




ADAM LITYŃSKI

 <https://orcid.org/0000-0003-0899-9130>
Humanitas University in Sosnowiec

*Soviet Criminal Law in the Eyes of a Gulag Prisoner: Alexandr Solzhenitsyn's Lecture on Criminal Law in Light of "The Gulag Archipelago"**

Abstract

In his monumental non-fiction book, *The Gulag Archipelago*, Nobel Prize-winning author Alexandr Solzhenitsyn illustrates real events in Soviet labor camps in literary form. The depiction of EVIL is shocking. The totalitarian Soviet regime subjected millions of people to a horrific fate. As is generally well-known, A. Solzhenitsyn spent eight years in a Soviet concentration camp. Mass terror was the essence of Soviet totalitarianism. A. Solzhenitsyn included a lecture on Soviet criminal law in his book, stressing the importance of Article 58 of the Criminal Code of the Russian Soviet Federative Socialist Republic of the Soviet Union in authorizing this terrorism. Solzhenitsyn himself was not a lawyer. However, his conclusions were very accurate. Article 58 of the Criminal Code, which consisted of seventeen paragraphs, defined "counter-revolutionary offenses." They were obviously punished most severely. Article 58 became a weapon of terror for the Soviet authorities, who used it to convict millions of innocent people.

Keywords: Alexandr Solzhenitsyn, Nobel Prize, criminal law of the USSR

* This article is an English translation of the paper published in Polish in *Cracow Studies of Constitutional and Legal History* in 2022. See: Lityński, "Sowieckie prawo karne."

Scattered from the Bering Strait almost to the Bosphorus are thousands of islands of the spellbound Archipelago (p. 489).¹

1. A brief note on Gulag literature

There is a multitude of literature on Soviet labor camps in all languages. This variety of sources include accounts from the prisoners themselves, memoirs of those who survived and were released from the labor camp to live a free life (if there was any freedom in the Soviet Union at all). But there are not a lot of them, after all, as it was rare before 1953 to let someone go, even if his sentence was over, since entering the gate of the camp was a descent into hell, from where there was no return. Those who nonetheless managed to leave that place “on the inhumane land” (a term coined by Józef Czapski) were not always literate, others were usually afraid to write, and others did not see the purpose and sense of writing memoirs without hope of publication. Very unusual is a diary written by a Gulag prison guard.² “Life starts to feel miserable and futile. [...] How minor and unimportant a thing is man [...]”³ “How much is a person worth”, Eufrosinia Kersnovskaya asked in her memoirs, a Russian (with Polish roots) from Bessarabia, who spent 20 years in the Gulag.⁴ In that system, man was worth nothing. “Man is wolf to man”, wrote a Kolyma labor camp inmate, the brother of Juliusz Bardach – the eminent Polish legal historian.⁵

Among those who wanted and could write their memoirs, there were few such enthusiasts of communism as Kraków-born Aleksander Weissberg-Cybulski, who himself voluntarily left for the Soviet Union in 1931 to help build communism. Even fewer intellectuals were able to analyze the **Evil** in that “world apart” with such passion and skill as Gustaw Herling-Grudziński, Barbara Skarżyńska or Beata Obertyńska. Regretfully, Polish authors are overrepresented here, which is the result of the criminal Hitler–Stalin pact (called in Poland the Ribbentrop–Molotov pact), but also due to the fact that Poles were the only large group of people who left the Gulag archipelago (after the Sikorski–Mayski pact) and left the “inhumane land” in large numbers for the West.

Against this background, the rich and well-known worldwide non-fiction book written by Nobel Prize winner Alexandr Solzhenitsyn is particularly striking. One should agree with the view that the significance of A. Solzhenitsyn’s literary work and the role he played in making the West aware of the very existence of the “Gulag” is enormous.⁶ In this text, the author seeks to present how prisoner A. Solzhenitsyn perceived the system of Soviet (substantive) criminal law, for which rich material was found, especially in

¹ The original quotes from the Polish edition of *The Gulag Archipelago* used herein were changed to quotes coming from the English translation by Thomas P. Whitney. Solzhenitsyn, *The Gulag Archipelago*. Each quote ends with the relevant page number from this edition.

² Chistiakov, *Strażnik Gulagu*.

³ *Ibid.*, 37–8.

⁴ Kersnovskaya, *Ile wart jest człowiek*.

⁵ Bardach, Gleeson, *Człowiek człowiekowi wilkiem*.

⁶ Applebaum, *Gulag*, 474.

