

The Russian penal system: past, present and future

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Foreword

Yuri Ivanovich Kalinin was Head of the Russian Prison Administration (GUIN) during the early 1990s. Since 1998 he has been Russian Deputy Minister of Justice. In both capacities he has been a determined champion for penal reform in Russia, often in the face of considerable opposition from within and outside the prison system.

In November 2002 Mr Kalinin made an official visit to the United Kingdom, sponsored by the UK Foreign Office. In the course of this visit he delivered a public lecture at King's College, University of London. The lecture provides a comprehensive overview of legislative and other changes which have taken place over the last ten years. It also gives a clear indication of the direction in which the Russian government wishes to go in terms of reducing its prison population and providing strong alternatives to imprisonment. ICPS decided that this lecture should be made available to a wider audience and is happy to publish it both in the original Russian and in translation.

Kalinin would be the first to acknowledge that much remains to be done to complete the reform of the Russian prison system so that it meets all international human rights standards. At the same time, significant steps have already been taken, not least in the reduction of the number of people in prison by 200,000 in recent years. The determination to reform is being shown in a number of practical ways, such as the removal of steel and wooden shutters from cell windows. Legislation has also been passed to provide courts with alternatives to imprisonment

This commitment of the government to penal reform is in stark contrast to the position in many Western countries.

Dr Andrew Coyle
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THE RUSSIAN PENAL SYSTEM: PAST, PRESENT AND FUTURE

Yuri Ivanovich Kalinin

Ladies and Gentlemen,

Allow me to express my sincere gratitude for the opportunity I have been given to provide you with information about the reforms currently being implemented in the penal establishments of the Russian Federation.

As recently as ten years ago it would not have been possible for the person in charge of the Russian penal system to speak to you as I am doing today, since at that time the country's penal institutions and agencies faced an extremely cautious and sometimes downright negative response from the public.

Of course there were reasons for that. Under socialism the penal system (referred to at that time in Russia as the “system for the implementation of punishment”) was unable to set itself completely free from the legacy of the sadly notorious Stalinist GULAG. That system had been founded first and foremost on the concept of deriving profit from the labour of convicted prisoners and ensuring compensation for the evil which had been perpetrated by the prisoners.

Based on these considerations, the institutions set up to deprive convicted criminals of their liberty were not prisons as understood in the West but much larger establishments, which were known as “corrective labour colonies”. They had a complex infrastructure which included all the basic essentials necessary for the long-term sojourn of large numbers of people: hostels, canteens, premises for recreation,

bath-houses, laundries and so on. These labour colonies were set up mainly in remote areas, with harsh climatic conditions, where major construction projects could be undertaken, minerals mined or timber felled. These arrangements took no account of the interests and rights of the convicted prisoners and their families and friends, which were secondary to all other considerations. The regime under which those serving their sentences lived was so organised as to cause prisoners hardship and suffering: for this reason it was very harsh and constituted an unnecessary curtailment of a large number of the prisoners' rights.

This is why the health of many convicted prisoners deteriorated sharply while they were serving their custodial sentences, why family ties broke down, why many prisoners' attitudes became more negative and they were drawn into the prison sub-culture. At the same time, they lost many of the useful social skills which were essential for life at liberty.

When the socialist system collapsed, many of the ideological and economic conditions which had provided the basis of the old penal system disappeared and as a result the foundations of the penal system began to collapse as well. For many progressively inclined people it became obvious that the system simply could not continue to exist in its previous form. It had to be changed fundamentally and to undergo reform. Yet the resolution of this issue was held up by certain conservative forces, which ten years ago were still very influential in Russian society. For this reason talk of reform at that stage was still very cautious and the term 'reform' was often replaced by other phrases such as 'improved working', 'reorganisation' and so on.

Despite this, what were in fact the first reforms of the Russian penal system were undertaken back in the early 1990s.

In 1992 important changes were introduced into the country's penal legislation, which at the time was still known as legislation for "corrective labour". These were aimed at making the regime for persons deprived of their liberty more humane. Certain unnecessary and humiliating curtailments of prisoners' rights were also removed.

In 1993 a Federal Law was adopted which was most important for penal institutions and which retains its importance today. It was the law “On Institutions and Agencies responsible for Custodial Sentences”, which defined the aims, objectives, principles and main directions of the work of corrective colonies, prisons and remand prisons and also the whole system of institutions and agencies administering punishment. Their powers were significantly extended as regards the organisation of prisoners’ economic activity.

In 1995 a document entitled: “A Concept Paper for the Reorganisation of the Penal System of the Ministry of the Interior of Russia” was drawn up and was later approved by the President of the Russian Federation, Boris N.Yeltsin, on 13 January 1996. This document laid the foundations for a draft of the principal organisational measures which needed to be introduced. These included:

- the creation in all territories of the Russian Federation of institutions capable of administering custodial punishment for the majority of convicted criminals within the region where the offenders lived or where they had committed their crime;
- the extension of the guaranteed minimum of privileges provided for prisoners, bringing these into line with international norms;
- the introduction of individual programmes for the re-education of each prisoner based on the psychological, psychiatric and social-pedagogical diagnosis of the personality of prisoners;
- the extension of prisoners’ rights in the domestic and production spheres, the organisation of their leisure and the creation of conditions allowing for the activity of non-governmental associations.

