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## Criminology and the criminal justice system in the Russian Federation after socio-political transformation

### Kryminologia i wymiar sprawiedliwości w Federacji Rosyjskiej po transformacji społeczno-politycznej

**Abstract:** The article discusses the stages of development of Russian criminology. Particular attention is paid to the modern stage, which began with the collapse of the USSR and the formation of the Russian Federation. Some of the most important findings of various studies are described. The article talks about the negative trends of recent times (since the mid-2000s). In addition, a brief critical description of contemporary Russian criminal justice is given.

**Keywords:** criminology, criminal justice system, Russia, socio-political transformation, political system

**Abstrakt:** W artykule omówione zostały etapy rozwoju kryminologii rosyjskiej ze szczególnym uwzględnieniem dziejów najnowszych, zapoczątkowanych upadkiem ZSRR i powstaniem Federacji Rosyjskiej. W tekście przywołano wyniki kluczowych badań oraz omówiono występujące w ostatnich latach negatywne trendy w przestępczości (począwszy od połowy pierwszej dekady XXI wieku). Ponadto przedstawiono krótką analizę współczesnego rosyjskiego wymiaru sprawiedliwości.

**Słowa kluczowe:** kryminologia, wymiar sprawiedliwości, Rosja, transformacja społeczno-polityczna, system polityczny

## Introduction

Any scientific discipline can only be successfully developed in a free, democratic society. The criminal justice system also depends on the political system and regime.

It is clear that the communist regime in the Soviet Union was absolutely terrible. There were mass repressions, millions of innocent people were destroyed, criminology was banned as a 'bourgeois pseudoscience', as were genetics, sociology, cybernetics, etc. The police, the KGB (State Security Committee), the courts, the prosecutor's office, and the penitentiary institutions (the Gulag – the main department of forced-labour camps) worked as a single repressive mechanism.

The '*Perestroika*' of Mikhail Gorbachev radically changed the situation in the country. Freedom of speech, freedom of the press, and the right to private property were introduced, the Iron Curtain was lifted, and the KGB lost its strength. Criminology, sociology, and genetics were revived in the country, and other social sciences have since gained the opportunity to develop.

## Criminology in contemporary Russia

In order to better understand criminology in modern Russia, I will briefly name the main stages of its development in Russia. The history of Russian criminology can be divided into four periods (stages) (Gilinskiy 2018: 149–161). The first period was from the beginning of the 19th century until 1917. During this period, all areas of world criminology were represented in Russian criminology: biological, anthropological (D.A. Dril'), psychological (V.F. Chizh, S. Danillo, etc.), and sociological (H.M. Charychov, A.A. Zhizhilenko, M.N. Gernet, etc.). The sociological approach prevailed. The main criminogenic factors are in society, in public relations. Most criminologists in Tsarist Russia were against the death penalty.

The second period was from 1917 until the beginning or middle of the 1930s. In the first years after the 1917 coup, things continued to develop towards sociology. But this soon gave way to a study of the 'personality of the criminal'. This approach is safer for criminologists, because according to the leadership of the country, in the new socialist society there were no social causes of crime. The true reasons were 'survival of the bourgeois consciousness' and 'capitalist encirclement'. By the 1930s, many criminologists – like many other scientists – ended up in prisons or were shot. Criminology in the USSR was finished.

The 'resuscitation' of Russian criminology began in *the third period* (from the mid-1960s to the late 1980s), with the 'Thaw' of Nikita Khrushchev, who opposed the Stalinist repressions. Surviving scientists were released from the prison camps. The works of criminologists such as professors V. Kudryavtsev, I. Karpets,

A. Yakovlev, A. Sakharov, N. Kuznetsova, and others were published. In 1964, the 'Criminology' course was reinstated at Moscow and Leningrad (now St Petersburg) universities. Many empirical criminological studies were organised in those two Russian regions under the leadership of Prof. A. Sakharov in 1979. Empirical studies in other regions of Russia were also undertaken in 1977 under the leadership of L. Spiridonov and Y. Gilinskiy. In the 1980s, under the initiative of Academician V. Kudryavtsev, international criminological conferences began to take place in Moscow with foreign criminologists such as professors N. Christie (Norway), U. Bondeson (Denmark), I. Anttila (Finland), I. Andenes (Norway), B. Swenson (Sweden), L. Hulsman (Netherlands), F. McClintock (Great Britain), etc.

