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**THE CONCEPT OF SOCIAL TOLERANCE AND SOCIAL POLICY:
A CASE STUDY OF CRIME AND PENAL PRACTICES IN THE
TRANSITIONAL PERIOD IN UKRAINE.**

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Abstract

The present study focuses on the current state and developments of social and penal policies in Ukraine. It concentrates on changes brought about in the period of social and political transition, which started when Ukraine became an independent state in 1991. In particular, this study attempts to explain the current failure of reforms as being the result of a lack of social tolerance intrinsic to state officials at all levels, a legacy of previous repressive regimes.

The introduction examines the notion of tolerance as a value produced by civil society and its importance for the administration of penal policy. It is argued that the level of social tolerance is heavily influenced by the nature of social and economic relationships.

The following section consists of a case study presenting the origins of Ukrainian political, economic and social institutions and the results of an analysis of official media reportage of the current transition towards a market economy – a transition which has formed the precondition for a sharply rising criminality and the corruption of the main social institutions.

The third chapter begins with a brief history of the use of imprisonment during the Soviet era, describing the administrative methods of punishment embedded into the system which Ukraine inherited on independence. The next section is a study of the Ukrainian penal system in the transitional period and shows that change has been minimal in terms of ideology, penal structures and the training of personnel. It also reveals findings on the functioning of prison enterprises, which established a deficit between prison production outputs and the sale of prison products, which is theorised as being due to private profiteering by senior prison staff.

Finally, the data from an empirical study of social relations in a Ukrainian penitentiary are analysed on the basis of the social tolerance concept. The culture of prison life is seen as embedded in a hierarchy of roles. For these reasons, the existing prison system fails in its aim to resocialise offenders; it fails to respect human rights; and the experience of imprisonment as an exploitative system is related to the privatisation of human resources by the prison authorities.

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Part I. INTRODUCTION AND METHODOLOGY

*If we want to promote disciplined conduct and social control - and these are important goals for any kind of society and not just for right wing ideologues - we should concentrate not on punishing offenders but on more mainstream activities such as moralising markets, promoting solidarity; and integrating young people as citizens - all of which are matters of social justice and moral education rather than penal policy. The things that punishment does do well - such as scapegoating, and venting frustration, and hardening social division, and offering popular, repressive responses to complex social problems - are, in the long-term, destructive of the social fabric.*¹

David Garland

1.1. Reverse transition

In the 1930-40s, various social scientists predicted the inevitable collapse of capitalism around the world and a transition to socialism². Half a century later, the transition the world is witnessing is the reverse of that predicted.

Ukraine is now experiencing its second attempt at such a transition this century and an essential part of its change to capitalism is the transformation of its state institutions, including those related to penal practices.

For many centuries, the dominant attitude in the Russian Empire to the structure of society was contemplative. This was preserved and implanted into orthodox religious doctrine and emphasised the priority of the stability of the collective organisation (state, community, religion) over the individual. This was deemed necessary to ensure a “good Christian society”, but an enormous mass of people was excluded from public life. For three centuries, exile to unpopulated Far East regions and Siberia was the most popular punishment. The idea of a humane attitude to offenders was a significant aspect of reforming periods in European history. It penetrated public consciousness at the end of the 18th century³. At that time, many attempts were undertaken to validate this idea scientifically, for example, by representatives of utilitarianism⁴. At the end of the 19th century in the Russian Empire there took place the rise of belief in secular

¹ David Garland as quoted by V. Stern in *A Sin against the Future: Imprisonment in the World* Penguin Books 1998

² See: Schumpeter, J. (1942) *Capitalism, Socialism and Democracy*; Webb, S. (1944) *Soviet Communism: a New Civilisation*, (3rd Ed.) London, Longmans Green.

³ See: Hesther D., *Citizenship*, London, 1990.

⁴ Bentham, J., *Introduction to Principles of Morals and Legislation*.

reason, progress and the priority of the individual over the collective, and feudal slavery was officially abolished (1861). As understood from the rational point of view, the human weal was determined only by possessing either money or real power. Thus, every citizen had a definite place in the system of social relationships according to materialistic (wealth) indications. The impossibility of attaining citizenship without this wealth led to discrimination against and stigmatisation of “useless failures”. “Useless failures”, such as peasants deprived of land, happened to be the majority of the population of the country (83%), but the Tsarist administration ignored the real causes of the growing public anger. The gradual transition to capitalism and liberal social democracy was blocked by World War I and finally stifled by the revolution and its political consequences. Mass protests by peasants were exploited by the Bolsheviks, who defined the idea of civil rights as a bourgeois trick and rejected it⁵. The dictatorship of the proletariat – their alternative - at once turned into a synonym for state terror. The Soviet State quickly became synonymous with the Communist Party, suppressed economic and personal freedoms and became the pure incarnation of a police state. The state was perceived as the main instrument for the realisation of the universal recipes of well-being.

The second attempt this century at a transition to capitalism in Ukrainian history started when Ukraine gained its independence from the USSR. The state authority, which was associated with GULag⁶, the KGB, and nomenclature privileges, collapsed with the USSR. Discredited and despised, it was cast out and replaced, not by the rule of law, but by liberation from restraint. Instead of democracy, we got a rise in crime: the theft of state assets and redistribution of property among former Communist Party apparatchics - the nomenclature. Portions of the state structure were turned over into private hands, usually to former executives of those structures. Some former state agencies became private companies. Many State Ministries created affiliates, staffed by relatives and friends, whose only purpose was to milk the state agencies and siphon off revenue. The privatisation of state property took place under the state authority and in an atmosphere of “what one could get away with”. In fact, the old Bolshevik slogan “factory to workers” was reversed by their successors into “factories to managers”. The

⁵ See: Lenin, V., State and Revolution.

people's property became the nomenclature's property and a mere 10% of the population - the civil servants, managers and others representing the state - divided up almost everything for their own private ends. It needs to be remembered that the overwhelming majority of "... individuals or groups are socially excluded if they are denied the opportunity of participation, whether they actually desire to participate or not"⁷ and now more than 50% of the population live below the poverty line.

By any measure, the new Ukrainian state in recent years has failed to perform the most basic state functions: to provide social services and law enforcement on the basis of collected taxes. The state is now reduced to impotence and to a great extent has been taken over by criminal elements; it is not even capable of collecting taxes. Because of its inability to collect nearly half of the taxes due, the state has increased taxes to such high levels that even those willing to pay would be ruined if they did so. This policy pushes them into the shadow economy. In turn, tax collectors siphon off money into their own pockets, as do people in the customs service and civil servants in local authorities issuing permits. What things cost is common knowledge in the streets. Everything has a price, from a parking violation to release from prison. Of course, dropping charges and suppressing evidence would cost more. The use of public office for personal benefit is now so widespread that virtually any transaction in any sphere requires a bribe, an extra payment, tax, or a gift that goes into the hands of those who are supposed to perform their duties. Every contact with state civil servants is subject to a pay off, not to the state, but to those who privatised the state functions for personal enrichment. At all levels, physicians, judges, the police and prison officers, teachers and clerks and even cleaners in public places (hospitals, municipal houses etc.) extort "presents" while performing their duties. At the same time, as Brian Barry has pointed out: "... the very rich have the opportunity to exclude themselves from common institutions; what has to be added is that their wealth enables them to erect barriers that keep out their fellow citizens. Hence, the situation is one in which a minority is in a position to exclude the majority"⁸.

⁶ Gulag – abbreviation for "Central Directorate of (prison) Camps".

⁷ Barry, Brian (1998), *Social Exclusion, Social Isolation and the Distribution of Income*, p.5, CASEpaper, <http://sticerd.lse.ac.uk/case.htm>

⁸ Barry, Brian (1998), *Social Exclusion, Social Isolation and the Distribution of Income*, <http://sticerd.lse.ac.uk/dps/casepdfs/CasePapers/paper12.pdf>, p.7.

All the post-communist countries have been faced with the problem of inadequate political and legal control and bribery is the most common manifestation of corruption. Ukraine, in particular, has not inherited a clearly defined concept of administration, nor did it have sufficient oversight to prevent officials from abusing their power. Representatives of organised crime have penetrated high levels of government through the co-option of existing officials through bribery, blackmail, threats, etc: and also via the hiring and promotion of their own agents. It is increasingly difficult for the law enforcement bodies to effectively shut down illegal operations, as up to 50% of criminal income goes towards bribery of government officials and the police. According to recent evaluations, nearly \$20 billion of "dirty" money was paid to officials for securing illegal activities in 1998 alone⁹. Thus, Ukraine, as it was announced on national radio in June 1999, has now become one of the six most corrupt states in the world.

To understand the Ukrainian experience in comparison to the achievements of other more successful reformed countries, such as Poland, one needs to examine the nature of the political control of economic life after the reforms started as well as the support that government bodies have to offer private business to make it grow. In fact, the government in Ukraine continues to retain substantial political control over economic life and often uses this control to pursue predatory policies toward private business and political opposition. Private property is just as elusive as it was in Soviet times. Today's owners may well discover that their property has gone or is threatened once their protectors in high office are out of favour. Everything hinges not on the law, but on having protection - "roof" - in high places. The loss of "roof" automatically means a change in the taxation rate, revision of the statutes under which a company operates, revision of ownership, denial of governmental contracts, endless visits by officials (to check everything from fire alarms system to bills) and even outright liquidation. As an insurance against such a turn of events, million of dollars in seized assets have been leaving the country for safe places abroad. Thus, owners often act like thieves, because they know that the terms of their ownership can be questioned and reconsidered and only the timely discharge of bribes to local authorities can provide some sense of

⁹ The Day, 10.07.1999.

security. Thus, it is extremely naïve to believe that because there is private property in Ukraine, there will automatically be democracy and the rule of law. In the end it could well be that the Soviet system, which is preserved in practice, will absorb and modify private property. This has already led to the strengthening of criminal networks linking monopoly magnates and governmental agencies, which are now heavily dependent on the criminal oligarchy.

In terms of ideology, the last decade in Ukraine has been marked by dramatic changes, amazing in their scale, unpredictability and deep internal contradictions. The present and the idea of social justice are linked to the demise of Marxism. The disappearance of the formal reason for the arms race in Ukraine (where in the Soviet times 79% of industrial output was devoted to military purposes) contributed to mass unemployment¹⁰, an increase in the crime rate, and a prison population which has more than doubled. At the same time, people have experienced an unprecedented reduction in social programs. In the last ten years, fundamental concepts such as socialism, liberalism and conservatism have lost their meaning due to the ideological crisis. Ninety-one registered political parties now occupy the attention of the mass media and public sympathies are dispersed between them. However, people are slowly recognising that social tolerance, especially in penal practice, is vital for the achievement of individual welfare. Last summer (1999), we prepared seven radio programs dedicated to the de-criminalisation of the Ukrainian Criminal Code (UCC), to the implementation of alternatives to imprisonment and to the current state of our penal system (II National Channel, Radio "Europe Plus", Promin¹¹), which received direct responses from different sections of the population. The question, which respondents often asked was: "If the problem is identified and recognised as such, why is nothing done by the government to improve the situation?"

One possible set of explanations of government failure in Ukraine deals with trust, social capital, and civil society. In recent years, various authors¹² have used these

¹⁰ 1,3 million registered themselves as unemployed, but according to expert estimates, the total number of unemployed people in Ukraine reached 8 million (data on 1.08. 1999).

¹¹ This station covers 10,000,000 of regular listeners.

¹² See: Coleman (1990), Gellner (1994), Fukuyama (1995).

concepts to explain why some societies function better than others. It is important to distinguish two views of how social capital contributes to better government. According to the first view, taken by Coleman and Fukuyama, trust promotes co-operation between people and co-operation leads to better performance of all social and economic institutions. According to the second view, based on Gellner's theory of civil society, the essential manifestation of social capital is the presence in a country of non-state organisations that watch, criticise and restrain the government. Active participation by citizens in such institutions enables them to limit the predatory tendencies of public officials. According to Gellner, countervailing power, rather than co-operation between people, improves the performance of government. Positive shared experience is the necessary condition for social solidarity. However, in the case of Ukraine, the population shares a negative experience of impoverishment and witnesses the simultaneous strengthening of the law enforcement institutions. The Norwegian criminologist, Nils Christie, has said about such a course of events that: "The major dangers of crime in modern societies are not the crimes, but that the fight against them may lead societies towards totalitarian development."¹³ This reality has led to a situation in which many of the active individuals and groups have been voluntarily excluding themselves from activities that are firmly controlled by the state. Giddens has emphasised that: "Exclusion is not about graduations of inequality, but about mechanisms that act to detach groups of people from the social mainstream."¹⁴

1.2. Social tolerance and penal practice

We can regard penal practices as a supreme test of tolerance in society. For decades, prison camps were "building sites for communism" and constituted a significant part of the Soviet economy until the mid 80s; there was no need for more tolerant sanctions against offenders, because the Soviet economy benefited from cheap prison labour. For example, in 1991, 74% of agricultural machinery production in Ukraine was based on the use of prison enterprises.¹⁵ Thus, more prisoners could produce more cheap goods. When the Soviet Union collapsed, the state agencies connected with social justice and penal practices were heavily criticised by human rights organisations for extreme

¹³ As quoted by Vivien Stern "A huge task for penal reformers" CEP Bulletin 5 June 1997

¹⁴ Giddens, A., (1998) *The Third Way*, Cambridge, Polity Press, p.104.

overcrowding, harsh prison conditions and the exploitation of convicts. The population behind the metaphoric “iron curtain”, as well as those behind the real barbed wire of various GULag camps, was much more alienated and comparatively much more exploited than in capitalist societies.

The concept of human rights is the set of statements declaring the fundamental right of any person, including a prisoner, to a certain minimum standard of welfare, which previously represented itself as the privileges and freedoms of a small part of the population. Reformers tried to realise humanitarian ideas and the practical realisation of their programs always showed their essential miscalculations, which, in turn required permanent correction. Unfortunately, in contemporary Ukraine the idea of human rights is sometimes used as a propaganda trick to cover the interests of certain groups¹⁶. However, an open discussion of this subject always becomes something more than simple demagogy. The 1996 Constitution provides a legal framework for protecting civil and human rights, but too many important constitutional provisions still await the passage of enabling legislation. For example, the juridical system is still organised along Soviet lines¹⁷. According to the Constitution, the old system may remain in place until 2001¹⁸. Because of this delay, the judicial and penal systems continue to operate in much the same way as in Soviet times.

The Constitution provides compensation for unlawful or arbitrary arrest, detention or conviction, but there is no known case in which this provision has been invoked. Such a situation is the result of a lack of faith in the juridical system, rather than the absence of unlawful actions by state bodies. Arbitrary arrests have taken place and there have been numerous instances of torture, sometimes resulting in death. The General Prosecutor, the Head of the Supreme Court, the chairman of Regional Court, and the chairman of the Kyiv Municipal Court (or the deputies of these officials) are members of the “nomenclature” and can suspend court decisions. This leads to interference from executive branch offices, manipulation, and corruption. The courts are funded through the Ministry of Justice and Government officials have the power to influence the

¹⁵ These data come from the State Prison Department, but I cannot identify the source for his protection.

¹⁶ For example, Ukrainian prisoners have the right to vote, which has led to corruption and the open sale of prisoners' votes. There are many ex-prisoners in Parliament (12 well known) and prisoners contributed in a major way to their election. At the same time, many officials managed to buy prisoners' votes or forced the prison administration to organise a number of votes in their support.

¹⁷ With the exception of Constitutional Court.

juridical process by using the so-called “telephone right”¹⁹. Most judges and prosecutors were appointed during the Soviet era and used to be closely attuned to the interests of their superiors, rather than to the public interest. The average age of a state manager in Ukraine is 58 and, as has been pointed out, “you cannot teach an old dog new tricks”. Court chairmen, for instance, are appointed directly by the executive and wield considerable influence over the outcome of a case through case assignments, control of staff, promotions, and benefits available to the judges. The mass media repeatedly reveal that court chairmen have deliberately overburdened independent-minded judges with too many cases and then instigated disciplinary reports against them for not completing their casework.

Lengthy pre-trial detention in very poor conditions was common during the years before independence and practically nothing has improved. Twelve new prisons and four new pre-trial units have been established, but they are as overcrowded as all the others. Detainees often spend months in harsh conditions in pre-trial prisons for violations that, according to current legislation, involve little or no prison sentence in the case of a conviction. According to the law, a defence advocate has to be provided without charge to a suspect from the moment of detention, but public advocates often refuse to defend suspects for the low governmental salary of £25 a month and prefer to defend the interests of wealthy suspects at £25, an hour. Moreover, in recent years, all the good advocates have moved into private practice. Consequently, the help of a defence advocate is now available for rich corrupt officials, professional criminals and tax evaders only. The opportunity of a fair trial is closed to those who cannot afford high quality legal representation in the absence of well-funded system of legal aid.²⁰ Moreover, after release, prisoners with no family to return to, are likely to find themselves in limbo. The state makes no housing provision for them. Without housing, they are not eligible to apply to state employment centres for work. And work is scarce. “Of course it’s hard for former prisoners to find employment“, said V. Mikhailov, head of the information department of the Kyiv Employment Centre. “There are lots of highly qualified people without work and enterprises would, in

¹⁸ Constitution of Ukraine, Chapter XV, Transitional provisions.

¹⁹ The old Soviet tradition of interfering by telephone directly with the juridical process.

²⁰ Barry, Brian (1998), *Social Exclusion, Social Isolation and the Distribution of Income*, <http://sticerd.lse.ac.uk/dps/caspdfs/CasePapers/paper12.pdf>, p.14.

principle, prefer to take someone who hasn't just come from prison". In 1998, Mikhailov said, the centre had 389 work places reserved for ex-prisoners. Nevertheless, of the 69 former prisoners who came to the centre looking for work that year, the centre placed only 24 in work. "In my practical experience, not many come to us and not many want to work," Mikhailov said of former prisoners²¹. We have to add, that as a rule, the centre offers jobs for ex-prisoners in industrial enterprises with extremely hard and unhealthy working conditions, and for such tiny wages, that very few people would agree to perform them.

The state administration in Ukraine has been reduced to impotence and has become the main obstacle against the achievement of the ideals which initially inspired social reformers all over the world - freedom, equality and brotherhood. After nine years of reforms in Ukraine, there is no strong non-state institution, which, for instance, Poland²² had at the beginning of reforms. Ukraine still does not have a strong reform-minded political party, in spite of the fact that 91 political parties are officially registered. Public opinion polls (table 1) show that public trust in social institutions is very low and continues to decline and that no institution in Ukraine has reinforced its position.



Source: Практическая психология и социальная работа (Applied Psychology and Social Work), №3, 1997, p.43.

²¹ Hyde, L. (1998) Ukraine: Prisoners Amnesty Fails To Halt Soaring Crime
<http://www.rferl.org/nca/features/1998/08/F.RU.980827124531.html>, p.1-2.

²²The Solidarity Union (which essentially destroyed communism and became the basis of Poland's first non-communist and reformist party) and the Catholic Church (which used its influence to demand a government free of corruption).

A new stage in the collective thinking about crime and punishment has arisen slowly as a response to the universalism of the bureaucratic system. The old Soviet²³ penal system was based on the belief that rational experts were able to introduce accurate forecasts and offer optimum solutions, and enactment of effective laws should that make it possible to adjust all aspects of prison life. The impracticability of such an opinion became obvious in the '80s. For example, the idea of progressive treatment of offenders, as a uniform linear ascending movement to the greatest rationality and universality of punishment, caused a steady growth in recidivism. The faceless and inflexible penal system, which was supposed to reform prisoners, degenerated into a system of dictatorship by bureaucrats and contributed more to the further social exclusion of ex-prisoners than to their reintegration into society. It has now become clear that this basic approach prevented the identification of problems, which were then left to accumulate for many decades.

For the individual to find freedom, there must be a political structure and a society in which there are rules which contribute to the creation of such freedoms and, indeed, protect such freedoms. For example, keeping violence, fraud, and theft at bay enables a space for a new individuality to develop. However, self-determination in particular economic conditions involves the liberation of the individual from the supervision and regulation of a rigid hierarchy. In Ukrainian society, we see the active confrontation of two extreme economic doctrines, but in more clear forms than in the West – orthodox capitalist economics (the Right) and orthodox communism (the Left). The Right separates economic activity from moral principles and asseverates the absolute value of private property, competition and the division of labour. All these factors are important and morally neutral, but in practice in Ukraine they have led to immoral results – the impoverishment of the majority of the population and the unprecedented growth of criminality and the shadow economy. The Left have a majority in the Ukrainian Parliament (Verhovna Rada), but nevertheless confuse economic and moral fields. The Communists are right when they criticise the immoral results of the 1991- 99 reforms which were aimed at creating a market economy in Ukraine, but simultaneously they deny the initial need for the reforms and consider, for example, that private property is

²³ "Soviet penal system" means that it was based on uniform principles in all fifteen republics of the former USSR.

the principal immoral feature. Moreover, they call for an increase in the current limits on the extent to which imprisonment can be imposed and for a return to Stalinism in penal policy.

The mistake made by both sides is their neglect of basic social principles – instead of promoting the civil rights already established in the Constitution, which would increase both confidence in the main social agencies and the level of social inclusion of the population into public life, they prioritised economic reforms, and attributed moral functions to economic processes. “New Ukrainians” and orthodox Communists place the importance of economic structure first and claim that a capitalist or socialist type of organisation of social life contains in itself moral or immoral principles. However, they all mistakenly consider a person solely as an economic actor. Both sides consider visible material wealth as an absolute good. Consequently all social interests are sacrificed in the name of the economy, even though, in developed countries, the economic function is, in some respects, subordinated to moral principles and legislation clearly fixes the necessary minimum of tolerance toward all members of society.

An individual cannot formulate the notion of a norm without being influenced by the society he lives in. Law is the essential foundation; it is that essential basis which guarantees a certain tolerance towards each member of society for his or her autonomous personal development and public recognition. The difference between norm and ideal is essential for understanding the correlation between law and tolerance. The aim of law is to support, even by compulsory means, the minimum of tolerance, without which it is impossible for society to function normally, but not to convert a world into an ideal social paradise. The law is primarily directed at restricting the activity of individuals or groups which might otherwise destroy the social structure and/or cause harm to others. The development of particular individuals and society as a whole is possible only under the protection of the law, but it is vital that compulsion does not exceed the necessary minimum. In other words, without coercive laws a society faces the danger of anomie and the destruction of social solidarity, but coercion that exceeds the necessary minimum (intolerance) leads to individual oppression and

despotism. The current stage of development in post-communist Ukraine has turned into a manifestation of uncontrolled individual freedom, which often takes criminal forms. The hidden potential of our society is slowly developing it only through an aversion to and an overcoming of obsolete laws left over from the Soviet era which were oriented towards the maximum exploitation and oppression of a particular individual in the name of the “collective interest”.

In general, all post-communist societies are peculiarly unstable. The legitimacy of their structures are tenuous and the pluralisation of life-styles has resulted in a greater complexity of values and norms. Individuals, therefore, frequently become deviants detached from traditional institutions and structures. Contemporary pluralism means that individuals experience societies rather like supermarkets within which they are offered a multiplicity of lifestyles and values. Pluralism, as an important stage in the process of achieving tolerance, cannot be avoided, but if we develop it to its logical end, it would self-destruct. Tolerance of everything is simply indifference in another guise. The moral act is itself endemically ambivalent, forever treading the precariously thin lines dividing care from domination and tolerance from indifference and alienation. Moreover, indifference can be interpreted as a form of negative tolerance, with its own limits which often cause irreversible consequences. In juridical terms, the tolerance limit refers to the end results of an offence and supposes that a certain threshold of harm has to be reached before liability sets in. If an offender causes harm above this level, he is liable. What this level of harm is, depends on the interpretation of legislation and the mentality of the population in any particular society. For example, comparing penal systems in Britain (England and Wales) to those in the Netherlands, Downes has depicted the culture of tolerance towards offenders in the Netherlands as being of a particular type – it is not a blanket acceptance of everything, but is grounded in a rather patriarchal (stable) society - people accept the rules of the game and the limit of tolerance is known to all the actors²⁴. We think that the most fundamental rule for penal practice is the need to accept the principle of tolerance: “Be tolerant to avoid irreversible actions, which lead to irreversible consequences”. Such

²⁴ Downes, D., (1988), *Contrasts in Tolerance: Post-War Penal Policy in the Netherlands and England and Wales*, Oxford: Clarendon Press.

consequences range from social exclusion to outright conflict, as, for example, in Northern Ireland, the former Yugoslavia and Chechen Republic.

Included in irreversible actions are those that cause essential damage (death, loss of health etc.) which cannot be corrected. The loss of property can be compensated; a destroyed house can be repaired, however, often the prior conditions could not be restored. In the same way, actions in social administration can be justified if they involve an empirically supported protection of clearly defined legislative norms. If the state intervenes in a person's activity, it has to act according to legislation. If legislation is inadequate to protect a citizen from abuse, it has to be changed. Any state intervention must be provided without stigmatised oppression and dependence or support for a situation where "anything goes". Thus, the actions of both parties are limited by legislation and cannot be identified as "free". This is a positive aspect of tolerance, because while we personally may not like something, we can tolerate and support it as rational humans with respect to legally established human rights, which makes us moral individuals. Consequently, we are free in life only to the extent to which it is possible for us to tolerate somebody or something without loss of self-respect or self-esteem, and in the absence of a threat to our wellbeing. Our freedom and social security are dependent on the tolerant attitudes of other people, including representatives of the law enforcement bodies, who are ruled by current legislation, by accepted public values and by informal rules. If citizens indifferently observe the misuse of authority by those in power, they risk subjection to oppression, and their behaviour illustrates the negative aspect of tolerance. Freedom accompanied by indifference is worthless and this is exactly what now exists in Ukraine. Thus, we regard tolerance as a prior condition of freedom within the law and law as a main pre-condition of tolerance.

The next statement is concerned with civil rights. All citizens should have equal access to the generally necessary state means and information sources (education) for shaping plans and purposes consistent with the principles of tolerance. Today, any national economy should be able to guarantee several basic demands. For example, production and capital accumulation should be realised in ways which support the personal dignity

of an employee (a worker should not be reduced to being merely the economic instrument of production) and his/her salary has to be sufficient to secure his/her personal welfare; economic activity has to be subordinated to public control. Tolerance in social policy is easier to describe than define. Social welfare comprises forms of collective insurance and security against:

1. economic risks faced by citizens (accidents, invalidity, illness, unemployment, old age, parenthood, inflation);
2. environmental and political risks (wars, pollution, disasters);
3. social civil risks (human rights, for example, segregation, access to education; access to the state mass media and free access to information sources; criminality and social deviance).
4. psychological and mental health risks (moral norms, mental health).

Thus, as we see, the major obligations of the state rest on the need for tolerance:

- to respect, protect and support the equal capacity of different social groups and individuals to shape and develop plans, purposes and life-styles which are self-determined (within current state legislation);
- to encourage people to make active investment decisions in relation to their lives, to support their integration in society, and to restrict them in case of aggressive advocacy, or violence toward others.

How the state acts on these issues demonstrates how tolerant (more or less) is its social policy. The extent to which these principles are implemented by a particular government on behalf of all its citizens reflects the state of tolerance in that country. Such formations as state and group, group and person, international unity, etc., depend on the interrelationships of their components. Thus, the following “social” definition of tolerance seems to be adequate: tolerance is a public form of active coexistence in developed societies, and, as an approach based on the principles of social inclusion and participation, must form the basis of the welfare system. Thus, social and penal policy based on the above mentioned principles, and realised through a minimum of coercive administrative means by state institutions, can be defined as processes which shape the character of tolerance in society.

Through this principle, the notion of “justice-as-fairness” looks different. The focus of the justice system must be more open to the repair of social injury. The role of victim, offender and judge require reconsideration. Crime has to be seen as a violation of one person’s rights by another, rather than as a violation of the impersonal state. The justice (penal) system has to focus on restorative processes, liabilities, and obligations for the future, rather than focusing on the past. If we define crime as a conflict between persons, justice must then be judged by the outcome of a normative negotiation (including the role of the process & the proportionality of the punishment) The offender must experience tolerance and forgiveness, and this may not be done in the abstract and in isolation from society. Restitution and social inclusion become means and goals for restoring both parties. Thus, the problem of de-criminalisation and decarceration in post-communist countries is of great importance. We do not need to rely on the concept, derived from Makarenko, to teach a man how to be free in captivity.

To act according to the concept of tolerance, it is not enough to implement several good laws and/or ensure the availability of material resources. It is also vital to have special staff to provide individual help, consultation and supervision for offenders and ex-prisoners. Over time, social workers become more and more, the direct executors of the state social policy and their ability to operate with various categories of clients becomes a significant factor in social policy. At the same time, without the introduction of a more flexible economic policy aimed at opening up opportunities which are currently blocked, the state cannot motivate people as law-abiding producers, creators, consumers and citizens.

Social work with prisoners (which was introduced as a profession in Ukraine in 1991) is dualistic from the very beginning. Frequently, the purposes of the state do not coincide with professional ethics. On the one hand, as managers of a “soft control” state policy towards offenders, the departments of social work inside the penitentiaries represent an impersonal power. It is well known that it is very problematic, in principle, simultaneously to hate the crime but love the criminal. On the other hand, social workers dealing with real people who have been deprived of their freedom, often

take upon themselves the functions of a spokesman on the prisoners' behalf and are forced to break bureaucratic regulations. In the search for sensation and entertainment, the mass media colourfully describe horrible crimes and call for more strict punishment. However, the emotional pumping up of "moral panics²⁵" prevents both an objective analysis of the social roots of criminality and the development of a clear strategy for crime reduction. In the conditions of the transitional period in Ukraine, employees of the social work departments in the penitentiaries are able to describe social problems and the real scale of social illnesses much more adequately than the politically engaged mass media or analyses drawn from official statistics.

Unfortunately, the higher bureaucratic bodies in Ukraine, as a rule, ignore these possibilities and issue regulations which are delayed for several years. In the absence of proper financing, and because of a lack of resources (food, medicine, etc.) inside penitentiaries, employees of the penal system often reduce conceptions of human rights to the notion of primitive survival. The privatisation of the state is now a system under which a state functionary has replaced the law, and different rules are applied to different peoples. Civil servants use the offices of the state for their personal enrichment and state functions are either not performed at all or are performed for the benefit of those who use the state for illicit purposes.

It is likely that the privatisation of state services has been a direct consequence of the privatisation of state assets. Wealth is now concentrated among the political elite, the directors of banks, and the leaders of state-dominated sectors such as metals, gas and oil. At the same time, the Government has allegedly used the tax police to disrupt, or eliminate, the businesses of political opponents prior to elections. If a factory manager has privatised his factory and turned from a custodian into an owner, why cannot a prison governor treat his personal factory, his available labour force (prisoners) and the material resources of the prison in a similar way? In the West, such actions would qualify as abuse of authority and corruption, but in Ukraine it is now the usual practice and we have collected evidence to prove that corruption has become a way of life in the Ukrainian penitentiaries. Hidden behind the barbed wire of prison perimeters,

²⁵ Term invented by S. Cohen. See: Cohen, S., (Ed) (1980) *Folk Devils and Moral Panics*, Oxford: Martin Robertson.

unaccountable to anyone other than their military superiors and protected by the State Secrets Commission, prison officers are free to exploit all the opportunities available to them for their personal ends.

It is necessary to emphasise that the concept of tolerance contains philosophical assumptions, that not everything logically and technically possible should be implemented. Punishment should be refracted and formulated in the light of tolerance and be constantly checked by humanism. After all, the practical realisation of the tolerance principle is aimed at the achievement of organic solidarity and the creation of "an inclusive society"²⁶. The ideas of legitimacy, social inclusion and, indeed, the English probation tradition are well captured by David Faulkner: "... the inclusive view ... recognises the capacity and will of individuals to change – to improve if they are given guidance, help and encouragement; to be damaged if they are abused or humiliated. It emphasises respect for human dignity and personal identity, and a sense of public duty and social responsibility. It looks more towards putting things right for the future than to allocating blame and awarding punishment, although the latter may sometimes be part of the former. Citizenship and membership of the community are seen as permanent attributes, and the duty to conform to society's or the community's standards is matched by the community's own obligation to support its vulnerable and disadvantaged members. The 'inclusive' view is likely to be characteristic of a society which is open and compassionate, which accommodates and respects plurality, and which has some confidence in the future."²⁷

To build concentration labour camps for offenders, failures and deviants may be the most rational way "to keep and contain", but the Holocaust and the Gulag proved that "this is the road to hell". The re-orientation of social policies in Ukraine towards the tolerant type of interaction at least becomes the subject for discussions as a theoretical approach. Our study of tolerance in relation to Ukrainian penal practices is an attempt to examine the state of tolerance in the transitional period to see more clearly the direction for future reforms.

²⁶ Oppenheim, C., (1998) *An Inclusive Society: Strategies for Tackling Poverty*, London: Institute for Public Policy Research.

1.3. Methodology

The methodological reference, which we accept as the axiom, is simple: social life cannot be understood without considering those conceptions and beliefs which form it. At the end of the twentieth century, to prove that economic and political living conditions influence human ideas and hopes was like knocking on an open door. It is clear that ideals and conceptions are not simply suspended in the air of a special world of pure ideas. We want only to emphasise the mutual interaction of material existence and social beliefs. This interference appears in researches carried out by modern social scientists and in the opposition expressed by certain political forces.

The intended **object** of the investigation is the phenomenon of tolerance. To understand the current position of state policy on the development of non-oppressive methods of social work with prisoners, the following questions have to be clarified:

- how successful are current approaches to crime and punishment in Ukraine for the analysis of the causes of social deviance, the prevention of crime, and the resocialisation of offenders?
- what is the role of penitentiary administration now and what might its role be in the near future?

The general **aim** of the study is to explore the state of the penal system as it existed in Ukraine in the transitional period from socialism to a market economy. More specifically, it is to examine such phenomena as public consciousness at a time when traditional welfare provision had come to an end (simultaneously with the soviet state) and to analyse factors of the transitional stage through the notion of tolerance. Since Ukraine gained independence in 1991, the state has been declaiming that social policy towards the most disadvantaged social strata in general, and towards deviant groups in particular, has taken “a fundamentally new and progressive direction”. However, looking at Ukrainian welfare in terms of practical or administrative efficacy, it is clear that it failed to deliver even the necessary minimum. Following the collapse of the traditional socialist system of redistribution in Ukraine, its current version cannot

²⁷ Faulkner, D., (1998) *Darkness and Light: Justice, Crime and Management for Today*, London: the Howard League, page 6.

secure even a minimal level of welfare for pensioners in spite of a very high level of taxation (90%). It would be rather more apt to consider it as a “proto-welfare” state - a point of departure towards a flexible and more human form of welfare system.

Tolerance in the field of social administration, and how it is displayed in penal practices within Ukrainian penitentiaries, is the **subject** of investigation. The main research questions are:

What are the empirical (sociological data), material (economic), and socio-cultural indicators which reveal the current conditions of life in Ukraine?

How do these factors affect the state of tolerance in penitentiaries?

The **purpose of the empirical study** is to reveal the hidden social reality inside Ukrainian penitentiaries and to evaluate observed administrative practices against the goals which the Government has now set out. The special characteristics of the “iron curtain” embedded in the prison organisation in Ukraine made it very difficult to examine these practices. From the very beginning, I was faced with the need to find official cover in order to penetrate behind the prison walls. The significant part of the actual research material was collected during interviews with members of the prison community in 1996-1999. The concentration of the attention of officials and respondents on the harmless and simple questionnaire made it possible to accomplish my own purposes without drawing undue attention to the real subject of investigation - the tolerance of administrative methods in the penal system. We addressed ourselves to the relationship between penitentiary workers and prisoners and to the possibility that there is a basic unity between intergroup social tolerance and the effectiveness of the resocialisation of offenders. We consider administration in the penal system as a kind of risk-management over the risk-subject (the convict) so as to prepare for his return as a citizen to the risk-environment of a society which has rapidly changed during his years of isolation.

To study tolerance adequately it is necessary also to see it in three more ways, that are ordinarily regarded as reasonably distinct: (1) the acceptance and rejection of ideas; (2) of people; and (3) of authority. The first is classified as a cognitive phenomenon of a

standard belief system; the second involves the phenomena of prejudice and tolerance; and the third analyses administration according to the adopted pattern of interactions. For example, if we know something about the way a person relates to the world of ideas, we may also be able to say in what way he relates to the world of people and to the established order of authority. Consequently, information about the tolerance of particular groups of individuals makes it possible to assess their influence on certain features of personal belief systems.

It is hypothesised that “tolerance” as a socio-psychological characteristic of an individual, or a group of professional administrators for example, is preconditioned by the socio-cultural contexts and the existing adopted paradigm of social orientation; moreover, that it is dependent on the state’s social, cultural, and economic policies. The **hypothesis** is: if the administrators’ level of social tolerance is low, the results cannot be successful.

Testing the hypothesis required combining the analysis of collected accounts (personal contacts and observational notes), data from official sources, and the results of a questionnaire given to the following groups:

- prisoners;
- members of prison staff;
- civilians without previous experience of imprisonment.

In 1996, I visited several prisons very briefly to carry out the questionnaire. In 1997, I engaged in a full-time field study inside a prison (strict regime²⁸). In 1998-99, I repeated the questionnaire and obtained data both for comparison with previous results and for identification of the most significant factors which, during these years, affected the state of tolerance in Ukrainian prisons.

I. The questionnaire (fieldwork 1996 and 1998-99) contains the following set of tests:

- a) the social distance scale, proposed by Bogardus, for the measurement of general personal attitudes to particular ethnic groups. It is often used in Ukraine in ethno-psychology²⁹. For the questionnaire, the Bogardus test was adopted to evaluate the

²⁸ "Strict regime" prisons in Ukraine corresponds to the category "B" in British penal system.

²⁹ Ethnic Psychology: Research Methodology, Kharkov, 1995, p.24-29. (Этно-психология: методика исследований. Харьков. (1995) p.24-28).

scale of social tolerance. Respondents were asked to mark (“+” or “-”) for every social role which he/she allotted to typical members of various social groups. The sum of pluses indicated the level of social tolerance towards each group.

b) the schedule about value judgements on the welfare state, proposed by Taylor-Goody³⁰. Respondents were asked what effect the welfare system of taxes, services and benefits had on society as a whole.

c) questions from the scale of dogmatism, or “F” scale³¹; as it is a measure of authoritarianism, it seems relevant to the study of the post-communist penal system.

d) In addition, in 1998-99 some questions were added for prison staff members for the evaluation of the justice and penal systems, and for identification of the problems which face prison employees.

All the results were computed and then processed with the use of the Spearman correlation analysis (SPSS).

II. Observations and personal contacts (1996-1999)

Discourse analysis can give an extraordinarily rich amount of information from the study and interpretation of collected stories. However, the interviewer has to keep in mind the real subject of the interview, so that the respondents’ stories can be compared. It is well known that a slight and insignificant interlocutor’s cue often changes the theme and tone of a story and provokes different emphases and meanings, particularly behind bars, where the person is under pressure. While the text of every question can be varied, its content must be preserved, because attitudes to different groups, from the personal point of view of the member of a particular group (and, consequently, contextual and structural patterns), are essentially distinctive.

As far as the inmates were concerned, the official purpose of my research was the socio-psychological work done by of the social work department and the prisoners’ attitudes to it. In penal institutions, the investigator is regarded as an employee of another state institutions. As a civil servant, the scholar is faced with the formal task of receiving information from the client - the prisoner under examination. The activity of the investigator appears concrete and definite, identical in form with that carried out by

³⁰Taylor-Goody, (1986) pp.34-36.

an official psychologist through contacts with clients. After completing the “routine” formal task, the investigator becomes a “private person”, and often inmates want to talk informally “about life” with the “free man”. The author suddenly found that a better way of conducting research on tolerance in prison was to do this indirectly, in “private” time and in an informal way. I often made it known to the respondents that I had undertaken the research on commission, for a wage, even for a foreign university, and that I did not intend to inform the administration about the findings. The image that I presented to the prison community suggested to them that I could not use any research instruments other than the officially approved questionnaire. I made notes only when I was outside the prison and alone. Another hindrance was the problem of asking direct questions such as: who accept bribes in a given penitentiary, or whom do you hate and for what reasons in this institution? Not a single functionary or convict responded to direct questions of this type.

In such circumstances, I was forced to adopt the standard technique of the “naive stance”: I knew nothing about life in correctional institutions, and I did not know what I would find out; I was morally neutral - I rejected the possibility of evaluating deeds from an ethical point of view; I was a “piggybank” - I collected information and offered none myself. I did not tell inmates what I had found out and from whom. If someone wanted to speak, I began a conversation. If someone wished to talk on a topic chosen by him, I discussed that topic. If somebody wanted to give me a gift, I accepted it, and if someone wanted my advice, I offered it. I waited for proposals and made none myself. With the passing of time, when a picture of the structure of the prison community emerged, my behaviour at last became purposeful. I turned my attention to those repetitive patterns which create a picture of relations within penal institutions. Based on that knowledge, I constructed questions, the answers to which verified the correctness of my suppositions. Thus, without drawing undue attention to my real intentions, I was able to carry out my research.

The picture of the ideal roles of members of the institution are, in fact, components of its formal organisation, a scheme of behaviour, and relations that are intentionally planned for its members within the framework of appropriate privileges. The formal

³¹Collection of Psychological Tests, (1994) Moscow: Psychological Literature, p.72-76.

organisation is composed of an official hierarchy, defined on paper as an organisational scheme with instructions on how to act. In Western countries, at a starting point instead of visiting prisons, it would be useful to purchase several legal books to find out what life in prison is like, but in Ukraine such a book is still not written. In fact, the administration, desperately wanted to control the state of my knowledge and attitude towards the picture found in prison. It is a widespread public relations practice in Ukraine, that visiting investigators, who wish to acquaint with living conditions, are shown specially prepared cells which are either more attractive or more degrading than is usually the case³². In the presence of an alien person functionaries behave very formally. However, distrust and suspicion are evident in their attempts to prevent the investigator from learning about negative aspects of the institution.

During my research, deliberate misinformation was accomplished in various ways. For example, the respondents (inmates) could not be chosen at random. I was usually told that “some of them are very aggressive and it is difficult to predict what they will do”, or, if I wanted to visit living blocks alone, I was stopped because “convicts could detain a stranger as a hostage”. It was suggested that the staff on duty should choose the inmates that day, because staff were directly responsible for my “safety”. If it were agreed that interviews with convicts be held without the presence of functionaries, usually there had to be at least two inmates at the interviews. In this situation, it was clear that they were not close friends, and each one was afraid to speak in the presence of the other. Often convicts were instructed on how to behave: “Do not say anything superfluous! You know what I mean”. Purposeful misinformation was accomplished by summoning those convicts, who were soon to be released, or had applied for conditional release, were waiting for amnesty (or were trying to receive it), as well as those who, in the eyes of the prison staff had either entered the path of rehabilitation, or were seen as informers and had something to lose if it were discovered that they had relayed unfavourable information about the work of the administration. At the same time, functionaries divulged information about life in the penal institution: “Most didn’t have it this good outside prison and they have nothing to complain about”. It was quite strange to hear from the staff that the prison is a so-called “holiday camp”

³²This is particularly true if a visitor is from a foreign country and depends on the aim of the visit. If it is possible to obtain funds through this person from foreign sources, he sees the worst cells and barracks; if not, he sees the best;

and yet to see dirty bed sheets and scrawny inmates whose rations cost the state budget 0.08 Hrivnas a day (\approx £0.03). At the same time, the staff take steps to see that no one should “sell out the prison”. Anyone who does so can expect to be punished, but few people were deterred and claimed that, for them, “truth about prison is more important”.

Sometimes functionaries tried to induce hostility towards certain convicts by showing files or describing in detail rape, murders or other particularly cruel crimes committed by a particular convict. On the other hand, convicts constantly checked whether or not I was passing information to the functionaries. Some of them told me “fairy tales” about crimes they had committed before imprisonment and about life in prison and checked my reaction. For example, one told me that guards on the guard-tower would shoot down any package thrown over the fence during its flight over the wire entanglement. Some of them expressed scepticism, maintaining that, “nothing has improved for us in this institution as a result of similar studies; moreover, life has become worse”. In conversation with me, almost all convicts claimed that the survey questionnaire was not anonymous. I was not surprised to hear this, considering that the staff were interested in the circulation of such information. A face-to-face conversation is different, however, and emphasises the individuality of the convict, who becomes the centre of attention and can speak without fear - words, when one finishes speaking, leave no traces. Convicts, especially recidivists, like to speak about other institutions which they have inhabited in the recent or more distant past. This is an immense source of information about the penal system as a whole, and provides a basis from which to compare changes in penitentiaries. However, when organising an interview with a recidivist, one should take special care to guarantee anonymity, because recidivists hold the highest position in the prison’s social stratification and they are not allowed to speak about the “affairs” of a given institution; if they do, they risk expulsion from the privileged group, either by the inmates or by the administration.

The characteristic feature of life in a penitentiary is the fact that it conceals a certain state of affairs, directed against someone or something. There are always “addressees” (persons, institutions) from whom the speaker wishes that information about the real state of affairs could be kept. For various reasons (official duties, threatened interests,

suffered wrongs, the loss of reputation), the “addressees” might react to the news in a way feared by the authors, and for this reason they keep the sources of their apprehension confidential. The prison community is conscious of the fact, that for someone to obtain information about an isolated group he/she must have a sanction against one of the members and of the group in order to obtain through a secret interaction imposed upon that person, information about the remaining in the group. The awareness of this situation forms the basic premise for the emergence of prison paranoia. A functionary could jeopardise the convicts, and therefore the convicts keep track of everybody who makes frequent contacts with the administration. Members of the privileged group of convicts are suspicious of contacts between their own members and members of other groups. Inappropriate contacts can give rise to suspicion and seriously hamper life in a correctional institution for those who are unaware (strangers) or who ignore the existence of prison paranoia. If a researcher keeps company with the prison staff, he is labelled “unclean” by the prisoners, and if he consorts with the inmates, he is regarded with suspicion by the administration, whose members fear that the inmates will “sell out the prison”, and for whom the investigator then becomes inconvenient. Thus, I decided to talk to everyone and exploit every opportunity, even if only to greet someone or to stop a familiar person for a moment for a few words. I claimed that, in principle, a psychologist, due to professional obligations, could not become “contaminated”. It can be argued that this was the best way to avoid an association with a certain category which could prejudice others to see me as an enemy. A naive person looks like a blind one - he/she does not know with whom he/she is really speaking and a stranger talking to everyone looks quite normal. We discovered, later, that the notion “scientist” in our sample correlates with the notion “mentally deranged person” (Sig. 0.968). Unfortunately, we have to accept that this state of “normalcy” is an ordinary condition for research in a Ukrainian penitentiary.

Observed facts are always rooted in specific circumstances. Most of the few existing studies on Ukrainian penitentiaries concentrate on the narrow aspects of relations within the prisoner community and are for internal use only. For example, I. Shmarov has formulated the problem of the social consequences of imprisonment in a general context; the criminal experience which newcomers undergo in prisons, has been described by S. Alimov, I. Kurpets, A. Yakovlev; Y. Antonyan and A. Mihlin have

begun a study of "the criminal personality"; and A. Gurov and M. Kleymenov have studied the prison subculture and its role in the development of professional criminality. However, people who have held military ranks in the internal service has carried out all these investigations. No one study was independent. No one touched on the interrelations between inmates and the administration. We have weighty reasons to suggest that the studies, which we succeeded in obtaining from the closed archives of the Ministry of Internal Affairs, were constructed from manipulative recommendations by prison staff, who were presumed to be always upright and honest. Nobody ever mentioned corruption in the penitentiaries. Thus, we were forced to fill this gap. However, in the final analysis of the information collected we concentrated on the types of tolerance demonstrated by each sub group towards each and toward social welfare as a whole, and on the identification of the main socio-psychological and administrative factors that influence the state of tolerance within penal institutions.

Part II. SOCIETY IN THE TRANSITIONAL PERIOD

“Reading the news in this country, one sometimes gets the impression that he is living in Anthony Hope’s mythical Ruritania, a land of comic opera, where heroes are given laurels in the absence of any visible signs of heroism, and everyone in authority accuses everyone that everything is not all right. In spite of everything, nomenclature members are doing quite well and have adopted the Soviet oligarchic role-model unchanged. They have created independent Ukraine, now they have to create Ukrainians. When will they start creating citizens of Ukraine?”

J. Mace³³

The most significant conflicts in society are reflected in the realm of social policy. In fact, social policy is nothing less than an agenda for solving conflicts. However, policy is not always a means of reconciliation; it is often a means of further provocation. The character of a political struggle depends on the political culture not only of the elite but also on the mentality of the population, both of which are influenced by economic conditions. Ukraine is making a difficult transition from a command, centrally planned economy to a market-based economy. During the last decade, which we call “the transitional period”, Ukraine has experienced unprecedented change. This part of the thesis aims at familiarising an outsider with the existing state of the social problems in a particular society, rather than producing a profound analysis of all aspects of social life. It is impossible to discuss the roots of Ukrainian criminality and the state of the Ukrainian prison system without knowing something of the social background. It combines official statistics and comments which we think are relevant to the subject of “the right to tolerance” of every citizen of the state. Why, instead of development and prosperity, did Ukraine experience a decline in its economy and culture? Why is its judicial system falling apart? And why is the level of social protection for its people going from bad to worse?

The figures quoted here are from the most reliable of sources such as “Урядовий Кур’єр” (The Governmental Bulletin), the Parliamentary Information Bulletin “Голос України” (The Voice of Ukraine) and the opposition newspaper, “День” (The Day),

³³ The Day, 12.09.1998, Professor James Mace is currently working for the “Kyiv-Mohila Academy” University at Kyiv, giving lectures on social policy and history.

which is the most reliable source, in our opinion. We tried to check questionable information through a comparison of different sources. However, even the best sources in Ukraine are subject to pressure from interest groups.

2.1. The nomenclature

Having accepted the principle that power is central to human relations, and having legalised the monopoly of violence³⁴, it was impossible for orthodox Communists to create anything but a society in which the Party bureaucracy turned into a privileged, monopolistic caste. In the course of the process of centralisation of state resources, this sector strengthened and legalised its position. It not only turned away from the democratic principle - the party represents the electoral will of the people – but even internally, there was a strict hierarchy of positions and social barriers: this is the *nomenclature*. The notion of a “nomenclature” descends from the time of Emperor Nero, among whose servants were some called “nomenclators”. They were controlled by Nero’s personal manager and executed the functions of agents and informers. Stalin revived this term in 1925 to introduce the “concept of a nomenclature” as a list of positions, which had to be subject to strict control by and submission to, the central power on the XIV Congress of the Communist Party.