At that time the very formulation of such objectives was extremely progressive. In the event, it was not possible to implement all of them during that period. There were many reasons for that but the most important would seem to me to be the following:

Firstly, the penal system cannot change on its own, separately from society as a whole. Its reform is possible only as part of a wider range of measures aimed at creating a democratic state and at the introduction of legal and judicial reforms. It so happened that at that stage penal reform was ahead of general legal and judicial reform, although of course this should not have been so. A positive factor which should, however, be noted is that the reforming ideas in the penal sphere, particularly after they had gained the support of the President, the Government and certain other power structures in Russia, provided additional impetus for other social reforms.

Secondly, the reforms were held back to a large extent as a result of the fact that the penal system remained under the jurisdiction of the Russian Ministry of the Interior. For that particular Ministry, responsible first and foremost for upholding public order and waging war against crime, issues connected with the administration of punishment were always of secondary significance.

If, while some question was being deliberated, disagreements appeared between representatives of the penal system and any other service, for example, the criminal investigation departments of the Militia, decisions were taken as a rule in favour of the latter. This made it very difficult and virtually futile to raise questions with those in charge at the Ministry of the Interior regarding the overcrowding of the corrective labour colonies and remand prisons or the violation of human rights in those establishments, since situations of this kind were usually justified with reference to the interests of the fight against crime.

Very often the financial resources allocated by the state to meet the needs of the penal system were spent elsewhere after an arbitrary decision by those in charge at the Ministry of the Interior. Employees of the penal system were often called upon to assume functions they were not qualified for, such as patrolling streets and so on.

Thirdly, in order to put the theoretical ideas into practice, a good deal of preparatory work was required, including the incorporation of

appropriate changes and additions into the existing legislation. A lot of work was done on this at the time, yet the process of bringing these laws up to date took place against a background of fierce debate and consumed a great deal of time.

Nevertheless, in 1995 a Federal Law “On the Detention in Custody of Persons suspected or accused of Criminal Offences” was adopted and on 1 July 1997 the new Penal Code of the Russian Federation was introduced. These laws constituted an important landmark on the path towards the democratisation of the regime and conditions under which the punishment for crime is administered, with a view to rendering all of them, including custodial sentences, more humane. These advances were a major step forward in respect of safeguarding the rights and legitimate interests of persons suspected, accused or convicted of crimes. They have also brought the conditions for the custody of such persons into line with international standards and have ensured that the activity of those institutions and agencies enforcing punishment should be subject to control from state and public bodies

An important precondition for the reform of the penal system was Russia’s entry into the Council of Europe in 1996.

First and foremost, after the Federal Law of the Russian Federation “On the Accession of Russia to the Council of Europe” had been adopted on 23 February 1996, the introduction of legal and judicial reform in general accelerated. Our country took upon itself a number of obligations, one of which was to bring the national legislation into line with generally accepted international norms and standards.

In this connection the Russian Federation ratified a number of European conventions: the European Convention for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment; the Convention on the Protection of Human Rights and Basic Freedoms; the European Convention on Deportation; the European Convention on Mutual Legal Assistance on Criminal Matters; the Convention on the Laundering, Disclosure, Seizure and Confiscation of Revenues from

Criminal Activity; the Convention on Legal Aid and Legal Relations in connection with Civic, Family and Criminal Cases, and so on.

Federal laws were passed aimed at upholding citizens' basic rights and freedoms: "On the Freedom of Conscience and Religious Associations", "On Social Organisations", "On Trade Unions, their Rights and Guaranteed Activity", "On the Main Guarantees for the Rights of the Child in the Russian Federation", "On the Legal Position of Foreign Citizens in the Russian Federation" and many others.

In the five years after Russia joined the Council of Europe, more than 2,300 Federal Laws were passed, both new ones and amendments as well as additions to previously existing laws.

An important and perhaps decisive contribution to the development of legal reform was the adoption of such fundamental laws as the Civil Code of the Russian Federation, the Criminal Code of the Russian Federation, the Labour Code of the Russian Federation, the Land Code of the Russian Federation, the Taxation Code of the Russian Federation, the Family Code of the Russian Federation and the Code of the Russian Federation for Administrative Violations of the Law, as well as the introduction of amendments and additions to the Law "On the Militia" and other legislative acts.

In the current international situation an important step forward was the adoption of the laws "On the Fight against Terrorism", "On Counteracting Extremist Activity", "On Counteracting the Legalisation (Laundering) of Revenues obtained by Criminal Means".

One of the most important focuses of reform in the legal sphere is **judicial and legal reform aimed at establishing the priority of human rights**, the implementation of constitutional principles and bringing of Russian law into line with generally accepted norms of international law.

Within the framework of judicial reform the following federal constitutional laws were adopted: "On the Constitutional Court of the

Russian Federation”, “On the Judicial System of the Russian Federation”, “On the Status of Judges in the Russian Federation”, “On Arbitration Courts in the Russian Federation”, “On the Agencies of the Judicial Community in the Russian Federation”, “On State Forensic Activity in the Russian Federation” and the Arbitration Procedural Code of the Russian Federation. Changes and additions were made to the Federal Laws “On the Constitutional Court of the Russian Federation”, “On the Judicial System of the Russian Federation”, “On the Status of Judges in the Russian Federation”. All of them served in large measure to clarify the status of judges in the courts concerned, the duration of their periods in office, the way they should be appointed and relieved of their duties, guarantees of independence, the demands made on judges, their responsibility for failure to carry out their official duties or inadequate performance of those duties and so on.

