Department of Penalty Execution and the General Prosecutor's Office of the Russian Federation stepped in and established a relative order at the Irkutsk SIZO.

Official inspections of institutions of confinement prove to be an ineffective method to address problems faced by prisoners. Overseeing prosecutors visit colonies regularly, but, in the same way as written complaints, most verbal declarations remain without response. A lot depends on where the colony is located. The more distant it is from the regional center, the less chance the prisoner has to be heard by an inspection official. Thus, at remote colonies prisoners are far less likely to turn a verbal complaint as compared to colonies located in the vicinity of large cities where both inspections are more frequent and the percentage of positive responses to complaints is greater.(3)

To draw a bottom-line, it should be restated that introduction of civilian oversight of penitentiaries is of a paramount importance for establishing order at penitentiaries and improving the situation in terms of observance of prisoners' human rights.

(1) Articles 17 (Paragraphs 3 and 7), 21, 39, 40 of Federal Law "On Detention…;" Articles 12, 15, 91 of the Criminal Implementation Code of the Russian Federation; Paragraph 49, 94—103 (Section IX) of the Internal Rules of Pretrial Detention Facilities, Paragraph 3 (Part 1), 13 of the Internal Rules of Correctional Institutions.
(2) Out of the title of Article 4 of Federal Law "On the Prosecutor's Office of the Russian Federation."
(3) From interviews with former prisoners, 2002.

37. Prisoners shall be allowed under necessary supervision to communicate at regular intervals with their family and reputable friends, both by correspondence and by receiving visits.

38. 1) Prisoners who are foreign nationals shall be allowed reasonnable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

2) Prisoners who are nationals of States without diplomatic or consular representation and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

39. Prisoners shall be kept informed regularly of the most important items of news via newspapers, periodicals or special institutional publications, wireless transmissions, lectures or any similar means as authorized or controlled by the administration.

SMR are based on the idea that the degree of isolation must be in proportion to the offense committed. At the same time, SMR emphasize that a security measure such as imprisonment is sufficient punishment *per se* because the prisoners are effectively denied the use of their basic rights (Rule 57). Hence, the principle of strict isolation in the penitentiary systems should be applied when there is a well-grounded reason for it. In this regard, communication with family members at regular intervals both through visits and unrestricted correspondence helps to keep the prisoners linked with the outside world and its social life. The organization of an information space is also of the utmost importance for the social adaptation of the prisoners. To achieve this end, the prisoners should be allowed to have access to mass media, which should include not only specialized editions but also basic major newspapers, magazines, radio and other programs which can help to shape an objective view of the outside world.

While being aware of the problems that can be encountered by foreign nationals, refugees or non-citizens, who may suffer from the fact that the prevailing social environment outside the penal colony remains an alien rather than a friendly medium, SMR particularly emphasizes the compelling need and obligation on the part of penitentiary facility wardens to grow and maintain links with social institutions that act as mediator between these type of prisoners and society.

Russian norms, particularly UIK and Internal Rules of Correctional Institutions, refer to international standards and identify different measures of security in strict regime. As an example, Article 8 of UIK provides for “rational application of coercive measures, correction strategies for prisoners and tools to urge them to lead a law-abiding and self-supporting life, with the punishment being supported with corrective influences,” while Paragraph 3, Article 9 of UIK urges to take into account the “type of punishment, character and degree of social danger of the offence, and personality and behavior of the convict.”

Article 89 of UIK gives all categories of prisoners in penitentiary facilities the right to receive visits from their relatives (also see: Article 14 of Internal Rules of Correctional Institutions). This right is denied only to prisoners sentenced to penal facilities not categorized as correctional institutions (see Paragraph 2, Article 69 of UIK). Those prisoners keep the right to communicate with their defense attorneys and make telephone calls to their families under exceptional circumstances. It is important to stress that in the aforementioned penal facilities or jails the isolation regime is more rigid as compared with other imprisonment regimes with a specific number of visits by family members per year. These visits are broken down into the following three categories: short-term and long-term on the penal colony grounds, and long-term outside the penal institution. Understandably, as the imprisonment regime grows more stringent, the prisoners are increasingly more cut off from the outside world, with long-term or out-stay visits being denied and with the specified annual visit totals being curtailed. However, irrespective of the established imprisonment regime maintained by the correctional colony, the authorized duration is kept unchanged: short-term visits last four hours, long-term visits within the colony grounds — three days, and long-term stays outside the penal colony grounds — five days.

Internal Rules of Correctional Institutions specify that short-term visits are held in the presence of a penal colony administration officer, and that the personal effects and clothing of visiting relatives arriving for a long-term stay can be examined (Article 14).

The right to communicate by correspondence can be enjoyed by any and all categories of

prisoners, without limits to the number of letters or telegrams (Article 91, UIK). The legislation stipulate that the prisoner should pay for his/her communication, and that any incoming or outgoing message should be subject to censorship. As a matter of fact, this requirement is an obstacle for unrestricted correspondence, particularly since not all prisoners can afford the requisite material and that local censors are compelled to delay the delivery of messages whenever the correspondence traffic grows too heavy. This question is especially challenging because, while stipulating the procedure for examining the prisoner correspondence, the applicable Internal Rules of Correctional Institutions establish no relevant deadlines for the process (Article 12). There is only one established time-limit: 24 hours for checking out prisoner telegrams (Paragraph 4, Article 12 of Internal Rules of Correctional Institutions). Prisoner appeals, complaints, statements or proposals dispatched to the superior authorities that are supposed to oversee the situation at penal colonies are not subjected to censorship (Paragraph 4, Article 15 of Internal Rules of Correctional Institutions), neither are censors permitted to examine the correspondence handled by relevant defense attorneys (Article 12 of Internal Rules of Correctional Institutions).(1)

Convicted prisoners are allowed to make a certain number of telephone calls per year (Article 92 of UIK and Article 15 of Internal Rules of Correctional Institutions), each communication lasting 15 minutes. Under exceptional circumstances, the right to make a telephone call can be granted to high-security-prison inmates and those inmates who have violated local rules. All telephone conversations are monitored by penal colony administration officers (Paragraph 5, Article 92 of UIK and Article 15 of Internal Rules of Correctional Institutions).

Pursuant to SMR, UIK contains a separate provision (Article 94) drafted to establish rules for watching television and listening to the radio. All prisoners, with the exception of those who are penalized for non-compliance with the Internal Rules of Correctional Institutions, have the right to watch television within the fixed time periods or listen to the radio in their leisure time. Importantly, the right to listen to the radio is also extended to those prisoners that are kept in isolation cells. Radio receiving devices across penal colonies are installed by the administration.

The prisoners normally enjoy the right to receive visits, engage in correspondence, make telephone calls and have access to mass media materials. The still persisting limitations or violations of this right have for the most part been produced by circumstances out of the control of penal colony administrations. Those limitations concern primarily the rights to engage in correspondence and enjoy access to mass media materials.

The right to engage in correspondence with family members is not violated in any major way. The only factor that can slow down the correspondence traffic is the capacity of the post office, and the established procedure for examining the prisoner correspondence. The monitoring has found cases of correspondence not dispatched for a lengthy period of time due to intermittent work by the censors. This kind of situation has mostly developed in penal colonies with high prison populations. Usually, a penal colony employs two or three censors who inevitably come to be pressed for time, with the occasional use of intentional foot-dragging techniques also being a factor. Overall, former prisoners in their interviews have not generally complained about the way their mailings had been handled by penal colony administrations.

Inadequately resourced penal colonies make it difficult for prisoners to enjoy access to news reports. In general, subscription to newspapers or magazines for the library only makes for a small numbers of copies. Many colonies have no subscriptions at all, relying solely on the availability of specialized editions distributed by the criminal execution system for fresh news reports. According to numerous prisoners, penal colony administration officers have not voiced objections to inmates subscribing to print media. Normally, the commitment of penal colony administrations to guarantee prisoner access to information does not go any further. Sometimes, they also create obstacles. In the course of this monitoring effort, we learnt that in one Russian penal colony prisoners are simply banned from enjoying access to public information. To quote from relevant interview, “…no literature whatsoever. Of late, we have even been denied any

access to newspapers that used to be brought and handed over by the visiting relatives."(2) However, there are cases where colony administrations appear to be paying more attention to this issue, helping prisoners to buy print media subscriptions and making arrangements with humanitarian organizations for delivery of periodicals and other literature.

Importantly, the monitoring effort has secured evidence indicative of the increasing popularity of television as a source of news reports and other information for prisoners, in detriment of the radio. Although the colony accommodation facilities are normally fitted with television sets, their number is too limited, e.g., one TV set for every 180 prisoners. Things are not much different regarding the availability of radio receivers, with just one radio set for each dormitory. According to many former prisoners, most of the public news are still brought by visiting relatives.

Given the prevailing conditions, the availability of information in the penal colony is very fragmentary. Often, the problem is that not all prisoners can have access to their chosen media (by way of buying the desired print media subscriptions, watching television or listening to the radio), and receiving information through centralized channels is impossible, except on rare occasions.

According to former convicts, no officially unsubstantiated refusal of a family visit has ever happened. It is worth noting that a prisoner would normally be refused the right to communicate with his family through a visit should the prisoner have violated the colony rules or been put into a punishment cell (although this opportunity will be saved for a later date). This practice has also been confirmed by close relatives of prisoners:

You get no visitation right if your son has been put in a punishment cell.(3)

Also:
My scheduled visitation has been called off because my son was confined to a strict-regime isolation ward.(4)

It is a different matter when penal colony officials arbitrarily argue that there had been a violation of the Internal Rules when, in fact, none had actually occurred. For example, relatives of a prisoner informed the local monitors; "Last time he was locked up in a punishment cell because he would not sing in chorus as directed. The prisoners are said to be ordered to sing and march in goose step just like in the army."(5) The problem is that reprimands are rarely used, and the threat of a punishment cell appears to be a principal disciplinary measure applicable to prisoners that have been breaching the Internal Rules or displeasing the staff. The punishment cell is a multi-dimensional tool, applied irrespectively of the gravity of the violation committed, according to many of the interviewed prisoners. The use of punishments cells has been broadly practiced to put psychological pressure on prisoners. In addition, once confined to a punishment cell, the prisoner would have to suffer tighter rules and reduced meals. As a matter of fact, such prisoners are denied the right to receive either food packages or visits from their relatives.(6) And as long as it is "never a problem for local administration officials to put a prisoner into a strict-regime isolation cell" (according to former convicts), the penal colony authorities can easily find the grounds to deny the prisoners the enjoyment of family visit rights.

According to the survey conducted among relatives of prisoners, one can safely conclude that they have generally been notified of the forthcoming opportunities to see their loved ones well in advance. The general practice is that it is the prisoners themselves who let their relatives know of the scheduled visit dates through letters. Thus, with his/her relative having already arrived at the penal colony, the prisoner can still be denied the right to enjoy the originally scheduled visit in case he/she is serving a penalty. Sometimes, it happens that a relative, who has failed to make a telephone call and find out about the current disciplinary status of the prisoner he/she is scheduled to visit, arrives at the penal colony only to be refused the planned visit. To quote:

Information (on the postponement of the visit) can be obtained in the penal colony, but the

whereabouts of my son can also be obtained by telephone.(7)

Also:

We have been denied the use of visit rights. The duty officer said our son had been punished for breaching the rules.(8)

Also:
Once we were not allowed to see our brother, although we had already arrived to the colony, the reason being he was confined to a strict-regime cell.(9)

Another problem that results in the practice of limiting the right to receive visits, comes from the persisting visit conditions that can effectively hamper or degrade the person-to-person communication sought by prisoners. To quote:

Short visits are a nightmare. Just try to imagine a sort of a bar counter separating prisoners from their visitors who are closely packed together. What you get is an unmanageable crowd. You have to strain to catch a remark addressed to you. Then, you are constantly aware of a local administration officer that keeps looking on. Many words are simply lost because of the terrible noise in that visit room.(10)

Also:

The conditions there are not good. You just cannot stand it there in hot weather, with no ventilation and all windows closed at all times. You scream into the phone. The telephone lines function inadequately. The sound just goes on and off… The glass is dark, vision is poor. On one occasion, I had to keep the wire ends together to keep my line functional. And when the telephone does not work we have to shout trough the glass.(12)

Meanwhile, some relatives have been complaining about the harsh and even offensive attitudes of penal colony administration personnel:

There is nothing that you can like there. All we receive there is rough treatment, though we have done nothing to provoke it. They would talk to us as if we were dogs.(13)

Also:

We just have to confront a lot of boorishness and rudeness.(14)

The monitoring effort has secured more than anecdotal evidence on the unlawfully curtailment of scheduled short-term visits by the penal colony administration personnel. Former convicts complain:

You cannot tell those guys anything. Now they give you 40 minutes, now — much less. On one occasion, we just got 15 minutes.(15)

Also:

We never knew that short-term visits could last 4 hours. It was only one year later that we came to know more about our rights.(16)

Also:

We merely had one and a half or two hours each time.(17)

From the interviews with relatives of the prisoners, it can be concluded that penal colony

administration officials abuse some of the regulations, for example limiting the duration of short visits, of which relatives are not informed. Importantly, most of the interviewed relatives said that they have not been briefed on their rights and established colony procedures.

The monitoring effort has also revealed some cases where the enjoyment of visitation rights depended on material compensations to penal colony administration personnel, which obviously is a gross violation, not to mention that not all relatives are able to provide the unlawfully required payments to see their rights implemented in full. This practice of informal retribution arrangements (a grave problem for the Russian penitentiary system) seems to be in some cases the only effective way in which relatives of prisoners can enjoy their right to visit the confined. Relatives of convicts bitterly complain that “if you refuse to pay up in keeping with the established conventions, you will wait and wait for your visit to be eventually cleared.”(18)

Prisoners — Foreign Nationals and Stateless Persons

UIK guarantees the rights of foreign nationals and stateless persons within the limits set by the federal legislation on the legal status of foreign nationals and stateless persons (non-citizens) and regulatory documents and directives issued by the local penal system (Paragraph 3, Article 10of UIK). Those prisoners, who are foreign nationals or non-citizens, have the right to engage in correspondence in their native tongues. In addition, UIK provides for the availability of translators should that be required by the prisoner (Paragraph 5, Article 12 of UIK and Article 13 of Internal Rules of Correctional Institutions).

Paragraph 9, Article 12 of UIK and Article 13 of Internal Rules of Correctional Institutions repeat, in fact, SMR provisions enabling foreign nationals to maintain links with official representatives of their states or establishments that have undertaken to protect their rights, unless the prisoners have their interests effectively defended by the Russian-based diplomatic missions from the states to which they properly belong. However, those provisions do not mention the issue of refugees or stateless persons, which does not correspond accurately with the meaning of the relevant articles of SMR. Most probably, Russian law implies that the interests of those persons shall be protected by the specially authorized Russian government structures, particularly since their conditions in penitentiary institutions are governed by the federal legislation on the legal status of foreign nationals and stateless persons (non-citizens) and, to all practical purposes, by the federal legislation on refugees. Nonetheless, Russian law does not carry special provisions to safeguard the right of refugees or non-citizens to maintain links with the institutions that would undertake to stand up for their interests. It should be noted that UIK and Internal Rules of Correctional Institutions does not mention refugees as holders of rights or legal subjects.

At this point it would be also appropriate to note that imprisoned foreign nationals and non-citizens cannot always count on being visited by members of diplomatic missions or inter-governmental institutions, particularly since these matters are managed by penal colony administrations. Besides, they would be classified as “other” organizations along with mass media or public associations (Paragraph 2, Article 24 of UIK). While it is generally understood that any access to penitentiary facilities should be strictly regulated and limited, the very absence of an applicable legal provision can result in groundless complexities.

However, Russian law stipulates that foreign nationals or non-citizen prisoners, should be confined to specialized correctional penal institutions or the so-called “foreign facilities” (Paragraph 3, Article 73 of UIK). Since our effort monitoring has not been carried out in such colonies, we cannot assess the situation therein.

(1) The prisoner’s correspondence with his defense attorney can be monitored following a substantiated ruling by the given correctional institution’s warden (Article 12 of Internal Rules of Correctional Institutions).
(2) From an interview with relatives of a prisoner from the Voronezh region.
(3) From an interview with relatives of a prisoner from the Komi Republic.

(4) From an interview with relatives of a prisoner from the Kirov region.
(5) From an interview with relatives of a prisoner from the Komi Republic.
(6) “Should the isolation-ward-confined prisoner be exempt from performing any labor functions, he shall receive reduced meals” (Paragraph 4, Article 18 of UIK).
(7) From an interview with relatives of a prisoner from the Komi Republic.
(8) From an interview with relatives of a prisoner from the Astrakhan region.
(9) From an interview with relatives of a prisoner from the Kirov region.
(10) From an interview with relatives of a prisoner from Astrakhan.
(11) Communication actually occurs with the use of a telephone.
(12) From an interview with relatives of a prisoner from the Voronezh region.
(13) From an interview with relatives of a prisoner from the Voronezh region.
(14) From an interview with relatives of a prisoner from the Belgorod region.
(15) From an interview with relatives of a prisoner from the Voronezh region.
(16) From an interview with relatives of a prisoner from the Belgorod region.
(17) From an interview with relatives of a prisoner from the Krasnodar territory.
(18) From an interview with relatives of a prisoner from the Krasnodar territory.

Books

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Visits to the library and reading of books are considered by international standards to be one of the institutionalized methods of leisure in correctional facilities. SMR contain a separate clause obligating penal institutions to establish libraries and in due manner accumulate book funds.(1) (Article 40 of SMR). The same article of SMR contains a call to encourage prisoners to read books, which is regarded as one of the most significant elements in the correction process. Other SMR articles (56—61) make it clear that intellectual leisure of prisoners must be supported by institution management since it forms a basis for a follow up reintegration of the prisoner into the society.

Russian legislation in terms of the right to visit libraries and read books in penal institution conforms to international norms. Article 95 of UIK stipulates for the rights of all prisoners to read books, limits the number of books a prisoner may use at one time (no more that 10 publications, including newspapers and magazines). It also codifies the principle which underlies the nature of allowed books. Under Paragraph 2, Article 95 of UIK prisoners cannot use books which contain any war propaganda, ethnic and religious hatred, promote violence and are pornographic publications. Besides, the article contains the right to receive books in parcels (book-posts), with these special parcels not included into the limited number of parcels that one can receive per years.

It should be noted that Russian UIK does not have a clause obligating institution administrations to equip a library and regulating reading hall /library operation procedure. Nor does UIK contain any commitments on the part of penal institutions to see to it that their libraries are properly maintained. Neither are libraries mentioned in Articles 109—110 “Educational Impact on Those Sentenced to Incarceration,” which declares objectives of enhancing cultural and educational level of prisoners, nor is there any mention of libraries in Article 112, “General Education of Those Sentenced to Incarceration.” Thus, library visits and reading are not prohibited and relate to prisoners’ leisure, to so-called “private time.” At the same time, the legislation does not directly prescribe any incentives for prisoners who actively use libraries, read books in their free time (Paragraph 1, Article 113), apparently because of the fact that library visits and reading are not listed as main correction means (Paragraph 2, Article 9). This legislative neglect with regard to libraries in penal institutions does not quite conform to SMR principles set forth in Articles 40 and 78. The latter mentions the need to ensure “in all institutions… opportunities for recreation and

cultural activities in the interests of their (prisoners') physical and psychological health."

Internal Rules of Correctional Institutions have practically no specific references to libraries and literature. This matches the logic of Article 1 of Internal Rules, which harmonizes Internal Rules and UIK. The above-mentioned absence of a separate article or paragraph on libraries in UIK brought about the situation that Internal Rules have no substance for detailed regulation. The Rules reiterate the norm on prisoners' right (irrespective of the punishment) to use the library and have private time (Articles 3 and 5 respectively). Bearing in mind the fact that tentative daily routine (Annex 3 to Internal Rules) has no library time, this activity is part of the private time.

As was mentioned above, all categories of prisoners enjoy the right to visit libraries as well as read books that they receive, following the procedures set in Internal Rules. Nevertheless, Article 23 of the Rules which deals with peculiarities of keeping prisoners in isolation wards of strict regime (ShIZO), punishment cells (ITK) etc., clearly prescribe the list of allowed items, and the ShIZO list includes no books or text-books or manuals, though a similar ITK list directly refers to the right to have text-books and use the library.

With only few exceptions, Internal Rules do not specify banned books. Annex 3 to Internal Rules "List of Belongings and Items, Food which Prisoners Cannot Have, Receive in Parcels, Book-posts or Purchase," includes only books on topography, marshal arts, dog-breeding, arms design, topographic charts and maps, pornography. Thus, the above-mentioned Article 95 of UIK, which is generic in terms of its contents, provides the ground for banning literature.

Absence of individual regulating articles is one of the reasons why penal institution administration participation in supporting libraries becomes a mere formality. Practically all penal institutions have some premises for libraries but(2) most of interviews with former prisoners reveal that library funds are extremely limited and lack variety. To quote, "We had nothing to read. The books which were sent to us were just rubbish they didn't want to throw away."(3) On the whole, library fund assessment often depends upon prisoners' leisure preferences. Rather infrequent positive estimates belong, as a rule, to respondents with low literature and current information demand, and sometimes to those who never visited the library while in a penal institution.

In practical terms, prisoners fulfill their need in literature through their right to receive books from relatives. Many prisoners noted in their interviews that they only use the books they receive, or the books they buy.(4) In many cases, informal libraries are established in prisoners detachments. Prisoners form "own library funds," pooling together their books, and swapping books:

I subscribed to a couple of newspapers. I was getting some books from home. Then we swapped books. When I was released I left my books — why should I take with me the books practically worn out by reading?(5)

Also:
You visit other detachments and ask for books.(6)

We have every ground to draw a conclusion that penal institution administration does not make efforts to expand library funds. The funds grow when prisoners themselves hand over books to libraries right before their release or in a situation when they have more than ten books simultaneously.

Library funds status in penal institutions leads to informational and cultural isolation of prisoners. Normally, libraries have, with very few exceptions, some fresh newspapers, but they are either narrowly specialized, or the selection is more than limited. To quote, "There was one "bitch of a newspaper, *Novye Rubezhi*." (issued by the local department of penalty execution)(7) According to most interviews, satisfying informational needs remains the task of prisoners themselves. To quote, "If you subscribe — you will be reading newspapers. You will not get any newspapers

otherwise. If you have money — you subscribe."(8) Another way to get information is through newspapers and magazines brought by relatives who visit prisoners. As for electronic mass media, in most of interviews former prisoners stated that they could freely watch information programs during the set time, given there was a TV set in their detachment. In this case, the administration's involvement was confined to their consent to let the inmates watch TV, but hardware was purchased by prisoners themselves or was brought by relatives.

Typically, former prisoners were saying in interview that they could freely use libraries in their spare time. But in some cases, they noted that library access was constrained either by local regulations ("each detachment had a set day — approximately once a week.")(9) or by a complex bureaucratic procedure ("I did not use the library because of a very difficult badging procedure — one has to collect several signatures of penal institution officials including Superintendent's"(10)).

According to the information from the regional monitors that visited penal institutions, premises for libraries, as a rule, lack acceptable reading conditions and therefore visits to the library are not among the prisoners' preferred ways to spend their leisure time.

For most of penal institutions, funds updating remains a problem. The update sources are basically humanitarian organizations which donate books. Sometimes, books come from shrinking regional and district libraries. Most of penal institutions' heads in their interviews mentioned inadequate centralized book supplies from the Chief Department for Penalty Execution as an urgent problem, as well as absence of book supply sources other than those mentioned above.

Nevertheless, it should be mentioned that in some penal institutions libraries are organized (e.g., the Chita, Nizhnii Novgorod, Bryansk and Tambov regions). Libraries there have catalogues, reading halls, they receive fresh newspapers and magazines, literary conferences are held. In some cases libraries account for as many as 14 000 books and ten different periodicals.

In conclusion we would like to stress that administration of penitentiaries, as a rule, are not curbing the right of prisoners to use libraries or read their own books. But more often than not this right happens to be hard to implement, since library conditions and the fund's size cannot be regarded as satisfactory. This is caused, among other things, by the absence of direct legislative obligation for the penal institutions to maintain libraries in proper conditions.

(1) "Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it," Paragraph 1, Article 40 of SMR.
(2) Former prisoner of a penal institution in the Kamchatka region noted that there was no library at all.
(3) From an interview with a former prisoner. Adyg Republic.
(4) From an interview with a former prisoner. Nizhnii Novgorod region.
(5) From an interview with a former prisoner. Tver region.
(6) From an interview with a former prisoner. Republic of Tyva.
(7) From an interview with a former prisoner Bryansk region.
(8) From an interview with a former prisoner. Republic of Bashkortostan.
(9) From an interview with a former prisoner. Perm region.
(10) From an interview with a former prisoner. Tomsk region.

41. 1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.
2) A qualified representative appointed or approved under Paragraph 1 shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.
3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall

be fully respected.

42. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

One of the fundamental ideas of SMR that is accounted for by the “Basic Principle” of SMR (Part 1, Rule 6) is the impartial treatment of prisoners regardless of their particular characteristics. Especially emphasized is the ban on application of double standards in treating prisoners and the unacceptability of discrimination on any grounds. At the same time, this principle should not be regarded as that of neutrality and indifference since it relates to the policy of tolerance with respect to various, in our case, religious preferences, as well as the recommendation to respect religious choice of inmate (Paragraph 2, Rule 6).(1)

A separate SMR Rule 41 has to do with the observance of principles of the freedom of conscience and religion. The freedom of religion (individual religious choice and worship practices) is granted to all prisoners, while the degree to which the freedom of conscience can be exercised depends on the amount of prisoners sharing the same religion. To clarify, it is possible to publicly express one’s religious beliefs on a regular basis and participate in mass religious ceremonies conducted by a qualified representative of a religious entity if the number of inmates sharing the same religion is sufficiently large (Paragraph 1 and Paragraph 2 of Rule 41 of SMR). In such situations, SMR prescribe to employ a minister as a staff member of the penal institution so that he could regularly perform the necessary rites and converse with the believers whenever they need it. If the number of prisoners sharing the same religion is insignificant the administration of the facility is not under obligation to invite a minister of the denomination in question (Paragraph 3, Rule 41 of SMR).(2) Note that the article does not provide any criteria to determine the size of a religious community within a correctional institution, while Rule 42 grants the right to participate in religious rites and own religious literature to all believers within a penal institution. Apparently, the presence of a minister is not necessarily required here; most likely independent exercise of rites is also implied.(3)

Regulating the principles of exercising the freedom of conscience and religious beliefs, SMR stress that participation of inmates must be exclusively voluntary. “If a prisoner protests against a visit by a minister his disposition must be fully respected” (Paragraph 3, Rule 6). SMR do not specifically guarantee the right to exercise atheism because it is regarded as an independent religious choice as well.

Russian legal norms pertaining to the freedom of conscience and religion for prisoners are provided in Article 14 of UIK. At large, the article does not contradict SMR. It provides for basic guarantees of the freedom of conscience and choice of religion, including atheism (Paragraph 1 and Paragraph 2, Article 14 of UIK).

The norms accounted for by this article apply to all categories of prisoners, as much as the right to communicate with a minister and perform religious ceremonies. It is the right of a prisoner to communicate with a minister in private that UIK does not mention, which can be considered as contradicting international norms. In addition, the article does not regulate any issues pertaining to full-time employment of ministers whenever a religious majority is in place in a correctional facility, but it does concretize the duties of the administration when it comes to the provision of a separate room for the “exercise of religious rites and utilization of cult attributes and religious literature” (Paragraph 4, Article 14 of UIK).

A convict’s freedom of conscience may only be restricted by considerations of minister’s safety (Paragraph 5, Article 14 of UIK) or objective circumstances external to the institution. The latter may not be regarded as a violation or non-compliance with SMR in light of Paragraph 4, Article 3 of UIK, which provides that “recommendations (declarations) of international organizations pertaining to issues related to execution of penalties and treatment of convicts are applied within

the RF legislation regulating administration of justice provided that necessary economic and social conditions are in place," which, in turn, does not contradict Rule 2 of SMR.(4)

Internal Rules of Correctional Institutions reiterate guarantees of the freedom of conscience and religion and specifically emphasize the unacceptability of coercion when it comes to freedom of conscience issues (Article 3, "Basic Rights and Duties of Convicts in Correctional Institutions"). There are no other articles or provisions regulating issues related to the equipment of premises for exercising religious ceremonies, storing religious paraphernalia owned by inmates, etc. (see UIK). There are grounds to assume that administrations of correctional institutions are governed by the norms accounted for by UIK and a range of internal documents and instructions when accommodating religious needs of inmates.

The RF Ministry of Justice views religious practices as means of correction that can be used to further develop provisions contained in the "Principles of the RF Legislation Regulating Implementation of Criminal Penalties" (Article 8 of UIK) — "…to stimulate their [convicts'] law-abiding conduct, combining the penalty with correctional effect." Thus, for example, V. Davydenko, Chief Special Inspector of the UVRO GUIN of the RF Ministry of Justice in his article published in *Vedomosti UIS*(5) considers the religious upbringing of inmates exclusively important viewing it as the most essential element in the implementation of provisions of the Concept of pedagogical work with convicts in the penitentiary system conditions.

Vedomosti UIS is the official journal of the RF Ministry of Justice. Therefore, employees of the penitentiary system treat recommendations contained in articles written by Ministry's functionaries as instructions. Thus, the criteria for selection of religious organizations that can be allowed into correction facilities and prisons, accounted for by the article in question, are most likely practically applicable in the everyday work of administrations of correction facilities. Such a conclusion is possible due to the fact that the monitoring effort has demonstrated that religious diversity in penitentiary institutions is confined, as a rule, to Orthodoxy along or Orthodoxy and another religion that is traditional for the region in which the monitoring took place. For example, Protestant denominations are rarely encountered in penitentiary institutions. As far as the selection criteria are concerned, they are so complex they would require administrations of correction facilities to undergo special training in the history of religion. Therefore, it is obvious that deciding in favor of or against allowing ministers into correction facility they act based on the principle of reputation and "traditionalism" of a religious organization out of "security" considerations.

Thus, the propagation of the Jehovah Witnesses' doctrine was forbidden in one of St. Petersburg correctional facilities in order to avoid religious conflicts.(6) At the same time, Evangelic Christians and Seventh Day Adventists work in correctional facilities of the Oryol region.(7) In the correctional facility IK-2 in the Astrakhan region there are Orthodox and Islamic praying chambers, as well as a praying chamber for Christian Baptists.(8) Baptism is as widespread in correctional facilities of the Bryansk region as the Orthodoxy.

Nevertheless, the statement that the Russian Orthodox Church dominates our correctional facilities is justified. Stemming from the provisions of SMR (see above) that render the degree of implementation of the freedom of conscience dependent upon the number of individuals sharing the same religious convictions such a provision cannot be regarded as limiting the rights of other inmates who do not belong to the Russian Orthodox Church. Within our monitoring effort, individuals who do not identify themselves with the Russian Orthodox Church, as well as those who to the question "whom do you consider yourself religion-wise?" answered "nobody," "atheist," "non-Orthodox," "a believer" etc., constitute approximately one half of all inmates (data obtained from interviewing former convicts). The other half identify themselves with the Russian Orthodox Church, which may serve as a formal justification of the priority granted to the Russian Orthodox Church in correctional facilities.

It is appropriate to note here that religious preferences of convicts are not clearly expressed and it

was not always that former inmates strove to practice their religious beliefs while in confinement. This does not mean that they do not identify themselves with religious people. It is more accurate to say that the exercise of religious rites and communication with a minister are frequently not important for this category of convicts or they simply do not want to participate in the religious life.

Based on the monitoring data, the primary group exercising religious practices consists of elderly inmates. The level of religious needs of other groups of inmates is not so stable or high. This is indirectly supported by the data obtained from questionnaires filled out by prisoners' relatives who stated that while being incarcerated their relative did not ask them to bring any religious attributes or literature to him/her. Although many religious and humanitarian organizations that work in prisons and correctional facilities distribute various items including religious literature among prisoners, their assistance would never suffice were the level of religious needs high enough.