The Gulag Archipelago. As we know, a teacher of mathematics, graduate of mathematics and physics from the University of Rostov and a student of the Moscow Institute of Philosophy, Literature and History, artillery captain Alexandr Isaevich Solzhenitsyn, awarded the Order of the Red Star, was arrested in February 1945 for his critical statements about the manner in which the war was conducted, contained in a private letter to a friend. He was first sent to Lubyanka, then to Butyrka in Moscow, and thus to the detention centers (prisons) intended for political criminals of special significance. He was sentenced under Article 58 to eight years of labor for “anti-Soviet agitation and propaganda” and for attempting to establish an anti-Soviet organization. It was Article 58 of the Russian Criminal Code that became the core of the lecture by A. Solzhenitsyn on the Soviet substantive criminal law delivered in *The Gulag Archipelago*. Let us now follow the author.

2. On Soviet substantive criminal law

First, however, I am going to outline the state of criminal law applied in the period when A. Solzhenitsyn was deprived of his liberty, i.e. from 1945 to the beginning of 1953.

On October 31, 1924, the “Guiding principles of the criminal legislation of the USSR”⁷ were issued. After 1924, the Soviet republics started drafting their codes, with the Criminal Code of the RSFSR issued in 1926⁸ (effective from January 1, 1927),⁹ while the codes of other republics were virtually copies thereof. The Criminal Code of the RSFSR of 1926 was based on the “Guiding principles” of 1924, so it adopted analogy and judges’ socialist awareness as the basis for adjudication.¹⁰ The Code was concise: it contained 57 articles in the general part and 141 in the special part.¹¹

The Code only knew the substantive definition of crime (Article 6): “Considered to constitute a social danger shall be any act or omission that is directed against the Soviet system or that violates the legal order established by the Worker-Peasant Regime during the period of transition to a Communist system.” This left a wide space open for interpretation. Full liability entailed not only perpetration, attempting, incitement, aiding and abetting, but also preparatory acts (Article 19). A. Solzhenitsyn knows from

⁷ Chistyakov, *Istoriya otechestvennogo gosudarstva i prava*, 227, 229. See also Butler, *Soviet Law*, 259. In more detail, Lityński, *Prawo Rosji i ZSRR*, 163.

⁸ I generally use the consolidated text of 1952, i.e. from the period when A. Solzhenitsyn was about to finish serving his eight-year sentence: *Ugolovnyj kodeks RSFSR*. The text contains numerous amendments of 1927 and 1934. See also the footnote below. Russian-language text also in *Ugolovnoe zakonodatelstvo SSSR*.

⁹ For Polish translation see *Kodeks karny Rosji sowieckiej*. The English translation of the Code (1956 version) is available at <https://www.cia.gov/readingroom/docs/CIA-RDP65-00756R000400010003-4.pdf> (accessed: 18.08.2023). English-language excerpts from the Code cited herein come from that version.

¹⁰ Analogy was quite deftly formulated (Article 16): “If a given act which constitutes a social danger is not directly specified by this code, the basis and limits of liability to punishment therefor shall be determined by analogy with the sections of the code that deal with crimes of the most nearly similar nature.”

¹¹ The number of articles in the special part of the Code is sometimes given differently by researchers, which is a result of the lawmaking style of the Soviet legislature, who, while retaining the same number for many articles, additionally marked them with additional symbols, which were forms of subparagraphs.

personal experience that the intention itself was already treated as criminal preparation (see below). I share the view of the author of *The Gulag Archipelago* in the sense that it was not theoretical concepts that were decisive here but a tendency towards the general penalization of social life.

The special part of the Code was opened by “State Crimes”, and the first subsection concerned “Counterrevolutionary Crimes.” Theoretically, only Article 58 addressed them, but it had as many as 14 superscript symbols (quasi-paragraphs). It is the article that was so colorfully and vividly described by A. Solzhenitsyn:

Paradoxically enough, every act of the all-penetrating, eternally wakeful Organs, over a span of many years, was based solely on one article of the 140 articles of the non-general division of the Criminal Code of 1926. [...]: great, powerful, abundant, highly ramified, multiform, wide-sweeping 58, which summed up the world not so much through the exact terms of its sections as in their extended dialectical interpretation. Who among us has not experienced its all-encompassing embrace? In all truth, there is no step, thought, action or lack of action under the heavens which could not be punished by the heavy hand of Article 58. The article itself could not be worded in such broad terms, but it proved possible to interpret it this broadly.¹²

At this point, A. Solzhenitsyn notes that nowhere in the legal terminology was the term “political crime” used, while “counterrevolutionary crimes” were categorized along with crimes against public order and organized gangsterism, in a division of “crimes against the state” (p. 60). Thus, there were no political offenders in the USSR, only criminal ones.

Article 58-1 of the Criminal Code of RSFSR defined counterrevolutionary crime as acting against Soviet rule.¹³ A. Solzhenitsyn makes the definition more specific by pointing out (p. 60) that not only was any action directed toward the weakening of state power considered to be counterrevolutionary, but also, according to Article 6, any absence of action could be deemed counterrevolutionary as well.¹⁴ Article 6 refers to a “period of transition to a Communist system.” It is worth noting that there will be no state, and therefore no government, in communism; so will there be no law? This is something that Marxist ideologists preferred not to develop, but there will certainly be the communist party, which will not die even in communism¹⁵; as late as in the Gorbachev era (at the XXVII Congress of the CPSU), the official party program still supported the thesis of the atrophy of the state. And the party’s program in a totalitarian system was more important than the constitution.