A Federal Law was also passed “On the Work of Defence Lawyers and the Bar in the Russian Federation” aimed at creating meaningful conditions for the provision of legal aid to citizens, as guaranteed in the Constitution of the Russian Federation. These included convicted prisoners and persons in detention.

Furthermore, one of the conditions for Russia’s admission to the Council of Europe was **the transfer of all institutions and agencies administering the punishment of criminals from Russia’s Ministry of the Interior to the Ministry of Justice of the Russian Federation**. This condition was met on 31 August 1998 when the penal system became part of the Ministry of Justice. This was one of the most significant steps aimed at ensuring more reliable guarantees for compliance with norms of legality and with human rights. The Ministry of Justice is more free to act in this respect, since it is not burdened with the legacy of the past and has not been associated with bringing psychological pressure to bear on those who have violated the law and are serving custodial sentences. In a series of appropriate decrees issued by the President of Russia emphasis was placed on the task of reforming the institutions and agencies of the penal system during the process of their transfer to the Ministry of Justice.

Our work on implementing the directives issued by the President of Russia got underway in extremely challenging circumstances. The penal system was in a very difficult situation at the time of the transfer to the Ministry of Justice. The material conditions of many buildings and installations, the technical equipment needed to guard prisoners, including weapons and communications had not been appropriately maintained nor updated for many years. This meant that the institutions of the penal system were in a most dilapidated and neglected state. The situation was made worse by chronic under-funding. Over a number of years the penal system had been allocated funds from the state budget on a scale which only covered 60 per cent of its actual requirements. Some items of expenditure, such as the medical care of convicted prisoners, were covered up to a level of no more than 20 per cent. During the three months prior to the transfer of the penal system to the Ministry of Justice no funds at all were made available from Russia's Ministry of the Interior for the upkeep of penal institutions and agencies.

Finally, the shortcomings and deficiencies in the existing legislation had a negative impact on the activity of the penal system. As a result its work was not sufficiently well organised and corrective establishments did not receive the necessary support from either the federal or local authorities. An excessively harsh criminal system had given rise to an unjustifiably wide use of restrictive measures, which had led to convicted prisoners who did not need to be isolated from society being detained and then deprived of their liberty.

This had led to these institutions being seriously overcrowded and prisoners not receiving the food, clothing, footwear, medicines and other basic necessities which they required. The situation was especially grim in remand prisons, where persons suspected and accused of having committed crimes are held while preliminary and judicial investigations are being carried out. Suffice it to say that in some of these institutions prisoners had no more than one square metre of living space each (although the established norm was four square metres). One consequence of this was that prisoners had to take it in turns to sleep.

It is not surprising that in prisons and colonies infectious diseases spread easily, including such dangerous ones as tuberculosis and HIV/AIDS. Many prisoners were also having to cope with enforced idleness, as the staff was unable to provide them with employment.

A penal system unable to carry out the tasks allocated to it was a severe burden for the state budget and, at the same time, served to discredit the state administration in the eyes of the population at large.

Taking these circumstances into account, priorities were set for the reform of the penal system. Its normative-legal basis was to be improved, the pace of judicial and legal reform were to be accelerated and, as a result, the numbers of convicted persons in prisons and colonies were expected to decrease, as were those for persons detained in remand establishments.

Over the last four years there have been improvements in the legislative and normative basis for the penal system, which serves to regulate the activity of the institutions and agencies administering punishment. The necessary infrastructure for the system has been put in place, a range of services has been placed on a firmer footing and new subdivisions of the system have been created. The penal system has recently taken upon itself the tasks of escorting prisoners when they are outside a penal establishment, providing medical services for prisoners, undertaking major building projects, training staff in the system's own staff training establishments in both the specialised secondary and tertiary sectors, and providing pensions. A psychological service has been set up with a staff numbering over 2000. The bodies concerned with the inspection of penal establishments administering punishment and other legal measures for punishing criminals which do not involve the isolation of convicted prisoners from society are now part of the general penal system.

The penal system **has become open for oversight by the public**. This is something which experts from the Council of Europe and the UN Committee against Torture and members of international and Russian

organisations campaigning for human rights have been able to see for themselves, when they visited penal institutions for prisoners deprived of their liberty.

There have been major changes in relations with the mass media. Every year thousands of articles are published on the activity of penal establishments, including those with problems. This makes it possible to attract the attention of the general public, of bodies invested with legislative and executive power and to accelerate the adoption of decisions which are important for reform of the system.

The transfer of the penal system to Russia's Ministry of Justice served to raise the **status of those in charge of regional sub-divisions** of the penal system. Relations with the heads of regional and local government began to acquire a constructive character. Some problems arising in connection with the activity of the penal establishments began to be resolved at local level within the context of regional programmes. More efforts were devoted to the construction and the refurbishment of remand prisons and also living quarters for staff, using funds from local budgets. Normative acts adopted in some of the regions of the Russian Federation have stipulated additional payments to be paid to employees of the prison system and supplementary forms of social assistance.

Measures designed to help the sub-divisions of the penal system in the various regions of the Russian Federation support the efforts already undertaken at the national level.