Nevertheless, religious life in penitentiary institutions is rather active — churches are serving their congregations, praying chambers are equipped, religious holidays are regularly celebrated. Prisoners are granted with the right to own religious paraphernalia and literature excluding icons. The ban on keeping icons on the premises is related to the fact that "…without authorization of the administration, it is forbidden to hang photographs, reproductions, cards, newspaper and magazine clippings and other objects upon walls, bedside-tables, and beds" (Article 3 of Internal Rules of Correctional Institutions, "Duties of Inmates"). Apparently, icons belong to "other objects" that are forbidden from having in the living quarters without administrative authorization. The ban is not effective if all the religious paraphernalia are kept in a specially designated room (Paragraph 4, Article 14 of UIK). In addition, based on the data obtained from questionnaires filled out by former prisoners in a number of cases administration of the facility allowed its inmates to keep small cardboard icons.

It is not always that the right of inmates to communicate with a minister in private is observed; sometimes this communication occurs in the presence of a warder. But, as it has been mentioned before, neither UIK, nor the Internal Rules of Correctional Institutions imply the enjoyment of this right for convicts; therefore no violation of Russian legislation occurs.

It has become known as a result of the monitoring effort that representatives of the mainstream religions in penitentiary facilities exercise their freedom of conscience, the Orthodox Christians having more opportunities to do so. Muslims and Buddhists, as a rule, have praying chambers at their disposal but meet with ministers much more seldom. Even in Muslem regions, mullahs visit correctional facilities, apparently also due to the fact that many convicts who admit to being Muslims tend to refrain from religious communication.(9) Violations, as a rule, are not systemic and are caused by the lack of detailed normative provisions, as well as by unjustified decisions of administrations, such as, for example, the ban on wearing a Catholic cross in one of the correctional facilities visited by the monitors. The ban was caused by the fact that the colony's head was not familiar with Catholic cross and did not know what to make of it.

(1) On the other hand, if any prisoner should object to a visit of any religious representative, his/her attitude shall be fully respected.
(2) "Access to a qualified representative of any religion shall not be refused to any prisoner. "
(3) So far as practicable, every prisoner shall be allowed to satisfy the needs of his/her religious life by attending the services provided in the institution and having in his/her possession the books of religious observance and instruction of his/her denomination.
(4) See: SMR, Preliminary Notes, Article 2, "In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times."
(5) V. Davydenko, "Freedom of Conscience and Religion in Penitentiary Institutions." *Vedomosti UIS.* (2002, #5).
(6) D. Terentyev, "In the Love Zone." *Vecherny Petersburg* (February 14, 2002, #27).
(7) Regional Report "The Penitentiary System in the Oryol region — 2002."

(8) "'Two Now," *Ostrov* (special supplement to the newspaper *Novy Den*, November14, 2002).
(9) From interviews with former prisoners in Dagestan, Adyg, and Bashkortostan Republics.

Retention of Prisoners' Property

43. 1) All money, valuables, clothing and other effects belonging to a prisoner — which under the regulations of the institution s/he is not allowed to retain- shall be placed in safe custody on his admission to the institution. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.
2) On the release of the prisoner all such articles and money shall be returned to him/her except in the cases where he/she has been authorized to spend money or send any property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him/her.
3) Any money or effects for a prisoner received from outside shall be treated in the same way.
4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

Penitentiary rules acknowledge that keeping and using some of the prisoner's personal belongings, money, or valuables is prohibited on the territory of correctional institution and pretrial detention facility. However, prisoners' right to use their property is restricted only while they are serving their sentence. They are not deprived of ownership of their property, or their right to have it at their disposal. SMR stipulate that the facility administration to safe-keep all belongings the prisoner is not allowed to have on him/her. And *"an inventory thereof shall be signed by the prisoner."*

A separate clause stipulates the terms and conditions for safe-keeping and the use of medicines the prisoner has on him/her. "If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them."

The possibility granted to the prisoner to possess personal property helps him/her to perceive himself/herself as an individual. Upon release, all the prisoner's property is to be returned to him/her, "with the exception of any sums he/she had been authorized to spend or any items he/she had been authorized to send out of the institution, or any item that it had been found necessary to destroy on hygienic grounds. The prisoner shall sign a receipt for the articles and money returned to him/her."

It is very difficult to assess the implementation of this SMR clause, although the clause is fully reflected in the Russian legislation.(1)

Relevant articles of UIK are of a reference nature. Internal Rules of Correctional Institutions regulate the procedure for the admission of convicts and the procedure for the removal of items which prisoners are not allowed to use in the correction facility. Internal Rules also regulate the list of items and food which prisoners are prohibited to have, receive in parcels by post or by hand-delivery, or otherwise acquire, as well as regulate the procedure for acquiring and safe-keeping literature and writing materials.(2)

The regulations for removing and safe-keeping items prohibited in pretrial detention facilities are contained in Internal Rules of Pretrial Detention Facilities of the Criminal Implementation System of the RF Ministry of Justice.(3)

In interviews, however, former prisoners complain that these regulations are not observed. Official procedures for recording the hand-over of items, whose possession and use is prohibited on the territory of correctional facilities, are often violated.

Under Internal Rules (both in correctional facilities and in pretrial facilities):

Prohibited items as well as items kept by prisoners in excess of set weight limits, are to be taken away on being found, which is recorded in a report or document, then an inspection follows and an appropriate decision is made by the superintendent of the facility.

The money taken away from the prisoner should be handed over to the financial section or accounting office, where the money is to be deposited in the prisoner's account no later than within 24 hours (except for week-ends and holidays). This is due to the prohibition of use or disposal of the money while a convict is serving his/her term in the correctional facility.

Securities or other valuables taken away from the prisoner are kept at the accounting office or SIZO depositary, which is confirmed by a receipt issued to the owner.(4)

Also:

The money and valuables accepted from prisoners for safe-keeping are listed in formal acts in three copies. The first copy is issued to the convict or suspect, the second goes to the financial section, and the third is included in the personal file of the convict.(5)

But most of the prisoners do not believe that their property will be kept in penal facilities in accordance with the rules declared in the Russian legislation. For instance, human rights monitors from the Yamalo-Nenetsky autonomous district note that:

Former prisoners themselves maintain that observance of the rules is just impossible in the Criminal Implementation System. If your belongings are not taken by other inmates, they will be "requisitioned" by prison wardens. During each trip from Naryan-Mar to Arkhangelsk or from Arkhangelsk to Naryan-Mar the suspect or convict has no idea what will happen to him/her in the future. He/she carries no belongings, considering them useless, and in any case there is no place to keep them. Things which remain in the police station after the sentence is passed, often disappear. Even passports are lost, not to mention watches or clothing.(6)

The act which records that the prisoner's property has been accepted for safe-keeping, very frequently is not complied:

Officially (by compiling an act of property acceptance) nobody took anything from me. All the things (prohibited in the pretrial detention facility) were thrown into the corner of the room and then taken away. I can only guess who grabbed them. After my release I put on whatever I could get a hold of. Whatever I was given by others.(7)

Sometimes prisoners are not informed that they should retain one copy of the act they signed (and they do not demand it because they do not know the rules):

When I arrived at the "zone" (correctional facility) I had no idea that I was supposed to take the receipt on the items I had given away, that is why when I was released I could not have the clothing I had been wearing when I arrived at the facility.(8)

There are very frequent complaints about property deposited for safe-keeping and not returned in full to the released prisoner, which also relates to violations in the preparation of the corresponding act. According to human rights organizations, many valuable things are sometimes not listed.

Enquiries by convicts about such things are ignored by the administration. He/she is insistently recommended to sign the list. When the convict is released, he/she receives the items contained in the list he/she signed. Sometimes some items are never returned because they allegedly had had to be destroyed due to sanitary reasons (as a rule, these are valuable things).(9)

The fact described above indicates yet another violation. The correctional facility personnel, exploiting the ignorance of the prisoners, would make their own interpretation of one of the provisions of the Internal Rules, namely, the one stipulating that “subject to destruction are things and items, withdrawn from civilian circulation, as well as food not meant for long-term storage.”(10) According to this, such objects “are destroyed by the decision of the superintendent of the penal colony, and duly recorded in an act with due notification to the prisoner who is to sign the acknowledgement.”(11)

SMR provisions related to the safe-keeping of prisoners' property, stipulate that belongings and money which prisoners receive while serving their terms in the facility should be treated in the same way as other property, valuables and money, which cannot be retained by prisoners according to the rules existing in the facility (that is, they have to be deposited for safe-keeping).(12)

Internal Rules, both in correctional and pretrial facilities, contain an important addition on how to treat these belongings:

Money discovered on the territory of penal institutions, as well as money obtained from the sale of valuables and items through a second hand commission store, and whose owner cannot be identified, is to be duly appropriated by the state.(13)

Internal Rules contain a list of items that prisoners are not allowed to keep, (there is a similar list for pretrial detention facilities). But this regulatory document is not normally brought to the notice of prisoners. This triggers all kinds of violations and abuses on the part of penal institutions personnel.

One former prisoner complained to the Nizhnii Novgorod human rights monitors: “My sports clothes were taken away from me. It is hard to say what I am entitled to have and what I am not. That is why I do not know if it was legal.”(14)

When asked whether they had been given their things back after their release, prisoners often reply in the following manner: “I didn’t have anything valuable,” “I do not remember,” “I had nothing.”

It is only people brought into pretrial detention facilities appear to have had valuable personal belongings. They claim, though, that these items were never returned to them (“my cell phone and other things were not returned to me,”(15) “I got everything back except fur-lined gloves,”(16) “My belongings were not returned, a belt, 5000 roubles, sport shoes(17) etc.).

Having learned their lesson from SIZO (or from the experience of previous confinement) prisoners prefer not to take anything of value to penal facilities. This is the principle which guides relatives when they hand over anything to the prisoners.

Money received by prisoners in penal facilities goes to their accounts. They can spend certain fixed amounts (there is a limit for each category of prisoners).

There are some obstacles associated with the possibility of using medicines which relatives have first to overcome when trying to hand medicines over to the prisoner. All medicines prisoners receive from their relatives go, without exception, to the medical section. The decision as to what to do with the medicine, according to relatives of prisoners, is not always taken by a doctor:

Medicine was sorted by SIZO personnel, according to what is allowed and what is not. …It was a militia-uniformed administration member in police uniform who was doing this sorting.(18)

Also:

It took a lot of effort to convince them that my son needs an inhaler and medicine for asthma. He is asthmatic. But they said that they didn't know the medicine, that maybe it was a drug. I could barely convince the administration to believe that the medicine is indispensable for his health. True, he was allowed to use the medicine after the doctor authorized it.(19)

The administration does not adhere to a strict procedure on what indispensable medicine relatives are allowed to hand over, and in this regard, the monitoring effort identified different attitudes to this issue by the administration.

Sometimes relatives are not given any explanation of what can and cannot be handed over (to meet a doctor and get clarifications is next to impossible):

Medicine is rarely accepted. Vitamins are out of the question — not allowed. Doctor's approval is needed but it is practically impossible to see a doctor.(20)

Also:

Vitamins are allowed, I did hand them over. He had a toothache but they did not allow any medicine. They said that the doctor should prescribe it.(21)

As a result, prisoners sometimes do not receive any medicine at all:

No medicine was accepted. They said — it is not allowed. My brother had asthma and he asked for an inhaler. But even cough tablets were not accepted. I did not ask whose order it was.

Some other penal facilities, in contrast, accept all medicine (the question remains if they reach the right addressee) and even demand that relatives give some other medicines "as a voluntary commitment":

If say, I need to hand over some medicine. They say I must also pay for such — and-such medicine in addition to mine…(23)

(1) Paragraph 11, Article 79 of UIK ("Convicts Admission to Correctional Facilities"); Paragraph 12, Article 82 ("Correctional Facilities Regime and its Main Requirements").
(2) Internal Rules of Correctional Facilities (approved by Order #224 of the RF Ministry of Justice, dated July 30, 2001, amended July 8, 2002).
(3) Internal Rules of Pretrial Detention Facilities of the Criminal Implementation System (approved by Order #148 of the RF Ministry of Justice, dated May 12, 2000).
(4) Rule 11, Internal Rules of Correctional Institutions ("Procedures for Taking Away Prisoner's Property Whose Use is Prohibited in Correctional Facility").
(5) Rule 4, Internal Rules of Pretrial Facilities ("Taking Away Suspects' and Convicts' Property, Substances and Food, whose Safe-Keeping and Use Are Prohibited").
(6) Regional Report "The Penitentiary System in the Yamalo-Nenetsky Autonomous District — 2002."
(7) From an interview with a former prisoner. Belgorod.
(8) Interview with a former prisoner of the UZ-62/4 correctional facility. Nizhnii Novgorod.
(9) Regional Report "The Penitentiary System in the Yamalo-Nenetsky Autonomous District — 2002."
(10) Rule 2, Internal Rules of Correctional Institutions ("Procedures for Admitting Convicts to Correctional Facilities").
(11) Rule 11, Internal Rules of Correctional Institutions ("Procedures for Taking Away Convicts' Property whose Use in Correctional Facilities is Banned").
(12) SMR (Rule 43, Paragraph 3).
(13) Internal Rules of Correctional Facilities.
(14) Interview with a former prisoner. Nizhnii Novgorod region.

(15) Interview with a former prisoner. Kamchatka region.
(16) Interview with a former prisoner. Tver region.
(17) Interview with a former prisoner. Tomsk region.
(18) Interview with a former prisoner's relatives. Sverdlovsk region.
(19) Interview with a former prisoner's relatives. Krasnodar.
(20) Interview with a prisoner's relative. Murmansk region.
(21) Interview with a prisoner's relative. Yamalo-Nenetsky autonomous district.
(22) Ibid.
(23) Interview a with prisoner's relative. Voronezh region.

44. 1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.
2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.
3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution

SMR pass any person's being isolated from the outside world as a serious and sufficient punishment *per se* (Rule 57). Given the circumstance, any unwarranted effort to tighten the imprisonment regime (e.g.,the disciplined prisoner being denied the right to take a leave of absence on account of the death of his/her relative) appears to contravene the mission pursued by correctional facilities. The provisions carried by Rule 44 are regarded to be of principal significance when it comes to application of the prisoner-related obligations and rights. Importantly, the prisoner being timely notified of the death of his loved ones and enabled to visit with his relatives under exceptional circumstances both have to do with his maintaining solid links with the outside world, which appears to be most relevant for the ex-prisoner seeking to meet his/her social re-adaptation challenge (Rules 37—39 of SMR).

Neither UIK (Article 97) nor Internal Rules of Correctional Institutions (Rule 18) carry even a single provision committing the penal colony administrations to speedily notify relevant prisoners of the death or serious illness of their relatives. Given the circumstance, the aforesaid documents appear to be out of line with the requirements contained by SMR (Paragraph 2, Rule 44).

Notwithstanding, as confirmed by the regional human rights monitors that have interviewed a broad range of ex-prisoners, one can attest to abroad ongoing practice of the prisoners being timely notified of the death or illness of their close relatives. Apparently, such penal colony administrations operate pursuant to the provisions held by Paragraph 1 and 2, Article 3 of UIK,(1) which establish the preeminence of the international law over the national statutes or regulatory directives.

"I was summoned by the colony authorities and notified of my mother's death. They asked if I wanted to take a leave of absence and pay the last tribute. Everything was very official and decent," according to one former convict.(2)

To note, pursuant to Paragraph 5, Article 97 of UIK, the prisoner's application to ask for a leave of absence shall be considered and ruled upon by the colony administration within one day. However, local penal colony administrations would now and again arrange things in such a way that would not have to adhere to this rule as they proceed to deliver notifications of death or grave illness of relatives after a week's or even a month's delay, with the prisoners being effectively denied any opportunity to take a leave of absence in order to attend the last rites for their loved ones. To clarify, such moves on the part of administrations come from the following circumstances.

In many cases this kind of non-compliance has to do with the Russian post offices operating in keeping with the procedures when telegrams are actually handled no different from regular letters. The Correctional institutions are frequently located in out-of-the-way places, with the mail normally being delivered once a week, be it letter or telegrams.

On the other hand, sometimes administration purposefully delay notification of the prisoners of the death or illness of their relatives. In such cases, the colony administrations are often motivated by the desire to prevent prisoners from escaping. When interviewed, one ex-prisoner recounted a story of a convict that took a leave of absence on account of the death of his relative, murdered his security guard and “made a breakout” from the colony.(3)

Notably, the UIK provision related to providing a leave of absence for prisoners is recorded as a non-binding measure, rather than an obligation to be honored by penal colony administrations: “Convicted prisoners held in correctional facilities can be allowed to take a leave of absence” in the event of death or serious illness of their immediate-family members.(4)

The UIK wording “…depending on the circumstances, a prisoner can be allowed to take a leave of absence and visit his critically-ill close relative” authorizes penal colony administrations to refer to obvious reasons for denying the relevant requests (the penal colony being too far away from the given prisoner’s home or place where his relative has passed away and is scheduled to be buried), just like point to any other factors (not always sound) or even refrain from any explanation. To quote a former prisoner, “There have been cases when the sad news reached the prisoner with a month’s delay because of the sender living in some remote backwater place.”(5) When asked if he recalled any cases when he was denied the right to take a leave of absence and visit the ailing relative, another ex-prisoner said, “There had been quite a few cases, the reasons for denial being provided most readily and without any delay.”(6)

Overall, implementing the right of prisoners to take a leave of absence “on account of exceptional personal circumstances”(7) has been considered by penal colony administrations as one of the benefits (rather than a special policy) applicable to the convicts for perfect compliance with the established house rules. Many denials of a leave of absence on account of death or serious illness of a relative have been officially explained by the fact that the relevant convicts violated the local institution rules, held numerous prior convictions or were confined to a strict-regime isolation ward. “A prisoner from Moscow, who happened to be held in a strict-regime isolation ward, was not allowed to attend the last rites for his deceased father,” according to a former convict.(8)

The basic conclusions that can be drawn from the interviews with ex-prisoners generally run as follows. Firstly, the cases have been rare and far between when relevant prisoners failed to be appropriately notified of the death of their close relatives (notwithstanding the absence of express UIK-carried or Internal Rules of Correctional Institutions-carried provisions on the application of the aforesaid principle, Russian penal colony administrations normally inform prisoners of the death of their loved ones). Secondly, there have been facts of intentional prolongue withholding of information about such critical issues as death of grave illness of relatives, which runs counter to the provisions of Paragraph 2, Rule 44 of SMR (the major reason often being the unwillingness on the part of that or other penal colony administration to address the question of extending short-term leaves of absence altogether). Thirdly, the question of enabling prisoners to take a leave of absence on personal grounds has often been predicated upon the prisoners strictly adhering to the local rules, with the given leave of absence measure being largely regarded as incentive, which is somewhat out of line with the provisions carried by SMR.

When it comes to the right of prisoners to send out notifications of their whereabouts (Paragraph 3, Rule 44 of SMR), UIK implies that a prisoner can be enabled to make an out-of-turn telephone call to his relatives or receive a short-term visit on arriving at a new penal institution (Paragraph 2, Article 92 of UIK). To add, irrespective of whether the aforesaid opportunities are offered to the prisoner, any given penal colony administration is committed to have the family notified of the prisoner’s transfer within ten days (Article 17 of UIK) and advised of what particular rights they

can implement in order to assure the desired communication through the use of either visitations or correspondence (Rule 2 of Internal Rules of Correctional Institutions).

While possessing insufficient knowledge on how to best implement the right of prisoners to keep their relatives appropriately notified of the relevant matters (Paragraphs 1 and 3, Rule 44 of SMR), we nonetheless can proceed from the bits of information made available by the relatives of prisoners and confirm that the established rules had indeed been breached. Following a focused research of the observations provided by relatives of prisoners, one can safely conclude that penal colony administrations have generally failed to honor the UIK-prescribed requirements for prisoner notifications. The welcomed exceptions have been rather rare. There have been merely four stories to tell that the relatives of prisoners had been duly and timely notified of the relevant transfers by the penal colony administrations.(9) There have been cases when the relatives just failed to be informed by the penal colony authorities of the current whereabouts of that or other prisoner. “They didn’t even tell me where my son was transferred. Once I heard a word about some relatives receiving a booklet on the rights of prisoners and their immediate-family members. Unfortunately, I have not received any briefs on my rights,”(10) said one relative.

In most of the cases, relatives receive the relevant information on such issues as regulations regarding packages, visitations, transfer, etc. through verbal communication channels that can tentatively be categorized as follows: information released through the use of bulletin board notices maintained by penal colonies (“mostly from the bulletin boards in penal colonies);”(11) information received from relatives of other prisoners (it would suffice to refer to some interviews taken in the Astrakhan, Belgorod and Voronezh regions); information made orally available by local colony administration officials (Krasnodar territory, Komi Republic). However, there have been isolated cases when colony administration officials have been holding focused briefs for the relatives of freshly received prisoners. “We came to know about it when we arrived here to visit. They have gathered all relatives in the rendezvous room and explained dos and do nots about the packages that can be handed over to prisoners. Also, they have briefed us on the grounds for rejection of visitation requests,” said one relative.(12) Such positive practices are unfortunately an exception rather than a rule.

(1) Paragraph 1, Article 3, “The criminal implementation legislation of the Russian Federation has been drafted to be in line with the international commitments of the Russian Federation.” Paragraph 2, Article 3, “Should the Russian Federation-supported international commitments feature the rules related to execution of punishments and treatment or prisoners that happen to be different from the provisions stipulated by the applicable criminal implementation legislation of the Russian Federation, the international law-carried rules shall prevail.”
(2) From an interview with a former prisoner. Altai Republic.
(3) From an interview with a former prisoner. Gorno-Altaysk.
(4) UIK of the Russian Federation (Paragraph 1.a, Article 97).
(5) From an interview with a former prisoner. Adyg Republic.
(6) From ane interview with a former prisoner. Perm region.
(7) UIK (Paragraph 1.a, Article 97).
(8) From an interview with a former prisoner. Tver region.
(9) From interviews with former prisoners. Altai Republic, Bashkortostan Republic.
(10) From an interview with a relative of a prisoner. Kirov region.
(11) From an interview with a relative of a prisoner. Komi Republic.
(12) From an interview with a relative of a prisoner. Krasnodar territory.

Removal of Prisoners

45. 1) When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.
3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.

According to the reports of former prisoners, the transit conditions do not comply with the requirements of SMR. Violated are not only international standards but the Russian legislation whose provisions are in line with SMR (Article 73 of UIK "Penitentiary Facilities" (accounts for principles of distribution of inmates among penitentiary facilities), Article 76 of UIK "Transit of Prisoners to Penitentiary Facilities are also violated.

Non-compliance with SMR requirements related to the transit of prisoners is for the most part accounted for by the lack of necessary economic conditions (as a consequence — lack of funds to cover the transit, nutrition, and special vehicles). To reduce the impact produced by these factors, Russian authorities strive to reduce the distances to which the prisoners have to travel. According to Paragraph 1, Article 73 of UIK, "individuals sentenced to imprisonment serve their sentences in penitentiary facilities within the territory of the subject of the Russian Federation in which they have resided or have been convicted."

Application of this provision implies that the duration of transit for the majority of convicts has noticeably reduced, but its conditions have not. It is characteristic that in the opinion of Russian prisoners the reduction in the transit duration compensates for the harsh transit conditions — the convicts consider them "tolerable":

The distance is short, therefore talking of transit conditions does not make sense.(1)

Also:

We were transported in a special vehicle. It was cramped, stifling, and nasty, but the transit didn't take long.(2)

Also:

We were transported in a "voronok." Of course, it was cramped and stifling. But the entire road together with embarkation and debarkation took about two hours. Therefore, keeping patient was possible.(3)

Also:

It didn't take long to get there. It took us about an hour. I only remember that it was very cramped in the vehicle.(4)

At the same time, the Russian legislation provides that:

If a correction facility of a given type is not available at the place of residence or conviction, or if it is impossible to accommodate convicts at the local correction facility, the convicts are directed to the nearest correction facilities located on the territory of the given subject of the Russian Federation, or to correction facilities located on the territory of another subject of the Russian Federation provided that approval of the relevant penitentiary authorities of a higher level is obtained.(5)

But given that penal colonies are frequently overcrowded, and colonies for women, strict regime colonies, as well as colonies for individuals serving life sentences are not available in each Russian region, a considerable number of convicts continue to be transported at long distances (up to 1000 and more kilometers). However, the conditions of transit do not change depending on the distance and remain in fact torturous.

Overcrowded pretrial detention facilities, as well as the lack of special transportation means (according to the Chief Department for Penalty Execution “as of January 1, 2000, the Criminal Implementation System had 190 special wagons and 473 special motor vehicles at its disposal for transportation of prisoners, the norm being 211 and 735 respectively”(6)) result in the fact that the convoy service exceeds the transport capacity limit by two, three, and more times.

Therefore transportation of prisoners in the RF is almost always conducted in conditions of insufficient ventilation (“if the window glasses are broken — there is ventilation”) poor lighting (“there is a lamp in the guards’ compartment”) and (“of course it is cramped; it is designed to transport not more than six people, there were 12 of us traveling and it was tolerable; sometimes 40 people are squeezed in one vehicle”(7)).

In addition, as former prisoners note, the convoy service does not try to improve the transit conditions for prisoners , and even deliberately makes them worse at times. For example, almost all former prisoners interviewed remember being systematically beaten up throughout the entire distance they traveled; “During the meeting at the station, we were forced with rubber clubs to lie down between the tracks; then we were likewise forced to line up in a column and run with our sacks, our hands behind the back, into the vehicle.”(8)

The list of excessively hard conditions of prisoners’ transit is diverse. The report from the Rostov region presents the most comprehensive picture of all existing violations (note that it is from this very region that the most cruel conditions of conveyance of prisoners have been reported).(9)

Thus, regardless of the year season, the convoy can decline the request of convicts to open the hatch to let some fresh air in:

There is nothing to breathe with, you suffocate, and the convoy guard smokes and it becomes even more difficult to breathe;(10)

In summer, it was really stifling in the van, as if in a microwave oven, because they wouldn’t open the upper hatches, and the convicts would keep fainting.(11)

Convicts who insist that the hatches be open may suffer beatings. Convicts who faint due to lack of the fresh air in the transport are beaten up as well.

The most frequent violation is that the convicts are not allowed to go to the toilet and normally perform their bodily functions (at the same time, “if you wet yourself — you will be immediately beaten up by the convoy”(12)). Prisoners attempt to handle this humiliating situation independently by taking polyethylene bags with them to contain their excrements, which they carry about until they arrive at the destination. In other cases, the convoy escorts the convicts to the toilet very rarely:

We were not allowed to go to the toilet. They would only let us when we all went blue in the face…(13)

Also:

To get a permission to go to the toilet is a huge problem. If we kept asking for a long time they would let us go…(14)

Also:

They would keep us from going to the toilet for a long time, until some of the old thiefs struck a deal with them; we would be given the minimum amount of time for that…(15)

Also:

They would take us out to the toilet only once a day.(16)

Potable water is provided to prisoners in transit in insufficient amounts and sometimes is not provided at all. Regardless of the duration of the transit, prisoners are oftentimes underfed or not fed at all:

Didn't feed us…(17)

Also:

Gave us dry rations (half a bread loaf, a spoon of sugar and water), this was all disbursed regardless of the distance we traveled…(18)

Also:

We were on the road for more than three days… Yet in prison we had gotten dry rations. Bread — half a loaf per day. We kept eating it while we were on the road.(19)

Also:

There was no food…(20)

Also:

The nutrition was bad — bread and water.(21)

Also:

We got dry rations at the pretrial detention facility to last for two days starting with the "filter camp": one loaf of bread and a tin of preserves per either two or three persons. Can't remember exactly now.(22)

From the survey among former prisoners, multiple evidence has been obtained indicating that the convoy rapes female convicts during the transit "if the convoy liked some of the convicts they raped them, if they didn't like someone — the convict would be hit with a club on her head or other body parts. Everything depended on what the convoy wanted."(23)

The requirement to keep various categories of convicts separately during the transit is not fully complied with:

We traveled in the van together with the contagious, the HIV-positive, homeless beggars, the underaged.(24)

Also:

From pretrial detention facilities juvenile convicts are transported to penitentiary facilities… It gets especially hard at conveyance facilities where arbitrariness reigns. Exercised by both the convoy and the blatnyie.(25)

The provision of SMR prescribing that "they (prisoners) shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form"(26) is reflected in relevant normative acts of the Chief Department of Penalty Execution(27) that regulate the order of transportation of prisoners in special motor vehicles and special wagons designed in such a manner as to maximally protect the prisoners

from accidental viewing. When a necessity arises to transport a prisoner by air the above rule is not always complied with. Allocation of funds to organize a special flight for prisoners is considered by the Chief Department of Penalty Execution as irrational:

There is a number of examples when… orders are issued to appoint guards to convoy one convict by air along such extended routes as Magadan — Moscow — St. Petersburg… all departments must use a more thorough approach when planning the transit of the special contingent, through and special sentries must be provided only in cases of emergency, since their appointment leads to irrational expenditure of funds.(28)

Therefore, air transit of convicts is frequently conducted using a regular flight. In particular, the author of the regional report for Yamalo-Nenetsky autonomous district describes his own observations:

Given the lack of funds the Department of Internal Affairs of the Nenetsky autonomous district is not able to pay for transportation of convicts and those under investigation with a special flight (and this can be done by air only). I had to fly several times on board of the same plane with a convoy escorting convicts and individuals under investigation. It happens the following way: first passengers check in for the flight, then they board the airplane, then handcuffed prisoners escorted by police officers are delivered directly to the plane. And the atmosphere of tension and fear installs itself. The town is very small, as a rule everybody knows each other, and the possibility to see familiar faces among prisoners is quite considerable.(29)

The last paragraph of SMR that concerns the removal of prisoners recommends that the convicts be transported at the expense of the department of penal execution; in addition, the conditions of transportation must be equal for everyone. This provision is definitely complied with in the Russian Federation. The problem is that conditions of the transit of convicts in the majority of cases contradict both Russian and international legislation.

(1) Interview with a former prisoner. Saint-Petersburg.
(2) Interview with a former prisoner. Saint-Petersburg.
(3) Interview with a former prisoner. Saint-Petersburg.
(4) Interview with a former prisoner. Tyva Republic.
(5) Paragraph 2, Article 73 of UIK, “Penitentiary Facilities.”
(6) V. Zhukov (head of the Convoy and Special Transportation Department of the Chief Department of Penalty Execution of the RF Ministry of Justice), “Convoy Service: More than Two Million of Convicted and Detained Individuals Transported.” *Vedomosti UIS* (2000, #2).
(7) Regional Report “The Penitentiary System in the Buryat Republic — 2002.”
(8) Regional Report “The Penitentiary System in the Jewish Autonomous Area — 2002.”
(9) Regional Report “The Penitentiary System in the Rostov Region — 2002.”
(10) Interview with a former prisoner. City of Rostov.
(11) Interview with a former prisoner. City of Rostov.
(12) Interview with a former prisoner. Rostov region.
(13) Interview with a former prisoner. City of Rostov.
(14) Interview with a former prisoner. Belgorod.
(15) Interview with a former prisoner. Komi Republic.
(16) Interview with a former prisoner. Nizhnii Novgorod.
(17) Interview with a former prisoner. Adyg Republic.
(18) Interview with a former prisoner. Bashkortostan Republic.
(19) Interview with a former prisoner. Belgorod region.
(20) Interview with a former prisoner. Bryansk region.
(21) Interview with a former prisoner. Mordovia Republic.
(22) Interview with a former prisoner. Nizhnii Novgorod.
(23) Interview with a former prisoner. Rostov region.
(24) Interview with a former prisoner. Rostov region.