¹² Solzhenitsyn, *The Gulag Archipelago*, vol. 1, 60.

¹³ Article 58-1 of the Criminal Code: “Considered counterrevolutionary shall be any act intended to overthrow, undermine, or weaken the power of the workers’ and peasants’ soviets, or of the workers’ and peasants’ governments of the USSR and the union and autonomous republics elected by the soviets in accordance with the USSR and union-republic constitutions, or to undermine or weaken the external security of the USSR or the basic economic, political, and national conquests of the proletarian revolution. By virtue of the international solidarity of the interests of all the working people, such acts shall also be considered counter-revolutionary if directed against other working people’s state, even if that state does not form part of the USSR.”

¹⁴ Article 6 of the Criminal Code: “Considered to constitute a social danger shall be any act or omission that is directed against the Soviet system or that violates the legal order established by the Worker-Peasant Regime during the period of transition to a Communist system.”

¹⁵ See Reich, Reichel, *Einführung in das sozialistische Recht*, 25.

A Solzhenitsyn is knowledgeable about the criminal law of the USSR and points out that it was in 1934 when four other subsections were added to Article 58, namely those marked 1-a, 1-b, 1-c, 1-d,¹⁶ very severely penalizing (in principle punishable by shooting) “action injurious to Soviet military might” (p. 61). Измена родине (treason to the motherland), not defined in the Code in more detail, was punishable by death, and only in the case of special mitigating circumstances, by confinement for ten years, always combined with forced labor, according to Article 28 of the Criminal Code. A treason committed by a soldier had always been punishable by death and complete confiscation of property (Article 58-1-a, -b). A. Solzhenitsyn writes: “when our soldiers were sentenced to only ten years for allowing themselves to be taken prisoner (action injurious to Soviet military might), this was humanitarian to the point of being illegal” (p. 61). Returning to the content of Article 58-1-c: five to ten years in prison, together with confiscation of all the property, was provided for adult family members of a fugitive abroad, even if they did not help him but knew his intention and failed to report this to the authorities. Other family members who did not even know the offender’s intention to flee abroad but lived with the traitor were punished by the loss of all rights and deportation to “remote areas of Siberia.” Failure to report preparation for treason alone was punishable by confinement for ten years for soldiers and by no less than six months for civilians, in accordance with Article 58-12.

The author of *The Gulag Archipelago* further argues that extensive interpretation at the stage of investigation went towards assuming the intention of treason, which was qualified “in the sense of Article 19 of the Criminal Code”, and Article 19 of the Criminal Code defined the attempt to commit a crime and treated the preparation of any crime equally, providing for the same punishment as for perpetration. As A. Solzhenitsyn notes the intention is not preparation, “but given a dialectical reading, one can understand intention as preparation. [...] we draw no distinction between intention and the crime itself, and this is an instance of the superiority of Soviet legislation to bourgeois legislation.” (p. 62) A. Solzhenitsyn refers here to a volume edited by Andrei Y. Vyshinsky.

Solzhenitsyn, of course, refers to the content of Article 58-2 in the version in force at the time when he was deprived of liberty. The provision lists armed uprising, invasion of Soviet territory by armed bands, in particular with the aim to forcibly detach from the USSR a union republic thereof or any part of the USSR’s territory. As A. Solzhenitsyn aptly notes, this is a provision aimed at any attempt to withdraw republics from the Soviet Union. Let us add that the option of withdrawal from the USSR was “guaranteed” by the Soviet constitution (Article 17 of the so-called Stalinist constitution of 1936). Under Article 58-2, all nationalists or, in other words, patriots intending to regain (gain) their independent state, used to be sentenced. Article 58-3 penalized communicating for counter-revolutionary purposes with representatives of a foreign state or any assistance provided to a person from a state that waged war against the Soviet Union.

A. Solzhenitsyn claims that, in view of extensive interpretation of that provision, any person who found himself under German occupation could have been held liable. Article

¹⁶ In the Russian original, these are four letters as follows: 1-a, 1-б, 1-в, 1-г. See *Ugolovnyj kodeks RSFSR*, 18–9; added on June 8, 1934.

58-4 laid down liability for providing assistance to the international bourgeoisie. The author of *The Gulag Archipelago* comments:

To whom, one wonders, could this possibly refer? And yet, broadly interpreted, and with the help of a revolutionary conscience, it was easy to find categories: All émigrés who had left the country before 1920, i.e. several years before the Code was even written, and whom our armies came upon in Europe a quarter-century later in 1944 and 1945 [...] (p. 63).

Article 58-5: inducing a foreign state to declare a war against the USSR. “A chance was missed to apply this section against Stalin and his diplomatic and military circle in 1940–1941” (p. 63).