The fourth, modern stage in the development of Russian criminology began in the late 1980s. 'Perestroika' radically changed the situation in the country. Freedom of speech, freedom of the press, and the right to private property were instated, the Iron Curtain was lifted, and the KGB lost its strength. Criminology, which began to be 'reanimated' (after the Stalinist liquidation) under Khrushchev, was given the opportunity to develop. All sorts of prohibitions and restrictions disappeared. Criminal statistics were published, numerous empirical studies began, Russian scientists were given the opportunity to travel abroad and participate in international studies and international conferences (in 1990, the author first got the opportunity to travel to a criminological conference in a 'capitalist country' – Sweden). Consider these processes in more detail.

The development of criminology during this fourth stage was a continuation of the third. The criminological seminars continued at the Research Institute of the General Prosecutor's Office (Moscow), the Baltic criminological seminars held annually since 1987 in Estonia, Latvia, Lithuania, and Leningrad/St Petersburg. However, the content of the reports changed significantly. There was an opportunity to say whatever one thinks is necessary, without fear of being labelled 'anti-Soviet'. Since 1991, Baltic criminological seminars have been turning into International Conferences and criminologists from the USA, Great Britain, Poland, the Czech Republic, Norway, Germany, and other countries take part in them. For example, in 2019, in addition to Estonian, Latvian, Lithuanian, and Russian criminologists, criminologists from Hong Kong, the USA, Poland, the Czech Republic, and Serbia participated in the 32nd International Baltic Criminological Conference (in St Petersburg, 2019). In June 2020, the next Baltic criminological conference will be held in Tallinn, Estonia.

The publication of statistics on crimes, criminals, and punishments (on the websites of the Ministry of Internal Affairs of Russia, the General Prosecutor's Office of the Russian Federation, and the Supreme Court of the Russian Federation and in statistical yearbooks 'Crime and Offences: A Statistical Collection') allows one to monitor the dynamics of crime and analyse the state of crime. Remember that until the early 1990s, almost all criminal statistics were classified and not published.

Russian criminologists began to take part in international conferences and congresses. Thus, since 2001 Y. Gilinskiy, A. Gurinskaya, and A. Petrovsky have taken part in the annual conferences of the European Society of Criminologists. The world criminological congresses are attended by Y. Gilinskiy, V. Kvashis, I. Matskevich, G. Esakov, and others. Y. Gilinskiy has participated in all international biennial conferences organised by John Jay College of Criminal Justice (New York). V. Orekhov and others have also taken part.

Participation in international conferences, conversations with foreign colleagues, and reading foreign professional literature is very important. There is no 'national' science; every science is international. Without access to world literature and foreign conferences, criminology in the USSR could not develop. Only in the fourth period of Russian criminology did my colleagues and I get the opportunity, for example, to work in the library of the Max Planck Institute of Foreign and International Criminal Law (Freiburg, Germany).

Finally, perhaps most importantly, we had the opportunity to conduct empirical criminological research. It began in the previous, third period. Empirical studies of territorial differences in crime were conducted by groups of criminologists led by A. Sakharov (Moscow), A. Gabiani (Georgia), A. Leps and E. Rask (Estonia), and Y. Gilinskiy (Leningrad). Publishing research was very difficult, however, as censorship did not allow it. Large and important empirical studies, including international ones, have only been allowed since the 1990s.

Empirical criminological studies have been carried out by employees of the Research Institute of the General Prosecutor's Office (Moscow), the Research Institute of the Ministry of Internal Affairs of the Russian Federation (Moscow), the Institute of Sociology of the Russian Academy of Sciences (Moscow), the Sociological Institute of the Russian Academy of Sciences (St Petersburg), the Faculty of Sociology at St Petersburg University, and some researchers from other cities in Russia. Thus, a study of drug-related crimes has been published, under the guidance of Prof. Y. Komlev (Kazan) (Komlev and Sadykova 2003), as well as criminological studies of corruption under the guidance of Prof. P. Kabanov (Nizhnekamsk), for example. Prof. S. Olkov has been doing a mathematical analysis of crime in Russia for many years. Group of Prof. S. Inshakov (Research Institute of the General Prosecutor's Office) has studied latent crime for more than ten years. Coefficients of latency for each type of crime for each year have been calculated (Inshakov 2011).