The nomenclature executed strict control of all spheres of social and public life by regulating the distribution of resources and providing a minimal subsistence level for the huge population. Totalitarian ideological tenets oriented social services towards improving the material well-being of the population by containing “social ills” and by providing a minimum level of assistance to the citizens. Social policy concentrated on social control rather than on social protection and official propaganda declared that under socialism all the essential problems of human life had been radically solved. The whole social system functioned as a highly compartmentalised and bureaucratically run network for the redistribution of goods and provision by the state, depending on the deserts of particular citizens and groups in the context of the “proletarian state”. The nomenclature state did not need autonomous citizens and it oriented mass consciousness towards “welfarism” (the belief in altruistic collectivism and a welfare

³⁴Lenin defined the dictatorship as a power, unlimited by any laws

system) and “clientalism” (a belief in a “just world” - you have you deserve). This type of “collectivist” approach reduced the importance of a particular human life to the economic notion of a “fecund soil” for future generations, which will unavoidably enjoy the benefits of communism. There was a very strong leaning towards ‘state egoism’, with prejudice and a propaganda of hate and contempt for “capitalistic and bourgeois enemies” and “their agents inside the country” – the definition applied to anyone who did not share communist views. The huge population was forced to adapt to these conditions.

During the long period of its existence, the Soviet system distinguished itself by a high level of intolerance toward those who were differently minded. It expressed deep hostility to “alien” groups inside society, towards foreign countries, to any other system. The Soviet administrative system embodied the nomenclature, treating the surrounding world as a hostile force, trusting nobody, not even the members of its own hierarchy. Such a system can be neither economically efficient on the one hand, nor moral on the other: its aim is power and domination; it built on the domination of the people by governing nomenclature, it exists due to the enforced passivity of the population, and it depends on power, which is a privilege in itself and is shared by the nomenclature with million of managers at the middle level. Thus, the aim of the administrative methods of the nomenclature is not the profitability of production or the achievement of social justice, but the preservation of its own monopoly of power and control. As applied to the West, the idea of “the managerial revolution” was developed by Burnham³⁵. He suggested that the leading role of managers (in contradiction to the role of owners) is limited to the economic sphere and is not connected to political power. However, the rise of a new ruling class in the former USSR is a phenomenon of another course, which also has little in common with the notions of “state capitalism” and "welfare state" due to the lack of public accountability.

Responsive government requires a bureaucracy based upon the principles of subservience to elected political representatives. This principle remains a central tenet of liberal democracy. While the American and Western European systems ostensibly adhere to the principle that the legitimacy of the civil service was invariably founded

³⁵Burnham, J., (1962).

on its subservience to elected politicians, Soviet and post-Soviet political structures functioned, and continue to function, very differently. The nature of the Ukrainian bureaucracy has subordinated, and continues to subordinate, the Cabinet to its secretariat - the *Apparat*, which in the Ukrainian context controls the policy-making process. The bureaucracy in democratic countries is a subordinate executive force. It services the state. The irremovability of officials, continuous promotion, guaranteed heightened pensions - that is the compensation the state gives to its servants, who receive lower wages than employees of similar rank in private organisations. Such compensation outwardly resembles the privileges of the dominant socialist nomenclature. But, in essence, Western-style officialdom and the nomenclature have little in common. Officials carry out the instructions of democratic state bodies on the basis of public accountability, while the nomenclature via the *Apparat* dictates its will to these state bodies by means of decisions, opinions and directions given to governing organisations.

Officials are privileged servants, the nomenclature – the autocratic masters. Moreover, permanent membership of the nomenclature is guaranteed by its formal procedure. Only the institution that appointed a person to a nomenclature post has the right to dismiss him. But the rule is that, on being relieved from one post, a person must be immediately nominated to another, and only the appointing body may nominate to the nomenclature posts. This is provided, of course, that he toes the party line - otherwise, he will be outcast. Thus, belonging to the nomenclature exists as a form of capital, despite changing roles, cabinets, and cars. As Marx wrote, a capitalist is not a capitalist, because he rules an industrial enterprise; on the contrary, he becomes a production leader because he is a capitalist. In any society - slave-owning, feudal, capitalist or socialist the product is created in the production process, overcoming all the expenses by its value, i.e. containing a surplus value. However, who exactly receives the surplus value under state socialism?

In 1991, when the USSR collapsed, Ukraine had better prospects compared with the other republics. In fact, in Ukraine the pre-existing state, the Ukrainian SSR, simply renamed itself and the same people continued to run the same structures in basically the same way as before. Two presidents and eight governments changed during the

years of independence, 1991 - 2000. Meanwhile, the successors of the Soviet State machinery in Ukraine continue to declare that surplus value is received by the state from workers who build the new national economy and that there is no question of any exploitation. Having collected all the surplus value, the nomenclature, or the state, acts as it thinks best to distribute it, deciding what should be spent on the wages of employees; what on education, social insurance and social security; and what on ensuring the nomenclature's bright future in the New World of the market economy. But, according to Marxist theory, the withdrawal of surplus value from a producer is exploitation. In Ukraine the surplus value is first taken into the common stock of the nomenclature state and is only then extracted from it. Consequently, it is impossible to find out how exactly what employees are being exploited by the given nomenclature official. However, it is clear that he exploits workers in the same way as a slave-owner exploited his slaves or a feudal lord his servants. The difference lies not in the fact of exploitation, but only in its form. In the space of 70 years, the nomenclature has derived a range of supremely efficient methods of exploitation, about which western capitalists may only dream. The nomenclature State is a monopoly in the sole charge of economic management. Where else can the state claim 90% - 98% of the profit - a planned deduction - from each enterprise in the country?

Since the 1930s the tax system in Ukraine has been oriented exclusively towards sustaining the monopoly of the nomenclature. It is charge of the colhoses (the collective farms), the sovghoses (the Soviet farms), and all the state industries and enterprises. As the employer, it establishes the level of wages in all enterprises. Direct taxation, naturally, loses its meaning and brings in only 10% of the state profit. The remaining 90% of the budget comes from "the national economy" as "planned deductions," – after allowing for planned expenses for the expansion of production, 90 percent of profit proceeds directly to the state budget. Moreover, there is also a tax on business turnovers, the rates of which are set by the state (from 40-70% of the sale price) and excise allocations.

A nomenclature functionary cannot legally receive ownership of a share of the stock, but he/she regularly receives an amount of goods, comparable with the payment of dividends under capitalism. There is some inconvenience in the possession of

collective property. Unlike co-operative property, one cannot buy or sell shares in a business. The only way to acquire shares is to be included in the nomenclature class (clan). The number of shares available increases or decreases in accordance with hierarchical position; banishment means deprivation of all shares, and of further participation in the ongoing privatisation programme.

The cheapness of the working force in contemporary Ukraine is determined by the level of development of the social structures and political system in the country. The low price of labour, under today's circumstances, resembles a colonial or feudal, slave owning principle of coexistence, which encompasses two very different levels of life - one for the ruling class (the colonisers, slave-owners, feudal lords or nomenclature) and another for the common people.

In the beginning, nomenclature clans were not various political or business associations. They did not need the support of political power or capital, because they themselves represented both. From 1960 to the end of the 1980s, the nomenclature in Ukraine consisted of three thousand "valuables" (the main nomenclature) and six thousand "jurymen" (candidates for the main group). As has happened in the 1960s in the USSR, when the processes of nomenclature corruption began, so in the 1980s, corruption in Ukraine reached the stage of repartition of State property. How did this happen?

One of the main reasons is that the planned economy in the USSR was not effective and, in 1970-1980, the process of active creation of illegal enterprises began. The organisers of illegal production - "cekhoviks" - gave a percentage of their income to influential members of the nomenclature who then turned a blind eye to the factories where the illegal production was taken place. Soon officials themselves began to organise illegal production at the state factories and then gained control over the shadow producers. By the end of the 1970s "cekhys" (illegal enterprises) operated in the USSR on a massive scale. The professional criminals, naturally, could not ignore this fact and tried to impose their control in order to receive a share of the illegal cake. However, the state militia, which depended fully on the nomenclature, began to catch them and to send them to Far East prison camps. At this point, influential criminals -

“thieves in the Law” – started to sabotage. All over the country underground factories were set on fire. “Cekhovics” suffered huge losses. These tactics appeared successful, and negotiations between criminal leaders and the nomenclature began. “In 1979, at a special meeting in Kislovodsk, the “thieves in the Law” and cekhovics reached an agreement. As a result of this agreement, cekhovics began to deduct 10 % of their profits into the common pot (“obschuk”)“ of the criminal leaders³⁶. “The thieves in the Law”, in turn, took on a set of responsibilities, such as the protection of underground businesses, participation in the sale of illegal goods, bribery of officials and the elimination of competitors and too curious citizens. In time, many criminals and “thieves in the Law” became “cekhoviks” themselves. This union of economic and professional criminality led directly to the creation of a “Russian Mafia”. Its further development took place according to the well-known script: control of the economy and corruption in the law-enforcement system spread all the way up, to the top of administration. In 1988, Vladimir Oleynik, the chief inspector on especially important affairs in the Central Prosecution Office of the USSR, asserted of Ukraine: “... Here we can encounter everything that we know only from Italian films. There are systems of shadow courts, banks, a system of mutual aid and a hierarchy of subordination. There are clans, or, if you want “families”. Incidentally, if we look at criminal cases, the “Dnepropetrovsk“ family has captured power in Moscow and Leningrad ...”.³⁷

After the collapse of the Soviet Union, the process of redistribution of the collective property of the nomenclature between separate clans speeded up and it is now continuing to the next stage – redistribution between individuals. Thus, these processes have led to a transformation of the old feudal, communist type of nomenclature clans into business associations of the capitalist kind. Today, it has become a process of transforming the communist state Mafia into private, capitalist clans, or in other words, a process of transition from feudal, nomenclature socialism to modern-day nomenclature capitalism.

The very cheapness of the workforce allows the nomenclature class to use competitive dumping in the markets of capitalist countries. However, there is an opportunity for

³⁶ Хоменко, О. (1998) *Blutnoys' Language*, Kyiv: Fort, v.2, p.265-266 (Хоменко О., Язык блатных, Киев, Форт, 1998, том 2, стр. 265-266)

³⁷ *Labour (Труд)*, 17.10.1990.

western employers to use forced, low-priced labour in Ukraine, for the hard currency nomenclature is ready to share part of the surplus value with western business. Joint industrial ventures are based on the well-known principle: western equipment + local cheap labour = sharing of profit between the representatives of the nomenclature, who ensured a reliable juridical framework and a very favourable tax regime, and western businesspersons. The process of disintegration of the state-Mafia's economic domination has begun, but simultaneously the objective change in its form is noticeable.

The World Bank's 1997 Development Report, entitled "The State in a Changing World", singled out Ukraine's Apparat of the Cabinet of Ministers (which continues to function as the Secretariat to the Ukrainian Cabinet of Ministers, and numbers 800) to exemplify, "in the extreme", problems which arise when the relationship between the government and its bureaucracies is poorly defined, resulting in "confused and overlapping responsibilities and multiple, rather than collective, accountability". According to the report, following independence in 1991, a central machinery of government was established which reflects many of the features of the former Soviet system. Decision-making remains highly centralised. The Apparat of the Cabinet of Ministers has retained responsibility for policy formulation and co-ordination and directs the activities of central government departments. The Ukrainian nomenclature rejected Marxist-Leninist ideology easily and painlessly, because its essence – the preservation of its economic and political power - was not strongly shaken and much the same methods of non-economic compulsion were retained.

In practice, the process of legalisation of the true proprietors of Ukraine's state industry - through the reconstruction of the nomenclature Mafia into private clans - was actually realised through a more extensive inclusion into the nomenclature clans of representatives of criminal structures. The best evidence of such a confluence is the transition from state terror to that of criminal domination. The growth of criminality and the intensive use of criminal groups for solving problems with business partners, as well as with political opponents, is evident on the contemporary stage. We have to keep in mind, that in spite of the privatisation of 60% of enterprises, 75% of key assets still belong to the state and the struggle between clans to privatise them has only now

begun³⁸. In the ranks of the nomenclature are 240,000 people's deputies, who enjoy personal impunity under the law. To become a people's deputy in Ukraine means to become "untouchable"; thus, competition between rich criminal leaders for this status is enormous: even if you kill somebody, the police cannot institute proceedings against you unless they obtain a special decision of the Parliament (Verhovna Rada).³⁹ Meanwhile, prisoners now have the right to vote for deputies and elect a president: 240,000 prisoners have become a source of power and can give their votes for people whom they trust. If in civil life, the vote of a pensioner costs from 20 to 30 Hrivnas, in prisons the price is cheaper and the right to elect has given a fresh impetus to corruption in the prison system rather than simply contributing to the process of democratisation. As already mentioned, it sometimes happens that a rich criminal on the list of candidates for People's deputies appeals and asks prison leaders to convince inmates to vote for him. Each supportive vote costs money and the "blutnoys" desperately try to force other inmates to vote for certain candidates necessary. For example, they bribe the rest of the prisoners with cigarettes and food or pay, ranging from 10 to 15 Hrivnas for a vote. If this does not work, the most reluctant inmates become subject to acts of oppression. In addition, the prison administration also has obligations to higher bodies during election-time and it uses the same methods to promote, not a criminal, but a candidate from the nomenclature. Conflicts of interests sometimes arise, but usually the group that collects the majority of votes is the one, which delivers the greater amount of food (cigarettes, tea, alcohol, drugs etc.) more for the prisoners.

One method of privatisation, for example, is use of the "advanced" banking system. All social payments in the country must go through the National Bank of Ukraine (NBU). In accordance with a Decree of the President Leonid Kuchma, the NBU set up a system of priority payments; i.e. defining who, and for what purposes, should receive money first. Such a situation, on the one hand, gives an opportunity to use accumulating money to grant credits to "friends", and on the other hand, it leads to

³⁸Stoyakin, V., *Ukrainian Problems*, #1, 1997 p. 70. In 1999 the situation had not changed – some enterprises were re-nationalised and some privatised, but the balance remained the same.

³⁹ For four months in 1999, impunity for local deputies was cancelled by Parliament. In this short period, nearly 500 deputies were prosecuted and 280 were sentenced to imprisonment, and even to death for assassination of their political opponents. Some of them are known criminals and ex-prisoners. But before the presidential election in October 1999, the same Parliament restored impunity to the local deputies.

delays in the payment of wages and social benefits. Besides, workers who receive their wages with a half-year delay, have to turn for help to the employees of enterprises already privatised by representatives of the nomenclature, who receive credit thanks to the state workers' delayed payment and poor wages. In 1999, after nine years of reforms only 5% of the means of production were in private hands. Nothing has really changed. The main type of property is the so-called "collective property", which is, in fact, the property of nomenclature members – in particular, the directors and state managers of enterprises. Moreover, contradictions between the legal juridical and actual ownership of property has created a new feature – the shadow redistribution of property, whose main characteristic is the deliberate bankruptcy of an enterprise and the sale of it to a "close friend", thereby removing all ordinary shareholders from the administration.

Ukrainian privatisation gives numerous examples of impunity and solidarity among the nomenclature. For example, in December 1992, Parliamentary Deputy Les Taniuk accused senior officials in the Ministry of Culture, including Minister Larysa Khorolets, of selling off national treasures and pocketing the money. The Cabinet of Ministers' investigation of the Black Sea Shipping company discovered "numerous financial violations", including the sale of ships to German companies for personal gain. Both items were referred to the General Prosecutor's Office for investigation, after which the accusations were never heard of again.

Ukrainian officials seem to be trying to blackmail the G-7 for billions of dollars in support before it will close the Chernobyl plant. "Even the most optimistic forecasts count the total bill for the clean up, social services and lost revenue, at about ten times Ukraine's gross domestic product of \$35 billion⁴⁰." According to independent analysts, in just ten years Ukraine received from foreign sources nearly \$2 million per each person deported from the 30-kilometre "nuclear" zone around Chernobyl, but due to corruption at each level of redistribution of the resources, the state now has no money to provide the necessary free health services for these people. Moreover, since 1986, Ukrainians have paid tax to the Chernobyl Ministry (15.6% for "liquidation of the consequences of the Chernobyl disaster"), but little has been done. Two million people

⁴⁰Intelnews business journal, 22.4.1996.

have now died as a result of radioactive pollution in Ukraine⁴¹. Since 1991, 910 cases of thyroid gland cancer among children and teenagers have been registered. At the same time, former Chernobyl Minister Constantine Masyk's charity, "Ukraine-Chernobyl", was used as a sham to siphon money from the Chernobyl Ministry for the personal enrichment of Masyk, his family and friends. He was forced to resign, but never had to repay the money. Instead, he was rewarded with an ambassadorship to Finland.

V. Stoyakin⁴² describes the structure of contemporary clans in Ukraine, as uniting a range of elites: (1) political (the state administrative and party nomenclature); (2) the high rank administrators of the regional economies; (3) financial (the new bourgeoisie, who as a rule, are former Communist Party functionaries or criminal leaders); and (4) the criminal elite, which has an interest in influencing political and state structures.

The criminalisation of social space has contributed to the union of the 2nd, 3rd and 4th groups. In practice, only such unions prosper. Differentiation within clans arises from the control of territory. The political interests of any clan now lie in the creation, through the present political and administrative structures, of the most advantageous conditions for their "own" industry. At the moment, the most powerful clans in Ukraine are those of Dnepropetrovsk and Donetsk, which control more than 50% of the industrial potential of Ukraine.

After Brezhnev's death, the power of the Dnepropetrovsk clan was slightly reduced, however, it rapidly reconstructed itself, though on a smaller scale. The current president of Ukraine, Leonid Kuchma is clearly one of its leaders. In Russia, the leader of the transformed Dnepropetrovsk clan is the well-known "godfather" of the Russian Mafia Joseph Kobzon, who is one of Mr. L. Kuchma's close friends⁴³. Despite the fact that President Kuchma campaigned in 1994 on an anti-corruption platform, little has been done in this area and the president himself is in violation of anti-corruption laws by refusing to file personal financial statements. The clan's overt manipulation of Parliament, as a result of which the central organs of government increasingly

⁴¹ Intelnews business journal, 22.4.1996.

⁴²Stoyakin, V. (1997) The Structure of the organised Criminality, The Ukrainian Problems #1, pp. 70-72 (Стоякін В. Структура організованої злочинності// Українські проблеми #1, 1997, с. 70-72)

⁴³День (The Day), #129, 25.07.1997

resemble the Central Committee of the Communist Party of Brezhnev's time, has turned this clan into the subject of visible politics. It has its representation in Parliament⁴⁴: the deputy groups "Єдність" ("Unanimity") and "Громада" ("Community"), The People-Democratic Party, The Inter-regional Block for Reforms. Meanwhile, into the latter is included the president's "pocket" party - "The Ukrainian Union of Industrialists and Businessmen⁴⁵".

The Donetsk clan foresaw a situation in which they could make enormous profits, and (under Leonid Kravchuk presidency⁴⁶) organised the independence of Ukraine. Ukraine became an independent country as a result of the activity of members of the republic's nomenclature and of Mr. Kravchuk personally, all of whom were scared by the democratic processes which had taken place in Moscow (August'91). The final "act of divorce" was supported by the people, after massive nationalistic propaganda, through a referendum four months later, in December '91. In these four months "iron" communists became "pure" nationalists and this permitted the Ukrainian nomenclature to preserve their power in the state. Leonid Kravchuk has never been questioned about his order for the political imprisonment of Rukh⁴⁷ leader, Stepan Khmara, in July 1990. Although Kravchuk lost the presidency to prime minister Leonid Kuchma in 1994, he was elected as Ukraine's first president on December 1st 1991, paradoxically on the same ballot in which 90% of Ukrainians voted to free themselves from the USSR. Under Mr. Kravchuk's presidency, the apparatus of national government grew by seven times and now (in 2000) consists of 5,000,000 state managers and civil servants, however, general production has simultaneously fallen to 18,3 % of previous output, and GDP to 32 %, compare with 1990. Meanwhile, during the four years of World War II Ukraine lost 40% of its economic potential, but not 68%, which recent reforms have caused. At the moment Kravchuk is a deputy in Parliament - as is Khmara - and he still is well-liked by the public. Moreover, in spite of an official income nearly \$20 000 per year during his presidency, Mr. Kravchuk today gives to charity much more money than prosperous businesspeople. For example, George Soros personally donated \$15 million for different projects in 1996, but, according to the Ukrainian press, he was

⁴⁴Among 432 Ukrainian parliamentarians, nearly 80 are known to be members of the Dnepropetrovsk clan.

⁴⁵L. Kuchma was its chairman.

⁴⁶From 1991-1994 three of four Kravchuk's deputies were from Donbass (the territory of the Donetsk clan).

⁴⁷"Rukh" - literally "movement" for Ukrainian independence, a nationalistic party.

only in sixth place. Mr. Kravchuk was in the second place after the banker Sergiy Tygipko of “Privatbank”. Mr. Tygipko is currently deputy prime minister to Mr. Kuchma, who was recently (1999) re-elected for a second term.

The present Donetsk clan consists of the association of a number of political forces under the leadership of Yevhen Marchuk. Marchuk, formerly a general in the KGB and head of the 5th Department⁴⁸, has been promoted administrator of the new clans from members of the Ministry of Interior and the Security Service of Ukraine. Thus, it is easy to predict that the current reinforcement of these structures (nearly one million employees) in the context of the corrupted state will unavoidably lead to the elimination of political opponents using by the legal means of the state. For example, before the General Election of 1999, investigation suddenly began into the commercial activity of the corporation, United Energetic Systems of Ukraine, due to its evasion of taxation. This company was part of the financial basis of the Dnepropetrovsk clan under the leadership of Pavlo Lazarenko and Yulia Tymoshenko. The economic bases of the Donetsk clan are the obsolete metallurgy factories and coal mines of the Donbass region. This clan is economically very much linked to Russia. Therefore, its current ability to operate independently of Russian policy is extremely limited. The creation of a puppet, pro-Russian, government, as is already happening in Belorussia, was the most likely outcome in the case of a positive outcome of the election for the Donetsk clan. One of its leaders, the chairman of the Liberal Party Yevhen Scherban and his wife had been assassinated in Kyiv airport in 1996. However, under the guise of Liberal ideology a new Liberal Union was created, which became the first political association to base their manifesto on the results of “sociological analysis”. The Liberal Party sociologists produced a number of forecasts to influence public opinion. In turn, other parties learned from the experience and created opposing sociological centres, where well-paid “sociologists” optimistically “predicted” the election of their employers. Of course, the overwhelming majority of these forecasts were, and are, false, but the state-subsidised agencies act in the same way. Thus, we have three types of statistics: (1) for internal use only (closed); (2) for the general public (open); and (3) for international organisations such as “The Council of Europe”.

⁴⁸ 5 Department of KGB investigated internal affairs (organised crime and political opponents).

The other six regional clans did not take part in the 1999 election. Due to their economic backwardness, they supported one of these groups, or even, in order to be on the safe side, both of them.

Among the 2,000 stable criminal groups in Ukraine, only 20 (the strongest and most numerous) are included in the nomenclature clans. The vast majority of them began their activity through the extortion of money from co-operatives and merchants. Connivance and bribery of the police in the street and judges and prosecutors in the courts, permitted them to make a start and accumulate cash, which was loaned for high rates of return, and which was then violently extorted from imprudent merchants. As early as 1994 they became strong enough to unite with the local bureaucracy of the State Executive Branch and now, in many regions of Ukraine, they control the distribution of the regional budgets. A great number of industrial enterprises are directly controlled by the unions of the nomenclature with racketeers, because during the period of galloping inflation in 1992-1995 only these people had the funds to buy up privatisation certificates from the population. Enterprises which they bought for trifling sums at auction, are often the main source of income for the population of entire cities. This step gave organised crime ability to control and supervise the administration of entire regions and guarantees total impunity for its members.

The bureaucracy of the Ministry of Defence of Russia played an essential role in the development and intensification of the "Shadow State" in Ukraine, when the Ministry civilianised thousands of Ukrainians in Russia, who were expert in all types of military operation. Today, a rich racketeer, transformed into a respectable businessman, can choose and hire former saboteurs and demolition experts, intelligence officers and counterespionage specialists, as well as experts in all types of special signal services and in all categories of weapons. It became known that specialists dismissed in 1992 were looking for work in such number that it was possible to arrange competition between them and to employ the best. The Ukrainian Ministry of the Internal Affairs also showed the same picture of black ingratitude towards retired experts and the pensions offered were also extremely small. But the hidden insult to former experts, stigmatised by poverty, has already demonstrated its response in the last seven years. Fifteen years ago, exactly the same people organised revolutions and unrest all around

the world. Many of them were made redundant and now receive such tiny pensions that it is naive to believe that some of them will not use their knowledge and experience for private ends. Many claim that the state betrayed them and they now have to take care of themselves.

Western analysts have long considered the Sicilian Mafia and the Hong-Kong Triads as the criminal organisations most integrated into official state structures. However, a process which took the Sicilian Mafia several decades to achieve has been accomplished by Ukrainian organised crime, in union with nomenclature-Mafia, accomplished in a period of just seven to eight years. To a great extent this is due to the better educational potential of racketeers in Ukraine, even the provincial ones, compared to that of Italian herdsmen or Chinese peasants. Today, the most predictably successful, in terms of intellectual possibilities and forthcoming expansion, is the structure known widely in the West under the general name of the "Russian Mafia". The Ukrainian branch is its most active subdivision.

Organised crime all over the world has two principal types of internal structure. The first is the well-known hierarchical, highly disciplined organisation of the military type. Everything within such an organisation is created according to military design - from general to private. The second is the team of contract-workers. Professional organisers hire a team for one action, after which the team usually disbands. In practice, both schemes can overlap each other. However, the characteristic feature in all countries is the inability of the state security agencies to confront well-organised, "highly intelligent" criminality. Groups of systems-minded people, who manage the conspiracy and have some financial resources, can do anything they want: steal money from bank accounts, assassinate political leaders, put pressure on statesmen in order to get profitable state contracts, or peddle drugs. If they succeed in getting the support of the leaders of the Executive Branch, then they have a completely secure existence, (unless they commit acts regarded as extraordinarily provocative: for example, child prostitution or the mass rape of nuns) and public pressure forces patrons to turn away. Without support in high offices, the police will root out a criminal group by all possible means. However, if they are the kind of people, who now operate in Ukraine, then nothing is a threat to them. The recent disappearance of former prime minister

Pavlo Lazarenko, who was granted a secure escape to the USA (1999) in spite of the open criminal cases in Ukraine and Switzerland (for corruption, theft from state funds and money laundering) is a good example. His family now live in the USA, own a big private house (worth \$6,75 million) and Ukrainian financial experts evaluate his personal fortune at between \$200 million and \$300 million. At the moment, the USA authorities are ignoring requests for his extradition.

However, the worst surprise for Ukrainians has become the new birth of a generation of professional criminals - intelligent sons from prosperous families of the new bourgeoisie. They combine university degrees, foreign languages, and knowledge of all aspects of informational technology with a postmodern absence of moral restraint - these are not maniacs like Onoprienko⁴⁹ or punks from the bottom of the social strata. They are “good guys” with elegant, reserved manners who will organise the elimination of ignorant racketeers of the older generation. When the privatisation of key assets comes to an end, “legalisation”⁵⁰ will inevitably follow, and then an enormous army of qualified murderers and ignorant racketeers will become redundant. “Good guys” look at traditional criminals with indulgent bewilderment - how could these “red neck” make “serious deals” without advanced professional qualifications? Law-abiding, polite employees must replace them! The corrupt, poorly educated Ukrainian police already cannot cope with these new men, nor can the highly qualified personnel of the Security Service of Ukraine. In addition, Ukraine has to face transnational markets and international bureaucracy without any real democratic accountability.

In the very near future, Ukrainian criminality will develop intensively. If the current evolution of Interpol and the national police forces has been falling behind the development of criminality for nearly 10 years, then the post-Soviet break will throw it back for 20-30 years. Ukrainian students now actively engage in computer fraud through the Internet. In the next five years, they will prove themselves on the fiscal markets, from New York to London. What these junior specialists have already created

⁴⁹Who killed 52 people.

⁵⁰This has already happened in Poland.

cannot even be so classified in Ukraine - it is clear that it is a crime, but often it is not mentioned in the Criminal Code. Thus, no crime - no punishment.

In addition, it is impossible to collect any information about representatives of the new generation, who decide to stay in the country, because they never “light up”. They avoid any contact with stable criminal groups. Thus, the existing vast net of informers in Ukraine is unable to identify them⁵¹. Moreover, even if the police succeed in the enlistment of someone from among these clever lads, they will inevitably lose anyway. New technicians will deliver misinformation of such a high quality, that it will again become possible for them to manipulate the police at their own discretion. The new generation of Ukrainian “postmodernists” are used to double-cross and even triple-cross games in which they try to benefit from all sides. Of course, some of them will join the Mafia, but the great majority of these “freethinkers” prefer to avoid any submission to a group.

The slow pace of change in Ukraine has frustrated most international development professionals. Marc Faber the emerging markets expert (World Bank), visited Ukraine in the mid-nineties and this visit became the subject of his November 1996 so-called “Gloom, Boom and Doom” report. “In case some of our younger readers missed the joy and marvel of personally experiencing the old bureaucratic communist system of twenty or so years ago”, Faber wrote to investors, “... a visit to contemporary Kyiv will bring you a very similar encounter. In my opinion, more so than any other present or former communist society - Cuba and North Korea included⁵²”. A German businessman, who visited Ukraine in January '99 told a correspondent from the Day: “I am very disappointed with my stay in your country. Ukraine is not a European country. The officials take bigger bribes than those in Africa.” According to the recent poll (1998), 48,5% of the population thought that real power was largely in the hands of criminal structures⁵³. To illustrate contemporary poverty in Ukraine, the current situation can be compared to the US depression in the 1930s. At the low point of the depression, the US experienced a contraction in GDP of about 33%. Ukraine's

⁵¹In 1998, police and SSU informers provided information for 16,000 criminal cases.

⁵²Intelnews business journal, 2.12.1996.

⁵³V. Matviyenko, *How Ukrainians feel a year before the Presidential Election*, The Day, #40, 10.11.1998

contraction at the beginning of 1999 had reached more than 68%⁵⁴ and since that time the situation has become much worse. Moreover, these figures obviously start from a very different standard of living in the first place.

The Council of Ministers' *Apparat*, which currently exists in Ukraine, is essentially a reincarnation (or perhaps it is more accurate to call it a perpetuation) of the old *Apparat* of the Council of Ministers of the USSR. However, while no changes have occurred here, the bureaucracies continue to operate in an unreformed manner and the old style nomenclature continues to dominate all governmental structures. A parallel structure, responsible for ideology and economic issues, namely the central Committee of the Communist Party and its Secretariat, were eliminated after the collapse of the USSR. The Council of Ministers was subordinate to the Council of Ministers' Secretariat, acting only as an appendage of the party nomenclature in implementing the party's dictates. Antithetical to the Weberian notion of bureaucracy, whereby bureaucrats are subordinated to elected officials, the party apparatus – the nomenclature - directed the government. In the Soviet Union, real decision making took place in the party's Central Committee and the corresponding ministries in the government only supervised the implementation of party directives; the secretaries directed the ministers, not the other way round. The ministers had no power. The situation is still quite similar in Ukraine. With a great deal of power remaining in the hands of the apparatus, it is not surprising that the current institutional arrangements still subordinate the council of ministers to the Ukrainian *Apparat*.

The fact that Ministers lack a public constituency is compounded by the fact that to secure their positions, they, in turn, need to satisfy the unelected nomenclature members in the *Apparat*, not the voters. There are two ways in which the Ukrainian *Apparat* can plausibly create obstacles to the implementation of reform measures. First, the Ukrainian *Apparat* stands between the line ministers and the Deputy Prime Ministers, who sanctions the *Apparat's* interference in a minister's affairs. The *Apparat* controls all communication between the Deputy Prime Ministers and the line ministers. A minister wishing to undertake an initiative must, after seeking approval of the appropriate Deputy Prime Minister, pass the initiative through the *Apparat*, which can

⁵⁴Intelnews business journal, 9.01.1999.

be described, even today, as an unaccountable, Soviet-era style, command structure, which can effectively set the government's agenda by controlling deadlines and timetables. One result is that the *Apparat* can issue draft resolutions without a Minister's consent or knowledge. This experience can prove very frustrating for reform-oriented ministers attempting to implement their designated programmes. The second problem is that the Ukrainian *Apparat* exerts control over the wording of decrees issued by the Cabinet of Ministers. The *Apparat*, as the secretariat, can "finalise" (in effect alter) the wording of cabinet decrees before they are signed by the Prime Minister. This allows the secretariat/*Apparat* to effectively undermine the intent of a Cabinet decree by 'watering down' or altering the intent of the document.

For example, during his anti-corruption programme, "Operation Clean Hands", former Justice Minister Sergiy Holovaty accused the *Apparat* of stalling the implementation of his Ministry's anti-corruption package (OCH) and paralysing his ministry by overburdening it with paperwork. Mr. Holovaty stated that a ministry is not in control of its own agenda, not even with respect to its own initiatives. His sentiments clearly seem to be symptomatic of the problems identified above. Following his dismissal, Holovaty stated publicly that the whole time he was minister, all his reform ideas ran into the wall of bureaucracy created by the *Apparat* headed by the Prime Minister. He further stated that this bureaucratic machine has in fact ruled the country for years, making null and void all the reform efforts of previous prime ministers. As a minister, Holovaty worked closely with President Leonid Kuchma to formulate OCH. However, once President Kuchma had decreed the programme, it went to the Cabinet for implementation. Former Justice Minister Holovaty reported that once the implementation plan had been drafted - complete with a timetable and a list of ministries responsible for implementing each measure - it had been significantly 'watered down' by the *Apparat*, despite his objections. Holovaty then became locked in a bitter struggle with Acting Prime Minister Vasily Durdinets, whom he blamed for lacking the political will to strengthen the *Apparat's* version of the Cabinet regulation, and the *Apparat* itself for drafting such a weak version of the resolution. President Kuchma, according to Holovaty, could also have nullified the resolution, but chose not to.

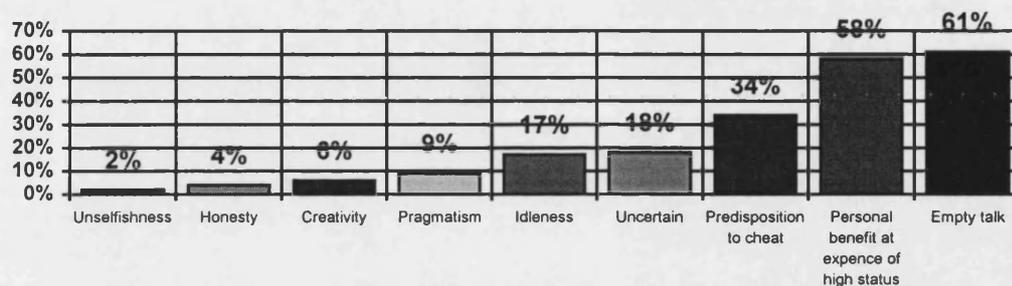
The importance of public administration reform cannot be understated, given the inefficient and undemocratic nature of the nomenclature. Arguably, like some of its East European neighbours Ukraine needs to speed decision-making and the implementation of modern ideas. Delineating the responsibilities of the secretariat and the ministries, and ensuring that ministries have control over implementing their own agendas, will be a difficult but critical reform. In May 1997, President Kuchma vetoed a "Law on the Cabinet of Ministers", which according to the draft would have: (a) reduced the powers of the *Apparat* to providing organisational and logistical support; (b) enhanced the power of ministers to control their agendas; (c) significantly reduced the number of ministries and national committees to between 30 and 40, from the current 86, and reduced the Cabinet to a maximum of 25. This may have facilitated more coherent decision-making in cabinet. On another note, the law would have allowed parliament to confirm all Ministerial appointments (although it is uncertain that the latter would have held up to in the face of a challenge in the Constitutional Court). However, after his re-election in 1999, it looks as if President Kuchma has finally started the implementation of administrative reform. During the year 2000, nearly 300,000 state servants will be dismissed and the Cabinet of Ministers will be reorganised.

The necessity of a reduction in the role and size of the controlling bodies is obvious. Under supervision of the *Apparat*, the productivity of registered labour in Ukraine (taking an average indicator of EEC countries in 1996 as 100%) is 16%. In Poland it is 31%, in Slovenia - 48% and even in Russia the figure is higher than in Ukraine - 27%. Incidentally, in Slovenia there is an active "law of clean hands", according to which nomenclature members are forbidden to hold high positions in new governmental institutions. The figures show that the efficacy of labour is higher in countries where more people, with no experience of nomenclature work, take administrative and managerial positions as a result of democratic change. However, in Ukraine today there is no successful official or business person who has not experience of "the school of nomenclature". The first and second Ukrainian presidents were elected from among the former Soviet nomenclature which was formed from the party cadre. In Ukraine, a privileged caste, has emerged once again, exactly as it had been during the Soviet

times, only now we know the same nomenclature members as “oligarchs”. Whereas the bulk of the populace is living barely on the breadline, thinking of nothing else but survival, a small group of people is making superprofits. The current government's social policy undermines people’s confidence in the state; it is conducted under democratic mottoes and thus discredits the very idea of democracy.

The Ukrainian Press has published the results of public opinion polls, which to some extent demonstrate the alienation of the population from those in political power.

Table 2. What personality traits are attributed to Ukrainian politicians?



Source: The Day, N118 (164) 10.07.1997.

Among the factors which relate to interpersonal trust, the most important are honesty, competence, tolerance and openness. However, Ukrainian social and economic policy processes are extremely closed. That is, all important decisions are taken behind closed doors by representatives of regional clans and the population has limited power to affect the strategy for developing the country. Closed policies led to the following open results: permanent decline in all areas of life and the development of the shadow economy. To restrain criminal structures, the Government constantly enlarges the quantity of repressive bodies. Their number reached 18 in 2000. Members of ten of them have the right to carry and use weapons, but the law regulates only activity taken by the police⁵⁵. Such facts increasingly diminish people's trust in their own State. Intolerant measures have led to the current situation - Ukrainians have their own country, but are totally alienated from the State.

To sum up this section's arguments, since 1991, the nomenclature has continue to play a powerful role in preventing economic reforms and has greatly contributed to the

⁵⁵ Зеркало Недели (Weekly Mirror) #51 (272), 25.12.1999

failure of the ideological transformation to a market economy and democracy. The *Apparat*, the unwieldy secretariat to the Council of Ministers, has played a strong role in stifling economic reform. According to public opinion polls, if in 1991 only 6% of the population wanted a return to the Soviet times; in 1999, more than 50% had regrets over the collapse of the Communist system.

2.2. Social security and the shadow economy

At the time of writing, 550 group categories in Ukraine had the right to use social facilities or to receive benefits. In such categories, the government includes 150,000 Afghanistan War veterans, 3.5 million injured as a result of the Chernobyl disaster (among them 350,000 “nuclear cleaners” and 95,000 invalids), and a substantial quota among the 15 million pensioners who have special merits in the eyes of the state and are called “veterans of labour”. There are two million invalids among pensioners, 500,000 elderly people living alone, and 49,000 in geriatric hostels. According to a recent analysis, nearly one third of the population in Ukraine have the right to use free governmental facilities. This data excludes people who receive housing benefit and people who receive extra payments from their former enterprises. In all, 90% of the Ukrainian population can exercise a right to some benefit. However, these benefits are so miserable that, in practice, they cannot help to solve social problems even if a person realises what his/her rights are.

In 1991, people paid from 12% to 20% of the real price of housing costs – the rest was paid from public funds. In 1995, the payment for housing costs rose by 91%. In 1996, it rose again by 107%. Since August 1996, people in Ukraine were forced to pay 80% of the real price and only 20% was paid from the state budget. However, the level of taxation is the same as in the Soviet times. In 1996, Ukrainians paid, on an average, 39 Hrivnas a month for a one-room flat, 68 for a two-room flat, and 97 Hrivnas for a three rooms. Deputy minister of Labour, Eduard Andryuschenko, admitted that the average salary in Ukraine in 1996 was nearly 140 Hrivnas⁵⁶ (£47) a month and, to survive, people had to reduce their basic needs to the minimum. In 1999, the population started to pay 100% of the price of housing costs, but the average income dropped to 90.7

Hrivnas per capita⁵⁷ and, due to inflation, the purchasing power of the Hrivna has fallen by more than 200 percent.

The minimum cost of living in Ukraine in 1996 was, according to the official bulletin, 57 Hrivnas a month and by 1.01.1999 it had risen to 97. The minimum monthly old age pension is 15 Hrivnas. The average pension is 50 Hrivnas, but the average level for former a nomenclature worker is 149 Hrivnas. Under such financial pressure, 2.2 million relatively healthy elderly people continue to work. But who are the “relatively healthy”, if the average life expectancy in Ukraine is 58 years? With a few exceptions, they are former employees who did not work in the hard conditions of an unhealthy trade. For example, the average lifetime of a miner in the Donetska region is only 36 years, but the average age of a state manager is exactly 58 years old. The government, with reference to the experience of developed countries, has begun work on a plan to increase the pensionable age to 65 years for men and 60 for women. Such “care” has caused social indignation (especially in the light of the references to the Japanese experience, where the average lifetime is 86 years), because this project is beneficial only to bureaucrats, since it will prolong their legal entitlement to stay in power. Non-bureaucracy employees, even if they survive to their 60s, are mostly unable to work-full time and need special medical treatment.

The population of Ukraine had decreased to 49,800,000 people on 1.1.1999. Since the Chernobyl disaster, the death rate has been higher than the birth rate. In general, Ukraine has lost 2.5 million residents over the past nine years of independence. Budget subsidies supply only 40% of the national health service's actual needs and a physician receives an average of 122 Hrivnas a month, slightly above the lowest-paid category of “cultural workers”. The main causes of death in Ukraine are blood diseases and cancer, which have risen since the Chernobyl disaster (table 2). In the last three years, for every 100,000 children there are 1,130 invalids (total –141,000, compared with only 140 in the USA). Only 11% of boys and 18% of girls leave secondary school in good health⁵⁸.

⁵⁶1 £ = 3.04 Hrivnas, \$1 = 1.85 Hrivnas (1996), on 1.01.2000 1£ = 9.15 Hrivnas and 1\$ = 5.70 Hrivnas.

⁵⁷ 1.02.2000 the average salary was 200 Hrivnas (£21) and the average pension was 60 Hrivnas a month.

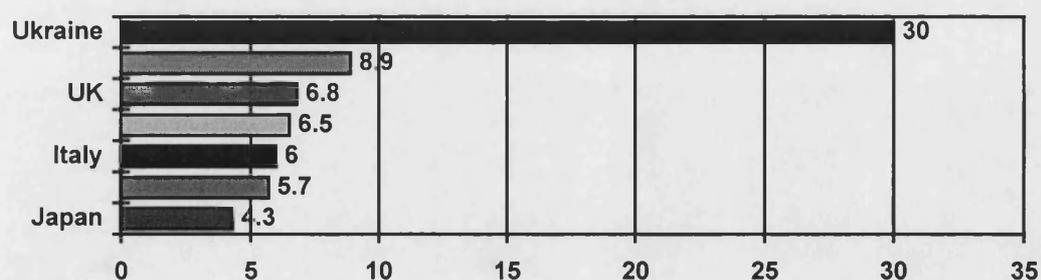
⁵⁸ The Day, #47, 29.12.1998

	1995			1996		
	%		/100000	%		/100000
Blood diseases	56,4%	436,040	849,7	57,4%	450,274	882,9
Cancer	13,2%	102,052	198,9	12,7%	99,625	195,3
Accidents	10,7%	82,724	161,2	10,4%	81,583	159,9
Lungs diseases	5,7%	44,068	85,9	5,7%	44,714	87,7
Gastrointestinal diseases	2,9%	22,420	43,7	2,8%	21,965	43
Suicide				1,6%	12,750	25
Infections	1,3%	10,051	19,6	1,4%	10,982	21,5
Children below age of 1 year				0,8%	6,844	13,4
Murder		4,783		0,6%	4,692	9,2
Other (missing data)	9,8%	75,765		6,6%	50,928	
TOTAL		773,120		100%	784,450	

For every 100,000 of the population able to work there are 14,000 registered pensioners. This puts Ukraine to the top place in the world in terms of this vital burden. However, 30% of working people earn the minimum state pension after retirement (15 Hrivnas a month) because of very low wages. According to estimates (1.12.1996) by specialists from the Social Welfare Ministry of Ukraine, 3% of working people will earn a monthly pension of 15 Hrivnas, 15% will receive 45 Hrivnas, and 15% have the right to claim the state pension of 75 Hrivnas a month (the minimum cost of living) or more. All other members of the working population (67%) will receive a state pension of between 15 and 45 Hrivnas per month.

In contemporary Ukraine, the discontinuity between poverty and prosperity is very deep (table 4). Between these two extremes there is practically no link, because the middle class with sufficient legal income is very small.

Table 4. Discontinuity between poverty and prosperity

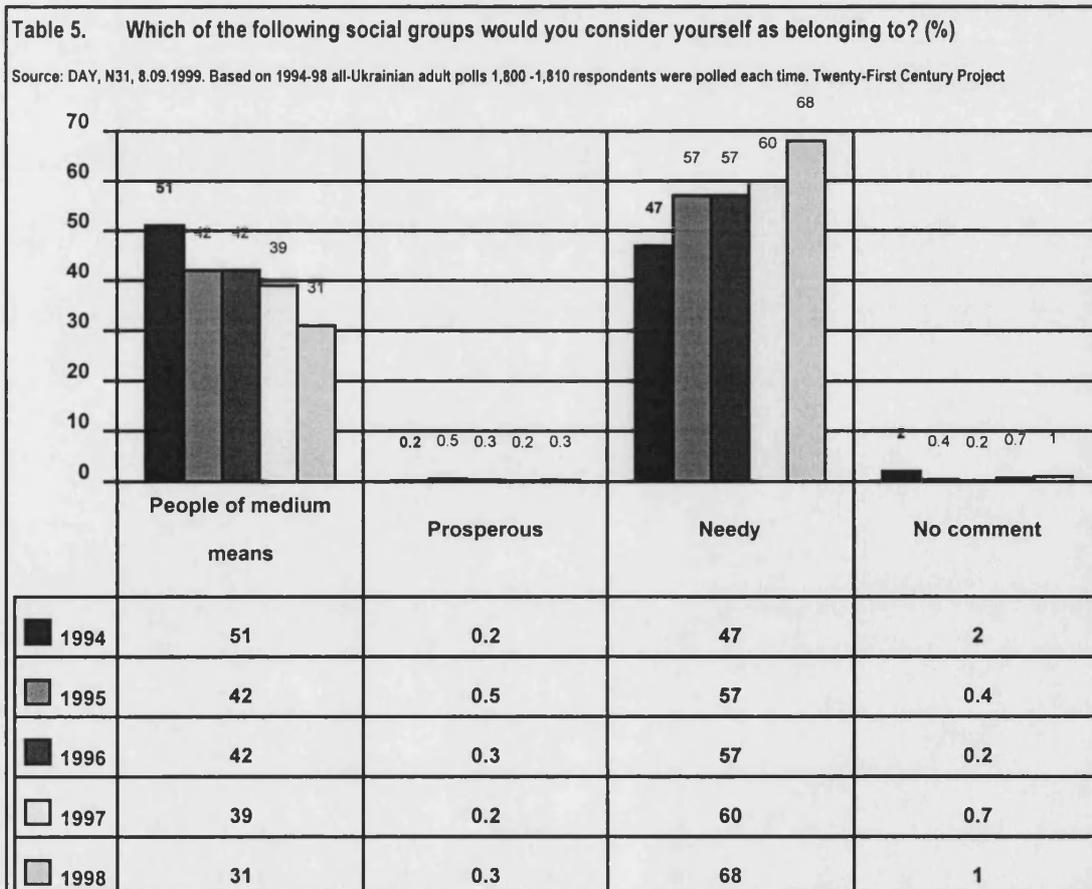


The discontinuity between poverty and prosperity, or the ratio of income between the bottom 20% and the top 20% of the population, is relatively low in developed countries. In Britain it is 6.8, in France 6.5, in Italy 6.0, in Germany 5.7, in the USA 8.9, in Japan - 4.3, but in Ukraine it was nearly 30 in 1996⁵⁹. These figures reflect the

⁵⁹Голос України (Voice of Ukraine), # 231, 10.12.96

living standards, the level of life expectancy and the opportunities, which are open to citizens. The higher the standard, the lower the ratio: consequently, the relationships between people on the opposite ends of the scale of income and property are more tolerant of each other, and there is more scope for conflict resolution.

From the table 4, we can see that in 1998 the number of people in the middle class layer amounted to 31% which on the face of it, is not so bad; however, it has to be kept in mind that, to protect their dignity, some people report that they have an average income both if they earn an average salary or have a sufficient illegal income. At first sight it was possible to think that the dream of sociologists and political analysts had finally come true and Ukrainian society had formed a middle class. Unfortunately, this class is almost completely criminal. By the end of 1998, the average legal income in Ukraine per capita had declined from 150 Hrivnas a month in 1996 (£48) to 91,7 Hrivnas (£16) per month, but sale of exclusive western made goods is growing daily.



At the same time, people were asked how their worst feelings had changed during the 1996-1998 period. Table 6 shows that these feelings, which we consider as opposite to the notion of tolerance, have been intensifying.

	intensified	reduced	Not changed	Hard to say
Exasperation	87%	3%	7%	3%
Indifference	63%	10%	19%	8%
Envy	66%	3%	21%	10%
Irritability	80%	3%	3%	6%

Source: Kyiv International Institute of Sociology, 1,547 respondents were polled. Day #90, 16.05.1998

In Ukraine the mandatory tax payable to the state Pension Fund is 37,5% of the profit of any enterprise. The Pension Fund has suggested that inflow to the fund from enterprises from month to month has become smaller. Consequently, the social strain in many regions is being reinforced as a result of default in the payments of state pensions and benefits. In some regions, pensioners did not to receive their pension for 3-7 months. Due the to backlog in payments to the fund, the debt has increased in all regions. According to official data,⁶⁰ in 1996 the total sum of arrears increased by 847.3 million Hrivnas and amounted 1507.1 million (by 1.01.1999 this has improved slightly to 1,248.4 m). The largest arrears owed to the Pension Fund were from the capital goods industry – 925.4 million Hrivnas (67,1%). Agricultural enterprises (collective farms and Soviet farms) owed 359 million Hrivnas (23,8%) and budget institutions owed the fund 94,4 million Hrivnas (6,2%). The imposition of penalties on corrupt structures (the total sum would have been 1,267,000 Hrivnas in 1996) are simply not effective. For example, if a high-ranking government or bank official makes an illegal investment of 100,000 Hrivnas through the bank, in spite of the obligation of immediate payment to the Pension Fund, in one month he/she has the real possibility of earning “pocket money” ranging from 10% to 200% of the invested sum, depending on the area of “investment”. Thus, the average penalty (fine, 21.95 Hrivnas for such a crime) cannot be considered as a real threat to financial offenders. Moreover, monetary profit makes their personal lives richer and more pleasant and in the event of discovery of the fraudulent enrichment, can help them to avoid being found guilty in the

⁶⁰Урядовий Кур'єр (Governmental Bulletin) #237, 17.12.1996.