(25) Yu. Aleksandrov, G. Tselms, “At Least We Eat as Much as We Need.” *Novye Izvestiya* (March 2, 2002).
(26) Paragraph 1, Rule 45 of SMR
(27) Instructions on safeguarding correction facilities of the penitentiary system, convoying and searching of individuals convicted and sentenced to imprisonment. Approved on July 16, 1997, by Order #444 of the RF Ministry of Internal Affairs.
(28) V. Zhukov (Head of the Convoy and Special Transportation Department of the Penalty Execution of the RF Ministry of Justice), “Convoy Service: More than Two Millions of Convicted and Detained Individuals Transported.” *Vedomosti UIS* (2000, #2).
(29) Regional Report “The Penitentiary System in the Yamalo-Nenetsky Autonomous District — 2002.”

Institutional Personnel

46. 1) The prison administration, shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.
2) The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.
3) To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favorable in view of the exacting nature of the work.

47. 1) The personnel shall possess an adequate standard of education and intelligence.
2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.
3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.

48. All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

49. 1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.
2) The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

50. (1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.
2) He shall devote his entire time to his official duties and shall not be appointed on a part-time basis.
3) He shall reside on the premises of the institution or in its immediate vicinity.
4) When two or more institutions are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.

51. 1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
2) Whenever necessary, the services of an interpreter shall be used.

52. 1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.
2) In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

53. 1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.
2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

54. 1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defense or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.
2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.
3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

The members of penitentiaries' administrations are civil servants of the Russian Federation. Their legal status and conditions of work are defined by UIK and Federal Law "On Institutions and Bodies that Implement Criminal Penalties in the Form of Imprisonment."(1) Due to the fact that the Criminal Implementation System (UIS) had been part of the Ministry of Internal Affairs before it was transferred to the Ministry of Justice, workers of these institutions are also governed by some Ministry of Internal Affairs regulations that remain in effect.

Currently, the regulation known as "Instructions on the Procedure for Application of the Rules of Service in Bodies of Internal Affairs of the Russian Federation" ("Instructions") is binding on institutions and bodies of UIS of the Ministry of Justice of the Russian Federation.(2) This regulation resolve only partially the issue of organizing the work of UIS's personnel. Along with this regulation, there is a multitude of other regulations issued by the President, the Government, and the Ministry of Justice of the Russian Federation. However, the Ministry of Justice has so far failed to draft a document that would specifically regulate the legal status of UIS workers, which is viewed by many of such workers(3) and by human rights activists(4) as a negative factor.

Nonetheless, effective Russian laws and regulations provide sufficient conditions for UIS personnel to feel the "security of tenure" required by Paragraph 3, Rule 46 of SMR. Guarantees of full-time employment (established by Article 17.2 of Instructions and Article 58 of Regulation of Service in Bodies of Internal Affairs of the Russian Federation(5)), and guaranteed opportunities of re-employment in UIS (for employees of closed down institutions or employees made redundant as a result of downsizing a penitentiary) add up to form the foundation of a system of social guarantees.

Laws and regulations aim to protect UIS personnel against the possible arbitrariness of their superiors, for instance when an UIS worker is dismissed for being unsuitable for further employment. A military medical commission, and not the administration, is the body responsible to determine such unsuitability.(6) In those cases where an UIS worker has being dismissed due to a violation of his/her duties, a breach of discipline, or improper conduct, the worker may seek judicial protection if h/she disagrees with the administration's decision.(7)

In addition to guarantees of employment, the government has developed a package of incentives that add other benefits to the salaries of UIS workers. The nature of the benefit is determined in proportion to the complexity of the worker's duties and specifics of his/her working conditions,(8) including his/her record and the duration of service. There is also a system of protection and privileges to UIS workers and their families. In particular, there are laws protecting their lives, health, honor and decency, measures that ensure their safety, and they are granted insurance and compensation by the state in the event of death or mutilation.(9) UIS personnel are also entitled to state-provided housing.(10)

In appreciation of the difficulty of the work of UIS personnel, the law has established for them an earlier retirement age.(11) Laws give a number of other privileges that can be recognized as satisfying the requirements of Paragraph 3, Rule 46 of SMR.

Effective regulations require that candidates to UIS positions have to be carefully selected. Irrespective of the method of hiring, regulations require that every candidate should be thoroughly screened prior to employment.(12) Health, education, specialized training, organizational and personal skills, as well as moral features of the candidate are verified in the course of the checks.(13) Every new worker undergoes a trial period.(14) Thus, the requirements to asses the professionalism and the adequacy of a prospective worker to his/her desired position are established at legislative level, in line with Rule 46 of SMR.

The existing rules allow for the periodic reassessment of UIS personnel, and to this end the laws provide for the systematic verification of the level of skill of the workers. Such assessment, which is a mandatory procedure for all UIS workers, is conceived to confirm or disprove the worker's qualifications and his/her fitness for his/her current position.(15) An assessment committee issues recommendations for the improvement of the worker's performance and for the rectification of his/her shortcomings.

The training of UIS workers is provided in training facilities of the Ministry of Justice. The training package includes a practice period and a guaranteed job (on admission, each new student signs a contract for five years of service in UIS after the training is completed — Article 5 of Instructions), and individual assistance at the workplace under the guidance of a tutor, who should be an experienced UIS worker (Article 6 of Instructions). A system of incentives for those who have decided to continue their education is also available (Article 15 of the Instructions). On the whole, the effective regulations are sufficient for the initial training of the UIS workers while creating conditions for the further improvement of their qualifications, which can be regarded as in compliance with Rule 47 of SMR.

It should be noted that Russian regulations do not require that the head of the institution and its personnel know the language spoken by a majority of prisoners as recommended by Paragraph 1, Rule 51 of SMR. In real life, though, this does not result in any significant language barrier. Situations when the administration has no command of the language prevalent among the prisoners virtually never occur, while foreign nationals and people without citizenship are kept at the so called "foreigners' zones" that employ staff interpreters.(16)

UIS institutions are staffed not only with human resources from the Ministry of Justice and the Ministry of Internal Affairs, but also through hired workers from the Ministry of Education and the Ministry of Health who are supposed to perform supporting educational and medical functions at correctional institutions.(17) Pedagogical and medical positions are filled with workers from local divisions of relevant ministries. Teachers invited to work with convicts are paid increased salaries for the special conditions of the work.(18)

Neither laws nor guidelines of the Ministry of Justice, the Ministry of Internal Affairs or the Ministry of Health, which regulate the procedure that provides medical services, require medical personnel to reside on the premises of the institution or in its immediate vicinity. However, Rule 52 of SMR states that a medical officer should reside in the immediate vicinity of the institution to ensure that

prisoners have round-the-clock access to medical aid. This issue is to an extent addressed with the system of junior medical staff on duty at the institution.

A much more serious diversion of the Russian norms from SMR is the lack of requirements regulating the participation of male workers in the supervision and work with female prisoners. Rule 53 of SMR clearly states that work with female prisoners should involve primarily female personnel. However, Russian laws only declare in this connection that the body search of a prisoner should be done by a person of the same sex.

In line with the purpose of the reintegration of the prisoner, correctional work at imprisonment institutions(19) must be conducted by those members of the staff who have legal and pedagogical experience.(20) Effective regulations also ask for a staff of professional psychologists at juvenile colonies and other correctional institutions and SIZOs.(22) Since 2002, the social workers service has been forming within GUIN, in agreement with Rule 49 of SMR on having social workers on staff in places of confinement.(23)

Considering that aggressive behavior on the part of prisoners is possible, the laws contain provisions to authorize UIS workers to apply physical force and legal special means of restraint. Each instance of application of special means of restraint must be reported to the administration of the institution.(24) The key principle governing the use of physical force against prisoners is the principle of proportionality and necessity (Article 86 of UIK, Article 42 of Federal Law “On Detention,” Article 28 of Federal Law “On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment”). Physical force is only allowed in those cases when any other methods of redressing the situation have had no effect. At the same time, while resorting to special means, UIS workers should be guided by the principle of minimal harm to prisoners. In addition, first medical aid must be delivered to affected prisoners by UIS workers themselves.

UIS personnel must receive special training and periodical checks to ensure that they are able to act in conditions where the use of physical force, special means and weapons may be necessary, and to give first aid to the injured.(25) These requirements of the law are in line with Paragraphs 1 and 2, Rule 54 of SMR. At the same time, the requirement of Paragraph 3, Rule 54 of SMR, which states that staff performing duties that bring them into direct contact with prisoners should not be armed except in special circumstances, has not found reflection in Russian laws and regulations. Under Article 31 of Federal Law “On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment,” the procedure for carrying weapons in the premises of penal institutions, pretrial detention facilities and other facilities involved in the implementation of penalties is defined by territorial bodies of UIS.

While laws and regulations governing the conditions of service of staff working in penitentiaries are mostly in line with SMR, the actual practices in UIS are in many cases very far from international standards. Thus, human rights monitors in Karelia noted that “The staffing issue in penitentiary institutions is currently the reason of the greatest departure from the requirements of SMR.”(26) Serious staffing problems were identified by the monitors in the Leningrad, Oryol, Astrakhan, and Rostov regions, in the Republic of North Osetia-Alania, in the Khabarovsk territory and in the Nenetsky autonomous district.(27)

In spite of the aforementioned system of benefits, salaries of UIS personnel remain low. For instance, in the Pskov region, an inspector of a correctional institution (with a rank of warrant officer) is paid 2500 roubles a month, while an unskilled worker earns at 3000 roubles a month. However, these two jobs are incomparable in terms of the degrees of responsibility and intensity involved.(28)

Many correctional institutions are facing the reduction in the number of staff guarding UIS institutions. Thus, the head of the high security correctional colony OYa 22/7, Novgorod region, believes that the problem stems from the fact that a warden is paid a meager salary of 1500 rubles a month.(29)

Delayed payment of UIS staff's salaries and benefits by the state is another important problem which relates to compensations. In some regions, salaries, reimbursements, and other remuneration components are significantly delayed. Such regions include Astrakhan, Archangelsk, Nizhnii Novgorod, Saratov, Sverdlovsk, Tver and the Buryat Republic.(30)

Difficult financial situation of UIS staff is aggravated by the abolition of some of the privileges they enjoyed in the past. Head of SIZO IZ 3/1, Bashkortostan Republic, notes:

We have lost the pension allowance that was paid in addition to the salary. I personally was paid 800—900 rubles a month as allowance. They cut off personal income tax and housing privileges. Those who work with HIV-infected persons have lost, thanks to the Ministry of Health, an extra allowance they used to be paid.(31)

The abolition of benefits and privileges occurred at the same time as the rise in the salaries. However, the increase of salaries was not sufficient to make up for the lost privileges or to improve the welfare of UIS staff and their families.

In addition, enjoyment of the privileges that UIS workers have retained is very difficult in practice. Providing housing to the staff is the most pressing issue. For instance, in the Mordovia Republic, about 30% of staff of the colony #IZ 18/1 have no housing of their own and have to rent rooms, something next to impossible given their salary of about 3000 rubles.(32) In the Astrakhan region, most workers of correctional institutions live in decrepit buildings or in dormitories.(33) Reports about the unavailability of state-provided housing for UIS workers or about the difficulties to exercise this right were also received from the Nizhnii Novgorod, Perm, Pskov, Saratov, Sverdlovsk, Tomsk, and Tula regions, from the Republics of Bashkortostan, Karelia, Komi, and from the Khabarovsk territory.(34) In addition, some heads of penitentiaries do not live in the immediate vicinity of the institutions because of housing difficulties. The same applies to the medical staff in penal institutions in a number of regions.(35)

There are situations when workers of penitentiaries are denied free medical service because they have no medical insurance policies. Such situations are most acute when workers live far from medical facilities operated by the Chief Department for Penalty execution.(36) Such problems emerged due to the expiration of an agreement about provision of medical services at the Ministry of Internal Affairs hospitals that was part of the "Plan for the Phased Transfer of GUIN to the RF Ministry of Justice." UIS workers now have to go to regular health institutions.(37) However, according to the head of the YaL 61/5 colony of general regime of the Pskov region, members of the staff in the penitentiary are unable to get medical services outside Pskov as they are not entitled to free medical insurance policies.

In order to find solutions to such problems, an agreement with the health committee of the region is necessary to give the staff of the penitentiary the right to free medical services. However, even resolutions by health committees cannot correct the situation in some cases. In those conditions where no funding is allocated, medical service turns out to be inaccessible. Due to all these, there is an urgent need to include coverage of the insurance system for UIS staff.

In the course of the monitoring effort, we have received information about some UIS workers who are deprived of the social privileges granted to them by law. Thus, in the Buryat Republic, the legislative norms for the social protection of UIS workers are not implemented, including the free use of municipal transport.(38) The head of SIZO #2 in Novokuznetsk mentioned the problem of reimbursement of the ticket costs when traveling to a place of vacation, "You have to pay for your tickets first, this will be reimbursed only as you return, but people have no financial reserves, given their lean salaries. This is a problem."(39)

The situation of the staff is aggravated further by the very difficult working conditions that result from the disastrously short funding of UIS as a whole. For instance, the head of a SIZO in Kirov

reported:

Our building is very small, so there are several people working in 5m2 rooms. As a result, the air in the rooms is very stale and hot, especially in the summer. A while ago, we had plans to expand to the SIZO building, but because of the lack of funding we had to give up these plans. (40)

At SIZO #1 in Astrakhan:

In the building built in 1822 there is no hot water. Renovations were made only in the prison buildings. Telephone sets and telephone lines are totally worn out and almost unusable, it is impossible to purchase computers or photocopying equipment. No funds are allocated to purchase stationary or light bulbs. In many cases, the workers have to rely on their own money to improve their working conditions in the SIZO offices.(41)

The head of SIZO #IZ 66/1 in the Sverdlovsk region reported that:

The utilities (sewage collector) of the SIZO fail all standards, but no funding to address this issue is budgeted. During 2002, the Chief Department for Penalty Execution transferred to us 300 000 rubles, which is by far too little, and these funds have been received incompletely.(42)

Such working conditions at SIZOs cannot be recognized as meeting the requirements of Rule 46 of SMR.

In 2002, there was an increase in UIS funding, but it was too brief to help resolve the problems. The staff of the institutions have to tackle many of the issues related to supplies and organization of their work by themselves. Thus, the head of the UM-220/7 colony in the Karelia Republic said in his interview, "Our government is supposed to provide for all the needs of prisoners. However, today the government has shifted many of its responsibilities to the colonies. So, we have to breed rabbits, grow vegetables, keep cattle and pigs."(43) In the Astrakhan region, correctional institutions have to rely primarily on their own capabilities for most of their food and clothing needs, while their administrations have to look for buyers for the products of their colonies.(44) Most of the problems of clothing and food supply are, to a degree, resolved through the establishment of production facilities. Thus, the staff of correctional institutions, in addition to their duties of guarding and correcting inmates, have to get involved in economic activities.

Apart from this, UIS staff are assigned to various responsibilities that are unrelated to their immediate duties. The most controversial issue is their involvement in the counter-terrorist operation in Chechnya.(45) UIS, while in possession of military units, is nevertheless a purely civilian structure. Involvement of UIS staff in combat operations is impermissible as it has a negative impact on their later work with prisoners.(46)

What should also be noted is the negative attitude in society at large to the profession of a SIZO worker. To an extent, this results in their isolation from the society outside of the institutions. "Society tends to look at the profession of "jailer" with a degree of contempt and disgust. This is certainly a vestige of the past in public opinion, fed by insufficient information about the current situation in the penitentiary system of the Russian Federation."(47)

Indeed, the measures taken in order to better inform the public about the functioning of the Criminal Implementation System and to improve the prestige of its workers are mostly ineffective. In some regions, there are periodicals of the Chief Department for Penalty Execution that publish articles about the functioning of correctional institutions.(48) However, such publications have a very limited circulation among the general public, which results in a lack of sources of information about the situation in UIS. To address this issue, work with mass media should be more proactive and targeted. As a possible option, a comprehensive program should be developed to raise public awareness about the functioning of UIS. In this regard, human rights organizations can be very useful. Thus, the head of a correctional institution located in the Nizhnii Novgorod region

made the following suggestion the to human rights monitors:

It appears that now the time is ripe to develop and implement a whole set of measures directed at improving the prestige of our profession in society. Over the recent years, we had such a poor reputation that society has developed a certain stereotype of "the jailer." However, there are good things about our system too. They should get more visibility and discussion. By being always critical, you cannot improve the situation. I believe that in this case non-governmental organizations can give us real help. Help us comply, with your assistance, with international standards.(49)

However, at present, the social status of UIS staff remains low, and low salaries are not the only reason for this. As a consequence, the UIS institutions are incompletely staffed. Such problems were recorded in the Leningrad region(50) and in the Bryansk region.(51) In the city of Perm, out of 444 positions at the local SIZO, 44 remain vacant, while SIZO # 1, in the Khabarovsk territory, is 100 workers short of its staffing table target. In the Tula region, the senior and medium managerial staff is incomplete by 5.2%, and junior staff by 12%. The situation is particularly difficult at pretrial detention facilities in the city of Moscow. In order to make up for the shortage of junior wardens, the administrations of these institutions sometimes have to hire workers from adjacent regions as rotating staff.

In addition to the shortage of staff UIS institutions have a very low retention rate. Thus, in the Oryol region, correctional institutions are unable to build up a professional core staff due to a high staff turnover rate; at the local SIZO in the city of Oryol "very few workers stay for more than five years, even at the level of deputy directors; there is no a single person who has been in a position for over three years."(55) The head of the colony IK-13, in the Khabarovsk region, said in his interview:

We are facing an immense outflow of personnel. People are resigning. And this is a growing and irreversible trend. We have 190 staff positions. And we are not only unable to fill them all, but we cannot retain our existing personnel. When their contracts expire, people are unwilling to extend them.(56)

In a situation when there are a significant number of vacancies and a high turnover rate, the administrations of institutions have to depart from the principle of carefully selecting their staff. In particular, reports of breaking this principle were received from the Kirov region.(57) In the Rostov region, random and unsuitable people are in many cases appointed, as "normal people would not agree to the meager salary that the government has set for a warden."(58)

A similar opinion was voiced by heads of other UIS institutions. For example:

Junior inspector positions are accepted by people with intermediate education, poor level of training, and a low intellectual level.(59)

Also:

What you can get now is a former veterinarian, a pilot, or a teacher. It is quite a while before he is able to figure things out.(60)

Disregard to the requirement of careful selection of staff leads to a situation where the behavior of UIS workers is out of line with Rule 48 of "to influence the prisoners for good by their example and to command their respect." A lot of criticism is due to the staff of institutions, in particular those located in the Leningrad region.(61) According to former prisoners, many UIS workers practice extortion, and some of them tend to be unjustifiably violent toward prisoners.(62) Similar comments about the staff were made by former prisoners who had served time in the Astrakhan, Kirov, Nizhnii Novgorod, Oryol, and Rostov regions, in the Republics of North Osetia and Karelia, and in the Yamalo-Nenetsky autonomous district.(63)

The issue of poor of personnel selection is related not only to the economic situation, but also to the remoteness of most of UIS institutions from large cities. The administrations of the colonies seeks to employ people who live close to the institutions, and in such conditions the question of careful selection of highly skilled workers is not raised at all. In particular, a correctional institution located in a rural area in the Tambov region was examined by human rights monitors:

In the settlement in which the institution is located, unemployment is high. In fact, the colony is the only place that offers jobs. The colony employs anyone who is willing to work. There is nothing like careful selection. During job interviews, testing is very much of a symbolic nature, with only an insignificant proportion of applicants rejected. It is possible to get a position at the institutions without any testing at all(64).

It must be noted that in some regions there are attempts to select personnel carefully. Such information was received from the Voronezh, Kirov, Kurgan, Orenburg, and Chita regions, from the Jewish autonomous area, and the Buryat Republic. In the Kurgan and Orenburg regions, the recommendations of psychologists are taken into account when employment decisions are made. In appreciation of the high psychological pressure on the personnel, the Department of Penalty Execution in the Kurgan region provides a team of psychologists and a psychological assistance facility. Rooms for psychological assistance can also be found at some correctional institutions in the Bryansk region.(65) Obviously, it should be the responsibility of the Chief Department of Penalty Execution to further develop psychological services at criminal implementation institutions. Importantly, such services should be oriented not only toward the psychological correction of prisoners, but also toward the psychological support of staff.

The SMR requirement about the inclusion of psychologists, psychiatrists, and teachers in correctional institutions is fulfilled in Russia in general, but not everywhere. In the Leningrad region and in the Primorsky territory, institutions have insufficient numbers of such staff workers.(66) Another problem here is that in some cases the vacancies of psychologists or teachers are filled by people who are not competent or trained to work with prisoners. Thus, at correctional institutions located in rural areas of the Tambov region, the position of psychologists and teachers are in most cases occupied by young college graduates who need a work record to pursue other careers.(67)

At the same time, some regions and institutions have succeeded in building strong psychological services. An example of this is the Department of Penalty Execution in the Buryat Republic which operates a psychological laboratory and has set up a coordinating and methodological council involving psychologists from the Buryat State University and the Eastern Siberian Technological University.(68) Psychological, pedagogical, and social working centers have been set up at the Shakhovsk IK-6 colony, in the Oryol region. The psychologists and social workers of the centers provide psychological assistance to prisoners. The experience of Oryol has won wide recognition. Thus, in 2002, a number of seminars for heads of penitentiary institutions from all regions of Russia were held in the Oryol region.(69) This best practice should be further supported and propagated as far as possible in the other regions.

(1) Federal Law #5473-1. Approved on July 21, 1993; amended on June 15, 1996, April 13, July 21, 1998, June 20, 2000, March 9, 2001.
(2) Approved by Order #117 of the RF Minister of Justice, dated April 26, 2002.
(3) From an interview with V. Lashenko, head of the colony YaL 61/5, Pskov region.
(4) Regional Report "The Penitentiary System in the Mordovia Republic — 2002."
(5) "A staff member can be dismissed at own request, upon reaching the maximum age, upon serving the number of years granting entitlement to a pension, or upon expiration of his/her employment contract. A staff member can also be dismissed for medical reasons, as long as the health condition of the worker prevents him/her from being relieved from his/her responsibilities in due manner."

(6) Article 17.3 of Instructions.
(7) Article 17.20 of Instructions.
(8) Resolution #477 "On Approval of the Rates of Increase of Salaries (Tariff Rates) of the Personnel of Institutions Implementing Criminal Penalties in the Form of Imprisonment, and Institutions Implementing Criminal Penalties in the Form of Imprisonment with Special Conditions of Economic Activities, Depending on the Type of Institution, the Nature and Complexity of the Work Performed, and Pretrial Detention Facilities of the RF Ministry of Internal Affairs" of the RF Government, dated May 6, 1994.
(9) Articles 32—34 of Federal Law "On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment."
(10) Article 35 of Federal Law "On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment."
(11) Article 36 of Federal Law "On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment."
(12) Admission for service in UIS is effected based on appointment to a position, a contract of employment, or as a result of a competitive selection procedure.
(13) Article 4 of Instructions.
(14) Article 6 of Instructions.
(15) Attestation of staff members employed under a term contract is undertaken at the contract's extension, while assessment of staff members working under an indefinite contract takes place every five years of service. Staff members are also assessed before being promoted, demoted, or transferred to another institution or body of UIS (Article 9 of Instructions).
(16) For details, see Section "Contacts with the Outside World."
(17) Article 9 of UIK, Regulation "On the Procedure for Arrangements for Primary General Education and High (Complete) General Education of Persons Serving Sentences in the Form of Imprisonment at Correctional Colonies and Prisons" (as approved by Order #31/321 of February 9, 1999 of the RF Ministry of Justice and the RF Ministry of Health), Instruction "On the Procedure for Organization of Primary Vocational Education of Convicts at Institutions Implementing Criminal Penalties in the Form of Imprisonment" (as approved by Orders #592, 446 of November 22, 1995, of the RF Ministry of Education and the RF Ministry of Internal Affairs).
(18) Article 16 "On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment."
(19) Article 9 of UIK.
(20) Annex to Instruction on Organization of Correctional Work with Convicts at Juvenile Colonies of RF Ministry of Internal Affairs, as approved by the RF Ministry of Internal Affairs Order #201 of April 2, 1997.
(21) Ibid.
(22) Annex 1 to Order #214 of June 7, 1995, of the RF Ministry of Internal Affairs, "List of Senior and Medium Commanding Positions and Respective Special Ranks of Units of the Criminal Implementation System."
(23) GUIN Order "On Endorsement of the Provision on the Social Protection Group and on the Labor Record Accouting for the Labor of Inmates of Correctional and Mecical Correctional Institutions," dated March 28, 2002.
(24) Article 28, "On Institutions and Bodies Implementing Criminal Penalties in the Form of Imprisonment."
(25) Ibid.
(26) Regional Report "The Penitentiary System in Karelia Republic — 2002."
(27) Data from relevant regional reports.
(28) From an interview with V. Lashenko, head of the colony YaL 61/5, Pskov region.
(29) From an interview with V. Karagodin, head of the colony OYa 22/7, Nizhnii Novgorod region.
(30) Data from regional reports, and from interviews with heads of correctional institutions and SIZOs.
(31) From an interview with A. Nadrshin, head of SIZO #IZ 3/1, Bashkortostan Republic.
(32) Regional Report "The Penitentiary System in the Mordovia Republic — 2002."
(33) Regional Report "The Penitentiary System in the Astrakhan Region — 2002."
(34) Data from regional reports, and from interviews with heads of correctional institutions and

SIZOs.
(35) Data from regional reports for the Astrakhan region and the Buryatia Republic.
(36) Regional Report "The Penitentiary System in the Bryansk Region — 2002."
(37) Regional Report "The Penitentiary System in the Mordovia Republic — 2002."
(38) Regional Report "The Penitentiary System in the Buryatia Republic — 2002."
(39) From an interview with V. Karoyan, head of SIZO #2, Kemerovo region.
(40) From an interview with the head of a SIZO, Kirov region.
(41) Regional Report "The Penitentiary System in the Astrakhan Region — 2002."
(42) From an interview with V. Shipitsyn, head of SIZO #IZ 66/1, Sverdlovsk region.
(43) From an interview with P. Seleznyov, head of the colony UM 220/7, Karelia Republic.
(44) Regional Report "The Penitentiary System in the Astrakhan Region — 2002."
(45) Regional Report "The Penitentiary System in the Buryatia Republic — 2002."
(46) Alternative report by Russian NGOs to UN Committee against Torture (May 2002, p. 34).
(47) Regional Report "Penitentiary System in the Karelia Republic — 2002."
(48) Regional Report "Penitentiary System in the the Astrakhan Region — 2002" and Regional Report "Penitentiary System in the Buryat Republic — 2002."
(49) From an interview with the head of the facility UZ 62/11. Nizhnii Novgorod region.
(50) Regional Report "The Penitentiary System in the Leningrad Region — 2002."
(51) Regional Report "The Penitentiary System in the Bryansk Region — 2002."
(52) Regional Report "The Penitentiary System in the Perm Region — 2002."
(53) Regional Report "The Penitentiary System in the Khabarovsk Territory — 2002."
(54) Regional Report "The Penitentiary System in the Tula Region — 2002."
(55) Regional Report "The Penitentiary System in the Oryol Region — 2002."
(56) From an interview with N. Lupeykin, head of the colony IK-13. Khabarovsk territory.
(57) Regional Report "The Penitentiary System in the Kirov Region — 2002."
(58) Regional Report "The Penitentiary System in the Rostov Region — 2002."
(59) From an interview with S. Tishin, head of SIZO #IZ-54/1. Orenburg Region.
(60) From an interview with the head of SIZO #IZ-11/1. Komi Republic.
(61) Regional Report "The Penitentiary System in the Leningrad Region — 2002."
(62) From interviews with former prisoners. Leningrad region.
(63) From an interview with former prisoners.
(64) Regional Report "The Penitentiary System in the Tambov Region — 2002."
(65) Regional Report "The Penitentiary System in the Bryansk Region — 2002."
(66) Regional Report "The Penitentiary System in the Leningrad Region — 2002" and Regional Report "The Penitentiary System in the Primorsky Territory — 2002."
(67) Regional Report "The Penitentiary System in the Tambov Region — 2002."
(68) Regional Report "The Penitentiary System in the Buryatia Republic — 2002."
(69) Regional Report "The Penitentiary System in the Oryol Region — 2002."

Inspections

55. There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners.

Regular inspections performed by competent authorities come to be conditio sine qua non for effective application of the international and Russian standards for the treatment of prisoners. The efficiency of oversight is normally assured through availability of the official status and powers of inspections. Importantly, it is predicated upon the comprehensive and independent character of inspections, with relevant follow-up measures being passed and carried out accordingly.

Pursuant to the provisions of Article 122 of UIK:

The prosecutorial supervision over implementation of the applicable legislation by administrators of penalty execution facilities and authorities shall be performed by the RF Prosecutor General's Office in keeping with Federal Law "On the RF Prosecutor General's Office."

This has been arranged to have more specific oversight runs, improve efficiency of criminal investigative efforts and boost the numbers of inspections, which can be achieved through relevant supervisory structures being located close to the existing penal or correctional institutions.

As a rule, domestic prosecutors run inspections of penal facilities on a regular basis in line with the approved schedule or on an emergency basis, whenever there is a need to tackle massive complaints lodged by convicts. Supervisory prosecutor's offices make the only Russian oversight institution meeting the applicable criteria for regular inspections.

Prosecutors have been authorized to use a broad range of powers ranging from inspecting correctional facilities and interviewing convicts at the time of their choice all the way through examining relevant documents and demanding explanations from the pertinent officials, according to the provisions of Article 33 of Federal Law "On the RF Prosecutor General's Office."(1) Importantly, supervisory prosecutors have the right to countermand disciplinary actions and have relevant prisoners exempted from penalties. Prosecutor's rulings, protests or submissions are normally subject to be implemented by the wardens of penitentiary facilities without further ado. Should the applicable laws (primarily the regulations related to everyday activities maintained by administrations of penal institutions) happen to be seriously breached, the guilty employees can be prosecuted either criminally or administratively. In reality, though, the guilty persons for the most part merely get disciplined.

Today, prisoners are aware of their right to directly turn to prosecutors. Once in a while, they try it but frequently to no avail.

By way of example, in July 2001 the penal colony (UE-148/2) in the Republic of Tatarstan had a GUIN (Chief Department for Penalty Execution) special coercive element brought in following a string of escapes. Members of the deployed special-force element started to regularly manhandle prisoners confined to PKT isolation wards (punishment cells). Outraged by this sort of treatment, the prisoners demanded to see a prosecutor. When their request was turned down, as many as 54 of them went on hunger strike.(2)

Notably, the overwhelming majority of our respondents (persons just released from penitentiary facilities) maintain that it is nearly pointless to turn to prosecutor's offices with appeals.(3) Here are some pronouncements to prove the point:

Nobody has had any complaints because everybody believes it is no use.(4)

Also:

A supervisory prosecutor would merely come to visit once every two months. Though we complained about excessive deductions made from our pension benefits I have a third category of disability, with all other members of our detachment likewise being disabled persons), we have seen no change for the better.(5)

Regrettably, the RF Prosecutor General's Office has made available no composite data on the performance of supervisory prosecutors.(6) Available to the authors of this report have merely been bits of knowledge on the state of things in the regions. Notwithstanding the circumstance, the accumulated knowledge can be rather indicative. Indeed, particularly compelling has been the

fact that only 10% of the officially registered appeals and complaints dispatched by prisoners to prosecutors have been passed as adequately grounded. In the Republic of Karelia, for one, “over the first ten months of 2002, supervisory prosecutors had completed as many as 90 inspections. In the course of those supervisory visits, the inspectors had interviewed 708 convicts, considered 348 appeals and grievances, with as many as 13 of the latter being satisfied.”(7) The relevant inspection-related statistics for the Kurgan region appears to be nearly the same, with the numbers for appeals considered and satisfied standing at 246 and 8 accordingly.(8)

Knowledge of the activities pursued by supervisory prosecutors, which is derived from complaints lodged by either prisoners, or their relatives or public organizations, makes it possible to draw an explicit conclusion to the effect that supervisory prosecutors are unable to effectively tackle the pressing tasks related to overseeing the specified penitentiary facilities. Also, passed as valid can be the fact that the appeals or grievances dispatched by prisoners have not been made subject to adequate and impartial consideration. In most of the cases, prosecutor-run inspections aimed at establishing if the registered pretrial detentions or disciplinary actions have been lawful basically boil down to making sure that all relevant papers have been properly filled out. When looking into the cases of convicts that have been punished or developed conflicts with penal colony officers, the prosecutors (their duty and opportunity to launch speedy and focused investigative efforts notwithstanding) nearly have never undertaken to collect, research or archive any evidence on the matter in question, look for and provide for security of relevant witnesses. Whenever the testimonies by prison wardens come to run counter to statements made by prisoners, prosecutors would normally side with the official parties. In addition, under conflict-charged circumstances at penitentiary facilities supervisory prosecutors normally pass no measures designed to assure security of the aggrieved parties or provide for protection of witnesses against the risk of any pressures or persecutions.