More details will be given about some empirical criminological studies made by the sector of the Sociological Institute of the Russian Academy of Sciences (St Petersburg) under the guidance of the author of this article. This sector of the Sociological Institute conducted an empirical analysis of crime in various regions of Russia (St Petersburg, Pskov, Volgograd, etc.) (Avrutin and Gilinskiy 1991).

From 1990 to 1994, an international project of empirical research of crime and other forms of deviance (alcohol and drug abuse) was implemented in the countries of the Baltic Sea region ('Social problems of the Baltic Sea region'). The initiator

and project manager was Prof. Jussi Simpura (Finland). The project was attended by criminologists and sociologists from Poland, Finland, Denmark, Germany, Latvia, Lithuania, Estonia, Sweden, and Russia (led by Y. Gilinskiy). Each year, the project participants jointly developed the topics and methods of research for the following year and reported on the work over the past year. Such meetings were held in St Petersburg, Copenhagen, Warsaw, and in one of the German cities on the Baltic Sea. The study used analysis of statistics, a survey of the population and individual groups, focus groups, and content analysis. The results of the study for each year and the final, overall report were published (Simpura and Tigerstedt 1992; Lagerspetz 1994; Hanhinen and Torronen 1998; Moskalewicz and Tigerstedt 1998; Leifman and Henrichson 2000).

From 1999 to 2002, our department participated in a large international project entitled 'Population and Police'. The initiator of the project was Prof. W. Skogan (Chicago). We developed methods and tools in cooperation with the VERA Institute of Justice (New York). The results were published in Russian and English (Davis et al. 2004; Gilinskiy 2005; Citizen's Watch 2001).

In the period of 2004–2005, a study of torture was carried out in five regions of Russia: St Petersburg, Pskov, the Komi Republic, Nizhny Novgorod, and Chita. The questionnaire and tools were agreed with Mr Patrick Ball (Human Rights). The population of the region (a representative survey), prisoners of the region's prison colonies, prosecutors, lawyers, and former prisoners were interviewed. Analysis of the results of the study showed that in each of the five regions, from 3.5% to 4.5% of residents were tortured by the police during a one-year period. Of the total number of prisoners interviewed, from 40% to 60% were tortured prior to sentencing. We could not ask the prisoners if they were tortured in a prison colony for obvious reasons... The results of the study were published in a bilingual book (in English and Russian) (Belousov et al. 2007) and were discussed at a press conference in Moscow and St Petersburg. Torture in the police and penitentiary institutions, unfortunately, remains a very urgent problem in modern Russia.

From the beginning of the 1990s until the mid-2000s, our department conducted empirical criminological studies of organised crime in Russia. Numerous interviews with current members of criminal organisations (Dr. Y. Kostyukovsky), police, prosecutors, and businessmen (Y. Gilinskiy) made it possible to describe in detail the evolution of organised crime in Russia, especially in St Petersburg. Of particular interest were interviews by members of criminal organisations. Their findings were verified by a survey of law enforcement officers and businessmen. The study identified four stages in the formation and development of organised crime in Russia. The modern, fourth stage is characterised by the merger (association) of mafia-type criminal organisations with law enforcement agencies and local authorities. The results of the study were described in detail in articles and books (in Russian, English, French, German, Italian, and Hungarian) (Gilinskiy 2002; 2003a; 2003b; 2012; 2019; Gilinskiy and Kostioukovski 2001; 2004).

Unfortunately, from the second half of the 2000s, the development of criminology in Russia slowed down and was hampered. Some research groups were liquidated (in St Petersburg and Moscow). Joint research with foreign colleagues ceased. The funding of scientific institutions and conferences was greatly reduced, and reimbursement for trips to international conferences abroad stopped.