In August 2002, in order to ensure the constitutional rights of persons accused or suspected of having committed crimes, particularly when it comes to providing conditions essential for the proper supervision of prisoners and provision of health-care, the Government of the Russian Federation adopted a Federal Special Programme: "**The Reform of the Penal System of the Ministry of Justice of the Russian Federation in 2002-2006**". It is planned to provide in the next five years an additional 46,000 places in remand prisons, 215,000 square metres of living quarters for staff of the penal system and to create work opportunities for 40,000 convicted prisoners.

As a result of the work being carried out with support for our proposals from the Office of the President of the Russian Federation, the Committees and Commissions of the State Duma and the Government of Russia, in recent years **the scale of financial allocations to the penal system from the Federal Budget has increased more than four fold.**

At the same time the Ministry of Justice has carried out work aimed at bringing Russian legislation on questions relating to the activity of the penal system into line with the requirements of international European standards.

The most important results of this work were reflected in the **Federal Law of 9 March 2001 No. 25-FZ**, which introduced substantial changes into the criminal, criminal-procedure and penal legislation.

This law was intended to achieve a significant **liberalisation and re-focusing of criminal policy, first and foremost with regard to persons who have committed minor offences or those of medium gravity.**

This law was also aimed at reducing the use of custody. Instead this measure of restraint was to be used primarily for those persons who have committed grave and particularly grave crimes. Those who have committed minor offences or those of medium gravity are to be imprisoned only in exceptional cases. At the same time more opportunities have been provided for the use other measures of procedural coercion, such as bail, surety and, with regard to minors, entrusting them to the supervision of relatives, guardians or other persons worthy of trust.

Much wider use is now being made of **the practice of sending persons convicted of minor offences or those of medium gravity to settlement-colonies**, which in Russia constitute the prototype for the 'open prisons' that exist in many West European countries.

Grounds for using various types of early release from custody have been extended and the procedure for the application of this measure has been amended.

Changes have been introduced into penal legislation which permit the establishment of regional correctional institutions with different kinds of regimes, including isolators. This makes it possible for convicted prisoners to serve their sentences close to their place of permanent residence. This makes it more possible for relatives to visit and also helps prisoners to maintain their socially useful contacts.

Many elements of this Law and also other proposals and recommendations were incorporated into the **Criminal Procedure Code of the Russian Federation**, which came into force on 1 July 2002. This was aimed at resolving many of the problems connected with the work of bringing Russian criminal procedure into line with the standards adopted in law-based states. The new Code took into account the requirements of the Constitution of the Russian Federation concerning the division of powers, the independence of the courts, the independence of judges and the international acts ratified by Russia. It includes important principles such as the defence of citizens' rights and freedoms, judicial oversight of the legality and validity of decisions taken by bodies responsible at various stages of criminal procedure for prosecution, investigation and inquiry.

The powers of the court in the course of a pre-trial examination of a case have been increased. Now, as in the whole of the civilised world, **only the court has the right to make decisions regarding**

- the methods of restriction of freedom such as remand in custody or house arrest;
- the extension of the period during which a detainee will remain in custody prior to his trial;
- the placing of the suspect or accused not in detention, but in a medical or psychiatric ward for the purposes of forensic or psychiatric expert examination;
- the search of a residence without the agreement of the persons living there;
- the search or seizure of objects and documents;

- the seizure of correspondence and/or property;
- the temporary removal of an accused from his employment;
- the surveillance and recording of telephone conversations, and so on.

There has been a **substantial extension of the rights of a suspect or accused person**. The point at which such a person acquires the right to defence in a variety of procedural situations has been rigidly laid down. It has been established that the participation of a defence lawyer is obligatory in all criminal cases apart from those when the suspect or accused has rejected his services. The powers of the defence lawyer have also been extended.

More effective guarantees are now in place for the rights of any person arrested on suspicion of having committed a crime. Since the new Criminal Procedure Code of the Russian Federation was adopted, **only a court can give permission for an individual to be held under arrest for more than 48 hours, for the surveillance, search and seizure of correspondence and so on**.

The circumstances in which an accused may be remanded in custody have also been changed. In particular, this measure can only be used if it is impossible to use another less rigid measure of restraint and after a decision has been taken on this by the court. House arrest has been introduced as a new measure of restriction of liberty, as an alternative to remanding an offender in custody.

The new Code also has a section on international co-operation, including one on the administration of punishment. This will serve to forge closer links between the legal system of Russia and the legal systems of other countries.

The implementation of tenets incorporated into the above-mentioned Federal Law, the coming into force of the new Criminal Procedure Code of the Russian Federation, the carrying out of other specially elaborated

measures of an organisational and legal character **have led to a reduction of 70,000 in the numbers of those held in corrective establishments and to a reduction of 135,000 of those held in remand prisons.**

These recently adopted legislative and organisational measures, the implementation of the Federal Special Programme for the Construction and Refurbishment of Remand Institutions and Prisons and the use of funds from the regions of the Russian Federation have made it possible to provide more than 2,500 additional places in remand prisons, to double the average living space for each remand prisoner. Today the average is 3.5 square metres, while the norm laid down by the public health authorities is four square metres. Prior to these reforms the average space was less than one square metre per person.

In remand prisons within 33 of the regions in the Russian Federation the number of persons detained while their investigation or trials are in progress is no longer above the established limit.