Manifestly descriptive of the ongoing prosecutorial supervision practices is the following situation. In September 2002, prisoners of the Orenburg-based pretrial detention facility went on a hunger strike. They demanded that constraints on parcel deliveries be lifted, window frames — doubled for the coming winter, walks — sustained on a regular basis, meals — appropriately reinforced. The relevant findings of the Orenburg Department for Penalty Execution and prosecutors have been made public at a press conference. Here is an excerpt from that statement:

We had experts from the regional office of the State Sanitary Epidemeological Inspection Authority (Gossanepidnadzor) to check and see to what extent the quality of “provided services” is in line with the applicable legal requirements. The doctors have established that the prison meals are up to the applicable standards… When it comes to the question of walks, the prisoners have been notified as follows: the outing yard was closed last Sunday (the day when the local prisoners were kept in their wards all day long) because it was being cleaned up and sanitized. The window frames would soon be double-paned for the winter, pursuant to the established schedule… So, as you see, the demands of striking prisoners were groundless.(9)

Investigative efforts to look into the cases of violent deaths of prisoners for the most part have not been conducted appropriately. They have usually been terminated prematurely purely on *pro-forma* grounds. To provide another example, the case of prisoner V. Oboukhov, who died April 24, 1999, at the hospital run by the Department for Penalty Execution in the Nizhnii Novgorod region, has been investigated for three years. The circumstances indicative of his violent death notwithstanding, the relevant criminal case has been opened and then terminated three times by the local prosecutors. Over the years of inspections, they have never launched a concerted effort to investigate the matter and identify the persons guilty of the prisoner’s death. In 2002, the regional prosecutors ruled to suspend the case “on account of the deceased person’s relatives failing to concur on exhuming the body.”(10)

Clearly, poor performance of supervisory prosecutors can be explained by a number of reasons. In the first place, one major reason is that the prosecutors are supposed to concurrently handle the jobs of criminal investigation and supervisory inspection, the former function being generally

passed as traditional and top-priority. For example, Russian penitentiary facilities continue to maintain operative investigation sections responsible for uncovering the registered crimes. The regional prosecutor's offices have been appropriately tracking and supporting those efforts. These investigations, bolstered by the so-called "voluntary confessions of guilt," serve to ratchet up tensions and trigger the lack on confidence in the prison administrations.

Of great relevance in the work of prosecutors is the inspector's personality. Many former prisoners stressed this point in their interviews. Though supervisory prosecutor's offices tracking the penitentiary facilities must have highly skilled and independent employees, such employees appear to be in the minority, according to the latest survey. Here is one admission to this effect:

The more remote the prison, the less often you can see the inspectors. I have never been interviewed, while some other prisoners have been tapped for rendezvous with inspectors. However, those have been rare occasions. Admittedly, I have heard of a few positive results of those inspections. You know, it all depends on who comes to inspect. If it is a new inspector, he might find some faults and have the guilty prison officers duly reprimanded or punished. Well, but those rare occurrences hardly change the general state of things...(11)

Also, the prosecutorial effort has been negatively impacted by the fact that a good deal of inaction in the area of protecting the rights of prisoners and detainees has become a particularly pressing problem for the Russian judicial system. In those rare cases when the prisoners have turned to the courts of law to stand up for their rights, the relevant judgments normally have never been passed in favor of the claimants. Prisoners' grievances or appeals generally have been considered by courts holding field trials. A court trial at a penitentiary institution would normally be conducted behind closed doors, with the basic right to due process being manifestly violated in the process.

To remind, a good part of inspections of Russian penal institutions have been conducted as departmental drives to tackle scheduled tasks and consider appeals lodged by prisoners. By way of example, in 2001 over 1000 convicts in the Primorsky territory-based penitentiary facilities formally complained about their inadequate confinement conditions and unlawful actions on the part of officers and employees staffing penal colony administrations.(12) To underscore, domestic penitentiary institutions have been inspected by members of authorities and experts from *ad hoc* regional commissions, of the Chief Department for Penalty Execution. Starting from the early 2000, that kind of inspections have been carried out on a regular basis by members of the newly created federal-district justice authorities, with each one of those maintaining a section responsible for overseeing penal colonies. Though the prosecutors have improved their professional efficiency, the focus of their engagements for the most part has been placed on the issues related to technical matters or problems of how to better run today's penitentiary institutions, according to the findings of our monitoring effort.

Arguably, the prosecutorial oversight structures could meaningfully improve efficiency of their effort by way of developing new inspection strategies and setting up civilian oversight institutions. Under Article 19 of UIK, the stipulated subjects, authorized to run inspections of penitentiary facilities, include executive and legislative structures on the federal and regional levels. Unfortunately, those governmental bodies have not been wholly involved in conducting the aforementioned inspections, which for the most part has to do with the fact that Russian regional authorities are little interested in seeking to resolve the pressing problems encountered by penal colonies. (Importantly, the questions of running the Criminal Implementation System exclusively fall within the competence of federal governing bodies, according to the provisions of Article 71 (O), of the RF Constitution).

With Federal Law "On the Office of the RF Ombudsman" passed in 1997, a new oversight institution was effectively put in place. In particular, the RF Ombudsman has the right to freely inspect penitentiary facilities (including penal colonies) while considering complaints filed in by prisoners, according to Article 23 of this law. What is more, as many as 23 Russian regions have

established the office of regional ombudsman whose oversight powers, admittedly, are rather constrained.(13)

To point out, the influences currently exercised by the ombudsmen on the human rights situation at Russian penitentiary facilities continue to be insignificant. Field trips to review the complaints filed by prisoners have been very rare. One can only praise the effort maintained in this regard by the ombudsmen from the Samara and Perm regions. In our judgment, the reluctance on the part of ombudsmen to go into the field and inspect local penal colonies has largely come from the relevant staffing and budget problems, rather than from their competencies being excessively constrained. On the other hand, many regional ombudsmen and their staff lack the requisite qualifications for the job, to say nothing of the fact that they do not seem to be highly motivated to seriously tackle human rights protection tasks.

Then, a word would be in order about the available international oversight vehicles that can be tapped to run inspections of penal colonies. In the first place, one should talk about international bodies seeking to counter the use of torture.

To remind, the job of inspecting penitentiary facilities falls within the remit of several UN special rapporteurs. Also, after Russia ratified the European Convention for the Prevention of Torture in 1998, the country has been on a regular basis visited by members of the European Committee on the Prevention of Torture, Inhuman or Denigrating Treatments or Punishments (CPT). Importantly, the Committee has its reports and recommendations duly submitted to the Russian government authorities. To provide an example to this effect, CPT has recently pointed out the need for Russia to counter the excessively large-scale use of such special items as clubs or truncheons that happen to be worn by prison security guards on a permanent basis.(14) Following that event, in 2002 Yu. Kalinin, Deputy Minister of Justice, issued an order to bar the standard wearing of rubberized clubs or truncheons.(15) To emphasize, Russia continues to refrain from publishing CPT reports, which obviously comes to be out of line with the established universal practice.

Regrettably, inspections by members of varied international bodies have had little impact on the human rights situation at Russian penitentiary facilities, especially given that normally receive no publicity within the vast expanses of Russia. Notwithstanding the circumstance, following the recent inspection undertaken by CPT in Chechnya, the numbers of manhandling practices at the Chernokozovo pretrial facility have been on the downswing, as reported by human rights monitors.

Importantly, in December 2002, the UN General Assembly passed a protocol to the UN Convention Against Torture, the document also providing for inspections of temporary detention facilities. To add, that Protocol covers the issues related to development of domestic systems of oversight and inspections. Russia chose to abstain from voting on the Protocol put up for adoption by the UN General Assembly.

To develop effective oversight mechanisms, Russia should pass a dedicated federal law designed to assure regulation of matters relating to application of civilian oversight procedures. To underscore, that prospective piece of legislation should not only enable members from civic organizations to inspect penal institutions but also have the regional and local authorities empowered to participate in resolving the problems encountered by penitentiaries facilities.

To remind, though the federal bill “On Civilian Oversight of Human Rights at Detention Facilities and on Engaging Civic Organizations to Assist Those Facilities” was passed by the State Duma of the Russian Federation in 2000, it failed to be confirmed by the Federation Council, the upper chamber of the Russian parliament. When the law was updated, agreed upon through a conference procedure and put up for the vote by both houses, it was voted down on account of the Russian government providing a critical assessment of the bill. Though the draft was truly a compromise reflecting the preferences of all relevant law enforcement agencies, the government

came out against “civic organizations being empowered to run inspections of government facilities.”(16) Hence, given the persisting resistance on the part of the Russian government, we still have no public oversight of domestic penitentiary facilities.

Notably, notwithstanding unavailability of the relevant legal regulation, the Chief Department for Penalty Execution along with its regional divisions for the most part have allowed NGO members to visit selected penitentiary facilities. Given substantial assistance from Chief Department for Penalty Execution, we also succeeded in collecting an impressive body of data underpinning this report.

While drawing an overall conclusion, we can confirm that to all practical purposes the applicable SMR requirements for running inspections of penitentiary facilities continue to be unobserved. The civilian oversight system is yet to emerge in Russia, with the prosecutorial supervisory activities needing to be reformed. According to the UN Committee Against Torture, which in 2002 reviewed the relevant dimension of the human rights situation in Russia, an effort should be launched to “develop a program for random inspections of pretrial detention and other penitentiary facilities through the agency of independent inspectors that can be trusted and whose reports should be publicly released.”(17)

(1) Federal Law “On the RF Prosecutor General’s Office” passed in 1992 and amended February 10 and November 19, 1999, January 2 and December 27, 2000, December 29 and 30, 2001, June 28 and July 25, 2002.
(2) *Novaya Vecherka* (Kazan: June 18, 2001).
(3) For more detail see the Section “Information to and Complaints by Prisoners.”
(4) From an interview with a former prisoner. Republic of Adygea.
(5) From an interview with a former prisoner. Republic of Mordovia.
(6) The September 8, 2002 inquiry to V. Ustinov, Prosecutor General of the RF.
(7) Regional Report “The Penitentiary System in the Republic of Karelia — 2002.”
(8) The data for January-September 2002 from the Regional Report “The Penitentiary System in Kursk Region — 2002.
(9) *Orenburgsky Kurier* (September 26, 2002).
(10) Letter #17-01 from the prosecutor’s office of the Nizhnii Novgorod region of February 8, 2002. The 2001 human rights report for the Nizhnii Novgorod region.
(11) From an interview with a former prisoner. Nizhnii Novgorod region.
(12) Reported by the Primorsky branch, Nakhodka chapter, Russian Section of the International Human Rights Society (2001).
(13) In particular, they have no right to run unconstrained inspections of Russian penitentiary facilities.
(14) “Recommendations from the European Committee for Prevention of Torture, Inhuman or Denigrating Treatments or Punishments for the Government of the Russian Federation.” *Vedomosti UIS* (2002, #8, p. 81—96).
(15) Order #18/6/2-621 of November 25, 2002, on the procedure for wearing special items by the RF Ministry of Justice.
(16) Review of the bill #4943p-P4 by the RF Government of the Russian Federation of August 16, 2001, signed by V.Khristenko, Deputy Chairman of the RF Government, and submitted to the RF State Duma.
(17) From “Conclusions and Recommendations by UN Committee against Torture” to the Russian Federation. CAT/C/XXVIII/Concl.5 of May 16, 2002 (Item D).

Reduction of Russia's Prison Population: Possibilities and Limitations

LATEST PRISON STATISTICS

On January 1, 2003, institutions of the Chief Department of Penalty Execution (GUIN) of the RF Ministry of Justice held 877 000 prisoners, of which 145 000 persons were imprisoned at SIZOs (pretrial facilities). The rated number of prisoners (RNP) stood at 600 per 100 000 of Russia's population.

By preliminary estimates, at the beginning of 2003, at penal institutions of all types (including temporary detention wards (IVS), etc.) RNP was within the range of 640—650. In the USA, this multiple is currently estimated at 710.

GROUPS OF PRISON POPULATION IN GUIN

On January 1, 2003, among the prison population held by varied GIUN facilities, there were the following groups:

• women: 50 000 persons, including 9400 in SIZOs;
• children under 3 years of age, kept in child's homes at female colonies: 528 persons;
• underage prisoners: 19 000 persons, including 8000 in SIZOs;
• prisoners suffering from tuberculosis: 86 100 persons, including 10 800 in SIZOs;
• HIV-infected prisoners and prisoners suffering from AIDS: 37 200 persons, including 6700 in SIZOs.

Registered with GUIN's inspectorates were 641 000 persons sentenced to penalties that do not involve imprisonment. Of this number, 32 000 persons are underage.

RUSSIA'S PRISON POPULATION HAS REDUCED BY 20%

In the fall of 2002, many mass media reported a 20% drop in Russia's prison population. Given the number of prisoners of one million, this means a reduction by 200 000 persons. As a rule, nothing was said about over what period such a considerable downsizing had occurred. However, 200 000 is a number that is greater than the aggregate number of prison population of the United Kingdom, France, and Germany combined.

Journalists' reports left unclear the significance of this development. On the one hand, mass media suggested that such a reduction should resolve the issue of SIZOs being overcrowded, on the other hand, traditional concerns were voiced that there might be another "summer of 1953" and a surge of the rate of crime.

Ministerial media (those operated by the Ministry of Internal Affairs) are now fairly prompt in reporting criminal statistics. It can be learned from them that:

In January through November 2002, 2 316 800 crimes were registered. This is 15.4% less than in the comparable period of the previous year… The rate of reduction of the number of registered grave and particularly grave crimes (21.6%) exceeded the general crime reduction rate, with the share of such crimes in total registered crimes slid from 59.5% in January-November 2001 to 55.1% in January-November 2002. The number of revealed offences related to illegal weapon trafficking was 14.2% lower than in January-November of the previous year…(1)

Judging by the figures provided in mid-January of 2003 by the Minister of Internal Affairs, B. Gryzlov,(2) the overall trend toward improvement of the criminal situation is also manifested in annual statistical data. In 2002, the number of registered crimes dropped by 14%, while the number of crimes committed by minors saw a 22.7% reduction.

However, official statistics are affected by a wide variety of factors, and what they actually mirror is clear to neither ministers nor criminologists. Just one example. Over a very short period of just a few months of 2002, the number and structure of registered crimes must have been inevitably affected by the numerous legislative amendments of the most frequently used Article 158 of the

RF Criminal Code (“Theft”). To remind, in Russia thefts account for 40—50% of all registered offences. One and the same crime, e.g., stealing 2000 roubles out of a retiree’s pocket, was viewed as a grave offence entailing a maximum of six years of imprisonment(3) before July 1, 2002, while over the period between July 1, 2002 and October 31, 2002, such a theft moved into the category of administrative offences. The maximum the offender could face was a fine of up to three times the value of the prey.(4) As of October 31, 2002, theft becomes a criminal offence again, but this time an offence of medium gravity. The maximum penalty for it is five years of imprisonment (Paragraph 2.g, Article 158 of the RF Criminal Code).(5) The classification and accounting of most of the other types of theft have undergone similar transformations.

The reduction of the prison population was linked by journalists solely with the enforcement of the new RF Criminal Procedure Code (UPK), effective as of July 2002. Under the new Code, putting a suspect behind the bars has become more difficult than in the past. Apparently, it was for this reason that the Ministry of Internal Affairs was the first to articulate concern about the legislative novelties. But the Ministry of Justice followed, expressing cautious warning. Thus, Yu. Chayka, Minister of Justice, said that “being humane is a good thing to a certain point, so we need to analyze the situation that has emerged after the introduction of the new Criminal Procedure Code.” And Yu. Kalinin, Deputy Minister of Justice, declared that “President’s assignment” had been fulfilled, with “the number of prisoners in Russia reducing to an optimum level.”

It is hard to say how accurate the press is in its rendering the opinions of the government, as publications on topics of imprisonment suffer from a lot of errors and absurdities. However, both journalists and human rights activists have noticed that staff workers of SIZOs and correctional colonies are concerned over the situation (at SIZOs, for instance, the financial bonus for “overcrowdedness” has been dropped). It is institutions of these types that have seen the greatest reduction in the number of prisoners. Personnel of SIZOs and correctional colonies could reasonably think that the reduction of the prison population may trigger downsizing of prison personnel.

GROWTH OF PRISON POPULATION IN 1991—1996

At the first sight, prison statistics look more straightforward(6) than criminal statistics.

Table 1. Number of Prisoners at GUIN Institutions in 1993—2003 (7)

.	**1993**	**1994<./b>**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**
Total number of prisoners, in thousand persons	772	876	929	1,017	1,052	1,010	1,014	1,060	924	961	877
Number of prisoners in SIZO, in thousand persons	200	234	253	295	285	279	275	282	236	212	145
Number of prisoners per 100 000 of Russia’s population	520	590	630	690	710	690	690	730	640	670	600
Number of male prisoners in the 18+ age group per 100 000 males of this age group	1448	1677	1765	1959	2000	1930	1934	2000	1765	—	—
Number of underage prisoners,	32.1	36	36.6	40.5	38.2	33.7	34	40	30	30	19

thousand persons (SIZO + educational colonies)											
% of underage prisoners in the total number of prisoners	4.3	4.3	3.9	4.0	3.6	3.3	3.4	3.8	3.2	3.1	2.2
Total number of underage male prisoners per 100,000 persons of the same age group	543	593	587	635	584	502	498	582	567	—	—
Number of persons suffering from tuberculosis	—	—	48	53	71	82	97	91	91	90	98
HIV infected per 1000 prisoners	—	—	0.008	0.013	0.23	1.44	2.3	3.9	16.3	33.6	42.4

Table 1 contains detailed data on Russia's prisoners for the last ten years. Comparison with the Soviet period would be improper(8) as the number of prisoners varied not only with judicial practices and criminal policies in a given republic, but also with its saturation with camp-based production facilities. Russia and Kazakhstan were regions that received major inflows of free labor from the other republics of the USSR. By 1993, the number of "alien" inmates in Russia was not so significant.

WHY AND WHEN THE ISSUE OF THE NEED TO REDUCE PRISON POPULATION WAS RAISED

The situation in the Criminal Implementation System (UIS) was already critical on the eve of the USSR's dissolution(9). In 1990—1991, Russian SIZOs and colonies were swept by a wave of mass strikes, hunger strikes, and even riots caused by the inhuman conditions of imprisonment. The crisis of UIS came as a result of both the outdated laws and the new economic situation.

In the Soviet period, the number of prisoners had no relation whatsoever with either the criminal situation or the need to provide safety to the population, but was dictated mainly by the needs and capacity of the camps' production base. In the 60s and the 70s of the 20th century, correctional labor institutions (ITUs) underwent an economic reform to orient camp industries toward cooperation with large government-owned industries. This necessitated setting up colonies capable of holding a large number of prisoners (1500—3000 persons). At that time, most ITUs grew to become huge production systems with industrial service lines, storage facilities, etc. The "production zones" bordered on small living areas with barracks packed with forced laborers.

With the dawn of economic reforms in the USSR, the camp industry began its slide to decay, as it was capable of successful by functioning only under the conditions of a plan-based economy and the government's monopoly. Forced labor cannot be competitive in a market economy, in a society with a fair level of development of production forces. At least, we are ignorant of any examples proving otherwise.

The foregoing considerations had been put in the base of a program developed by the Center for Assistance to Criminal Justice Reform (hereinafter referred to as Center) in 1991. The program contained proposals designed to put the regulations in line with international standards, and a list of measures aimed to reduce prison population to 350 000—400 000 persons (and to 80 000 in

SIZOs). These figures are not an **optimal** but the **maximum** number of prisoners. This number depends on the resources that the government can allocate to maintain UIS, provided there is readiness to ensure such conditions of imprisonment that would satisfy the requirements of at least Russian laws. These issues are discussed in more detail in the Center's previous publications.(10) We will only note here that the legislative part of those proposals was largely in tune with recommendations of experts from the Research Institute of the RF Ministry of Internal Affairs, and satisfied the requirements put forth by prisoners during their mass protests in the fall of 1991. The law's final version(11) retained (and even reinforced) almost all of the Center's recommendations calling for greater lenience of the imprisonment regime. By contrast, almost **all proposals were disregarded that aimed to reduce the number of prisoners**, restrict the right of the ministry to adopt its own regulations, and introduce effective mechanisms of supervision over the observance of prisoners' rights.

Between 1993 and 1996, the total number of prisoners grew by about a third, while the population of SIZOs increased by almost 50% (see Table 1). Such a rise in the number of prison population in the conditions of an economic decline further aggravated the situation. The situation was particularly grave at SIZOs. Due to the enormous crowds in the cells, the prisoners had to take turns and sleep in two or even three shifts. In order to light a match, one had to come up to a door or a window. In hot days, C, causing prisoners to faint°the temperature in the cells reached 40—50 *en masse*, with occasional deaths from oxygen starvation. One of such cases that received a wide publicity occurred in July 1995. Eleven persons died in one day and several dozen prisoners were taken to hospital in a critical condition. Hundreds of prisoners cut their wrists open in protest against the unbearable conditions of imprisonment.

UN and CoE experts visiting Russia in 1994, described the conditions of imprisonment at institutions of this type as torturous. GUIN and the country's top political leadership agreed with the experts' opinion, which had a logical consequence at the ministerial level. In 1995, GUIN developed and the government and the RF President approved and signed Concept for Reorganization of the Criminal Implementation System (UIS) of the RF Ministry of Internal Affairs (for the Period until 2005). "Insufficient funding from the budget" was identified as the main cause of the poor situation.

The Concept envisaged a whole range of expensive projects, including programs to build new and rebuild the existing SIZOs. This program aimed to increase the capacity of institutions of this type to 180 000 prisoners by the year 2000. Meanwhile, the number of prisoners kept in SIZOs reached 290 000 by the end of 1995, with the actual finding of the program over all of these years lingering at 3% of the originally approved amount.(12)

The Concept contained no reference to the need to reduce the number of prisoners in Russia. However, Ministry of Internal Affairs' top officials then in charge of GUIN, as they called for stepping up the fight against crime, spoke about the need to make the punishment more severe, thus instigating further growth of the prison population. P. Mishenkov, Deputy Minister of Internal Affairs in charge of GUIN, said in October 1995 that periods of imprisonment for grave offences needed to be revised and increased; "We have plenty of room in the colonies," said Mr. Mishenkov,(13) although he should have known that as early as the beginning of 1995, colonies had already had 25 000 excess prisoners over their design capacity. In addition, due to the "insufficient funding by the government," staff workers of penitentiaries were in a pitiful situation, with their paychecks delayed by three-four months and no funds to at least provide them with uniforms. In 1995, there were several cases of suicide among penitentiaries' staff left without means to support their half-starved families.

RUSSIAN PRISONS BECOME A THREAT TO HUMANKIND: 1997—1999

In 1997—2000, the population of Russia' SIZOs and penal correctional institutions stabilized, with annual fluctuations within 5—6% (see Table 1 and Chart 1).

The year 1996, with its 300 000 prisoners in SIZOs, has gone in the history of the last decade as the “record” year. However, the “stabilization” failed to bring about any improvement in the penitentiary system. The resources that the government commanded were too limited to support physical survival of the million prisoners, to say nothing about compliance with at least national regulations. Everything was in short supply, including food, medical services, sanitary and hygienic materials. This resulted in further development of the tuberculosis (TB) epidemic at prisons (see Chart 2). The number of TB cases was only brought to a plateau of 9—10% in 1999. On the other hand, Western foundations and international organizations helping Russia counter TB in prisons came across another foreboding issue. Lack of funds and continual transfers from one institution to another, which break the continuity of the treatment, have led to advent of TB forms that are resistant to first multiple drugs series (so-called MDR-TB-1). This form is now diagnosed in 25—30% of TB patients in GUIN institutions.

Chart 1. Number of Prisoners in SIZOs and Correctional Institutions in the Last Ten Years, as percentage of the Number for 1993

The “new tuberculosis” is a virtually incurable illness, the once effective anti-tuberculosis medications are useless against it. UN World Health Organization (WHO) has declared MDR-TB-1 the most dangerous infectious disease of the 21st century, and Russia has been identified as one of the main sources of this disease and its spread in the world. This issue a very grave one indeed. A single carrier in an airplane will spread the drug-resistant form of TB to other passengers, and the airplane may land in any country of the world. Unlike a radioactive emission or a load of explosives, the pathogen — Koch’s bacillus — is impossible to detect. Every year, 250 000—300 000 people are released from prisons. Out of this number, 30 000 are infected with TB. One out of four is a carrier of the incurable form. He can transmit the deadly infection to dozens of people within a year.

Official information about the TB situation at Russia’s penal institutions first emerged in 1991: the incidence of TB at penitentiaries was 17 times, and the death rate was eight times the corresponding rates outside the penal system. These shocking figures failed to cause any particular concern in either the nation’s political leadership or Russian society at large. This was likely due to the long-established perception of tuberculosis as a disease that is, albeit dangerous, quite curable, while prisons were seen as something that is fenced off the society in a reliable way. At first, federal anti-tuberculosis programs did not cover prisons or colonies at all.

In 1999, TB incidence rate at Russian penitentiaries hit a record 9.7%, exceeding the outside rate by a factor of 58, while the death rate was 28 times that outside prisons. The grave TB situation was a consequence of the inhuman conditions in which Russian prisoners were kept, while being the most vivid and clear reflection of the inhuman nature of the society. However, it was still believed that the “white plaque” (as TB had been called in the past), although a different problem, could be still dealt with. All that was needed were the right drugs and effective methods of treatment. One such method had been developed in the early 90s to become known as DOTS program. A six-month course of treatment under this program costs less than 50$, and even in the poorest countries the cure rate has been about 85%.

Those illusions about prison tuberculosis were dispelled in 1997—1998, when international organizations conducted extensive microbiological studies in Russian prisons and colonies. They found that 20—25% of inmates were infected with virtually incurable multiple-drug-resistant form of tuberculosis, MDR-TB-1. Inexpensive and once effective preparations are totally useless against this form of TB. The scale of the epidemic of both common and new TB is largely due to the conditions of imprisonment: shortage of food and medical drugs, overcrowded cells (particularly at SIZOs), interrupted treatment, etc.

Chart 2. Number of TB and HIV Cases per 1000 Prisoners at Institutions of GUIN of the Ministry of Justice of the Russian Federation in 1995—2003

The number of TB cases among prisoners in 1993 was 35 000 persons (45 per 1000 prisoners). Also in 1993, there emerged the first reports about rare cases of HIV infection at Russia' penitentiaries.

According to experts (1999), if the epidemic of the old and the new TB at penitentiaries is not stopped, by 2010 two million Russian nationals will become carriers of the deadly infection.

SITUATION IN THE CRIMINAL IMPLEMENTATION SYSTEM AFTER TRANSFERAL TO THE RF MINISTRY OF JUSTICE

At the same time when GUIN was transferred from the Ministry of Internal Affairs to the Ministry of Justice, the first national program of reducing the prison population was developed. In 1998, the Ministry of Justice drafted a bill that, if adopted, would have made it possible to gradually (within two years) reduce the number of prisoners by about a third. The government, however, effectively blocked the bill on its way to the State Duma, the lower chamber of the national parliament. The most outspoken opponents of the bill were the Ministry of Internal Affairs and the RF General Prosecutor's Office. So, the number of prisoners continued to grow steadily to reach, in June 2000, a maximum of 1 090 000 persons. Jumping a little ahead, we will note that Ministry of Justice's top officials rely on the figures of May-June 2000, when they now report a 200 000 reduction of the number of inmates in their press-releases.

After the transfer of GUIN to the Ministry of Justice, the funding allocated from the federal budget to support the Criminal Implementation System has been growing continuously. Over the recent years, per-prisoner annual funding has grown from 700 dollars (1996—1997) to 1100 dollars (2002). There has been a dramatic improvement in supplying prisons with anti-tuberculosis medications and food. In 2001—2002, food spending ranged between 17 and 25 roubles per prisoner per day (compared to 0.7 rouble in the fall of 1998).(14) Western foundations and NGOs have been working proactively to counter tuberculosis in prisons. In 2001 alone, they spent 450 million dollars to this end (i.e., over 400 dollars per prisoner). These joint efforts have brought about certain achievements in terms of reducing the number of TB cases in penitentiaries as the number of cases per 1000 prisoners has shrank from 97 in 1999 to 90 in 2002 (see Table 1 and Chart 2).

Beginning in 2000, DOTS-Plus program has been implemented at penitentiaries. It relies on second series medical drugs(15) to target the multiple-drug resistant form of tuberculosis, MDR-TB-1. However, as the factors that result in interruptions of the course of treatment have persisted, experts fear(16) that the application of second series II preparations may result in the emergence of MDR-TB-2(17) that will be resistant to all existing pharmaceuticals. And then, the Criminal Implementation System, and later the society at large, will have to face a form of tuberculosis that can not be countered with any known method of treatment. The situation is aggravated further with HIV-explosion, as HIV infection speeds up the development of the drug-resistant forms of TB. Moreover, HIV-infected persons often develop the open form of TB with no detectable symptoms. Their TB in some cases cannot be spotted even with X-ray, not to mention fluorography that until recently was believed to be the most reliable method of TB diagnostics. This is likely to have been the reason why the rated number of TB cases grew in 2002 to reach 99 cases per 1000 inmates.

THE NEW CRIMINAL PROCEDURE CODE AND THE GOVERNMENT'S POLICY (2000—2002). AN INCREASE IN THE NUMBER OF INFANTS BORN IN PRISON

It still remains unclear when, at institutions of which type, and by how much exactly the number of prisoners decreased, although this decrease was given a lot of attention by the media in the fall of 2002. It would be helpful to understand whether the cause of this decrease lies in a softening of the government's criminal policy or in the legislative changes.

It should first of all be noted that the aforementioned progressive bill drafted by the RF Ministry of

Justice in 1998 finally found its way to the State Duma in spite of the government's resistance.(18) In May 2000, it was approved in the first reading and adopted in the third reading in January 2001. However, because of the strong opposition on the part of the General Prosecutor's Office, the law was returned to the State Duma by the Federation Council, and then trimmed in a manner that in its final shape it would never be able to effect a reduction of the prison population by a third. Nevertheless, this law (hereinafter, Federal Law #25),(19) as it went in effect in March 2001, has had a visible impact in terms of reducing the number of prisoners over the last two years. An even greater (albeit transient) role was played by a large-scale amnesty declared in May 2000.

The reduction of prison population will look less impressive if we compare the figures of November 2002 with early 2001 and not with mid-2000 (the latter being the RF Ministry of Justice preferred option). The total number of prisoners reduced over this period by 47 000, while the population of correctional colonies for adult convicts saw an increase by 50 000 persons.