Article 58-6:

Section 6 was espionage. This section was interpreted so broadly that if one were to count up all those sentenced under it, one might conclude that during Stalin’s time, our people supported life not by agriculture or industry but only by espionage on behalf of foreigners and by living on subsidies from foreign intelligence services. Espionage was very convenient in its simplicity, comprehensible both to an undeveloped criminal and to a learned jurist, to a journalist and to public opinion (p. 63).

Then A. Solzhenitsyn points to a particularly broad interpretation of Article 58-6. In practice, “frightening combinations of capital letters” used to be attached to this article, namely PSh – suspicion of espionage, NSh – unproven espionage, SVPSH – contacts leading to suspicion of espionage; all this, of course, being enough to convict a person of espionage. The experienced prisoner informs the reader that “prisoners convicted under the provisions of these lettered articles” were treated even more severely than those of the group of “ordinary 58’s” (p. 64).

“Wrecking”, or economic subversion, is covered by Article 58-7, very commonly used by the Soviet repression system (as it does not deserve the name of “justice system”). In *The Gulag Archipelago*, this was commented upon as follows:

For centuries, the people had built and created, always honorably, always honestly, even for serf-owners and nobles. Yet no one, from the days of Rurik on, had ever heard of wrecking. But now, when, for the first time, all the wealth had come to belong to the people, hundreds of thousands of the best sons of the people inexplicably rushed off to wreck (p. 64).

Article 58-8 refers to acts of terrorism. As is well known, terrorist attacks in the Russian Empire had a decades-long tradition from the times of Narodnaya Volya, Vera Zasulich, Ignacy Hryniewiecki, Alexander Ulyanov and the world’s most prominent terrorist at the turn of the century, Boris Savinkov. But such kind of terror was already history in the period described in *The Gulag Archipelago*. Article 58-8 of the Criminal Code of the RSFSR, on the other hand, offered an opportunity to expand “intent, in the sense of preparation, to include not only a direct threat against an activist uttered near a beer hall («Just you wait!») but also the quick-tempered retort of a peasant woman at the market («Oh, drop dead!»). Both qualified as TN – Terrorist Intent – and provided a basis for applying the article in all its severity. This sounds like an exaggeration, a farce, but it was not I who invented that farce. I was in prison with these individuals” (p. 65). Article 58-9 covers the destruction or damage “with a counter-revolutionary purpose” of any equipment or structure. The point is that “the counterrevolutionary purpose could be discerned by the interrogator, who knew best what was going on in the criminal’s mind” (p. 65).

And let's add: after all, it is impossible for Soviet equipment, the best in the world, to break down by itself. The security organs had to find a person guilty of the counter-revolutionary act, and of course they did.

"But there was no section in Article 58 which was interpreted as broadly and with so ardent a revolutionary conscience as Section 10", wrote A. Solzhenitsyn. This is somewhat subjective, because he was convicted exactly under this provision, specifically for a critical statement against J. Stalin as the commander-in-chief in 1945 in a letter to a friend. In the Soviet totalitarian system, denunciation was not only a daily practice and ordinary social phenomenon, but it was even legally compulsory, and failure to report this was penalized with the most severe punishments, including the death penalty (see below); this also applied to spouses. The friend reported, the NKVD arrested.

The case of the upper limit of confinement in Soviet criminal legislation was somewhat complicated as a result of the growing differentiation in penalized cases. Namely, the Criminal Code of the RSFSR of 1922 introduced, as a principle, a range of the penalty of imprisonment from 1 month to 10 years and did not provide for exceptions (Article 34).¹⁷ This was taken over by the Code of 1926. However, two amendments to the Code, in 1930 (SU no. 26, p. 344) and in 1938 (SU no. 11, p. 141), raised the upper limit of the sentence to 25 years of imprisonment, but only in three strictly defined cases, all from Articles 58-1a, 58-6, 58-7, 58-9. Additionally a general provision was introduced which would remain in place over the following decades that sentences for over three years of imprisonment (here it is worth asking if lower sentences ever occurred!) were to be served in labor camps. In fact, this even appeared in the Criminal Code of the RSFSR of 1922, but this Code did not provide for penalties of imprisonment and arrest at all.¹⁸ Only people who were obviously incapable of manual labor or due to their high level of social danger (namely prisoners of special importance) were sentenced by a court to another place of confinement instead of to a labor camp (Article 28 of the Criminal Code of the RSFSR of 1926, as amended).¹⁹

The author of *The Gulag Archipelago* makes the reader aware that, for example, 58-10 ASA – anti-Soviet agitation:

never let up but hovered over the front and in the rear throughout the war. Sentences under 58-10 were handed out to evacuees who talked about the horrors of the retreat; [...] to those in the rear who were guilty of the slanderous rumor that rations were meager; to those at the front who were guilty of the slanderous rumor that the Germans had excellent equipment; and to those everywhere who, in 1942, were guilty of the slanderous rumor that people were dying of starvation in blockaded Leningrad (pp. 80–81).