The merits of the deceased academician V. Kudryavtsev and professors G. Avanesov, I. Karpets, N. Kuznetsova, A. Sakharov, A. Yakovlev, and A. Zhalinsky in the resuscitation and development of Russian criminology are great. Famous criminologists continue to work actively (professors Y. Antonyan, M. Babaev, G. Gorshenkov, A. Dolgov, A. Dyachenko, V. Kvashis, I. Kozachenko, Y. Komlev, N. Lopashenko, V. Luneev, V. Nomokonov, E. Pobegailo, A. Repetskaya, N. Shchedrin, D. Shestakov, and more); representatives of a new generation of criminologists (O. Bibik, A. Gurinskaya, M. Dikaeva, A. Petrovsky, A. Rybak, A. Zorin, and others) are actively working.

In recent years, criminologists have been paying more and more attention to the problems of crime and the social control of crime in a contemporary, *post-modern* (post-industrial) society (Gilinskiy 2017a; 2017b; Ismailov 2018; Zheshterov 2017). Postmodern society began to form in the 1970s and 1980s. The fourth industrial revolution gave rise to unprecedented *technological innovations*. The creation of robots, unmanned vehicles, and drones is fine, but it provides new opportunities for criminals. The Internet is the greatest good, but also the foundation of cybercrime. *Globalisation* of the economy, finance, and culture is good, but the globalisation of crime is also taking place (drug trafficking, human trafficking, arms trade, human organ trafficking, and terrorism). Globalisation is accompanied by *mass migration*, which creates a 'conflict of cultures' (T. Sellin) and 'hate crime'.

In the postmodern era, all of humanity and the population of each country is divided into those 'included' in active economic, political, social, and cultural life and those 'excluded' from it (Bauman 2004; Finer and Nellis 1998; Young 1999). The excluded individuals form the social base of crime, drunkenness, drug use, prostitution, and suicide. In Russia, for example, the proportion of people 'without a stable source of income' (similar to those excluded) among all criminals was 11.8% in 1987; it is currently 65%–67%, and 72%–75% among murderers and rapists. In the regions with the poorest people (the Republic of Tuva, for example) there are the highest levels of serious, violent crimes. Worldwide, economic inequality is growing. In addition to dividing the population into 'included' and 'excluded', there is a fragmentation of society, a division (within both included and excluded groups) into fragments, or subcultures. People from each subculture can have differing (opposite) views on what is allowed and what is forbidden, what is possible and what is not. These groups can differ in terms of age, sex, religion, ethnicity, or education. Young people actively consume narcotic and psychotropic substances that are condemned by older age groups (and in Russia by criminal

law). Contradictions between groups (subcultures) can be criminal in nature: hate crimes or terrorist acts, for example. In Europe, the purchase and consumption of alcoholic products (wine, cognac, whiskey, etc.) is normal. In the United Arab Emirates, appearing in a public place with a bottle of alcohol may lead to imprisonment. Russia ranks first in the world in economic inequality (in 2016, 1% of the country's population owned 75% of all wealth). Not surprisingly, Russia ranks first in Europe in terms of homicides (per 100,000 people) and suicides. Postmodern society is also a *consumer society*. Everything is for sale and everything can be bought – including drugs, weapons, people (human trafficking and human organ trafficking), and sexual services. For the sake of money, theft, robbery, illegal trade, and murder are committed. Organised crime and corruption flourish.

The consequences of the features of postmodern society are very interesting, such as a reduction in the level of crime – including murder – around the world (except for two or three countries in Central America). So, for example, in Russia the murder rate decreased from 23.1 per 100,000 people in 2001 to 5.8 in 2018, the number of robberies from 250.3 in 2006 to 34.1 in 2018, and of thefts from 1,174.7 in 2006 to 511.9 in 2018. This is a global process, as seen in the falling homicide rate in Australia, from 2.5 in 1991 to 1.1 in 2013; in Hungary from 4.5 in 1993 to 1.3; in Germany from 1.2 in 1994 to 0.8; in Colombia from 78.7 in 1994 to 30.8; in Poland from 2.9 in 1994 to 1.2; in the USA from 9.1 in 1994 to 4.7; in Japan from 0.6 in 1994 to 0.3 (!).