If present trends continue it is now possible to forecast that by the end of 2002 **the number of persons detained in remand prisons will on average be down to the established limit for Russia's penal system as a whole; that is, 114,000.**

In the first year after this Law came into force **the number of convicted prisoners serving their sentences in open type correctional institutions, settlement colonies, had increased almost nine fold, from 4,000 to 35,000.**

Provision for custodial sentences of any regime are now available in most areas, regions and republics of the Russian Federation.

There has been an increase in the number of persons selected for conditional early release from prisons or colonies and in those who have their custodial sentences replaced by a more mild form of punishment. According to the figures for 2001 more than 101,000 prisoners were released for these reasons .

The State Duma adopted on 30 November 2001 a resolution announcing an **amnesty** for approximately 25,000 **minors and women** serving custodial sentences. Staff members from our service were involved in drafting this resolution. This humane act not only eased the situation of thousands of minors and women, but also helped to resolve the problems of overcrowding in prisons and colonies for these particularly vulnerable categories of citizens.

It should be noted that the adoption of these changes, which amended policies regarding punishment, did not have any negative impact on crime levels in the country.

At the present time a number of draft laws aimed at bringing Russian legislation into line with European standards have been prepared with the participation of the Ministry of Justice of the Russian Federation.

One of these draft laws is designed to add an article to the Criminal Code of the Russian Federation **defining the concept of torture** and establishing criminal responsibility for its use.

In the State Duma of the Russian Federation a draft law is being examined which provides for **the abolition of capital punishment** in Russia. A decree issued by the President of the Russian Federation has already declared a moratorium on the use of capital punishment. In accordance with a decision taken by the Constitutional Court of the Russian Federation judges are at present unable to sentence anyone to capital punishment.

As commissioned by the President of the Russian Federation, we have put forward **proposals for making criminal legislation still more humane**. Changes and additions to the Criminal and Criminal Procedure Codes have been prepared, providing for amendments in certain articles to take account of the nature of the crimes committed and the degree of danger for the public. In particular **it has been suggested that changes should be introduced into Article 158 of the Criminal Code** to allow for a reduction of responsibility in connection with petty theft and a classification of certain acts linked with theft as

crimes of moderate gravity. The said Federal Law No. 133-FZ was adopted by the State Duma on 27 September 2002. On 31 October it was signed by the President of Russia and it came into force on 5 November 2002.

At the same time we also prepared **proposals for changing the principles underlying criminal and criminal-procedural legislation aimed at limiting the range of persons who need to be sent to colonies with the strictest regime (special-regime corrective colonies) and making the conditions under which prisoners are held in those colonies less harsh.** The resulting draft law has undergone expert examination in the Chief State Legal Directorate in the Office of the President of the Russian Federation and in the interested ministries and departments. It is now being prepared for presentation following the established procedure to the State Duma of the Federal Assembly of the Russian Federation.

The President of Russia has recently commissioned us to prepare proposals for liberalisation of the state's policy on crime. To this end **a working group has been set up under the deputy head of the Office of the President of Russia,** which is preparing proposals for changes in the Criminal Code. Representatives of the Ministry of Justice of the Russian Federation are playing an active part in this working group.

In accordance with recommendations from the Civic Forum, which was held in Moscow in November 2001, **in the central and regional agencies of the penal system a special service has been set up to ensure the observance of human rights of citizens in prisons and colonies.** We view the creation of this service as an important step in the process of the reform of the penal system in Russia.

The staff of this service have been granted wide powers. They are independent as they go about their activities and accountable only to the head of the regional branch of their agency. Their powers extend to all institutions within the territory of any given region of the Russian Federation.

The staff of this particular service also enjoy a wide range of powers in their interaction with bodies of state power, the justice system, the procuracy, the commissioners for human rights within the regions of the Russian Federation, with organisations upholding prisoners' rights and so on.

In accordance with Article 12 of the Criminal Procedure Code of the Russian Federation within institutions of the penal system **the necessary conditions have been created to enable prisoners to exercise their rights to submit to various bodies their suggestions, requests and complaints**. Last year changes were introduced into the legislation enabling the Ombudsman for Human Rights in Russia to visit penal institutions when he is investigating complaints from prisoners without having to seek special permission.

More effective control from members of the public over the activities of the institutions and bodies within the penal system makes it possible to uphold the rights of suspects, accused persons and convicted criminals, including their rights if subjected to torture and other forms of cruel, inhumane or degrading treatment. In connection with this the State Duma of the Russian Federation is currently examining the draft for a Federal Law **“On public control to ensure that human rights are respected in places of enforced confinement** and on the support for such activity from non-governmental associations”.

More and more effort is being devoted to **safeguarding prisoners' right to labour**. Last year an additional 42,000 work places were created and the wages paid for prisoners' work are gradually increasing.

There have been positive changes in efforts to reform the system, to make the conditions in which prisoners serve their sentences more humane and to observe human rights. These have been most noticeable in respect of the educational and social work undertaken with prisoners. The corresponding concept paper has been duly ratified, relations of a new kind between prison staff and prisoners are being fostered and the role of teachers, psychologists and social workers within the service has been consolidated.

In accordance with the norms laid down in the Criminal Code of the Russian Federation (Articles 108 and 112) in corrective institutions prisoners are given the **opportunity to exercise their right to have a basic general and vocational education**. Increased opportunities for distance learning and correspondence courses are being provided for prisoners. At the present time prisoners from 28 regions are able to study in a total of 24 institutions providing secondary and higher education aimed at equipping them with qualifications currently in demand in the labour market.