Today, we know that in the years just after the war (1945–1950), cases of "anti-Soviet propaganda and agitation" were the majority of convictions.²⁰

Commenting on a provision particularly close to himself, e.g. Article 58-10, A. Solzhenitsyn did not mention Vladimir Lenin's personal involvement in drafting it; he probably did not have the knowledge we have today. Without going into all the instruc-

¹⁷ *Kodeks karny republik sowieckich*. See also Lityński, *Prawo Rosji i ZSRR*, 159.

¹⁸ As pointed out by Juliusz Makarewicz in his commentary in *Kodeks karny republik sowieckich*, 22.

¹⁹ *Ugolovnyj kodeks RSFSR*, 9.

²⁰ Ciesielski, *GULag*, 381.

tions and orders of V. Lenin addressed to the People's Commissar Dmitri Kursky, with all these going towards making penalties more severe, especially by expanding the use of the death penalty, it is worth quoting a fragment of a letter to D. Kursky dated May 7, 1922. V. Lenin wrote as follows:

Comrade Kursky, further to our conversation, I herewith enclose the draft of an article supplementary to the Criminal Code. It is a rough draft and, of course, needs altering and polishing up. The main idea will be clear, I hope, in spite of the faulty drafting — to put forward publicly a thesis that is correct in principle and politically (not only strictly juridical), which explains the *substance* of terror, its necessity and limits, and provides *justification* for it.²¹

And two variants of the Lenin-style criminal law provision were further attached.

I paid a little more attention to Article 58-10, primarily because it was the author of *The Gulag Archipelago* who was arrested and “exposed” (everyone, upon his detention, was already an exposed enemy of the people – recalls A. Solzhenitsyn) as one who was engaged in counter-revolutionary propaganda and agitation.

For example, Article 58-11 “was a special one” (p. 66), since it provided for the punishment of the mere preparation of any counter-revolutionary offense. Let us add, as A. Solzhenitsyn previously stated, that this provision was completely redundant in light of, e.g., Article 19 of the General part of the Criminal Code, which provided for the penalty for attempted and preparatory conduct. Let us recall that, based on his personal experience, A. Solzhenitsyn notes that the extensive interpretation also definitely went towards punishing intention. “I myself experienced the subtle application of this section. *Two* of us had secretly exchanged thoughts – in other words, we were the beginnings of an organization, in other words an organization!” (pp. 66–67). The mere failure to report a counterrevolutionary crime was itself a counterrevolutionary crime, e.g. under Article 58-12, which A. Solzhenitsyn aptly commented upon: “Section 12 concerned itself closely with the conscience of our citizens: it dealt with the failure to make a denunciation of any action of the types listed. And the penalty for the mortal sin of failure to make a denunciation carried no maximum limit! [...] *He knew and he did not tell* [...]” (p. 67).

For example, Article 58-13 provided for the harshest punishment to be applied for serving in the tsarist secret police Okhrana and other counterrevolutionary institutions during the civil war. *Lex retro agit* is, of course, a common principle of Soviet law, from its beginning to post-Stalinist times (1958).²² A. Solzhenitsyn comments on this provision exceptionally laconically: “presumably long since out of date” (p. 67).

The last article, 58-14, penalized “counterrevolutionary sabotage, i.e., deliberate non-performance of a definite duty, or its performance with deliberate carelessness [...]”, which A. Solzhenitsyn called the last rib of the fan of Article 58 – a fan whose spread encompassed all human existence. A. Solzhenitsyn’s words must be repeated in relation to the entire Article 58 of the Criminal Code of the RSFSR: “The article itself could not be worded in such broad terms, but it proved possible to interpret it this broadly” (p. 60).

²¹ Lenin, *Collected Works*, vol. 33, 358–9 (italicized as in the original).

²² See Lityński, *Prawo Rosji i ZSRR*, 188.

3. Gulag waves

A. Solzhenitsyn began writing *The Gulag Archipelago* in 1958 and worked on the text for ten years and later still used memoirs, oral memories and letters from numerous other prisoners to supplement the text. “In this book, there are no fictitious persons, nor fictitious events” – the author wrote in the introduction.

How does one end up in the Archipelago? Once arrested, a person becomes, as it were, part of a “wave” that “strained the murky, stinking pipes of our prison sewers” (p. 24). A. Solzhenitsyn does not forget about absolutely any wave or even the smallest flow falling into “our sewage disposal system” leading to the Archipelago. In this article, due to the limitations of volume, it is impossible to even mention the numerous smaller waves of detainees flowing into the Archipelago. A. Solzhenitsyn ended up in the gulag at its numerical apogee. At the end of the war, large and densely populated areas previously occupied by German forces came under Soviet control; a larger population in “freedom” meant a larger population of Soviet labor camps as well. With the end of hostilities in Europe, this was augmented by prisoners of war from the Axis states²³, Soviet soldiers returning from captivity, repatriates returning from forced labor in the Reich, Soviet-origin collaborators of the Nazis handed over to the Soviets by the Western Allies and, as agreed at Yalta, German workers now being captured by the NKVD and taken to the USSR for forced labor as war reparations.²⁴ There was a huge increase in the number of imprisoned, and this steady increase continued until the middle of 1950.