Ukrainian courts. A total of 57,723 cases of fines imposed in favour of the Pension Fund in 1996 is the best evidence that this type of enrichment was wide-spread in Ukraine. On 1.04.1999, the state owed the most disadvantaged layers of the population a debt on social payments, which had reached a total of 11 billion Hrivnas⁶¹. Moreover, the state owes the population 82 billion Hrivnas as compensation for life-time savings, which have been eliminated by inflation. In the three years from 1996, the National Bank paid out a total 0.3 million from the sum, mostly for funeral expenses of deceased account holders⁶².

In absolute numbers, the growth of prices during the period of reforms, since 1991 has substantially disrupted the balance between agriculture and the capital goods industry. The prices for industrial goods have risen seven times as much as those for agricultural production. However, it is likely that precisely because of this disrupted balance, that the urban population is still able to purchase food at street markets.

In 1990, 98% of people able to work were officially employed. In 1996, the status of “unemployed” was granted to 257,665 people, or 0,88% of the population capable of work. That year, the capital goods industry officially hired 5.8 million employees, agriculture employed 5.3 million and in the fields of social services were registered 4 million. However, 3 million of the total of 15.1 million were in long-term (3-6 months) forced vacations (not working, but registered as employees) and did not receive wages. In 1996, the number of people officially registered as employed came to 43% of the population able to work (or 15.1 million including 2.2 million working pensioners), but, as we have noted above, official sources regards only 12% as being employed by “the shadow economy”. $43\%+12\% = 65\%$ which means that 35 % of the population who were able to work were officially missing. In fact, they were either unemployed or members of the unregistered labour force working on the black market. Because all personal savings had been eliminated by inflation during Gorbachov’s “Perestroyka” years from in 1988 – 1990, and because of the further changes since the independence years, many people in Ukraine today have a very limited choice in terms of how to survive. In other words, they either “steal for a living or earn a living illegally”.

⁶¹ День (The Day) #142, 5.08.1999

For several months unemployed people did not receive their tiny monthly benefit of 29 Hrivnas in 1996. If an unemployed man fails pay for his flat, he does not receive unemployment benefit. On 1.01.1997, the state owed the unemployed the sum of 26 million of Hrivnas. Meanwhile, a financial investigation conducted by the Parliamentary Commission on Financial Issues discovered that money from the State Fund for Employment was being used in “uncontrolled and ineffective ways”, but, as usual, because of “collective responsibility” nobody was found personally responsible. In 1998, Leonid Minin, Deputy Minister of Economics, was forced to recognise that hidden unemployment had reached 8 million, which represented 14%⁶³ of those able to work. Among them were 2.5 million young people aged 18-30, who were not working or studying⁶⁴. The number of jobless people grows daily. On 1.01.1999, 1,200,000 people registered at the State Employment Service, an increase of 50% over 1998. Meanwhile, unemployment compensation was limited to only 180 calendar days. Unemployment benefit was increased to 40 Hrivnas (on 1.08.1999 the exchange rate was 4.70 Hrivnas for \$1), but in terms of purchasing power this sum was less than in 1996. The long-term unemployed and those yet to find their first job (secondary school and university graduates) were allocated the rather symbolic sum of 16.60 Hrivnas per month and their chance of finding a job was one in 66⁶⁵. On 1.12.1999, in Ukraine 2,349,600 people were registered as unemployed. In spite of this figure the Government claimed that the level of unemployment was 4.2%.

The budget cannot guarantee the timely payment of state pensions and benefits in spite of enormous levels of taxation. For example, since 1995, every agricultural enterprise in Ukraine has paid to the budget at least 76.9% of its profits: 9.7% in tax for the rent of state land; plus 2.3% tax on profit, plus 51.4% tax to the social security and pension funds, plus 15.5% to pay for the liquidation of the consequences of the Chernobyl disaster⁶⁶, plus a special 2% mandatory tax payable to the State Fund for Employment and some an additional percentage to local authorities (set by the authorities themselves). In the capital goods industry the taxation is even higher and is a frequent cause of bankruptcy, the change to illegal activity, or unemployment. Moreover, if

⁶² The family of a deceased account holder receives 160 Hrivnas to meet the costs of the (cheapest) funeral service.

⁶³ Практика підприємництва (Business Practice), #3, 5.06.1998

⁶⁴ Вечірній Київ (Evening Kyiv), 20.06.1997

⁶⁵ Вечірній Київ (Evening Kyiv), #40, 20.02.1999

after all the deductions on his enterprise, a person earns 100 Hrivnas, he/she has to pay a special tax on salary of 47,5%⁶⁷. Thus, many enterprises and individuals prefer to conceal their real income.

On 1.06.1997, 13 million state employees failed to receive their wages⁶⁸ and the debt on wages to employees of state enterprises and services increased to 4.681 billion Hrivnas⁶⁹. At the same time, there was a growth in the share of wages paid in kind. According to data from the Ministry of Statistics, in three months in 1997 production worth 104 million Hrivnas was distributed instead of wages⁷⁰. Today, literally each state enterprise pays salaries in kind – in whatever goods they produce - and thousands of workers are desperately trying to sell these goods or exchange them for food. In 1999 the population owed to the state 4 billion Hrivnas for housing services (rent, electricity, gas) and people still have not received money earned from the state to pay their debts.

In 1999, pensions were not paid for seven - ten months in many regions and in August the number of registered unemployed reached 1.6 million. Our statistics suggest that 1% of youth unemployment leads to a 11% rise in youth criminality. To be optimistic about easy solutions to the “unemployment problem” (and rising criminality) in the face of such data is not realistic.

In 1996, it was officially accepted that 12% of the active labour force had joined the shadow economy and was avoiding taxation. Data from the Ukrainian Board of the Exchequer suggested circulated 3 billion of Hrivnas and 16 billion US dollars were circulated in the illegal banking system. Employment in the shadow economy had greatly reduced the official employment total: those officially registered as unemployed in 1995 was only 0.6% of the existing work force. This figure meant that the great majority of people did not look to the state in search of jobs or benefits. According to an adviser of President Vladimir Lanovoy, over the three years of 1994-1996 three million people lost their jobs in state enterprises, but no one claimed

⁶⁶Урядовий Кур'єр (Governmental Bulletin), # 43-44, 8.3.1997

⁶⁷ День (The Day), №97, 27.05.1998

⁶⁸ Вечерній Київ (Evening Kyiv), 20. 06. 1997

⁶⁹ Всеукраїнские Ведомости (All-Ukrainian News), 20. 06. 1997

⁷⁰ Вечерній Київ (Evening Kyiv), 25. 06. 1997

unemployment benefit or state aid. An independent investigation by order of the World Bank in 1996 demonstrated that in every third family, one person was working in the shadow economy and that 20% of families made their living in this area. In 1999, 60% of young people (up to 30 years of age) were illegally employed in the shadow economy, but the only 40 % were registered as unemployed. Informal employment generates special work ethic norms and behaviour, which are very close to the criminal subculture. Labour legislation does not act in this sphere, neither does the Civil Code. Table 7 shows the structure of informal employment in Ukraine. It should be emphasised that these people are not “bosses” of the shadow economy, but the mass of the population.

Table 7. The structure of informal employment in Ukraine

Commercial tourism	19%
Resale of food, books and magazines	18%
Repair and reconstruction works	11%
Repair of cars and audio and video covers	6%
Private taxi	6%
Making clothes/knitting	5%
Musicians	4%
Cultivation of pets	4%
Tutoring, teaching languages, arts, and science	3%
Illegal, unregistered production on enterprise	2%
Nursing	3%
Currency exchange	3%
Car washing, unskilled work	3%
Cleaning	2%
Making of customer goods	2%
Decorative arts	2%
Cooking for sale	2%
Typing, photo and video works	2%
Child care	1%
Translations, consulting	1%
Collection of empty bottles and paper	1%
Mediation	1%
Other	1%

Source: bulletin of Kyiv Sociology Institute, 2223 respondents, 1996.

The shadow economy exists illegally to some extent in every country and realises its possibilities in secret and unlawful channels that permit its participants to receive revenue through the evasion of taxation, theft, and the promotion of inferior and unregulated wares. Its unprecedentedly wide scope in Ukraine attracts attention from politicians, economists and criminologists. Politicians consider its negative character in terms of the loss of government receipts, and criminologists see it as a source of

criminal activity. However, the majority of Ukrainian citizens accept its positive role in the preservation of social and economic stability. From our point of view, the scale and the nature of the expansion of the Ukrainian shadow economy are the logical sequel to the moral state of a society conditioned by the type of social stratification which was dominant during the Soviet period.

Until now, the state of the shadow economy in Ukraine has not really been studied. In 1996, an interdepartmental analytical group was established to study and to evaluate the scope of the shadow economy. However, to date, no official estimation of its scale and structure has been conducted, but we have some data from independent analysts about its influence on different enterprises and on the economy as a whole, and it is possible to include data from the press in order to gain a more valid picture:

- In the field of mechanical engineering, the shadow production is an estimated 25-30% made up of unregistered orders with payments of recompense in cash and underpriced registered orders with cash payment of the differentials.
- In oil processing, the amount of shadow transactions is up to 40% of all transactions in the field, principally at the expense of more thorough processing of crude oil.
- In the public services, nearly 60-80% of the work-load is done for unregistered cash payments.
- In the National Health Service, 60-90% of medical services, registered as free are in reality paid for by customers. For example, a veteran of World War II, a former prisoner of the Mauthausen concentration camp, through the newspaper asked Ukrainian MPs to provide him and his friends in arms with euthanasia treatment, because the medicaments which could cure his disease cost much more than his pension and the state hospital could not provide adequate treatment because of the lack of state financing. "We'll pay for this drugs with our remaining money and will no longer bother the state with our geriatric complaints".⁷¹ Moreover, from 1996 every state hospital was given the right to evaluate services and force citizens to pay twice: first in taxes and then for the service itself. In 2000, one visit without

⁷¹Голос України (Voice of Ukraine), 24.12.96

treatment - a medical examination for the elderly costs on average 35 Hrivnas⁷². Furthermore, doctors and nurses, who are state-subsidised employees, indecently extort extra payment. If a person has nothing to pay, he is treated like an empty space. In 1996, I was personally forced to pre-pay a bribe to an eye surgeon for an operation in a state hospital for my elderly father-in-law. The price was enormous for a pensioner - the total two years of his state pension. If I had not paid in time, he would have been blind today and for an artist blindness is much worse than death itself. The highest level of suicide in Ukraine is among the single elderly, who have nothing with which to pay for treatment for their geriatric diseases.

- In the fields of marketing and services, 55-60% of the general provisions in 1995 was bought from citizens, who were part of the unregistered market. In 1999, this share had reached 86%.
- In repairs and house building, the share has been stable for years at 65-70%, and also in the car repair service at 70-80%.
- In agriculture, nothing is clear. In 1994 the share of individual, self-supporting household farms was (by product): potatoes 92%, vegetables 65%, meat and milk 40-43%. Employment in this area is not clearly registered and profit is not taxable. As far as private farms are concerned, only vague data are available. In 1996, there were 34,700 individual private farms in Ukraine, but, strangely, all these farms seem to have cultivated only 788 hectares of soil. It is quite easy to calculate that this meant that one hectare was farmed by 44 farmers. However, this situation becomes more understandable if we take into account the amount of foreign aid for the development of private farming in Ukraine. Million of dollars of foreign aid simply disappeared into official hands. In this context, the message from the Agricultural Ministry that ten out of 12 collective farms were unprofitable on 1.1.99 at least recognised the reality.
- Even in the academic sphere, between 70% and 95% of a persons overall income may be illegal⁷³.

⁷² For example, in 2000, my mother has the status of the "veteran of labour", but receives state pension of 51 Hrivnas and she can not afford any medical treatment.

⁷³For example, a colleague of mine worked on several research projects and translated a book from English into Russian. However, money was always paid in cash, without any documentation, and, of course, he paid no taxes. Taxes are also not payable in cases of bribery. For example, if somebody wants his child to study international law in Kyiv State University, he has to pre-pay a bribe from \$14,000 to \$20,000.

- There are shadow transactions in external economic activity, too. According to official data, exports from Ukraine to the Western and Baltic countries in 1994 came to \$4,165 billion, but according to western data it was actually \$4,359 billion. Imports from the West were \$2,363 billion, but, according to western data, it was \$4,103 billion. The invisible share of imports was created the wish to avoid customs duties, and so forth, as well as the internal taxation at the time of sale. However, these data did not include smuggling and the individual activity of “commercial tourists”. In this regard, the shadow “hot money” is usually repatriated abroad. The general expatriation of profits from 1991-1995, according to official data, is estimated in \$15 billion. In 1997 this figure had grown to \$24 and in 1999, to \$42 billion. However, there are many pieces of evidence which indicate that these numbers are an underestimate. According to a Parliamentary Commission, weapons worth \$32,4 billion have disappeared from military warehouses alone⁷⁴. Meanwhile, on 1.01 1999 the national debt of Ukraine reached \$11,6 billion.

In 1997 Nicolai Azarov, the Chief of the State Budget Committee, recognised that the ratio of the shadow economy to the legal economy was between 56% and 44%⁷⁵, but this statement seems doubtful. If the number of working pensioners (2,2 million) is subtracted from the official number of registered employees (15,100,000), we arrive at the number 12,900,000 which is, in fact, 36.7%, not 43% as the government has been declaring. This permits us to conclude that 63.3% of the active labour force (under pensionable age) were making their living in different areas of the shadow economy and did not pay any tax to the state. However, 3 million were constantly on “vacation”. This means that, at any single moment, among the registered employees only 9,900,000 really working, that is 28.2%, and 71.8% of the active labour force, or 25,213,500 people earned their living illegally. This represented 49,438 per 100,000 of the population. But if we add to this the number of pensioners forced to earn extra money on the black market to add to their tiny pensions, illegally employed teenagers and people who have an extra illegal job, the total number of people engaged in the shadow economy and its real scope in Ukraine can be seen to be tremendous. In 1998,

⁷⁴ Шлях перемоги (Road to Victory), #17 (2295), 19.04.1998

the situation became even worse due to the economic crises in Russia. Moreover, in 1999, significant funds from the budget were dedicated to the re-election of President Leonid Kuchma for a second term.

Vasily Durdinets, first deputy prime-minister of Ukraine, in a speech to the Ukrainian Parliament in December 1996 announced that in August 1996 alone, more than 160 fictional commercial structures had been discovered through which government officials from different ministries and departments had transferred nearly \$35 million abroad, mostly into personal accounts. However, as usual, he did not identify one name. During a period of six months in 1999, Ukrainian police discovered 40,000 economic crimes, among them 6,100 crimes in the fiscal-credit and banking fields were registered⁷⁶.

The pressure of high taxes and the rigid monetary policy of the National Bank of Ukraine has put the brake on reforms in the economy. Businessmen prefer to sell up, rather than continuing production, and many have invested money in the development of enterprises without sufficiently ensuring state guarantees. Only 11% of enterprises still produce real goods. Others are trade intermediaries or service providers. The level of productivity in the capital goods industry is only 16% of the average in the EU countries, and is continuing to decline. Gross national product in the years from 1991-1999 declined by 73% (in real terms). In 1996 every third enterprise in Ukraine was unprofitable⁷⁷. In 1998 for every working enterprise, 2.2 were standing idle⁷⁸. There is nothing strange in this situation. By polling officially registered private firms in Ukraine, it has been ascertained that 55-70% of their profit was made in the shadow economy. At state trading houses, the share of illegal activity in the years from 1992 - 1999 rose from 10% to 70%. The shadow economy averages 8 – 15% in the developing countries. The heavier the tax burden, and the stronger the governmental interference, the greater the shadow percentage becomes. American experts suggest that the shadow economy in Ukraine is more than double the official gross domestic product in terms of purchasing value.

⁷⁵Урядовий Кур'єр (Governmental Bulletin), #43-44, 8.03.1997

⁷⁶ Київський вісник (Kyiv Bulletin), #78(5303), 22.07.1999.

⁷⁷Урядовий Кур'єр (Governmental Bulletin), #242, 24.12.96.

Hitherto, intolerant state policy and, above all, Ukrainian taxation policy has prevented rather than supported and encouraged legal business activity. The creation of a private enterprise or business meets with an enormous amount of formal and informal obstruction. The legislative basis for business, contract law, is undeveloped. The question of the privatisation of land is still not resolved and no one can buy or sell land. Because all land resources belong to the state, government officials are able to blackmail businessmen. It works very simply: if a businessman has invested money and built up an enterprise on government land, he must periodically renegotiate the rent agreement. This extension depends totally on local bureaucrats, who are keen to receive "a share". If the businessman fails to pay a bribe, his firm immediately loses the right to the land. A legal reason can always be found. The state then stops the supply of electricity, water and gas, and seals up the enterprise and freezes its bank accounts. The prohibitive price of renting office accommodation (up to \$600 per 1 square meter in Kyiv) and extortion by local bureaucrats and the tax police, force the great majority of businessmen to adopt illegal practices and carry on illicit trade. In 1995, the number of registered enterprises fell by 5%, but of all those formally registered, only one third registered was operated. In 1996, 12,000 small enterprises and 3,000 co-operatives officially opted out of registered businesses, but, in fact, most of them are now operating illegally. In 1999 thousands of firms appeared for one transaction and then disappeared without a trace, but they still exist as registered enterprises in the state statistics.

The old command-administrative system was thoroughly discredited, but a new system is still to be built. Thus, instead of democracy, Ukraine has fallen into a stage of anomie accompanied by a soaring crime rate, total corruption, uncontrollable privatisation of public property and unemployment. Smart operators, of course, have taken advantage of the situation and have built themselves staggering fortunes. At the moment, to be a businessman in Ukraine virtually means to be forced to be a criminal. In 1999, for each working business person, there were ten state officials whose main duty was to supervise him/her. If businessmen do not evade taxation, in a very short

⁷⁸ F.Chervets "Why Do They Choose the Shadows? The businessman's logic in the light of Ukrainian reality. The Day #23, 14.07.1998

time their enterprises become unprofitable. Bureaucrats who receive nothing from an honest person, set out to sabotage his business by any means available.

If a businessman tries to evade taxes, the law (Article 148/2 of the Criminal Code of Ukraine) says that he can be prosecuted at any time. Often corrupt bureaucrats send (or sell) the information about tax offenders to criminal bosses, not to the courts, and a businessman must then pay them for “protection” of his business on the territory under their control. If he pays the bureaucrats, he becomes a criminal according to Articles 164-172 of the CCU (functionary crimes). If he refuses to pay to racketeers, he, or members of his family, risk being tortured or killed and gangs, fire or explosives will destroy his enterprise. The choice in such conditions is very limited: close down, refuse to pay and try to escape abroad; collaborate with state police forces (again bribes for protection) or collaborate fully with criminals and achieve prosperity.

The size of the sum, which racketeers usually request, is actually increasing. Between 1991 and 1999, the sums increased by 10 - 15 times. For example, a criminal group arrested in Brovary demanded \$180,000 from a local businessman. In police files, today, sums of 30,000, 70,000, 100,000 US dollars and more regularly appear. According to Mihaylo Stariy, the Chief of the Department of Struggle with Organised Crime in the Kyiv region, criminals have begun to invest more money in the “obschuk” – the “common pot” which criminals have built up in order to provide monetary support for sentenced criminals in prisons and for members of their families, for the payment of bribes, advocates, technical equipment for illegal businesses, and so on.

Nevertheless, racketeering is cheaper and more profitable than the bureaucrats. Racketeers “do not slaughter the milch cow”. Moreover, they supply goods at competitive prices and “solve all the problems” with local authorities. Many groups have legalised themselves under the guise of firms, which legally guard other enterprises. For example, a former schoolmate of mine, who has changed from legal activity to collaboration with the influential criminal group “Moscow”, told me in 1997 that, in the space of five months, his net income had risen by 12 times and that he needed no longer to pay any bribes to the local authorities, a development which had

permitted him to open an account abroad. He dreamed about fair legislation and a legal private factory in Ukraine, but unless the levels of taxation were changed substantially, he was prepared to leave the country because his family was unable to feel secure under such double pressure.⁷⁹

More than 60% of the Ukrainian population now live below the poverty line and their income is less than 97 Hrivnas a month⁸⁰. Nicolai Azarov, Chief of the State Tax Committee, in 1997, concluded that: "We have already come to that line, where our budget expenses have become comparable with the level of 1958. It looks like 40 years of evolution in Ukraine has simply disappeared. In recent years we have lost 57% of our gross domestic product. Such an amazing result has hitherto been unknown in any period of reform. ... A further decline in GDP could lead to total bankruptcy and loss of independence for Ukraine."⁸¹

Ukraine's average annual income per capita has dropped from \$2,340 in 1991 to \$834 in 1999 placing the country 142nd in the world. In the nine years of independence, it has lost 68% of its legal economy and the rate of decline is mounting. By way of comparison, the rate of decline was 18% in the years 1991-1994, during Kravchuk's presidency, and reached 50% during the first term of Kuchma's presidency, from 1995-1998.

1991	1994	1995	1997	1998	1999	GDP decline in %	
						1991 – 1998	1995 – 1998
2,340	1,910	1,630	1,049	850	834	- 63.68	-47.86

Source: The Ukrainian, #4, 1999

According to public opinion polls taken in 1998, 10-12% of the population collated themselves wealthy, 35-37% declared that they were able to purchase high quality food and clothes, 45-46% indicated that they were close to the poverty line and 10-15% stated that they were starving (as a rule these were single pensioners, invalids, students,

⁷⁹ 23.02.1999: a farewell party took place in a smart restaurant called "SSSR". My schoolmate was emigrating to Germany because "the new tax police employees were greedier than five Moscow's put together".

⁸⁰ *А́а-і́ді́є Киї́в* (Evening Kyiv), 20. 06. 1999

⁸¹ *Факты и комментарии* (Facts and Comments), # 4, 13.09.97

etc.). According to official statistics, however, people with an average legal income of 210-300 Hrivnas a month constituted only 3.5% of population, those who had more than 300 constituted only 1.3% and those who were below the official poverty line (73.7 Hrivnas a month) constituted 51.4% (25,900,000). The difference between the official data concerning legal incomes and the responses given in the public opinion poll clearly indicates the trend towards growth of in the shadow economy. According to an estimate by specialists from the National Police Academy, 60% of the income of an average state official comes from bribes. That same year, a public opinion poll carried out by “Socis-Gallup”, showed that the population believed that real power in Ukraine belongs to criminals and the Mafia (34.7% of respondents); corrupt state bureaucrats (22.9%), bankers and businessmen (12.1%), the President and his Administration (7,3%), and Parliament (3,3%).

2.3. Criminalisation of the public realm: crime and justice

Beccaria and Bentham advocated that criminal statistics should be centrally correlated and used as a political barometer, furnishing data for the legislator to work on. These hopes have certainly not been fulfilled. Downes and Rock (1998) reflect a strong current in modern criminological thinking when they state that official statistics are a better reflection of social attitudes towards crime and criminals than a measure of actual criminal behaviour. Official statistics are a social construction, which cannot be treated as truly reflective of the type or level of crime that occurs in society. The hidden figure of crime has to be kept in mind. The actual proportion of crime, which the hidden figure represents, is difficult to calculate especially in Ukraine due to the absence of victim surveys, but it is arguably the majority for many crimes.

Thus, the public considers the process of transition toward a market economy as a process of appropriation of the basic functions of the state by non-legitimate structures. This belief undermines trust in the police and people do not turn to them for protection. For example, the same poll (Socis-Gallup, 1998) discovered that, among crime victims, 34.2% had not reported the crime to police because they considered that the police were unable to uncover crimes and even if the crime had been uncovered, corrupt Ukrainian judges would release the criminal, which, in turn, would pose a real

threat to the victims and their families. At the same time the police reported that they had cleared up more crimes (72.3% in 1997 and 74.1% in 1998). There is nothing strange in this situation if we take into account the fact that the basic education of police commanders is usually not relevant to their posts. In 1992, 22.4% of police commanders had a university-level juridical qualification, but in 1997, this number had fallen to 6.8%. This means that high level posts in the police department are often taken by those unqualified for this job, for example by former chemical engineers or school teachers (55.8% in 1997) and even by people without any type of university education at all (37,4%). In addition, for every 100 police officers there are only six cars available (in UK there are between 25-30), 38 radio stations (in the UK there are 100) and access to computers is practically non-existent (in UK there are nearly 30 computers per 100 police officers) and only one third of the Ukrainian police are supplied with bulletproof vests⁸².

The Security Service of Ukraine⁸³ (SSU), the Ministry of Internal Affairs (MIA) (which controls the various police forces), and the Ministry of Defence all have equal responsibility for internal security and report to the President through the Cabinet. The armed forces have largely remained outside politics, while the SSU and the MIA have interfered indirectly in the political process through criminal investigations into politicians, journalists and influential businessmen. The SSU, the police, and the Prosecutor's Office have attracted domestic and international criticism for their failure to take adequate action to curb institutionalised corruption and abuse in the Government.

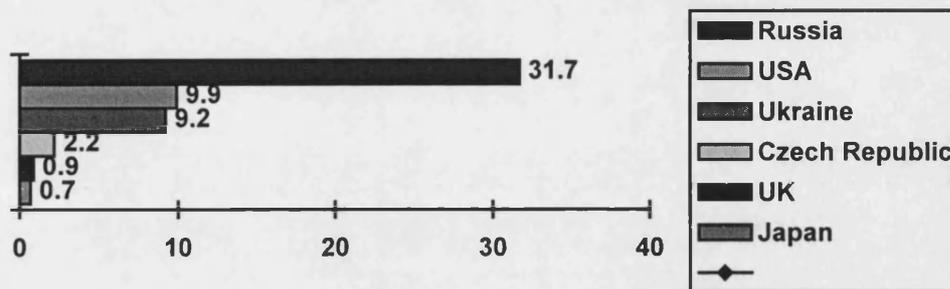
In 1996, the police structures in 1996 employed 570,000⁸⁴ people, many more than in the army, and 1070 detectives conducted direct investigations of all levels of crime. Despite the war-swollen apparatus of the Ministry of the Interior, despite poor and primitive technical equipment, and despite weak preparation of personnel, 76%-80% of murder cases in 1996 were brought to court, and those found guilty were sentenced to prison or to the death penalty. In addition, the SSU conducted special investigations

⁸²Kylik A.G., "Criminal situation in Ukraine and some parameters of its development", Juridical Bulletin, #4, 1999, p.35-38, Juridical Literature, Kyiv.

⁸³Formed from the Ukrainian branch of the KGB. The name has changed, but the functions, staff, methods and role are still the same.

into the most dangerous crimes, and nearly 600 detectives were engaged in this kind of work.⁸⁵ The estimated number of SSU employees (including paid informers) engaged in such investigations amounted to 330,000 people. Add to this the army, which now regularly patrolled the streets, and the total number of the law enforcement personnel had reached a minimum of 1,000,000 people, 2% of the population. In the year 2000 the number of State Law enforcement bodies has increased to 18. But what is the result?

Table 9. Total murders per 100,000 population in different countries



As we can see from the table 9, the rate of murder in Ukraine is nearly the same as in the USA, but three times lower than in neighbouring Russia. There is much evidence that many unsolved murders in Russia have been committed by Ukrainian criminals (some of them former KGB employees), as well as many murders in Ukraine committed by Russians. For example, an investigation in the assassination of a member of the Ukrainian Parliament, businessman E. Scherban led to Moscow, but there all leads disappeared. In 1998, the former Head of Ukrainian National Bank Viktor Getman was assassinated. Again, all tracks led to Moscow and there disappeared.

Table 10. The structure of criminality in Ukraine (by main criminological groups)													
Register of crimes	1972	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992	1996*	1999
Severe	24,349	24,366	26,744	29,977	37,576	37,938	40,773	32,905	33,674	52,359	74,020	243,744	
Medium	76,030	76,163	97,967	104,402	128,774	138,040	160,647	182,495	179,578	280,746	376,219		
Petty	35,237	27,811	23,803	20,709	30,552	37,012	28,332	33,263	29,722	36,704	30,239		
Total	135,646	144,325	148,514	155,088	196,902	212,990	229,712	248,663	242,974	369,809	480,478	617,262	
Crimes / 100,000	297	294	313	294	352	392	400	451	336	360	398	1200	575

Sources: Criminality in Ukraine, #2, 1994, Juridical literature, p.142-143; *Kravchenko Y.F. The Police of Ukraine, Geneva, 1999, p.383 & 389.

⁸⁴Вечірній Київ (Evening Kyiv) # 275, 27.12.96

⁸⁵Governmental Bulletin, #243 (interview with the Head of the SSU, V. Radchenko)

In Ukraine only 1,200 crimes per 100,000 of the population were recorded in 1996, but in Germany 8,000, and 5,500 in the USA . In a six-month period in 1999 the Ukrainian police registered a rate of 575/100,000⁸⁶. Such a low rate and its decline in Ukraine is due to the volume of unregistered and unreported crimes, which either the police have not registered or the victims have not reported for various reasons. The average citizen fears police officers more than criminals. Beating of detainees is common and widespread. There is a saying: "If you were in the police station and were not beaten, you were probably somewhere else". The widespread shadow economy makes people more reluctant to apply to the police as often as people do in other countries. Everybody can be accused of some kind of violations of the law and people have become accustomed to being afraid of the police. In 1996, a civil law was created enabling citizens to sue for grievances against state organisations, but people are not used to this new right. They do not trust the nomenclature and its creature - the corrupted state apparatus. Those who are forced to work in the shadow economy prefer to solve their problems in illegal ways for one simple reason. If something is stolen from a person who has illegal sources of income and he/she applies to the police, their first question is about the victim's income (poverty does not attract thieves or robbers). The victim must produce a document, which proves his income. This is a real threat to his position, and may even cause another investigation into his/her sources of income, possibly leading to the confiscation of illegal property or imprisonment for illegal activity. If an illegal source of income is proven, the best way to avoid punishment is to find an attorney and, through him, pay a bribe to officials to make them close the case. In every way, application to the police will be much more expensive than the loss of property. In the case of theft from poor people, the police, first of all, try to force this group not to apply for investigation over a tiny loss. For example, a purse with documents and money stolen in an overcrowded bus will usually never be found, but an application burdens the department with an unsolved case – known as "visyak" - which affects the statistics on its effectiveness. In the Ukrainian system, the most important thing is how officials look from the statistical point of view, not what they really do. This has led to widespread distortion of the statistics in order to achieve a "better image" and the advancement of those with "good profiles" to higher posts. The

⁸⁶ Київський вісник (Kyiv Bulletin), #78(5303), 22.07.1999

statement by the Minister of Internal Affairs Yuriy Kravchenko, that "...as a result of the intensive struggle against criminality, our population is now committing fewer crimes. ... In 1999, Ukrainians committed an average of 575 crimes per 100,000 of population, of which Criminal Police Department investigates 439/100,000"⁸⁷ cannot be considered as a true index of criminality.

Criminal statistics from the Ministry of Internal Affairs are, and always were, misleading. For example, a check up on the city police department in Vinnytsia, a small provincial town, revealed that, in three months in 1999, the police ignored more than 100 written requests from citizens about crimes committed in the city. Among them were several murders⁸⁸. Unregistered crimes distort the statistics, but permit an increase in the clear-up rate. Therefore, local police authorities often resort to this tactic. A low clear-up rate can have serious consequences. In 1998, for example, the following lost their posts: six regional heads of Police departments and 55 of their deputies; ten heads of area departments and 228 heads of district police departments. However, it is possible to inflate the index of discovery of serious crimes through the registration of minor offences as serious, or by forcing a criminal to confess to more crimes than he/she really committed. For example, it might make no difference how many people he killed - the sentence could be the same - but "confession and collaboration" in court will be interpreted as "repentance" and the verdict might be more lenient than the sentence for a single murder with aggravating circumstances.

Since 1992, the number of economic cases registered in courts in Ukraine has grown by 300%. In early 1996, Ukraine enacted a Law on Fighting Corruption. However, current results do not give grounds for optimism. Bribery of governmental officials is actually growing daily and, in 1999, Ukraine reached the sixth place in the world for corruption (and 176th place for the living standards, but in 1991 Ukraine was by the living standards on 42nd). It is practically impossible to avoid bribery, because the State Administration collects 86 types of taxes⁸⁹. Thirty-two Laws, 18 presidential decrees and 80 governmental resolutions regulated economic activity in Ukraine in 1997.

⁸⁷ Київський вісник (Kyiv Bulletin), #78(5303), 22.07.1999

⁸⁸ Governmental Bulletin (Урядовий Кур'єр), #20, 3.02.1999

⁸⁹ Практика підприємництва (Business Practice), №3-5, 5.07.1998

Moreover, these laws are often subjected to continuous change. For example, from November 1997 to June 1999 nearly 300 changes and supplementary clauses were added to the "Law on Taxation of Surplus Value" alone. The right to give a business licence was granted to 32 Ministries. In 1998, 1 million private entrepreneurs and 134,000 private enterprises were registered, but their activity was supervised by 1.5 million civil servants. The share of private property owned for means of production increased from 1% in 1991 to 5% in 1999. Nevertheless, Ukrainian courts rarely receive from the police or the SSU well-prepared cases relating to bribery, corruption of high-ranking officials, or misuse of authority.

In 1992, the proportion of bribery was 2.7% of the total number of cases of economic crimes registered in the courts. In 1995, 1,754 cases of bribery were registered, and of these 1,000 were brought to courts, but only 243 people were sentenced - mostly to the payment of fines – and they were usually civil servants who did not hold high posts. In 1996, the proportion increased to 3.1% and 2,792 out of 6,000 registered cases of bribery were brought to the court. However, as usual, very few people were convicted. For example, in the Strict Regime colony, IES-87, in 1997, I detected only one person sentenced for bribery among 2,015 convicts. In 1997, the number of criminal cases of bribery, which reached the courts, was 3,236 (arise of 15.9% in one year). In 1999, only 2,600 cases of bribery were brought to court, but this is a tiny amount in terms of the real level of corruption. Transparency International has published the results of their studies of corruption in Kyiv (1999). According to their findings (estimation by a 5-grade scale), the most corrupted institution is the state Traffic Inspectorate at 4.55, Customs at 4.24, the ministries and various parts of the executive branch of state power at 4.23, the police at 4.22 and the tax inspectorate – 4.20.⁹⁰

In 1996, the Ukrainian courts examined only 30 cases of evasion of taxes, but all attracted two types of penalties: “conditional release” or “not guilty”. No employee from the Taxation Department was dismissed or sentenced in spite of the enormous corruption in this structure. Since 1997, despite the creation of a special control body – the tax police - only a few tax collectors faced charges of receiving bribes. In 1998, 454 cases about bribery among the newly established tax police were brought to court,

but only 15 tax police employees were sentenced to imprisonment for bribery and 55 were dismissed from service by decision of the court⁹¹.

1992	1993	1994	1995	1996	1997	1998	1999 6 months
22,000	37,400	42,200	51,700	55,300	60,000	65,000 *	40,000**
Sources: Informational bulletin MIA #20, 1998, *День (The Day), #29, 17.02.1999, **Київський вісник (Kyiv Bulletin), #78(5303), 22.07.1999							

Among 55,300 economic crimes uncovered and registered in 1996 were 11,400 cases of theft of state property by functionaries (an increase of 9.9% in one year). Those data include:

- thefts of particularly outstanding dimensions: 5,700 (+7.9%);
- crimes in the banking system (financing and credit): 3,500 (+100%);
- external economic crimes: 817⁹².

Economic criminality is becoming more organised and is establishing international links. During 1996, 817 external economic crimes were registered; in the first six months of 1999, 1,400 cases had already been brought to court.

In 1995, police in Ukraine investigated the activity of 871 organised criminal groups, but only 244 members of organised criminal structures were brought to court and sentenced. In 1997, 1,079 organised criminal groups were arrested, though only 60% of the total were under police investigation (in 1996, 993 criminal groups were under investigation). This number includes 90 armed gangs (with 4,393 members) who committed 7,434 crimes. Police also searched and arrested 12,000 criminals for crimes committed in the past. During these arrests, police confiscated 1,470 fire arms and 120,000 rounds of ammunition for them. In six months of 1999 the number of organised groups neutralised by the police and the SSU reached 690 and 2.700 firearms were confiscated.

From 1992 to 1994, 11,600 state enterprises were privatised. In 1995, another 16,400 and, by the beginning of 1996, the ratio of state to private property was 46% to 54%. In 1996, 17,700 small and unprofitable state enterprises were privatised (the planned

⁹⁰ The Day, #227, 8.12.1999

⁹¹ Вечерние Вести (Evening News), №32, 20.02.1999

⁹² Зеркало недели (Weekly Mirror), # 30, 12.08.1997

number of privatisations was surpassed by 22,3%. In 1997, 1,440 enterprises were privatised, and an other 450 large state-owned entitles were denationalised⁹³. Many privatised enterprises survived for only a year because of competition, bribery, inflation and lack of up-to-date specialists. During 1996, in the process of privatisation 751 (+67%) crimes were registered. Among them: bribery 107 (+44%); theft for 286 (+260%); and misuse of authority for 147 (+7,6%). In 6 months of 1999, police investigated more than 2000 crimes in the field of privatisation.

During privatisation, violations such as the understatement of the real price of equipment and buildings, unreasonable write-offs of key assets, the inflating of credit backlogs and the falsification of documents were widespread. The police investigated 68,000 people (suspicion in tax evasion and fraud). One of ten of them was a director or manager responsible for a state business, but how many of them served a penalty according to the law is a matter of conjecture in a corrupted state. However, the real price of privatisation is the failure of the social programmes. For example, in comparative prices (1996) in the state budget 1997 (\$37 billion) were significantly reduced:

Social welfare	-17%
Financing of social and cultural programmes	-40.9%
Education	-47%
National Health Service	-22%
Financing of science and culture	-42% ⁹⁴

In the state budget of 1998, according to the presidential decree, spending on the following items was reduced:

National Health Service	-25%
Pre-school education	-20%
General education	-27.5%
Social benefits for invalids	-18%
Arts	-36.7%
Culture	-44.7%

⁹³Українські Новини (Ukrainian News), 20.06.1997

⁹⁴Voice of Ukraine (Голос України) #111, 24.06.1997

Book-publishing	-71.5%
Agriculture	-48.4%
Funds for development of agricultural engineering industry	-44.5%
Liquidation of consequences of Chernobyl disaster	-43.2%
Environmental protection	-37.6%

However, the President preserved intact the funds for remuneration of labour in the state administration. Moreover, the reserve funds for the Ministries Office were increased by 203%, 5 million Hrivna were added for financing the highest juridical bodies and state bureaucrats received an additional 2.5 million Hrivnas for financing their trips abroad “to study the international experience”. Since 1991, such studies have not brought about much positive outcome.

The police suggest that more and more murders were planned and carefully prepared: 186 in 1992; 221 in 1993; 258 in 1994; 298 in 1995; 349 in 1996; 386 in 1997 and 402 in 1998.

The number of assassinations increased too: 62 in 1992; 87 in 1993; 198 in 1994; 210 (27 cleared up) in 1995; 157 (24) in 1996; 119 (21) in 1997. For the whole of 1998 only 18 assassinations were cleared up⁹⁵, but the total number was not reported anywhere. Usually, professional assassins belong to highly organised criminal groups and use explosives and submachine guns. Businessmen, corrupted leaders of state enterprises, leaders of organised crime groups, and, recently several politicians who tried to reform the existing situation, are constantly targeted and often become victims of assassins. The actual death of the victim is usually predicted by previous “threatening actions” – the blowing up of their houses and cars, the tortures of victim or members of his family, kidnapping and so on. If a person refuses, in spite of such pressure, to collaborate, escape becomes impossible. He will definitely be killed, either in protective custody (prison) or on the streets. Police corruption makes it easy. For example, a businessman in Donetsk refused to pay the local racketeers. On 4.08.1999, the racketeers attacked him, using “Kalashnicov” submachine guns. 32 bullet holes were found in his “Range Rover”, but the businessman survived. However, the city

⁹⁵День (The Day), #29, 17.02.1999

police, instead of opening a criminal investigation into attempted assassination, opened a case about the damage of property (the car). The Head of Donetsk District Police publicly announced that if the criminals had really wanted to kill him, he would not have survived. In our opinion, the district police in the Donetsk and Dnepropetrovsk regions are the most corrupt in Ukraine.

Corruption has already touched all areas of human existence. Even schoolboys and girls report that 56% of them have personally paid bribes to their teachers. Among 618 pupils from different Kyiv schools, 71% think that to enter universities they have to pay bribes, and 43% consider a bribe as the most reliable means of solving problems. A negative attitude to bribery was expressed by only 18% of respondents⁹⁶...

In the first eight months of 1996, the Kyiv Region State Courts returned 235 criminal cases for additional investigation. Simultaneously, the Public Prosecution Office cancelled 53 court verdicts about such decisions. Nicolai Garnik, the Deputy Prosecutor of the Kyiv region, explained this feature as a result of poor investigation and inquiry. With regret, he stated that juridical mistakes often took place in the Courts of Justice of the Kyiv region. He was "astonished" that "verdicts are cancelled because judges and public prosecutors are ignorant of current legislation. For example, they apply the combination of a criminal sentence with the confiscation of property, when this is strictly forbidden by the law (Article 45 of the UCC)". It is arguable that some of these cases were linked more to corruption than to incompetence.

Transgressions of Article 44 of the Criminal Code of Ukraine, on reduction of a penalty against that established by law, are widespread. The law states clearly that "the court, taking into account the exceptional circumstances of the case and the individual nature of the guilty person, can settle a penalty which is more lenient, than the lowest level set by the law ... with compulsory explanation of the reasons for the reduction". For example, a teenager, aged 15, broke into a restaurant and stole food costing 70 Hrivnas (equal to 10 kilos of cheap sausages or 2 kilos of expensive ones). According to Article 81, part 4, of the UCC, the minimum sentence is five years' imprisonment. However, the court took into account the fact that the offender lived with his single

⁹⁶ Столичная газета (Metropolitan Newspaper) #124(740) 1.06.1998

mother, who worked for a state enterprise and had received no salary for five months. At the time, the state benefit per child for single mothers was 5.2 Hrivnas per month. Moreover, the teenager was doing well in school and this was his first violation of the law. In this case the court, as an exemption, followed Article 44 of the UCC and sentenced him to only two years' imprisonment in a juvenile colony. Meanwhile, the participation of a good advocate, which was an expensive and unaffordable option for this single mother, makes it possible to replace imprisonment for petty crimes (for which the normal length of sentence is up to three years) by suspended sentence or conditional release.

The newspaper “Голос України” (“The Voice of Ukraine”) published on 21.12.1996 a rather interesting case of adaptation of Article 44 of the UCC into real practice. It is so commonplace, however, that, with few exceptions, it could be considered as typical in the context of the Ukrainian social and economic Shadow State.

The Case of Chairman Romantcov

The chairman of the state collective farm, Vasiliy Romantcov, enjoyed a high social status and level of competency. In fact, he used a collective farm as a private one. For example, when two pigs (total weight 582 kilograms) were slaughtered on the farm, the weight was then registered only as 188 kg, the remainder written off as diseased. According to the findings of the control commission, in one month 25 pigs were amortised as diseased. Romantcov ignored the regulations for collective farms, that the price for the products of collective farms could only be set by the collective estimate of the executive board. He personally sold production on his own account to different people for different prices. For one category, he sold meat for the trade price of 1.4Hr per kilo, for another for 0.4 Hr per kilo, sugar was sold for the price of 0.03 Hr per kilo and for 0.25 Hr per kilo. Meanwhile the market price for meat was 6 Hr per kilo, and it was 0.5 Hr per kilo for sugar. The collective farm's cash office failed to receive nearly one million Hrivnas (£333,300). Special expenses from the cash office were for so-called “presentations”, in other words, food and drink for “valuable” contacts. In 1995, 150.000 Hrivnas on these expenses were written-off, and 420.000 Hrivnas in the first six months of 1996. At the same time, collective farmers had not receive their

salary since 1995 (average 36,4 Hr per month) in monetary form at all - only payments in kind, in this case, food.

On the evening of 26 June, 1996, Romantcov invited high ranking guests to his summer residence. At midnight, after the party, the chairman took his army carbine and decided to inspect the village to "put it in order". By shooting in the air, he brought to a stop a tractor which carried two men. He ordered one of them to leave and began to beat him with the rifle butt. Then the chairman forced him to his knees and shot him in the back of his head. The tractor operator escaped.

By warrant of the regional public prosecutor, the tractor operator was arrested for the murder. In spite of public knowledge that he was the murderer, Romantcov, along with the public prosecutor, "controlled" the police examination of the scene of the crime. After examination he, with dignity, drove his car home.

The witness of the crime, the tractor operator, was sent to the local hospital to be checked for intoxication. Olga Runnikova, the duty nurse, stated that she did not examine Romantcov, in spite of the fact that for the last 20 years she alone had been responsible for this type of medical expertise. Soon it was discovered that the doctor on duty - oculist Victor Hohotva – had composed a report saying that Romantcov was perfectly sober (according to the law, intoxication makes the offence more culpable).

The principal guardian of the law in the region – the public prosecutor, Igor Makarov - announced that Romantcov had given himself up to the police that night, and the public prosecution office opened a case of "murder through carelessness" (Article 98 of the UCC). To the victim's relatives the public prosecutor gave his own version of the event: the victim and his friend were drunk and had driven the tractor in a strictly prohibited area, the victim attacked the sober chairman (who was armed with a carbine and was twice as big and strong as the victim) and, after all that the rifle was fired accidentally.

The very special attitude of the public prosecutor to the chairman is simple to explain, if we take into account the chairman's own special attitude to the public prosecutor. Some facts prove this statement. For example, the collective farm built two garages in

the region's central city. One of them was redeemed by the public prosecutor, and another by the chairman, for token prices. Summer residences on the territory of the collective farm were built for regional managers (members of the nomenclature). The cottages of the chairman and the public prosecutor stand side by side in the most picturesque place on the farm. For many years, the public prosecutor had been a “valuable” person for the chairman: he sold him provisions and building materials for symbolic prices, tens times lower than normal prices.

Under the direction of the “independent” public prosecutor, the chief of the regional police was “independent” too. Meanwhile, the murder weapon was confiscated from the security office of a bakery and then sold to the chairman by the chief of the local police lieutenant-colonel Guydar, and, of course, for a token price. The chairman did not forget this favour. Lieutenant-colonel Guydar bought two tractors from the collective farm for token prices. Soon, he privatised his new official car. It is little wonder that, under the direction of Guydar, the regional police in two years (1995-1996) have never discovered any crime in the state enterprises, transport or in commercial structures. These facts were proved by inspection and he was displaced. However, as a member of the nomenclature, he received a new position in the region: he became the chief of the department for protection customers' statutory rights.

A meeting of collective farmers displaced Chairman Romantcov, but the corporate solidarity of the nomenclature successfully helped him to avoid punishment and even the remand cell. The Ukrainian state regional court sentenced the murderer under Article 44 of the UCC to three years' imprisonment, but the sentence was suspended, and now he is free⁹⁷.

I discussed this case with professional lawyers in Ukraine, and startlingly it became evident that the judges had ignored the violation of nearly 12 articles of the Criminal Code and several articles of the Ukrainian Constitution. For example, the justification for the public prosecutor's actions is covered by several Articles. The most moderate is Article 167 UCC on “negligence”. “Negligence, in particular non-fulfilment by an official person of his professional duty through a careless or unfair attitude to it, which

⁹⁷ Голос України (Voice of Ukraine), 21.12.1996

causes sufficient damage to state or public interests, or to the statutory rights and interests of physical persons and entities, is punishable by imprisonment of up to three years, or by correctional works for up to two years, or by a fine of between five and 15 times the national minimum wage with disqualification from employment in particular posts, or from engaging in particular activity, for a term up to 3 years.”

The criminal justice system has been slow to reform. The Government has rarely punished officials who commit abuses. Nevertheless, special police departments have recently been created in Ukraine to protect judges and tax collectors (in 1996, they suffered nearly 200 violent attacks and several murders). However, nobody has even discussed the question of state protection of victims and witnesses (taxpayers) in Parliament. Contemporary practice makes people think that it is “better to be a living coward than a dead hero”, and too many cases in the courts fail because witnesses or victims refuse to testify.

In cases of violent crime, such as rape or serious injury, application by victims to the police will be fully dealt with, which means a full-range investigation. If a victim is placed in hospital (unconscious or dead), an investigation begins without his application or his permission. However, the final result of the investigation may be questionable due to a number different factors - for example, the personal status of the offender. If he, his relative, or his boss has close ties with the authorities, the case will be closed immediately because of “a lack of evidence”. This type of problem solving is called “the high way” in Ukraine, and is used by the nomenclature to protect their friends and family. With the exception of obvious and very serious cases of injury, the "high way" successfully helps certain people to avoid punishment, or have it reduced it to the minimum.

Since 1991, the Union of Advocates of Ukraine has instigated many changes to legislation and even to the Constitution of Ukraine. For example, as a result of its activity, the right to advocacy in criminal investigations and court hearings were significantly expanded and total control by the Ministry of Justice over advocates' practice was abolished. Today, significantly more people apply for the professional help of advocates. But the absence of juries and the low income of the population,

makes this help accessible only for wealthy citizens. For example, because a single mother was unable to not pay a private advocate \$500, her son is now in a correctional colony. In last five years, really the best advocates have moved from the state system into the private sector. Consequently, citizens with low incomes have no access to a high quality professional defence of his/her rights in court. Current contract law is so undeveloped that it leaves the supposedly guilty individual with no recourse but submission to an unwritten law, which has now become the synonym of the Shadow State. Ukrainian legislation is still so contradictory, that courts have tried to revive the analogy principle to deal with economic crimes, which are not considered as crimes under current legislation. Thus, once again, the law is an expression of might rather than right, but the essence of this “might” has changed dramatically. Before “perestroyka” the courts defended the ideological and economic interests of the nomenclature only (the state), but now impoverished Ukrainian judges protect not only the interests of the nomenclature, but also the interests of rich, corrupt bureaucrats and bandits.

If an offender lacks powerful connections, and this is commonly the case, he or his relatives and friends must illegally pay compensation to a victim to make him/her withdraw an application. No application - no case, no case - no trial, no trial - no sentence to prison for several years. This is called “the peaceful solution”. In fact, most victims prefer real money rather than the “vague” notion of unprofitable justice. The official authorities “understand the situation” and usually close such cases because of overcrowding in the penal institutions, but they do nothing to legalise this practice and/or to establish a set of alternative sanctions for petty crimes.