All this undoubtedly facilitates easier adaptation to ordinary life after release and helps to dissuade prisoners from renewing their links with the world of crime.

In accordance with Article 14 of the Criminal Code of the Russian Federation **freedom of conscience and religious worship** is guaranteed to prisoners. In penal institutions there are 326 churches and other premises for religious services and 677 prayer rooms. In 40 of Russia's regions a total of 165 classes providing religious instruction for prisoners have been set up and are now operating.

We attach considerable importance to **the training of staff in keeping with the new principles**, so that they are able to respond appropriately to the demands of international standards regarding the treatment of prisoners. This task is one of key significance.

Within a short space of time the Ministry of Justice has set up its own training and research base. Within the framework of the penal system of Russia's Ministry of Justice six higher-education institutions, a specialised secondary school and two law colleges have been set up, as well as more than 80 training centres and a research institute. These arrangements contrast favourably with the provision for training prison staff in Britain. In 2001 an Academy of Law and Management was set up. The number of external courses in law and psychology have increased. The syllabuses of all these educational establishments also include courses in the observance of human rights within custodial institutions.

Members of staff working within this system have recognised that only a humane penal system is capable of ensuring positive change in the behaviour of individuals who have strayed from the law-abiding path. The prison system should not be a tool of coercion and repression of the individual. It is essential to move away from the ideology on which the former penal system was based. To express this in somewhat more graphic terms, we need to have as little of prison as possible in our prisons. We envisage the future development of penal institutions as the chance for them to develop, first and foremost, into **centres of social rehabilitation**, in which representatives of the social-protection, health-care, and education services would work closely together.

For this reason, particular attention is focussed on work with prisoners on teaching methods, the establishment of relations based on trust between staff and prisoners and to the resolution of social questions. Harsh forms of pressure on the individual are being relegated to history.

At the same time, we are not mere idealists. We are well aware that for terrorists, murderers, gangsters and the like, who constitute approximately 8-10% of those serving custodial sentences, conditions need to be in place which will ensure the protection of society and the safety of other prisoners.

Despite the problems which our country is currently experiencing, **measures are being adopted at a national level to improve social conditions for the staff of the penal system.** From 1 July 2002 salaries were more than doubled and further increases are planned for 2003. A great deal is being done to improve health-care provision for those working in the penal system. A special network of health-centres is being set up for their exclusive use and 15 diagnostic-and-treatment centres and three sanatoria are already in operation. This work is by no means complete. In many regions, with the involvement of departments of local government, holiday centres for the families of prison staff are being provided. Steps are also being taken to improve the living accommodation for staff and other social support is also being provided. In the current year it is planned to build flats and houses with

a total of 40,000 square metres of living space for the staff of prisons and colonies.

Despite the measures currently in progress, numerous problems remain. In this connection I should like to stress that the reform of the penal system, which has begun in Russia, is far from complete. Some of the problems are acute and need to be resolved as rapidly as possible. I have referred to some of them already, but there are others which are no less urgent.

There is, for example, the question of **medical treatment for prisoners deprived of their liberty and also for persons suspected and accused of crimes detained in remand prisons**. The greatest concern is the situation with socially dangerous infectious diseases. Despite some decline in the numbers of tuberculosis sufferers, the figures are still high, currently 98,400, that is, approximately one in ten of those serving custodial sentences.

The number of prisoners with HIV/AIDS is growing. Although there has been some decline in the rate of HIV/AIDS infection in penal institutions over the last 12 months, the fight against HIV-infection is still very much a key issue. At the present time there are more than 36,000 prisoners in corrective institutions who are HIV-positive. This amounts to approximately 20 per cent of all registered patients in this category for Russia as a whole.

The growing number of drug-addicts in society has, in its turn, led to an increase in the number of drug-dependent persons within the penal system, since many addicts commit crimes. At present more than 102,000 prisoners have been registered as drug addicts by the psychiatrists specialising in substance misuse working in the penal system.

Most of these prisoners, after the forensic psychiatrists have established them to be addicts, are obliged to undergo treatment for their addiction, as laid down in the Criminal Code of the Russian Federation. In recent years the number of people whom courts have obliged to undergo this treatment has been constantly on the increase.

In 1998 there were 15,000 prisoners in this category. In 2001 the numbers had risen to over 31,000 and in the first six months of 2002 they were already over 30,000.

Apart from those whom the courts oblige to receive treatment, we also identify drug addiction among various other prisoners after they have reached their prison or colony. The number of such individuals is also on the increase. While in 1998 approximately 30,000 such prisoners were identified, in 2001 the number was over 47,000 and in the first six months of 2002 it was already more than 35,000.

During the last two years we have succeeded in supplying corrective institutions and remand prisons with the necessary medicines for these prisoners, as specified in the legal norms. Gradually the premises and equipment for treating these prisoners is being provided.

Over the last three years over 3,500 new beds for the treatment of TB patients have been provided and four special medical establishments have been built for this patient group, each catering for 3,000 people. A central bacteriological laboratory and inter-regional and regional ones have been set up for diagnosis of drug-resistant forms of tuberculosis.

In order to treat drug-dependent prisoners special medical-corrective premises have been set up by the Ministry of Justice. In addition, special sections have been set up in every institution in the penal system for drug-dependent prisoners. Psychiatrists specialising in substance misuse, psychotherapists and psychologists have been employed to work with these prisoners and the necessary equipment and medicines are being supplied.