All in all, the entire internal history of the Soviet Union from the late autumn of 1917 at least until the time when A. Solzhenitsyn was writing his book (and longer) is a history of waves of repressed people, waves of those who were not killed on the spot but condemned to slow death in the inhumane and often even non-animal conditions of the gulag camps. The largest of these were evidently of a genocide nature. Genocide was in the very roots of Bolshevism. After all, Marxism was originally “a doctrine of deliverance, of the messianic vocation of the proletariat, of the future perfect society”²⁵, but as a result of further interpretations, only the dogma about the class struggle remained and was waged to the very end, i.e. to the complete elimination of “those others.” This includes genocide.

The OGPU²⁶ carried out the first arrests of the fathers of “kulak” families at the end of 1929, and they were all shot dead. In the spring of 1930, massive deportations began as far as beyond the Arctic Circle, to Siberia, where those people were left to themselves.

²³ Prisoners-of-war were not under Gulag administration; POW camps formed a separate administrative structure. See Shigatchov, Shkapov, Smirnov. *System miejsc uwięzienia*, 51; Ciesielski, *GULag*, 419.

²⁴ During the conference of the Big Three in Yalta (February 4 to 11, 1945), it was agreed that “Germany must pay in kind for the losses caused by her to the Allied nations”, and this is to be done in three forms: 1. one-off confiscation of part of the national property; 2. annual deliveries of goods from current production; 3. “use of German labor.” “Protocol of the Proceedings of the Crimea Conference.” <https://www.nationalarchives.gov.uk/education/resources/cold-war-on-file/yalta-conference> (accessed: 19.08.2023).

²⁵ Berdyaev, *The Origin Of Russian Communism*, 115.

²⁶ OGPU – Joint State Political Directorate (Обединённое Государственное Политическое Управление – Obyedinionnoe Gosudarstvennoe Politicheskoe Upravleniye) – secret police.

Estimates of the number of deported vary widely and range between 2 million to more than 10 million.²⁷

“Not one of them was guilty of anything; but they belonged to a class that was guilty of everything” (Ilya Erenburg).²⁸ A. Solzhenitsyn estimates this “flow of the years 1929–1930, broad and long as at least the Ob” at 15 million, “and perhaps more”, and specifies that “among Stalin’s crimes (and ours, our common), this one was the most severe” (p. 33, also p. 61ff).

“The wave of 1937 and 1938” (p. 24) began with the second phase of the kulak genocide and quickly undertook so-called nationality operations. The “Polish Operation” of the NKVD (1937–1938) served as a model for the soon-to-be-launched and subsequent “national operations”, i.e. repressions against other nationality groups, mainly those from the countries neighboring the USSR (e.g. the Finns, Latvians, Estonians, Romanians) which did not join the USSR. According to the data and calculations of the Russian human rights organization Memorial, authorized by the Polish Institute of National Remembrance and the scientific institutions of Ukraine, a total of 227,986 people were “sentenced” in “national operations”, of which more than 172,830 were shot (76%), including in the “Polish Operation” alone, where 139,835 people were convicted and 111,091 shot (79%). These are figures that must undoubtedly be regarded as a minimum. Other researchers calculate that between 200,000 and 250,000 Poles died, generally citizens of the USSR. There are also estimates that 400,000 Poles were murdered.²⁹

“And after it, there was the wave of 1944 to 1946, the size of a good Yenisei, when they dumped whole *nations* down the sewer pipes” (p. 24) along with millions of soldiers who had managed to survive German captivity. A substantial part of them who did not pass through the Soviet filtration camps went to the Archipelago. A. Solzhenitsyn does not mention the waves which flowed in as a result of the implementation of the Hitler–Stalin Pact (also known as the Ribbentrop–Molotov Pact). In the years 1941–1944, it was the notorious General Ivan Serov (“Ivan the Terrible”³⁰) who became a specialist in deporting numerous nations living in the USSR (Volga Germans, Chechens, Kalmuks, Karachays, Crimean Tatars), but I. Serov began through Sovietization of the lands of the Second Republic of Poland, incorporated into the Ukrainian SSR after September 17, 1939. In September 1939, I. Serov, the “Stalinist executioner of Poland”,³¹ became the People’s Commissar for Interior Affairs of the USSR, alongside the secretary-general of the Ukrainian communist party, Nikita Khrushchev, who “respected and trusted him”, as

²⁷ See e.g. Andrew, Gordievsky, *KGB*, 119; Bazylow, Wiczorkiewicz, *Historia Rosji*, 423; as well as a report of the OGPU’s deputy chief officer Genrikh Yagoda for Stalin, dated October 15, 1931, in Wojtkowiak, *Z dziejów terroru*, 40 and also 33–9.