If an offender cannot afford to pay, he can ask his friends to intimidate the victim. Sometimes it works and the frightened victim drops the application. But if an offender has no external support, money, or a victim is not frightened and wants a trial, then, even in cases of petty theft, the offender is doomed to prison from the very beginning. Such cases are the most prevalent in Ukraine.

Facilities available to the state judges in Ukrainian courts are in poor condition. There are even no means available for the production of summons. Sessions are often

conducted in vacant buildings - not in courts. According to a statement by Mykola Koval, the Chief of the Mykolayiv Region Court, the articles in the Constitution on the creation of suitable working conditions and on the social protection (security) of judges, is a mere formality. The Government does not meet the needs of the judicial system. There are no funds for heating, repair of court buildings, stationery and office supplies etc. The only court building in Ukraine that meets all requirements is situated in Harkiv and was built before the 1917 revolution. Nearly 30 judges in the Mykolayiv region urgently need residences; they currently live in extremely bad conditions - less than four square metres per each member of the family. Between three and four judges usually work in the same room and the needs of the judicial system are financed only for 38% of its requirements.

The restrictions on judge's actions are much more complicated than in the past. Judges have no right to engage in commercial activity, but official channels appeal to them to "search for additional sources of financing". A correspondent on the newspaper, "Judicial Bulletin", asked Mykola Koval to explain what was meant by this.

Question: *"The judicial system of the region is actually working, so, there must be some potential here. What is it?"*

Answer: *"People are the main potential. In terms of the judges and technical staff, the absolute majority of them are self-denying professionals, enthusiasts, who carried on working even during the periods when their salary was not being paid."⁹⁸ (emphasis is mine N.P.)*

However, everybody who has had any experience with the Ukrainian judicial system knows that the function requires cash payment. It is easy to receive a soft sentence rather than a real punishment. Only one condition is important - dollars. For a year's reduction in imprisonment, an offender must pay from one to five thousand dollars, and sometimes the rate can be much higher. During a conference held at the Department of the Struggle with Organised Crime in Donetsk city, the deputy head of this Department, Yuriy Gorohovskiy, told journalists about a bribe that had been offered to him. The sum of \$1 million dollars was the price for the release of three

⁹⁸Juridical Bulletin, #50,1996

young suspects. They were charged with the assassination of businessman Slesarev, and his bodyguard Koratov who were murdered with the use of machine guns.

Yuriy Gorohovskiy refused the bribe. The evidence was collected and sent to the court. The state public prosecutor charged the suspects with assassination and called for long-term imprisonment for them. But then something extraordinary happened - two suspects were released in court. The exultation of their relatives and friends was terrific. In an outburst of joy, two policemen were badly injured, one of them received a strong kick in his stomach and lost his official ID, which was publicly destroyed in the court by the suspects' friends "in the name of freedom".⁹⁹

This kind of outcome clearly indicates who are really the "masters" in the Donetsk Court, and who are the well-paid "servants". It may be noted that, out of 119 registered professional assassinations in Ukraine (in 1997) only 21 cases came to court. In the Donetsk, Lugansk and Chernigov regions, nobody was charged and sentenced for this type of crime. Witnesses disappear, or refuse to testify, material evidence mystically evaporates from locked police safes, public prosecutors ask for moderate punishments, and judges fix minimum sentences. However, if we take into account the abovementioned example, the "professional enthusiasm of judges", who agreed to work without salary for several months becomes very doubtful. In the summer of 1999, a judge on the Odessa Arbitration Tribunal was assassinated. National television devoted a programme to this event and showed his residence, which looked like a castle and was valued at \$1.5 million dollars. It is impossible to build and equip such a house on an annual salary of around 8.000 Hrivnas, but because of "judges' impunity" the mass media could only to discuss the question, "where did his fortune came from?" only for two days after his death.

In many cases, the absence of a jury in court is the most obvious threat to democracy and justice. The bar in Ukraine is still placed under extreme pressure by the Public Prosecution Office and the judges and its role is extremely limited. In civilised societies with a high level of popular legal consciousness, if a person's rights are frustrated, the person looks for a good attorney. In Ukraine, as in feudal times, the best

⁹⁹Интересная Газета, (Interesting Newspaper, special issue "Criminogen"), # 12, 1996

way is to find special “access” to the official who is responsible for a person’s case, and give him a bribe. The role of an advocate, in the absence of a jury, is reduced to the maintenance of such an “access”. The bureaucrat in Ukraine is nominated by the state system at a level where he/she can "whip" or "spare", and in either case be protected and use his post like a shield.

On July 14, 1999, the Ukrainian branch of the radio station “Liberty”, announced, with reference to the Ministry of Justice, that in 1997 Ukrainian judges had received 135 official reproofs, five judges had been sentenced for bribery and 25 had been dismissed. But this is a drop in the ocean! Here is one more example. The Kyiv City Court of Justice, on 10.08.1997, released, after 10 months in a pre-trial unit, a notoriously vicious leader of the criminal group “Moscow” (the gang numbered nearly 500 and held control over the business centre of Kyiv). In spite of the fact that he, and ten members of his gang, were charged under six of the most serious articles of the Criminal Code of Ukraine, they were released with a “clean sheet”, and are free now. The day before the trial, three members of this criminal group had been assassinated by competitors in one of Kyiv's athletic halls. A new round of criminal “dismantling” in Kyiv became unavoidable¹⁰⁰. It seems evident that the price for Moscow’s freedom was very high...

Grigoriy Zubets is the Chairman of the Kyiv City Court of Justice which released “Moscow” and his fellowship of racketeers and killers. At the time, Mr. Zubets was himself in violation of the law, which he represents in the Regional Court of Justice. For a long time he managed to avoid appearing in the Zhitomir Court in connection with his "misuse of authority” due to self-interest¹⁰¹. Meanwhile, all state judges in Kyiv refused to judge their superior, Mr. Zubets, and the case was sent to the provincial city Zhitomir, but was never heard there. In the Soviet era, Grigoriy Zubets built his career by prosecuting “dissidents”. For example, in 1984 he was the judge who sentenced the terminally ill dissident Marchenko to 15 years' imprisonment in Siberian correctional-labour camps as punishment for his public declaration in favour of the independence of Ukraine. He died in prison six months later. In 1991, Zubets,

¹⁰⁰Тюрма и воля (Prison and Liberty), #32 (293), 7-13. 08. 1997.

¹⁰¹Киевские Ведомости (Kiev News) “The Judge Is Summoned To The Court Of Justice”, 29.09.1997

who had become Deputy Chairman of the Kyiv Court on 4.10.1991, signed an official letter to Marchenko's mother confirming the innocence of her son and repealing of the unjust verdict¹⁰². If the first case was a "crime of obedience", who are in charge of judge Zubets today? It is very difficult, in principle, to find a person who is more disreputable than Zubets in such a high and responsible post in the Regional Court of Justice. But the most oppressive thing is that there are hundreds of such judges in Ukraine. Moreover, since 1998 they have been given the right to life-long employment and special status in terms of personal immunity. No one can investigate the activity of a judge without special permission from the Supreme Court, but this body refuses to allow investigation into its own personnel. Recent public opinion polls show that 47% of the population think that the juridical system in Ukraine is totally dependent on power structures and, thus, cannot be objective¹⁰³.

2.4. Latest trends in sentencing practice

Table 12. Court verdicts in Ukraine	1997	1998	1999
Total number of Court verdicts	257,790	232,598	222,239
Sentenced to imprisonment	85,396	86,437	83,399
% of total number of verdicts	35.1	37.2	37.5
sentenced to imprisonment per 100,000 population	---	---	168
Conditional release %	----	18.72	21.16
Suspended sentence %	19.4	21.63	22.07
Fines %	9.04	5.96	3.95
Juveniles	----	18,165	17,652
% of total number of verdicts		7.81	7.94
among juveniles sentenced to imprisonment		4,945	4,444
% of juveniles (to imprisonment)		27.5	25.2
Women	----	35,140	32,175
% of total number of sentenced		15.11	14.48
Number of verdicts giving a sentence of			
up to one year of imprisonment	13,920	---	12,704
from one to two years	15,836	---	15,786
from two to three years	19,386	---	20,542
Total number of sentenced of up to three years	49,145	51,061	49,032
% of sentences of up to three years of imprisonment	57.5	59.07	58.79
"Not guilty" verdicts	----	884	774
% of total number of verdicts		0.343	0.348
Number of death sentences	128	131	120

Source: A.Bukalov "Punishment or vengeance?" The Day. #32, 23.02.2000. Data with reference to the State Department for Execution of Sentences (1997) and the Ministry of Justice (1998-1999).

From this table, it can be seen that, over the last two years, there has been a trend towards a reduction in the overall number of sentences of between 5-9% per year. At

¹⁰²ibid.

the same time imprisonment continues to be the main kind of punishment and its use has even increased. By way of comparison, in 1988 29,372 people were sentenced to imprisonment (32%), while in 1992 the number increased to 38,740 (33.7%) and in 1999 nearly tripled to 83,399 (37.53%). The new Criminal Code (1997), which was supposed to reduce the number of prison sentences, is still awaiting passage through Parliament. This Code gives the possibility of using more tolerant measures of punishment for non-violent offences and petty crimes and to apply alternative measures of punishment instead of imprisonment. However, as has already been mentioned, even the existing UCC permits the courts to pass alternative sentences in 75% of cases, but, in response to public pressure, judges are reluctant to do so. It is evident that while in total, the use of conditional release and suspended sentences has slightly increased, their number cannot compensate for the reduction in the use of fines (down by more than twice (200%) in two years). The number of juveniles sentenced to imprisonment remained unchanged at nearly 9,000.

The number of women sentenced to imprisonment fell slightly, but continues to be high - more than 67,000 in the last two years.

However, arguably the most inappropriate punishments have been the verdicts of imprisonment for up to three years for minor offences. This quota constitutes 57-59% of all those sentenced to imprisonment. More than 50,000 people each year are sentenced for minor offences. Many penitentiary workers believe that these people then became hostages of the system. It is impossible to calculate the damage that this kind of sentencing policy inflicted on society. Thousands of families have been broken up, many ex-prisoners, especially juveniles, have become pariahs in social life and have turned to professional crime. It also has to be kept in mind that, often, the damage which these people inflicted on society was incomparably lower than the cost of their maintenance in prison. There are not enough jobs in prison now and nearly 50% of prisoners are idle, and, being idle, they cannot compensate for the damage they have done by means of earning money inside the colonies. Moreover, in the majority of such crimes, the motive was not the "criminal nature of the offender", but unemployment and lack of the basic means of survival.

¹⁰³ День (The Day), #142, 5.08.1999

The obsolete nature and alienation of the criminal justice system from people's needs in Ukraine are visible from the other two indices in the table. The first is the extremely low number of non-guilty verdicts. This suggests that, once a person is suspected of committing a crime, the chance to be cleared in court is practically zero. The second is the fact that, in spite of accepting international obligations to abolish capital punishment in 1995, Ukrainian judges were continuing to pronounce the death sentence at the end of 1999. And this practice has continued even though a Presidential moratorium on death sentences was issued in 1997. Three years later, Ukrainian judges are still sentencing people to death and ignoring the moratorium and international obligations of their country. Ukraine also violates Article 5 of the European Convention on Human Rights on the right to be brought promptly before a judge. Thus, we are forced to conclude that, in spite of talks of reform, the reality of the Ukrainian criminal justice system remains fixed in the past. The system is extremely intolerant towards offenders and contributes to social exclusion much more than to social solidarity or to a reduction of criminality in the country. It continues to operate in the soulless and ruthless way it inherited from its communist past.

2.5. Abolition of the death penalty

The recent abolition of capital punishment is a significant step towards the humanisation of punishment in Ukraine. Historians have written that a very punitive attitude to criminals is alien to the Ukrainian people's legal consciousness. From the very beginning of the Ukrainian state, after the adoption of Christianity (in 988) it is written in the statute roll "Teaching of Vladimir Monomah": "Do not kill and do not rule to kill. Even for murder, do not destroy a Christian soul". The death sentence was implemented in Ukraine in the XVI century, after the loss of its autonomous status.

In 1992, 80 criminals were executed. In 1995, 756 people were sentenced for premeditated murder, and nearly 20% of those charged with murder were sentenced to death (97 in 1994, 120 in 1995). However, since the entry of Ukraine into the Council of Europe (1995)¹⁰⁴, the number of death sentences carried out was carefully concealed

¹⁰⁴ In 1995, Ukraine joined the Council of Europe and accepted the obligation to sign within one year and to ratify within three years Protocol #6 of the European Convention on Human Rights, which envisages the abolition of the death penalty in peace-time and a moratorium on the execution of death sentences. But this obligation has not been

from the public. The government released no data about the execution of the death penalty in 1996, but, from an authentic source, I know that, in 1996, the Ukrainian courts pronounced 237 death sentences, which were mostly executed. In 1997, the numbers of death sentences executed was not reported, but on 1.01.1998, although executions continued during the whole of 1997, 286 persons sentenced to death were waiting for Parliament to consider the possibility of replacing their death sentences by long-term imprisonment¹⁰⁵. In 1998, Ukrainian judges pronounced 387 death verdicts and in the first six months of 1999, 216 criminals were sentenced to death, though, during the last two years, a presidential moratorium on executions has been in place. However, it is difficult to calculate the number of death verdicts, because different sources present different data. 424 prisoners in pre-trial prisons were waiting for replacement of death sentences by Ukrainian courts on 14.04.2000¹⁰⁶.

During recent years, Ukrainian politicians have referred to the Bulgarian experience where, in 1995, a moratorium on the death sentence was implemented. Today, 90% of the Bulgarian population advocate the repeal of the moratorium. The same public opinion typifies many countries. For example, people in Russia, Poland, African countries, Islamic states and China defend the death penalty for grave crimes. Politicians in different countries are aware of public opinion and speculate over this problem. Sometimes even they include the death sentence in election manifestos. In December 1996, the Chief of the SSU, Vladimir Radchenko, declared that “for some crimes we ought to drive criminals directly to the grave, rather than discussing the question of abolition of capital punishment”. He also expressed his indignation over criticism that he did not understand the democratic processes in Ukraine.¹⁰⁷ Before the Presidential Election, in 1998, President Leonid Kuchma emphasised on National television that, as a human being, he could not envisage any punishment for Onoprienko other than death.¹⁰⁸ The head of the PD, general Ivan Shtanko, said after

fulfilled. In contemporary Europe, 29 countries have abolished the death penalty in peace-time, and eight countries, in spite of its retention in legislation, have suspended the execution of death sentences.

¹⁰⁵Radio “Ukrainian International”, 28.01.1998

¹⁰⁶ The Day, #67, 14.04.2000

¹⁰⁷Урядовий Кур’єр (Governmental Bulletin), #243, 26.12. 1996

¹⁰⁸ The trial of Anatoliy Onoprienko began on 23.11.1998, more than two years after his arrest in April 1996. He was accused of murdering 52 people and sentenced to death, but due to the Presidential moratorium on executions in Ukraine, he was not executed. On 22.02.2000, the Ukrainian Parliament ratified Protocol 6.

abolition of the death penalty in Ukraine: "As a taxpayer, I am against the idea to spent my money for maintenance of murderers sentenced to life imprisonment." ¹⁰⁹

As a rule, in Ukraine the death sentence has been given for murder with aggravating circumstances (for example, intoxication by alcohol or drugs, evidence of careful planning etc.). People who are mentally ill and individuals who have lost personal control over their own actions, usually commit the greater number of the most cruel and brutal murders. However, for these people, the rational restraint effect is equal to zero. Many people, who defend the preservation of the death penalty in Ukrainian legislation, declare that, if fully abolished, the quantity of murders will unavoidably increase. However, numerous empirical studies disprove this argument. In Canada, where the death penalty was abolished in 1976, the murder rate is falling steadily. However, in the USA, where in 1977 capital punishment was renewed in many states, the rate of violent crime has intensified. Roger Hood (1996) suggests, on the ground of numerous investigations conducted around the world, that the abolition of the death penalty has nowhere led to a growth in the murder rate.

At the first glance, terrorist actions in Ukraine have become more frequent and have caused further demands for the retention of the death penalty. But, according to Daniel Turshes, former General Secretary of the Council of Europe, the death penalty for terrorists does not influence the commitment of terrorist actions, because these actions usually included the possibility of death. Moreover, executions of terrorists often give them "a halo of martyrdom", which perversely reinforces their organisations. Up to now, Ukraine has avoided international terrorism; however, bombings and armed combat occur more frequently, due to internal political terrorism and the rivalries between organised criminal structures.

Many criminal justice professionals and researchers from different countries¹¹⁰ conclude that the more humane a state and the more tolerant are its attitudes to offenders, the more value is placed on human life. Consequently, they argue that the more totalitarian a state is, the higher the crime level is. The theory that the death penalty makes society more cruel and intolerant is now under scrutiny. However, the

¹⁰⁹ The Day, #67, 14.04.2000

US experience may be an important exception, its prison population has quintupled over the past 25 years.

Simultaneously with my fieldwork during summer of 1996, a prison psychologist, Vadim Sulitskiy, conducted an inquiry into prisoners' attitude to the death penalty. Only 15% of prisoners were in favour of the full abolition of this type of punishment, 35% wished to preserve the death penalty for such crimes as racketeering, rape of children and premeditated murder, 50% of prisoners supported the full retention of the death penalty in Ukraine. However, they established some conditions:

- clear and convincing proof of guilt (60% of the third group);
- the right to investigation and the participation of an attorney at each stage of the investigation (25%);
- preservation of the convict's right to apply for commutation of the death sentence for long term imprisonment, or to mercy (15%).

	1994	1996	1998
Immediately abolish it	5%	6%	6%
Gradually move towards changing it	12%	12%	11%
Leave it as it is	31%	40%	43%
Use it more frequently	35%	23%	24%
Difficult to say	16%	18%	15%

Based on representative samples of Ukraine's adult population polled in 1994, 1996, and 1998 within the framework of the Ukrainian Society on the Threshold of the Twenty-First Century Project carried out by the Democratic Initiatives Foundation, Ukrainian National Academy of Sciences Institute of Sociology, and Socis Gallup Co. With assistance from the Eurasia and Renaissance foundations. Each time, 1800-1810 persons were polled. Source: Day, #28 (445) 18.08.1998

On February 22, 2000, the Ukrainian Parliament ratified the Protocol 6 of the European Convention on Human Rights and capital punishment is now officially abolished. As an alternative approach to the death penalty, a long-term imprisonment or life sentence now has been implemented. Due to possibility of judicial mistake, we can release a person, if he will be later found innocent. Taking into account the usual methods of inquiry and prosecution in Ukraine, it is wrong to profess the principle that "everybody in prison is guilty". In accordance with international obligations, Ukraine has abolished the death penalty in terms of legislation; however it has to be recognised that majority are psychologically not yet ready to accept this. Even those now in prison wish to preserve it. The question about financing the abolition of the death penalty and

¹¹⁰ See for example V. Stern "A crime against the future", London, 1998.

its replacement by a long-term sentence is problematic, too. Abolition of the death penalty in Ukraine simultaneously means the necessity of building or re-equipping between two and three prisons per 2,000 places and to find answers to the next set of questions:

(1) where does the state find resources for prisoners' long term maintenance (at a minimum cost of \$2000 per year for each healthy person)?

(2) how should legislation be changed to control the length of terms for life-sentenced prisoners, after which they could apply for transfer to open prisons and thereafter for release?

(3) how can new systems of probation, parole and monitoring be established in a short time, and where can the money be found for these improvements?

(4) should it be necessary for prisoners sentenced for life to fulfil obligatory norms of production, and to be, in fact, life-time slaves of the system?

5) where can funds be found for the medical treatment of people sentenced to life imprisonment, especially for the treatment of geriatric diseases, which is more expensive today than the cost of looking after young and healthy prisoners, who, in addition, fulfil the obligatory norms of production?

Andrey Saharov has written that the repeal of the death penalty is a necessity for our country (with its very low level of understanding of legality and wide spread aggression) poisoned by the spirit of cruelty and indifference to human suffering. He was sure that savagery gives rise only to savagery. Thus, in spite of the popular feeling in Ukraine, the abolition of the death penalty will lead to a future humanisation and tolerance in the mass consciousness and must be considered as an impending step towards it. However, no society can avoid violent crime. Some people are mentally ill and neither highly skilled psychiatrists, nor social workers, can predict their behaviour. According to recent reforms in the mental health service, we can consider the mentally ill person as dangerous often only post factum of a committed crime. Moreover, there is no established norm of mental health, the incidence of successful treatment is limited; the causes of mental illness are still unclear; and cases of full recovery, for example, of paranoid schizophrenics, are unknown. Despite this, the Deputy Minister of Internal Affairs, Victor Korol, has announced that 'maniacs' such as Onoprienko

have no right to exist¹¹¹. Consequently, the death penalty in Ukraine has been officially abolished since under international pressure, most likely that it will take other, hidden forms. For example, death during arrest, suicide, heart disease, tuberculosis, “lack of oxygen”, accidents etc. Moreover, extremely dangerous conditions exist in the Special Regime colony in Zhovti Vody, uranium mines (Kirovogradska region). Some especially dangerous recidivists received their perfect “actirovka¹¹²” there in two years during the Soviet era. This mine unit is not in use at the moment, but it would be easy to reopen it at any time. Contemporary Ukrainian officials proclaim the “War on Crime”, but no legal organisation advocates the rights of prisoners in courts. “If one uses the vocabulary of war to deal with matters which are defined as criminal, it is but a short step to defining the perpetrators as “enemies” and ascribing to them attributes which make them initially less deserving of the most basic amenities and civilities, and ultimately less than human. The end of this road is, of course, the extermination camp.”¹¹³ After the introduction of the presidential moratorium on executions, an increasing number of criminals were killed by police during arrests. This is now a hidden war. From 1990-1998, criminals killed 632 police officers and severely injured 4177¹¹⁴. All the investigations into these cases were brought to court, but often the main suspects were not present at court sessions because they were already dead.

However, when considering the level of social tolerance in Ukraine, the ratification of the Protocol 6 can be seen as an important step toward the humanisation of public life, even though it is also only the first step and only a small one. The Ukrainian public still considers life sentences not as a punishment but as a merciful act in the face of social evil. For example, in spite of the ratification of Protocol 6 in Zhitomir (a regional centre) the population continues to collect signatures in support of the execution of Anatoliy Onoprienko. Moreover, there is good reason to believe that anybody who killed him in prison, would unavoidably become a national hero, no

¹¹¹Урядовий Кур'єр (Governmental Bulletin), #217, 19.11. 1998. In March 1999, Onoprienko was sentenced to death, but due to the presidential moratorium, he was not executed. Onoprienko had been four times a long-term patient in psychiatric hospitals (for schizophrenia), but the court ignored these facts and a new psychiatric commission pronounced Onoprienko fully responsible for his actions and the public was satisfied. Criminal leaders announced that anyone who kills Onoprienko in prison, will be rewarded with “money and honour”. Thus, the death of Onoprienko is merely a question of time.

¹¹² For very sick prisoners, who can no longer work, prison doctors apply for an amnesty due to disease, called “actirovka”. These acts significantly reduce the internal death rate in prisons.

¹¹³King, D. R., “Prisons” in “The crime and Justice Handbook”, Oxford University press, 1997.

matter who did it - a criminal or a guard. In addition, there is little doubt that, under the enormous pressure of public opinion, today's Ukrainian Court would justify such an action.

2.6. Conclusion

In Ukraine, the shadow economy prevents social unrest and the appearance of mass unemployment. For the great majority of people, it is the only available source of income in this transitional period. However, it is a two-sided coin. In the long run, the existence of the shadow economy which either equals or far exceeds legal activity, has inevitably led to the following catastrophic consequences for the country as a whole:

(a) Since 1987, organised crime has been transformed into a separate sector of the national economy of the former USSR. Today, it is possible to suggest that organised criminality, as a social feature, does not exist at all in Ukraine; instead, over 13 years, a parallel Shadow State has developed. This state has its own population, economy, army, police, courts of justice and government. More than half of Ukraine's citizens have “dual citizenship” – citizenship of Ukraine, and citizenship of the Shadow State.

(b) Many of the official social institutions in Ukraine now simultaneously fulfil the same functions in the Shadow State (for example, the Ministry of Internal Affairs and the Tax Police). Compared with the legal Ukraine, the economy in the Shadow Ukraine works properly. A shadow tax-payer deposits all his payments (20-30% of profits) on time, and can expect more or less fair arbitration, even on investments, and feel him/herself protected up to a certain point. Defaulters literally do not exist (if you do not pay, you are dead). Verbal arrangements possess the force of written contracts. Shadow courts of justice work properly too - verdicts come into effect and are carried out immediately. This powerful force is considered a serious threat not only in the Ukraine, but in the EEC, and even in America. The harder the pressure on taxpayers by the official government, the more people accomplish internal emigration into the

¹¹⁴ Брисковська О. М. Особиста безпека працівників ОВС як проблема психологічної підготовки. //Актуальні проблеми юридичної психології, Київ 1999, ст. 12. (O. M. Briskovska, Personal safety of police employees as a problem of psychological training // Actual Problems of Juridical Psychology, Kiev, 1999, p.12)

Shadow State, or find themselves forced to leave the country. There are no cases of repatriation.

(c) The legal state receives less than a half of the taxes due, leading to low government receipts, budget deficits and a deterioration in the standard of living of the general population. Due to low wages, which are usually not paid for months, the status of intellectual occupations has dropped sharply. This has led to a “brain drain” from the country and to the decline of social welfare (educational standards, the NHS, pensions, and so on).

(d) The shadow economy, as a rule, is technically primitive, does not need high technology or long-term investment and is leading to the deintellectualisation of labour and society and to the degradation of production.

(e) Reformers are forced to face “irrational behaviour” by the subjects of economic and political activity. For example, any project for the stimulation of legal activity frustrates the prevalent balance of power in the Shadow State and, as a rule, is opposed by corrupted structures. Today, in Ukraine, the physical elimination of reformers (now known as “political terrorism”) has become more frequent. Usually, potential reformers belong to powerful economic structures, but even a personal army of bodyguards often has not been able to save them from assassins.

(f) In the process of interactions with the state the shadow economy has become more and more criminal. Bribery, swindles, rackets and violence have become endemic in economic activity. Influential and powerful criminal groups are ideally adapted to the situation and are interested in the preservation of economic and legal instability. The confluence of the corrupted bureaucratic elite and the criminal bosses has become an established feature. Sometimes they are simultaneously the same people. Thus, Ukraine is increasingly becoming a Shadow State and a "grey zone" between NATO and Russia.

(g) The moral state of society is becoming more expedient. Moral imperatives (do not kill, do not steal etc.) are becoming more blurred and are reinforcing the strains in society. Today, the amount of the average pension makes the life of elderly people

poorer and reduces respect for them. In 1995, the officially registered “Detochkin¹¹⁵ charity foundation” even declared in an advertising slogan “If you steal, give something to children”. Even children in schools have begun to consider a bribe as the most convenient means of solving their problems. The right to a fair trial is also severely undermined by corruption.

h) The government has reduced not only the number of job opportunities, but has also cut spending on education and science, which has led to the closure of state schools and research centres and greatly contributed to a brain-drain from the country. “New Ukrainians” send their children to foreign schools and universities, and therefore do not need public education. In 1997, 27 state schools were closed in the capital of Ukraine. Impoverished Ukrainian scientists now use laboratories at their universities and research centres for the synthesis of new types of illegal drugs¹¹⁶, and according to the government's Statistical Department, 70% of Ukrainian students intend to leave the country. There are now only two doctors of science in Ukraine below the age of 30¹¹⁷.

Thus, an uneducated, impoverished majority has not been able to build a democratic state. However, they are capable of making a new revolution, to be a passive subject of the governing elite, or have being migrating to the Shadow State. In fact, the Ukrainian nomenclature is sequentially creating a police state in place of democratic one. It may seem thus to us that Ukraine has entered the new millennium as the most unstable and crime-ridden state in Europe – a “grey zone” between NATO and Russia. However, the hidden, long-term aim of the alliance of corrupted officials and leaders of organised crime is “legalisation” of their real economical role in the country. Crime is not the aim, it is only the temporary means to accumulate the resources for the privatisation of State property in the transitional period. In turn, the low value placed on human life and dignity is influencing interactions between the different social strata and is provoking a rise in delinquency in disadvantaged groups. The criminal justice system in Ukraine is an essential indicator of its level of democracy and of the degree to which human rights are protected. **The state bodies headed by the nomenclature by means**

¹¹⁵Detochkin - a version of Robin Hood. The member of the Board of Directors of this organisation, Grigoriy Surkis, tried to win election for the post of major of Kyiv in 1999. Open bribery of electorate (30 Hrivnas per vote) caused mass protests and he lost 14% to 72%.

¹¹⁶ In the first six months of 1999, police discovered 22 such laboratories. Київський вісник (Kyiv Bulletin), #78 (5303), 22.07.1999

of social and economic policies have already proved their real attitudes to the population and deprived the Ukrainian people of the right to tolerance through social exclusion. Now we are going to look behind the gates of our prisons and examine how tolerant social relations are there.

¹¹⁷Bulletin of Ukrainian Ministry of Statistics, #6, 1997.

Part III. PRISON

As an introduction to current penal practices in Ukraine, this section begins with an overview of penal practices in the Soviet penal system concentrating on the facts which illustrate the pre-history of Ukrainian penal system. Eminent writers such as Solzhenitsin and Shalamov have already described the life of an ordinary person in the “GULag” system. However, this chapter features some relatively new information about administrative practice. It may help to explain the current state of imprisonment, penal policy and practice in Ukraine, which is closely linked to the history of its politics and society. The system could not have been expected to change overnight; however, the slow pace of reform has been influenced by its past. The present account of developments in prison system is rather the story of problems, which reflects the progress made and obstacles faced in the political, social and economic life of the country during the transitional period.

3.1. Introduction: the legacy of GULag.

At the beginning of the 20th century, the impact of centuries of autocracy and legalised slavery¹¹⁸ on Russia's legitimate structures contributed to the development of a certain type of consciousness conducive to deviance and criminality. “Centralisation of power hampered development of the criminal justice system and led to endemic corruption motivated to large extent, by sycophancy, lack of tenure and arbitrary policy-making. Traditionally, the law operated as an instrument of the strong, providing little or no protection for the vulnerable and a deep cynicism toward codified rules was widespread. Bolsheviks were products of Tsarist Russia, their thinking and conduct inescapably shaped by the corrupt system they sought to destroy”¹¹⁹. It is well known that Bolsheviks considered law and punishment in terms of the goals of a Marxist philosophy of history and three suppositions underlie their legal theory:

- the law has always been used by dominant and exploiting classes as a whip to keep the workers in submission;
- in a socialist state, the law serves the valid purpose of ensuring the domination of the workers and the liquidation of the remnants of capitalism;

¹¹⁸ Russia abolished slavery only in 1861.

- a day after this task is over and a classless society is attained, the need for law and prisons will disappear. Thus, prison has to operate as a temporary tool and will wither away and be consigned to a museum of antiquities, along with the spinning wheel and the battering ram.

However, the actual history of the Soviet State differs greatly from this theory. The idea of power and dictatorship became a distinctive feature of the Soviet system in all its relations. Lenin defined the state as an instrument for creating both a new, socialist society and a new kind of people imbued with the ideals of a socialist era, as predicted by Marx. Generally speaking, Lenin's theory is to some degree based on Marx's ideas, in particular on his doctrine of production forces and production relationships as the foundation not only for a social structure, but also for human existence itself. However, Lenin's theory moves away from Marx's ideas as soon as it begins to consider "the dictatorship of the proletariat", ruled by the Communist Party, as an aim of the revolution, as opposed to the overcoming unacceptable social conditions of according to the will of the people, as Marx had proposed.

When the Bolsheviks came to power, they asserted that the ending of private property in the Russian Empire would automatically liquidate all reasons for criminality. Political opposition and criminality would disappear as soon as everyone is convinced that the Communist Party's social policy has the unique solution for all social problems, and thus, prisons would become unnecessary. However, shortly after the public declaration of the abolition of the prison system, it transpired that the Bolsheviks could maintain authority only by means of mass arrests. To do so without prisons was not possible; on the contrary, it was necessary to open new types of prison, to increase the prisons' "capacities" and to invent a state production plan for prison enterprises. Moreover, social intolerance became, in general, the main feature of the communist system, especially concerning its penal practices.

The day after the revolution (08.11.1917), the NKVD - the People's Commissariat for Internal Affairs was established.¹²⁰ Decree #1 repealed all judicial bodies, including public defence (juries and the legal profession). Revolutionary Tribunals and troykas

¹¹⁹ See Rawlinson P., Russian Organized Crime: A Brief History, International Organized Crime, Summer/Autumn 1996, v.2 p.33.

replaced trial¹²¹ and the role of prosecutors and judges was taken on by citizens who had the proper (proletarian) origins and were guided by so called “revolutionary consciousness”. Thus, in the true sense of the word, no juridical system for the implementation of punishment actually existed. However, the Bolsheviks found it necessary to begin the elimination of all possible opposition. In the doomed category were included:

- former officials of the Russian Empire and their widows;
- families of officers of the White Guard Army (in Kyiv the Bolsheviks killed all family members, including babies);
- priests;
- all the people whose property was valued at more than 10,000 roubles;
- workers and peasants who were suspected of not supporting the Soviet Power.

On 7.12.1917 (only a month after Lenin’s declaration “We shall not allow the police to be re-established!)), a political subdivision of the NKVD – the VCheKa (the All-Russia Extraordinary Commission for Combating Counter-revolution and Sabotage) - was established. Stalin personally supervised VCheKa on behalf of the Central Party Committee. VCheKa was officially regarded as “a punitive sword of the revolution”, its employees possessed enormous power and proudly called themselves “Party watchdogs”. During the Civil War, VCheKa executed more than 500.000 civilians without trial; however, it is likely that these figures are underestimated by a factor of 6 - 8. Just in Kyiv and the Kyiv region, the local branch of VCheKa in 6 months under the command of Bolshevik Lacin executed nearly 100,000 people. Lacin issued a special order, which recommended to his colleagues: “Do not search for evidence of opposition to the Soviet Power in words or actions. The first question to be clarified is the question of his/her class origins and the education the accused have had¹²²”. The network of operational commissioners, so called “opers”, covered all the territory of

¹²⁰ Until 1946, all Ministries in the USSR were known as “People’s Commissariats”. The NKVD is abbreviation of the People’s Commissariat for Internal Affairs. After 1946, NKVD became the Ministry of Internal Affairs (MIA).

¹²¹ “Troykas” operated in 1918 – 1934. They were then officially renamed Special Committees - SC - and operated under this name to 1953. From the beginning, “Troykas” consisted of the local secretary of the Communist Party Committee, the local chairman of the Executive Committee, and the chairman of the local NKVD branch. Subsequently, local SCs consisted of NKVD employees only. Written death verdicts were delivered to the cell of the accused person (to obtain his signature) and were implemented without delay.

the RSFSR¹²³. An "oper", working on behalf of VcheKa (later known as the OGPU¹²⁴), could force the management of a supervised factory to dismiss a highly qualified expert and employ a nonentity, if the second agreed to be an informer¹²⁵.

As the basic element for the re-education of offenders, the Bolsheviks agreed on compulsory labour. Lenin loudly threatened "class enemies" with it, and on 8.05.1918 signed a decree which prescribed "severe forced labour" for convicted bribe takers¹²⁶. On 22.05.1918, Lenin signed another decree, according to which speculators would be punished by deprivation of freedom accompanied by "severe forced labour¹²⁷". Convicts who refused to work were severely punished. On 26.07.1918 the National Commissariat of Justice issued a special decree called "On the deprivation of freedom". It clearly prescribed that: "... even if a convict has served all his time, he cannot be released, until the costs of his/her maintenance are fully paid for by his/her work. ... If this measure is not sufficient, rations must be reduced ... as a measure of last resort, he must to be placed in an isolation cell". (Collection of Laws RSFSR, 53:598, Article 28).

On 5.09.1918, Lenin issued a Decree "On the Red Terror". The Council of People's Commissars ordered the VCheKa "to isolate class enemies in concentration camps" in order to protect the Soviet Power. From 1918, the VCheKa applied the so-called "deprivation minus three" clause to all residents of Moscow, St.Petersburg and Kyiv released from custody. Ex-prisoners (after exile, or incarceration in prison or concentration camps) were prohibited from coming closer than 100 kilometres to these cities. An ex-convict's document was stamped with an appropriate confidential mark. Caught in prohibited cities, ex-prisoners were imprisoned again for violation of the passport regime¹²⁸.

¹²² Quoted in: А. Хабаров, Ментовская Россия (Habarov A., Cop's Russia, Moscow, Eksmo) М., Эксмо, 1998, p.129.

¹²³ RSFSR – the Russian Socialist Federation of Soviet Republics. In 1924, it was renamed into the USSR.

¹²⁴ VCheKa and OGPU (United State Political Administration) were the predecessors of the KGB.

¹²⁵ Until 1953, oper decided alone, whether to forward a case to court or to the local troyka (Special Committee). Until 1972, "opers" had the right to open a criminal case independently, to conduct an investigation, and to search and make an arrest. Even now, operational commissioners submit only to local MIA or SSU authorities, never to the supervised regional executive (civil) authorities.

¹²⁶ Izvestija, 12.05.1918

¹²⁷ Izvestija, 25.05.1918, see also Сборник законодательных постановлений (законов) РСФСР (Collection of Directives (Laws) of RSFSR), 54:605.

¹²⁸ After introduction of the passport system in 1932 the number of "minuses" significantly increased and in the beginning of 1940-s, it reached 130.

In order to fulfil these decrees, the Central Executive Committee on 17.02.1919, officially established a network of concentration camps¹²⁹. The following month, on 15.03.1919, the Council of People's Commissars decided that state provision for VCheKa employees, who had proved "fidelity to the Party", should be increased so as to equal the highest levels of military provision. On 16.03.1919, Felix Dzerjinsky (chairman of the VCheKa) was appointed to an additional post - as People's Commissar of Internal Affairs (NKVD). Because of the exclusive position of the NKVD and VCheKa in society, and because they offered the highest provision (wages) and almost unlimited power, unmitigated scoundrels and criminals attached themselves to these bodies. Meanwhile, Dzerjinsky himself said in 1926: "only saints or scoundrels could work in the penal system, but saints abandon me and only the scoundrels stay".

On 15.04.1919, the Central Executive Committee issued a further decree "On Compulsory-Labour Camps", which said "it is necessary to establish in all regional centres compulsory-labour camps capable of containing a minimum of 300 persons". "A refusal to work has to be punished according to the special secret instruction¹³⁰". The actual context of this instruction is unknown. Most probably, such prisoners were shot as "incurable parasites". These decrees principally initiated a new approach in the development of the soviet penal system.

The Analogy Principle. In 1922, alongside the promulgation of the first Criminal Code, the law incorporated an article permitting the courts to punish an action which was deemed socially dangerous, even if no article of the code defined it as criminal. Courts were instructed to apply by analogy the article of the criminal code which seemed most nearly suited to the actions of the supposed offender¹³¹. However, the analogy principle leaves the potential criminal unwarned; he obviously has no way of knowing whether or not his actions are susceptible of falling under the analogy principle. Thus, while the analogy principle facilitated the state's administration of the law, it threatened the freedom of any particular individual of that time. Even in 1953,

¹²⁹ The earliest concentration camps in Arhangelsk, Holmogory and Pertaminsk until 1922 contained people, who were sentenced only by "troikas" from all the country. Criminals were not admitted to these places.

¹³⁰ Сборник законодательных постановлений (законов) РСФСР (Collection of Directives (Laws) of RSFSR), 20:235, Article 40.

¹³¹ See: Уголовный Кодекс РСФСР (Criminal Code of the RSFSR), 1934..

after Stalin's death, Andrey Vyshinsky¹³² reported to the Institute of Law of the USSR Academy of Science that he disapproved of a new law textbook because it neglected the analogy principle, which he considered central to the effective administration of the criminal law and punishment. The underlying assumption was that a Soviet man was not mature, free or responsible, that legal consciousness must be implanted, guided, trained, and disciplined. In fact, Soviet jurisprudence started not from rights but from duties. Thus, its centre of gravity was not free will but discipline and obedience, and its central emphasis was not contract law but criminal law. The offender had to be re-educated in the Soviet ideological manner – through hard labour.

All places of imprisonment, including special hospitals were subordinated to NKVD from June 25, 1922. Prisoners philosophised sadly: "Coming, do not lament. Leaving, do not rejoice". In September 1923, a total of 355 RSFSR prisons contained 79,947 convicts. These numbers probably reflect the structure of crimes committed by "socially close" criminals (of proletarian origin), because during the years of the "Red Terror", the overwhelming majority of detained criminal offenders with a bourgeois background were executed. By the end of 1919, more than 50% of professors and doctors had already been eliminated.

The first Code of Correctional-Labour Law was introduced in 1924 and the second in 1933. However, the status of these Legal Codes was largely symbolic, since repression outside the law was used widely. In 1924 the number of prisons in Russia increased to 385. In 1926, 1.336.000 crimes were registered, but only 68 % were cleared up. At the beginning of 1930, the prison system contained 300,000 convicts; the figure rose to 510,000 in 1934, in 1935 to 991,000, in 1936 to 1,296,000, in 1941 to 2,300,000, in 1944 to 1,450,000, and to 2,526,402 in 1953 when an amnesty was introduced (1,181,264 were given an amnesty). However, in spite of the fact that today prison figures of that time are not officially considered as a state secret, it is particularly difficult to evaluate their reliability, because of a number of contradictory sources.

During 1926-59, Articles 58 and 59 of the Criminal Code were widely used. Criminals sentenced under Article 59 for violent crimes (banditry, robbery, etc.), accomplished

¹³² Andrey Vyshinsky conducted a series of "people's enemies" trials in the Supreme Court in the 1930s.

without "counter-revolutionary intentions", were regarded as "socially close" and had significant advantage against those sentenced by counter-revolutionary Article 58. Criminals could be appointed to any posts which were open to convicts, without limitations. Often murderers, sentenced for banditry and robbery (Article 59), became superintendents of the camps.

On February 6, 1922, the VCheKa was reorganised and renamed the State Political Administration (GPU). On November 15, 1923, as the result of a decree by the Central Executive Committee it was renamed United State Political Administration (OGPU). This year was marked by another important event – the introduction of Special NKVD troops¹³³ who were given responsibility of suppressing mass disorders and guarding the concentration camps and prisons.

The right of extrajudicial, collegial verdict was granted to the State Security Services until Stalin's death in 1953. The troykas applied formulations which had been collegially approved by the Party authorities and the NKVD boards (the VCheKa, the GPU, the OGPU). The chairman of the Central Troyka was the People's Commissar for Internal Affairs. Two other members were the General Prosecutor and a representative of the Central Committee of the Communist Party. Similar SCs were set up in the provinces. When Dzerjinsky died in 1926, his assistant Vladimir Menjinsky took over the posts of People's Commissar for Internal Affairs and OGPU chairman. He died in 1934 and a new reorganisation of the OGPU structure took place. On July 10, 1934 the OGPU was reorganised and became the Main Administration for State Security (GUGB) which, in effect, was the NKVD. The posts of People's Commissar for Internal Affairs, chairman of the GUGB and Chairman of the Special Committee were occupied by the same person - Henrih Jagoda. His successors were Nicolai Ejov and, later, Lavrentiy Beriya.

Originally, the troykas arrived at verdicts by using individual formulations. For example: "The member of the Bolshevik Party ... accused of deviation from voting for the proposition ... is sentenced to one year in a concentration camp", or "The well-known landowner, Dovnar-Zapolsky and the Lady of the Manor of Shebenko ... as

¹³³ Predecessors of the Internal MIA Troops

participants of White Guard¹³⁴ gangs ... are to be executed by shooting¹³⁵". In 1934, troykas were officially renamed Special Committees in accordance with a resolution from the Central Executive Committee, which was adopted by the Council of the People's Commissars on November 5, 1934. To simplify the process of "justice", standard formulations (abbreviations) replaced individual charges:

ACA – Anti - Soviet agitation;

ACB3 – Anti - Soviet military plot (conspiracy);

BAД - Eulogy of American democracy;

BHT - Eulogy of American engineering;

BHT - Eulogy of German engineering (1941-1943) - any positive statement related to this theme was punishable by ten years in prison camps;

ЖБН - Wife of an enemy of the people;

ЖИР - Wife of a traitor of the Motherland ;

КРА – Counter-revolutionary agitation;

КРГ - Counter-revolutionary group;

ООР - Especially dangerous recidivist;

ООЭ – Socially dangerous element (1918 – 1953). Originally, under this formulation people were sentenced to up to three years of exile. After the end of the 1930s, the sentence was increased to 8-10 years in prison camps.

ПД - Criminal activity. Until 1931, - 3-5 years in the prison camps; from the end of the 1930s, years - 8 -10 years in the prison camps;

ПЗ -Worship the West and of its decadent culture - 10 years in the camps (1947-1953);

ПС - Industrial sabotage (Article 58);

ПШ - Suspicion of espionage (Article 58).

Until 1937, the SC was permitted to impose a sentence of up to 5 years in the prison camps and after 1937 up to 10 years. By the middle of 1940s, SC sentences had already increased to 20 years in the prison camps, and soon to 25 years. It may be interesting to note here, that in 1945, official doctrine declared that socialism had finally won in the USSR and even that the political opposition had voluntarily dismissed itself. Consequently, Ukrainians fighting the Soviet occupation of Western Ukraine

¹³⁴ White Guard - member of troops fighting against the Red Army in the Civil War.

¹³⁵ "Izvestija", 21.02.1921

before 1956, were sentenced according to Article 59, as 'bandits', instead of 'counter revolutionaries'. The investigating bodies of the State Security Service passed cases on to the SC, when, for ideological reasons, the courts could not publicly pronounce guilty verdicts. The SCs usually approved punishment proposed by operational commissioners. In other words, punishment was affirmed automatically; moreover, hundreds, and even thousands, of cases were solved concurrently during a "troyka" session. The decisions of the SCs, being extrajudicial, were not subject to appeal or revision as the result of an initiative by a lawyer or a prosecutor. Death sentences were implemented immediately. Only the SC could cancel its own verdict, but no such case is known. It was officially declared that SCs had been abolished after Stalin's death on April 7, 1953; however, this message was published only in 1957¹³⁶. Meanwhile, as an institution, the Special Conference was an anachronism from the very beginning, because for the Soviet judges direct instructions from the Party (the nomenclature) were always more important than the letter of the law.

On February 3, 1941, the National Commissariat of State Security – NKGB of the USSR was removed from the structure of the NKVD. On July 20, 1941 the departments again merged into one and then finally separated in April 1943. On 15.03.1946, the National Commissariats were renamed as Ministries; the NKVD became the Ministry of Internal Affairs (MIA), and the NKGB became the Ministry of National Security (MGB). Prisoners decoded the abbreviation "MGB" as "the Ministry – Where you – get Beaten". The general population whispered the abbreviation as "the Ministry for State Banditry". In March 1954, the MGB was renamed into the KGB. The KGB supervised a wide network of closed wards in nearly every psychiatric and prison hospital. During the 1960s and 1970s, these wards contained dissidents officially categorised as being in "need for treatment".

On November 28, 1933, OGPU issued a secret instruction according to which "anyone who refused to work, should be sent to camps in the Extreme North". Almost no-one returned from these places. After 1937, the refusal to work was considered as "counter-revolutionary sabotage" and was judged according to Article 58/14 "... right up to the maximum measure of socialist protection – execution by shooting" with confiscation

¹³⁶ "Party life" 1957, # 4, Page 68

of property (EI 49, Article 330). This instruction mainly related to criminal-recidivists. Under its terms, recidivist received not only an additional ten years in the camps, they also lost their “criminal” status (communists considered certain criminals as a trustworthy and “socially close” category of convict), and automatically acquired the “political” status of “enemies of the people” - the most powerless and exploited in the GULag category. After 1941 (World War II) for a third refusal to work, prisoners were automatically executed by being shot. After the war, prisoners were not executed, but their rations became so tiny inside the isolation units that they could choose: either to die peacefully of starvation, or to change their mind in favour of productive labour. The Correctional-Labour Code of 1970 was more liberal: the courts collected cash assets from convicts’ for the costs of his maintenance inside a colony, ultimately ending in the confiscation of his property. If a person possessed nothing, the costs of his maintenance were deducted from other prisoners’ salaries, and he was released at the end of his term. Only professional criminals could permit themselves the luxury of avoiding prison jobs: the fact, that they possessed the highest status and enjoyed most support from outside, together with the corruption of camp officials, helped them to avoid reprisals¹³⁷. Today, the situation inside the penitentiaries is much the same.

At the beginning of the 30s, prisoners had the right to 25-60 visits a year, depending on the regime (before 1917, it had been 90 visits). In the second half of the 30s visits to political prisoners were prohibited. After the camp strikes in 1953-54, for a short time it was possible to visit prisoners without restrictions; then, visits were limited again and reduced to 2 - 5 a year. The visits are either short (four hours in the presence of an inspector) or long (several days inside a special room, with the convicts excused from work, and the inspectors not present; the visitor has the right to leave colony/prison for several hours (for example, to purchase food)). The deprivation of visits was, and still is, a widespread administrative punishment.

The prolongation of an assigned term of imprisonment has been a permanent feature of the Soviet penal system, known since the first months of Soviet authority. From the

¹³⁷ The unwritten Code of old-fashioned professional, criminal fraternity, the so-called “Vory v zakone”(literally – “the Thieves in the Law”), strictly prohibited them from owning any property or bank accounts. All free money had to be invested in a common pot (“obschuk”) for illegal turnover and for support of convicted “brothers”. Modern criminals do not follow these norms. However, according to independent analysts, in 1999 the estimated value of the sum in Ukrainian “obschuk” is US \$15-17 billion.

middle of 20s the OGPU refused to release political prisoners from camps or send them into exile. A resolution by the CEC on March 26, 1928 stated, in particular, “the necessity of prolonging a period of sentence, or adopting other measures of social protection concerning incorrigible persons”¹³⁸. The day after the start of the war against Germany (23.06.1941), the People’s Commissar for Internal Affairs, Molotov, signed a secret order about the detention in labour camps of all political prisoners, especially those whose term of imprisonment had expired. Six years later small quota of survived “extended service prisoners” were beginning to be released. And during the time of Stalin’s next purges in 1947-1949, “extended service” was replaced by repeated conviction. In 1983, the Criminal Code of 1960 was supplemented by Article 188/3, which defined a new period of up to three years for convicts, who “deliberately disobeyed” the orders of the prison management, and five years, if such an offender was a recidivist. This Article remains unchanged.