In recent years, thanks to the attention that has been paid to these issues by the President and the Government of the Russian Federation, we are starting to receive more and more state support in our struggle against infectious diseases and drug-addiction. At the present time the Federal Special Programme for the fight against tuberculosis is being implemented (1998-2004), which has allocated 2,100 million rubles for the purchase of medicines and equipment.

A resolution of the Government of the Russian Federation, dated 23 January 2002, ratified another Federal Programme entitled “Multi-disciplinary Measures to combat the Misuse of Drugs and illegal Dealing in Drugs – 2002-2004”. This programme also specified that there will be financial support available from the Federal Budget for measures aimed at actively raising awareness of the damage that can result from taking psycho-active substances if not prescribed by medical practitioners and for the equipping of penal institutions both with the necessary diagnostic equipment in laboratories for detecting traces of drugs which prisoners have taken and with the necessary medicines for treating drug addicts and other patients.

Apart from this we are receiving significant assistance from various international organisations. For example, our doctors have been collaborating with the World Health Organisation, the New York Health-Care Institute and a number of other organisations working to combat tuberculosis. In the last two years alone we have received medicines, equipment and various other forms of assistance with a value of over 40 million rubles. As a result of our joint efforts, we have **succeeded in stabilising the tuberculosis situation and improving it.** During the last two years the rate of infection has come down by 13 per cent and the overall mortality rate among convicted prisoners has been reduced by 22.4 per cent.

At the present time joint preventive work in the field of HIV infection is being actively carried out with 30 Russian NGOs and also with international NGOs, such as “Médecins sans frontières”, the “East-West Aids Foundation”, “Penal Reform International”, the “Open Society Institute” of the Soros Foundation and the association “Médecins du Monde” (France). The introduction of HIV-AIDS prevention programmes in Russia’s penal institutions enables us to supply our staff and prisoners with reliable and effective information on this problem, including methods of “risk reduction”, and to provide support for those already identified as HIV-positive.

Another serious problem now facing the Russian penal system is the **provision of work for prisoners**. Despite certain positive trends, to which I have already referred, it has not yet proved possible to change things fundamentally. Of the 752,000 convicted prisoners serving custodial sentences 86,000 are without employment or are only able to work part of the week.

Meanwhile, for many prisoners who are not receiving material assistance from their families, the money they would earn while deprived of their liberty is their only source of income. Without work they are virtually deprived of any opportunity to acquire additional food products in their prison or colony and everyday personal items. They are unable to subscribe to newspapers and journals, make international telephone calls or to have access to any medical procedures over and above those that are free of charge, and so on. For this reason the question as to whether or not prisoners are able to exercise their rights and pursue their legitimate interests depends on whether their right to work is provided for in their particular correctional institution.

The main factor which makes it difficult to provide work for prisoners is the as yet inadequately defined legal status of the production facilities which make up part of penal institutions.

As far as we are concerned, it is quite clear that these industrial enterprises should have a special economic status and should not be treated in the same way as ordinary production facilities. The first justification for this is the fact that the industrial enterprises within the penal system are unable to make full use of qualified staff, since they are obliged first of all to provide work for those who are serving custodial sentences. Secondly, the enterprises in the penal institutions are restricted in their choice of activity, since they function within a specific corrective establishment and are therefore obliged to adapt to certain territorial and other economic conditions. Thirdly, they are not commercial enterprises, since the law of the land prohibits them from using prisoners' labour as a source of profit.

Nevertheless current Russian legislation does not provide for any kind of privileged status for the industrial facilities within corrective establishments. Like any other enterprise they pay 30 different kinds of tax into the Federal Budget and regional budgets. They too can go bankrupt, and so on. All this means that they have to operate under the same market conditions as other economic entities.

In the conditions described above it is, of course, very difficult for our enterprises to compete. This is why we intend to campaign for the introduction of certain changes into the relevant legislation in the hope of defining the legal status of enterprises functioning within the penal system.

Finally, I should like to turn to a very promising development within the penal system, to **a range of issues linked with the introduction in the Russian Federation of punishments providing an alternative to deprivation of liberty**

In April 2002 when Vladimir Putin, President of Russia, was delivering his annual message to the Federal Assembly of the Russian Federation, he aptly pointed out that one of the reasons for the unjustifiably high use of custodial sentences was the fact that the courts do not make sufficient use of other punishments provided for in the criminal legislation. Moreover, some alternatives to deprivation of liberty which are provided for in the Criminal Code, in particular, compulsory work, restricted liberty and “arrest” (that is, short sentences of between 2-6 months of the short-sharp-shock variety), have not yet been implemented.

On 10 January 2002 President Putin signed Federal Law No. 4-FZ, according to which punishments in the form of compulsory work will come into effect no later than 2004, of restricted liberty no later than 2005, and of “arrest” no later than 2006. In connection with this the Ministry of Justice of the Russian Federation, together with other interested ministries and departments, will need to carry out extensive work to provide conditions for the introduction of the above-named punishments within the time limits specified in the Law.

On the one hand, organisational improvements will be required in the structure of the penal system. The inspectorate for penal matters needs to be given more powers, since it has the responsibility for organising community work. In addition new premises have to be provided, so that the new punishments involving restricted liberty and short-sharp-shock treatment can be put into effect. In this connection, it is essential to determine the size of expenditure from the state budget which all of this will entail.