²⁸ As cited in Conquest, *Reflections on a Ravaged Century*, 94.

²⁹ Lityński, *Ludobójstwo. Operacja polska NKWD*, 198, and further sources and literature referred to therein; Sommer, “Operacja polska”, 23; Iwanow, *Zapomniane ludobójstwo*, 392.

³⁰ He was dubbed “Ivan the Terrible” by the British during his official visit to the UK. See Serov, *Tajemnice walizki*, 594.

³¹ I borrowed these words from the Polish title of the book by the Memorial’s scientific council deputy chairman, Nikita Vasilievich Petrov, *Первый председатель КГБ Иван Серов*, Moscow: Materik, 2005 (*Первый председатель КГБ Иван Серов*), published in Poland under the aptly corrected title *Stalinowski kat Polski Iwan Sierow (Stalin’s Executioner of Poland Ivan Serov)*.

the latter said years later.³² “Serov was a hard worker”³³, said Józef Światło, who knew him well and had worked under his command. A. Solzhenitsyn briefly notes that the wave 1945–1946 contained “a certain number of Poles, members of the Home Army, followers of Mikolajczyk” (p. 86). Due to the process of imposition of the communist system after World War Two, and the dependence of the countries of Central and Eastern Europe on the USSR, people from these countries were also detained in Soviet prison camps: Polish soldiers of the Home Army (approx. 50,000) and other Poles, especially from the regions of Pomerania, Upper Silesia. The description of the turning over of the Cossack corps that had fought under German command to the Soviets, known in Polish literature from the books of Józef Mackiewicz (especially his *Kontra*³⁴), in the version shown by A. Solzhenitsyn, is more placid yet no less drastic (p. 259ff).

The Gulag Archipelago is filled with details relating to “small waves” and additional individual cases. One must keep in mind the “limits” imposed by Moscow on the territorial divisions (and these willingly requested their increase), with an *a priori* classification into “category one” (death penalty) and category two (long-term imprisonment in a camp)³⁵; for example, during the “Polish operation” (1937–1938), 79% of detainees (111,091) were executed, and this should be considered a minimum figure. A. Solzhenitsyn briefly mentions “an incessant internal recirculation from reservoir to reservoir, through the system of so-called sentencing in camp, which was particularly rampant during the war years” (p. 81).³⁶ He only mentions waves going back, such as Poles released from camps and ordinary criminals headed to the front.

4. On the Idea of Evil

“[...] One would think that in the removal of millions and in the populating of the Gulag, consistent, cold-blooded planning and never-weakening persistence were at work” (p. 92). Indeed, the entire system was permeated with the Idea of Evil. Permission for wrongdoing triggered the worst instincts in many people. I will repeat here the truism

³² Khrushchev, *Fragmety wspomnień*, 124. See also Medvedev, *Chruszczow*, 37.

³³ Błażyński, *Mówi Józef Światło*, 61.

³⁴ Mackiewicz, *Kontra*, especially 152ff. First published within series “Biblioteka Kultury” in Paris, 1957.

³⁵ The head of the NKVD Nikolai Ezhov ordered (Order No. 00485, dated August 11, 1937) to launch the so-called Polish Operation. The Polish Operation was to take place in the following stages and the procedure was to contain the following actions: 1) mass arrests, but not of specific suspected individuals, but Poles of certain categories; 2) carrying out investigations while dividing the arrested into two categories: (a) the first category, those to be executed, (b) the second category, those to be sentenced to imprisonment for a period of between 5 and 10 years. The division into two categories was made in the form of lists and the proper classification of the detainee in the list by the security officer as the first or second category was in fact tantamount to a “judgment”, that is to say, the further fate of the detainee; (3) enforcement of the judgment was immediate, without any possibility of appeal. See a huge collection of documents from the archives of Ukrainian security, published jointly by Polish and Ukrainian historians: Bednarek [et al.], *Wielki terror*, part 1, 261; Sommer, *Rozstrzelać Polaków*, 84–5. See also Wojtkowiak, *Z dziejów terroru*, 56ff.

³⁶ This is about the so-called camp courts established between 1945 and 1948 and abolished after I. Stalin's death, in 1954; see Ciesielski, *GULag*, 375ff.