Prisons

Two main tasks were assigned to the GULag, which, under the NKVD's patronage, grew into a monster of immense proportions. These tasks were:

- Isolation and compulsory use of the unreliable “labour force”;
- Allocation of this contingent to any place and at any distance.

The primitive character of the work carried out under the GULag regime allowed the stimulation of productivity through the use of violence and hunger. The secrecy of this activity enabled the NKVD to maintain and conceal a high mortality rate in a wide range of penal institutions:

- **“Arrest-houses”** – used for keeping people in custody for a short-term during an investigation. Convicted people were also kept in arrest houses before transfer to a labour camp (Collection of RSFSR Laws, 1918, 53:568, Zb.2). Arrest-house prisons were run by the local NKVD, or by the City Workers' Council, and in the middle of the 20s were merged with municipal prisons.
- **Municipal prisons.** Before the revolution, and for some time after it, municipal prisons were run by City Executive Committee. In 1918, these prisons came under the command of the People’s Commissariat of Jurisprudence. In 1922, municipal

¹³⁸ Еженедельные Советской Юстиции (Weekly Journal of the Soviet Justice), 1928, 14, page 204.

prisons were renamed “NKVD prisons”, and in 1946, “MIA prisons ”. There are usually in every big town several MIA prisons.

- **Military prisons.** By a decision of the People's Commissariat on Military Affairs, from 19.01.1918 (CC 15:256) all military prisons were assigned to support the People Commissariat of Justice and the VcheKa.
- **Houses for pre-trial custody.**
- **Compulsory-labour houses.** These were created on Lenin’s personal initiative and introduced compulsory forced labour for “class enemies”. Compulsory labour houses contained prisoners sentenced to “deprivation of freedom for more than six months”. (Correctional-Labour Code, 1924, Article 47-2). Regional and district CLHs existed from 1922 to 1933.
- **Labour colonies.** On 6.01.1928, as a result of a resolution by the Central Executive Committee, “common places of freedom deprivation for offenders sentenced up to three years” were established. After 1960, these type of prisons were known as “correctional-labour colonies of the general regime”.
- **Transit prisons.** These were intermediate halting-places for use when deporting convicts. Prisoners could be there from period ranging from 10-12 days up to several months, depending on the administrative routine (transport, etc.). The regime inside transit prisons was (is) cellular and short walks were also available (1 hour would be taken every day). Discipline there was (is) usually weak, because everyone understood that it was (is) not always possible to find and punish an offender in the time available.¹³⁹
- **Open correctional-labour colonies** - for prisoners “who have served not less than half their time ... during which they have demonstrated their suitability to labour life and thus recognised as subjects for transition into a semi - free regime¹⁴⁰ ”.
- **Special prisons.** Their real purpose was kept secret. Special prisons were organised from 1936-1938. As a rule, they were used to house political opponents – former “old Bolsheviks” and members of the nomenclature. These prisons provided full isolation from the external world. The “special” category also included

¹³⁹ Official statistics in Ukraine do not indicate the number of prisoners on the move (the daily population “between prisons” is 3,000 – 5,000 men). These people were not taken into account because they were formally on the road to, but, not in prisons.

¹⁴⁰ Correctional Labour Code, 1924, Article 47-5

“Sharashkas” (specially designed offices for the talented, but politically unreliable scientists) and “Psyhushkas” (prison-type psychiatric hospitals)¹⁴¹.

- *High security prisons* (non-labour) of cellular type, for especially dangerous convicts, where prisoners serve all the term of their sentence.
- *TON* – prisons for special purposes (isolation units) for the former allies of the Bolsheviks - anarchists and Mensheviks, for example, and later for “enemies of the people”. In these prisons, convicts did not work. In 1937, for greater secrecy the name “TON” was replaced by the neutral word “Prison”. These relatively comfortable places are now designated for members of the nomenclature, convicted police officers, judges and prosecutors.¹⁴²

In 1957, a question was raised at the June plenary session about opening the prison archives, but the Party elite “suddenly” unanimously agreed to hide the truth about the Soviet penal system. The secretary of Party Central Executive Committee, Shepilov, expressed the dominant standpoint of the nomenclature. “Do you now propose that, in face of our fraternal communist parties, and in front of our people, we have to say out loud that people who for years led our Party and governed the country were murderers who should be put on trial? And they will probably ask: is this what a Marxist party is all about?”¹⁴³ That was the end of the so-called Khrushchov “thaw” in penal policy.

Prison regulations

In each prison cell, except in the isolation units, prisoners were able to acquaint themselves with an A4 size piece of paper on the wall called Regulations for the internal order. This paper consisted of three points, of which the last, “Permitted to...” was the shortest one. Rights were not mentioned at all. Thus, prisoners were obliged: “to rise when the prison Governor enters the cell”. The words “... inspector on duty or other official” were added in 1936; “to take out and empty into the toilet the common toilet pot”, and so on. It was forbidden to: cover the spy hole; remain on the benches or beds; come close to the windows; put items on the window sills; make any noise or exchange messages with other cells; write inscriptions on the walls. It is also forbidden

¹⁴¹ Recidivists warned a novice that it is better to serve ten years in the camps, than one year in a “psyhushka”. The simulation of psychiatric symptoms was equivalent to suicide.

¹⁴² The author failed to establish the exact location of any particular prison in this category.

to sleep holding one's hands together under a blanket (to prevent the possibility of committing suicide by cutting one's veins). It was permitted to have a daily walk in the prison yard, “where prisoners can move in any direction”, and to “submit complaints to any state, judicial, or Party institutions”. On January 14, 1972, orders # 20 prescribed “new” regulations for prisoners, but these were no different from the previous ones. Prison regulations in Ukraine have remained practically unchanged – in 1992 only the words “ Party institutions” were removed.

Escapes

Escapes from the camps and prisons happened seldom. Foolhardy recidivists tried to escape from camps relatively often, but escapes by political prisoners were extremely rare. A chase began as soon as an escape was detected. A check on the inmates was carried out twice a day (8 am and 6 pm). In Siberia, if someone escaped, special groups with trained dogs, snipers, special troops (army) and aircraft took part in the pursuit. The custom was¹⁴⁴ – to beat re-captured fugitives, sometimes to death. Their corpses were thrown out near the checkpoint of the camp unit where the fugitives had been contained before the escape. Punishments for an escape grew steadily tougher. Thus, in the “Collection of Directives (Laws) of the RSFSR”, 1919, 12:124, Article 4 says: “ For the first escape a prisoner has to be punished by an increase in his sentence ... of up to 10 times. ... For the second escape, the guilty person has to be tried by the Revolutionary Tribunal ... and can be sentenced to the maximum measure of punishment” (death). From May 20, 1934 the Law decided that, in a case of the escape abroad of a military officer, his family members had to be punished by imprisonment in labour camps for between 5 and 10 years (EI 30:173). In 1941, the secret instruction ordered execution of political prisoners who were caught after their first escape, and any criminal prisoner after his second escape. For the first escape, a criminal prisoner was to be sentenced according Article 58/14 (counter-revolutionary sabotage against the construction of socialism)¹⁴⁵. Local inhabitants in the Extreme North of Russia called the camp fugitives “herrings”, because the government for each fugitive caught,

¹⁴³ Quoted in: Хоменко О., Язык блатных, Киев, Форт, 1998, том 2, стр. 362 (Homenko O., The language of “blutnoys”, Kyiv, Fort, 2, p.362).

¹⁴⁴ And still is.

¹⁴⁵ This Article 58/14 appeared for the last time in a Resolution by the USSR Supreme Court in 3.12.1962 (article 77/1). In the Criminal Code of 1972, it was cancelled.

paid out several kilos of salty herring, an extremely valuable product locally, because of the salt deficiency in this region.

Correctional-Labour Camps

In 1922, the Solovetsky Camps of the Special Assignment (SLON) were established on the Solovetsky islands in the White Sea, and took in prisoners from the Archangelsks, Holmogor and Pergaminsk camps. Until 1929, SLON was the only Soviet concentration camp system and it had (subdivisions elsewhere on the continent, at Pechora, Solicamlag, etc.) In 1937, SLON was disbanded, but the methods developed there, for example, total "stukhachestvo" ("squealing" or informing), were widely introduced into penal and public practice. The scale of NKVD's elimination activity during the 15 years of the SLON camps is testified by the fact that, after World War II, it required nearly 30 years to cleanse these islands of human bones, which were literally to be found on every square metre of dry land. The task was simple - to dig up hundreds of thousands corpses, process the bones into dust, and finally, throw the dust into the sea.

Solovky is a turning point in the creation of the Soviet method of building "a bright future" by means of compulsory labour. This SLON experience convinced the Soviet Government that compulsory labour was not merely expedient, but necessary. The SLON system proved that, for the stimulation of high productivity by compulsory labour, the most effective measures were fists and famine. The so-called "pot" system for the distribution of food to different categories of prisoners was first introduced on the Solovky Islands. This system was invented by a "socially close" criminal (convicted fraudster) called Naphtaliy Frenkel, who later became an MIA general. The "pot" system was extended to the whole Soviet penal system, along with a simultaneous under-stating of the calorie content of the food supply. In the 30s, 4 "pots" were established – "basic", "labour", "strengthened" and "penal". In GULag camps the "pots" were applied as follows: the first pot was given to prisoners who carried out 75-99% of their industrial norm or target; the second pot was for those who did 100-124 % of the norm; the third "pot" for those who did 125 % and more; and the fourth "pot" for non-productive prisoners. Prisoners who served their penalty in solitary cells or due to physical illness could not fulfil the norm, were considered as

non-productive. In some camps there were up to ten “pots”, but in every camp the best “pot” (or ration) was granted not for heavy work, but on the instruction of the officer who was responsible for encouraging squealing (“oper”). As a rule, the ration did not exceed 1,922 calories per day (in fascist concentration camps it was 2,000. (Today, “idle rations” in Ukrainian prisons must be – 2,400 calories and “working rations” 3,400 calories). However, because of the impossibility of controlling what part of this norm was actually delivered into a bowl, prisoners used to count the bread supply as the basic food, and called all the rest “pajka” (soup, mash, meat, fish, tea, and sugar). Using chronic famine as a stimulus to increase labour productivity and get rid of “useless” convicts, the administration employed the “pot” system with the strict control over the food supply, to keep prisoners in constant fear and to fix and reinforce its power. The rations were as follows:

- **“Guaranteed”** - for the fulfilment of the daily production plan for unusual work, or for execution of 75-99% of the norm (in grams): bread 450, sugar 7, mash 80, fish 132, meat 21, vegetables 500, vegetable oil 9, flour 6.
- **“Narkomovskaja”** - in remand prisons this was equalled to “guarantee”, but, parcels were not accepted and it was impossible to buy/obtain any extra food.
- **“MOP”** – for junior labourers (cleaners, watchmen, orderlies etc.). Such positions (according to the regulations) were available only for physically defective prisoners, but usually they were occupied by strong criminals, who knew how to settle things. This ration was a bit smaller than the “guaranteed”.
- **“Admin”** – for convicts who worked in prison administrative units (the manager of the prison bath-house, the dispatchers etc.). This was a bit larger than “guaranteed”.
- **“Blokade”** - in the Leningrad prisons during the blockade - 125 grams of bread and 250 grams of soup a day.
- **“For deleterious effects”** – a special addition to the “guaranteed” ration for work on harmful and toxic production processes (chemical, radioactive, foundry-work etc.) it was equal to the guaranteed plus a glass (250 ml) of milk.
- **“Pregnant”** – for pregnant and who were breast-feeding women (in grams): bread 850, mash 95, fish 167, meat 29, vegetables 694, vegetable oil 11, flour 46, sugar 7.

- **“Kindergarten”** – for new born children: no bread, sugar 27, mash 50, fish 33, vegetables 400, milk 400, fats 17, and flour 28 grams.
- **“Infant”** - ration for infants: bread 450, sugar 25, mash 100, fish 170, meat 50, vegetables 500, animal fat 66 and vegetable oil 20, flour 200.
- **“Remand”** – the normal supply for people under investigation: bread 400, sugar 9, mash 35, fish 73, meat 18, vegetables 400, vegetable oil and flour – 5 grams.
- **“Prison”** - in high security prisons (where the prisoners do not work): bread 600, sugar 14, mash 60, fish 80, meat 18, vegetables 420, vegetable oil 5, flour 6.
- **“Miners”** - for overfulfilment of the norm for work in the mines: bread 850, sugar 7, mash 180, fish 182, meat 31, vegetables 600, fats vegetable fats 11, animals fats 1, flour 107.
- **“Penal”** - for executing less than 50 % of the norm, and for idle prisoners in isolators: bread - 400, mash - 35, fish - 80, vegetables - 420, oil vegetative - 5.
- **“Technical”** – this ration was for technically skilled prisoners, who worked professionally in camps and prisons: bread 800, sugar 32, mash 170, fish 223, meat 69, vegetables 1,080, vegetable oil 27, flour 13.
- **“Stakhanovskaya”** - for executing the norm at 200 % and more, but not for less than 15 days: “Technical” + 400 grams of bread.
- **“Etupnaja”** – given out during transition to another prison (up to four days): bread 700, sugar 15, fish 167.
- **“Dry”** - products were given out to convicts according to the “guaranteed” norm and prisoners prepared a meal themselves (this was for small groups, who worked for several days far from the camp). The advantage here was that these products were not plundered on the way from the warehouse or in the kitchen.
- **“Strict regime”** – the norm for prisoners spending punishment time in solitary confinement in the penitentiaries of the strict and special regime (from the beginning of the 60s): daily 0,5 litres of boiled water, bread, alternately 450 one day, and 400 the next, teaspoon of salt and 0,5 litres of soup. However, it also refers to those prisoners who are being punished by the prison administration for breaking the rules inside prisons of the general regime.

- **“Idle” or “starvation rations”** – were given when prisoners had not gone to their place of work (for example, if the temperature was more than minus 43 C): bread 300, soup 0,5 litres, a teaspoon of salt, and 0,5 litres of boiling water.
- **“Liternaja”** – a special, high-calorie ration for talented scientists in prison research institutes (sharashka). For example, the chief designer of Gagarin’s spacecraft “Vostok-1” – Korolev, received his rations from camp stand-by funds on personal instructions from the governor.
- **“Parcel”** – an individually increased ration from the governor’s stand-by fund for the encouragement of especially valuable experts in the “sharashkas”. These extra rations were distributed to celebrate an occasion (state holidays) and usually consisted of several jars of canned food and sugar.
- **“Dietary”** – for non-working patients in prison hospitals. The black bread of the “guaranteed” rations were simply replaced by 300 grams of white bread. The number of such rations is strictly limited. Usually, they go to informers or “useful” prisoners.
- **“Investigator’s” or “oper’s” rations** – an additional supply for a “deserving” convict during investigation at the expense of the special investigator’s fund: sandwiches - white bread and butter with ham or caviar, hot dishes, sweet tea with added lemon, cigarettes, sometimes alcoholic drinks from the officers' bar. As a rule, a “stukhach” (informer) eats in the investigator’s office or has food delivered to him in a separate cell by an operative worker.

The Solovetsky experience proved that the combination of hunger and the “stukhachestvo” system of informers is the most effective tool for the destruction of a prisoner’s self-defence. Since the 1930s, the main task for the prison operative departments has become the recruitment of “stukhaches” - informers and provocateurs. Starvation, wearisome labour and a total absence of prisoner’s rights has contributed to their enlistment. Until now, opers have liked to say: “The worst is for the best”. Blackmail, use of discreditable material, intimidation, appeals to patriotism, offers of reward and promises to reduce sentence – all are used to enlist new "stukhaches". Informers do not know about each other. The departments always compare and double-check their reports. Attempts to refrain from reporting, for example, on a close friend,

are always severely punished. “Stukhachestvo” was used in later camps, and after the 1930s became a distinctive feature of Soviet life. The “stukhachestvo” was everywhere - in each municipal apartment, in each establishment, and in all the strategic institutions. State propaganda encouraged children to inform on their parents. However, the main SLON invention – the use of the “socially close”, hardened criminals to maintain internal “order” and for the extra punishment of political prisoners was subsequently used by Hitler, Mussolini, Mao, and later by Castro and Pol-Pot.¹⁴⁶

Before 1956, prisoners who served their sentence without deprivation of correspondence, were allowed to receive one letter a month. A censor from the operative department crossed out anything that he considered as unnecessary information with black ink.¹⁴⁷ Any prisoner who had the right to correspondence could receive money orders. From the beginning of the 1920s money was not produced in cash, and was placed in a personal account and a prisoner could spend a strictly limited monthly sum in the prison shop. From the beginning of the 1940s, money orders were limited to two standard sums, and from the 1960s, permission to spend money from the account was granted only to pregnant women, breast-feeding mothers, and juveniles. To own cash was forbidden, and if detected, money was subject to confiscation into the state budget. The rules have not changed; however, since 1991, huge sums of money in foreign and national currencies have circulated in prisons and colonies. Even regional “obschuk” (money collected by professional criminals for mutual aid) is sometimes located in the best-guarded place - behind the prison walls. Rumours in the Penitentiary Department suggest that informers reported to the Central Administration on a search in one of the Ukrainian strict regime colonies (Donetska region, 1998), when about US \$1,5 million from regional “obschuk” was found. Officers, who conducted the search and found the money, were frightened to death¹⁴⁸. They decided the best way to avoid revenge was to turn a blind eye. The Department’s employees justified their decision and no further actions were taken. I was told that, “if we have to

¹⁴⁶ “Stookhachestvo” is still widely used by the operative departments in Ukrainian and Russian penitentiaries. For example, if under the command of the head of operative department, operative workers failed to enlist five of ten prisoners to inform on their inmates, he is candidate he can loose his post.

¹⁴⁷ All letters in and out of Ukrainian prisons are still perlustrated.

¹⁴⁸ The label “guilty of plundering “obschuk” money” means inescapable death for the person accused of it. Anybody who kills such a person becomes a hero of the criminal world.

punish people for saving their own lives, we would have to fire most of our employees”.

Originally the aim of compulsory “common works”¹⁴⁹ was the punishment and humiliation of class enemies, but soon it turned into legalised slavery. The organisation of brigade work gave rise to interpersonal aggression – rations strongly depended on the fulfilment of collective (brigade) norms of production. Weak convicts became a drag on the brigade, because they could not achieve the norm. Healthy strong prisoners had to work twice as hard to eat single rations. Thus, it was rational to kill weak convicts to avoid extra work, or to withdraw his food and let him die from exhaustion and hunger. Collective responsibility for the brigade plan forced inmates to beat pregnant convict women to cause an abortion. The label “common work only” on a prisoner’s personal file in 1930-1950s meant almost unavoidable death from physical exhaustion. Today the term means unqualified physical work.

In 1930, Soviet concentration camps were renamed “correctional-labour” camps¹⁵⁰. Thus, in 1930, the Central Directorate of Camps - the famous GULag appeared. The term “compulsory work”, which Lenin liked so much, was replaced on 1.08.1933, by the label “correctional works”¹⁵¹. In 1957, the word “colony” replaced the word “camp” in official language. In all post-communist countries, the word “colony” is nothing more than a synonym for a prison enterprise.

Building on SLON’s experience, GULAG played its part in running the huge “building sites of communism” - Dneproges, the Baykal-Amur railroad, the White Sea channel, Magnitogorsk, Komsomolsk-on-Amur, and many others. Besides GULag, and unrelated to it, there was a correctional-labour camp system run by the Republican Commissariats of Justice and special camps supervised by various military departments. They were situated in former monasteries and converted premises far from big cities. Moreover, every regional town had a local NKVD labour camp. In 1934, all the regional camps and prisons were taken over by the NKVD and joined the GULag system. Public discussions in the Soviet press about the re-education of

¹⁴⁹ The term “common works” appeared in 1918. See: Collected RSFSR Laws, 53:598, p.25.

¹⁵⁰ Similarities to the use of concentration camps in Nazi Germany were carefully concealed by the Communist Party.

¹⁵¹ Сборник законодательных постановлений (законов) РСФСР (Collection of Directives (Laws) of RSFSR) 48:208

criminals were finished forever. Before 1934, newspapers had regularly declared: “We are proud to remould the most inveterate criminals and political enemies into supporters of communist ideology”. However, repugnant the conversion of a free people into slaves or corpses is considered, there is no doubt - the Bolsheviks succeeded in exerting total control. For example, it is known that, out of 280,000 workers on the White Sea Channel, 100,000 were anonymously buried at the bottom of it. Each camp was surrounded by the special NKVD “shooting” squadron. Every morning a special command unit received their weapons and glass of vodka, then loaded selected “dohodyagas”¹⁵² on lorries. The lorries arrived at a common grave, previously dug by healthy “socially close” criminals, and the executions began. Sometimes the soldiers formed dohodyagas into a close column standing perpendicular to the grave and arranged a competition: who kills the most with the single bullet? If there were women among the dohodyagas, sometimes a group rape took place before the shooting. Then the soldiers returned to the camp, cleaned and handed in their weapons, received as much vodka as they were capable of drinking, and were given time of until the next morning.

The GULag population

In all the camps, prisoners lived in barracks. Barracks were equipped by the carload¹⁵³ or compact¹⁵⁴ plank bed system. The carload system allowed 1,5 m² for each prisoner, while the compact system allowed 0,8 m² per prisoner. In 1919, the Executive Committee recommended “getting rid of the compact system to prevent epidemics¹⁵⁵”, but, in fact, the administration began the gradual substitution of the carload system for the compact plank beds only after camp riots in 1953-1954. The Correctional - Labour code (1970) prescribed the norm of 2 m² per prisoner (Article 56), and, in 1992, 2,5 square metres, but today Ukrainian prisons and colonies accommodate a population of about 230,000 people and the administration cannot adhere to this norm. A modern section (block) contains about 120 men.

¹⁵² Dohodjaga – a prisoner who is sick, exhausted and no longer capable of work. Literally translation – “approached to death”.

¹⁵³ Two storeys plank bed for 4 men, each pair of places was divided by wooden edge (10-15 cm).

¹⁵⁴ Compact line of two storeys plank bed undivided for places.

¹⁵⁵ Collections of Directives (laws) of RSFSR 20:235 article 48.

In 1956, all specialised GULags units were transferred to the appropriate Ministries and all types of camp were uniformly renamed “correctional-labour colonies”. It was an enormous legacy to transfer. In Siberia and the Far East regions the GULag “population” and budget considerably exceeded similar economic axes in the regions (sometimes by several times); its population - prisoners and the exiled - were outside the jurisdiction of the local authorities; the GULag had its own military forces and police (the operative departments). From our sources 16 types of prison camps were identified in the GULAG system:

- Closed (without the right to correspond with the external world);
- Pedagogical-retaliatory establishments;
- Pedagogical-labour colonies;
- Juvenile colonies;
- Female colonies (mainly for the wives of "enemies of the people" and "traitors to the Motherland");
- Correctional-labour colonies;
- Juvenile correctional-labour colonies;
- Penal servitude camps;
- Concentration camps;
- Research institutes;
- Special assignment camps;
- Special building – reconstruction camps;
- Compulsory labour camps;
- Control-filtration camps;
- Special camps;
- Labour colonies (handicrafts, agricultural, manufacturing).

All camps and colonies were and still are divided into “zones”. Prisoners are strictly banned from crossing “zones” without special permission. Ex-prisoners used to consider the USSR as “The Great Zone” in contrast to the tiny camp zones. A modern correctional labour colony in Ukraine is divided into the following set of “zones”:

- Venzone (for persons with venereal diseases);
- Zhenzone (for convicted women);

Zhilzone (the living zone, comprising sleeping barracks (blocks), dining-room, the pantry block, the ambulance, the bath-house, the shop, the club and sometimes the administrative buildings);

Local zone (separate inhabited barracks / blocks or groups of barracks). Areas, which separate blocks inside the zhilzone in Reinforced and Strict regime colonies, were created at the beginning of the 1970s;

Firezone (the borderland alongside the colony perimeter controlled from watch-towers);

Special zone (with an additional firezone between barracks for the separation of hostile groups);

Subsidiary zone (service workshops for the zhilzone);

Promzone (industrial workshops or factory buildings);

Psihzone (for the mentally ill);

Hozzone (household yard, laundry, garage etc.);

Shtrafzone – punishment area (isolation unit).

From 1928-1934, the main labour force in the GULag were peasants – victims of compulsory collectivisation. During these years, 1,200,000 Ukrainians were exiled from Ukraine (without right of return) to the Far East and Siberia¹⁵⁶. In 1933, an artificially induced famine in Ukraine finally put an end to resistance to agricultural collectivisation - nine million died and the survivors joined the colhoses (collective farms). NKVD troops played a significant role in this mass murder. In fact, villages were transformed into concentration camps. A bumper harvest was removed and the villages were surrounded by NKVD troops. People who tried to escape were shot. After the assassination of Kirov in 1934, a new, stream of “people’s enemies”, so-called “Khirov’s stream” appeared, which led the “Great Purge” of 1937-39. According to official statistics 24,934 people were arrested in Ukraine in 1935, 15,717 in 1936, 159,573 in 1937, 108,006 in 1938, 12,000 in 1939 and nearly 50,000 in 1940¹⁵⁷. On 19.04.1943, the Council of the People’s Commissars issued a resolution on the re-establishment of penal servitude for “traitors to the Motherland”. Taking into account mitigating circumstances, some traitors were not hung but were sentenced to 15-20

¹⁵⁶ From NKVD archives (quarterly magazine), Kyiv, 1/2, 1998, p 116.

¹⁵⁷ Rehabilitated by History, Kyiv – Poltava, 1992, p.21.

years in penal servitude camps. The Soviet government sentenced as traitors: nurses who had not been evacuated from occupied territory, workers in the power stations, whose duty had been to remain at their posts in case of explosion, teachers, who had never been mentioned in evacuation plans, etc. After World War II, thousands of emigrants joined them in the penal servitude camps of the Extreme North (Vorkuta, Kolyma, Norilsk, Tayshet). According to the Yalta Agreements, English troops, for obscure reasons, compulsorily gave up to the Soviets Russian emigrants who had lived peacefully in Western Europe and had not taken part in the war (in the Agreement, former citizens of Imperial Russia were not mentioned). People from fascist concentration camps were sent to Soviet filtration camps, where they were tortured to extract confessions that the Americans had already enlisted them as spies, and those found guilty (or who confessed) were delivered into penal servitude camps. They were used only for the heaviest physical work, and medical aid was available only in the case of broken bones or pregnancy. In the case of a pregnancy, abortion was performed compulsorily and without anaesthetics. These camps also contained a huge mass of people from areas that had been occupied by the Germans - Ukrainians, Belorussians and people from the Baltic States. Altogether, 1.4 million of alleged "traitors to the Motherland" were compulsory resettled to Siberia from the Western regions of Ukraine.

The death rate in penal servitude camps was the highest ever. A special way of prisoner identification was invented there – life time numbers. Numbers consisted of one or two block letters and a digit from 001 up to 999. In case of an owner's death, his number was transferred to a novice. Going to their places of work, prisoners turned out in columns of five - the right hands of all on the extreme right and the left hands of all on the extreme left were joined by chains. In the camp, prisoners were kept separately in closed barracks. No documents about the abolition of penal servitude camps were published. In 1970, an MIA instruction introduced the practice of mandatory labels for prisoners: the chest of each prisoner had to be labelled with a surname and the number of his or her personal file. Absence of the number, or an indistinctly written surname, led to punishment by solitary confinement.

Maternity, children and juveniles in prison

The Correctional-Labour Code (1924) proscribed the use of pregnant women (from the fifth to the ninth month of pregnancy) for manual work outside the camps unless they gave their assent. Civil war, social and penal policies, coupled with the artificial famine in 1933, caused a reduction in the male population, which in turn led to a general decline in procreation. In 1936, the solution for the demographic problem was found - abortions were prohibited¹⁵⁸. Frequently, even an unintentional failure of pregnancy was identified as an abortion and penalised. Camps became crowded with the convicts women - "abortschitcy", who were not only capable of work, but who also regularly gave birth. From the middle of the 1930s, women in prisons had moved from "hard" to "light" work eight weeks prior to, and four weeks after childbirth. According to the 1970 Correctional-Labour Code (whose main regulations are still in force today), pregnant women have to be used only for light work; they can obtain permission to live outside the colony during the later stages of pregnancy; and they can even apply for permission to live outside the prison for a further two years with their child. Nursing mothers are candidates for amnesty. However, if a sentenced mother flagrantly breaks the rules, or her relatives refuse to take the child away (there are no relatives), the administration compulsorily sends children, who have reached the age of two, to a children's home. Many women try to give birth as often as possible to avoid doing hard labour. There is a well-established "fathers-list" made up from members of the prison administration, prisoners, and specialists who work on contract for the prison. In other words, any possibility to become pregnant is used. Unfortunately, many prison-children end up in to children's homes where their institutionalisation begins; it often continues in juvenile colonies and afterwards in prison. In the past there were exceptions for especially gifted children and for child-informers. They were accepted without exams into the military and the KGB schools. Special education cultivated a blind fidelity to the Communist Party, which turned them into "Party janizaries".

The criminal code of 1922 distinguished juvenile criminals by their origins. They were either "socially close" (proletarian) or "class-alien". If they were the former, people

¹⁵⁸ This resolution was cancelled 23.11. 1953.

aged 16 to 20 were treated as juveniles, but if they were “class-alien” offenders the ‘juvenile’ bracket encompassed only those from 14 up to 16 years old. A joint resolution by the Central Executive Committee and the Council of the People’s Commissars on April 7, 1935, ordered that “juveniles from the age of 12 who are convicted of theft ... murder or attempt to murder, have to be prosecuted with the application of the full range of criminal punishment ¹⁵⁹”. It is necessary to mention that deliberate murder, according to the CC of that period, was punishable by 10 years in the camps. A Resolution #25 of the Supreme Soviet from May 31, 1941 made the criminal responsibility of juveniles (aged from 14 to 18) equal to that of adults (and therefore: able for sentences up to, and including, capital punishment).

The 1960 Criminal Code (most of whose articles concerning juveniles still operate in Ukraine) is more lenient and specifies that the maximum limit of punishment for juveniles until the age of 18 is ten years' imprisonment. It is interesting to note that for group rape and deliberate murder, juveniles receive the same level of punishment – a maximum ten years of imprisonment. However, according to informal prison customs “the rapist has to be raped”. This act reduces sentenced rapists to the most degraded caste in the prison hierarchy. Knowing what is waiting for them, if a victim threatens them with trial or for any other reason their crime might be discovered, juvenile rapists consciously prefer to kill a victim, in the hope that the status of “cool murderer” will rescue them from becoming homosexual slaves.

Post-war penal policy in the USSR claimed that “both correctional labour and deprivation of freedom should be linked to the compulsory education of the convict by means of involvement in socially useful work”¹⁶⁰. In 1946, the MIA in the USSR employed a million people in police units and 900,000 in the MIA troops. A few years later the Soviet courts began to mete out less heavy sentences – in 1952 a significant revocation took place of the unwritten law, dating from 1932, of punishing every criminal offence with the maximum sentence. After the weakening of the total state and the lessening of public control over the peoples' activity after Stalin’s death in 1953, crime in USSR has changed in accordance with world trends. It has increased

¹⁵⁹ Assembly of the Laws of the Government of the USSR, 1935 19:155

rapidly in comparison to population growth. For example, 579.116 crimes were registered or 287 crimes per 100,000 persons of the total population in the USSR in 1956. By 1990, registered crimes had increased by 297% to 852 crimes/100,000. The average annual rate of growth of crime in the last 33 years in the USSR has been 9,8% while the average annual rate of growth in population has been 1,2%. This means that the increase of crime in the USSR in this period was eight times higher than the increase in the population. From 1956 to 1991, the number of drugs-related mercenary crime had risen by a factor of 26.¹⁶¹

The year 1957 marked a serious increase in the incidence of both criminal and economic crime. At first, the Soviet authorities attempted to deal with this trend by means of the courts and a voluntary "people's militia". Public opinion was mobilised to deter potential offenders. However, these methods failed. In 1961¹⁶², the Presidium of the Supreme Court of the USSR issued a resolution on "Intensifying the Struggle against Especially Dangerous Crimes", which extended the legal use of the death penalty, limited parole, and added exile as a supplementary punishment. Article 1 of this resolution provides for death by shooting for embezzlement, counterfeiting and "terrorisation of prison inmates who have entered the path of rehabilitation". The death penalty became applicable to people guilty of these crimes as well as to those who committed the traditional capital offences of treason, espionage, terrorism, banditry, and premeditated murder.

Ukraine, as a republic of the USSR, has experienced the influence of an enormous mass of professional criminals. From 1960 to 1991, nearly 16,000,000 recidivists were reconvicted in the former USSR, which meant the existence of an army of professional criminals. After release from Siberia and Far East prison camps many recidivists settled in Ukraine or came to improve their health in the mild climate of the Crimean peninsula. According to Ukrainian criminologist, O. G. Kylik, with reference to the death rate among criminals, the current elite of the criminal world on the territory of

¹⁶⁰ Beliaev N.A., *The subject of the Soviet Correctional-Labour Law* (Russian edition), Moscow, 1960.

¹⁶¹ Data taken from: Koundriavtsev, V., "Market economy and Organised Crime in the former USSR. Moscow Centre for Prison studies, 1998.

¹⁶² *Izvestija*, 7.05.1961

former the USSR numbers nearly five million, all of whom make their living by means of crime¹⁶³.

In addition, the ideological belief that crime would disappear in a socialist society has had serious and lasting implications for the prison system. Little resources were allocated for building new penal institutions and refurbishing old ones. As a result, all prisons, especially for pre-trial detention, are now not only old, but also overcrowded.

¹⁶³ Criminology in Ukraine, #2,1994, Juridical Literature, Kiev, p.134.

3.2. *The current state of the Ukrainian penal system*

“According to the law, information on prison and pre-trial detention conditions is considered to be a state secret, and no official statistics are available¹⁶⁴”.

The political changes of 1987 – 1991 created opportunities for major progress in developing penal institutions in accordance with the international standards, but due to economic and political realities of transitional period, it has been difficult to take full advantage of these opportunities. Additional problems, such as changes in patterns and levels of crime, and steady growing number of sentenced people in penal institutions, have also arisen.

However, the legacy of totalitarianism itself is the most important factor in the nature of relationships within the penal system, and which has to be analysed in order to recognise and overcome current difficulties. For example, the idea of the correctional-labour colony is based on the overestimated role of labour in the rehabilitation of criminals derived from Marx and Trotsky. As we have seen, the dominant features of the old GULag (political repression and the state's need for industrial development) dictated the nature, size and distribution of the population in custody, but have little to do with criminal justice. Traditionally, the Soviet courts were designed to intimidate society and this tradition seems not to have ended with the USSR. People in Ukrainian prisons still provide a source of cheap labour. Under these circumstances, work “for nothing” does great damage to the idea of correction. Non-professional criminals (the majority) are forced by more privileged inmates, as well as by staff, to fulfil unpaid work instead of, and for the idle privileged. The job often becomes stigmatising slavery. To be idle was customarily a privilege and a point for honour of criminal leaders - “thieves in the Law”. This privilege is still granted to influential criminals (blutnoys) by functionaries in exchange for “order” in the cells and barracks and fulfilment of production plans. However, as unemployment struck the economy as a whole, in many penitentiaries, rather than being forced to work, prisoners compete to become “good” enough to earn wages to buy extra food and cigarettes in the prison shop. The work available is often useless and wages are tiny, (“You are here to serve

¹⁶⁴ “Ukraine Country Report on Human Rights Practices for 1998”, February 26, 1999, U.S. Department of State (Bureau of Democracy, Human Right, and Labour), p.4.

your penalty and repay your debt to society, not to earn money!”), but prisoners see a “rest” in overcrowded blocks as an additional punishment.

The first real steps toward reform of the penitentiary system were taken in 1997 within the Ministry of Internal Affairs, when a new system of security and supervision was implemented. The Central Administrative Board of Internal Affairs (CABIA) passed the functions of supervision over convicts’ regime inside prisons and the guarding of colonies-settlements to the Central Administrative Board for the Execution of Sentences (CABES). Around 7,500 of military regime staff changed allegiance and joined CABES. A large quantity of special military equipment and ammunition was also transferred and 23 regional penitentiary offices were connected to the computer net.

On April 22, 1998 the President of Ukraine signed a Decree to create the State Department for Execution of Sentences (SDES or Penitentiary Department - PD) which was modelled on the CABES.

On 31.06.1998, the President issued a further Decree, which introduced the SDES temporary statute.

On 11.12.1998, Verhovna Rada (Parliament) passed the Law of Ukraine “On the introduction of changes to some legislative acts due to the creation of the State Department for the Execution of Sentences”. As a result of this Law, 35 Articles of 14 existing Laws of the Correctional-Labour Code were changed. These changes formed the foundation for the independent functioning of the penal system. Unfortunately, at this stage all these formal changes altered nothing inside the penitentiary system. The new notion “The State Department for the Execution of Sentences” was simply added to the old laws from 1960-1970 while penitentiary officers were also given the right to privileges and pensions equal to those of the police and military employees. This Law finally established the juridical independence of the Department in all prison-related matters and increased the number of armed power structures in Ukraine from 17 to 18.

On 12.03.1999, the President signed Decree #248/99, which approved the independence of the State Department for the Execution of Sentences (further

Penitentiary Department (PD)) from the MIA and defined it as a central body of executive power which has to realise unified state policy in the field of execution of criminal sentences. After almost two years of intensive preparations the Department finally became independent of the police and started autonomous activity .

The Ministry of Internal Affairs transferred to the PD all the problems which had accumulated over several decades. The financial state of the prison system remained quite strained. The reduction in state financing from the budget in recent years was accompanied by an enlargement of the prison population. In 1997, the system received 236,194,520 Hrivnas from the budget, which was 92,7% of the planned sum. The next year (1998) was marked by a further reduction – 181,200,000 Hrivnas (90,6%, but due to inflation, the Hrivna fell more than twice against the US dollar and market prices rose accordingly. Thus, the financial state is critical. For example, in 1999 the state budget allocated only 0.08 Hrivna per day for nutrition for one prisoner. For this sum (equal to £0.012), it is not even possible to feed a cat. In fact, the Government got rid of its responsibility for convicts' health and delegated to the Department the duty to employ as many prisoners as possible to meet their nutritional needs.

On 1.06.1999, the 193 establishments in the penal system contained 223,900 people. 181,300 were convicted adult offenders of whom 10,300 females. 3,500 juveniles in educational-labour colonies and 38,100 were on remand in pre-trial prisons¹⁶⁵. The World Factbook 1999¹⁶⁶ suggested that the population of Ukraine on 1.06.1999 was 49.811.174. Thus, the actual prison rate was 449/100.000. On 1.04.2000, the Ukrainian prison system contained 226,000 prisoners¹⁶⁷.

As most writers on the subject of imprisonment point out, it is the essential nature of penal institutions that the people placed inside them have limited contact with the outside world. Rarely is attention drawn to the two-sided nature of this isolation. Confinement, after all, constitutes a barrier that is impenetrable from both sides: the people incarcerated cannot easily get out, and outsiders cannot easily get in. For scholars who would like to make their way inside and conduct research, the barrier

¹⁶⁵ Special informational bulletin was released for mass media by PD on 09.06.1999.

¹⁶⁶ See: <http://www.odci.gov/cia/publications/factbook/up.html>

created by confinement is an essential fact. For example, a member of the prison staff warned me that if I became too “curious” it would be possible to make “a nice-looking prisoner” of me so that I could study prison life directly, in person. All it would take would be to put a small packet of drugs in my pocket. It was said to me in such cynical manner, that it was difficult to work out whether it was a joke or a real threat.

The penal institution, as a management system, bases its internal organisation on intervention in all domains of human life and strict scrutiny from above.¹⁶⁸ At the same time, prison is excluded from social oversight and remains completely under the power of the political authorities. Political control is realised, on the one hand, by the acceptance of hierarchical subordination as a style of management. The administrative-legal nature of relations provides higher-level penal authorities with an opportunity to wield an unlimited influence over the organisation and functioning of those on a lower level. This relationship is often one of dual dependence - personal (filling posts, giving promotions, handing out rewards and punishments) and official (the possibility of issuing unlimited directives). Functionaries concentrate their attention on the requirements and expectations of the people perceived as the source of their power.

On the other hand, being at the disposal of political authorities requires that members of the penal institution dissociate themselves from any involvement with those events and movements in society which can be particularly dangerous for authorities during the constant political crises of the transitional period. The absence of these social influences in Ukraine has resulted in a constant feeling of isolation on the part of members of the institutions. Political authorities attain this affect, above all, by prohibiting any independent public airing of problems connected with the work of the prison staff. These functionaries are accustomed to regarding anything connected with their professional work as official secrets. Administrators of the institutions are also obliged to observe a reasonable silence about many aspects of their profession. Robert Merton long ago noted, of the resistance of such institutions as the prison system to make contact with academic centres, that “a science which asks questions of facts concerning every phase of nature and society comes into psychological, not logical,

¹⁶⁷ The Day, #67, 14.04.2000

¹⁶⁸ See E. Goffman, (1976), and M. Foucault, (1979).

conflict with other attitudes toward these same data, which have been crystallised and frequently ritualised by other institutions. Most institutions demand unqualified faith; but the institutions of science make scepticism a virtue. Every institution involves, in this sense, a “sacred area” which is resistant to “profane” examination in terms of scientific observation and logic.”¹⁶⁹

Official propaganda failed to fill a void left by the absence of channels for the authentic articulation of prison problems. Ukrainian newspapers sometimes even publish compassionate “tales” with a criminal hero in the role of a suffering Robin Hood. All this leads to the spreading of information by people who have had first-hand dealings with the institutions, and, as a rule, these are horrifying testimonies. Consequently, the public conceives of the staff of these institutions as remaining outside its influence, and the staffs do not expect any positive support or acceptance from the public. This situation dooms the prison staff to remaining loyal to the authorities, even if they do not receive wages for months. It means that they also continue to suffer as a result of the lack of communication with society. However, the isolation is, to a certain degree, institutionalised - staff members live together in separate buildings and hostels, relax in special closed recreation centres, have special medical assistance, and organise their own economic production in prison farms, factories, and so on.

The penal system, which operated in the Soviet era, was incapable of fulfilling the main clauses of European Prison Rules. As soon as Ukraine became an independent state, reforms began to be introduced into its penal system. As a member of the Council of Europe, Ukraine has bound itself to the upholding of a list of conventions, including the Human Rights Convention (1950) and the European Prison Rules (1987). Since 1992, the President of Ukraine has signed 11 decrees, Verhovna Rada (Parliament) has passed three resolutions and 16 changes to legislation and the Council of Ministers has issued 15 resolutions aimed at improving the functioning of the penal system. Due to cardinal changes in society, the number of crimes committed has increased sharply. Furthermore, the imperfection of the legislative foundation and the

¹⁶⁹Merton, R., (1949), p.303.

obsolete methods of social work inside prisons have contributed to prisoners' disorientation and recidivism (see table 14).

Table 14. Sentences passed by the courts, imprisonment and recidivism in 1987-1999						
Year	Total verdicts	Sentenced to imprisonment	%	In colonies ¹⁷⁰	Number of recidivists in colonies	% of recidivists in colonies
<i>The Soviet Socialist Republic of Ukraine</i>						
1987	124,905	38,845	31.1%	135,290	57,290	42.3%
1988	90,987	29,372	32%	99,321	56,021	36.3%
1989	90,121	31,197	34.6%	88,807	45,207	50.9%
1990	104,199	35,947	34.5%	91,322	55,422	58.5%
1991	108,500	35,045	32.3%	94,554	52,900	55.9%
Average	105,742	34,081	32.9%	101,859	48,968	48.1%
<i>Ukraine (transitional period)</i>						
1992	115,000	38,740	33.7%	110,538	58,200	52.6%
1993	152,878	54,019	35.3%	126,040	64,400	51.1%
1994	174,959	63,572	36.3%	138,970	67,700	48.7%
1995	212,915	74,689	35.1%	161,036	75,400	45.6%
1996	242,124	85,824	35.4%	173,163	76,900	44.7%
1997	257,790	90,484	35.1%	168,528	73,400	43.6%
1998	232,598	86,437	37.2%	163,441	72,785	44.5%
Average	195,466	69,525	35.6%	148,674	69,540	46.8%
1999*	222,239	83,399	37.5%	181,300**	---	---
Sources: Informational Bulletin #2, State Penitentiary Department, Kyiv 1999, p.12; * A. Bukalov "Punishment or vengeance?", The Day, #32, 23.02.2000; **Special informational bulletin was released for mass media by the PD on 09.06.1999.						

The reduction in sentences of imprisonment during 1988-89 can be accounted for by the beginning of "perestroyka" in 1987, when the Soviet government legalised individual businesses and permitted activities, which the state had formerly defined as criminal. For example, street vendors were no longer sentenced but seen as "speculators" and people who provided services were able to legalise their activities. At the beginning, tax rates for co-operators and private entrepreneurs did not exceed 33%. Enterprising people, among them many ex-prisoners, changed over to private business and began to earn much more than state employees. But further increases in tax led businessmen into the shadow economy. Simultaneously with the collapse of the USSR features unknown to the previous regime appeared. The Ukrainian government, collecting the same taxes as in the Soviet period, simply shifted the responsibility for the wellbeing of the population on the population's shoulders - "your prosperity is your personal matter". The growing mass unemployment influenced the increase in social strain, and criminality and recidivism began to grow. During 1992-1997, the prison population increased by 11% each year. The day before the Presidential Election

¹⁷⁰ Quantity of prisoners in Pre-trial units not included.

(October 1999), official sources portrayed a general reduction in the number crimes committed, and thus, fewer people were sentenced to imprisonment in 1998. It is likely that in the period up to the election it ought to be shown lower. The President claimed that his policy led to a reduction of crime in the country, however any practitioner will contradict such a statement because the police consciously avoided registering many of the crimes in their regions.

In 1995, 49,000 people were released from Ukrainian penal institutions (due to illness, end of sentence, or amnesty). Only 38,000 returned to their previous place of residence and were registered there. A fifth - 11,000 - did not register their location with the authorities. According to the "Law on Executive Supervision over Ex-prisoners", executive supervision had to be established over 8,878 ex-prisoners, who were defined as still dangerous to society. However, information about such supervision was received for only 50.7%. This is not surprising - there is no special social service for ex-prisoners in Ukraine (employment, education, housing) and ex-prisoners are often forced by circumstances to turn to crime again. In 1996, 61,000 people were released from penal institutions. Seven percent of these people returned to prison in the first year (1997) after their release. The recidivists who were unemployed at the time of committing a crime in the first year after release are reflected in the following figures¹⁷¹:

1992 – 30,000

1993 – 31,900

1994 – 34,200

1995 – 39,600

1997 – 41,800

1998 – 44,200

However, in spite of visible increase, this does not arguably reflect a high desistance rate, more a low level of reporting to the police about known offenders (by neighbours, for example).

In 1995, the cost of the penal system in Ukraine was US \$ 70,588,235. In 1996, the cost was not reported, but in 1997 it was stated that every prisoner cost the budget US

¹⁷¹ Betsa, A. (1997) "On the establishment of the probation service in Ukraine", Kyiv: Freedom House; Informational Bulletin #2, State Department for Execution of Sentences, Kyiv, 1998; День, №142, 5.08.1999

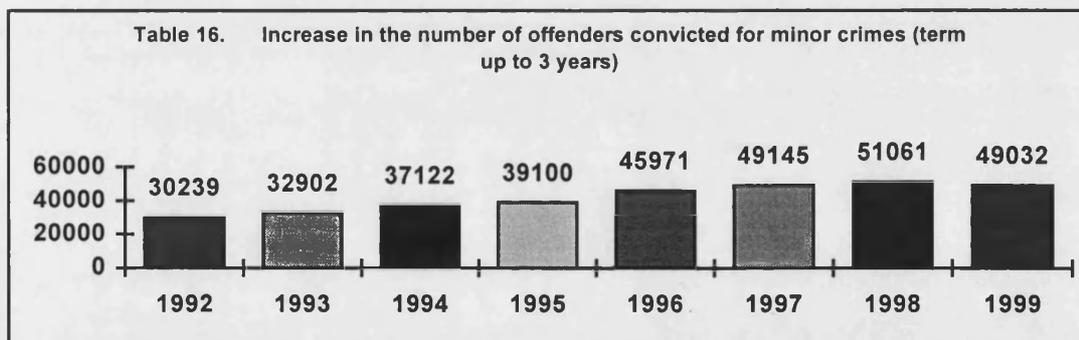
\$ 1,235 per year. Meanwhile, official statistics do not reveal the simple fact that many prisoners work hard in prison enterprises and are a profitable category for the budget. From 1997 to 1999, the cost of one prisoner cost to the budget was estimated at 105 Hrivnas per month. But, due to constant devaluation of the national currency in real terms, the costs of prisoners' maintenance fell very significantly – from £101 per year in 1997, £44 at the end of 1998 and £15.2 on 1.01.2000.

In 1999, the PD, in search of new sources of financing, announced that 20% of inmates were “dystrophics”, which means that their weight is 20 kilos less than is normal for their height. The angel of hunger is now, once again, flying over every fifth prisoner as was the case 60 years ago. This situation hardly influences prisoners' mentality and provokes aggression. The increase in the levels of prison crime was notable in several regions where the food supply was harshly disrupted. For example, in the Vinnitska region the level was 8.4 crimes per 1,000 prisoners (in 1996 it was 7.3/1,000), the Republic of Crimea – 5.5/1,000 (in 1996 – 3.5) and in the Kirovograd region the number increased from 6.6/1,000 to 7.2/1,000. To some extent, the state of criminality behind bars may be influenced by the number of people deprived of the right to amnesty, to conditional release, or those who cannot apply for transfer to a colony-settlement. On 1.01.1999, there were 70.300 such prisoners. Among them were 3,000 in women's general regime colonies, 23,000 in reinforced regime colonies and 35,000 in the strict regime institutions.

Table 15. Crimes and sentenced criminals	1996		1997	
	Quantity	%	Quantity	%
Crimes committed:				
In a state of alcoholic intoxication	63,060	26.0	66,200	27.8
In a state of narcotic intoxication	11,229	4.6	8,029	3.4
In co-operation with other	89,313	36.9	86,226	36.2
In organised groups	429	0.2	639	0.2
In the first year after release from	10,911	4.5	12,657	5.3
prison				
previously sentenced for violent crimes	2,841	8.3	3,012	7.6
(murder and grievous bodily harm)				
Age of those sentenced				
From 14–18	19,043	7.7	18,363	7.7
From 18–24	58,319	24.3	59,203	24.9
From 25–30	44,914	18.3	43,548	18.3
Over 30	119,848	49.6	116,676	49.1
Citizens of Ukraine	235,943	97.4	252,214	97.5
Total number of sentenced people	242,124	-	257,790	-
Source: Derived from the Bulletin issued by the Justice Ministry, 1998				

The rate of conviction and people on trial is 449/100,000 population (in 1991 it was 230/100,000¹⁷²), the highest figure (after Russia) in EU, whose average is four times lower. The percentage sentenced to imprisonment of all people brought to trial in Ukraine is now 37.4%, but all of them remain in custody until a verdict is reached. Alternative sanctions, such as fine, release under bail until trial, a conditional sentence or probation etc. are not affordable for the majority (help of an advocate is very expensive). Meanwhile, 70% of the Articles in the Ukrainian CC permit the use of alternative sanctions, but judges prefer to ignore this option. Sometimes it takes from six to ten months to release innocent people from pre-trial prison (62,5%!), but the state offers no compensation, nor even apologies to them. As in Stalinist times, the police still consider imprisonment of the innocent as an effective preventive action. By comparison, the rates of imprisonment of those under investigation are: nearly 16% in Britain; 8% in Sweden and 3% in Japan.