A reduction of prisoners kept in SIZOs and juvenile colonies should undoubtedly be recognized as an important achievement of the last year. However, the total number of prisoners was reduced in 2002 by 104 000 rather than by 200 000, with the population of adult colonies sagging by only 28 000 persons.

Table 2. The Number of Prisoners at Institutions of GUIN of the RF Ministry of Justice in 2000—2002

.											
Jan 1, 2000	June 1, 2000	Sept 1, 2000	Dec 1, 2000	Jan 1, 2001	Sept 1, 2001	Jan 1, 2002	July 1, 2002	Nov 1, 2002	Jan 1, 2003 (% as of June 1, 2000)		
Total prisoners in GUIN institutions, in thousands of persons	1060	1092	948	912	924	991	981	953	891	877	80
Rated number of prisoners (per 100 000 of Russia's population)	730	750	650	630	640	690	670	640	610	600	80
Total prisoners in SIZOs, prisons, and PFRSI,(20)	281. 7	282.5	226.4	228.5	235.5	244.8	211.9	184.4	140.1	145.4	51

in thousands											
Number of prisoners in correctional colonies (adult institutions), in thousands	756.4	787.8	703.6	666.1	671	727.3	749.2	759.4	740.6	7208	91
Number of prisoners in juvenile colonies (institutions for the underage), in thousands	22	21.7	18	17.4	17.2	18.9	18.6	9.0	10.6	10.9	50
.	Amnesty-2000, effective between May 28 and November 28, 2000	Federal Law #25 became effective as of March 14, 2001	An amnesty for women and the underage was in effect until May 1, 2002	The new Criminal Procedure Code went into effect	Federal Law #133 became effective	.					

As can be seen from the data contained in Table 2, the greatest reduction of the prison population — by 136 000 persons (by 46 000 in SIZOs) — occurred in 2000, from June to September. This was a result of an amnesty declared in May, 2000. Under the amnesty, the 222 000 prisoners were released all-together, and 43 000 had their sentences shortened. Thus, the amnesty only partially compensated the effect of the factors driving the number of prisoners up. After the amnesty, the number of prisoners, especially those kept at correctional institutions, resumed its growth.

The change in the numbers that occurred in 2001—2002 was also affected by Federal Law #25(21) going into effect in March 2001. It was believed to reduce the number of prisoners at both SIZOs and correctional institutions. As for SIZOs, such expectations started to come true, to an extent, in the fall of 2001. In September-December, the population of SIZOs reduced by 32 000 people, in the first six months of 2002, there was a further reduction by 39 000. Apparently, this is to an extent attributable to those provisions of Federal Law #25 that limited the period of detention during the pretrial investigation (effective as of June 2001), and reduced the term of detention in the course of the preliminary investigation (effective as of January 2002). Since July 2002, after the new Criminal Procedure Code became effective, reduction of SIZOs' population has become more noticeable, with the number of prisoners plummeting to the lowest level in the last decade and going slightly below (by 0.9%) the total capacity of SIZOs (141 400 prisoners). However, in the last two months of 2002, SIZOs' population started to grow again. The increment is a small one yet, about 5000 persons (slightly over 3%); it is the trend that arises concern.

Federal Law #25 has substantially widened the possibilities to release convicts on parole. The mandatory minimum term of imprisonment was shortened, and all convicts were granted the right to parole.(22) GUIN wasted no time as it used the new possibilities to thin out its colonies(23) in 2001, about 55% (130 000 persons) of the total number of freed prisoners were released on parole.(24) However, neither the amnesties nor the wider use of parole were enough to reduce colonies' population to a significant extent. Although the influx of people into penitentiaries became thinner after the enactment RF Criminal Procedure Code, this trend manifested itself in a reduced number of prisoners as late as the end of 2002, when after the first six months of the new Code's operation this number dropped by 28 400 people.

In the view of some experts, it was not only the new Criminal Procedure Code that helped reduce the number of prisoners in July-October 2002. Another factor was the aforementioned procedure, with effect from July 1 through October 2002, by which "minor thefts" were defined. A large proportion of thefts, where the damage was below five minimum wages (2250 roubles), were then classed as administrative offences. This resulted in a greatly reduced flux of "little thieves" into SIZOs and correctional institutions. The lowered to one minimum wage (450 roubles) ceiling of minor theft, established by Federal Law #133 with effect from October 31, 2002, will most likely result in a greater number of prisoners, including minors. At the same time, this law (Federal Law #133) shortens the maximum sentence under Paragraph 1, Article 158 from three to two years (thus classing the minor theft as a small crime), and under Paragraph 2, Article 158 from six to five years (this demotes some types of theft from grave crimes to medium-gravity crimes). These innovations will undoubtedly reduce the inflow of people into penitentiaries and increase the outflow, as some prisoners convicted under Article 158 of the Criminal Code will see their sentences shortened, will be released on parole, etc.

At juvenile colonies, the number of inmates decreased by 50% over the first six months of 2002 (see Table 2). Here, too, the reduction is largely attributable to an amnesty for women and minors that ended in May 2002. A total of 14 000 persons were released, of whom 9000 persons were minors. This left 9000 prisoners at juvenile colonies. By January 2003, the number of underage prisoners had grown to almost 11 000 persons, an almost 20% increase. As before, the share of minors in the population of SIZOs stays high at 6.0—6.8% for October 1, 2002. This indicator was a meager 3.9% for October 1, 2001. Compare: the share of juvenile colonies' inmates in the total number of convicts at all correctional institutions was below 1.5% at the beginning of 2003.

Our analysis of these and other data suggests that the new Criminal Procedure Code has had no significant impact on the number of underage prisoners. The number of minors in GUIN's institutions (juvenile colonies + SIZOs) looks set to grow already in this year. We can only hope that we are not going to see the old level (over 30 000 underage prisoners) again.

Any softening of the criminal policy can be expected to manifest itself first of all as the number of **infants born in prison**: their very presence at places intended for criminals goes against the natural order of things. However, over the last two years, the number of children kept at child's houses at female colonies(25) grew from 407 to 493 in 2001, continuing to increase into 2002 in spite of all attempts by the RF President to extend special mercy to the children and their prisoner mothers. At the end of 2002, prison children already numbered 526.(26)

The female part of prison population was virtually unaffected by legislative novelties and amnesties. At the beginning of 2003, penitentiaries were holding 50 000 women, a mere 4000 fewer than in 2001. Most female colonies are overcrowded.(27)

* * *

As we see, quite a range of factors was driving the effort to reduce the number of penitentiaries' inmates in 2000—2002. It can be stated with certainty that the main obstacles in the way to a radical reduction of prison population are excessiveness, indiscrimination, and extreme brutality

of the current criminal policy. Imprisonment is used unjustifiably widely, with prison terms being extremely long. The average imprisonment has grown considerably since the RF Criminal Code came into effect in 1997. Without softening of criminal laws and the practices of criminal sentencing, we cannot hope that the dawning process of prison population reduction will roll on and take Russia to the level that is in line with her capabilities, i.e., 300 000—350 000 prisoners. And without such reduction, we cannot expect to forestall a global catastrophe caused by an epidemic of the new form of tuberculosis. Certain hopes were attached to a package of legislative initiatives aimed at softening the RF Criminal Code. The package was drafted in 2002 on assignment of the RF President by a working group led by D. Kozak, deputy head of the Presidential Administration. However, as far as the author of this article is aware, transmission of these proposals to the State Duma is being hampered by the government.

PRISONERS ARE "CONVENIENT ENEMIES"

The "crisis of punishment"(28) is a conclusion that contemporary science of criminology seems to be increasingly arriving at in the most recent phase of its development. "Humankind has tried and tested all possible methods of crime repression with no observable results," states Ya. Ghilinsky,(29) a renowned criminologist. The system of criminal justice that had taken shape under the influence of Cesare Becaria's ideas in the 18th and the 19th centuries had exhausted itself by the end of the last century. It is becoming increasingly ruinous for the society by both the direct costs of its operation and the resources that have to be spent to redress the consequences of the traditional methods of countering crime, and first of all those that widely resort to imprisonment as punishment. An English warden once said that prison is the most expensive tool to turn not-so-good a man into a monster from hell.

The number of prisoners in a country is unrelated to the level of crime in that country. This was brilliantly demonstrated by Niels Kristie, a Norwegian criminologist and a Professor of Criminology at the University of Oslo after a study of criminological and prison statistical data from various countries and periods.

The belief that severity or inevitability of punishment may contain crime is also not confirmed by the results of numerous criminological studies of recent years.

Prisons are filled with people who are more helpless, more vulnerable, and more "convenient" for law-enforcement and judicial authorities as objects for demonstration of how effective the fight against crime is. Notably, the more helpless (in the legal, economic, and other aspects) a social group or a person is, the more severe criminal punishment is used against them. For instance, women (as compared to men) and minors (as compared to adults) are subjected to tougher penalties relatively more often. This can be seen from the data provided in Table 3.

The number of prisoners depends, first and foremost, on how actively the card of a "convenient enemy"(31) (a criminal, a drug addict, etc.) is played in the political game. Undoubtedly, people suffering from drug addiction are selected to be "convenient enemies" in Russia. This is evidenced by HIV explosion at penitentiaries, with consequences graver than those of drug-related crimes.

Our analysis of information on socio-demographic, criminal, regulatory and other characteristics of Russia's prison population leads us to assert that most of our prisoners are not more criminal or more marginal than the rest of the country's population.

A meager 0.2% of prisoners kept in penitentiaries (i.e., about 1500 persons) have committed a crime qualified as involving a "criminal community." If we add those who were members of an "organized group," we get 3% (22 000 people). There are also 11 000 people who were convicted for crimes involving the use of weapons or explosives. Against the backdrop of these figures, an estimate by Yu. Kalinin, Deputy Minister of Justice, that "out of all prison population, only about 12 to 16% are really dangerous people with dangerous morals…" will not look that odd.

Table 3. Characterization of Convicts Kept at Correctional Institutions (UI) of GUIN of the RF Ministry of Justice by their Crimes, and Terms of Imprisonment(32)

.	Description	All convicts kept at IUs	All male	Male IUs of the general regime	Female IUs of the general regime	Juvenile colonies
Prisoners convicted for particular crimes as % of the total number of prisoners at institutions of this type						
1.1	Crimes against the life and health, sexual offences	29.7	31	25.7	26.6	20.1
1.2	Premeditated murders	14.5	14.5	10.5	16.2	8.1
1.3	Banditry	9.4	9.8	7.3	6.4	8.9
1.4	Particularly grave crimes	8.6	8.8	5.5	10.6	5.3
1.5	Crimes committed in an organized group or a component group of a criminal community	3.0	3.0	3.0	3.0	1.9
1.6	Crimes involving weapons(33)	22.9	23.5	18.6	19.8	14
1.7	Crimes against property	59	58.7	60.4	54.8	72
2.0 Convictions(34)						
2.1	Average number of convictions	1.8	1.9	1.4	1.5	1.5
2.2	Number of prisoners with more than two convictions, %	18.5	19.7	6.3	10.8	6.3
3.0 Sentence (in years)						
3.1	Average sentence	5.2	5.2	4.8	4.6	4.1(35)
3.2	Sentences exceeding one-fifth of the maximum term(36)	74.9 (up to three years)	75.5 (up to three years)	69.5	69.7	90.9
3.4	One year and below	1.3	1.3	1.8	1.2	1.5
3.5	1—2 years	7.1	7.1	9.0	9.9	8.4
3.6	2—3 years	16.7	16.1	19.7	19.2	25.2
4.0 Tuberculosis, as %						

of the total number of convicts at institutions of this type						
4.1	Open form(37)	3	3.4	2.4	0.8	1.2
4.2	Latent form	9	10	7.2	2.3	4.1
4.3	Registered (recently infected)	4	4.4	2.4	1.8	1.3

Over 56% of prisoners serving their time in correctional institutions are people referred to the group of “persons of no particular trade ” (in 1994, there were 35% of them). Most of these people are not professional criminals but those who dropped out of legal occupations. Notably, a considerable share of “convenient enemies” are not marginal people or people who have completely lost their socially beneficial connections. The average educational level of today’s prisoners is over nine years of school, 70% of inmates have a profession, only 10% have no home, only 30% of those about to be released think they may have problems with finding a job. This said, the average sentence of prisoners serving time at correctional institutions of GUIN of the RF Ministry of Justice is 5.2 years. As they are released after having served such a long time, former prisoners find themselves in a strange and incomprehensible world that is far more difficult to find a place in and integrate into than it was before the arrest. Especially given how dynamically the reality changes in contemporary Russia. This is one of the core reasons for the immense growth of the part of Russia’ population that exists outside of the legal economy. As a result, the number of persons of the working age who have fallen out of this domain have increased, according to official statistics, from 20% (1992) to 40% (2001) of the total population.

Russian penitentiaries have turned into a sort of factories of “prisonization”(40) and marginalization of the population, when one out of four adult men in Russia is a former prisoner. We have driven ourselves into a vicious circle: the more people go to prison, the greater is the level of the population’s criminalization, the more people need help, the more numerous are groups of prison-related risk.

Alternatives to Imprisonment in the Russian Federation(1)

INTRODUCTION

Faced with a growing number of crimes, states tend to harden penal policy applying mainly imprisonment penalties to the largest possible number of people who break the law. These measures increase the number of prisoners which at the present time makes 8.7 million persons all around the world.

Punishment in the form of imprisonment is based on the assumption that an offender values personal freedom above all and that the threat of imprisonment curbs crime. In practice this detaining effect is minimal. Moreover, it is proven that imprisonment has a considerable impact both on the offender and on the society as a whole. For convicts, prisons are “schools of crime,” an underdeveloped (or, like in the countries of the former Soviet Union, an actually absent) system of rehabilitation and adaptation, which does not help a person to come back to the civil society after being released from jail.

Society suffers as well. First of all, due to the fact that imprisonment is not cheap — as an example, the annual imprisonment of one convict in a New York jail costs as much as a year of education at Oxford University. In addition, the society has very often to provide for the family of a convict. Any member of society can suffer from a crime against property, and in general,

imprisonment of the offender does not bring any benefits to the victim. It may satisfy the urge to revenge, but it does not bring much from a material or even moral point of view.

In the 1970s, some states began to understand these problems and to look for their solution, using, for example, punishment without confinement. On the other hand, the Council of Europe (CoE) and the UN began to draft and adopt documents aimed to introduce this practice around the world. In 1981, the Parliamentary Assembly of the Council of Europe (PACE) recommended the member-states "to replace… short time deprivation of liberty punishments with other more efficient measures which do not contradict the principle of punishment."(2) In March 1986, CoE Committee of Ministers adopted Resolution #76 titled "Some Alternative Measures to Imprisonment." In this Resolution, the Committee recommended the member-states to introduce different alternative punishments and to consider the possibility of incorporating them into their criminal legislation. The Committee specifically instructed member-states to develop three ways, in particular, "3) to consider programs of public works (community services), that would enable active re-socialisation of an offender."

At the Seventh UN Congress on Crime Prevention and Treatment of Delinquents in Milan in 1985, the member-states passed Resolution #16, which focused on the reduction of prisoners and gave preference to alternative punishments and social reintegration of delinquents.

The fundamental international document defining the implementation of punishments alternative to imprisonment are the so called Tokyo Regulations, adopted by the UN General Assembly of the UN in December 1990. They contain the minimal set of requirements, which ensure the application and implementation of alternative punishments within the law and without prejudice to the rights of convicts.

A similar document for the CoE member-states is Recommendation R(92)16 of the Committee of Ministers to member-states on the rules for application of public sanctions and punitive measures.(3) This Recommendation was adopted by the Council of Europe in 1992 and contains 90 rules amending European Prison Rules. The Recommendation asks member-states to reach a relevant balance between the protection of society and the interests of a victim, social integration of the criminal and adherence to international standards.

Activities of the UN and the CoE recommending and promoting alternatives to imprisonment resulted in gradual reduction of imprisonment in many countries. In the mid-1990s, only 26% of the sentences resulted in imprisonment in Belgium, and 90% of the sentences offered one or another type of alternative sanctions in Finland. At the same time, imprisonment was applied in 45% of the cases in Portugal, which shows that this process is not homogeneous.

Presently, non-confinement punishments are applied more and more often in the world, and public works (community services) are most frequently used. But while Western countries have already considerable experience in the application of such punishments, many Central and East European countries and countries of Central Asia are just entering this path. Among the former USSR countries, Latvia has the best results in application of public works (community services) — in the last three years the percentage of such punishment application grew from 1.4% to 10%, and continues growing.

Holding the second place in the world by the number of prisoners and facing a difficult economic situation, Russia is certainly in a great need of alternative sanctions.

ALTERNATIVE PUNISHMENTS IN RUSSIA: LEGISLATION AND ENFORCEMENT

Humanisation of Criminal Legislation

The main trends of modern criminal policy in the Russian Federation are best shown in the RF Criminal Code enacted on January 1, 1997, and in the Criminal Implementation Code (UIK)

enacted on July 1, 1997. The main idea behind this policy is to strengthen the fight against serious and grave crimes and at the same time to soften criminal penalties for first-time offenders in case of minor and common crimes.

In this regard, the RF Criminal Code brought a larger number of alternative punishments to isolation from society, increased the range of their application and offered better legal regulation for their implementation. International recommendations on alternative measures and sanctions to imprisonment were also taken into account. Article 44 of the Criminal Code lists ten types of punishment without confinement. To a certain extent, some of them have been applied in the past in Russia (like fines, deprivation of the right to occupy certain positions, disqualification, corrective labour), but others are new to the Russian criminal legislation (compulsory works similar to community service works, restriction with regard to the military, limitation of freedom, arrest(4)). The most common sanction (54.9% in 2001) without imprisonment, which was widely used in accordance with the preceding legislation is conditional sentence or probation (Article 73) which is not considered as a criminal punishment as such, but rather an exemption from punishment.

The Criminal Implementation Code provides rules, regulating procedures and conditions for the implementation of punishments without confinement and supervision over persons on probation.

Judicial Practice

Even during the discussion and adoption of the above Codes, it was clear that the introduction of such punishments as compulsory works, limitation of freedom and arrest will require considerable allocations from the state budget. For this reason, federal laws enacting the Criminal Code and the Criminal Implementation Code stated that such types of punishments would be enforced as soon as the necessary conditions are established, but not later than 2001. But this deadline was defined arbitrarily, without any social and economic substantiation, without any programs or plans, so the enforcement of new punishments within the fixed period did not take place.

On December 13, 2001, the State Duma passed Federal Law #4 establishing the enforcement of compulsory works by 2004, limitation of freedom by 2005, and arrest by 2006.

Both delays in the enforcement of compulsory works and limitation of freedom as types of punishment had a negative impact on the criminal policy as a whole. First of all, because originally the system of criminal penalties was developed in the assumption that all types of punishments would be applied. In the cases where punishments are not applicable the system looses its efficiency. For example, the Criminal Code (Articles 46, 50) states that in case of continuous avoidance of payment, a fine can be replaced by compulsory works or arrest; and in case of continuous evasion of corrective work, the remaining serving time can be replaced proportionally by a limitation of freedom. The lack of possible substitutes curbs the application of fines and compulsory works and forces courts to use imprisonment instead. Secondly, the system of sanctions in the Special Part of the Criminal Code also assumes the existence of compulsory works, limitation of freedom, and arrest as punitive measures. These punishments, first of all, limitation of freedom, are aimed to be alternatives to imprisonment. **That is why their absence objectively results in the increase of convicts in penal institutions**.

The maintenance of that large number of inmates in penal institutions is a heavy burden for the state budget, curtails the resolution of many social problems and contributes to the spreading of criminal customs and traditions among the population. The concerns of the federal power were expressed in the Address of the RF President to the RF Federal Assembly on April 18, 2002, where V. Putin stated:

Today, minor and common crimes are punished with the same sanctions as grave crimes. This does not reduce crime and people just become embittered. At the same time, the current legislation gives courts the right to apply fines and other more human penalties instead of imprisonment. I believe that non-confinement punishment, whenever justified, should become a

widely used judicial practice.(5)

Unfortunately, analysis of judicial practice in the last five years shows opposite tendencies. In 1997—2000, the proportion of sentences with non-confinement punishments diminished gradually (59.4% in 1997, 56.5% in 1998, 58.3% in 1999, and 51.3% in 2000). Only in 2001, some increase was observed — up to 59.9%, which is only 0.5% more than in 1997.

As it was said early, **probation** is dominating among those measures (in 2001, it made 54.9%). **Punishments** as such (alternative to imprisonment) make **only** 5%, and the specific proportion of each has a stable tendency to go down. In 1997, 69 600 people were sentenced to compulsory works (6.9% of non-confinement sentences). In 2001, this figure was equal to 61 100 people (5%). In 1997, additional punishment like deprivation of the right to occupy certain positions, or disqualification, was applied to 3000 people (0.3%) and to 80 convicts (0.008%) as the main punishment. In 2001, these measures were used as additional punishment on 200 convicts (0.01%) but on no one as the main sentence. In 1997, fines were applied to 79 800 persons (7.9% of all convicts) and in 2001, to 73 200 persons (5.9%).

As a result, in the five years since the enactment of the RF Criminal Code the proportion of imprisonment sentences has remained unchanged. While in 1997 imprisonment was applied to 32.7% of all convicts, in 2001 this figure made 29.6%, i.e., with the reduction of 3%. But taking into account the growth of the total number of convicts (from 1 013 400 in 1997 to 1 233 700 in 2001) the absolute number of persons sentenced to imprisonment did not go down but grew (nearly by 34 000 persons — from 331 000 in 1997 to 364 900 in 2001).

Judging from the above, a conclusion can be drawn that convicts are, as a rule, sentenced to the actual or conditional imprisonment. Alternative measures as such are prescribed only to 5% of convicts and in a number of cases they are used as additional punishments to the main one that is imprisonment.

What are the reasons of this situation? Is our legislation imperfect and does it not meet the changed economic conditions? Or is the legislation interpreted in such a way by the juridical consciousness of our judges who prefer to isolate a convict from the society? Or can it be explained by the general sense of justice in some part of Russian populations believing that imprisonment and death sentence is a panacea from all crimes? Unfortunately, recent academic studies do not give clear answers to these questions. Neither do proposals and recommendations on the application of non-confinement punishments. Moreover the number of studies on the topic has considerably gone down.

One thing is clear — the situation should be changed and it can be achieved only through combined efforts of general public, human rights defenders, courts, juridical bodies, lawyers, legislative and executive authorities.

Ministry of Justice Legislative Initiatives

The RF Ministry of Justice like no other agency understands the danger of further criminalisation of population should the present number of prisoners be kept, and in particular, if this number grows. As an entity directly concerned with the promotion of alternative punishments, in recent years, the Ministry exercises legislative initiatives aimed to widen the application and to improve the execution of such punishments.

For example, Federal Law #25, of March 9, 2001, reinforced the possibility to replace the remaining term of imprisonment by milder punishments (Article 80 of the Criminal Code). This substitution is applicable to any category of crimes after a certain term of imprisonment, while early this commutation was allowed only for minor and common crimes.

At the same time considerable efforts were applied to the reformation of the enforcement

inspectorates, which were transferred to the Ministry of Justice from the Ministry of Internal Affairs in June 1999 and given mandate to directly carry out the enforcement of criminal punishments and other measures not related to the isolation of a convict from a society. Alterations in the current legislation allowed to finance them from the federal budget (earlier, they were funded with deductions from wages of convicts sentenced to corrective labour). As a result, the system and the staffing of enforcement inspectorates improved and their efficiency became higher.

Efficiency of Enforcement Inspectorates

There are 1879 enforcement inspectorates in Russia today, employing 3453 persons. Documents of inspectorates account for more than a million of convicts every year. By the end on 2002 more than 700 000 person were under their supervision. High efficiency of alternative measures is demonstrated by a low level of crime among this category of convicts, and this level is steadily going down in recent years.

In 1999, recidivism made only 1.5% among convicts controlled by inspectorates, in 2001, this figure went down to 0.7%. For comparison, recidivism rate for imprisoned convicts has been stable during many years and makes in average 35%.

URGENT ISSUES

There are still a lot of issues to be resolved. First of all, these are staffing and financial aspects, location of enforcement inspectorates, supply of equipment and transportation vehicles for them, training of employees, elaboration of special methodologies to treat some categories of convicts, perfection of legal and regulatory framework.

In addition to the above, some other structures taking part in the execution of non-confinement sentences, like companies and organizations providing jobs for convicts, employment agencies and social protection services commit multiple violations of law and have other grave drawbacks and problems hindering the efficient execution of sentences. One of the main problems in the execution of law concerning corrective labour is the employment of persons that did not work when the crime was committed. Very often, up to a half of convicts sentenced to corrective labour are not employed at the time of conviction. Those persons either avoid employment or cannot find a job or do not have any profession. Employers are not interested in them; employment agencies can not help them for the lack of vacancies.

Resolution of these matters requires long-term and painstaking efforts of the Ministry of Justice, Chief Department Penalty Execution, regional enforcement agencies and local authorities, with active participation of all stakeholders and civil society organizations.

ESTABLISHMENT OF A NEW SYSTEM FOR THE ENFORCEMENT OF ALTERNATIVE PUNISHMENTS IN RUSSIA

Since September 2000, Penal Reform International (PRI) has been running a pilot project “Alternatives to the Imprisonment in the Russian Federation” aimed to contribute to the reformation of enforcement inspections, to cut down on imprisonment by wider and more efficient application of alternative and other criminal and legal measures and to create conditions for the introduction of compulsory (public) works.

The project is carried out in cooperation with the Chief Department for Penalty Execution, subordinate to the RF Ministry of Justice, a number of educational institutions, regional departments of punishment enforcement and public organizations. Financial support is granted by Office of Eastern Europe and Central Asia of the UK Department of International Development.

Tomsk, Ryazan and Samara regions were first “test sites” at the beginning of the project, and since September 2002, six more regions have been taken on, namely, Novosibirsk, Kemerovo,

Saratov, Nizhniy Novgorod, Oryol and Kaluga.

The Joint Activities Are Focused on the Following Aspects:

• *Organizational and legal framework* — strengthening of the legal framework, introduction of alterations and amendments into the regulatory and legal acts, changes in the status of enforcement inspectorates and in the regulatory frame for their activities;
• *education and experiments* — establishment of penalty enforcement mechanisms in the form of compulsory works by creating jobs in the main enforcement inspectorates in the regions, upgrading of educational and professional level of the enforcement inspectorates' staff at training sessions and seminars, development of training and methodological manuals for the special training course for inspectors in the Academy of Law and Management in Ryazan;
• *information and awareness* — mass media campaign to create favourable public opinion about alternative punishments, organization of special workshops for journalists to explain goals and objectives of the project and to present results and spread information among judges and attorneys;
• *public involvement* — engagement of NGOs in the regions for a wider participation in the project to offer jobs and to control the convicts and to act as public inspectors.

ORGANIZATIONAL AND LEGAL FRAMEWORK

Within the frames of Chief Department for Penalty Execution (GUIN), at the edge of 2000—2001, regional enforcement inspectorates together with educational institutions (Academy of Law and Management in Ryazan, Juridical Institute in Tomsk State University, Samara Juridical Institute) studied the regulatory, organizational and psychological aspects pertaining to the activities of enforcement inspectorates. Alterations were introduced into the regulatory acts, new mechanisms of work related to the functioning of the enforcement inspectorates and to the psychology of employees were proposed. Nine months of studies resulted in two books, one combining all existing regulatory acts, the other one presenting results of studies and new ideas. The books were distributed to all the enforcement inspectorates in Russia.

After a careful study of the regulatory framework, conclusion was made that compulsory (public) works can be used with the potential provided by current Criminal Code and Criminal Implementation Code (Paragraph 5, Article 73 of the Criminal Code) as a specific condition of probation "if their execution contributes to the correction" of the convict. In this case, they are called "free (non-paid) works in public interest" and are regarded as a duty rather than a punishment. In Tomsk and Saratov regions, where this ongoing experiment was started, several dozens of such sentences have been enforced. Work done by convicts for the municipality includes cleaning of territories, repairs, construction work, etc. Having seen the tangible benefits, the local authorities expressed their readiness to provide employment to such delinquents. The positive effect was reflected by mass media. But the attitude of judges and attorneys is dubious.

Employees of enforcement inspectorates in Tomsk and Saratov regions accumulated practical experience in the supervision over such public works. This experience can be used for the *compulsory* works in the future and in case of a wider application of *public* (community service) works, that can be regarded as individual type of punishment increasing the efficiency of probation. In addition to the above, this experiment allowed to carry out a drastic change in the actions of the enforcement inspectorates, to redirect prophylactics and to increase the professional level of the staff. It should be mentioned that execution of public works allows to increase the educational and preventive effect of probation, to master the mechanism of compulsory works as a type of punishment, bearing in mind that from 2004 it will be used all over Russia. Wide application of these works will create additional pool of manpower for the benefits of local authorities.

At the same time, there is a number of acute problems faced by the enforcement inspectorates. These problems may become only more pressing with the introduction of compulsory works:

• none of the educational institutions in the penitentiary system trains specialists directly for the enforcement inspectorates;
• in the inspectorates, current work load per employee exceeds the “acceptable” level at least twofold, which has a negative impact on the efficiency of their activity;
• enforcement inspectorates are under-equipped, lack motor vehicles and adequate office premises.

EDUCATION

In the framework of the project, education of specialists for the enforcement inspectorates and training of existing staff is done in parallel. Manuals with organizational and methodological documents for the enforcement inspectorates are published and distributed to the staff. Three special handbooks are being prepared. The Tomsk branch of Ryazan Academy of Law and Management carries out retraining for inspectors of Siberia. This focused attention has a positive impact not only on the qualifications of staff but also on their morals (earlier, the inspectorates were traditional “outsiders” within the penitentiary system). From September 2002, Ryazan Academy of Law and Management introduced a new major into its curriculum, that of “enforcement inspector,” and a group of students has already started following the curricula. The Academy developed a special training program and methodological manuals for these student as well as a wide range of programs for the training, retraining and qualification upgrade of enforcement inspectors.

During the two years of the project, training sessions for the staff of enforcement inspectorates were carried out in all pilot regions. They covered different aspects of alternative punishments, starting from the relevant international standards and resolution of conflicts inside the enforcement inspectorates and between the inspectors and the convicts. The training program was very practical and directly linked to the everyday work of an inspector.

INFORMATION AND AWARENESS

PRI carried out these efforts in partnership with Fund of Independent Radio-Broadcasting (FIR) and Agency of Social Information (ASI). ASI weekly features information on the project in its news banners sent to all central and regional print media. FIR arranged broadcasts by the station Radio Rossii on the advantages of non-confinement measures, including interviews with the project staff, judges, attorneys, inspectors and convicts. During PRI’s missions to the regions, press-conferences and round tables are organised for representatives of local authorities, judges and the public at large. Extensive information on the project is provided in the Internet.

Workshops are held for the regional journalists with the aim of getting local mass media to advocate for non-confinement punishments. At these workshops, journalists are familiarised with the appropriate terminology and learn about the essence and forms of alternative punishment, compulsory (public) works in particular. Two international conferences, several working meetings and missions to the regions took place since the beginning of the project.

NGOS

Wider involvement of NGOs and motivated individuals is considered by PRI as one of the ways of project advocacy. For example, training sessions for the enforcement inspectorates’ staff are organised and held by NGOs and educational institutions. Using NGO activists in the capacity of civilian overseers also has a great potential. In November 2002, GUIN started enforcing “Regulations on Civilian Overseers in Enforcement Inspectorates.” According to these Regulations, any adult with relevant training can become a civilian overseer.

CONCLUSIONS AND RECOMMENDATIONS

With regard to further development of non-confinement punishments, the following should be taken into account:

Introduction of compulsory works as a punishment scheduled for 2004 must lean on the results of the conducted experiment, **including the development of a relevant regulatory framework and standard organizational documents**.