On the other hand, in order that these punishments should be used on a fairly wide scale it is obviously necessary to introduce certain changes and additions into current criminal and penal legislation.

The Main Department for the Administration of Punishment within the Ministry of Justice of the Russian Federation has already embarked upon this work and will in the very near future report to the Government of the Russian Federation with its proposals. In preparing these we took into consideration the experience of other European countries, including Great Britain, where certain similar types of punishment, including community service, have long been used successfully.

Since I have touched upon the subject of foreign experience, allow me, as I draw this address to a close, to dwell for a moment on aspects of the international co-operation now pursued by the institutions within the Russian penal system, including that with various organisations from Great Britain.

In recent years **the volume and geographical extent of international links maintained by the agencies and institutions of the penal system of the Ministry of Justice of Russia have been considerably expanded.** Russian representatives play an active part in the work of the Steering Group of experts from the Council of Europe and Russia on the reform of the Russian penal system. The 14th Meeting of the Steering Group, which took place this year in Saint Petersburg, was addressed by Dr Andrew Coyle, Director of the International Centre of

Prison Studies at King's College, London University, who enjoys a well-deserved high reputation among his Russian colleagues.

Official contacts have been placed on a stronger footing with the European Committee for the Prevention of Torture and the European Court of Human Rights, with representatives of the International Committee of the Red Cross and various NGOs and human rights organisations. We endeavour to take into account all the recommendations made by international organisations and the available positive experience gleaned from other countries. As far as possible, we use this in our work.

I should like to dwell for a moment on the co-operation between Russia and Great Britain in the penal field. It is currently developing well in a number of directions:

1. With support from the UK Department for International Development, since the year 2000 the implementation of a joint project between remand prisons in Moscow and prisons in England and Northern Ireland has been proceeding successfully. The immediate responsibility for this work has been assumed by the International Centre for Prison Studies of London University headed by Dr Andrew Coyle, a highly respected expert in the penal field.

The objectives of the project are to establish long-term partnerships, to organise two-way visits and joint seminars and to provide practical and financial help with the aim of raising the professional standards of the staff in penal institutions in Moscow accountable to the Russian Ministry of Justice in accordance with international standards for the treatment of prisoners and also to carry out some technical projects designed to improve the conditions in which prisoners are held in remand prisons. In November 2001 during the visit to Moscow by Dr Andrew Coyle a working protocol was signed covering the focus of co-operation between the International Centre for Prison Studies and the Main

Department for the Administration of Punishment of the Russian Ministry of Justice. In accordance with this protocol a programme was drawn up for joint endeavours which reflected the aims and objectives of this co-operation and the plan to attract financial resources into the penal system.

Recently there have been visits by the partners in this project to both the United Kingdom and Russia to enable those taking part to familiarise themselves with the activity of their partner institutions, the conditions under which prisoners are held in each country and the forms and methods of work to uphold human rights for those serving custodial sentences. Specialists from each of the two countries have taken part in work-shadowing in prisons, after which they have incorporated progressive experience accumulated over the years in both countries into their own practice.

Our British colleagues regard this project as the most successful two-way project they have engaged in with Russia in the penal sphere. They feel that it offers good opportunities for further development and can be made even more effective. Our British partners have expressed an intention to increase the number of participants and to introduce some qualitative changes.

To this end in November 2002 a conference was held in Moscow, to which representatives of the penal system in other regions of Russia were invited. At the present time work is in progress to decide how best to involve institutions from some other regions of Russia in the project. In view of the swelling numbers of remand and convicted prisoners in the United Kingdom today, the British side has been studying closely our experience in bringing down numbers of persons deprived of their liberty and in rendering the implementation of punishment for crime more humane.

2. A stable and business-like partnership has grown up between the Academy of Law and Management of the Russian Ministry of Justice and the International Centre for Prison Studies mentioned

above. A fruit of the joint work undertaken by British colleagues in the penal system and researchers from the Academy has been the joint publication *Prisons and Human Rights*. At present a group of authors are preparing materials for an international handbook to be entitled *Prison Management and Human Rights*.

3. Within the Russian penal system and with support from the NGO Penal Reform International work is continuing for the third year on a project entitled “Alternatives to Imprisonment in the Russian Federation”. Taking part in this work are the Academy of Law and Management of the Russian Ministry of Justice, the Law Institute of Samara, Tomsk University and the Departments for Administering Punishment from the Samara, Ryazan and Tomsk regions.
4. Contacts are currently being established with the head office of the Boards of Visitors, which carries out a supervisory role in relation to the work of prisons in England and Wales. Bearing in mind the growing attention which is now being paid in Russia to the extension of public control over the observance of human rights in colonies and prisons and the interaction between NGOs and bodies responsible for the working of the penal system, the experience of the work of the Boards of Visitors is of undoubted interest for us.

Most of the above-mentioned projects and programmes are financed by the UK Department for International Development. I should like to express my gratitude to the Parliament and Government of Great Britain, without whose support it is highly unlikely that co-operation of this kind between the penal systems of our two countries could have been established and developed. I should also like to say a few words of thanks to my British colleagues who have taken part in the implementation of these projects and programmes. I should like to express the hope that these contacts will develop and flourish in the future as well.

Thank you for your kind attention.