In recent years, the number of prisoners convicted for a term of up to three years has significantly increased (see: table 16).

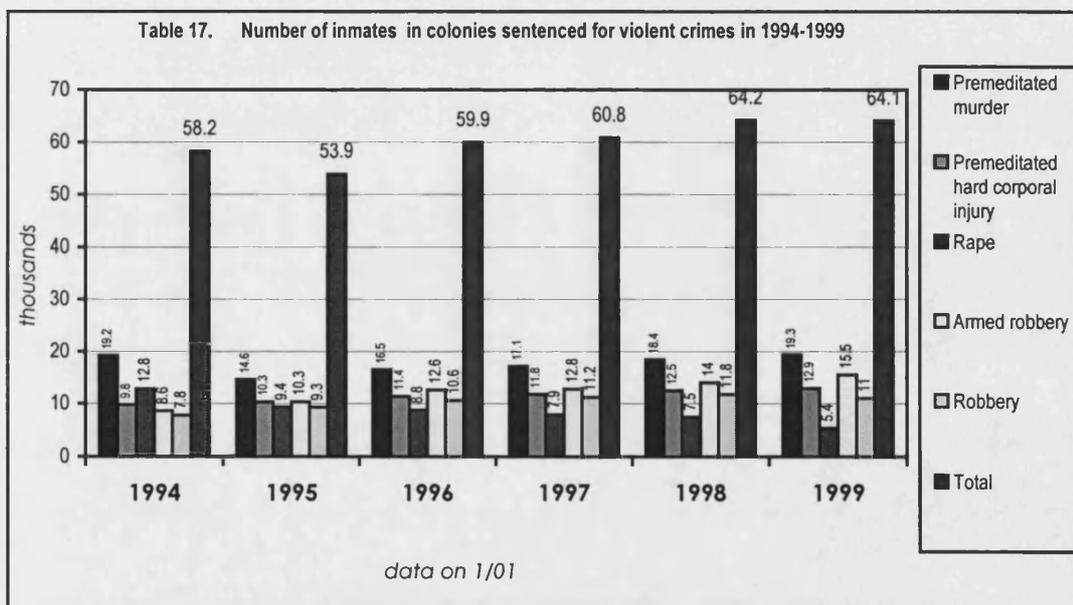


According to Ukrainian Criminal Code, these offenders could be put on probation, given parole, or sentenced to pay fines, but alternative sanctions in Ukraine remain undeveloped. For example, imprisonment for two to three years for stealing a bag of wet potatoes from abandoned fields on a collective farm, seems, at the very least, a disproportionate sentence, especially as, according to Ukrainian Law, any sentence of up to three years could be replaced by parole. There is only one problem - the person must hire a good advocate. But a man who steals a bag of wet potatoes knows nothing about advocates and undoubtedly has no money to hire a good one. These offences are

¹⁷²Detkov, (1992).

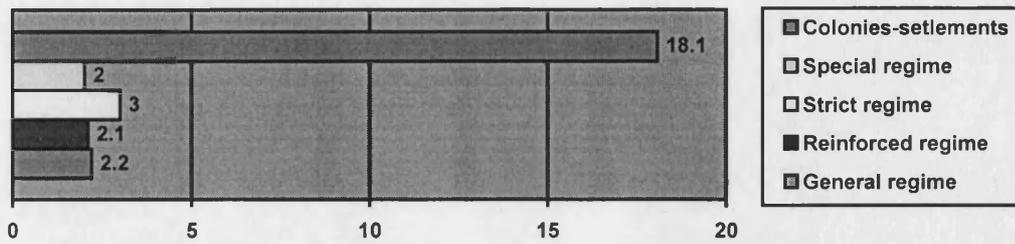
now so widespread, that, in juridical practice, they have been given a special term - "The Panikovskiy Syndrome". Panikovskiy is a famous poor literary hero, who was always hungry and beaten for stealing geese, but could not resist the temptation of stealing a goose again.

Almost every official message concerning the prison populations usually begins with the standard phrase: "The continuing concentration of organised crime leaders in correctional institutions makes the operative situation in prison worse". In the Soviet times, the majority of especially dangerous recidivists, as well as political prisoners, served their penalties in Siberia and in the unpopulated territories of the Far East. Since independence, they have all remained in Ukraine.



562 crimes were committed in prisons in 1997 (525 in 1996). 32,200 initiative messages, which included information about: 17,000 undisclosed crimes, 2,300 reports about criminal group activity were investigated and reported to local police authorities by prison operative departments. This activity was carried out by operative departments alongside with their main duties to secure order in the colonies and led to the discovery of hidden storage places: weapons and ammunition – 2,800, drugs – 6,200, money and jewellery – 5,300. Police confiscated from criminals 179 guns, 158.2 kilos of drugs, 2,4 million Hrivnas, 10,6 million Russian roubles, US \$ 230,100 and DM 1,200. Total 19,700 crimes were investigated due to this information.

Table 18. Crime level per 1,000 prisoners



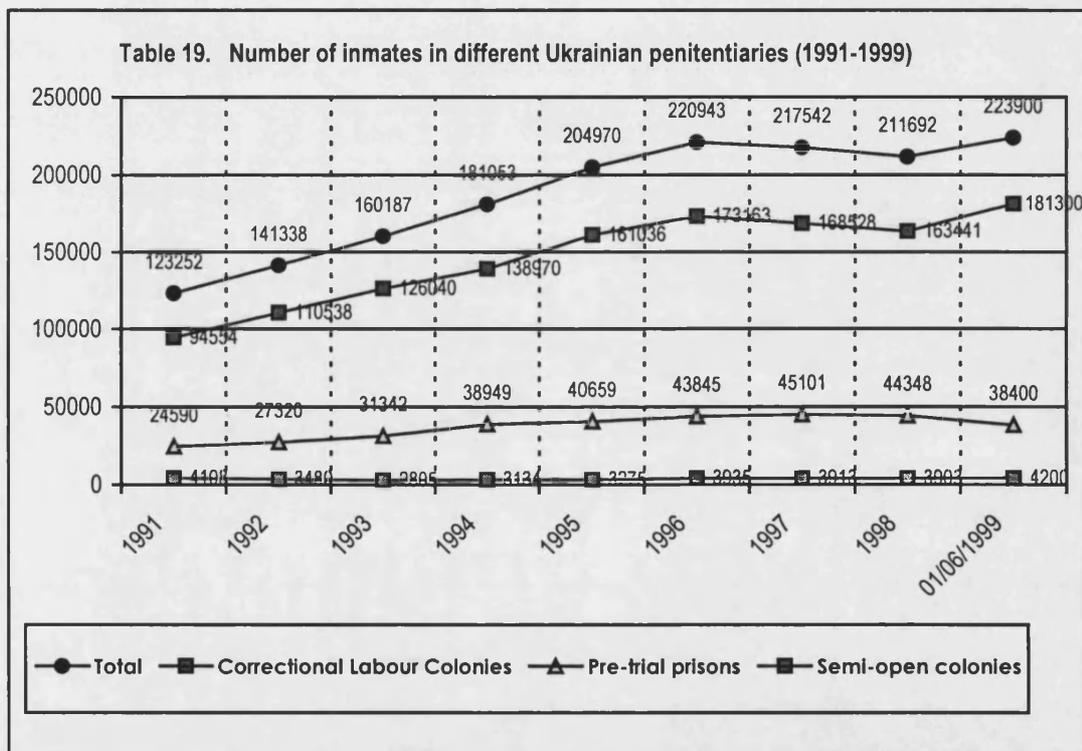
In 1998, operative departments reported a reduction in the number of crimes committed inside prisons. Many operative workers received new ranks and advanced their positions. However, such a success is problematic if we consider some other indices reported by production departments. The growth of disciplinary offences (average - 584/1000 prisoners) was accompanied by an increase of the quantity of accidents in productive zones. In 1996 only three deadly incidents were registered, but in 1997 their number sharply increased to 13 such cases and 17 more died later in prison hospitals. Not surprisingly, 26,6% of fatal incidents happened in the labour-colonies of the Luganska region (colonies # 11, 15, 19, 24) where the educational level of prison staff is the lowest in Ukraine. Moreover, in colony #15, a civilian who worked for the prison was murdered. In the Luganska region that year the number of registered crimes committed by prisoners in colonies increased from 40 in 1996 to 54 in 1997. However, in bulletin #2 (page 51) one year later, the numbers were lower – altogether 17 prisoners died as a results of such incidents. It was reported that the number of incidents in 1998 fell to 14 dead prisoners (colonies # 94, 95, 85, 49, 13, 19, 23, 83, 93, 109, 90) and one civilian (LTP-3 in Zhitomirska region). We can assume that many crimes were either registered as minor offences, not registered at all, were reported as accidents in productive zones, or, in the case of prisoners' death, the deaths was registered as being due to natural causes. In 1998, the PD announced that 1,920 prisoners had died as a result of tuberculosis, heart attacks or general emaciation. The U.S. State Department in its 1998 annual report on human rights, presented for Ukrainian prisons a figure of “2300 deaths during the year, which is more than three times the death rate of the general population”¹⁷³. However, in a TV programme on 26.04.1999, Semen Glusman, the Head of American-Ukrainian Bureau of Human

¹⁷³ “Ukraine Country Report on Human Rights Practices for 1998”, February 26, 1999 U.S. State Department (Bureau of Democracy, Human Right, and Labour), p.4.

Rights, stated that, according to Bureau data, this number was too low, the real figure amounting to more than 3,000 prisoners. Because prisoners in Ukraine are buried in closed prison graveyards, there is no possibility of conducting an autopsy. Thus, nobody knows exactly what happened to each prisoner and this leaves the field wide open to speculation.

Functions of the prison administration

The penitentiary administration has to fulfil four functions: custodial, economic, social, and resocialisation. The implementation of these functions is the duty of particular departments of the penitentiaries' staff in the different regimes.



The **custodial function (regime)** imposes rules of conduct on convicts so they will conform to the formal aims of the system. Though all members of the prison staff help to fulfil this task, the operative and regime departments are mainly responsible for security in the institutions and for the observance of regulation, discipline and order by both inmates and functionaries. The operative department fulfils the role of “internal police”. Security is achieved by placing convicts in isolation in a separate area with suitable buildings and a system of protection, enforcing discipline, performing searches, preventing escapes and revolts, using safety measures, and meting out

stipulated punishments, such as solitary confinement, exclusion from participation in cultural-educational activities, and suspensions of visits. The establishments of the Ukrainian Penitentiary Department are generally divided into three categories: cellular prisons, pre-trial prisons and correctional-labour colonies, which have now been officially renamed into “institution for execution of sentences”.

Type of penitentiary	1997 Population		
		Maximum capacity	
Pre-trial	32	31,800	44,300
Correctional-labour colonies	127		
General regime (male)	13	14,830	14,664
General regime (female)	6	7,860	10,148
Juvenile (education-labour) colonies	11	4,180	3,780
Reinforced regime	35	56,475	65,775
Strict regime	39	59,170	63,225
Separate regime (ex-police officers and high rank officials)	8	7,070	6,729
Special regime	4	4,200	5,119
Prison (cellular regime)	1		925
Colonies-settlements			4,464
Agricultural profile	13		2,792
Production of building materials			10,606
Clothing manufacture			11,893
Special facilities			
Special hospitals	4		686
LTP (compulsory treatment for alcoholics and drug addicts)	14		4,737
Total*	183		249,844

Sources: this is the result of recalculation, combination and comparison of the data from informational Bulletin #20, p. 75, *p.2.

Table 20 shows the difference between available places and the actual number of prisoners. Unfortunately, the data is not complete due to the lack of accessible information. It also shows the difference between official data on the total number of prisoners (216,248) and the result of recalculation which reveals the number 249.844.

Prisons – separate blocks within pre-trial prisons, in which prisoners are held in cases where the Court has ordered that the whole sentence (up to 15 years for grave crimes) or part of the sentence (for unco-operative prisoners, who have been transferred from colonies for the term of up to three years) has to be served in a cellular prison. Under the prison regime, inmates work, but are deprived of the freedom to move within the establishment. Usually, the multi-occupied cells for 2-10 people have no integral sanitation. The court can also order up to five years in cellular conditions for violent crimes. Prisoners¹⁷⁴ may use 50% of the money earned at work. After serving half of

¹⁷⁴ A permanent job inside the closed prisons is now available for 20-25% of prisoners. The average salary is 1.08 Hrivnas a day, but the target salary for prisoners to be earned is 4 times higher.

the sentence, pay can be increased by 20% for good behaviour. One short-term visit of up to four hours or one telephone call of 15 minutes is permitted every six months.

Pre-trial prisons – for people remanded in custody pending an investigation or for those awaiting trial, confirmation of sentence or the outcome of an appeal. The law provides that the authorities may detain a person suspected of a crime for three days without warrant. The Constitution (1996) provides that only the courts may issue an order to arrest, but under some transitional provisions the Prosecutor's Office retains the authority to issue arrests and search warrants until 2001. The maximum period of detention after charges have been filed is 18 months, but the law does not limit the aggregate time of detention before and during the trial and permits citizens to contest the arrest in court or appeal to the prosecutor. According to the law, a trial must begin no later than three weeks after the defendant has been indicted, but this requirement is not usually met by the courts – months may pass before a suspect is finally brought to trial and months more before he may apply to the Supreme court.

Inside pre-trial prisons, a small number of sentenced prisoners provide domestic (cleaning) and maintenance work (food-service workers). Often the cells in pre-trial prisons are more like dormitories – 34 of the pre-trial prisons are overcrowded. Prisoners may spend many months and sometimes even two - three years waiting for a trial. During this time visits are at the discretion of the detective and the administration and are rarely permitted until the investigation has been completed. In these units living conditions for prisoners are the worst. As a rule, people who have not yet been sentenced by the courts for up to 18 months are interned while the investigation proceeds. Later, six out of ten will be found innocent, but in the prison, everything is traditionally done to make the work of the investigator easy. First time offenders are put in the same cell as recidivists, some of whom are often professional criminals. The administration will go to all possible lengths to obtain a person's confession. Meanwhile, according to the Constitution, a defendant has the right not to give evidence against himself or his relatives. However, many people are still unaware of this right. Employees of the operative department make efforts to enlist informers, who later (in colonies) will inform the administration about hidden prison life. Criminals, in

turn, try to find out which prisoners are weak or cowardly enough to become informers. Pre-trial prison for the first time offender can be the bitterest experience of their life as a result of double testing and provocation from both sides – the inmates and the administration. Here the highest authority and respect is accorded to a person who has had previous experience of imprisonment. There is a strict correlation (Sig. 1.0) between the notions of “ex-prisoner” and “professional criminal” in the pre-trial sample. Recidivists become “teachers” and their lessons are vital for the novice’s survival, but their attitude to police officers is very negative (Sig. 0,868). Suspects in pre-trial institutions find out that things which they considered as stable and reliable, lose their meaning in captivity: close relatives and friends cannot help, public advocates cannot be trusted, and investigating officers often use forbidden methods of questioning. However, the most dangerous thing is that “improper behaviour” or close contact with the wrong person, for example, an informer or a homosexual, turns life into a nightmare because of “contamination”. A “contaminated” person can become a pariah for the rest of his prison life. Living conditions in the cells in such prisons are the worst in the system and the prison officers' manipulations are mainly aimed at obtaining confessions, or information useful for police or, sometimes (often), money from relatives and friends by using all sorts of pressure. Corruption among the prison staff is incredibly high in pre-trial prisons.

Roy King has given a description of pre-trial prison conditions in Russia which are similar to those in Ukraine. At the time of his visit, the cells in Kresty Remand Prison in St. Petersburg were overcrowded. A place which should be occupied by one prisoner, (according to the ASA standards - 5,5 square meters), was occupied by ten. He was told that at times it held as many as 16 prisoners who sometimes lost consciousness because of a lack of oxygen. He continued “I did not know whether to believe that at the time, but in a similar facility in Ecaternburg in 1995, several prisoners died in just such circumstances from lack of oxygen. Nor is this apparently a unique occurrence.” General Kalinin, Head of the Russian Department of Penitentiaries, was quoted as saying at a Parliamentary hearing on 24 October 1995:

I have to confess that sometimes official reports on prisoners' deaths do not convey the real facts. In reality, prisoners die from overcrowding, lack of oxygen

and poor prison conditions. Cases of death from lack of oxygen have taken place in almost all large pre-trial detention centres in Russia. ¹⁷⁵

However, we have to suggest that in Ukraine the situation even in overcrowded pre-trial prisons, has very rarely led to death due to “lack of oxygen”. The overwhelming majority in pre-trial units are people in their twenties. Mostly, the “lack of oxygen” diagnosis is the official version used to cover up death caused by torture, violence among prisoners, and the absence of a proper medical service behind bars. I visited eight prisons in Ukraine (the same system, norms, traditions, and even the same type of criminals and staff as in Russia) and, of course, I saw overcrowded cells and the prisoners complained about them, but nobody reported deaths from oxygen deprivation. If a cell is overcrowded, prisoners prefer to suffer from cold rather than to gasp in a stuffy cell - they usually break the windowpane. But prisoners and ex-prisoners have told me in detail how this diagnosis was achieved. Some of them had even experienced the process. The history of the diagnosis began in NKVD times - 1933-1939. At that time, if a person was required to testify against “enemies of the people” in a public trial, (and therefore had to be unmarked - without visible damage) the NKVD used a method of “restricted breathing”. A person was very tightly wrapped up with wet, worsted blankets and then questioning began. During questioning, blankets dried up and pressed on the chest of the prisoner to the extent that he could not inhale. There were two choices: (1) to die very slowly, or (2) to confess everything that was wanted. In the case of a prisoner’s death, no medical expert could find any sign of torture, and the death was usually registered as a result of a “lack of oxygen”, which was literally true. The KGB modernised this process and now rumours suggest that the SSU detectives sometimes use special rubber air bags under high pressure. Police, who often have no special equipment, prefer to use a gas-mask. They call this method an “elephant”, because a person in a gas-mask looks like an elephant and they block the air supply in the long pipe – the proboscis – of the gas-mask. The results and diagnosis are the same and they can prolong this procedure for hours. A simpler, but no less effective method, is to put a plastic bag over the suspect’s head.

¹⁷⁵King, D. R., “Prisons” in “The crime and Justice Handbook”, Oxford University press, 1997.

As can be seen, the methods of questioning in custody remain the same as in the Soviet era. In spite of the fact that the Constitution prohibits torture, it usually accompanies questioning. For example, on 27 March 1996, during the search for a serial killer, the Security Service of Ukraine arrested an ordinary citizen, Yuriy Mozol; on 31 March, his body was returned to relatives. "Neither I - his wife, nor my daughter Tanya, nor anyone among his relatives could recognise our beloved Yuriy in the murdered body. Because of the extent to which he had been beaten and tortured to death. In five days of inhuman torture, his hair had turned grey. The face - completely bruised, the lips black and his nostrils full of coagulated blood. ... Around the neck – a red swollen zone. All around the body, burns - the signs of tortures with iron. The fingers were flattened and without skin... During the funeral service his leg constantly dropped out of the coffin and we had to tie his legs. His ribs were broken too. ... Elderly people were saying with pain during the funeral service that they not seen such a mockery of a human being even in Nazis concentration camps. ... Let the forensic experts suggest that he died from "lack of oxygen" and "pressure" on his chest, but we are sure that he was simply tortured to death to force him into making a false confession"¹⁷⁶. In the search for a serial killer of 12 people in the area, police and the SSU questioned and arrested hundreds of suspects and one of them was Yuriy. The real killer, Onoprienko (who killed 52 people), was identified later.

The first known case of an investigation into murder committed by the SSU (the former KGB) employees in custody began in 1996. On 25 February 1997, after 11 months of investigation, the public prosecutor charged two military SSU employees - a senior lieutenant of the SSU Posovnikov and an ensign of the SSU Bruilyan. They were charged with violation of Article 254 -1 paragraph 4 of the CCU. But this is not an Article on murder or torture! This is on "a negligent attitude to the service, which leads to serious consequences", a much lesser charge than murder. Sessions began, but, in spite of nine official witnesses, because of resistance from "high places" (people responsible for this practice in SSU custody), two small pawns escaped being charged with sadism and murder in order to avoid a new investigation about their superiors.

¹⁷⁶Rabochaya gazette of Ukraine, 25.2.1997

If someone is tortured to death in pre-trial units, the police usually try to get rid of such corpses through “special duty”. In essence the term “special duty” means a special police procedure, which certifies that a corpse was found in the streets without documents and it was, therefore, impossible to establish its identity, but death was by natural causes. Bodies of “unknown persons” are cremated or buried at the expense of the municipal budget. If relatives by chance find out about an arrest, the answer to their inquiry is simple – the suspect was released and the police are not responsible for what happened to him afterwards.

Ex-prisoners emphasise that the only thing which could help them to endure the questioning procedure in a pre-trial unit, is to develop a strong feeling of hate towards the police torturers. “If your hate exceeds the pain, nobody can force you to confess”. Meanwhile, in 1999 in Kyiv a new mass fashion appeared, which demonstrates the level of criminalisation of the younger generation and their attitude towards police employees – teenagers and people in their twenties wrote on their clothes, “Cop killer”, and have the same message made into tattoos.

In 1998, (because of overcrowding in pre-trial units) the Penitentiary Department undertook massive attempts to convince the Justice Ministry of the urgent necessity of using alternative sanctions instead of imprisonment. However, the Ukrainian courts continue to issue sentences of imprisonment, and in turn, blame the Department for the absence of the control net in cases of non-custodial punishment. In 1998, the percentage rate of imprisonment was 37,2%. For comparison, in the same period even in Russia it was 32,7%, or in Moldova – 20,8%. In 1999, it has risen to 37,5%.

The state of criminality in pre-trial units is negatively influenced by the quantity of professional criminals, who are under investigation. Some of these people usually have the best advocates, the best connections to those in high office and enough money to sabotage any investigation. The most expensive “service” by corrupt staff in pre-trial prisons is the delivery of mobile telephones to suspects in custody. This “service” undermines all the efforts of the investigating officers – criminal bosses have the opportunity of destroying criminal cases from prison. For example, when my client got

a mobile phone call from a suspect in a Kyiv pre-trial establishment, he refused to testify in court. He was so frightened that he required professional help of psychologist. This is understandable, because in Ukraine there is no witnesses protection programme. Organised criminal elements are widely alleged to have influenced court decisions and they often use intimidation to induce victims to withdraw their testimony. After watching American videos, criminals have even adopted the vocabulary of the American police and like to remind their victims: “You can run, but you can't hide.”

On 1.01.1998, five godfathers of a criminal fraternity - “thieves in the Law” - were detained in pre-trial establishments, as well as 17 leaders of the criminal world (candidates for “thieves in the Law”), 24 leaders of large criminal groups, 118 bandits (armed robbers), 17 assassins and 607 criminal gangs (total – 2,465 members), among which there were 167 groups of racketeers¹⁷⁷. A year later, on 1.01.1999, the situation had not changed. In the pre-trial establishments there were situated four “thieves in the Law”, 18 criminal leaders, 25 leaders of large criminal groups, 123 bandits, 523 organised criminal gangs (2,017 members) including 107 racketeering gangs¹⁷⁸.

In 1998, the operative departments in the pre-trial institutions prevented 1,433 carefully planned crimes. The crimes included: 383 escapes, 15 assaults against guards, six captures of hostages, four murders, 115 assaults causing griveous bodily harm, 361 revenge attacks, 549 other crimes and 322 suicide attempts. However, during the year the following crimes were registered: one murder, one escape and one assault causing GBH (an inmate knifed his cell-mate with a knife he made himself by sharpening an instep supporter)¹⁷⁹.

Since Soviet times, the Ministry of Internal Affairs (MIA) has traditionally demanded that pre-trial operative departments improve the performance of investigating detectives by using a range of oppressive methods to obtain information about crimes to force a confession. In principle, pre-trial establishments were created to help the

¹⁷⁷ Informational Bulletin, MIA, #20, Kyiv, 1998.

¹⁷⁸ Informational Bulletin of the State Department on Execution of Sentences, #2, Kyiv, 1999.

¹⁷⁹ Informational Bulletin of the State Department on Execution of Sentences, #2, Kyiv, 1999.

investigating bodies, but the methods were different everywhere. In Ukrainian pre-trial prisons, where the overwhelming majority of suspects cannot hire a good advocate because of poverty, the pressure sometimes goes far beyond the limits of humanity. Exhausted suspects are ready to sign anything to put an end to malicious insults from inmates or staff members. Care and material rewards for prison staff are very dependent on information, which they must extort from suspects. The greater the number of confessions – the greater the rewards. One inspector told me that his superior forces him to obtain four confessions each month (in order to improve the operative work indices).

The results are stunning – in 1997 information delivered by operative departments helped in the investigation of 14,544 crimes, including 397 premeditated murders, 300 cases of GBH, 1,657 armed robberies, 315 cases of extortion, 2,428 cases of theft of state property and 5,747 cases of theft from private persons, 60 rapes, and 852 drug-related crimes. Moreover, information from the pre-trial operative departments in 1997 stopped 1,291 crimes at the planning stage.

In 1998, the situation looked even more optimistic from the MIA's point of view. Pre-trial detectives helped to investigate 17,046 crimes. Operative workers inside the pre-trial establishments investigated 9,142 crimes on direct orders from the MIA. 3,989 crimes were uncovered due to the active use of informers and 3,915 by “voluntary confessions” about crimes committed before detention. In particular, the work with informers led to the exposure of 448 premeditated murders, 287 cases of GBH, 1,980 robberies, 3,103 thefts of state property, 328 cases of racketeering, 53 rapes, 1,041 drug related crimes and 2,802 other crimes.

Fourteen inmates committed suicide in pre-trial prisons in 1997. Of these eight suspects committed suicide in solitary confinements (two - in punishment cells, one who was - sentenced for capital punishment, and five were isolated for medical reasons). In the whole of the prison system that year 71 suicides were registered (in 1996 it had been 85), of which 55 were committed in various correctional-labour colonies. In 1998, the number of successful suicides remained the same at 71, 46 of

which in colonies (48% in reinforced regimes, 23% in strict regimes, 20% in general regimes and 9% in special regime); there were ten suicides in pre-trial establishments, one in prison and one in LTP. 60% of all suicides were committed in living zones, 20% in the production zones and 10% in ambulances. The data is not complete, but it is all that could be found from the various sources, including the bulletins issued by the department. The method developed by prison psychologist, Vadim Sylitsky, gives the possibility to diagnose and prevent potential suicide in prison¹⁸⁰. Now this diagnostic method became routine procedure carried out by psychologists in every penitentiary and the number of successful suicides in 1999 reduced to 59 (in UK it was 91).

In 1998, 628 out of every thousand suspects were later acquitted in the courts. How many people became invalids and developed mental problems in pre-trial prisons? Statistics about such events do not exist in Ukraine. I have never heard of ex-suspects claiming compensation from the PD or the MIA for damage caused by custody. Several months after release, innocent people are often in a state of deep despondency. One my interviewees claimed that in custody he had discovered that everything he used to trust was worth nothing – his wife abandoned him while he was in a pre-trial unit, his friends refused to testify in his favour in court, he lost his job and was forced to move into his parents' tiny flat. In addition, he developed a stomach ulcer. The system simply destroyed his life in ten months of custody.¹⁸¹

Colonies – the establishments in which the majority of Ukrainian prisoners serve their sentences. Inmates are obliged to fulfil a production plan to meet their maintenance costs. Convicts live in hostels or barracks. The hostels are not locked, but barbed wire fences surround the colonies and the perimeter guards are armed. The rooms in the hostels may vary in size: some house 4-20 prisoners while others hold 50 – 140 inmates. Most prisoners go to work in a separate “working zone”. Prisoners are organised into detachments for work (70-150 convicts), which are supervised by a penitentiary officer – the Detachment Head. The different types of colonies provide different levels of security according to internal regimes.

¹⁸⁰ Sylitsky, V. (1999) "Algorithm of the work of psychologist with novices in penitentiaries" in Problems of Penal Theory and Practice, bulletin of the Kiev Institute of the Internal Affairs, #4, 1999, pp. 122 –132.

¹⁸¹ He decided to write a story about his prison experience and the creative activity has made him feel much better.

	1997		1998		+ or - by % per year	1.06.1999
	Number	% in IES	Number	% in IES		(available data) Number
TOTAL	168,528		163,441		- 2.3	181,300
<i>Among them sentenced for:</i>						
- deliberate murder	17,100	10.2	18,400	11.3	+7.6	19,800
- deliberate GBH	11,800	7.0	12,500	7.7	+5.9	12,900
- rape	7,900	4.7	7,500	4.6	-5.1	5,400
- armed robbery	12,800	7.6	14,000	8.6	+9.3	15,500
- robbery	11,200	7.2	11,800	7.2	+5.4	11,000
- theft of private property	43,700	26.1	41,000	25.1	-6.2	41,100
- theft of state or collective property	24,200	14.5	21,200	13.0	-12.4	
- abuse of power by means of: fraud misappropriation/ financial offences	1,800	1.1	2,400	1.5	+33.3	
- hooliganism	6,600	4.0	7,100	4.3	+7.6	
- military crimes	1,100	0.7	1,100	0.7	-	
<i>By length of sentence (years):</i>						
Up to 1 year	4,300	2.6	4,300	2.6	-	
from 1 to 2 inclusive	14,400	8.6	13,700	8.4	-4.9	
from 2 to 3 inclusive	28,100	16.8	26,600	16.3	-5.3	
from 3 to 5 inclusive	53,900	32.2	52,000	31.8	-3.5	
from 5 to 8 inclusive	38,800	23.2	37,500	23.0	-3.4	
from 8 to 10 inclusive	13,600	8.1	15,000	9.2	+10.3	
from 10 to 15 inclusive	14,000	8.3	14,000	8.6	-	
15+ (replacement of capital punishment)	92		128			142
Previous custody	76,900	46.0	73,400	44.9	-4.6	72,785
Among them:						
-Recognised as particularly dangerous recidivists	8,800	5.3	8,800	5.4	-	9,200
- deprived of amnesty	31,000	18.5	32,500	20.0	+4.8	70,300
<i>By age:</i>						
up to 20	11,200	6.7	10,600	6.5	-5.3	
from 20 to 30	67,000	40.1	66,800	40.9	-0.3	
from 30 to 40	54,900	32.8	52,300	32.0	-4.7	
from 40 to 55	28,400	17.0	27,900	17.1	-1.8	
from 55 to 60	4,000	2.4	3,900	2.4	-2.5	
Over 60	1,700	1.0	1,800	1.1	+5.8	
<i>By capacity for work (invalids):</i>						
- disabled of 1 and 2 degree	2,600	1.6	1,900	1.2	-26.9	
- disabled of 3 degree	2,200	1.3	2,000	1.2	-9.0	

- *Open Colonies-Settlements*

Introduced in 1963, there are presently 13 open colonies-settlements, catering for nearly 4,000 prisoners who have committed either less serious crimes, or crime by negligence, or who have served part of their sentence in other colonies where their behaviour indicated their intention to reform. Prisoners in colonies-settlements are not under guard, but can move freely around the colony during the day and can visit local shops outside. They are subject to supervision and are not allowed to leave a region. Although they are allowed to wear their own clothes and if accommodation is available, they can live with their families. There is no limit on the parcels they are allowed to receive. Prisoners are permitted to keep with them valuables and any amounts of cash.

- *Juvenile Colonies (Minimum Security)*

For young offenders up to 18 years old. Inmates are obliged to complete their secondary education and to meet their maintenance costs by doing simple agricultural or factory work.

- *General Regime (Minimum Security)*

The first sentence for minor (non-violent) crimes is usually to a general regime colony. Prisoners are entitled to: seven parcels of 8 kilos every year; one short-term visit of up to four hours every month; one long-term visit of up to three days every six months and one telephone call of 15 minutes every three months; they may spend all the money earned at work and after serving half of the sentence without offences their pay can be increased by 55%; they can qualify for early release or for a transfer to an open colony-settlement after serving a third of their sentence; in the case the death of a relative, they can be granted up to seven days' compassionate leave, plus travelling time.

When an offender is sentenced by a court for first time for minor crimes (up to three years), he usually finds himself in a general regime colony among a very strange group of people. Some – about 10% - are hardened criminals, who were sentenced for minor offences because the investigating bodies could not find anything more significant and, thus, could not prove more serious crimes alleged to have been committed by them. The reason for their imprisonment, in fact, was “preventive” isolation – “if you are so smart, be certain that the system is smarter”. Some had paid a large amount of money to an investigator, to advocates, to prosecutors and judges, and had bribed or threatened witnesses to change or withdraw their testimony, and, as a result, their crime had looked like a minor offence in court. However, the remaining 90% or so, would not have been imprisoned in European countries, but alternative sanctions in Ukraine are in practice used rarely. The Criminal Code allows judges the use of penal sanctions without deprivation of freedom (for example, conditional release or suspending sentence) in 70% of cases, but judges prefer imprisonment in the overwhelming majority of cases. The prison administration knows this fact, but taking into account the fact that, according to statistics, after serving time in a general regime

colony, 40% of the inmates will later re-offend, the operative department takes certain actions to enlist informers, and with their help, investigate undisclosed cases. Discipline here is usually weak and wealthy prisoners can live quite well.

- *Reinforced Regime (Medium Security)*

First sentence for serious crimes, of up to 15 years. Prisoners are entitled to: six parcels of 8 kilos every year; they may spend 90% of the money earned at work and the pay can be increased by 50 % for good behaviour after serving half of the sentence. There is entitlement to compassionate leave. Visits and telephone calls are as for the general regime, but those convicted of serious crimes can qualify for early release or transfer to an open colony-settlement only after serving two thirds of the sentence.

- *Strict Regime (Medium to Maximum Security)*

For recidivists. Inmates are entitled to: five parcels of 8 kilos every year; they may spend 80% of the money earned at work and pay can be increased by 40% for good behaviour after serving half of the sentence. All other features are as for the Reinforced Regime.

- *Special Regime (Maximum Security)*

For the most dangerous recidivists. These prisoners are held in significantly tougher conditions. More than half the special regime prisoners are housed in dormitories, albeit with restricted freedom of movement inside the colony. Those who have committed the most serious crimes (40-50%) are held in locked cells. Prisoners may spend 70% of the money earned at work and pay can be increased by 30% for good behaviour after serving half of the sentence. All other regulations are as for the strict regime.

If a sentenced prisoner dies in any type of penal institution, a standard explanatory act has to be composed and a standard procedure has to be followed. If the deceased owned dentures which included gold teeth or fillings, they have to be broken out and directed to the state treasury. According to the rules, the corpse can be buried outside the camp only when the skull has been broken. This task was usually fulfilled by a

shift janitor with a wooden hammer (to prevent possible simulation of death). In the absence of a wooden hammer, the janitor had to thrust a bayonet or metal rod into the corpse's chest. Before 1970, prisoners were buried naked and without a coffin. A peg with the prisoner's personal number was driven into the ground above the grave. Since 1970, corpses have been buried in wooden boxes and in an old prison uniform in the presence of an operative worker. In exceptional cases, the governor can grant special permission for several inmates (close friends) to accompany the body to the burial ground. The family receives the prisoner's death certificate and passport by mail. The prison administration never gives up dead bodies to relatives, a practice that allows the concealment of the real causes of death. No body, therefore no autopsy, therefore no responsibility. In 1997, 3246 prisoners died in Ukrainian penitentiaries "of natural causes" - tuberculosis, heart disease and so on. No prison/colony administration is interested in drawing public attention to this fact, nor to the actual cause of death. At the same time, the PD, under pressure from The Council of Europe, publicly advocated abolition of the capital punishment.

The resocialisation function is the responsibility of the regime department. Of greatest importance here is the discipline of convicts in order to prevent internal violence, crime, and revolt. This involves a strict regulation of the inmates' behaviour towards the staff and other convicts, both in the production zone and other permitted areas inside the institution. Ministry regulations concentrate social work in the penitentiary on the achievement of convicts' repentance. Yet, the ideal of "repentance" contradicts the ideal of "resocialisation". The idea of "repentance" is derived from orthodox religious tradition and literally means repentance for any sin for life. In contrast to the masochistic separation of the former sinner through an act of ritual "repentance" and public confession, resocialisation supposes the active individual participation of a person in social life.

The economic function imbedded in the Ukrainian penal system involves the compulsory employment of convicts. The system has to provide vocational schooling for inmates to meet the needs of its enterprises. These factories are usually equipped with obsolete machinery, which was written off long ago by various socialistic

enterprises. For example, in 1996 I saw a machine in a correctional institution, which had been in use since 1912. The production function is the main concern of the economic department (employment) and the civilian employees of the prison enterprises. This function is also intended to guarantee suitable management of the national investment in the correctional institution, i.e., plant, repair and maintenance, supplies and the sale of production. The Ukrainian penal system is used to make the maximum profit from prisoners to reduce the cost of their imprisonment. In 1996, I saw a 22-year-old prisoner who had tattooed on his chest, "slave of the communists". His explanation was that he had become an invalid after a year in prison, because of hard work, poor safety conditions, a very bad medical service, internal violence and corruption. In fact, the guards in that particular prison are very experienced in this kind of treatment and before 1991, the all officers were communists. When I visited a prison hospital block there, I was really puzzled. Eight of the 12 inmates looked healthy. But these eight were prison "leaders", who probably decided "to have a little rest and discuss affairs", and the contrast between these eight and the four really sick inmates was profound. In that prison if a prisoner had nothing to offer to guards in exchange (information or bribe) he had to be nearly dead to be transferred to the medical block, where conditions were much better than in the overcrowded barracks and where there was no obligation to work.

Traditionally, when a prisoner become very sick and can no longer work, prison doctors apply for an amnesty due to poor health, called "actirovka". This "charity" serves to reduce the internal death rate in prison. Usually, after "actirovka", ex-prisoners die from "natural causes" within two to six months, but such statistics, unsurprisingly, do not exist.

The **social function** is a by-product of the above mentioned functions. Because the penitentiary isolates, it takes on full responsibility for the inmates, and must therefore guarantee minimal living conditions, food, hygiene, and clothing. Carrying out this function is the work of all the departments, especially the social work department, but, in fact, the finance and health service departments, are chiefly responsible. Thus, the next chapter focuses on prison staff.

3.3. Prison staff

The paramilitary character of the prison staff comes with the adoption of hierarchical subordination as the preferred style for managing an institution. Several previous attempts to abolish military subordination by the Ministry of Interior failed. Nevertheless, since 12.03.1999, all penitentiaries in Ukraine are supervised by the newly established Department of Penitentiaries, but the military ranks of the internal service have been preserved. The penal institutions remain highly centralised and bureaucratised. This has led to the neglect, not only of prisoners' basic needs, but, also, even of the aims of the system - resocialisation and the prevention of recidivism. Achievement of these goals is problematic without a certain flexibility and tolerance, particularly in the transitional period from totalitarianism towards a civil state. The current system enables those in higher positions to make decisions "downwards" without careful consideration of other functionaries. The resultant total dependence of the lower ranks on their superiors indicates that this hierarchical subordination presumes a division of labour, but not of competence.

In 1997, 53,000 employees worked in the prisons and correctional colonies. Of these, 20,686 were senior officers, 7,000 were jail inspectors and the rest were workers in the different prison services. Moreover, all prison walls were guarded by Internal Troops. To young army conscripts, this type of service - watching over prisoners and colonists - was stigmatised and dangerous. The highest level of suicide, violence, death and incidents, was among soldiers of the Internal Troops.

General corruption pervades the penal system as well as the whole of society. In 1995, the MIA hired 2,602 persons to work in the penal institutions and simultaneously dismissed 2,347 people (among them: 172 people were dismissed in the first year of service and 517 were dismissed for negative reasons). In 1995, officers of the penal system committed:

- 147 wrongful actions - 22 criminal cases for which 13 people were sentenced;
- 3,569 cases of violation of discipline (often with serious consequences);
- 1,734 cases of a negligent attitude to official duty;
- 249 cases of drunkenness on duty (the accused must be reckoned to be an alcoholic);

- 8 penal workers perished (in 1994 there were 5 cases).
- 4 officers committed suicide (in 1994 there were 2 cases).
- 56 officers established illicit relations with prisoners (including sexual).

In the first six months of 1996, the MIA had dismissed 2,276 officers, among them 402 for negative causes. The Ministry registered 89 cases of violation of the laws, 17 officers were sentenced to imprisonment, and inmates killed two members of the prison staff.

In the first five months of 1997, prison staff committed 29 crimes and caused three riots in the penitentiaries. Mostly the crimes carried out by prison staff related to corruption (extortion and bribery, drug trafficking and violence). Among the graduates of the penitentiary department of the Kyiv Institute of Internal Affairs, only 50% decided to work in prison, even though 10% of places in prisons were vacant.

The employees of particular departments of the prison staff differ in their options and responsibility concerning the treatment of the convicts. The differentiation of functions influences the opinion of the various departments' employees regarding the aims and the goals of the system and has an impact on the relations between employees of different departments. In the absence of a clearly defined state penal policy, each department and service would like to expand its internal home-made "philosophy" on how to execute court sentences upon the whole institution. However, the principal of ideological opposition to the inmates integrates the community of functionaries - they always retain a distinct distance from inmates.

At the same time, the staff members in the various departments are conscious of their mutual antipathies. They take care to behave well in front of each other, but the operative department is in the strongest the position. Functionaries of this department must register all violations of the rules, which gives them the ability to shift guilt on to the other departments in the event of rioting in the prison.

The most pressing task for employees of the operative department is to investigate registered, but unsolved, crimes in the regions. Thus, any prisoner serving his penalty for a particular crime is also a suspect in any undisclosed crimes committed in his

place of residence. Presumption of innocence is embedded in CCU, but under pressure to improve crime statistics, in practice it does not exist in the prison institutions. For example, in 1998, the operative departments brought to court 16,000 previously undiscovered criminal cases, which they had investigated with the help of informers and the further pressure on suspected convicts inside the penitentiaries. Functionaries in this department believe that their role in prison is to control informational exchange (among the prisoners, between prisoners and staff, between prisoners and their relatives and friends outside prison) and to guarantee security in the prison area. Thus, their primary obligation is the surveillance of prisoners' conduct and the execution of discipline and order. To guarantee fulfilment of these tasks, functionaries in the operative department control the work, and thus the mood, of the remaining employees. They are literally the "watch dogs" of the prison. As one of them said: "Sometimes circumstances force us to commit a small evil (to break the will of a convict) to avoid a greater one". The operative department believes that neglecting strict supervision over the prisoners and staff causes loss of control over the institution, which in turn, causes problems such as escapes, riots, self-inflicted injuries, suicide, murder, rape, harassment of other inmates, hunger strikes and explicit corruption.

According to the social work department, the basic premise of the penitentiary is the resocialisation of the inmates through general and professional education. This department also tries to support regularity of convicts' relationships with their families. They consider the methods of the operative department (total control and suspicion) as manipulative and unacceptable.

The functionaries of the economic department believe that the fundamental task is "to force inmates to work". They believe that the administration should concentrate on the organisation of production, because, unlike the idle convict, a tired and full-bellied prisoner becomes peaceful and obedient.

The regime department is concerned with security duties such as the outposts on the perimeter walls, the zones inside the prison and the control area near the prison, the so called "prohibited zone or no-man's land", the guard-duty on watch towers and the round-the-clock patrolling of the walls and local zones. Ordinary guards are soldiers,

aged 18-20, of the internal troops, armed with “Kalashnicov” submachine guns; and some of them are engaged in the training of guard dogs. They live in barracks near the prison walls and are told to avoid any sort of relations with convicts. For them, convicts must only be potential targets. However, young soldiers often sympathise with the convicts and play a significant role in the stream of illegal barter between prisoners and the outside world. Only a few regime officers - counsellors - have the right to enter the prison to attend conferences with other departments, and then only under the supervision of the commander-in-chief.

Relations between the employees of the operative and regime departments are dominated by animosity. The “watch dogs” from the watchtowers control the behaviour of the prisoners, and also the employees who work with the prisoners. Hence, the functionaries of the regime department are able to bring prohibited items such as alcohol, drugs and small parcels from relatives into the prison, as well as trading and bartering with prisoners. They are constantly under suspicion, and are subject to surveillance by the operative department. They maintain that the operative department controls everybody, but nobody controls them. Regime officers claim that the operative department wants them to fulfil similar functions to the operative department - “they would like to have their jobs done for them”.

In 1995, 21,500 employees worked for the Ukrainian penitentiaries, at that time the system urgently needed to fill 3.2% of available vacancies (688 places). On 1.01.1998, the shortage of qualified personnel reached a total of 1,713 persons or 6%. As appears from the above (6%), 26,837 employees were working at that time for the system. Unfortunately, it was impossible to find corresponding data about the quantity of prison staff on 1.01.1999, but it was stated that the personnel shortage was 1,564 vacancies and in several regions the shortage reached 13,9%¹⁸². Prison staff in Ukraine have a paramilitary character and are organised through a pyramidal hierarchy of ranks from private to general, first within the Ministry of Interior, and, since 12.03.1999, within the Penitentiary Department. In 1999, the President signed a decree specifying an enlargement of prison staff to the quantity of one member of staff for every three prisoners. In the first six months of 1999, the number of personnel under the

¹⁸² Informational Bulletin of the State Department on Execution of Sentences, #2, Kyiv, 1999.

supervision of the newly created Department had reached 50,000, but thousands of vacancies in local colonies have not yet been filled. The Penitentiary Department inherited 45 squadrons of external prison guards from the MIA. Among all the employees of the prison system 34,700 have special military ranks from lieutenant to general¹⁸³. Since May 1999, the Central Office of the PD has employed 600 people (an increase of 400). There were two prison generals (Shtanko and Lyovochkin), but now the Department has appealed to the President to establish four more general posts in the prison system.

The shortage of qualified supervision and junior security inspectors has contributed to the deterioration in convict discipline. Dniprodzerzhinsk special military school, which prepares staff for the prison system, opened a special course to train junior inspectors. In spite of mass youth unemployment, this speciality is so stigmatised that to find a decent person, who will agree to receive a miserable salary (120 Hrivnas) for such a job is very problematic. Due to the lack of control in personnel selection in particular prisons, prison-governing bodies send anyone they can get to the school. In 1997, 45 students were dismissed from this military school for alcoholism and drug addiction. Some of them had already worked at the prison for one or two years before studying.

The qualitative preparation of prison block-masters is extremely weak. In general, only half of them have any higher education, and only a third pedagogical or juridical diplomas. In some regions, the situation is alarming. For example, only 20% of working detachment heads have been through university education in the Chernihivska region. A candidate for an employment in schools or children gardens has to be a university graduate, but work in prison requires better preparation as that of a school teacher. In the penitentiaries of the Donetska, Mikolayivska, Cherkasska and Dnepropetrovska regions – the figure is between 33% and 39%, but in the Luganska region, only 13% of block-masters have any kind of tertiary education.

In 1997, 4,957 prison officers, or a fifth, were given disciplinary punishments for registered incidents of misconduct. The quantity of such cases during the year

¹⁸³ Кримінально-виконавча система України (ілюстрований буклет), 09.06. 1999, ст.12 (The Criminal-Executive

increased by 20.2% (1,001 cases). On an annual staff basis, 100 officers committed 18 offences. Most offences were committed in the Luganska region, where the prison staff have the lowest educational level. During the year, the system employed 4,092 people, and hired 3,410, among who 710 (+20.8%) were dismissed for negative reasons. In 1998, 18 prison employees were sentenced to imprisonment for explicit crimes and 18 more were awaiting trial. However, only 81 infringements of the law by prison staff were registered. Anybody, who has a clear idea of the Ukrainian prison system, understands that only the most flagrant crimes were registered - crimes which officials had failed to hide. 34 commanders-in chief of penitentiaries were dismissed because of misconduct by their subordinates. Other governors, we have weighty reasons to think, were luckier at hiding negative events from the Central Administrative Board for the Execution of Sentences or had good connections among those in higher office. Operative departments passed information to the Central office about registered facts of corruption and misconduct of prison employees. We believe that many cases were not reported, but we have also identified a significant increase in registered misconduct by members of the prison administration – up by 45% in one year.

Table 22	Operative information about registered facts of corruption / negligence / prohibited relationships between personnel and convicts in colonies														
	Total:			Administration			Civilians			Military guards			Other		
	1996	1997	%	1996	1997	%	1996	1997	%	1996	1997	%	1996	1997	%
TOTAL	529	449	-15	73	106	45	110	101	-8,2	116	79	-32	230	162	-30

Source: Informational Bulletin #20, MIA, 1998 (See the full table by regions in appendix).

In the year before the “divorce” with the MIA, the discipline of personnel became even weaker. In 1998, the quantity of all registered offences increased to 6,077 cases (+15.6%), but only 501 employees due to negative reasons were hired. 33 commanders-in-chief of the colonies, four in pre-trial establishments, three governors of LTP and three heads of regional prison departments lost their posts.

Prisoners continue to receive strictly prohibited items from the outside world and the majority of supply channels remains unknown. In 1997, operative departments confiscated 51,081 Hrivnas, 20 kilos of drugs, 966 knives, US \$20,117, and 196 litres of vodka and pure spirit. Nevertheless, this is only a tiny proportion of the amount,

which really penetrates prison walls. Extortion of prohibited items is a major source of income for many officers. Usually two - three officers participate in such a "business". One brings something valuable inside a prison for payment and informs his accomplices. They make a search, find and confiscate the item in private. A prisoner cannot file a report, because he has to inform on the prison staff member who delivered an item and this can lead to massive revenge from all the members of the prison staff, who can accomplish this in many ways, including the use of other prisoners against him. Moreover, all members of the prison staff have an interest in keeping as much money as possible in the prisons. They can extort only from a small number of prisoners and not too often, because of inescapable revenge. Some prisoners, who hold the highest status positions, have everything they want. The same staff members who bring in money, deliver all that prisoners want according to special prison prices. Thus, practically all the prisoners' money slowly flows into the hands of corrupt officers. Prisoners suggest that, for a large price, a person can buy the "right to kill" and a death case will be registered as an accident or a death by natural causes (decease). In addition, in every colony there are several hard-drug addicts, who serve their penalties there instead of in a special treatment regime and are liable to kill anyone for drugs. For example, in the Donetsk region in 1997, staff seized 6,467 grams of drugs, and 4,732 grams in the Luganska region (see table 23).