What can explain this trend? There are several explanatory hypotheses. The most convincing, in my opinion, is that the main perpetrators of 'street crime' – adolescents and young people – left the real world for the virtual one. On the Internet they meet, make friends, disperse, and 'kill' (in 'first-person shooters'), satisfying the very important need for young people to assert themselves, to fulfil themselves. Studies from two American universities (Villanova and Rutgers) showed that when new games ('first-person shooters') appear on the Internet, the number of street crimes is reduced to 30% (How games affect crime 2016). The second hypothesis, associated with the first one, is that there has been a 'restructuring' of crime. Crime moves to the Internet (cybercrime), which is very latent and is not taken into account by statistics. It is safer and more profitable for young people prone to crime to engage in cybercrime than street crime. This is confirmed by the dynamics of fraud in Russia. As the level of homicide, rape, robbery, and theft lowers, the level of fraud grows (from 50.4 in 1996 to 151.7 in 2017!).

In postmodern society there is a *'time acceleration'*. What can now be done in one day required several days ten or twenty years ago. Now in a single year one can accomplish what took several years ten to twenty years ago. This must be kept in mind, for example, when determining the terms of imprisonment. If twenty years ago a prisoner was released after five years and found himself in a familiar environment, a person regaining his freedom after having served five years of imprisonment today, he finds himself in a completely new, unfamiliar world.

Modern technological capabilities allow the state and law enforcement agencies to establish *total control* over the population under the banner of security. Total control over every citizen is successfully done in China. 'Preventive arrest' is made in the USA. 'Security versus human rights and freedoms' is one of the main problems of our time, a solution to which has not been found. George Orwell's '1984' is being implemented...

The features of postmodern society that are unusual for most people (globalisation, mass migration, the latest technologies, the digitalisation of life, etc.) give rise to the '*schizophrenisation*' of consciousness, which entails hard crimes (the Norwegian shooter Anders Behring Breivik, murders in schools, etc.).

Finally, in a postmodern society, the problem of the 'crisis of punishment' has become especially urgent. The works of M. Foucault (1975), T. Mathiesen (1974), N. Christie (1981), A. Zhalinsky (2009), and many other criminologists, including the author of this article, show that punishment does not achieve the aims which the legislature – the state – uses punishment for (the restoration of 'social justice', the 'correction' of a criminal, and the prevention of further crime). The German professor of criminal law H.H. Jescheck wrote about the need to repeal criminal law as violating human rights and freedoms (1988: 3). Of course, it is impossible to accomplish this in modern society, but it is necessary to change the attitude towards punishment and to minimise or reduce its consequences. The death penalty is a crime – murder (by the state) – and it must be abolished in all countries. Imprisonment is a very harsh punishment which should only be used for serious, violent crimes and only for adult offenders. The terms of imprisonment should not be long (except for killers), usually up to one or two years. Finally, perhaps the main thing: the conditions of imprisonment within prisons should not be repressive, but restorative in nature (resocialisation and re-adaptation). Examples of such prisons are those of Northern Europe (Norway, Finland, and Sweden).

'Criminology' is studied as a course in all law schools. Criminology is studied by bachelors, undergraduates, and graduate students, whose dissertations are written in criminal law, criminology, and criminal executive law (scientific specialisation 12.00.08). The main topics of contemporary Russian criminology include organised crime, violent crime, corruption, hate crime, economic crime, drug trafficking, human trafficking, ecological crime, and social control over crime (Gilinskiy 2018; Luneev 2011).

However, the lack of criminological teams in research institutes and universities makes it difficult to conduct large empirical studies. National science does not exist. Every real science (if it is a science!) is international. The state policy of isolationism significantly complicates the entry of Russian criminology into worldwide criminology.



## Criminal Justice System

The Russian criminal system formally meets democratic requirements. Russia is proclaimed a legal state (Article 1 of the Constitution of the Russian Federation). The Constitution states that '[f]undamental human rights and freedoms are inalienable and belong to everyone from birth' (Article 17). The rights and freedoms of citizens are guaranteed by justice (Article 18 of the Constitution), and '[e]veryone is guaranteed judicial protection of his rights and freedoms' (Article 46 of the Constitution). Investigations are conducted by the police and the Investigative Committee of the Russian Federation; the prosecutor's office oversees investigations; criminal cases are considered by independent courts and subordinate to the law (Article 120 of the Constitution); and the most complex and important cases are considered with the participation of jurors (Article 47 of the Constitution). 'No-one shall be subjected to torture, violence, other cruel or degrading treatment, or punishment' (Article 21 of the Constitution). However, in practice the situation is more complicated.