• Funds should be allocated from the State Budget. According to the preliminary assessment, the number of convicts sentenced to this type of punishment can make 75 000—80 000 persons annually. Accordingly, the application of this alternative punishment will require certain expenditures for the strengthening of enforcement inspectorates. At the same time, allocations to the local authorities should also be increased, as they have to provide jobs to convicts as stated in Paragraph 1, Article 25 of the Criminal Implementation Code. A dedicated federal program should be developed to foresee the allocation of relevant funds in 2004 budget.
• It is necessary to introduce some alternations and amendments into Article 28 of the Criminal Implementation Code, to motivate potential employers to use the labour of convicts, to clarify payments and compensation of damage to the health of a convict in case of accidents at compulsory work.
• Paragraph 3, Article 49 of the Criminal Code states that compulsory works can be substituted by limitation of freedom or arrest if a convict continuously avoids compulsory works. So, compulsory works as punishment should be prescribed in combination with the other two punishments or with one of them.
• Further modernisation and strengthening of enforcement inspectorates is necessary, as far as they are a prototype of a probation service. In particular, it refers to practical improvement of crime prevention work among minors and optimisation of distribution of functions inside the inspectorates.

The following factors are also important:

• The expected humanisation of criminal legislation shall be conducive to a wider application of alternative punishments.
• There is still a need to trace the handling of the earlier proposed alternations to the Criminal Code and the Criminal Implementation Code by the legislative bodies.
• Interest of the Ministry of Justice and local authorities towards the development of alternative punishments (mainly, compulsory works) is on the rise.
• Interest of regional enforcement departments and enforcement inspectorates towards the training sessions allows to expand this system to cover new regions.
• Notable public attention to the project in nine regions of the Russian Federation (mainly resulting from positive media publications) clearly shows the necessity to broaden the campaign aimed at forming favorable public opinion.
• There is an obvious readiness to cooperate shown by a number of influential NGOs.
• There is a need to continue to monitor the situation with observance of convicts' right to be sentenced to alternative punishments and develop efficient control mechanisms.

A particular attention should be paid to the introduction of new alternative punishments (**limitation of freedom and arrest**).

Today, one of the most important tasks is to shift from prisons to open penitentiary institutions. This approach will allow to use the system of alternative punishments as a whole integral unity creating a counter-balance to imprisonment in the criminal policy.

The main objective in this respect is to achieve a considerable reduction of imprisonment in the Russian Federation through the use of alternative sanctions. In the present conditions, it requires a full-scope application of not only compulsory works, but also **limitation of freedom** as an interim state between "freedom" and "non-freedom," and displacement colonies, which do not share many negative features of imprisonment.

Introduction of freedom limitation as a punishment is delayed to 2005. There are reasons to start using it earlier, simultaneously with compulsory works. But it will require large scale studies and significant organizational steps. At the same time, this measure will allow to reduce the number of prisoners by 30 000—40 000 persons. In this view, **corrective centers** as open penitentiary institutions seem very promising.

An optimised model of a corrective center should be developed and tested in one or several displacement colonies. Transformation of such colonies into corrective centers may be one of the options. Presently, 30 000 convicts in Russia serve sentences in such colonies.

Analysis of those articles of the Criminal Implementation Code that regulate the procedures and conditions in displacement colonies and freedom limitation punishment shows that the main parameters (regime of custody and freedom, separate holding of different categories of inmates, organization of labour and education, etc.) are either the same or very close. Actually, colonies are not confinement institutions in the proper sense. They do not ensure custody and isolation from the society. So, without additional investments, they can be used for freedom limitation punishments. But for this purpose, the colonies should be transformed into corrective centers. The transfer of convicts from colonies with minimum or high security to corrective centers can be done with the commutation of sentences (Article 80 of the Criminal Code).

Of course, this decision will require considerable alterations in the existing legislation, but it is justified not only from the economic viewpoint. It meets principles, goals and objectives of punishment and fully corresponds to the ideas of the aforementioned Presidential Address to the Federal Assembly of 2002.

Arrest, on the other hand, seems to have poor perspectives as a form of alternative punishment. According to the preliminary estimates, the number of arrest sentences in the Russian Federation can make 60 000—70 000 annually. Thus, at least 140 arrest houses should be built in the Russian regions, which requires over 50 billion roubles of investments. These houses should be built before 2006, taking account that simultaneously a dedicated federal program for the reformation of the investigation system should be carried out, and this program foresees the construction of pretrial for 46 000 persons. Simultaneous funding and implementation of these tasks do not seem realistic. However, money is not the only problem. Arrest in the Russian legislation is not similar to a shock arrest with secure detention, which was earlier used abroad. In the majority of foreign countries, the term “arrest” means seven days to one month. In Russia, it means from one to six months of strict isolation from society. According to the law, the convicts must be kept in locked cells, without receiving visits or parcels. They are not to be engaged in paid labour and shall not receive general or professional education. The right to purchase food or basic necessity items cannot be enjoyed for the lack of earned money. In the opinion of a range of experts the majority of convicts may become psychologically insane after having served this sentence. Taking into account Russia’s economic situation, negative aspects and doubtful efficiency of this punishment, it seems reasonable to void it from the RF legislation.

If the aforementioned suggestions with regard to **limitation of freedom** and **arrest** are approved on the legislative level, the issue of further development of the enforcement inspectorates can be tackled by the RF Government. The inadequacy of these inspectorates is one of the main obstacles on the path of widening the application of alternative punishments.

In view of the aforesaid conclusions and recommendation resulting from the pilot project on the reformation of enforcement inspectorates and introduction of compulsory works as a form of punishment, the strategic plan for the development of alternative punishments in the Russian Federation should include:

On Political Level:

• development of a stable tendency in power bodies, courts and prosecutor's offices to acknowledge the value and efficiency of alternative measures and to overcome the "punitive mentality" of population;
• to support political resolutions and legislative drafts aimed to make penal policy more human.

On Legislative Level:

• to develop and introduce alternations into the Criminal Procedure Code and Criminal Implementation Code for the full-scope application of alternative measures, including the limitation of freedom;
• to improve laws and by-laws regulating enforcement of punishments without isolation from the society.
• to elaborate governmental resolutions and orders of the Minister of Justice concerning the status of enforcement inspectorates, corrective centers, their staff and their relations with local authorities and general public.

On Organizational Level:

• to perfect the structure of the enforcement inspectorates, to establish the institution of tutors, psychologists, interaction with civilian inspectors, municipal employment agencies, educational institutions and other stakeholders;
• to raise the social status of the enforcement inspectorates' staff;
• to develop and to test in some regions a standard model of a corrective center and, later on, spread this experience all over Russia;
• to establish an effective mechanism of interaction between corrective centers and employers, local authorities and police;
• to organise civilian overseeing of the corrective centers and to attract volunteers to work in these centers;
• to establish a rating system for corrective centers;
• to elaborate and introduce a system of monitoring over the observance of convict's rights and freedom, in corrective centers and enforcement inspectorates.

On Training and Methodological Level:

• to develop and introduce educational programs for the training, retraining and qualification upgrade of corrective centers staff;
• to include a specialization of a corrective center worker in the curricula of educational institutions of the Ministry of Justice;
• to develop methodological recommendation on the treatment of convicts supervised by inspectorates and held in corrective centers.

On the Public Opinion:

• in close cooperation with mass media, to create a positive attitude to the humanisation of the penitentiary system and to the application of alternative punishments;
• to create a "mentality of cooperation" with administration and employees of enforcement inspections and corrective centers.

(1) The following documents were used in the drafting of this paper: Report of Yu. Kalinin, Deputy Minister of Justice and Proffessor O. Filimonov, Deputy Head of the Chief Department for Penalty Execution (GUIN) of the RF Ministry of Justice; Article of Proffessor V. Utkin (Juridical Institute in Tomsk State University) and other papers drafted in the frame of the project "Alternatives to Imprisonment in the Russian Federation."
(2) See: United Nations Secretariat, "Alternatives to Imprisonment." *International Review of Criminal Policy* (1080, #36, p. 9).
(3) Recommendation R (92) was approved by the Committee of Ministers on October 19, 1992, at

the 482nd Meeting of Deputy Ministers.
(4) Hereinafter “arrest” is understood as a measure described in Article 44 and Article 54 of the Criminal Code, meaning confinement of in strict isolation from the society for the term up to six months, in accordance with Article 68 and Article 69 of the Criminal Implementation Code, and separately from other categories of prisoners, i.e., in special arrest houses.
(5) *Rossiyskaya Gazeta* (April 19, 2002).

Homelessness: the Continued Persecution of Former Prisoners

Almost a quarter of homeless people in Russia are former prisoners. People released from prisons are given almost no social support and many are unable to find work or accommodation. This encourages recidivism and a life of heightened vulnerability to illness at the same time that access to health care is difficult or impossible.

INTRODUCTION

Homelessness is a huge problem in Russia, and particularly in Moscow, with an estimated 100 000 living on the streets in Moscow alone without any assistance and in temperatures that are far below freezing for much of the year. Hypothermia killed 356 people in Moscow in October December 2002.(1)

Medecins Sans Frontieres (MSF) has been providing medical and social aid to homeless people in Moscow for more than ten years, and to date has helped over 70 000. The program also works to help people reintegrate into society.

A quarter of Moscow’s homeless are ex-prisoners. This is mainly because released prisoners are left completely on their own, without any assistance to help them establish their place back in society. In most cases, the law that provides for preparation of prisoners for release is ignored, and there is no state program for re-socializing released prisoners. Only those fortunate few who have family or friends that can offer support avoid becoming homeless, and escape the vulnerable existence that can encourage further crime and re-imprisonment. Many suffer from various illnesses but there opportunities for adequate health care are extremely limited.

Table 1. Cause of Homelessness (%)(2)

.	1995	1996	1997	1998	1999	2000	2001
Ex-prisoner	25	25	26	22.3	18.7	30.3	26.6
Loss of home	21	20	19	19	21.8	24.5	26
Family problems	15	16	15	15.7	13	14.5	12.1
Loss of job	16	19	16	23.7	11.5	13.9	15.5
Personal choice	3	6	6	4.7	7.1	4.2	7.2
Refugee (migrant)	5	3	3	2.9	1.9	0.8	1.9
Psychological problems	1	0	0	0.9	1.2	1.6	4.8
Other	12	9	11	3.4	6.4	5.5	4.1
Not homeless	2	2	3	7.4	18.4	4.7	1.8

CONDEMNED TO HOMELESSNESS

Many problems for life at liberty begin in the penal system. In the pre-release period, prisoners are not advised of their rights and responsibilities as provided for in the law.(3) As a result, prisoners are unaware that they need to apply, for example, for renewal or issue of necessary documents such as passport, work record card, certificate of average monthly wages, and pension or disability card. Even if prisoners are informed of what they need to do, this does not guarantee that the necessary documentation will be issued at the time of release. For example, one homeless person who was imprisoned between 2000 and 2002, and is currently receiving medical attention from MSF, submitted nine applications for a new passport but was released with only a certificate of release. Prisoners are also often not informed that they should give prior notice of preferred place of residence after release.

Prisoners with certain disabilities, male prisoners over 60 years of age, and female prisoners over 55 years of age can be placed by social protection authorities in nursing homes.(4) For this to happen, firstly they must request it and then the administration of the relevant penal institution must insist upon it. In most cases, however, this is not done, and the sick and elderly are condemned to additional hardships after release. For example, one 68-year old man currently receiving assistance from MSF — an ex-prisoner with eyesight disability — had repeatedly requested the administration to help him enter a nursing home but his pleas remained unanswered. Now, as a disabled homeless person, he is struggling to solve his problems on his own.

According to the law,(5) the administrations of a range of penal institutions should inform the local authorities and the federal employment service at prisoner's preferred place of residence of their forthcoming release, whether they need accommodation, their capacity for work and their profession six months before a prisoner is released. However, this is frequently not done.

The most important problem for any citizen of Russia is the possession of documents. Administrations of correctional facilities are required(6) to pre-arrange for the release for the outgoing prisoner to be provided with a passport, work record card and pension or disability card (if relevant), but very often fail to do so. Following a transient improvement of the situation in 2001 and in early 2002, the situation again deteriorated following a new Law "On Citizenship of the Russian Federation"(7) that came into effect on July 1, 2002. According to MSF's observations, passports are not issued in many penal institutions under the RF Ministry of Justice, including: Voronezh, Rostov, Kirov, Yaroslavl, Nizhnii Novgorod, Perm, Belgorod, Kostroma, Kemerovo, Novgorod and Kaluga regions, and the Republics of Mordovia and Komi.

Another law that is frequently ignored requires that released prisoners be provided with free travel to preferred place of residence and money or food for the period in transit.(8) Without this assistance, released prisoners are forced to procure their living by any possible means right from the minute he/she is released; with no passport and official employment the only way that many people can see to survive is through crime.

EXCLUSION FROM SOCIETY

According to existing regulations, the status of ex-prisoner is valid only for six months from the date of release. However, because of the absence of a state re-socialization program, and a breakdown of social support during imprisonment, people very often cannot return to normal life for years, or even at all. Over the years, MSF has found that up to 42% of homeless people seeking help with MSF were not able to return to normal life in the first five years after their release; for one person in five (21.5%) this extended to up to 10 years (see Table 2).

Table 2. Period of Homelessness (%)

Year	1995	1996	1997	1998	1999	2000	2001

< 1 month	5	18	26	30.9	8.7	4.7	3.1
1—6 months	42	50	24	17.6	14.1	12	7.5
7—12 months	13	7	10	9	9.5	7.9	10.5
1—5 years	30	20	30	26.7	36.1	42	38.4
6—10 years	5	3	5	6	10.5	21.5	20.6
11—20 years	2	1	1	1.9	2.3	5.3	4.6
> 20 years	1	0	0	0.3	0.6	1.8	2
Not homeless	2	1	4	7.6	18.2	4.8	13.4

The difficulties faced in renewing passports and other documents pose a significant obstacle to reintegration into society. According to the RF Ministry of Internal Affairs,(9) “persons who are not registered at the place of residence or place of stay can apply for issue or renewal of passports to passport-and-visa offices of the interior agencies at the place of actual residence.” However, “the effective legislation of Russia does not contain a concept of ‘place of actual residence,’”(10) which gives the passport office inspectors formal grounds to avoid this obligation. As a result, the majority of applicants (69% in 2001) seen by MSF in the medical and social center do not possess documents that are necessary for life.

Following the new law on Russian citizenship that came into effect in March 2002,(11) obtaining a passport has become an absolute impossibility for many ex-prisoners. Not only are they unable to prove their Russian citizenship — defined as possession of permanent registration/residence permit in the territory of Russia as of February 6, 1992 — but also cannot even apply for restoration of citizenship as such applications can be filed only at the place of residence,(12) i.e., where the residence permit has been issued. Meanwhile, they have no residence permit and are unable to travel.

Two homeless people who are now patients with MSF were released in late 1991, and almost immediately hospitalized (one because of a stroke and the other because of frostbite). They were discharged from hospital the following spring, incapacitated and without documents. Ever since, they have lived either in the streets or in non-state shelter-care facilities. However hard they have tried, they have been unable to obtain a passport because they had no residence permit in February 1992.

There are even more desperate cases. Another currently homeless person was born in the city of Tula and has spent all his life there. For family reasons, his permanent residence registration was invalidated in late 1991. He was imprisoned for one year in 2000 and after release was issued a passport — in other words he was recognized as a Russian citizen but unfortunately, the passport was later lost or stolen. With the aid of MSF, he tried to restore his passport but to date this has been unsuccessful because he cannot prove his Russian citizenship. When MSF made relevant enquiries, the RF Ministry of Internal Affairs responded as follows:

According to the effective legislation if a person possesses no identifying documents that confirm the fact of permanent residence of citizens in the Russian Federation as of February 6, 1992, a court decision is required. The burden of proof of possession of the Russian citizenship is on the citizens themselves.(13)

There are also difficulties in obtaining registration at the place of residence. In the absence of a passport or a temporary identity card attesting to Russian citizenship, registration is absolutely impossible. However, even if the ex-prisoner has one of these documents it is impossible to

obtain registration unless the applicant has relatives or friends with a home. Contrary to current law,(14) an unregistered Russian becomes an illegal immigrant in his/her own country because constitutional rights — to accommodation, work, health care and medical aid education, social security, acquisition or confirmation of citizenship, participation in elections, — and responsibilities — to pay taxes, to defend the homeland — in Russia arise only from the moment of registration at the place of residence.

Reintegration into society is also limited by illness and lack of access to health care. Diseases that mainly affect the homeless stem from their inhuman living conditions. And out of former prisoners who, to repeat, former prisoners make up a quarter of Moscow's homeless, many suffer from tuberculosis contracted in prison (Table 3). This fatal disease affects around one in ten homeless people.

Table 3. Morbidity among homeless (%)

* — not recorded separately
** — only diphteritis was recorded separately
*** — only acute enteric infection was recorded separately
**** — records were kept only in September through December

Year	1995	1996	1997	1998	1999	2000	2001
Trophic ulcers, inf. Wounds	21.6	26.9	27.3	20.2	23.3	20.5	26.8
Injuries, burns, frostbites	13.0	13.0	10.3	11.6	13.5	13.7	13.4
Skin diseases	10.8	8.5	6.1	5.5	5.8	6.5	6.1
Respiratory disease	11.8	13.3	11.6	9.9	13.7	9.1	8.0
Pediculosis, scabies	7.7	3.8	2.4	3.0	2.8	5.8	5.9
Suspected tuberculosis	9.7	7.4	8.0	14.6	11.0	14.5	10.9
Gastroenteric disease	7.6	7.2	3.0	2.2	4.3	4.5	4.6
Cardiovascular disease	2.5	3.8	5.3	3.3	4.2	3.1	2.3
Renal and urological diseases	0.9	1.2	1.4	1.7	1.8	1.1	1.4
Sex transmitted diseases	2.6	3.1	3.3	4.3	5.2	3.9	4.3
Mental disorders	1.1	0.8	1.1	2.0	3.4	2.7	2.2
Neurological disease	—*	—*	—*	—****	1.4	1.6	1.7
Ophthalmological disorders	—*	—*	—*	—****	1.1	1.1	1.3
Other Infectious diseases	—**	—**	—***	0.8	0.9	1.1	0.9
Locomotor system diseases	—*	—*	—*	—****	1.4	1.4	1.1
Other	10.7	11	20.2	20.9	6.2	9.4	9.1
Total	100	100	100	100	100	100	100

Homeless people have practically no access to out-patient care in state medical institutions except those fortunate enough to be helped by social aid organizations or those who are registered with a night shelter. Some exceptions exist, such as the medical center for the homeless in St. Petersburg that was established in 1999, and a ambulatory clinic in Novosibirsk that receives homeless people. But these are the exceptions, and their capacity is limited. In most

cases, the best a sick homeless person can expect is emergency hospitalization if he/she is in a critical state. This means that if a sick homeless person is admitted to a hospital today it is at an advance stage of disease that requires prolonged costly treatment (one day in hospital in Moscow costs the state around two and a half thousand rubles), possibly including surgery. Later, many become incapacitated and, if circumstances permit, can be admitted to a nursing home, dependent on support from the state until they die. In the case of infectious diseases such as tuberculosis, not getting adequate treatment also leads to continued disease spread in society.

Psychological and social assistance is practically non-existent except for a few projects of nongovernmental organizations. Therefore, a prisoner who has been isolated from the rapidly changing modern Russian society for several years has to find his bearings and to survive on his own.

Despite the existence of a legislative ban(15) on any limitations on rights of citizens that are not registered at the place of residence or stay as concerns labor contracts, finding a job outside of the shadow economy for a person without registration and residence permit is practically impossible. It is not possible to work without a certificate of tax registration and a certificate of state retirement insurance that can be obtained only at the place of residence.

Possibilities of finding a temporary or permanent accommodation are severely limited. According to a decree of the RF Constitutional Court,(16) convicted persons retain the right to housing accommodation. In practice, however, it frequently takes months or years to get accommodation. And because night shelters and social hostels in Russia are insufficient to cater for all the needy, many are forced into homelessness.

CONCLUSIONS AND RECOMMENDATIONS

The absence of a state program for re-socialization of Russian citizens released from penal institutions and the continued non-compliance with the relevant legislation relating to social assistance and registration will continue to result in a growing number of homeless. As a result of the hardships due to the lack of social support, many will unfortunately see no option than crime and re-imprisonment.

Homeless people are particularly vulnerable to disease, but are among the most disadvantaged in terms of access to health care. Their needs must receive much more political attention.

In Russia, homelessness and imprisonment are pressing medical and public health issues, as well as social and political concerns. The authorities must pay greater attention to this disadvantaged and vulnerable population, and undertake urgent measures to ensure that Russia’s homeless receive the necessary support that will allow them to exercise freedoms that other members of society enjoy. Without this basic assistance, they will not be able to contribute positively to society. Instead, they risk a life of crime and imprisonment, and a heightened susceptibility to illness and death.

(1) *Interfax* (December 24, 2002).
(2) Systematic social and medical statistics forms were developed in 1995.
(3) Paragraph 2, Article 180 of the RF Criminal Implementation Code.
(4) Paragraph 3, Article 180 of the RF Criminal Implementation Code.
(5) Paragraph 1, Article 180 of the RF Criminal Implementation Code.
(6) Paragraph 4, Article 173 of the RF Criminal Implementation Code.
(7) Federal Law #62 “On Citizenship of the Russian Federation,” of May 31, 2002.
(8) Paragraph 1, Article 181 of the RF Criminal Implementation Code.
(9) Order #605 by Ministry of Internal Affairs of September 15, 1997, and Order #554 by Ministry of Internal Affairs of July 26, 1999.
(10) From Letter #02-1523 by Ministry of Justice of September 5, 2002.

(11) Federal Law #62 “On Citizenship of the Russian Federation” of May 31, 2002.
(12) Federal Law #62 “On Citizenship of the Russian Federation” of May 31, 2002 and Decree #1325 “On Approval of Procedure for Consideration of Matters Pertaining to Citizenship of the Russian Federation” by the RF President of November 14, 2002.
(13) From Letter #16/Zh-6787 by the RF Ministry of Internal Affairs of October 23, 2002.
(14) Federal Law #5242-1 “On the Right of RF Citizens to Freedom of Movement, Choice of the Place of Stay and Residence in the RF” of June 25, 1993.
(15) Article 64 of the RF Labor Code of December 30, 2001..
(16) Decree #8-P by the RF Constitutional Court of June 23, 1995.

The Excessively Repressive Nature of Russian Criminal Legistation. Specific Analysis and Reform Possibilities

INTRODUCTION

Prisoners belong to a segment of population that can give rise to serious social problems if they are neglected by the society or the state. Unsound government policies that fail to reflect the legal and social vulnerabilities of prisoners pose a threat to society when former convicts are released and reenter normal social life. This largely comes from the fact that the current government policies in relation to prisoners have primarily been aimed to isolate them rather than to help them to acquire legitimate social skills. Another problem of no lesser significance is that the Russian prison population remains large, and it is invariably destined to become integral part (mostly marginalized and unprotected) of the community.

During 2001—2002, the Russian government took some measures to decrease the prison population. Firstly, a new Criminal Procedure Code was passed (it entered into force on July 1, 2002), which limited the practice of detainments to a certain extent. Secondly, women and underaged inmates were granted amnesty (November 30, 2002). And thirdly, a reviewed version of Article 158 of the RF Criminal Code was eventually confirmed (crimes against property committed by a group of individuals acting as a gang or producing material damage has been downgraded from a grave to a medium-grave offense). The latter is particularly significant because crimes against property have been increasingly accounting for a major percentage of the total crimes committed.(1)

However, the numbers of prisoners remain excessively large, and Russia holds a second place worldwide in the numbers of prison inmates per million of people.

It is precisely the problem of prisoner numbers that has largely highlighted the nature and scale of the abuse of the rights of prisoners, as well as led to discrimination by prison wardens, made the existing system of criminal punishments inefficient, and generated prohibitive levels of re-offenders. Things appear to have been compounded by the fact that current penitentiary institutions continue to provide for the kind of environment where lethal diseases have been on the rise. Russian prisons are now holding as many as 86 000 TB drugresistant cases, and HIV patients are growing in numbers.

To a certain extent, the criminal legislation serves to preserve the practices, which, though fully in line with the letter of law, actually reflect more common abuses of prisoner rights.

SOME SPECIFICS OF RUSSIAN CRIMINAL LEGISLATION. CRITERIA FOR CATEGORIZATION OF OFFENSES

Russian criminal legislation is built around a set of criteria depending on the gravity, nature and social hazard of offenses.

According to that criteria, suppressive measures defined to punish offenders used by Russian

lawmakers have often ignored either the rehabilitation interests of the prisoner or the concerns of the aggrieved party, which has provoked the total of prison and penal colony inmates to grow. It is worth noting that prisoners who could have been easily rehabilitated without the use of incarceration have been thrown into prisons or penal institutions.

From 20% to 70% of current prisoners could be more effectively rehabilitated had they not been isolated from society, according to a variety of estimates. As pointed out in 2001 Yu. Kalinin, Deputy Minister of Justice of the Russian Federation (in charge of the Criminal Implementation System):

It is only 12%—16% of the inmates that, on account of their moral misperceptions, can really be dangerous to society, 50%—60% of them make an inert mass… We seem to be working to recruit new members for the criminal community in order to confront them on a legal basis at a later stage.(2)

According to Paragraph 3, Article 15 of the RF Criminal Code, any crime that carry more than five years in prison is categorized under criminal legislation as a grave offense. Some articles of the Criminal Code, featuring a variety of qualifiers, impose more rigorous measures while regarding as “grave” any offense involving “an action that resulted in the aggrieved party sustaining considerable damage.” It sometimes happens that the lawmaker decides the extent and type of punishment on an accidental factor such as a biased statement given by the aggrieved party regarding the amount of damage suffered. It is obvious that, when passing a court ruling, a judge should primarily focus on the amount of damage inflicted on the aggrieved party, although of course, the extent of the punishment should never be allowed to be influenced by a variety of accidental factors.

As an example, an act of robbery committed by N. who stole property from the aggrieved party G., a prominent businessman, in the amount of ten average monthly wages (MROT) can be regarded, according to Paragraph 2.d, Article 161 of the RF Criminal Code, as causing “considerable damage,” this qualification being accepted only because businessman G. said so. However, a crime against the property of pensioner Z. in the amount of 30 MROTs can bring criminal liability according to a less rigorous provision (Paragraph 1, Article 161), should the pensioner Z. make a statement to the effect that the property in question does not constitute a “considerable damage” to her.

Meanwhile, the criminal legislation qualifiers can hardly be viewed as some criteria that might help to rehabilitate an offender. However, it is precisely those qualifiers that have now and again been referred to in order to give the harshest sentence, which eventually seals the fate of the convict.

This amount of extra qualifiers and factors used in order to overload the criminal legislation only produce a situation under which convicts, aggrieved parties and society as a whole tend to regard any criminal punishment as unfair and inadequate even when it has been passed fully in agreement with the meaning of the legal provision.

GUIDELINES FOR IMPOSING PUNISHMENTS

Important details in the cases of accused parties have been largely ignored by the courts due to the excessive statutory qualifiers in the current Russian criminal implementation legislation. For example, if the accused party had been at liberty for a lengthy period of time after committing a crime and, proven that he/she had become a law-abiding person, a court would be justified to take that piece of evidence as a mitigating circumstance(3) and to modify the punishment according to the sanctions available on the relevant provision of the RF Criminal Code (it could also regard the reported circumstance as extraordinary and consequently pass a less rigorous sentence which would be lower than the mildest sentence within the aforesaid legal provision(4)). However, the courts are fully justified to override such circumstances because under the current

law such factors are not required to be taken into account during the process.

V. Markov, born 1973, charged with selling illegal drugs to his female friend (the act falling under Paragraph 4, Article 228 of the RF Criminal Code), spent at liberty one and a half year after committing the offense, during which time he had been successfully cured of his addiction, found a job and radically altered his lifestyle. Nevertheless, in 1998, the Boutyrsky district court in Moscow sentenced V. Markov to eight years in prison and send him to serve his time at a penal colony in the Murmansk region, 1500 kilometers away from his residence.

Alarmingly, those factors that could really make an individual dangerous to society often happen to be disregarded by the lawmakers. For instance, previous violations of traffic rules by a driver who has caused injuries to another party would hardly be viewed as an aggravating circumstance. This is indeed a possibility because the range of aggravating factors is rigidly and comprehensively defined by the law (Article 63 of the RF Criminal Code).

Notably, Paragraph 3, Article 60 of the RF Criminal Code (designed to define the guidelines for meting out punishments) fails to include a comprehensive list of criteria, which could be used to underpin any effort to define the extent and type of punishments ordered by Russian courts. By way of another example, if professional team or an academic body has known the accused party for a lengthy period of time and is prepared to provide assurance that the accused party would correct his/her ways, the court would not be required to accept such assurances as circumstances when passing a court order. Hence, Paragraph 3, Article 60 of the RF Criminal Code should best be amended and extended as follows:

To pass any punishment, a judge shall take into account the nature and the gravity of the consequences of the offense; the personality of the accused party, its behavior after committing the crime and any mitigating or aggravating circumstances; the possible effects of the punishment on the accused party's capacity to amend its ways and on the living conditions sustained by its family members; the aggrieved party's opinion, and attitudes from the work force, academic body or any public association that the accused party could be associated with on account of its engagements.

DEFINING REPEATED CRIMES

The current definition of a repeated crime, which includes any second offense intentionally committed, positively appears to be too all-inclusive. This merely leads to most of the social outcasts running the risk of being not only prosecuted but also tried and sentenced as re-offenders. To a very large degree, this comes from the fact that the circumstances pushing those individuals towards the brink of committing unlawful actions still exist. It is worth recalling that even under the 1922 RSFSR Criminal Code a re-offender was a person convicted of committing a second similar crime. In this connection, it would only be feasible to have Paragraph 1, Article 18 of the RF Criminal Code run as follows: "A repeated crime shall be an intentional offense perpetrated by a person having a previous conviction, both featuring the same target."

The time is overdue for a focused effort to undertake a review of the criteria of the gravity of the offenses, the mitigating and aggravating circumstances, as well as any other factors that might bear on the extent or nature of the punishment of a re-offender criminal. In addition, a distinction should be drawn between "criminal" repeated offenses (or crimes generated by a person maintaining unlawful views and sticking to criminal behavior patterns) and "social" repeated offenses (or re-incidence of criminal behavior reflecting the failure of the state to honor its commitments before its citizens).

To provide an example to this end, V. Annikov, born 1982, lost possession of his house on when his alkoholic mother disposed of it in 1994. At the age of 14, V. Annikov was released from a correctional facility for minors and appealed to the Uspensky district authorities in the Krasnodar territory, the area of his last residence. Rather than receive assistance, he was told that he had

no right to housing. At 16 years of age, V. Annikov committed another offense and shortly afterwards he was confined to a penitentiary facility from where once again he made an attempt to ask for housing. This time his application was turned down too. As he was released upon reaching 18 years of age, V. Annikov had neither housing, nor job, nor registration of residence. Pressed by the unbearable circumstances, he perpetrated yet another crime, following which he was captured and duly convicted. Given that all previous offenses had been committed by V. Annikov when he had not yet reached his legal age, he was not charged with committing dangerous repeated crimes. In December 2002, V. Annikov was released from confinement and approached the local authorities for housing, the request being denied yet another time. Alarmingly, the regional administration rendered no assistance to V. Annikov despite the fact that he had filed more than 20 applications to have his right to housing duly honored.(5)

We suggest that Paragraph 4, Article 18 of the RF Criminal Code should be extended as follows: “No consequent offense perpetrated under the influence of unfavorable and pressing social conditions shall be considered as repeated crime.”