Disclosed facts of banned items supplied to convicts by prison staff	Hrivnas		US \$		Alcohol (litres)		Drugs (grams)		Crimes prevented inside colonies	
	Total	From convicts	Total	From convicts	Total	From convicts	Total	From convicts	1997	+ - %
	313	2020	2020	20,117	6,349	1,245	224	17,710.5	1,582	4,804

Source: Informational Bulletin #20, MIA, 1998 (See the full table by regions in appendix).

3.4. Production and the financial functioning of penal colonies in 1997-1998

Annual informational bulletins for 1997 and 1998 were analysed. The Central Administrative Board for the Execution of Sentences (part of the Ministry of Internal Affairs) issued the first annual bulletin #20 for 1997. The State Department for the Execution of Sentences (PD) issued the second (#2). Three hundred copies of both editions were published and access to these sources is strictly limited. Each copy was

delivered to a particular high ranking official by recorded delivery. We think that this conspiracy was aimed at avoiding external criticism.

Unfortunately, we have to admit that the information in these bulletins is uncoordinated in the overwhelming number of cases. The same indices appear in different chapters, written by different sections of the service (PD), but the figures are different. Moreover, sometimes the sum in one column or average number had been counted incorrectly. We were forced to recalculate and compare practically all the data to get a more realistic picture. Attempts to publish the results in Ukrainian press in 1998 failed, but a copy of the analysis reached Parliament and led to deputies making official calls to prevent the distortion of statistics by the penitentiary department. In turn, the request led to a delay in the publication of the annual 1998 report, which was published (after three revisions) 26.04.1999 with three months delay. In this bulletin many indices, which could cause "misunderstanding", were simply removed, though we found several miscalculations.

Because of a constant reduction in finance from the state budget, the department decided to improve the self-financing of the system's needs. The departments' efforts concentrated on getting state orders and on creation of more preferential terms for the prison enterprises.

The Ukrainian penal system has a diversified industry: 138 industrial enterprises are situated on 1,100,000 square metres of land and use 27,000 different items of technological equipment¹⁸⁴. Prison enterprises produce lifting-transport equipment and metal-cutting machines and tools, articles for chemical and refinery engineering, equipment for light and food industries, agricultural machinery and accessories for tractors and combine-harvesters, furniture, sanitary engineering, electrical equipment and much more. Altogether, prisons produce several thousands of types of goods.

The penal system tries to employ as many prisoners as possible while reducing their maintenance costs. During 1997-1998, 50 types of clothing and other articles for

prisoners, and 11 types of clothing and boots for prison staff, went into production. This innovation helped to employ 1,250 prisoners and save about 2 million Hrivnas annually from the state budget.

In 1997, (excluding agricultural colonies) 108 auxiliary prison farms in penal institutions cultivated 2,800 hectares of soil and produced a significant amount of food for the system. (in 1998 it had been 2,700). The results of total agricultural production in all colonies are summarised in the table below. As can be seen, the amount of food produced is too small to make a big difference to the nourishment of prisoners (for example, during 1998 less than 3 kilos of meat per prisoner were produced).

	1996	1997	1998
<i>Products</i>	<i>Kilos</i>	<i>Kilos</i>	<i>Kilos</i>
Meat	223,300	251,000	590,100
Grouts	266,000	1,244,000	1,903,300
Wheat flour	44,000	524,800	478,900
Sunflower oil	101,000	117,200	100,000
Macaroni		103,500	73,000
Wheat (for processing into grouts).		1,661,100	697,000
Sources: Bulletin #20, (MIA), 1998 and Bulletin #2 (The State Prison Department), 1999.			

On 09.06.1999, the Department organised a meeting for journalists and informed the press that 13 agricultural profile colonies-settlements were, at the time, working on 41,600 hectares of soil, where convicts were producing technical cultures, grain-crops, potatoes, etc. Colonies now have their own processing complexes – mills, bakeries (in 115 institutions), sections for the preserving and pickling of vegetables, special sections for processing meat into sausages and smoked products, and special sections for making diary products¹⁸⁵. However, it is highly unclear as to where all this abundance of foodstuffs disappears. In March 1999, I consulted an ex-prisoner who had just been released from a general regime colony. He told me that during his two years of imprisonment he had lost 18.5 kg of weight and that, without external help from relatives, he would barely have survived. He described the food they had and suggested that a prisoner could only dream about supplies of sausages, cheese or

¹⁸⁴ The Criminal-Executive system of Ukraine (Illustrated bucler), 09.06.1999, p.16. (Кримінально-виконавча система України (ілюстрований буклет), 09.06. 1999, ст.16

¹⁸⁵ The Criminal-Executive system of Ukraine (Illustrated bucler), 09.06.1999, p.16. (Кримінально-виконавча система України (ілюстрований буклет), 09.06. 1999, ст.16

smoked food. Moreover, he regarded himself as a very lucky man because he returned home without tuberculosis.

More than 50% of prisoners are now idle because of overcrowding. The system can now employ nearly 105,000 prisoners. However, in spite of the efforts undertaken, the sale of industrial products from prison enterprises is low and the debts payable to the prison system are growing from year to year. In 1997, for example, 100 million Hrivnas were frozen on such debt accounts. In addition, the share taken by barter operations was extremely high – it was 82.6% in the Donetska region, 76.8% in the Kyiv region prisons and 81,1% in the Mikolaevska region.

In 1997, prison enterprises manufactured production worth 207,5 million Hrivnas (page 3, #20) which indicated the growth of production + 7,9% in one year (page 1, #20). However, four chapters of this bulletin were written by representatives of different prison departments, which were responsible for different sections of prison administration. Each of the four chapters stated different sums – 207,632,000 Hrivnas on page 71; 212,000,000 Hrivnas on page 73; 221,790,000 Hrivnas on page 82; 211,900,000 Hrivnas on page 84. All these differences in the annual MIA document testify, above all, to the uncoordinated work of the different sections of the Prison Department. For the purpose of analysis, we decided to choose the lowest number reported by the production department – 204,906,000 Hrivnas. Thus, in 1997, all the prison enterprises produced goods for sale worth 204,906,000 Hrivnas. The remainder left over in warehouses from 1996 was valued at the sum of 48,651,000 Hrivnas. Consequently, prison enterprises must have offered for sale production worth 253,557,000 Hrivnas. During the year (1997), goods were sold for the sum of 167,964,000 Hrivnas, and on 1.01.1998 in warehouses the remainder left over was worth the sum of 67,441,500 Hrivnas, the combined total being 235,405,500 Hrivnas. As can be seen from the above, in 1997 goods worth a minimum of 18,151,500 Hrivnas disappeared from the MIA statistics.

On paper, the financial chapter in the annual bulletin issued by the newly separated State Department for the Execution of Sentences (PD) looks better, but, again, officials failed to produce a clear picture. It seems to us that crude miscalculations are a

prominent feature of the statistical practice of the prison administration. For example, the remainder of unsold goods in warehouses on 1.01.1998 suddenly changed from 67,441,500 Hrivnas (Bulletin #20, MIA) to 70,391,000 Hrivnas (Bulletin #2, State Prison Department). In the 1998 annual report, it was stated that the system produced goods worth 231,474,000 Hrivnas. Thus, the system had for sale goods worth 301,865,000 Hrivnas. During the year, prison enterprises sold goods worth 215,567,000 Hrivnas and on 1.01.1999 these remained in the warehouses goods worth 83,788,000 (page 7). However, in another chapter, which is entirely devoted to prison production, on page 81, in a more reliable context clearly written by another author, the remaining unsold production on 1.01.1999 was listed as being worth 82,028,000 Hrivnas. Even if we take the last figure as reliable, it is impossible to find out from the annual report where 4,270,000 Hrivnas have disappeared to.

Some vagueness exists concerning unsettled accounts due from customers in return for goods, which had been sold to them. Specifically, we mean those cases where goods were removed from prison warehouses, but nothing was paid by the customers to the prison authorities.

1.01. 1997	1.01. 1998	1.01.1999
25,744,200 Hrivnas	30,535,000 Hrivnas	97,498,000 Hrivnas
Sources: Bulletin #20, (MIA) 1998 and Bulletin #2 (State Prison Department)		

However, taking into account existing practice, we have many reasons to suggest that a significant share of these debts will never be repaid. For example, in civilian business practice, money for goods which have been delivered without prior payment, very often is not paid at all. It is natural that there exists a preliminary arrangement between the seller and a customer in every such case. Goods are delivered without pre-payment only if the customer pays part of the money not into an account, but directly to the seller in cash. An attempt to receive full payment on account and to make the customer answerable usually fails - often a customer disappears with the goods and his firm no longer exists. Often such a firm is found to have been registered under the name of a person who had already died or one who had lost his passport years earlier.

Another version related to debts payable also exists. What can prevent a prison governor from registering a firm under a false name, delivering goods to the firm from the prison enterprise without pre-payment, and, finally, selling the goods for his personal benefit? The firm, of course, will disappear before the date on which the same governor "remembers" the debt and "tries recover it" through the legal process from the non-existent firm. These sums, which in fact are stolen, will appear later in prison accounts as "debts payable" and a corrupt governor will look like an honest person, according to the accounts. It is impossible, without a special investigation and full access to the documents, to answer the question of who is responsible and how much has been stolen from the 97,498,000 Hrivnas in the column "debts payable". Nevertheless, we think that it is likely that this kind of enrichment-scheme for prison governors is in operation on massive scale. Meanwhile, Bessonov (the governor of the strict regime prison #87) is now under investigation on suspicion of such a "business".

Barter operations also give to the prison administration an extremely convenient opportunity for illegal enrichment too. The Central Administrative Board, has repeatedly given orders to governors to reduce the share of barter. However, these orders have simply been ignored by prison administrations. The average share of barter increased from 60.5% in 1996 (66.8% in 1997) to 76.4% in 1998. In certain regions barter payments have reached between 90% - 98% of the all trade operations (for example, in the Chernivetska region it was 97,4% in 1998). The question then arises as to what, apart from personal profits which exceed all the state benefits for honest service, can force a military man to disobey the direct orders of his superiors?

The informational bulletin for 1997 (#20) mentioned the fact of misuse of rank during an ordinary barter operation (page 87). Thus, in institution #37 (in the Kirovogradska region) the administration bartered 194 tons of wheat for 307 m² of timber. If timber and wheat were converted into monetary form, we would find that the prison paid double sum in market prices for the timber. Under this type of practice, nearly 50 % of the difference between the market price and the sale-price goes in cash into the hands of the prison officials responsible. Curiosity forced me to recalculate the data to find out how much they received in this particular case. The difference between the market price for wheat and timber constituted a straight loss for the prison enterprise of 46,680

Hrivnas. From this sum, nearly 50% went to the prison administrator(s) – 23,340 Hrivnas. This sum is equivalent to ten times the average annual salary of a senior prison administrator. The wide-spread occurrences of inadequate barter in the prison system led to point #7 in the Recommendations issued by the Central Administrative Board (CAB) on the main activities of the criminal-correctional system in 1998. “Secure purchases of food by prisons must not exceed price limits approved by the CAB. Prices for food which an institution obtains as a result of barter must not exceed price limits, and in exceptional cases the administration has to agree them first with the CAB”. (#20, 1998, page 7)

An additional way to gain a minimal level of income by prison administrators can be achieved through a deliberate reduction in the price of goods and then receiving a share of the difference during the sale or barter. The reduction in prices is very easy to see from the data in bulletin #20 and #2. An average payment for one working day in juvenile pedagogic-labour colonies was 1 Hrivna (p.62, #20). However, it is impossible to compare the salary for an unqualified job (packing boxes or assembling electric lighting) with the salary of adult convicts for work in a foundry, but the salary of adults there was just 1.55 Hrivnas (#20, p.75). It is worth mentioning that, in spite of the fact that the job rates for agricultural work are the lowest, the average salary per day in agricultural colonies was 3.10 Hrivnas (p.92, #20). In 1998, the average convicts’ salary increased for 0,01 and now is 1,01 Hrivna per working day, but only 49.5% of prisoners fit to work claimed the salary - the rest were idle (invalids, the sick, and elderly prisoners not included). If we take into account cheap prison labour and the cheap cost of goods produced inside prisons, then it is understandable that the administration has an interest in establishing long-term connections with commercial firms and in the creation of private firms (openly registered by relatives). However, to prove misuse of power for personal profit is practically impossible if payment for goods goes directly into prison account. As far as we know, the CAB has not yet conducted any investigations into this area.

Delays in the payment of salaries to prisoners (the total amount owed increased from 7,990,900 Hrivnas on 1.01.1998 to 11,063,200 Hrivnas on 1.01.1999) have contributed to corruption through the possibility of using this money for short-time lending at high

interest rates. Prisoners have the right to use a part of their earned money to buy extra food and cigarettes in the prison shops. However, an analysis of the work of these prison shops revealed that in 1997 their turnover was only 1,915,000 Hrivnas and that slumps in sales increased in those colonies where salaries were delayed by more than three and a half months. In turn, delays in paying prisoners' wages were directly linked to the high percentage of barter operations carried out by the administration in any particular colony. Many prisoners leave the colonies without their earned wages and have to wait for their salary at home.

We entered the recalculated data¹⁸⁶ from informational bulletin (MIA) #20 into a statistical computer programme and applied correlation analysis. The resultant correlation allowed us to establish previously invisible relationships between relatively distinct factors. Employees from the Prison Department never used correlation analysis and ours is the first attempt to apply correlation analysis to the prison system parameters.

The number of escape attempts from colonies is closely linked to economic factors, such as the profit and loss account of particular agricultural colonies (Sig. – 0.862). The higher the production of food in agricultural colonies, the better is the food supply for prisoners in other penitentiaries in a particular region, and the lowest is the quantity of escape attempts in that region. But, the low quantity of escapes simultaneously leads to an increase in crimes committed inside prisons (Sig. 0.815). We think that the increase in violence in colonies is caused on the one hand by administrative fear of losing control over hungry prisoners and, on the other, by an increase in psychological pressure when convicts try to create a hierarchy by the strict division of inmates into “privileged” and “undeserving” status. Prisoners divide their rations according to status, thus the higher the status of a particular person the better food he eats.

At the same time, the profitability of production inside the agricultural colonies depends on informal relationships between convicts and staff (Sig. 0.803) – a high number of registered informal relationships corresponds to higher productivity in agricultural colonies. In turn, the higher the number of registered relationships on the

¹⁸⁶ See recalculated data in the appendix II.

verge of corruption is in a particular region, the higher the quantity of litres of alcohol confiscated from convicts (Sig. 0.909). Many significant aspects of human relationships, especially in prisons, are based on splitting a bottle of alcohol with “a good man”. One ex-prisoner told me about relations with his block-master: “If he wants to be seen “a good man”, he has to care about my needs and sometimes turn a blind eye to some events. If he is a scum, we can sabotage all his efforts to fulfil his professional duties. And he is well-aware of this”. In colonies where regime officers confiscated relatively large quantities of alcohol a greater level of explicit hooliganism was registered (Sig. 1.0). So strict correlation allows us to conclude that registered cases of alcohol confiscation are too small relative to the general amount of alcohol which prisoners managed to obtain. Debts on prisoners’ wages are higher in those colonies, where a higher incidence of prohibited relationships between staff members and prisoners was registered (Sig. 0.849).

A higher percentage of barter operations is related to the existence and strengthening of illegal supply channels for smuggling prohibited items into prisons (Sig. 0.773). In those regions where the productivity of the agricultural colonies is low, the percentage of barter operations is the highest in the system (Sig. 0.911).

We also found that order in prisons also strictly depends on the productivity of the agricultural colonies (regular food supply). The quantity of disciplinary offences committed by prisoners against the regime correlates well with low productivity in the agricultural colonies (Sig. 0.944), in fact, it rather correlates with malnutrition caused by poor food supply.

In general, the higher labour productivity is, the lower is the use of barter (Sig. 0.762), but where the percentage of barter is high, the quantity of registered crimes among convicts is correspondingly high too (Sig. 0.827). In colonies where the productivity of labour is low and convicts are locked in tiny local zones and spend their time in idleness, boredom and overcrowding, their daily existence turns into a nightmare and the wish to free themselves becomes urgent. Such colonies registered the greatest number of escape attempts (Sig. 0.951). Even if prisoners were fully employed, if their

wages were not paid regularly, they also tried to escape more often (Sig. 0.902), and vice versa, in colonies where prisoners were employed and wages paid in time, the quantity of escape attempts was minimal (Sig. 0.951).

We found a very interesting connection between the labour productivity of the agricultural colonies and the quantities of goods which remained unsold in industrial colonies. The quantity of unsold production in warehouses is largest in those regions where the output of agricultural colonies was high (Sig. 0.813). So, this high correlation indicates a mass misuse of financial discipline during barter (inadequate natural exchange) of industrial goods from the prison enterprises into staple foods for prisoners in those regions where output of the local agricultural colonies is insufficient to meet prisoners' basic needs.

Unsurprisingly, there was a straight connection between low labour productivity and high levels of registered staff corruption (Sig. 0.829). In colonies with high corruption levels among prison staff and paramilitary security employees, prisoners commit more crimes under the influence of drugs (Sig. 0.996) and the level of prisoners' obedience (discipline) to regime rules is very low (Sig. 0.788).

The quantity of supply channels discovered for bringing prohibited items into prisons was directly linked to discipline among members of the prison staff (Sig. 0.916) – more cases of registered misconduct among prison employees means more cases of withdrawal of prohibited items from convicts. Current prison conditions demoralise both sides. However, we have to recognise that the availability of prohibited deliveries and services for prisoners significantly reduces crime levels behind bars. The lower the crime level per 1.000 prisoners, the higher the quantity of registered cases of prohibited relationships between members of prison staff and convicts (Sig. 0.953). Thus, we can see that when staff attitudes to convicts' needs are more tolerant than the regulations prescribe, the psychological strain in the prison community is reduced. Some prisoners have an illusory conception that they exercise some control over their circumstances. We think that this positive feeling has to be based on confidence, but not on corruption. In 1997-1998, in those colonies where the greater number of channels of

illegal supply of prohibited items to convicts were discovered, the administration registered the greatest number of explicit threats by prisoner of physical assault against prison staff members (Sig. 0.895). However, we also discovered that if the administration worked hard to reduce corruption and re-establish discipline through regular searches and confiscation of prohibited items from prisoners, the quantity of violent threats received by staff members from convicts was reduced (Sig. 0.895).

In general, the same picture can be seen in all types of colony – the lower the profitability of a prison enterprise, the higher are the levels of registration of out-of-office relationships and, correspondingly, the higher the level of corruption at each level of prison staff (Sig. 0.813) and vice versa. In terms of bribery, where prison staff confiscated small amounts of money (a prohibited item) from prisoners, many more out-of-office, informal relationships between convicts and staff members were registered (Sig. 0.756). When, in a detached colony, the indices of production plan fulfilment are low, there are automatically higher levels of staff corruption (Sig. 0.878) and more cases of disclosed illegal delivery channels into prison of strictly prohibited items (Sig. 0.986). Inside penitentiaries where prisoners receive their salary regularly, the quantity of out-of-office relationships is remarkably low, because inmates have the legal opportunity to spend their earnings in the prison shops.

From previous chapters, we know that prison wage rates are extremely low – average pay is 1 Hrivna per working day and the maximum pay is 3.7 Hrivnas and the lowest 0.36 Hrivnas. Nevertheless, low wage rates significantly contribute to the corruption of prison staff (Sig.0.859) with its highest level being found among the paramilitary guards of the prison perimeter (Sig. 0.949). Practically all prisoners desperately try to produce something to exchange for food, cigarettes and tea, and the perimeter guards mostly act as trade mediators. In cases where the administration failed to pay a salary to prisoners for several months, prisoners lacking legal sources of supply, were forced to look for alternatives through corruption of the paramilitary perimeter guards (Sig. 0.797). Despite the general convenience of illegal trade links, which, on the face of it, look very convenient for prisoners' survival, we discovered an incredibly high correlation to suggest that when prison staff engage in informal relationships with

prisoners, they lose moral authority and, as a result, we see an increase of open disobedience and protests against the administration in that colonies (Sig. 0.914). How can a reformer reform an offender and teach him an honest life-style if he is corrupt himself?

We discovered a strong correlation between the quantity of confiscated drugs and the general crime level in particular regional prisons (Sig. 1.0) – in those prisons where the administration confiscated more drugs, the internal crime level was the highest in the system. On the face of it, the more the administration confiscates, the less the convicts have. However, this is far from the reality. The penetration of drugs inside prisons is a very complex social phenomenon. First of all, this problem indicates that prisoners have the essential material resources to purchase drugs and steady connections with the outside world to organise delivery. Secondly, the absence of regular medical control in colonies contributes to the use of drugs by prisoners. The third and, arguably, the most significant aspect, is the mutual interest of the administration and criminal leaders in making drugs available in the zones, which ensure that both sides have a suitable instrument of control and power. All the prisoners I met in Ukraine, without exception, suggested that securing a variety of drugs is not a problem in any prison if a person has money.

In colonies, where staff confiscated fewer US dollars, the quantity of crimes committed by prisoners was comparatively higher (Sig. 0.785). In addition, the quantity of confiscated cold steel in these colonies is the lowest (Sig. 0.897). Theft in the prison community is strictly prohibited and, thus, if a prisoner cannot buy something, he can try to obtain a desired item by violence against weaker convicts. Today, any self-respecting prisoner has some kind of cold-steel weapon within easy reach. In conditions of boredom and idleness, conflicts often arise and the knife raises the chances of the physically weak man against the strong one or against a group of assailants. We also discovered that in colonies where the administration confiscated more knives fewer severe corporal injuries were inflicted (Sig. 0.923). In itself, availability of knives and prisoners' readiness to use them stops potential perpetrators and reinforces the personal status of the armed individual. Meanwhile, members of the

lowest category (cocks) are strictly prohibited from owning weapons. For example, members of a higher stratum will kill a homosexual slave if they discover that he has a knife. In those colonies, a feeling of prisoners' dignity, or perhaps of convicts' insolence, is much higher – prisoners openly confront administrative decisions (Sig. 0.920). Moreover, the growth of corruption among staff members in these colonies (prohibited relations with prisoners) correlates well to the quantity of cases of confiscation of cold-steel weapons from convicts (Sig. 0.841). We think that corrupt officials feel threatened because of the loss of prisoners' respect and take all possible actions to ensure their security.

Even if a colony has a higher index of prisoner employment, sometimes the prisoners' wages are lower (Sig. 0.918). It is fully possible that, here, we can see a simple (and deliberate) distortion of the statistics by the administration to increase the indices of employment. Prisoners' low wages lead to clearly stated threats against the administration of a particular prison: less wages – more threats (Sig. 0.895).

In general, in those colonies where the percentage of production plan fulfilment was lower, the quantity of severe corporal injuries was higher (Sig. 0.792). Where the quantity of employed convicts was low, the quantity of registered crimes (Sig. 0.838) and the quantity of confiscated cold-steel weapons was proportionally high (Sig. 0.805). Nevertheless, in colonies where a production index increased simultaneously with profits, the internal crime level was significantly reduced (Sig. 0.915). In other words, convicts' idleness is dangerous for them.

3.5. Conclusions

Analyses relies on the statistics presented by prison department cannot be entirely trusted, however, it gives, at least, a possibility to identify the spectre of problems in the Ukrainian penal system:

- The state of the Ukrainian prison system is incompatible with the basic requirements of the European Prison Rules. For example, Rule 1 requires that "the

deprivation of liberty shall be effected in material and moral conditions which ensure respect for human dignity". The prison administration also violates Article 3 of European Convention on Human Rights on inhuman and degrading treatment and punishment.

- Unemployment in prisons leads to corruption of prison staff because all the prisoners' energy is directed to the fulfilment of this task. Without the active participation of prison staff, it is impossible to trade with the outside world and obtain extra food, cigarettes, alcohol, drugs and so on.
- Prisons are profitable to the budget. Prisoners produce more goods for the state than they consume and prison production covers all the costs of their maintenance.

Part IV. THE EMPIRICAL STUDY OF SOCIAL TOLERANCE IN PRISON

Our everyday world is filled with references to social tolerance, but what does this term mean? To what extent is tolerance towards people deprived of freedom shared by other members of society? How has the phenomenon of tolerance been expressed within the Ukrainian penal system in the transitional period? We designed a questionnaire to measure the level of respondents' tolerance towards representatives of different social groups, their level of dogmatism, and an estimation of the welfare system as it exists in Ukraine. The questionnaire¹⁸⁷ is in two parts: a set of qualitative statements about different aspects of social attitudes, and a separate questionnaire concerning an estimation of the general state and significant goals of the welfare system as a whole. It was carried out in 1996, during the end of the 1998 and in the first half of the 1999. This permitted us to trace the dynamics of changes in respondents' tolerance and attitudes to important social questions over four years of the transitional period in Ukraine.

We divided respondents into three groups:

group 1 - (main) convicted prisoners (males);

group 2 - (reference) employees of IES, men (legislation forbids women to work with convicts within male prisons);

group 3 (auxiliary) - civilians of both sexes. The auxiliary group includes civilians of different ages, professions and social status, who are subjects of the state social policy and who, as voters, take part in its formation. Thereby, we can compare the tolerance level of the prison community with an auxiliary group.

The practicability of such an allocation was determined by the need to study the subject of social tolerance in detail. In closed institutions, the social policy of the state concerning the most disadvantaged, who are totally dependent on state provision, is realised in its clearest mode. "Punishment may be a legal institution, administered by state functionaries, but it is necessarily grounded in wider patterns of knowing, feeling,

¹⁸⁷See appendix.

and acting, and it depends upon these social roots and supports for its continuing legitimacy and operation”¹⁸⁸.

4.1. Characteristic of the quota samples

Table 26 contains the main demographic variables of two quota samples. In 1996, out of 107 respondents (average age – 26.5) 36 had served sentences in eight different penitentiaries of the strict regime; 36 were employees of socio-psychological sections, who had had first-hand experience of working with convicts within prison social work departments; and 35 were citizens who had never experienced imprisonment and did not deal with prisoners within Ukrainian penitentiaries. In 1998 – 1999, 252 people took part in the inquiry (average age 24.3). On this occasion, 139 prisoners were included who have served their penalties in all types of penal institutions existing in Ukraine, including juvenile and women's prisons. We also collected 61 questionnaires filled out by employees of the different departments of the prison service which was not done in the first session: prison psychologists, regime and operative officers, social workers and several students from the penitentiary unit of the Institute of Internal Affairs (Kyiv).

	Group of respondents 1996								Group of respondents 1998-99							
	Prisoners N=36		Prison staff N=36		Aux. Group N=35		Total N	Total Layer	Prisoners N=139		Prison staff N=61		Aux. Group N=52		Total N	Total Layer
Respondent's	N	%	N	%	N	%		%	N	%	N	%	N	%		%
Education																
below secondary	2	5.5	-	-	2	5.6	4	3.7	32	23	-	-	-	-	32	12.7
secondary	12	33.3	-	-	1	2.8	13	12.1	48	34.5	6	9.8	27	51.9	81	32.1
special secondary	14	38.9	6	16.7	16	45.8	36	33.6	41	29.5	31	50.8	4	7.7	76	30.2
unfinished higher	3	8.3	10	27.8	9	25.8	22	20.6	9	6.5	21	34.4	3	5.8	33	13.1
higher	5	13.9	20	55.5	7	20.0	32	29.9	9	6.5	3	4.9	18	34.6	30	11.9
Type of education																
Humanitarian	5	13.9	23	63.9	25	71.4	53	49.5	7	5.0	41	67.2	19	36.5	67	26.6
Technical	17	47.2	8	22.2	6	17.1	31	29.0	62	44.6	8	13.1	23	44.2	93	36.9
Military	1	2.8	5	13.9	1	2.8	7	6.5	2	1.4	2	1.4	8	13.1	10	4.0
General	13	36.1	-	-	3	8.6	16	15.0	68	48.9	4	6.6	10	19.2	82	32.5
Age																
18-23	2	5.5	6	16.7	15	42.8	23	21.5	54	38.8	18	17.1	33	63.5	105	41.7
24-30	11	30.5	16	44.4	4	11.4	31	29.0	38	27.3	23	37.7	9	17.3	70	27.8
31-40	15	41.6	14	38.9	1	2.8	30	28.0	24	17.3	18	29.5	5	9.6	47	18.7
41-50	7	19.4	-	-	3	8.6	10	9.3	17	12.2	2	3.3	2	3.8	21	8.3
51-60	1	2.8	-	-	7	20.0	8	7.5	6	4.3	-	-	1	1.9	7	2.8
61-75	-	-	-	-	5	14.3	5	4.7	-	-	-	-	2	3.8	2	0.8
Family status																
Married	22	61.1	21	58.3	16	45.7	59	55.1	39	28.1	36	59.0	15	28.8	90	35.7
Permanent partner	5	13.9	4	11.1	4	11.5	13	12.1	7	5.0	9	14.8	8	15.4	24	9.5
close relatives	7	19.4	7	19.5	7	20.0	21	19.6	68	48.9	11	18.0	26	50.0	105	41.7
alone parent	-	-	1	2.8	-	-	1	0.9	5	3.6	-	-	-	-	5	2.0
alone	1	2.8	3	8.3	8	22.8	12	11.2	18	12.9	3	4.9	1	1.9	22	8.7
NAP	1	2.8	-	-	-	-	1	0.9	2	1.4	2	3.3	2	3.8	6	2.4
	34.6%		34.6%		32.7%		107	100%	55.2%		24.4%		20.6%		252	100%

¹⁸⁸ Garland, D. (1990), *Punishment and Modern Society: A Study in Social Theory*, Oxford: Oxford University Press, p.21.

Specific conditions of long-term imprisonment and the existing subculture permit us to provide data about additional characteristics of the prisoners' group in strict regime institutions through (1996): (a) crime committed; (b) length of imprisonment; (c) quantity of sentences; and (d) place in the criminal hierarchy.

a) 14 (38.9%) men were sentenced for crimes against the person (murder, assassination, manslaughter, infliction of corporal injury, rape). Among the respondents 20 (55.5%) were sentenced for mercenary crimes (theft of personal or state property, robbery, burglary, racketeering), one was sentenced for bribery, and one for a military crime (selling weapons and ammunition from a depot).

b) Owing to circumstances beyond my control, in 1996 I mainly visited Strict Regime penitentiaries. The majority of respondents in such places were recidivists, whose average age was 29 (prison staff – 31.5). The average length of the term already served among respondents of group 1 was 4.3 years. The average term to be served was six years. Among respondents, five (14%) were sentenced to term of one to three years; sentences from four up to eight years of imprisonment were imposed on 21 (58.3%) people; from eight to 12 years - seven (19.4%) people. Three (8.3%) had sentences of 13 years of imprisonment, but had no hope for conditional release or amnesty¹⁸⁹.

c) Seven (19.4%) respondents were serving their first sentence, 15 (41.6%) had 2 convictions, eight (22.2%) had three convictions, five (14%) had four convictions and one (2.8%) person had been sentenced seven times.

d) In terms of the criminal hierarchy, respondents belonged to the different status groups. The highest status is possessed by a group of the criminal elite - "blutnoys", thus only three (8.4%) people from this group agreed to take part in the inquiry. The second group is made up from "muzhiks" - 22 (62%). Seven from the lower status group of "activists" took part in the investigation (19,4%), and four from the group of "cocks (11,2%).

¹⁸⁹Some prisoners were sentenced before 1991 according to the legislation of the USSR. The Ukrainian government ignored the needs of this group. Indeed, only the Soviet courts can review these people's cases, which is impossible in principle and practice.

During the 1998-1999 study, I failed to obtain official permission to enter prisons in person as an independent researcher, and was forced to adopt the role of research-organiser. Following a seminar, which I conducted for penitentiary students in the Kyiv Institute of Internal Affairs, some of the part-time students offered their assistance in data collection in different types of penitentiaries all over Ukraine. We redesigned the questionnaire for prison staff and auxiliary groups; adding some questions about the evaluation of the penal and justice systems. Moreover, taking into account previous experience, we proposed that the staff evaluate the significance of 11 factors, which many officers mentioned as the most hampering to the aims and goals of social work with prisoners, and to report on their posts in the prison service. Altogether, 61 officers, from lieutenant to colonel of the Internal Service, took part in the investigation. Among them were 16 regime officers (counsellors), 13 employees of the operative departments, five prison psychologists, eight block (detachment) masters and seven who were reported to be social workers. More experienced and higher ranking officers of the prison service did not identify their position, probably to secure their anonymity. However, we have to remember that higher next rank is usually granted after every three years of service, thus the lowest rank in this category is "captain", which automatically means that they are heads of departments. Moreover, assistants verbally informed me that two prison governors (commander-in-chief) had completed the questionnaire.

Regime officers	Operative officers	Department of social work with prisoners			Master (prison factory)	Penitentiary students	Not applied	Total
		Detachment heads	Psychologists	Social workers				
N=16	N=13	N=8	N=5	N=7	N=1	N=5	N=6	N=61
Experience (years) 7.4	7.2	3.1	2.8	3.4	2.5	0.5	1.0	Average 4.6

One of the most characteristic features of the prisoner sample in 1998 was the sharp increase in young people up to the age of 30. However, it corresponds well to the whole picture of imprisonment. 51% of Ukrainian prisoners are younger than 30 and their share among recidivists in strict regime colonies has doubled in the last five years, and on 1.01.1999 constituted 28.2%, including 4% who were under 20 years of age.

Juvenile	General		Reinforced	Strict	Special	Pre-trial	Prison	Total
	Men	Women						
N=31	N=17	N=10	N=38	N=15	N=6	N=10	N=12	N=139
Experience (years) 1,4	2.4	4.2	2.7	8	15.8	2.8	5	Average 5.8

4.2. The social tolerance scale

The social tolerance scale was designed for the measurement of general personal attitudes to particular social groups.

Role:	1 spouse	2 friend	3 neighbour	4 colleague	5 local deputy	6 chief	7 local residents	8 inhabitants in special closed institution	9 president
Typical Representative:									
For example: Businessperson	-	+	+	-	-	-	+	-	+

Respondents were asked to estimate¹⁹⁰ in what roles they were prepared to accept representatives of different social groups. The average sum of pluses for each group constituted the level of social tolerance. The maximum score was 10, however, all groups gained from 3.1 up to 3.5.

Often, during their work on the questionnaire, respondents asked me what to do if they did not want to see representatives of some stigmatised groups at all. In my turn, I recommended they indicate “-” for all social roles, but asked them what they thought should be done with these groups of people. The answers were very simple to summarise: “There is no place for these people in Ukraine”. Some people even emphasised their desire to execute them. In the 1998 study, we re-formulated the question more precisely and asked respondents to indicate “-“ if they “do not want to contact representatives of some groups at all and under no circumstances”. The low level of social tolerance toward stigmatised and disadvantaged groups over four years is indicated in the set of tables, as well as the highest acceptance of prestigious groups.

1996 (summer)		1998-1999 (autumn – spring)		1996		1999		
Entire sample N=107		Entire sample N=252		Auxiliary group N=35		Auxiliary group N=52		
	Mean		Mean		Mean		Mean	
Acceptance by typical representative of		Acceptance by typical representative of		Acceptance by typical representative of		Acceptance by typical representative of		
1	DRUG ADDICT	.95	DRUG ADDICT	1.05	DRUG ADDICT	1.09	ALCOHOLIC	1.50
2	ALCOHOLIC	1.02	MENTALLY DERANGED	1.12	ALCOHOLIC	1.11	PROF. CRIMINAL	1.79
3	MENTALLY DERANGED	1.13	ALCOHOLIC	1.16	HOMELESS	1.26	DRUG ADDICT	1.82
4	HOMELESS	1.14	HOMELESS	1.34	MENTALLY DERANGED	1.34	MENTALLY DERANGED	1.84
4	GAY- PERSON	1.36	GAY- PERSON	1.39	HOMOSEXUAL	1.39	HOMELESS	1.92
6	BEGGAR	1.38	BEGGAR	1.52	PROF. CRIMINAL	1.49	BEGGAR	2.07
7	PROF. CRIMINAL	1.54	PROF. CRIMINAL	1.75	BEGGAR	1.63	PROSTITUTE	2.14
8	PROSTITUTE	1.64	PROSTITUTE	1.86	PROSTITUTE	1.66	EX-PRISONER	2.26
9	NATIONALIST	1.76	REFUGEE	1.89	MAFIA MEMBER	1.69	MAFIA MEMBER	2.54
10	MAFIA MEMBER	2.01	NATIONALIST	2.12	NATIONALIST	1.77	REFUGEE	2.86
11	REFUGEE	2.24	MAFIA MEMBER	2.28	EX-PRISONER	2.11	COMMUNIST	2.88
12	UNEMPLOYED	2.24	UNEMPLOYED	2.32	REFUGEE	2.17	NATIONALIST	2.99
13	INVALID	2.48	INVALID	2.35	UNEMPLOYED	2.37	HOMOSEXUAL	3.01
14	EX- PRISONER	2.79	COMMUNIST	2.44	INVALID	2.43	UNEMPLOYED	3.23
15	RETIRED	3.19	EX- PRISONER	2.66	COMMUNIST	3.14	RETIRED	3.55
16	COMMUNIST	3.25	ATHEIST	2.79	RETIRED	3.17	INVALID	4.10
17	POLICE OFFICER	4.34	RETIRED	3.06	ATHEIST	3.77	ATHEIST	4.27
18	ATHEIST	4.37	POLICE OFFICER	3.51	POLICE OFFICER	4.20	POLICE OFFICER	4.59
19	BUSINESSMAN	4.79	MILITARY OFFICER	4.29	BUSINESSMAN	4.37	SOCIAL WORKER	5.15
20	MILITARY OFFICER	4.82	SOCIAL WORKER	4.34	MILIT. OFFICER	4.63	WORKER (indust.)	5.30
21	ARTIST	5.04	ARTIST	4.48	SOCIAL WORKER	4.71	MILIT. OFFICER	5.34
22	SOCIAL WORKER	5.26	STATE EMPLOYEE	4.88	RELIGIOUS	4.97	STATE EMPLOYEE	5.49
23	WORKER (industrial)	5.36	RELIGIOUS	5.11	WORKER (indust.)	5.14	RELIGIOUS	5.64
24	RELIGIOUS	5.38	BUSINESSMAN	5.25	ARTIST	5.26	ARTIST	6.05
25	STATE EMPLOYEE	5.63	SCIENTIST	5.33	STATE EMPLOYEE	5.37	RICH PERSON	6.37
26	RICH PERSON	6.01	WORKER (industrial)	5.34	RICH PERSON	5.51	SCIENTIST	6.50
27	SCIENTIST	6.22	RICH PERSON	5.80	SCIENTIST	6.11	BUSINESSMAN	6.52
	Level of social tolerance	3.24	Min=0.08 Max=8.44	3.02	Level of social tolerance	3.11		3.77

Concerning the change of general priorities, we can see that unsuccessful reforms have led to a lowering of tolerance towards the state employees. The power of the state has become even more fragmented. According to analysts, the modern Ukrainian rich (most of whom are corrupt officials) have gained their fortune by means of crime, (see previous chapters) resulting, to some extent, of course, from the movement away from bureaucratized, prohibitive socialism. However, economic crime and unemployment, as a by-product of the transitional period, threaten the positive social motivation of the young generation. People have become more indifferent to the needs of disadvantaged groups. However, respondents from the auxiliary groups of civilians in the 1999 sample had slightly changed their attitudes toward the more human values of civil

¹⁹⁰See full questionnaire in appendix

society. For example, there is a very big difference between a tax paying businessman and a "New Ukrainian" from the shadow state.

	1996		1998		1996		1998-1999	
	Prisoners N=36		Prisoners N=139		Prison staff N=36		Prison staff N=61	
1	DRUG ADDICT	.89	DRUG ADDICT	0.82	ALCOHOLIC	.86	MENTALLY DERANGED	0.80
2	MENTALLY DERANGED	1.06	ALCOHOLIC	0.97	DRUG ADDICT	.89	HOMOSEXUAL	0.91
3	ALCOHOLIC	1.08	MENTALLY DERANGED	0.98	HOMELESS	.94	DRUG ADDICT	0.93
4	HOMELESS	1.22	HOMOSEXUAL	0.99	MENTALLY DERANGED	1	ALCOHOLIC	1.31
5	BEGGAR	1.44	HOMELESS	1.14	PROF. CRIMINAL	1.03	HOMELESS	1.31
6	HOMOSEXUAL	1.58	BEGGAR	1.27	BEGGAR	1.08	PROF. CRIMINAL	1.40
7	NATIONALIST	1.81	REFUGEE	1.73	HOMOSEXUAL	1.12	REFUGEE	1.44
8	PROSTITUTE	2.06	INVALID	1.73	PROSTITUTE	1.19	NATIONALIST	1.57
9	PROF. CRIMINAL	2.11	PROSTITUTE	1.85	EX-PRISONER	1.61	BEGGAR	1.60
10	UNEMPLOYED	2.50	PROF. CRIMINAL	1.89	REFUGEE	1.69	PROSTITUTE	1.64
11	MAFIA MEMBER	2.58	ATHEIST	1.94	NATIONALIST	1.69	MAFIA MEMBER	1.82
12	INVALID	2.75	UNEMPLOYED	2.01	MAFIA MEMBER	1.75	EX-PRISONER	1.93
13	REFUGEE	2.86	NATIONALIST	2.04	UNEMPLOYED	1.86	INVALID	2.26
14	RETIRED	3.28	COMMUNIST	2.14	INVALID	2.25	UNEMPLOYED	2.26
15	POLICE OFFICER	3.36	POLICE OFFICER	2.21	RETIRED	3.11	COMMUNIST	2.57
16	COMMUNIST	3.50	MAFIA MEMBER	2.39	COMMUNIST	3.11	RETIRED	3.33
17	ATHEIST	4.14	RETIRED	2.75	ARTIST	4.67	ATHEIST	3.44
18	MILIT. OFFICER	4.44	EX-PRISONER	3.13	BUSINESSMAN	4.78	RELIGIOUS	4.55
19	EX-PRISONER	4.64	MILIT. OFFICER	3.41	WORKER (indust.)	4.92	BUSINESSMAN	4.70
20	ARTIST	5.19	ARTIST	3.64	ATHEIST	5.19	ARTIST	5.06
21	BUSINESSMAN	5.22	SOCIAL WORKER	3.73	RELIGIOUS	5.31	SOCIAL WORKER	5.06
22	SOCIAL WORKER	5.28	STATE EMPLOYEE	4.24	MILIT. OFFICER	5.39	WORKER (indust.)	5.30
23	STATE EMPLOYEE	5.33	SCIENTIST	4.61	POLICE OFFICER	5.44	MILIT. OFFICER	5.41
24	RELIGIOUS	5.86	BUSINESSMAN	5.01	RICH PERSON	5.50	POLICE OFFICER	5.68
25	WORKER (indust.)	6	RELIGIOUS	5.16	SOCIAL WORKER	5.78	STATE EMPLOYEE	5.81
26	SCIENTIST	6.36	WORKER (indust.)	5.37	STATE EMPLOYEE	6.17	SCIENTIST	5.97
27	RICH MAN	7	RICH MAN	5.48	SCIENTIST	6.19	RICH PERSON	6.03
	Level of social tolerance	3.47		2.69	Level of social tolerance	3.13		3.12

As we can see from the table above, the level of tolerance of prison staff members has remained practically unchanged. The prison archipelago remains, on the first appearances, quite stable. However, a change in priorities is noticeable. New Ukrainians with criminal origins of wealth, and often a prison background, have become, for them, people worthy of greater respect than the representatives of the state, whose interests they have to protect. We have to add that, for all these years, prison staff has been intensively trained to act more properly and in a more civilised manner

according to the world standards of human rights. Millions have been spent on re-education and visits to European and American penitentiaries. But, as can be seen, there have been no positive results. We suppose that the level of social tolerance, which is below average (3.24 in 1996 and 3.02 in 1998-99), indicates a generally negative attitude of respondents toward particular social groups. In 1996, the level of social tolerance of prisoners was higher than that of the prison staff or civilians, but, in 1998, it became lower. If the prison staff's general level of tolerance is compared with that of prisoners, we have to admit that such "stability" is likely to have been caused by the prisoners' deep disappointment, exasperation and increased indifference. The statement - "All people are enemies" has become the sad reality for prisoners. Entrenched neglect and indifference do not improve people. It is well-known that solutions for the most painful questions do not often require extra financing, but a change of attitudes.

In the 1998 research, we aimed to identify in which type of penitentiary institution prisoners' tolerance levels were the lowest. Table 31 summarises our findings by regime.

Juvenile	General (women)	General	Reinforced	Strict		Special	Pre- trial	Prison Regime
				1996	1998			
N=31	N=10	N=17	N=38	N=36	N=15	N=6	N=10	N=12
2,97	2,97	1,98	3,43	3,47	2,59	1,53	1,68	1,93

It is understandable that prisoners' tolerance levels in special (maximum security) and prison regime institutions are low. They contained especially dangerous recidivists and people who have committed the most cruel crimes. But why is tolerance so low inside pre-trial and general regime institutions? We have weighty reasons to assume that the answer lies in the administrative field - in particular, the obvious need to segregate ex-prisoners from novices. Meanwhile, literally all the recommendations listed in the joint report¹⁹¹ to the Council of Europe by an international expert mission to improve living conditions in these institutions were ignored.

¹⁹¹ Lakes/Flugge/Philip/Nestorovic, Assessment of the Ukrainian Prison System, report on Council of Europe expert mission to Ukraine in June and August 1996, Strasbourg, January 1997, Joint Progr. Proj. UKR V.B.4 (97) 1, s:\iv\ukraine\prisons.ukr

Taking into account the fact that employees of different departments play distinct roles in the prison system, we have summarised their tolerance level in the table below and added several particular variables, which for us represent the most interesting groups.

Tolerance towards:	Not applied	Regime officers	Operative officers	Department of social work			Production Master	Penitentiary students
				Detachment heads	Psychologists	Social workers		
Average level	2,44	2,64	2,84	3,90	3,87	3,66	3,08	3,35
Rich (New Ukrainian)	8.33	6.67	4.70	4.86	4.44	7.14	3.33	7.14
Police (prison staff)	3.15	5.76	6.58	6.36	7.56	4.44	6.67	4.44
State employee	4.63	5.35	5.81	5.83	7.33	5.24	5.56	5.24
Criminal	1.11	0.97	0.94	2.78	1.33	1.90	0	1.78
Ex-prisoner	2.04	0.76	1.62	2.50	3.33	4.29	0	1.11

As we can see, those who did not identify their post (though they are known to be that the heads of departments and penitentiaries) have the lowest level of tolerance. To a certain degree, pressure from the central office influences this state of mind. If something is disclosed about misconduct in their prisons, they have to assume responsibility for it. Thus, for them, all inmates and employees are simply a source of trouble. In the last five years practically all prison governors have been replaced or forced to retire. For example, Bessonov, the governor of IES-87, where I conducted the research in 1997, was accused of corruption and misuse of his post a year later, and he is now under investigation. We can assume that the higher the rank an employee of the prison service has, the less tolerant he is, even towards subordinate staff. In this small sample of six people acceptance of prisoners (criminals) is 1.1, of colleagues 3.15, but of New Ukrainians (the rich) 8.33! If for leading officers of the system, the most positive category is "the rich", we have to question the principles underlying staff selection in the State Department for the Execution of Sentences. Maybe such characteristics are vital in order to pursue a career inside the prison system? However, we think that a tendency towards corruption is likely to be a reflection of the weak social protection of the prison staff after retirement. We found a strong correlation (Sig. 0.896) in their attitude to "retired" and "beggar".

Employees of the regime and operative departments have to be suspicious of convicts. This quality is vital for their job, but we suggest that, in principle, to be watchful does not mean to be intolerant. Unlike the high-ranking officers of the system, employees of

the operative departments maintained solidarity and valued their colleagues (6.58) as the people most worthy of reverence referent persons.

Dogmatism scale

The generally low level of social tolerance is conditioned by a very high level of "dogmatism", which, in fact, measures conformity to the main social values of different groups, reflecting the general mentality of the sample in the transitional period. The "F-scale", or dogmatism scale, correlates well with negative attitudes to stigmatised and dependent people. For example, Jabin found that authoritarianism - including authoritarian aggression and submission - was associated with feelings of pity, hostility and repulsion, but most strongly with feelings of pity. Triandis and Triandis suggest that the F-scale in fact measures conformity to dominant social values, and certainly it contains a ferocious response bias. This would reinforce the idea that stereotyping is at the root of prejudice. The F-scale is also associated with a belief in a "just world"¹⁹². In other words, this is the belief that everybody gets what he/she deserves. The scale of dogmatism reflects:

1) The coexistence of contradictions within the belief system (Q54; Q55) (See text of questions in the appendix).

CONTRADICTIONS	Average	prisoners	prison staff	Aux.
1996	7.21	7.47	7.17	6.97
1998-99	6.08	6.42	5.61	5.71

The history and politics of Ukraine have led to the disintegration of the foundations for clear moral evaluation and orientation. Ukrainians used to live in an extremely rich country, but the enormous natural wealth failed to prevent mass poverty. The principle of "democratic centralism", established within the Communist Party, had nothing in common with democracy. The victory over enemies, on the one hand, was indeed a victory; on the other hand, it was a defeat. Indeed, Ukrainians through the destruction of enemies were simultaneously destroying themselves. By killing the Germanic fascists (what else could be done?) they strengthened the power of the Communist Party nomenclature - the institution that proved to be more brutal than any foreign

occupation in Ukrainian history. In other words, a special form of reality appeared which was characterised by profound contradictions within the belief system. People, who had for decades lived under totalitarianism, used to unquestionably carrying out orders from above, could not muster the courage to make independent decisions – and this is precisely what a democratic system requires.

We found a strong correlation (Sig. 0.914) between a belief that peoples' attitude to a person does not depend on his/her income and contradictions within the general belief system. People with a high level of contradictions simultaneously despised capitalists (Sig. 0.996), communists (Sig. 0.859), ex-prisoners (Sig. 0.809) and homosexuals (Sig. 0.762). They also express intolerant attitudes toward the handicapped (Sig. 0.747) and members of the Mafia (sign. 0.759); however, their attitudes are much more favourable towards unemployed people (Sig. 0.815). People with a military education (Sig. 0.796) express higher levels of contradictions within their belief system, but single (unmarried) men (Sig. 0.726) demonstrate the lowest level.