Firstly, the Criminal Code of the Russian Federation suffers from excessive criminalisation of acts that do not constitute a great public danger. According to the criminal code, every citizen of Russia is a criminal offender. This is evidenced by the saying: 'If there is a person, an article (of the criminal code) will be found.' Thus, it is hardly a crime to 'refuse to provide a citizen with information' (Article 140 of the Criminal Code of the Russian Federation); this is a disciplinary offence, not a crime. "[D]estruction or damage to property *by negligence*" (Article 168 of the Criminal Code of the Russian Federation) is a civil delict, not a crime. The 'illegal sale of alcoholic beverages' (Arts. 171–174 of the Criminal Code) is a disciplinary offence, not a crime.

Secondly, in recent years, many criminal cases have been poorly investigated. The level of investigators' professionalism has decreased, and investigators are very dependent on 'instructions from above'. Investigating authorities (and courts) are affected by corruption. According to data published in 2011, the amount of a bribe for non-prosecution of a criminal case ranged from \$10,000 to \$25,000, for initiating a criminal case against an innocent person from \$200,000 to \$1,000,000, and for a 'light' sentence from \$50,000 to \$500,000 (Svetova 2011: 18–19).

Thirdly, judges are appointed by the President of the Russian Federation on the proposal of the President of the Supreme Court of the Russian Federation. While they are independent in the eyes of the law, in reality they depend on both the chairman of the court and the higher court. Judges are afraid that if their decisions (criminal sentences) are not in line with state policy, they will be removed from the bench. Judges are afraid to pass acquittals (this is a 'mistake' that will be 'corrected' by a higher court). In Russia in 2018, the proportion of acquittals was 0.25% of all criminal cases. What is particularly scary is the impossibility of passing a verdict of acquittal in cases of political importance. The imposition of a mandatory guilty verdict in poorly investigated criminal cases compels judges to violate the law of criminal procedure, to refuse the defence some well-founded motions.

Of course, there are good investigators and honest judges in Russia, but they do not determine the situation with the investigation of criminal cases and sentences in criminal cases.

Fourthly, torture by police is common in Russia during investigations, and in penitentiary institutions. Of course, torture is officially prohibited (Article 21 of the Constitution of the Russian Federation) and the use of torture may result in criminal punishment (Article 117 of the Criminal Code of the Russian Federation). In reality, though, torture is constantly used. This is explained by history (torture was constantly used under the Stalinist regime, and generally in the Soviet Union) and by the poor professional training of investigators (it is necessary to force a person to plead guilty, as investigators often do not have other means of obtaining evidence), a common habit in the country to solve problems through physical exposure. Human rights organisations operate in the country, including the Committee Against Torture and 'Russia Sitting' (i.e. in prisons and prison colonies). Mass media such as the newspaper 'Novaya Gazeta' and the radio station 'Echo of Moscow' constantly write and talk about the facts of torture; defendants who have been tortured describe it in court. But the practice of torture continues.

## Conclusion

Let us make brief conclusions. Prior to 1917, criminology in Russia developed approximately the same as in Europe. From 1917 until the late 1980s and early 1990s, the development of criminology was either limited by the Soviet totalitarian regime or completely stopped (from the mid-1930s to the mid-1960s). The opportunity to develop freely without any restrictions appeared thanks to the 'Perestroika' of M. Gorbachev. In the 1990s, Russian criminology was actively developing, entering the global criminology. Unfortunately, at the beginning of the new millennium, the development of science was again hindered: the policy of isolationism sharply reduced contact with international researchers, reduced the funding of scientific research, and dissolved many research teams.

The criminal justice system in Russia has undergone numerous changes: from Tsarist Russia through the USSR to the Russian Federation. The modern system of criminal justice is better than that of the USSR (the Constitution of the Russian Federation proclaims a democratic system, there is a jury system, and there is no death penalty). However, there are also a lot of downsides. The courts are legally independent, but actually dependent; investigators often do not have the necessary qualifications and attempt to get the accused to plead guilty by any means, including torture. Russia needs to build a truly democratic political system in order to improve the criminal justice system and the development of science, including criminology.

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