DEFINING PRISON SENTENCES

Lengthy prison sentences only serve to have the social bonds of a convict eroded and his social identity disintegrated. Any prolonged stay at a penitentiary institution is reflective of the criminalization of society, particularly given that prison-based relations and stereotypes of behavior can only be strengthened as a consequence. Although the minimal prison sentence is six months according to the RF legislation,(6) the average prison sentence passed by Russian courts has come to stand at more than three years, according to court statistics.

The decision to raise the maximum prison sentence under the RF Criminal Code from 15 to 25 years on the basis of total offenses, and from 15 to 30 years on the basis of total sentences had resulted in Russian courts increasingly passing prison sentences of 15 or more years. Notably, the lawmakers do not link a crime, which can secure such a long prison sentence, with the gravity of the charges brought by the aggrieved party. Hence, there emerges a whole segment of the population that can hardly ever be fully reintegrated to society.

For example, the Ramensky district court, in the Moscow region, found the 20-year-old A. Litvinov guilty of committing a burglary, raping the victim and inflicting serious bodily injuries (with all of the three crimes committed by one and the same person) and sentenced him to 19 years in prison. Following a protest against the court ruling launched by the deputy chairman of the RF Supreme Court, the sentence for A. Litvinov was mitigated in 2002.

Decisions to mitigate court sentences have normally been exceptions to the rule. Only 6 out of 60 verdicts to offenders sentenced to more than 15 years in prison for crimes not involving death, have been mitigated.

In the meantime, lengthy prison sentences often have led the convicts to develop grave psychic conditions, feelings of hopelessness and uselessness. Notably, the convicts feel particularly hard their inability to help their loved ones, to take part in raising their children, or caring for their elderly parents.

As an example, the Supreme Court of the Udmurt Republic sentenced V. Bazhoutin (with no previous convictions) to 13 year imprisonment for committing burglary and robbery. V. Bazhoutin was regarded as a powerful gang leader, according to the judges. However, as it turned out following an in-depth checkout of the circumstances involved, he had nothing to do with the local criminal rings. Furthermore, his family (based in the Primorsky territory) had been struggling to survive (the three family members were living on an income lower than the official subsistence level in the Primorsky territory). It was only after the involvement of the Committee for Civil Rights that the Bazhoutin family utility bills were partly waved. V. Bazhoutin particularly suffered on account of being unable to adequately support his family.

As was already mentioned above, the longer is the prison sentence, the smaller is the likelihood of a convict to adapt to society. In the meantime, is not an objective of the current Criminal Code to effectively reintegrate released convicts to society. We wholly back up the idea of having Article 43 of the RF Criminal Code amended to include a provision to the effect that one of the goals of any criminal punishment should be to help the released convicts to adapt to society.(7)

Importantly, our observations have come to be confirmed by various estimates made available by experts. After spending five-seven years in prison, most of the convicts become indifferent to their future. It is precisely the convicts with long prison sentences that, for the most part, easily assume the prevailing criminal rules. This comes more from the pressing need to adapt and survive than from the gravity of their offenses or idiosyncrasies of their personalities. Many of those convicts tend to completely give up constructive plans for the years ahead, the plans they used to have immediately after their arrest and in the initial period of imprisonment. Incrementally, repentance with regard to the crime committed and desire to put things right get phased out by the horror over the prohibitive duration of the sentence to be served. The mere understanding that within the next 15—20 years some of the loved ones would be gone and still others would grow to be total strangers normally destroys any values that can be considered as positive or good and held dear by those convicts.

Given this circumstance, it would be feasible to amend the criminal legislation in the following manner: firstly, make possible to pass 20-year-plus sentences for crimes related to premeditated murder, with the requisite condition that the guilty party had previously been convicted for murder or perpetrated a crime while being in detention; secondly, make possible to pass 15-year-plus sentences exclusively connected to crimes (or sequence of crimes) related to premeditated murder, with the requisite condition that the guilty party by then had reached 21 years of age; and thirdly, extend Paragraph 2, Article 57 of the RF Criminal Code to include the following: “individuals who are 20 years old or younger shall not be given life sentence.”

DIFFERENTIATING PENAL COLONIES

An effort to break down penitentiary institutions into general, high and special-security penal colonies would allow to handle different categories of inmates, although on the other hand, this approach might trigger hunger and disease rates amongst prisoners confined to high or special security conditions.

While according to the provisions of Article 64 of the RF Criminal Code the courts are authorized under certain circumstances to pass sentences falling below the prescribed levels, or to make use of available options to soften suppressive measures, they cannot independently select an appropriate penitentiary facility for a convict. Even when a court reaches the conclusion that the correction of a convict would be better accomplished at a general-security penal colony or a settlement-colony, the court should not be in a position to convict prisoners accused of committing a very grave crime to any other penitentiary facility than a special-security penal colony. Article 58 of the RF Criminal Code leaves absolutely no chance for a court of law to pass a balanced sentence that would include the type of penitentiary facility.

Nowadays, individuals convicted of violent and non-violent crimes can be found at the same penitentiary institution, accidental offenders and members of organized crime gangs are thus brought together. As a consequence, a rather active exchange of criminal knowledge and experiences can be seen, with some convicts being heavily suppressed by the more organized and criminalized elements. The current judicial practices have been rigidly standardized and devoid of sufficient flexibility, due to the inability of Russian courts to take into account either exceptional circumstances (connected with the crime and the convict’s personality), special circumstances (that might be mitigating or aggravating), his/her family status, or the right correctional strategy.

By way of example, A. Oushnichkov, sentenced by the Gagarinsky district court, Moscow, for stealing a pair of jeans and a bottle of water, was sent to a special-security penal colony just because he had a non-abrogated conviction for making a theft of private property.

In addition, it is particularly alarming that a convict sent to a special-security penal colony can only be transferred to a general-security regime following the elapse of one year under the proviso that the convict has registered no reprimands (Paragraph 6, Article 124 of UIK). Furthermore, convicts kept at either general or high-security penal colonies are, in their initial stage, handled according to the same set of general regulations (applicable to each type of those penal colonies). Notably, they can only be confined to high-security quarters after breaching the internal rules and being confirmed as transgressors of penal colony regulations (Paragraph 3, Article 120 of UIK). Underpinning this approach is a principle looking to establish a rigid linkage between the gravity of the crime committed and the severity of the punishment meted out. Under the law, such convicts can only be transferred to a general-security regime after the elapse of one year, though some of them might very well deserve to have part of their “high-security” sentence reduced.

The special regime at high-security facilities results in solitary confinement, and the inability to spend money in excess of resources earned within the confines of the penal colony (most of the inmates in that category rarely have a chance to work and earn any money). Convicts confined to that kind of regime have the right to hold two to three-hour rendezvous with their relatives per year, and to receive one parcel and one mailing every six months (Paragraph 3, Article 126 of UIK). In reality such rigorous measures only lead to alimentary dystrophy, TB, and prohibitive death rates.

It appears to be feasible that courts should be allowed to pass sentences which will send convicts to penal colonies with easier conditions than those set by Article 58 of the RF Criminal Code, while sending to special-security facilities only those individuals that are convicted of committing grave and violent crimes. Also, an effort ought to be undertaken to radically reduce the available range of options to send a convict to a special-security penal colony. As a suggestion, the option of sending individuals convicted of non-violent crimes to such facilities should be ruled out. Any restrictions or constraints on convicts kept under specific conditions should not include limitations that could make them suffer physically, lose benign social links or be alienated from the outside world. All categories of prisoners should be allowed to hold longer rendezvous (the annual total of short-term rendezvous should be no less than six), to say nothing of the need for lifting all constraints on food parcels. The only restrictions should be on parcels holding clothing items.

ALTERNATIVE PUNISHMENTS

The overcrowding of penitentiary institutions in Russia has largely been produced by the persisting inadequacy of punishments that have nothing to do with either incarceration or the excessively suppressive nature of the legislation.

Let us recall that RF Criminal Code and RF Criminal Implementation Code provide for alternatives to incarceration, including community services or restraints on the freedom of movement (limitation of freedom). However, these measures are only scheduled to be in effect sometime between 2004 and 2006.

To this day, alternative punishments include probationary sentences or sentences served at settlement-colonies, measures which reflect some limitation, rather than denial, of freedom. Unfortunately, these measures are not defined as self-contained punishments, but they are rather used as derivatives from other imprisonment measures. This condition produces a situation under which the probationary sentence (increasingly applied by the courts) fails to be developed as a separate type of punishment.

In our opinion, a tremendous mistake was made in the early 1990s, when it was decided to

abandon the practice of mandatory treatment for alcoholism and drug addiction that in the past posed as a self-contained type of punishment. Rather than modify the nature and grounds for prescribing that sort of legal punishment (applicable either for committing crimes or abuse of alcoholic drinks or drugs), the lawmakers, while being guided by humane motivations, decided to completely abandon the practice. Voluntary treatment stood as an alternative to the old enforced treatment, along with a number of other measures applicable to individuals who commit alcohol or drug addiction related crimes, according to the lawmakers.

Admittedly, drug addicts and alcoholics, as a matter of fact, had been enabled to make a choice between enforced treatment and imprisonment. The decision to abandon the practice of enforced treatment came to be one of the factors that had increased the practice of imprisonment. Nowadays, although the enforced treatment for alcohol or drug addiction continues to exist on paper, such punishments are meted out either to compound the relevant incarceration measures or following the provisions prescribed by Federal Law “On Psychiatric Aid and Safeguards for Civil Rights of Recipients.”

By way of example, following his release from the Mozhaisky correctional colony in 1997, D. Zouev, a confirmed alcoholic, refused to apply for treatment. Notably, he could not be sent for mandatory treatment because to all practical purposes this measure had not been applied as legal punishment. D. Zouev had repeatedly been detained by the local police for varied misdemeanors, and eventually in 1999 he was sentenced to serve time in prison. In October 2002, D. Zouev died at the age of 23.

We are convinced that an effort ought to be speedily made in order to introduce as separate criminal punishments measures related to the extensive use of settlement-colonies, probationary sentences and mandatory treatment for alcoholism and drug addiction. The RF Criminal Code should be modified with the insertion of Paragraph 2, Article 58 of “Mandatory Treatment for Alcoholism and Drug Addiction,” which should run as follows:

1. Mandatory treatment for alcoholism or drug addiction shall imply that a person who has committed a misdemeanor or medium-grave crime under the influence of alcohol or drugs, shall be confined to a special correctional therapy facility of the criminal implementation system for a term between three months and two years.
2. If by the time of passing a sentence the guilty party has successfully completed or is in the process of effectively completing a course of therapy for alcohol, drug or some other chemical addiction, the relevant court shall have the right to pass a probationary sentence.

PUNISHMENT COMPOUNDING PRINCIPLE

It is necessary to reject the principle of mechanical and arbitrary punishment compounding, underpinning the provisions of Article 69 of the RF Criminal Code (ordering a punishment on the basis of compounded offenses) and Article 70 of the RF Criminal Code (ordering a punishment on the basis of compounded sentences). An effort should be made to develop a set of criteria for a total or partial compounding of punishments and for a tougher suppression measure overriding a lighter punishment. Article 69 of the RF Criminal Code should be amended accordingly. Firstly, if a crime has been adjudicated on several charges, the tougher punishment should override the lighter one or the applicable punishments should be partially compounded. However, the definitive punishment should not be allowed to exceed the toughest measure by more than three years. Secondly, total compounding of punishments can only be applied to individuals found guilty of committing very grave crimes involving death of the victim. Thirdly, partial compounding can be applied to individuals sentenced for committing several offenses regarded as grave or very grave crimes. However, the definitive punishment should not be allowed to exceed the toughest measure by more than five years. A separate provision should be introduced to the effect that in all other cases the tougher measure should be allowed to override the lighter one.

Also, we consider that Paragraph 3, Article 70 of the RF Criminal Code should be changed to

read as follows:

Any definitive compounded punishment sentence involving privation of liberty shall not exceed a) 5 years, whenever the gravest of the offenses committed is a medium-grave crime; b) 25 years, whenever the gravest of the offenses committed is a very grave crime involving death.

REPEALING PROBATIONARY SENTENCES

It is important that the Russian authorities reject the principle of automatic cancellation of a probationary sentence if an individual has unintentionally committed a new grave or very grave crime when on probation. It is also necessary that the Russian authorities enlarge the list of institutions that could be authorized to oversee the persons holding probationary sentences.

To provide an example, in 2000, the Nagatinsky district court, Moscow, considered the criminal case of the 15-year-old P. Gnatiuk, who became accomplice in an apartment burglary. As the case was considered, it was determined that the accused party could incur a number of mitigating circumstances related to the fact that the teenager's role in the whole affair was insignificant. P. Gnatiuk fully admitted his guilt and appropriately repented. In the year and a half following the incident he graduated high school, found a job and acquitted himself rather benignly. Nevertheless, the court felt compelled to sentence P. Gnatiuk to three and a half years in prison because shortly before the apartment burglary P. Gnatiuk had received a probationary sentence for taking part in the theft of a motorcycle as a minor accomplice. Eventually, it happened that right in the courtroom the teenager was taken into custody and sent to a penal colony.

A provision to this effect should be inserted in Paragraph 6 Article 73 of the RF Criminal Code. Furthermore, the wording of Paragraph 5, Article 73 of the RF Criminal Code ought to be amended accordingly. Whenever a probationer has committed a medium-grave crime or a premeditated grave crime, a court shall have the right to repeal the original probationary sentence. When the crime is a premeditated very grave offense, a court shall repeal the original probationary sentence. In this particular case, the latest punishment should be in part compounded with the sentence of the older crime, and the definitive suppressive measure should be in excess of the punishment ordered for the latest offense. Should a court of law rule that it would not be feasible to repeal the original probationary sentence because a medium-grave or grave crime has being intentionally committed, the court shall extend the probation and review the originally sentence.

Closing Criminal Cases

An effort should be made to look into the possibility of extending the provisions which regulate the rules for closing criminal cases based either on an amicable settlement (Article 76 of the RF Criminal Code), or on a new turn of the relevant circumstances (Article 77 of the RF Criminal Code), with the purpose of covering individuals who have committed repeat offenses. An exception should be made regarding convicts who have committed very grave crimes or crimes involving death.

Minimal Prison Sentence

The authorities should reject the practice of applying the provision of Paragraph 4, Article 79 of the RF Criminal Code, under which the minimal prison sentence is six months, because a court of law, while being governed by the principle of personalized approach, may reveal circumstances that can drive the judge to pass even a milder sentence.

Limits of Parole

According to Paragraph 4, Article 79 of the RF Criminal Code, a convict shall not be released on parole before he/she has served six months of the sentence imposed. Arguably, this time-related

measure should be reviewed because those individuals sentenced to six months in prison are deprived of the right to parole. Given the persisting policy, such major factors as personalized correctional capacities, family situation of the convict, and gravity and dangerous nature of the offense are not appropriately taken into account. In our judgment, limits for serving time before receiving a parole shall not be under a) one month, for individuals convicted of either a small or medium-grave crime and, b) three months, for individuals convicted for graver crimes.

Sentences for Minors

The legal age of an individual should necessarily be taken into account not only when considering the harshest possible prison sentence but also when passing a sentence within the limits allowed by the law. We maintain that the aforesaid objectives had been best served by the provision from the RSFSR Criminal Code of 1922. Under that provision, when considering a criminal case involving a minor, a court of law was required not only to operate within the prescribed limits but also to minimize the sentence for an individual who has not reached 16 or 18 years of age by the time the offense was committed. In the current RF Criminal Code, the provision could be modified to read as follows:

Any prison sentence for an offense committed by a minor under 16 years of age shall be halved in length, and if committed by a minor of 16 years of age and older shall be reduced one and a half times. Under the provisions of a special Paragraph of this Code, minimal sentences and punishments for offenses committed by individuals under the established legal age shall be halved.(8)

Ambiguities Regarding Legal Notions

The criminal legislation should be reviewed in order to single out those provisions suffering from ambiguities regarding legal notions, which can bring about an unduly broad application of harsh suppressive measures. Here are some of the examples:

• An irreparable facial injury should not be considered as a serious bodily injury (Article 111 of the RF Criminal Code). No forensic criteria on that matter have so far been defined.
• The application of “drug trafficking” and “large and especially large batches of illegal drugs” within the meaning of Article 228 of the RF Criminal Code can be read very broadly. Although the criminal legislation provides that any liability comes exclusively for an action whose attributes fall under the provisions of Article 8 of the RF Criminal Code, the *corpus delicti* attributes have been defined inadequately and require a good measure of interpretation.
• According to Article 303 of the RF Criminal Code, a measure of liability is provided for “doctoring the evidence.” The aforementioned Article contains no definition of the expression “doctoring the evidence,” not to mention that “doctoring” can be read very broadly.

ARBITRARY RESTRAINTS OF PRISONER RIGHTS

A good number of restraints currently applied to the rights of detainees and prisoners fail to adequately serve the goals of the punishment and can hardly be regarded as necessary. The denial (Paragraph 3, Article 78 of the RF Criminal Code) of settlement colonies to convicts sentenced for very grave repeated crimes; to convicts who have had their life sentences reduced to a limited sentence; or to convicts who have not been through a mandatory medical treatment, is against Paragraph 2 of the same Article. The provisions of that article explicitly state that convicts can be transferred to settlement colonies on the condition that they provide evidence of good conduct (which also can be displayed by convicts in the previously mentioned categories). Clearly, this approach appears to be in contravention to the principle of justice because it fails to reflect positive behavior of convicts who have served time in penitentiary institutions.

Under the law, prisoners and convicts can only receive food and clothing items specified in the lists attached to the standing regulations for correctional institutions and pretrial detention

centers. According to those lists, there are many food and clothing items that are barred from penitentiary facilities. However, apart from sensible restraints in this regard, there are limits that can be reasonably explained by the need to maintain order and security in penal facilities. Under the regulations for penitentiary institutions confirmed by Order #224 of 2001, by the RF Minister of Justice, the prohibited items include not only alcoholic beverages and yeast for baking, but also sugar and other edible products that require heat, including any home-cooked items. This latter constraint has produced a situation where thousands of disadvantaged families, residing in rural communities and subsisting on their own products, have been effectively barred from handing home-made food parcels to their relatives. This circumstance has condemned some prisoners to a semi-starving existence.

The provisions of Paragraph 2, Article 89 of the RF Criminal Code, define the list of relatives that the convicts can meet during long-term rendezvous. The same provisions indicate that, under exceptional circumstances and with authorization from the management of the local penal colony, the convicts can spend their time with other persons during the longer-term rendezvous periods. Generally, this rule appears to be fully justified. However, it should be pointed out that many of the convicts do not have their relationships officially registered. Given this circumstance, any decision to obtain clearance for a longer-term rendezvous seems to be dependent on the discretion of the warden. This kind of constraint makes unregistered partners completely dependent on the administrators of the colony.

The same Article 89 of the RF Criminal Code does not specify how to effectively deal with longer-term rendezvous periods in penal facilities without appropriate premises. The Kaluga correctional facility is an example of this. Although Paragraph 3 of this Article allows one type of rendezvous to be replaced by a different type of rendezvous as requested by the prisoner, this provision does not imply that a prisoner would be willing to have a short-term rendezvous rather than a longer-term one. As a matter of fact, under the existing conditions, prisoners at those facilities are effectively devoid of an opportunity to see their relatives. Obviously, in this particular case, it should be allowed to replace one longer-term rendezvous with as many as three short-term ones.

Prisoners can only send out parcels or packages upon due authorization from the administration of the penal colony (Paragraph 6, Article 90 of the RF Criminal Code). There can be a good number of situations when the prisoner deems it important to send out a parcel. However, just like in the case of gaining access to longer-tern rendezvous, this also depends on the discretion of the prison authority

According to Paragraph 4 Article 118 of the RF Criminal Implementation Code:

Non-working prisoners receive meals reduced in calories when confined to punishment cells, standard confinement cells, individual confinement cells or other special-regime cells. Subject to personalized medical checks, those prisoners shall have their meals without any restrictions and according to the general regulations.

Notably, most of those prisoners do not go out to do any work, and they can be confined to individual cells for up to six months. To compound their plight, they are actually devoid of the right not only to have rendezvous, but also to receive parcels or packages. Given the continued application of this provision, the punishment cells, standard confinement cells and individual confinement cells in the Russian penitentiary system provide some of the more alarming sources of TB cases, as well as psychiatric and psychosomatic diseases. Clearly, this provision deserves to be void as a rule allowing torture by hunger.

CITATIONS AND PENALTIES. OPPORTUNITIES FOR PAROLE

The existing system of parole judgments, rewards and penalties cannot be viewed as encouraging a law-abiding conduct on the part of prisoners. Admittedly, the rigorous limits of parole judgments, which depend on the gravity of the crime, good conduct, and the “benevolent

perception of labor assignments," fail to account for a number of major circumstances that would help to assure the desired rehabilitation process.

For example, a mother, sentenced for killing her newly-born baby (a medium-grave crime), can be released after serving a third of her prison sentence (Article 106 of the RF Criminal Code), while an individual imprisoned for the theft of a motorcycle (a grave crime) can be released on parole after serving one half of the sentence (Paragraph 2, Article 166 of the Criminal Code).

Although the notions of "good conduct" and "conscientious labor attitudes" have often been considered as key arguments to grant release on parole, they continue to be poorly defined and subjected to a variety of interpretations. As a rule, a prisoner with some certifications and no penalties is regarded as a prisoner with good conduct. However, the absence of penalties or the presence of certifications might not always be derived from the circumstances surrounding the crime. By way of example, prisoner K., sentenced for committing a rape, was released on parole because he received eight certifications for participating in local amateur entertainment performances and had no penalties in the four years he spent in prison. However, within a year of being released on parole he committed another three rapes, apart of other crimes, which eventually saw him sentenced to 15 years in prison by the Reoutovsky district court, Moscow region. On the other hand, the "conscientious labor attitudes" can only be displayed by those authorized to do some jobs. Hence, these criteria cannot be applied to prisoners with disabilities, those of old age or suffering from debilitating health conditions, or to those without jobs for reasons out of their control. It is worth noting that the notion of "conscientious labor attitudes" has for the most part been interpreted with a good deal of bias. However, there have been numerous cases where the assigned work targets have been effectively met but the local wardens have turned down prisoner requests for parole. It is not uncommon to find assigned work targets so prohibitive and extravagant, and compensation rates so insignificant that the working prisoners appear to be little different from regular slaves. To provide another example, in October 2000, the rate for making a wooden crate was 0.2 rouble, and the rate for making one door or one wooden bed was 2 roubles.

The biased nature of the criteria applied to decide whether to release a prisoner on parole inevitably breeds corruption. For example, some relatives of prisoners seeking parole argued that the local wardens (or unit chiefs) would ask for a bribe to appropriately report the prisoner for parole.

In addition, it should be noted that good conduct and conscientious labor attitudes do not always prove that the given prisoner has been rehabilitated. Some steps should be taken to put into place a system to track and assess behavior, which could allow the prisoner to correct his/her attitude.

In our opinion, to better serve the interest of prisoner rehabilitation, there should be a system under which any sustained positive shift in attitude would be promptly and adequately encouraged.

Also, researches have noted that some prison administrations have been applying a system of penalties to eliminate the excessive use of parole opportunities. The prison wardens have been seeking bribes for expediting a parole decision, trying to prevent a skillful and knowledgeable prisoner from leaving the colony prematurely, or working to avoid the risk of having the prisoner numbers reduced.

The parole issue has been particularly problematic at settlement colonies set up around logging camps, where the practice of baseless penalties has been actively sustained. For instance, prisoner A. Lazovoy, with a good record of behavior at the penal colony #IK-5, in the Irkutsk region, was then transferred to a settlement-colony (facility #Sh-320/12), in the Perm region. There, A. Lazovoy applied for parole and shortly afterwards received two penalties, which obviously made him ineligible for parole.

Telling a similar story was S. Antoshkin, born in 1972. He applied to the administration of the settlement colony #Sh-320/23 for parole. Rather than try to accommodate the request, the administration fraudulently imposed three penalties ("for drinking an alcoholic beverage") on S. Antoshkin, who was then denied the right to be checked for intoxication or for traces of alcohol in his blood. After that incident, S. Antoshkin was send to a high-security penal colony where his original imprisonment conditions were restored. S. Antoshkin appealed the decision of the Cherdynsky district court of the Perm region while turning to the Perm regional court, which invalidated the district court's ruling. Following his return to the colony #Sh-320, S. Antoshkin received two more penalties, and on the order of the Cherdynsky district court he was confined to the quarters of his original imprisonment. However, the review court once again ruled to invalidate the Cherdynsky court's decision. Following a prosecutorial review arranged on the request of the Committee for Civil Rights, it was revealed that the Nyrob-based prosecutor failed to appropriately perform his functions relating to the supervision of criminal implementation matters. Given the circumstance, the Perm regional prosecutor's office approached the RF General Prosecutor's Office to move the official to a different job.

Though the law explicitly establishes the criteria against which a convict can be paroled, there have been numerous documented cases of denial of parole based on absolutely fanciful grounds. For example, in September 2002, numerous applications filed to expedite the release on parole of L. Shestakov, member of the Union of Journalists, only produced a response from the Chief Department for Penalty Execution, the RF Ministry of Justice, according to which L. Shestakov could not be released on parole "because he would not admit his guilt." Notably, the official who signed that reply was not perturbed by the absence of such requirement in the law.

To effectively oppose the practice of baseless parole denials, it would be helpful to look at the percentage of prisoners released on parole as an indicator of good performance of penal colonies. In addition, amendments to the criteria applied to parole decisions should be added. Such criteria should necessarily include: positive shifts in the attitudes and personality of the convict while serving the sentence, redemption of the damage caused, or sustained will to assure such redemption to the best of his/her ability and confirmed determination to put it into effect. Obviously, underpinning these criteria should be the pressing need to phase out the array of abuses involved in the process of granting paroles and assure the successful achievement of the punishment goals.

The existing penalty system continues to create arbitrary rulings by penal colony officials and staff. By way of example, the provisions of Article 115 of the RF Criminal Implementation Code recommend that penalties should be imposed on those convicts who breach the established internal regulations. However, it is not clear what kind of transgressions and how serious those breaches should be to appropriately reprimand or penalize the convict. Furthermore, the lawmakers still have to clarify what penalties to apply with regard to different transgressions, which results in minor wrongdoings attracting excessively harsh penalties. As another example, convict A. Fedoseev, serving his sentence at the penal colony #ZhKh-385/18, was confined to a strict-regime isolation ward for three days because his bedding was unkempt. Then, he was put in that ward again for ten days for breaching the established dress code. Shortly afterwards, on two other occasions, he was confined to that ward for five days for not keeping his ward in good order. Clearly, such wrongdoings cannot be considered as serious violations of the established regulations. Interestingly enough, over his two-year stay at the facility #ZhKh-385/17, A. Fedoseev only received one penalty. However, after he was moved back to the facility # ZhKh-385/18, he received as many as 11 penalties, which was enough to relegate him to the isolation confinement ward as a confirmed repeated violator of Internal Rules.

Regulations for penitentiary institutions explicitly ban convicts from assigning nicknames to one another, wearing tattoos, putting up pictures without proper authorization, or smoking at non-smoking places. Hence, committing a relatively minor transgression would be enough to put a convict in a solitary confinement cell and, as a consequence, to lose an opportunity for parole.

Understandably, this kind of disciplinary practice has nothing to do with “rehabilitating the convicts” or “preventing them from committing new crimes.” It looks more like an attempt to “break” the convict and make him/her lose the hope that through his/her own honest effort he/she can secure the desired release on parole.

OPPORTUNITIES FOR PARDONING

Over the first eight months of the year 2000, the number of those pardoned by the RF President totaled more than 11 000, or nearly 1% of the convicts held by Russian penitentiary facilities. This value was the highest in the entire history of the pardoning institution in the country. Understandably, the convicts regarded this as a realistic chance to be released before the sentence term is up.

In September 2000, the President ceased to sign pardoning decrees. By December 2001 (one year and four months later), from a draft pardoning decree holding more than 5000 names recommended by Presidential Pardon Commission, the President only pardoned about 20 people all together. Concurrently, a focused campaign was unleashed in the media to discredit the effort pursued by Presidential Pardon Commission and defame its members.

In December 2001, the RF President issued Decree #1500 designed to reshape the mechanism for granting pardons. Presidential Pardon Commission was eliminated. Instead, pardon commissions were established under the heads of the subjects of the Russian Federation. As a consequence, the four-tiered pardoning system (penal colony administration, pardoning office in Presidential Administration, Presidential Pardon Commission, and President of the Russian Federation) was effectively transformed into a five-tiered arrangement (penal colony administration, department of justice of a subject of the Russian Federation, pardoning commission of a subject of the Russian Federation, Governor of a subject of the Russian Federation, and the RF President). While in the old days only one legal body (Presidential Pardon Commission) had the right to recommend a pardon, today the recommending authorities include the pardoning commission of a subject of the Russian Federation and the Governor of a subject of the Russian Federation. The aforementioned presidential decree likewise established limits to the pardoning initiatives. No pardon shall be granted to convicts who had already been released on parole, amnestied or pardoned, and to those considered as confirmed offenders.

Over the year that followed Decree #1500, the new pardoning system did not function as efficiently as promised. For example, while the regional pardoning commissions include more than 1000 individuals, the number of convicts recommended for pardoning over 11 months in 2002, was slightly lower than the former figure. Alarmingly, the President only pardoned about 140 convicts (1.2% of the total in the last year of work of Presidential Pardon Commission).

Some officials of the RF Ministry of Justice have actively attacked the current pardoning exercise, arguing that pardons should only be granted under exceptional circumstances, especially given that nearly any convict now has a good chance of being released on parole. As it was explained above, though, far from all convicts can count on being release on parole.

It is essential that the legal provisions be defined more thoroughly, curtailing the discretionary powers of all kinds of government officials and making the pardoning vehicle a regular function (rather than a right) of the RF President.

There have been numerous cases of denial of pardon by the newly established regional pardoning commissions (having acknowledged all the substantial grounds for granting a pardon). Although there is not a law or regulation establishing the period that a convict shall serve before being considered for a pardon, a positive decision normally comes after the convict has served at least half of his/her sentence.

To conclude, it would be important to remember that the exercise of pardoning is not only a legal vehicle designed to alleviate those who count on sympathy (Russian prisons hold a large number

of those) but also as an essential tool to correct judicial errors or to soften excessively harsh judicial practices. However, as long as the Russian leadership continues to be led by the perception that the pardoning exercise basically amounts to a legal tool (to be used only under exceptional circumstances) for releasing convicts or mitigating their punishments, the state shall hardly be considered as a merciful actor.

(1) For more details, see the article “Reduction of Russia’s Prison Population. Possibilities and Limitations” by V. Abramkin in this book.
(2) In accordance with the relevant materials released by the Center for Assistance to Criminal Justice Reform.
(3) Article 61 of the RF Criminal Code.
(4) Article 64 of the RF Criminal Code.
(5) See the Archives of the Committee for Civil Rights.
(6) Paragraph 1, Article 56 of the RF Criminal Code.
(7) V. Nevsky, “Countering the Crime: Researching the Law,” *Grazhdanin i Pravo* (2002, #2, p. 3).
(8) Under the current legislation, the legal age is 18 years.

"Informal" Penitentiary System in Chechen Republuc

Starting from the early 1990s, the Chechen Republic has been a Russian region set apart in nearly every sense — particularly so when it comes to the applicable penitentiary system along with its judicial and investigative systems.