I have already expressed, that it is impossible to even slightly reflect the inhumane treatment of people, their lives, feelings and sensations. The functionaries of the totalitarian, communist system were completely devoid of human traits. The mass murder of obviously innocent people and the destruction of entire families in nightmarish, inhumane and sometimes even non-animal living conditions was a daily occurrence. This was not just a matter of J. Stalin and the Politburo of the Central Committee of the Communist Party, Lavrenty Beria and Ivan Serov acting alone. The brutalization involved whole armies of security officers and Communist Party functionaries. Sadism reached unheard-of proportions when allowed, when there was a right to commit crimes. Several decades later, Ronald Reagan would describe the Soviet Union as an **empire of evil**, and this apt expression must also be applied to the very roots of Bolshevism, the soil on which it was grown. In turn, it was born on the basis of the *Communist Manifesto* and the old Russian political climate. “Russia has not experienced happiness in its history. Europeans noticed the barbarism of Russia’s population and the despotic customs of the rulers” – wrote Alain Besançon,³⁷ and A. Solzhenitsyn, “as one of the co-suffering witnesses”, wrote about a century that was “infinitely cruel” for Russia.³⁸

Those who study the tragic fate of Soviet labor camp inmates are unanimous that violence was a daily camp reality, that the camp administration favored the worst criminals, that torturing prisoners and committing atrocities, including unjustified killings, was part of this daily reality.³⁹ The administration and supervision personnel, and convoy units, were to a large extent composed of ordinary criminals serving their sentences in a given camp.⁴⁰ In the camp, “even killing the defenseless would not disturb everyday life in any way [...]; death has become an unnoticeable part of this everyday life. [...] when necessary, we will shoot”⁴¹ – Ivan Chistiakov writes in his diary⁴². I. Stalin and his monstrous team needed skillful criminals, too, because terror was needed at every place and time. “Terror is the essence of totalitarian rule”⁴³ – it should be recalled what the renowned authors say. Robert Conquest is right when he states that “the Soviet Union was a ghastly historical aberration.”⁴⁴ Incredibly numerous and incredibly grave crimes, perfidiousness, mockery of the principles of the civilized world of the 20th century were committed in that country.

The so-called justice system was part of the terror. The leader of the revolution and the creator of the Soviet state wrote as follows to the People’s Commissar of Justice during the days of drafting the first Soviet criminal code:

Comrade *Kursky*, [...] to put forward publicly a thesis that is correct in principle and politically (not only strictly juridical), which explains the *substance* of terror, its necessity and limits, and provides *justification* for it. **The courts must not ban terror** – to promise that would be deception or self-deception – but must formulate the motives underlying it, legalize it as a principle, plainly, without any make-believe or embellishment. It must be formulated in the broadest possible manner, for only

³⁷ Besançon, *Święta Ruś*, 92.

³⁸ Solzhenitsyn, *Rosja w zapaści*, 5.

³⁹ Ciesielski, *Wróg jest wszędzie*, 288.

⁴⁰ Ciesielski, *GULag*, 479.

⁴¹ Sariusz-Skąpska, *Polscy świadkowie GULagu*, 321.

⁴² Chistiakov, *Strażnik Gulagu*, 68.

⁴³ Arendt, *Korzenie totalitaryzmu*, 235; Brzezinski, Friedrich, *Totalitarian Dictatorship*, 10.

⁴⁴ Conquest, *Reflections on a Ravaged Century*, 85.

revolutionary law and revolutionary conscience can more or less widely determine the limits within which it should be applied. With communist greetings, *Lenin*.⁴⁵

“[...] those who might have hoped for a last refuge in the institutions of justice found these institutions turned against them and a part of the program of terror and oppression.⁴⁶ In the Soviet totalitarian system, a judicial sentence was intended only as a form of elimination of people previously politically assigned for such elimination⁴⁷ This was the way in which the communist system, with all its hypocrisy, cared about the image of a system ruled by law. *Crimen laesae iustitiae* (Witold Kulesza). Communism is the most mendacious system in human history.

A “total lie” (as noted by Leszek Kołakowski) is one of the important features of the system. This lie was part of the so-called administration of justice, which in fact was merely an implementation of totalitarian terror. This was the case from the beginning but especially during “Stalinism, which, as the totalitarian face of the system consolidated, **was broadening, more and more brazenly, the gap between the political facade and reality**.”⁴⁸ Both the Shoah and Nazism, and communism, especially during the Stalinist period, constitute Absolute Evil.

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⁴⁵ Lenin, *Collected Works*, vol. 33, 358–9 (fragment boldfaced by me – AL).

⁴⁶ US Military Tribunal, Jurists’ Trial Verdict (US v. Josef Alstötter et al.).

⁴⁷ An investigating officer of the Polish Ministry of Public Security was right when telling these words to a political prisoner: “The courts in Poland are pure fiction. It is **here** where we do the actual tailoring. The courts are there just to iron out our verdict and announce it.” As cited in Szerer, “Komisja do badania odpowiedzialności”, 77. This text has been recently reissued in Zaborski, *W imię przyszłości Partii*, 101–86.

⁴⁸ Baszkiewicz, *Powszechna historia ustrojów państwowych*, 356 (boldfaced as in the original).

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