Chechnya obviously makes the only one subject of the Russian Federation where separatism has gone further than any verbal statements and where as far back as 1991 the local leaders set out to embark on a path of separation from Russia. Of course, one should be well advised to take a separate approach in order to research any and all questions related to whether this effort had been inevitable or not in the first place, to what extent it had been generated either by Moscow or Grozny and, finally, how the basic features of that desired independence had been perceived at the start of the 1990s. However, it would be in place here to point out that the federal coercive agencies, system of police elements and criminal implementation structures had evolved at a rapid pace to increasingly grow self-contained. To underscore, the Chechen Republic getting out of the all-Russian jurisdiction arena was something that not only local “business entities”(1) but also federal coercive structures(2) felt they could profit from. Numerous coercive structures and semi-official armed formations, the exceptions being rare and far between, had been involved in “plundering oil and petroleum products under the guise of providing security to relevant activities,” with the local law-enforcers now and again detaining targeted entrepreneurs or business managers for extortion purposes, according to then vice-president of Chechnya, Z. Yandarbiyev. Overall, corruption and degradation had been ubiquitous and nearly unprecedented throughout all Russian governing structures. By way of example, the closure or destruction of the local penitentiary facilities (Grozny pretrial detention facility, Chernokozovo penal colony, etc.) at the start of the “first Chechen war” in 1994 merely served to confirm the all-embracing fragmentation.

* * *

As the military operations began in Chechnya in 1994, the federal structures moved to set up a system of detention facilities as part of the effort to “restore constitutional order.” Notably, the status of those “temporary screening facilities” or filtration camps was never established by the applicable law. Given the circumstance, the detainees would not infrequently be manhandled, cruelly treated or even tortured. What is more, individuals would be unlawfully detained on the premises of military bases where extra-judicial killings had now and then occurred, with members of special or intelligence services likewise producing fatalities through the use of their interrogation techniques. The effort, launched to restore the judicial, investigative and penitentiary institutions in Chechnya (with the Chernokozovo penal colony being reactivated, for one), was terminated with the military operations being discontinued.

As the “first Chechen war” of 1994—1996 had been carried on, “underground” authorities of the Chechen Republic of Ichkeria continued to operate concurrently with the locally-deployed federal governing structures. To emphasize, Ichkeria’s “penitentiary facilities” contained captured Russian servicemen and, at a later stage, civilian hostages. Over the years of the first war, the detention conditions had been increasingly made more rigorous, with cruel torture, extra-judicial executions and massive killings of hostages being practiced by those running the “special division” or “investigation ward” activities maintained by the Department for State Security, Chechen Republic of Ichkeria.

Just to remind, due to the fact that in the course of those years the old Criminal Code of the RSFSR continued to be viewed as formally applicable across the Chechen Republic of Ichkeria, military prosecutor M. Zhaniev had all “high treason” cases filed pursuant to the provisions of Article 64 of the RSFSR Criminal Code. It was only in August 1996 that the so-called “Shari’a Code”(3) was introduced, with Ichkeria (that became a *de facto* independent entity following the Khasav-Yurt Agreement), launching a state-building effort. However, attempts to grow bonds with Russian federal police or penitentiary authorities(4) had been to no avail.(5) Under those conditions, any move to detain a suspect in Chechnya and have him shipped beyond the confines of the Chechen Republic came to be just impossible for all practical purposes.(6)

The infamous wave of ransom-money kidnappings, human trafficking and hostages being held in “private dungeons” (the phenomenon breaking out in the 1996—1997 winter season) had been the defining features of the “penitentiary system” of that period. Admittedly, a good part of the blame for those horrid activities should be placed on the federal forces pursuing their strategies in the course of the 1994—1996 war. To underscore, the whole scene was aggravated by criminal gangs (engaged in the aforementioned felonious business) joining their forces with the local religious extremists, on the one hand, and with corrupted law enforcers, on the other. To provide an example to this effect, in the Urus-Martan-based Akhmadov family (known to have been the largest “slave-dealers” across Chechnya) one of the Akhmadov brothers had been in charge of the local district police department.(7)

It was none other than the collapse of governing structures in Chechnya in the 1990s that eventually enabled local extremists to invade Dagestan, thereby launching the “second Chechen war.” To point out, in August 1999, that war came to be officially termed as “counter-terrorist operation.” Why the federal authorities chose to make use of this particular legal status is a different matter. Just to remind, in those years “terrorist activities” used to be explicitly perceived as criminal acts carried out to perform kidnappings. This largely explains why the mass media and general public across the Russian Federation (including, to a certain extent, the residents of Chechnya) generally welcomed assorted official pronouncements to the effect that the principal goal for federal authorities was to restore law and order within the confines of the Chechen Republic.

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The very notion of “counter-terrorist operation” implies application of highly selective hits or engagements performed on the basis of researching the available dossiers or, at least, lists of “terrorists.” Unfortunately, no substantive body of “screening files” (of the kind put together by the Soviet counter-spy agency SMERSH by the end of the second world war) was created by the start of military operations in Chechnya, with the so-called operative-origin intelligence being rather incomplete and fragmental.

Given the circumstance, nearly from the very start, all detainments in Chechnya had been massive and non-selective in character. Understandably, inability to make use of the selective approach came from the lack of intelligence gathering, planning or controlling deficiencies, which were supposed to be corrected through the application of indiscriminate arrests. This strategy nearly immediately produced the following two inevitable effects: the use of “manhandling

techniques” to process the detainees and the pervasive corruption among the law enforcers.

With arrests being indiscriminate, relevant reference materials or evidence unavailable, one would now and again lack the knowledge needed to ask the detainee pertinent questions. To point out, the evidence secured through interrogations often came to be the only grounds for the authorities to proceed from, with investigators and inquirers primarily seeking to coerce the detainees into admitting their guilt through beatings, torture and cruel treatment.

On the other hand, the tolerated lack of evidence (except for the confessions made by the detainees under duress) allowed for a very broad array of arbitrary practices (from opening criminal cases all the way through releasing the given detainee) maintained by members of the federal coercive structures with regard to those kept in custody. Notably, the practice of releasing detainees for ransom money was introduced within a very short order (starting from the 1999—2000 winter season). Admittedly, it had never been terminated in the following three years.(8)

* * *

Unlike in the “first Chechen war,” the entire system of local penitentiary facilities was developed with a set of long-term goals in view during the second military campaign. Temporary detention wards were established with district police departments and temporary internal affairs departments (ROVD and VOVD).(9) The Chernokozovo colony received a pretrial detention facility(10) from which the prisoners were shipped to pretrial detention facilities based elsewhere in the Russian Federation. To emphasize, that merely amounted to the tip of an iceberg.

To underscore, there had been a whole array of informal detention places. Firstly, the local military bases would maintain specially outfitted pits or premises. Secondly, there were the so-called “temporary screening stations” set up in the course or mop-up operations on the grounds of abandoned buildings or just under the open skies. Thirdly, there were non-official or “secret” jails run by the federal coercive structures, local commandant’s offices or some other authorities.

Given below is a brief description of the “iceberg’s unobserved part.”

* * *

Individuals detained in the course of military operations or in the areas controlled by the locally deployed military forces would be thrown into dungeon-like “zindans” made in the form of deep pits with upright walls. Such confinement places had been described by television reporters as far back as 1999. The facility was generally pictured as a pit covered by metal grating to prevent an “apprehended militant” from getting free. To point out, such a contraption was even officially termed as “field temporary detention cell.” Notably, this kind of “zindan” cells had been used by the Russian and, in the old times, by the Soviet militaries to keep the on-remand prisoners(11) and those taken in custody. In the latter case, the facility would be known as “field guardhouse” broadly used (on account of the relevant and specially outfitted facilities being unavailable) to hold the servicemen that have committed some breaches of applicable regulations.(12) One can hardly pass these “zindan” pits in the ground as just some makeshift solutions in the Russian military. Apparently, there has been some classified service guidance on supporting the functions in question by way of constructing and operating those “field guardhouses.”(13)

Of course, one can wonder whether it is within the applicable law to confine civilians to those “zindan” pits. As is well known, military authorities are required to have a civilian detainee passed over to relevant police authorities within a span of three hours (with the person in question being then kept in a temporary detention ward).(14)

Notwithstanding the applicable legislation, the Russian military would now and again keep the detainees in “zindan”-type pits in the first months of military operations when the federal forces struggled to establish control of the Chechen territory.(15) To add, this practice was furthered in

the later years when the operations were extended to reach into the difficult mountainous terrain, which continues to be used to advantage by the Chechen militants. To emphasize, given the sustained resistance on the part of armed elements representing the Chechen Republic of Ichkeria, the Russian federal forces failed to establish full control of the hilly terrain and had effectively been compelled to deploy close to larger communities. Some of the more compelling evidence of “zindan” facilities run by the military comes from the Vedensky district.(16) The detainee-holding pits camouflaged with tents are known to have been maintained both at Khankala (principal base of the federal forces deployed in the Chechen Republic)(17) and in the area of Tangi-Chu community where the “Zapad” task force elements are based.

Hence, the practice of keeping detainees in “zindan”-type pits (clearly coming against the Russian law) had not been a spontaneous activity on the part of deployed military elements. Notably, it had been maintained on a sustained basis.

* * *

The larger notoriety has been received by the so-called “filters” or “temporary filtering stations” used as detention facilities. To point out, no such activity is allowed under the Russian law. What is more, one can hardly find any by-laws or regulations designed to assure operation of those “filtering” facilities, though such governing documents are certain to exist, the official pronouncements to the contrary notwithstanding. To remind, the very existence of “filtering stations” had been denied by the relevant government officials throughout 2002.

Normally, “filtering stations” would be set up in the course of mop-up operations (also known as “special operations”) when members of the federal coercive structures would detain and “run checks” on dozens or even hundreds of residents of that or other community. The ostensible purpose of a “filtering station” is to support detention of suspect individuals that might be linked to unlawful armed formations and conduct preliminary investigative activities. Following the prescribed sequence of steps, the detainees are supposed to be either released or transferred to other penitentiary facilities. Given the established procedure, a mop-up task force would normally be deployed close to the community in question, with the relevant “filtering station” being set up in a nearby field or abandoned building.(18) Inasmuch as one of the key features about mop-up operations was their massive character and indiscriminate approach, the numbers of those detained at the filtering facilities apparently went beyond the available capacity, which explains why most of the detainees would be released within a very short order. Notwithstanding the circumstance, nearly all of those held by a “filtering station” would be manhandled or tortured, with nearly every mop-up operation inevitably producing some unaccounted-for “disappearances” of the persons detained.

Admittedly, though the generally condemned massive robberies and abuses committed by some of the uniformed personnel in the course of mop-up operations should certainly be passed as “execution excesses,” the “filtering” stations basically amount to a balanced system of law enforcement activities, with responsible officials and reporting relationships being appropriately put in place.(19)

Over the last few months, the total of mop-up operations in Chechnya has been radically on the downswing. As a consequence, the need for setting up “filtering stations” has not been as pressing as in the recent past. However, detentions of individuals persist, with subsequent “disappearances” occurring not so infrequently.

As a rule, armed and masked members of the federal coercive agencies would come aboard their armored vehicles under cover of darkness and pick up the targeted individuals that might easily “disappear” in the days ahead. And no official structure would ever explicitly admit it has any knowledge of or connection with that kind of cases. Now and again, the relatives would uncover the bodies of their “disappeared” loved ones bearing the traces of cruel torture and signs of violent death. Admittedly, for the “disappeared” cases to be never identified, the dead bodies are often be exploded into fragments.

Whenever it was possible to track down the fate of that or other detainee, it normally turned out that the prisoners in question would be taken to military bases, local commandant's office buildings or elsewhere where they would be interrogated, held for a few days and then terminated.(20) Over the past few years, these structures, operating beyond the bounds of the law, performing unlawful detentions, carrying out accelerated interrogations and extra-judicial executions, have often been called "squadrons of death."(21)

This title should not be regarded as some wild exaggeration: in this particular case the aforementioned label implies sort of machinery in operation, rather than some "execution excesses." The matter is that the dead bodies of individuals, detained at different localities and at different times, often happened to be found buried in one and the same grave. It appears to be indicative of the fact that there is some network of detention centers and a structure designed to run preliminary "investigative" efforts and seal the fate of the detainees.(22)

* * *

To point out, all those "zindan" pits, filtering stations and "disappearances" of detainees had been part of the first Chechen war too.

However, this time around, things appear to have changed rather radically. Operating beyond the front of official system of detention, institutions, inquiry and investigation structures has been an informal network of unlawful detention facilities maintained by military bases or other fenced-off activities. That non-official network is centered Khankala — the primary base for the federal forces. This unacknowledged system of "investigative" elements allows for the application of torture, which often causes to speedy fatalities amongst the detainees or "disappeared" persons, and for extra-judicial killings, with military intelligence or special forces-origin practices being replicated to tackle the matters falling under the jurisdiction of the public law enforcement agencies. To note, during the first Chechen war, such criminal activities were practiced by the military intelligence and special task unit. In the course of the second military campaign, this practices have been adopted and actively used by the law enforcement (Military of Internal Affairs, etc.) It seems like within the confines of this informal network the relevant investigative effort has been fragmented and violence has been "privatized." Basically, what one can see here is an erosion of the investigative effort as a public institution. In reality, the situation is more complex and cannot be described as limited to the "excesses of the executor."

Now, what has caused all those shifts?

* * *

In 1999, the Prosecutor's Office of the Russian Federation launched an effort to look into selected events related to the armed conflict in the Northern Caucasus from its origin. That was undertaken in the days of the Chechen invasion in Dagestan. The criminal case "war" was entrusted to a team of investigators led by I. Tkachev, senior investigator on most sensitive matters.

On the one hand, one could put in doubt the very intention to look into the specifics of an armed conflict within the meaning of the law applicable for peacetime conditions. The point is that the law had been wielded there in breach of the "prescribed rules," in the conditions of military operations and *de facto* emergency environment. Should the relevant law have been applied in earnest, every single shot with the use of a firing weapon (including the arms either held or operated by members of the federal coercive structures) would have to be appropriately documented. In addition, that investigative effort could not be successful on account of the practices (including massive and indiscriminate detentions, use of physical coercion techniques, corruption) maintained by the deployed law enforcers.

On the other hand, an effort to bring together all investigative materials accumulated within the area of the sustained “counter-terrorist operation” under a single criminal case could in principle make up for the lack of knowledge held by a body of “filtering station”-related cases developed by members of the federal special services. However, to do that job, federal prosecutors would have had to put up a tremendous and conscientious effort.

Within the following year, one could conclude that the federal prosecutors had not been successful on their undertaking. While through the close of 1999 the “personalized” approach to a certain extent could be practiced when tackling the detention and confinement matters, in the years that followed the investigators have just been avalanched with unmanageable numbers of cases that needed to be looked into. It would suffice to recall that in the 1999—2000 winter season the federal forces detained hundreds of members of armed formations maintained by the Chechen Republic of Ichkeria (in February — at Alkhan-Kala, in March — at Komsomolskoye, etc.). Interestingly enough, most of those had been released on amnesty within half a year. Though that measure could only be welcomed (the relevant motivation being a desire to eventually find a solution to the ongoing conflict), its underpinnings had little to do with either humane or peacemaking considerations. It so happened that within the assigned half a year the prosecutors just failed to appropriately open and develop the relevant criminal cases, with many of the detainees being never interrogated during their stay in the pretrial detention facility. The criminal case “war” had effectively disintegrated, thereby signaling a shameful comedown of the Russian justice.(23)

Following that major development, starting from the mid-2002, the numbers of “disappearances” amongst the persons detained by the federal forces dramatically increased.

Even though “following” does not always mean “because of,” some causative linkage could be traced there. The matter is that a transfer of detainees to the official penitentiary authorities could not be tolerated by many members of the federal coercive agencies, the principal reason being that those detainees would have had a good chance of either being released or escaping the capital punishment. Given the circumstance, the federal coercive agencies (assuming they had never formally adopted the practice of “squadrons of death” with their unlawful arrests, confinement of prisoners to non-official detention centers, cruel torture and extra-judicial killings) at least had done nothing to prevent the locally deployed coercive elements from pursuing illegal activities that happened to be kept under cover and safeguarded as necessary.

To point out, these observations have come to be confirmed by some admissions from representatives of the federal forces. The following words of an intelligence officer from a military task force based in the mountainous Chechnya certainly are worthy of some attention(24)

***Officer**: They come out against mop-up operations while complaining that they have their relatives missing. But this is only to be understood. Normal-thinking Chechens do not disappear. The ones that disappear are usually the scum that deserve to be eliminated or taken out.*

***Reporter**: Is that you who are kidnapping people under the cover of darkness and then having them executed?*

***Officer**: About 30% of those that disappear get kidnapped and then killed following criminal showdowns between the Chechen gangs. Another 20% could be attributed to the Chechen militants that kill those collaborating with the federal authorities. We are responsible for about 50% of extra-judicial killings. You see, this is the only good solution, given our corrupted judges. Should we just keep capturing the Chechen militants and then dispatching them to the Chernokozovo remand prison, they would soon be out for some ransom money. We started to apply our informal methods only after the larger Chechen militant formations had been destroyed or fragmented in the local mountains. The federal forces are now stationed in fixed camps or bases. We have now large numbers of prosecutors coming down from Moscow to tackle all kind of trifles and restore peace and order. They keep telling us that we should always proceed from*

the availability of solid evidence before carrying out that or other active measure. All right, suppose we have some inside reports on a certain person who is a bandit with buckets of human blood on his hands. When we come to visit him at his place, with a prosecutor to accompany us, we find not a single cartridge on his grounds. Now, what should he be apprehended for in the first place? Killing the militants under the cover of darkness is the best and most effective solution, especially with the war going on. They seem to be scared of that and feel safe nowhere: be that their home or mountains. Large-scale military operations are no longer needed here. What we need above all is nighttime pinpoint hits, just like in surgery. You can not defeat criminals within the law.

***Reporter**: Do you like your unlawful techniques?*

***Officer**: Not always. Sometimes you get innocent people. You see, the Chechens are now dividing the power, while slandering one another in the process. Whenever we realize we have committed a blunder, following new knowledge made available to us, we know it is too late to put things right. The person in question is no longer with us*.

These words can be attributed to the grass-roots elements of the federal coercive structures or "squadrons of death" proper. Understandably, it appears to be a Herculean task to secure some evidence of those "activities" being coordinated or managed by any superior authority. That authority comes as a "black box" that can nonetheless be passed as real rather than virtual.(25)

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Generally, this is how the informal or "non-official" system of detention facilities operates in the Chechen Republic. Its manifestations are varied because the federal forces resort to sophisticated tactics in order to bolster control of the Chechen territory. Given that the risk (either real or imaginary) of opposing armed formations persists, the federal military authorities have their elements deployed within the confines of or close to larger Chechen communities on a permanent or garrison-type basis. With the opposing Chechen militants going "underground," scheduled mop-up operations are likely to continue. Should the Chechen militants go deeper "underground," with members of the federal coercive structures being thereby enabled to freely appear at Chechen communities without any risk of surprise skirmishes, "targeted special operations" would be mounted by the federal law enforcers. Arguably, detention facilities would be based to match the evolving strategies maintained by the relevant structures.

Clearly, this unlawful system is rather comparable with the Soviet totalitarian machinery of repressive activity.

Nobody knows for sure how many human lives have been terminated by the Chechen-based network of repressive structures. The relevant numbers stand at 1600, according to the Prosecutor's General Office, and at more than 2800(26) , according to the Chechen Governmental Commission for Search and Rescue of the Missing Persons. Put otherwise, 46 out of every 10 000 residents in Chechnya have been reported as missing or "disappeared," the indicator certainly being more frightening than the one for the "big terror" that transpired under the Soviet times.(27)

(1) For example, with the local industries being in shambles, one of the pillars to help sustain the Chechen economy in the early 1990s was the "free economic zone" policy, with non-taxed goods being moved from Turkey via the Grozny airport that used to be swarmed by "shuttle-traders" from all over Northern Caucasus.
(2) In the course of the Abkhasian war of 1992—1993, Russian special services would make use of Chechnya's actual "ex-territoriality" in order to provide training and weapons to Chechen militant groups destined to be lifted into the conflict area. As a matter of fact, that sequence happened to be followed by Sh. Basayev.
(3) As a matter of fact, the "Islamic law" in practice came to be a bizarre mix of common law,

Soviet-time statutes and selected Shari'a provisions.
(4) Some of those were initially made in the fall of 1996 to assure implementation of plans aimed to restore local pretrial detention facilities.
(5) It was precisely the kidnapping of General G. Shpigoun, representative of the Ministry of Internal Affairs of the Russian Federation in Chechen Republic, which produced an escalation of counter-parting of Russia and Ichkeria eventually leading to the "second Chechen war."
(6) As they received an official order cabled out of Budennovsk (Stavropol territory) in early 1997 to the relevant Chechen authorities to have suspected of keeping unregistered arms apprehended and shipped over to the federal authorities, some jesters from Grozny responded by sending the following cable, "W. under arrest. Send in convoy to pick him up," while clearly understanding that no Budennovsk-origin convoy would come in Grozny.
(7) Incidentally, the latter can be attributed not only to Chechnya: criminal gangs (dealing in kidnappings) from the contiguous Russian regions are also known to have been cooperating with members of the law enforcement agencies and special services that are called upon to counter that scourge in the first place. See, for one, numerous publications by V. Izmailov in Novaya Gazeta in 1997—1999.
(8) To admit, the system had rapidly grown sophisticated and "advanced": now and again in the course of mop-up operations or ID checks one could offer a kickback in the form of a couple of hundred roubles and avoid being delivered to a "screening center," the charge for being released from that center coming in excess of the aforementioned amount by a whole order of magnitude. What is more, there was a fixed rate for being released from a temporary detention ward. Understandably, the agency fee for closing a criminal case came to be much steeper.
(9) Temporary internal affairs departments would be staffed by Ministry of Internal Affairs (MVD) personnel on assignment to Chechnya as part of composite police units (SOM) that were authorized to perform nearly all law enforcement functions, which set them apart from district police departments staffed by locals that basically started to perform relevant police functions in 2002.
(10) The latter nearly immediately was "rumored" as practicing tortures, just like some other temporary internal affairs departments, including the Grozny-based Oktiabrsky and Urus-Martan activities.
(11) Described by A. Solzhenitsin in his "GULAG Archipelago" as the SMERSH practice.
(12) As revealed by the relevant criminal case materials, it was precisely the kind of pit used to hold R. Bagreev, senior lieutenant, on the orders from Colonel Yu. Boudanov, Commander of 160th tank regiment near the Tangi-Chu community.
(13) Incidentally, starting from 2002, following banishment of the military-guardhouse correctional institution, the long-doubtful legality of "zindan"-type facilities has become clear to all. The practice of "field guardhouses" or pits has discredited itself once and for all.
(14) Inasmuch as no emergency has been introduced within the confines of the Chechen Republic, no government agency (police structures making no exception) can be authorized to wield any extra powers.
(15) By way of example, the detainees apprehended February 2, 2000, and locked up in the basement of school #50 in the Zavodskoy district, Grozny, A. Souleymanov (born 1971), S. Sourguyev (born 1982), A. Sousayev (born 1954), M. Elmourzayev (born 1958), were taken by a group of servicemen aboard the armored personnel carrier #318 to an unspecified destination, following which they "disappeared" without a trace. However, it so happened that within a month, the March 7, 2000 *Itogi* magazine weekly's issue carried an article featuring a picture of a rather deep "zindan" pit guarded by a few armed servicemen. The pit contained some detainees that could be identified as S. Sourguyev, A. Sousayev and M. Elmourzayev. Following that publication, the Grozny prosecutor's office opened individual criminal cases pursuant to the provisions of Paragraph 1, Article 126 ("Kidnapping") of the RF Criminal Code on the fact of some unidentified field-fatigues-wearing individuals detaining the said persons and then shipping them to an unspecified destination, thereby causing the victims to effectively "disappear." Though the case was subsequently taken up by the military prosecutors, it was eventually suspended or put on hold in keeping with the provisions of Paragraph 1, Article 195 (for lack of grounds needed to identify the persons subject to criminal liability) of the RF Criminal Procedure Code.
(16) In February 2001, journalist A. Politkovskaya from *Novaya Gazeta* visited the Khatouni

community in the Vedensky district holding a basing facility for a composite task force made up by elements of 119th airborne parachute regiment, 45th independent special force regiment from the airborne forces, and by some elements from the Ministry of Internal Affairs, Ministry of Justice and Federal Security Service (FSB). On the grounds held by that task force, one could see a number of “zindan” pits containing residents from local communities, according to accounts provided by some of the locals. A. Politkovskaya visited that military facility and saw those pits that confirmed what she had heard from the locals. However, it so happened that within a few days the airborne forces-held segment of the said military facility was visited by an official review commission that, naturally, found no “zindan” pits. All the inspectors saw were some trenches and shallow “entrenchments designed to hold fighting vehicles positioned to operate in the direct- or indirect-fire mode.” Alarmingly, the witnesses, whose accounts had been put on tape by A. Politkovskaya, happened to be killed by the military within a span of the following few months. Also see A. Politkovskaya, “Chechnya: Other People’s War of Life Beyond the Lifting Gate,” Makhketine Special Zone (Moscow: 2002, pp. 12—30).

(17) The evidence was provided by numerous individuals held at those facilities and then released. Here is just one example out of many: S. Askhabov (born 1960), domiciled as migrant at the village of Orekhovo near Alkhan-Kala, was detained and then killed. He was apprehended by the military on August 14, 2000, in the course of a mop-up operation across Alkhan-Kala. Following his detention, S. Askhabov was beaten up and tortured. Then, he was kept for a few days in a “zindan” pit at Khankala within the segment held by 8th detachment of the “Rus” special forces, Ministry of Internal Affairs. Some time on August 19, three servicemen looked into the pit and said, “Which one of you is S. Askhabov? We are from a human rights committee, and right now we are looking into your case.” They quickly pulled S. Askhabov out of the pit. Within fifteen minutes, those remaining in the pit could hear horrible screams of S. Askhabov. They never saw him again. His body bearing numerous traces of torture and signs of violent death was eventually uncovered in a mass grave near the Zdorovye dacha settlement close to Khankala and identified by his relatives on February 28, 2001.

(18) At Argoun, it was normally located in a quarry. At Stariye Atagi, the facility used to be placed on the paltry-farm grounds; at the Chiri-Yurt village — on the grounds of an abandoned cement works.

(19) M. Alsoultanov and K. Alsoultanov, detained August 17, 2001, in the course of a mop-up operation run by the federal forces in the area of the Alleroy village, were confined to a “filtering” station set up on a hill between Alleroy and Tsenteroy and called “Titanik” by the military. During an inspection tour of that facility, V. Chernov, Prosecutor of the Chechen Republic, saw the two individuals there, but then they just “disappeared.” Their relatives approached a number of official structures in the republic to get their concerns heeded, and eventually the Prosecutor’s Office of the Chechen Republic opened a criminal case on the matter. What is more, to have things expedited, the local prosecutors were approached by the “Memorial” Human Rights Center and some deputies of the State Duma. In his February 12, 2002 response, (registered as #117) to the requests from “Memorial” and State Duma deputies, R. Tishin, acting prosecutor of the Argoun inter-district prosecutor’s office, explained that “the Alsoultanov brothers had been moved to the given filtering station and placed under the responsibility of S. Baryshev, representative of the Federal Security Service for the Chechen Republic, who in his turn handed the two detainees over to the convoy personnel directed to deliver the prisoners to the temporary detention ward, Kourchaloevsky temporary internal affairs department. However, the Alsoultanov brothers had never arrived at the temporary detention ward, Kourchaloevsky temporary internal affairs department; their current whereabouts being unknown. An effort to investigate into the disappearance of the two brothers is now conducted by the Military Prosecutor’s Office of the Chechen Republic.” (Lieutenant-Colonel S. Baryshev, head of the said filtering station).

(20) Fortunately, the sequence had not always been a success. By way of example, at 7.00 a.m. on February 16, 2003, it so happened that V. Jabrailov and A. Jabrailov from Pervomayskaya, Groznensky (rural) district, were apprehended. Their whereabouts could not be traced for two days that followed. Finally, on February 18, 2003, close to the grounds of the Grozny-based chemicals plant the locals uncovered a barely alive and bloodstained man asking for help. That was A. Jabrailov who indicated the dead body of his brother W. Jabrailov lying nearby. Following their detention, they had been thrown into a vehicle and driven for about an hour before arriving

at some gated territory, according to A. Jabrailov. Though it was hard to say where that locality was, one could hear the noise of helicopters taking off or touching down. The brothers had been taken to separate cells, A. Jabrailov being severely beaten up. The following day A. Jabrailov was visited by an unmasked man wearing field fatigues. He had the manacles taken off from the prisoner's hands, had the latter's hands tied up with a length of scotch tape, had his head bagged and fixed around the neck with scotch tape. Then, A Jabrailov was put into a vehicle. As A. Jabrailov sat down he felt his feet were touching some cold body. After about an hour's drive, A. Jabrailov was pulled out of the vehicle and walked a distance of ten-fifteen steps. An apparently dead body was brought out and thrown down next to him. Then, somebody nearby got his submachine gun ready and fired a shot, the bullet just happening to slightly graze A. Jabrailov's head. He fell down and play-acted a dead man. Then, A. Jabrailov's body was placed on top of the body already lying on the ground, with the executors squeezing some package between the bodies. One of the executors said, "Let's wait till the explosive goes off." The other voice responded, "Forget it, let's get out of here as fast as we can." When the vehicle was gone, A. Jabrailov released his hands, took off his head bag, got out the suspicious-looking package, saw a fuse already burning close to the explosive charge and barely managed to defuse the deadly device. As it was found out later on, V. Jabrailov was beaten up to death.

(21) This is the exact characterization of his engagements provided by P. Ossares in his book Algiers: Special Services in 1955—1957 (2000).

(22) By way of example, July 16, 2000, A. Boultayev, W. Dakouyev, A. Doudourkayev and A. Medzhiyev, all members of the Chechen police, were detained. All of them had "disappeared" within a very short order. However, S. Satsita (who had been thrown into the same "zindan" pit together with the aforementioned prisoners) was quickly transferred to the Khankala military base and shortly afterwards (within the subsequent two days) to the Rostov-based pretrial detention facility of Federal Security Service. On July 21, 2000, she was released on the orders from relevant investigator.

(23) Incidentally, the materials from the criminal case "war" had been then used to draft an indictment against A. Zakayev, who is currently in the UK. Given the circumstance, one can only hope that the materials garnered by Russian prosecutors would at least in part be researched by a British court of law.

(24) V. Rechkalov, "Man from a Different Gorge," *Izvestiya* (March 28, 2003).

(25) Given below is an uncommented excerpt from A. Politkovskaya, "Special Justice under FSB Guidance: President Promises Amnesty. Who Gains?" *Novaya Gazeta* (April 7, 2003):

So, "deviatka" (nine-member panel). It is the title of the place where usually gets the man captured during "zachistka" in Chechnya or without it. "Deviatka" is made up of representatives of different coercive agencies (Main Intelligence Directorate of the General Staff of the RF Armed Forces), Federal Security Service, Ministry of Internal Affairs, Ministry of Defense). The "deviatka" normally tackles the cases that have not been terminated by "squadrons of death" (staffed by members of Department of Intelligence Service, Federal Security Service, and Kadyrov's security task force). The "deviatka" structure is quite real. It operates a set of interrogation and torture tents placed next to each other, with a victim being passed down the line. By way of example, one "deviatka" is active at the Khankala military base, another — at Tangi-Chu. Once a victim has entered that circuit, he normally has two ways out ahead of him: either to confront the judges or die. Survivors normally include the ones that happen to be required (on account of the displayed knowledge or connections) by some members of the given "deviatka," rather than those who know nothing or come to be innocent. Should it happen to be a person who has done nothing untoward or can hardly tell anything of substance while responding to the poised questions, his chances to stay alive are close to nil. Such a person would most likely be eliminated because none of the "deviatka" members has displayed any interest in him. This appears to be the principal guideline for "deviatka" panels.

(26) Neither A. Kadyrov administration in Chechnya nor Russian prosecutors are interested in overstating the numbers of detainees that have "disappeared."

(27) The 1937—1938 period saw about 650 000 people executed in the former Soviet Union.

Given that the country’s population then was close to 170 million people, 38 out of every 10 000 persons were executed.