Prisoners with a high level of contradictions within their belief system show a high level of acceptance of Communists (Sig. 0.821) and people with mental health problems (Sig. 0.706), but they reject drug addicts (Sig. 0.840) despite the fact that they almost certainly have mental problems. They also reject nationalists (Sig. 0.934), the police (Sig. 0.791), and wealthy people (Sig. 0.936). High levels of contradictions within prisoners' belief systems correlate with paranoia and self-aggrandisement as a defence against feeling of inadequacy (Sig. 0.913), but prisoners who feel helpless have the lowest possible level of contradictions (Sig. 0.999). This means that they are realistic about life in prison and that their helplessness has a real foundation, embedded in the penal system.

It is understandable why prison staff with high levels of contradictions now dislike Communists (Sig. 0.797), but why they despise artists (Sig. 0.860) is unclear. Prison staff with contradictions expressed their approval of prostitution (Sig. 0.883), social workers (Sig. 0.818), and their support for proletariat (industrial workers) (Sig. 0.921),

¹⁹²Lerner, M. J., (1980).

but they are prejudiced against refugees (Sig. 0.783). They have bad relationships with relatives (Sig. 0.852) and superiors (Sig. 0.820), and think that the welfare system supports the undeserving (Sig. 0.749). With years of experience, prisoners' and prison staff's belief system of beliefs have become less contradictory (Sig. 0.835).

In general, people with high levels of contradictions are less tolerant; we found a negative correlation of 0.765 with the level of social tolerance.

Beliefs regarding the loneliness, isolation, segregation and helplessness of man (Questions 56,57,58,59):

HELPLESSNESS	average	prisoners	prison staff	aux.
1996	4.94	5.15	5.26	4.39
1998-99	5.14	5.55	4.76	4.47

The everyday experience of the ordinary Ukrainian very clearly suggests that there are often no links between crime and punishment. Punishment, repression and even elimination, have become the fate of many who have committed no crime and in spite of their clear innocence. In the transitional period, the question "why?" has become meaningless. Why were millions killed, why are people sentenced for practically nothing, while hardened, overt criminals are not? Why is the government self-serving, alienated, and thoroughly corrupted? Who can be identified as a normal person and who as a deviant? For most Ukrainians these questions remain unanswered.

The feeling of helplessness correlates in our sample with the belief that people's attitudes towards the respondent strongly depend on his past (Sig. 0.851). This means that people believe that if they have a bad record they are doomed forever. Helplessness is also associated with a negative attitude towards army officers (Sig. 0.888), state employees (Sig. 0.982), businessmen (Sig. 0.943), prostitutes (Sig. 0.942), and drug addicts (Sig. 0.785), but with an acceptance of beggars (Sig. 0.918), ex-prisoners (Sig. 0.900) and people with mental health problems (Sig. 0.830).

Surprisingly, contrary to other groups of respondents who feel helplessness, prisoners think that their past does not influence their relationships with other people (Sig. 0.825). The feeling of helplessness also negatively correlates with their attitude

towards ex-prisoners - they consider the ex-prisoner as a free person with plenty of opportunities (Sig. 0.790). We think that in the Ukrainian context of the criminalisation of social life, they now feel much better, than ten years ago. They can now find employment in the private space of the shadow economy, and avoid pressure from legal, official structures. However, this life-style in Ukraine requires the drinking of vodka as a proof of loyalty to superiors and friends. Thus, we found that prisoners' feelings of helplessness correlate with a positive attitude toward alcoholics (Sig. 0.752) because they are talkative and relatively harmless, but a negative attitude toward beggars (Sig. 0.795). The notorious figure of the Ukrainian nationalist, with his belief in the elimination of crime and criminals, is regarded as the most dangerous person, who induces a feeling of helplessness among prisoners (Sig. 0.943). However, the image of the Ukrainian social worker negatively correlates with helplessness (Sig.0.949). However, social work in Ukraine is so undeveloped that, by Western standards, it can be named "proto- social work".

Although uneducated convicts feel themselves to be helpless (Sig. 0.737), prisoners with a high level of education feel social isolation and helplessness much more (Sig. 0.944) - in prison they can change nothing. Awful living conditions inside prison (Sig. 0.752), bad relationships with relatives, or their absence, also reinforce this feeling (Sig. 0.771). Helplessness is associated with the belief that dependence on social provision and redistribution experienced within prison, is inefficient and poor (Sig. 0.934). The more helpless and isolated prisoners feel themselves to be, the less tolerant they are (Sig. 0.704).

In their turn, prison staff who admit their low incomes feel themselves to be helpless (Sig. 0.935). They also feel helplessness and segregation because they think that people's attitude towards them is coloured by their profession (Sig. 0.884). They stated that their moral code makes them feel unprotected and helpless (Sig. 0.897). Those of them who despise alcoholics feel themselves less helpless (Sig. 0.856). It sounds strange, but alcoholism is a very big problem for prison staff in Ukraine. Usually, during around-the-clock duty, it is difficult to avoid drinking vodka. Meanwhile, we found a 100% correlation between higher acceptance of alcoholics and prison staff's

belief that attitudes to them depend on their moral values (Sig. 1.000). Some guards are never sober; however, their superiors are forced to turn a blind eye because very few people want to work in a prison. The more authoritarian the member of prison staff is, the stronger the feeling of helplessness he experiences (Sig. 0.792) - people try to avoid close contacts with him. However, guards who have received an advanced humanitarian education are more tolerant, but also have strong feelings of helplessness (Sig. 0.850). Long term experience of working in a prison (10 years +) also causes feelings of helplessness (Sig. 0.958).

It is interesting that members of the prison staff who show great respect for, and acceptance of Ukrainian businessmen do not feel helplessness at all (Sig. 0.994). Better relations between relatives and prison staff correlate with a higher acceptance of industrial workers (Sig. 1.000), which indicate their origin, and the belief that the attitude of other people towards them depends on their income (Sig. 1000). Thus, it is obvious that they will strive for some extra income through illegal trade, or in exchange for the support of a particular person behind bars. This means that if a person is corrupt, he feels more respectable and protected, and this fact shows exactly what is wrong with Ukrainian entire social system.

Need for martyrdom (the need to suffer) (Q61):

MARTYRDOM	Average	Prisoners	prison staff	aux.
1996	6.80	6.06	7.22	7.14
1998-99	6.79	7.22	5.97	6.62

The need for martyrdom, generally correlates with a positive attitude toward military officers (Sig. 0.914), beggars (Sig. 0.805), communists (Sig. 0.768), and negatively correlates with attitudes toward people who maintain more anarchic life-style, for example, artists (Sig. 0.872), criminals (Sig. 0.717), or the homeless (Sig. 0.744). The need for martyrdom correlates well with attitudes toward ex-prisoners (Sig. 0.749) and the elderly (Sig. 0.939), which reflects the sad reality of Ukrainian welfare system. The less people feel this need, the more they appreciate the social worker (Sig. 0.890). The less they are educated (Sig. 0.965) and the more they live in bad living conditions (Sig. 0,909), the more they have developed this need. People with a high level of this need also believe that the welfare system in Ukraine supports the undeserving (Sig. 0.967).

Self-aggrandisement as a defence against self-inadequacy (Q: 62,63,64,65); concerns with power and status (Q: 62,63), and a paranoid outlook on life (Q:64,65):

Self-aggrandisement	average	prisoners	prison staff	Aux.
1996	6.28	6.47	6.00	6.36
1998-99	6.07	6.27	5.81	5.85

These figures reflect the pressure on the person and the escapist tendency to save self-respect even in the worst situations. The higher the acceptance of the beggar, or poor pensioner, the higher is the level of self-aggrandisement (Sig. 0.725, and 0.842 respectively) and loathing of the social worker (Sig. 0.779). People who have achieved better living conditions feel themselves more important (Sig. 0.930). They also feel paranoid about the welfare state, which, in their opinion, undermines family relationships and the work ethic (Sig. 0.882).

Old age reinforces the tendency towards a paranoid outlook on life and relates to power and status among prisoners (Sig. 0.880). This even induces respect for prison staff (Sig. 0.910), but condemnation of the working class (Sig. 0.785). Self-aggrandisement corresponds well to contradictions within prisoners' belief system (Sig. 0.913). It also correlates with self-confident suggestions that, in dire straits, they can manage their problems themselves (without any outside help) (Sig. 0.754). However, prisoners with a tendency toward self-aggrandisement and with a paranoid outlook on reality consider the welfare state to be a desirable institution which is relatively good and needs only a little improvement (Sig. 0.755), which shows their hidden feeling of inadequacy.

We found that if a member of the prison staff believes that attitudes towards him depend on his income, the higher is his self-aggrandisement (Sig. 0.896). The higher his income, the less inadequate he feels (Sig. 0.871). In prison conditions this often finds expression in the insolent extortion of services, money or "consumer goods" from prisoners. The self-aggrandisement of prison staff correlates with a positive attitude toward military officers (Sig. 0.911), towards atheists (Sig. 0.969) and rich men (Sig. 0.821). Self-aggrandisement also correlates with intolerance of homosexuals (Sig. 0.993), the mentally ill (Sig. 0.946), the homeless (Sig. 0.992), and a paranoid

fear of colleagues (Sig. 0.840) from the Ministry of the Internal Affairs. Because the great majority work for a prison because of the military status and relatively high state pension, self-aggrandisement (as also is the case for prisoners), correlates with the desirability of the welfare state (Sig. 0.934), and a declaration of self-sufficiency in a case of dire straits (Sig. 0.980).

Authoritarianism (Q: 66,67,68,69,70,71,72):

Beliefs in positive and negative authority (Q: 66,67), and

belief in the cause (Q: 68,69,70,71,72):

AUTHORITARIANISM	Average	Prisoners	prison staff	aux.
1996	7.23	7.50	6.98	7.21
1998-99	6.06	6.36	5.43	5.98

Surely, the main finding here was a marked decline in authoritarianism in recent years. In general, people who have high levels of authoritarianism believe that they represent moral purity (Sig. 0.821). They respect the police (sig. 0.919) and wealthy citizens (Sig. 0.846), dislike homosexuals (Sig. 0.715), prostitutes (sig. 0.915,) invalids (Sig. 0.977), people with mental illnesses (Sig. 0.987) and are slightly afraid of scientists (Sig. 0.711). They think that the welfare state already exists in Ukraine and works properly (Sig. 0.942). In fact, they represent the conservative point of view, encouraged by state propaganda many years ago. The decline in the level of authoritarianism shows that people becomes more open to new ideas.

Prisoners are more authoritarian than prison staff, especially, those prisoners who have higher incomes than other inmates (Sig. 0.892) and correspondingly better health (Sig. 0.970). They claim that attitudes to them are highly dependent on their moral code (Sig. 0.940), but we do not think so. As a rule, authoritarian prisoners support the prison elite – the blutnoys - and regard themselves as carriers and supporters of the pride and dignity of the criminal world. Because the tattoo of the cross is the symbol of the caste of thieves, authoritarian prisoners claim to be religious and despise atheists (Sig. 0.794). They respect military forces (Sig. 0.989), the elderly (Sig. 0.942) and pensioners (Sig. 0.830), and believe that better welfare provision is an integral right of the individual (Sig. 0.812). Moreover, their level of social tolerance correlates well

with their authoritarianism (Sig. 0.767). They also respect well-educated people (Sig. 0.802).

Prison staff members who show a high level of authoritarianism believe that the attitude of other people to them depends on their profession (Sig. 0.821). Not surprisingly, they accept alcoholics (Sig. 0.964), because to be slightly drunk on duty can be seen as proof of their high status in the eyes of prisoners. Contrary to authoritarian prisoners (Sig. - 0.853), authoritarian prison staff members like artists (Sig. +0.853), but dislike communists (Sig. 0.934), which is like saying that the newly converted try to be even more righteous than the Pope. They treat drug addicts (Sig. 0.766) as the most degraded category of prisoners. They are tolerant of ex-prisoners (Sig. 0.928), maybe because in civil life these are the only people with whom they have much in common. Authoritarian members of prison staff are suspicious of their colleagues from the MIA (Sig. 0.886). They feel threatened in front of rich people and do not like them (Sig. 0.998), but they do not like the working class either (Sig. 0.919).

Authoritarian civilians accept drug addicts (Sig. 0.920) and rich citizens (Sig. 0.953), but are intolerant towards ex-prisoners (Sig. 0.862), the handicapped (Sig. 0.908), nationalists (Sig. 0.925), state employees (Sig. 0.813) and the unemployed (Sig. 0.960). A high level of authoritarianism among civilians negatively correlates with a high level of social tolerance (Sig. 0.863).

Intolerance toward turncoats and disbelievers (Q: 73,74,75,76,77):

INTOLERANCE	average	Prisoners	prison staff	aux.
1996	6.68	6.82	6.49	6.72
1998	6.20	6.48	5.76	5.95

People who show a high level of intolerance toward differently minded people think that the attitude of others to them depends on their past (Sig. 0.762). The more intolerant towards turncoats and disbelievers a person is, the less he/she accepts artists (Sig. 0.788), businessmen (Sig. 0.767), rich people (Sig. 0.948), and the elderly (Sig. 0.820). Though is more accepting of social workers (sig. 0.901), which, again, reflects orientations implanted in the public consciousness during the Soviet period.

Prisoners with a high level of intolerance towards turncoats believe that attitudes towards them are related to their income (Sig. 0.798) and moral views (Sig. 0.940), regardless of their profession (Sig. 0.852). They consider communists as traitors and do not like them (Sig. 0.978), they are still not used to accepting businessmen (Sig. 0.884), but respect rich people (Sig. 0.773). It is useful to bear in mind that to be rich in Ukraine, but not to be a businessperson, can only mean being a criminal, or a corrupt official. They accept former prisoners (Sig. 0.911) and do not like police structures (Sig. 0.713). As a rule they are single (Sig. 0.817), or have bad family relationships (Sig. 0.830), blame the welfare system for this (Sig. 0.899) and have a tendency to think that current social welfare fosters stigma (Sig. 0.716) and social division.

Members of prison staff with high levels of intolerance towards turncoats and disbelievers think that attitudes of other people to them mainly depend on their illness (Sig. 0.917). They despise: beggars (Sig. 0.988), the homeless (Sig. 0.882), army officers (Sig. 0.785), nationalists (Sig. 0.840), prostitutes (Sig. 0.964), religious followers (Sig. 0.815) and rich people (Sig. 0.761). The only social group which they accept is the group of ex-prisoners (Sig. 0.861). They also have a tendency to consider the welfare state as a stigmatising institution (Sig. 0.701).

Civilians with a high level of intolerance towards turncoats do not value state employees (Sig. 0.996), criminals (Sig. 0.975), and mentally sick people (Sig. 0.941), but demonstrate acceptance of homosexuals (Sig. 0.802), prostitutes (Sig. 0.950), the homeless (Sig. 0.896) and the unemployed (Sig. 0.922). They also respect social workers (Sig. 0.829). This type of intolerance depends on their level of education - the less educated people are more intolerant toward disbelievers (Sig. 0.995). Respondents' humanitarian education negatively correlates with intolerance of this type (Sig. 0.907), and positively correlates with his level of social tolerance (Sig. 0.843).

Attitudes toward past, present and future (Q: 78,79,80,81):

VAGUE FUTURE	Average	Prisoners	Prison staff	Aux.
1996	6.97	7.12	7.00	6.78
1998-99	5.87	6.21	5.55	5.33

Respondents expressed a high level of uncertainty about the future, but we also see its decline. The transitional period in Ukraine is characterised by constant change. Empty promises by politicians to improve social security and the welfare have state induced irritation and unpredictability. Of course, things cannot be changed overnight, but implementing privatisation at the expense of the most disadvantaged layers of the population and the criminalisation of social life do not leave much hope, especially for isolated prisoners who have lost their professional qualification or have no possibility of getting it because of reduced state financing of educational programmes for prisoners. However, prison staff and prisoners are less uncertain now on their future than they were in the 1996.

The former official “Moral Code of the Builder of Communist” was created to support a collectivist orientation and during the 70 years of the Soviet era it deeply penetrated the public consciousness. Thus, people with high uncertainty about the future are usually those who have now low incomes and feel themselves socially unprotected (Sig. 0.993). They think that an attitude to them depends on their moral code (Sig. 0.921), which suggests that the businessperson is a speculator, or exploiter. People who fear the future dislike communists (Sig. 0.989), welcome nationalists, who promise to build a new reliable welfare state (Sig. 0.948), and have positive attitudes to religious followers (Sig. 0.763) and ex-prisoners (Sig. 0.901). They are also less educated (Sig. 0.754), but are trying hard to maintain good relationships with their superiors (Sig. 0.951) to secure their jobs. We consider this feature an indication of the passive type of orientation.

Ukrainian prisoners with high levels of fear of the future believe that the attitude of other people does not depend on their professional ability (Sig. 0.840), they think that it depends on their illness (Sig. 0.737). They do not like communists (Sig. 0.901), or nationalists (Sig. 0.802). However, they do not tend to find consolation in religion in prison and their attitude to religious people is one of suspicion (Sig. 0.719). They expressed respect towards scientists (Sig. 0.827), however, I think that this estimation was influenced by the presence of the interviewer rather than by their real thoughts. High levels of uncertainty about the future among prisoners correlates with a negative

attitude towards the working class (Sig. 0.915). It was found that the more years a person has been imprisoned, the more fear of future he/she has (Sig. 0.898).

Members of prison staff with a high feeling of uncertainty about the future have a negative attitude to alcoholics (Sig. 0.983), communists (Sig. 0.748), beggars (Sig. 0.799) and like businessmen (Sig. 0.938), ex-prisoners (Sig. 0.834) and prostitutes (Sig. 0.764). They are 20-30 years old (Sig. 0.928). They also have positive attitudes to refugees (Sig. 0.956). They do not like their jobs and condemn state employees (Sig. 0.976) in spite of the fact that they are state employees themselves. Maybe this influenced by very bad living conditions (Sig. 0.929), which they cannot legally improve with their state salary (nearly \$50 per month), because to buy a one room flat, they would have to save their earnings for ten years and during this time they would have dispense with food and clothing. However, their high level of fear of the future correlates with a higher level of social tolerance (Sig. 0.773) than was expressed by older staff and who are more confident in the future.

	Entire Sample		Prisoners		prison staff		aux.	
	1996	1999	1996	1999	1996	1999	1996	1999
HELPLESSNESS	4.94	5.14	5.15	5.55	5.26	4.76	4.39	4.47
SELF-AGGRANDISEMENT	6.28	6.07	6.47	6.27	6.00	5.81	6.36	5.85
INTOLERANCE	6.68	6.20	6.82	6.48	6.49	5.76	6.72	5.95
MARTYRDOM	6.80	6.79	6.06	7.22	7.22	5.97	7.14	6.62
VAGUE FUTURE	6.97	5.87	7.12	6.21	7.00	5.55	6.78	5.33
CONTRADICTIONS	7.21	6.60	7.47	6.86	7.17	6.46	6.97	6.10
AUTHORITARIANISM	7.23	6.06	7.50	6.36	6.98	5.43	7.21	5.98
F-scale (dogmatism) sum =	6.59	6.08	6.66	6.42	6.59	5.61	6.51	5.71

In spite of decline in the level of dogmatism, its' a generally high level correlates with intolerance towards ex-prisoners (Sig. 0.890) and a surprisingly high acceptance of social workers (Sig. 0.837). People with high levels of dogmatism are more dependent on external help - we found a negative correlation with the tendency to rely on their own strength in dire straits (Sig. 0.977). Prisoners with high levels of dogmatism possess high levels of conformity to the moral values of the referent group (Sig. 0.737). This is a two-sided coin, because inside prison recognition of personal qualities by the group of "blutnoys" is often more important than respect from the administration, which in turn reinforces the tendency to reject legal institutions and

move into the shadow life of illegal activity. Convicts with high dogmatism despise military structures (Sig. 0.735) and businessmen (Sig. 0.903), and tend to keep company with ex-prisoners (Sig. 0.901). The high dogmatism of convicts correlates well with a rejection of prison staff and the police (Sig. 0.998) and an acceptance of Mafia members (Sig. 0.731). These prisoners have poor and unstable relationships with their families (Sig. 0.792). However, the most interesting fact is that a high level of dogmatism also negatively correlates with a high level of social tolerance (Sig. 0.763), and such prisoners also think that the welfare system fosters stigma and social division, that it is artificial and an alienating institution (Sig. 0.898).

It is possible to conclude that prisoners with high levels of dogmatism constitute the group of high-risk people who are most likely to re-offend. Thus, social work in prison has to be directed towards providing some kind of humanitarian education for inmates and giving them the opportunity to maintain (or to re-establish) contact with their families.

Prison staff members with a high level of dogmatism believe that the attitudes of other people to them depend on their profession (Sig. 0.784). They respect military forces (Sig. 0.804) and the police (Sig. 0.877), religious followers (Sig. 0.748), and rich people (Sig. 0.802), despise prostitutes (Sig. 0.736); and State employees (Sig. 0.830); but, in contrast to convicts, legal structures are more significant for them and they maintain good relationships with their families (Sig. 0.876) and superiors (Sig. 0.876).

Table 34. Whom would you address first in dire straits?

	Prisoners				Prison staff				Auxiliary group				Total	
	1996		1998		1996		1998		1996		1998		1996	1998
	N =	group	N =	group	N =	group	N =	group	N =	group	N =	group	Layer	Layer
	36	%	139	%	36	%	51	%	35	%	52	%	%	%
Manage myself	10	27.8	37	26,6	6	16.7	20	32,8	7	20	7	13,5	21.5	25,4
Relatives	16	44.4	62	44,6	18	50	29	47,5	16	45,6	33	63,5	46.7	49,2
Friends	7	19.5	23	16,5	10	27.7	11	18,0	8	23	11	19,2	23.4	17,5
Lawyer	-	-	2	1,4	1	2.8	-	-	-	-	-	-	0.9	0,8
Local deputy	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mass media	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Administration	-	-	3	2,2	1	2.8	-	-	-	-	-	-	0.9	1,2
Religion	3	8.3	10	7,2	-	-	1	1,6	4	11,4	2	3,8	6.5	5,2
Total	-	-	2	1,4	-	-	-	-	-	-	-	-	-	0,8

The weakness of civil society is clearly visible from this table (34). Not one of prisoners, who now enjoy the right to vote, trusts the local deputy's office, or wishes to

apply for a public inquiry. The mass media in Ukraine, unlike most of its counterpart in the West, began to address public dogmatism by trying to create an image of unreformed capitalism as being synonymous with common sense, justice, rationality and mass prosperity. In other words, a capitalist utopia has been called on to replace the role of the failed socialist one - the role of the desired "Earthly Paradise". However, the media has simultaneously publicised so much corruption in all the leading social institutions that the notion of social justice itself looks neglected by the authorities. People tire of problems without solutions. Blatant manipulation of corrupt officials does not inspire people to take public action to remedy the situation, because such a step looks useless and even dangerous. Articles are written, meetings and demonstrations are organised, but corrupt officials and "people's deputies" continue to fulfil their official duties. For example, the newspaper *Зеркало Недели* (Weekly Mirror) accused the Minister of the Interior, Yuriy Kravchenko, of misusing of his rank, particularly by making use of the resources of the humanitarian international fund, "Милосерддя" ("Charity"), especially designed to help children with diseases caused by radioactive pollution. He forced the administration of this fund to pay for the re-equipment of his office and flat (US \$ 84,000), and to buy him an official car for his personal use – a "Mercedes-600". However, the General Prosecutor's Office found these actions were not related to a misuse of rank and obliged the editor's office to pay compensation to Mr Kravchenko, because of the "offence to his honour and dignity".

The absence of an established liberal-democratic tradition makes people indifferent, silent witnesses. It is easy to conclude that the mass media have yet to become a "Fourth Estate" in Ukraine and that they have not yet gained an appropriate influence on public affairs.

The widespread myth about prison friendships is severely shaken by this table too. Only every fifth prisoner in 1996 (19.5%) and sixth in 1998 (16.5%) would choose to appeal for help from his friends when he has problems. One convict noted that in prison there are no friends - only accomplices and associates, and that one can rely more on indifference (that somebody will turn blind eye to his actions) than on tolerance. Attachment to a group is more of a ritual than essential. The solidarity of prison staff is much stronger – 27.7% in 1996. However, in 1998, it had declined to

18%. This could be partly explained by the increased threat of unemployment. In 1998, 501 prison officers were dismissed due to negative reasons. At the same time, prison staff are distanced from society and thus, can only find understanding and support within the prison related environment. However, even in civilian life, people cannot rely on their friends. Impoverishment makes people more careful and friendship between people (social solidarity) weakens.

Access to juridical system requires money or good connections, thus only one prison staff respondent in 1996 said he would apply for the professional help of an advocate if in dire straits. No prisoner or civilian was prepared to do so, nor would anybody apply to the administration for help. The administration practically always means the nomenclature, the ruling group which lives in a different world, alienated from the needs of ordinary people. Three years later not one member of the prison staff and not one a civilian was prepared to go to a lawyer with his/her problems. Nevertheless, in our sample, two prisoners (in the general and reinforced regimes) were prepared to do so. Moreover, three convicts were ready to ask the administration for help (two from a reinforced regime and one from (cellular) prison regime). On the one hand this could be interpreted as a sign of rising trust in the administration, but on the other, maybe these men were isolated to the extent, that no other contacts were impossible.

Only one social institution - the family - is strongly valued by the entire sample (46,7% in 1996 and 49.2% in 1998). Without family support, survival in prison is very difficult. Family ties support the prisoners' desire for freedom and give them some sense of attachment to society; hope for the future is usually closely linked to family life. Studies on prison suicide in the prisons in the Donetska region were conducted on a sample of 980 convicts who attempted to commit a suicide, but were rescued¹⁹³. 58% of suicide attempts were linked to a rapid and negative change in relationships within the social environment. Among them:

- death of a close, beloved person (38%);
- broken relations with relatives (27%);
- infidelity of wife or partner (21%).

¹⁹³V. Sulitskiy, unpublished materials for Ph.D.

As we can see, 86% of suicide attempts were related to family relationships and only 14% were influenced by internal relationships within prison:

- conflict with inmates (13%);
- conflict with the administration (1%).

If, during three years, the family ties have become more important for the general population (from 45.6% to 63.5%), prison staff have slowly lost trust in their relatives (from 50% in 1996 to 47.5% in 1998), but this was a mutual process. Many people who work for prisons keep their real employment carefully hidden from their relatives, especially from their younger children. Many wives are ashamed of their husband's occupation and try to conceal from neighbours information about his place of work. In 2000, the quantity of prison staff will be fixed at 33% of the total number of prisoners, it is hard to imagine where the prison administration will find more than 30,000 new employees. Even if this can be done, what quality of worker will be attached to these posts?

Respondents were asked about the effect that the current welfare system has on society (see the appendix). The opinions expressed employ prescriptive and emotive language, are in many cases phrased in a leading manner and imply judgements about the scope and weaknesses of state welfare. They were designed to allow individuals to locate themselves in relation to major currents in public opinion, rather than to evaluate attitudes along a pre-selected, comprehensive and balanced set of dimensions. The sphere of overall judgements may be compared with that of specific opinions about particular services in the penal system. The pattern of opinions expressed in the attitude statements is necessarily complex. It may be conveniently summarised by considering support for propositions that suggest that the welfare state undermines particular values and positive opinions about state welfare such as:

- the welfare state encourages community support (Questions: 28, 30, 32, 36), it is egalitarian, efficient and unobtrusive (Q: 34,40,41,46, 51) (WSSUPPORT).
- the welfare state fosters stigma and social division (Q: 38, 48), it is an artificial and alien institution (Q: 37, 47). This picture, of course, contradicts the ideal of social welfare (WSSTIGMA).

- the welfare state undermines family relationships (Q: 35, 44), and the work ethic saps self-help and supports the undeserving (Q: 29, 33, 42, 53) (WSPREJUDICE).
- the welfare state is a desirable institution in principle, but needs major change (Q: 43, 45, 49, 50, 52) (WSDESIRABLE).

The table (below) shows how these beliefs and attitudes to the welfare system in Ukraine correlate with the level of social tolerance. We found that the more tolerant prisoners are the more sure they are that the current system fails to support their needs (Sig. 0.982); however, they regard the welfare state as a desirable institution in principle (Sig. 0.965). There is also a tendency among relatively tolerant prisoners to regard the users of the current welfare system as stigmatised category (Sig. 0.661) because the welfare state is an alienated institution which fosters social division. This statement is more clearly expressed by prison staff with correspondingly high levels of social tolerance (Sig. 0.790). They also believe that the welfare system does not fulfil its aim of supporting those in need (Sig. 0.838) and that it is inefficient and obtrusive.

<i>Welfare State</i>	<i>Entire sample</i>			<i>Prisoners</i>			<i>Prison staff</i>		
	Value		Spearman correlation with social tolerance	Value		Spearman correlation with social tolerance	Value		Spearman correlation with social tolerance
	1996	1999		1996	1998		1996	1998	
WSPREJUD	3.67	4.53	Sig .610	4.06	3.91	-----	3.92	3.91	-----
WSSUPPORT	3.38	4.18	Sig(-) .638	3.92	4.39	Sig(-) .982	2.81	4.36	Sig (-) .838
WSDISARE	4.95	4.18	-----	5.50	4.39	Sig .965	4.50	4.36	-----
WSSTIGMA	6.26	6.03	-----	6.53	6.28	Sig .661	6.67	5.33	Sig .790

In general, the more tolerant respondents have a tendency to think that the welfare state undermines family relationships and supports the undeserving (Sig. 0.610), also that it does not support people and leaves them in an even worse situation through the creation of the "free-meal-ticket" mentality and dependence on social provision, which, in turn, results in a lack of autonomy (Sig. 0.638). We found a direct link between prisoners' belief that tolerance of other people depends on their moral code (Sig. 1.000) and their illness (Sig. 1.000), and belief that the welfare state fosters stigma. The most tolerant civilians (auxiliary group) from the 98-99 sample are sure that the welfare state has changed for the worse – if in 1996 there was no significant correlation between a belief that the “welfare state fosters stigma and social division” and the level

of tolerance. Three years later we found such correlation of Sig. 0,937! The more tolerant prisoners from the 1998 sample also demonstrated their disappointment with welfare system. Statements suggesting that the welfare state undermines family relationships, the work ethic, and supports the undeserving correlated with high levels of tolerance (Sig. 0.7).

In 1999, we added two sets of questions to the questionnaire for prison staff and the auxiliary group for evaluation of Ukraine's penal and judicial systems. The findings were surprising, because we discovered that members of the prison staff are much more disappointed in existing situation than civilians. This could also be interpreted as suggesting that prison staff are more familiar with the real state of the juridical and penal systems. Meanwhile, all high-ranking functionaries of the prison system (those who did not answered the question about their post) declined to answer this set of questions.

As we see (Table, 36), in general, every fourth officer (39.2%) thinks that the only reason for imprisonment is lack of money to pay a bribe and only 7.8% believe that they serve justice. 62% of the officers from the regime department consider Ukraine's prison system corrupt. Nothing can be said in addition to these findings. The data speak for themselves.

Count Group %	Auxiliary group	Prison staff (total)	Employees of prison service (by duties (posts))							
			Detach- ment heads	Factory master	Operative officers	Regime officers	Psychol- ogists	Stude nts	Social workers	Total %
			N=8	N=1	N=13	N=16	N=5	N=5	3	N=103
Guilty criminals	1 1.9%	4 7.8%	2 25%				1 20%	1 20%		5 4.9%
Many charged unjustly	15 28.8%	15 29.4%	3 37.5%		4 30.8%	3 18.8%	1 20%	2 40%	2 66.7%	30 29.5%
Without good connections in high places	20 38.5%	12 23.5%	1 12.5%		5 38.5%	3 18.8%	1 20%	1 20%	1 33.3%	32 31.1%
Those, who did not pay a bribe in time	16 30.8%	20 39.2%	2 25%	1 100%	4 30.8%	10 62.5%	2 40%	1 20%		36 35%

The state Department for the Executions of Sentences is now intensively recruiting new employees from unemployed army officers with a good military education. However, it is very doubtful that a former army officer, whose main duty was to

prepare a young person to die on the battlefield, can teach someone how to live a peaceful life in civil society. The only hope is students who are specially trained by the Institute of Internal Affairs, but only 200-300 of these people graduate each year. Moreover, their trust in the justice system is not based on sufficient personal experience and no one can suggest that their enthusiasm will not be broken by the reality of prison in the near future.

Count Group %	Civilians	Prison staff	Employees of prison service							
			Detachment heads	Factory master	Operative officers	Regime Officers	Psychologists	Students	Social workers	Total
	N=52	N=51	N=8	N=1	N=13	N=16	N=5	N=5	3	N=103
Objective		2 3,9%			1 7,7%	1 6,3%				2 1,9%
Relatively good	5 9,6%	4 7,8%	1 12,5%		1 7,7%	1 6,3%		1 20%		9 8,7%
Good for nomenclature	16 30,8%	11 21,6%			3 23,1%	4 25%	2 40%		2 66,7%	27 26,2%
Totally corrupted	31 59,6%	34 66,7%	7 87,5%	1 100%	8 61,5%	10 62,5%	3 60%	4 80%	1 33,3%	65 63,1%

Such an attitude to the juridical system can be considered a perverted type of tolerance, which in fact justifies corruption inside a penitentiary – “if prisoners are wrongly sentenced by the courts, we have the moral right to consider them as innocent sufferers and help them as we can”. Nearly 70% of all crimes are now related to social circumstances – unemployment, delays in the payment of wages and social benefits, in other words, to a lack of improvement in well-being, and only 30% are domestic and occasional crimes. Ten years ago the percentage was quite the contrary. We also think that an intolerant policy towards offenders has led to this situation, when everybody knows that in any developed country the majority of such prisoners would be sentenced to alternative sanctions. This knowledge makes sentenced offenders feel like hostages of a system that is highly corrupt.

In the last stage of our investigation (spring 1999), we selected 12 factors which hinder social work with convicts and which were most often mentioned by prison staff. We decided to evaluate their significance according to a five-point scale (min = 0 and maximum = 5). Thus, we constructed a graded scale of problems which employees of different departments regard as the most significant in social work with prisoners.

Table 38. Scale of factors which prison staff consider as damaging to social work.

Miserable salary of prison staff	4.47
Prisoners not given work to do	4.00
Lack of co-operation between departments	3.47
Corruption in the Prison Department Office (high level)	3.45
Poor qualifications of prison staff	3.43
Poor state financing of the prison system	3.41
Prisoners' indifference to their own fate	3.04
Corrupt employees of the prison service (low level)	2.88
Out of date rules and regulations	2.86
Prisoners' hostility (organised resistance)	2.71
Frequent visits of control commissions	2.22

With the exception of five penitentiary department students, who consider poor qualification of prison staff as the most important problem (4,20), all other categories think that the miserable state salary for prison employees is the most significant factor in poor results. Thus, in general, prison employees clearly indicated that they believe that the state, does not respect their work. Before 1991, the Ukrainian prison system was able to employ all (104,000) prisoners, but now it can no longer employ all the inmates. If this is a problem, it may be better to solve it at state level and dedicate more efforts to the implementation of alternative sanctions, which are incomparably cheaper and would reduce the prison population to the quantity of job places (104,000) in one year. The answer obvious, but unfortunately, lack of co-operation between different departments, corruption in the PD Central Office and the poor qualifications of prison employees do not hold out much hope for improvements in social work with prisoners in the near future, especially, if we take into account the fact that control over the penitentiaries is the problem of “least significance” for the government.

Findings were also analysed through the technique of correlation of semantic proximity, which to some extent clarified our understanding of the public image of different social groups in the transitional period. For example, the notion of “businessman” and “rich man” correlate to the notion “alcoholic” (Sig. 0.796 and Sig. 0.760). In turn, the notion of “alcoholic” has negative correlation with the notion of “scientist” (Sig. 0.995), but the image of “scientist” correlates with the notion of a “mentally deranged person” (Sig. 0.968). After Chernobyl this belief is quite explicable. Marx’s statement, “Religion is the opium of the people” has penetrated so

deeply into the mass consciousness that even today the notion of the “Orthodox Church” correlates with the notion of “drug addict” (Sig. 0.794). However, the most outstanding, but not surprising discovery was that the notion of “state employee” (bureaucracy) correlates to the notion of “prostitute” (Sig. 0.948) in our sample.

Summary

The data show very low levels of social tolerance even among social welfare staff in the penitentiaries - against the corresponding expectations that they would be more tolerant, due to their special training and experience, than either prisoners or ordinary citizens. Their attitudes to prisoners did not change in spite of the intensive training which the penal system provided. In turn, prisoners, who had some hope for improvement in the penitentiaries in 1996, were deeply, in 1998-99, disappointed with the state penal policy and their tolerance had become generally lower. It is likely that the corruption and incompetence of the custodial staff at all levels contributed greatly to this process.

On the other hand, we have to take into account the change in the prison population – prisoners have become younger. Psychologists suggest that the level of aggression is highest at the age of 20, slowly decreases towards 30 and practically disappears by the age of 35. The problem, which appears to us as a significant one, is that it is much better to teach young offenders to live in society and to learn self-control at home through probation, than to send them to prison to learn crime from recidivists.

The low level of social tolerance of prison staff explains why 67% of prisoners in the various institutions in Ukraine think that society will not accept them after release. Many prisoners believe that they have no choice but to live their lives between the fear of punishment and the impossibility of acceptance as fully fledged citizens. This belief is reflected by the high level of recidivism in the country. At the same time, findings show that prisoners now are less uncertain about their future, not because the society changed for the better, but because the types of relationship in society became more stable and prisoners now know what kind of reality they have to face after release from prison. Tolerance is limited to people who can help to solve problems of survival;

however, in most cases, this means in effect tolerance of the shadow reality of the Ukrainian social and economic system which is illegal in many respects.

In the penitentiaries, members of staff are representatives of the outside world; as a result their attitudes to convicts are taken by prisoners themselves to represent most citizens' attitudes to offenders. The average high level of dogmatism among prison staff reflects poor educational standards in our penal system. More flexible people have had a better humanitarian education. However, the Ukrainian prison system is still paramilitary and, as we have seen, military training contributes much more to dogmatism than to tolerance. We need social workers and educators in prisons more than commanders. Low levels of social tolerance lead to low, or even declining, levels of trust in important social institutions and in the welfare system. Even the data from these two small samples show that in harsh conditions prisoners' levels of tolerance tend to decline. Thus, the more degrading the conditions in which prisoners serve their sentences, the more likely they are to re-offend, because social isolation in such conditions induces intolerance towards free people. As one young prisoner whispered out with hatred: "They are screwing us here and now, we will screw all of them later!" This statement is not purely inductive, it also employs a sense of resentment that free people are prepared to ignore how we are suffering here and they have to pay for their indifference. Long-term imprisonment, as well as the experience of work in prison service, decreases tolerance of both sides - convicts and staff become more paranoiac and suspicious.

At first sight, our findings could cause some doubts, because the correlations presented are high in statistical significance. However, we had the opportunity to choose the highest figures from nearly 40,000 correlations from 1996-1999 samples. Despite its imperfections, the questionnaire at least gives an instrument, which could be modified by practitioners, for work with particular individuals and groups and to monitor changes in tolerance. Besides, this is the first attempt to apply correlation analysis to certain empirical parameters of social tolerance in the prison community in Ukraine.

4.3. *Social relations in the strict regime institution (IES-87)*

Next to killing, imprisonment is the strongest measure of power at the disposal of the State.

Nils Christie¹⁹⁴

Above all penal institutions serve to realise the political functions of a given social system. They represent a negative aspect of the political system of a state that punishes those who break the law by limiting their freedom. Prisons and different types of correctional institutions thus fulfil a mission that is characteristic of political organisations: they influence other groups in order to force them to submit to their control.¹⁹⁵ However, to some extent, the prison system may also be viewed as an element of the didactic system of the state, but in Soviet times attempts at integrating the political and didactic functions proved to be mere illusory endeavours - the political functions dominated decisively. In Ukraine today, even if the openly proclaimed intention of the penitentiary system is the resocialisation of offenders, the function is still political - control. Foucault also treats prison as an instrument of governing: “the prison transformed the punitive procedure into a penitentiary technique; the caring archipelago transported this technique from the penal institution to the entire social body”.¹⁹⁶

Knowledgeable readers outside Ukraine will readily see that the contemporary prisons described here have much in common with prisons the world over. Until recently, the one major difference was that the Ukrainian authorities required able-bodied male prisoners to work or suffer severe punishment. As a result, prisoner idleness was much less of a problem than, for instance, in Britain. However, in the current period of economic depression, convicts are pushed hard not in formal production, but in hidden production for the benefit of staff at all levels. We do not aim to describe prisoners alone or staff alone, but to show how, and why, the old underlying paradigms of interaction force staff and prisoners to degrade one another. This investigation aims,

¹⁹⁴ Christie N. *Crime Control As Industry*, Routledge, 1994, p.25.

¹⁹⁵The political functions of prisons are discussed by D. Daffe in “*Correctional Policy and Prison Organization*”, New York: Free Press, 1975.

however, to highlight contemporary life in Ukrainian correctional institutions as a starting point towards achieving a more effective penal policy and administration.

In the 1970s and early 1980s, Soviet prisons rapidly filled with offenders as the state pursued a strict penal policy in an atmosphere of growing social discontent. The number of inmates and people held in custody reached 500,000. Such large-scale imprisonment accentuated the role of prisons as an agency for resocialising and for engineering “repentance” of their inmates, but no special successes in this area were noted. By the end of this period, every sixth adult citizen of Ukraine had experienced some kind of imprisonment (in 1999, every fourth). Elements of prison subculture have penetrated deeply into public life. Official statistics showed that over 40 percent of ex-convicts returned to prisons sooner or later. Since 1991 there has been a sharp increase in the growth rate of female criminality, and it now exceeds the growth rate of male criminality by three times - in 1996, more than 10,000 females were sentenced; among them 53% were recidivists¹⁹⁷. The general regime for females is much more lenient than that for male prisoners. For example, women inhabit cells for 20 inmates, not barracks for 120 - 140 as in male colonies. However, the growth in the female prison population continues in spite of amnesties and early releases. On 1.03.1999, 11,300 sentenced women were held in female colonies. The overwhelming majority left the penitentiary worse people than they had been upon admittance - prison demoralised them for life after release. This divergence between the prisons’ declared aims and reality inclines one to seek causes, and it was my intention in this study to explain, and to some extent, rediscover through a study of the relationships between inmates and functionaries, which features of these prisons made it impossible to realise the purposes of the penal system.

We chose the Strict Regime colony for our practical investigation. Convicts spend up to 15 years of their sentences in such prison institutions, and the prison subculture in strict regime colonies is more stable than in other places. Moreover, convicts transferred from all types of prisons are to be found in such institutions.

¹⁹⁶Foucault, M. (1979), p.298.

¹⁹⁷Denisova, T., (1997) Expert’s opinion about female criminality, Freedom House: Kyiv.

The Strict Regime Institution for Executions of Sentences (IES-87)
General demographical data.

In IES-87 (in the Donetsk region) at the time of my research project in the capacity of practical psychologist (summer 1997), 2,015 convicts were serving their sentences. The percentages imprisoned for various crimes there were: murder 11.2%, infliction of corporal injury - 16%, hooligans(ism) 14%, rape 13.1%, theft of private or state property – 30.8%, robbery (armed assault) 4.7%, and robbery (assault without use of weapon) – 0.5%, racketeering (in an organised group) – 2.4%; and other convicts – 7.6% - were sentenced for various crimes (256 articles of the Criminal Code provide for imprisonment).

Convicts call this penitentiary a “Red Zone” because the administration once achieved, and then for years preserved, total control over inmates. However, this prison is not an extreme example - it could have been harder and more punitive in its regime. Due to certain steps taken by the administration, “blutnoys” in “Red Zones” do not play so important a role in the prison community as in other penitentiaries. The main roles in prison life belong to “muzhiks¹⁹⁸” and “activists”. Due to constant administrative pressure, even being a leader of “blutnoys” in such a “zone” would lead to the loss of this status in the criminal world. Thus, “blutnoys” “sit quietly” and claim that they are nothing more than “muzhiks”.

However, nearly 20 (1%) people claimed to be “blutnoys”. In this “zone”, this status is traditionally granted (tolerated) by the administration for certain types of people in exchange for hidden co-operation. Real, underground “blutnoys” among the “muzhiks” despise them, but fear to express their contempt publicly. The existence of a wide net of informers will immediately lead to “revenge for a loose tongue”.

“Muzhiks” constitute the great majority of “silent persons” - 77%. However, the main achievement of the administration is the “activists” group, which represent 20 % of the convicts. These people openly collaborate with the administration and live, in spite of their extremely low status (practically equal to the “cocks”), much more comfortably because they take part in redistributing goods available to the whole prison

community. Some of them work in the kitchen and play an important role in prison enterprises. The group of explicit “cocks” is the most disadvantaged, most stigmatised and most rare (2.1%).

Inmates also differ according to their number of convictions (prison terms). 25% have a second conviction, 30% have a third, 30% a fourth, 10% a fifth, 5% of inmates have five or more convictions. The average length of sentence in IES-87 is six years, but the maximum term to be served is 20 years of imprisonment (replacing the death penalty without the possibility of an amnesty). The average age of convicts was 35.

306 employees with an average age of 42 work for the prison, and among them 124 work directly with prisoners. Besides this number, there is a squadron (84 universal service soldiers aged 18-21) of Internal Troops under the command of four officers and five ensigns. Soldiers have no direct access to the “zone”, however, they can communicate and even make deals with convicts from the watch towers.

The department of social work consists of 26 people, among them:

20 commanders over detachments of convicts (100-140 convicts) or blockmasters;

4 social work inspectors (responsible for the inspection of the daily living needs of inmates, convicts' connections with the outside world, pedagogical work among convicts, education, the library, sport, the organisation of professional training, and preparation for resocialisation);

2 practical psychologists (individual work with convicts and personnel).

The Department of Operative work (four officers) is responsible for such situations in the “zone” as prevention of riots, escapes and internal crimes (including corruption of personnel, enlistment to - and work with - the net of informers). They must also pick up and deliver information about undiscovered crimes in places where convicts are from to the regional police.

The Department of Internal Security and Regime (54 people) performs a range of functions - four officers are duty assistants of the commander-in-chief, they are seniors of 24 hours' shifts; four inspectors responsible for monitoring systems, control lines

¹⁹⁸ Muzhik is the Ukrainian for: 1) an uncouth country fellow; 2) a he-man.

around and inside the penitentiary, external walls and the operable condition of internal fences between local sectors in the prison; the rest are inspectors, who take charge of general supervision over convicts in the living blocks, the productive zone, the solitary confinement cells for offenders, the visiting rooms and the separate cells for newly arrived convicts. The Security Department is also responsible for round-the-clock maintenance of internal treatment of convicts (12 officers constantly on duty). However, the main concern of this department is fulfilment of the production plan in the productive zone - 40 functionaries supervise the making of water-proof fittings, the work of various auxiliary sections and workshops.

According to the data provided by administration, in the last seven years (1990 - 1997) in this penitentiary the following occurred:

2 unsuccessful attempts at escape;

2 suicides;

56 convicts died from tuberculosis and heart diseases;

12 people received serious physical injuries in fights (usually knife wounds);

Convicts assaulted one member of the prison staff; however, even the administration recognised that he provoked convicts through his abusive behaviour (he was dismissed in 1996).

However, many more people were obviously injured in result of internal violence. The threat of being killed in the prison was reported by all convicts, but according to the figures presented by administration, no one was killed, which is very doubtful. I failed to receive information about the number of prisoners who died in prison due to "natural causes" and about prisoners who became ill in this penitentiary. I also failed to find out how many accidents happen in the production zone, where, as I saw by my own eyes, safety issues were neglected.

The average wage of the prison staff in IES-87 was about 170 Hrivnas (\$ 57), lower than average (217 Hr. or \$ 72 per month), and only roughly half the wages of governmental bureaucrats (320 Hr. or \$ 107). During the last seven years one member of the prison staff was convicted as a drug trafficker and four officers of the internal service were dismissed for the establishment of informal relationships with convicts.

The average length of service among prison staff is 15 years. Prison personnel become old because the work in prison is not honourable or well paid. Young people do not aspire to it in spite of the high level of unemployment (and criminality) in the Donetsk region. Overall, 12 % of the Ukrainian prison staff left the service in 1996 - many through more or less voluntary retirement after 20 years (pension), and many by being fired for negative reasons.

In 1997, the government allocated 36 Hr. (£12) per month for convicts' nourishment. In spite of receiving the technically required quantity of calories per day, 24 convicts were below normal weight (height in centimetres minus 120; for example, the weight of a 174 cm. tall, so-called "dystrophic" is below $(174(\text{height}) - 120) 54$ kilos. It is practically impossible to discover any sign of meat in prison food. In August '97, the main components of prison supply were cheap vegetables with low levels of albumen. It is well known that, without albumen, the human body, in spite of a normal quantity of calories, shrinks. Recently a few publishers have begun publication of conjugal advertisements from prisons under the heading "Zone asks for love". For example:

"29-184-68, Scorpio, calm, normal exterior, smoker, with a permanent home in the capital Kyiv, would like to meet a decent, open-hearted woman, aged 20-35, who would agree to move house. I promise to be a good father for your child and a reliable spouse. Two years left to the end of my sentence. I will answer all letters with a photograph.

(Kyiv region, subscriber 1 5523)"¹⁹⁹

From the very beginning of this advertisement, one can work out that this "calm" prisoner, aged 29, who is 1.84 metres tall and weigh only 68 kilos, is starving, and what he really needs is some extra food.

Though 60% of convicts are married, every fifth convict divorces during his term of sentence. However, in IES-87 between five and seven women, who have responded to advertisements, marry convicts every month. Single convicts are prepared to do anything to obtain extra food and material help, because, without external support, many of them would be threatened with hunger. The art of composition of compassionate letters is flourishing and has been developed by "professional" prison

authors to the highest levels. In IES-87, several well-educated prisoners have transformed the writing of “love letters” into a profession and make their living through such “correspondence”. Imagine, the kind of a letter that has to be written by a convict to convince a free woman to come to the prison, marry a prisoner, and then for many years send him parcels of food (six parcels in eight kilos per year) and cigarettes, travel for short-time visits (three days every six months), and pay and bribe advocates and the prison administration to apply for an amnesty for a loved one...

During 1996-1997, the cell space allocated to each prisoner dropped from a minimum of 1.6 - 2.0 square metres to a minimum of 1.1 square metres including the space for equipment (tables, plank beds, chairs, bedside tables, toilet, or toilet bowl). In fact, empty space for prisoners to use is only approximately 0.1 - 0.15m². In comparison, the space needed for a grave is 1,7 m². While the prison population has actually increased, living space has been naturally reduced.

Contemporary overcrowding in Ukrainian correctional institutions is not held responsible for changing in the atmosphere in prisons. Moreover, prisons in Ukraine are still very closed to public eyes. However, it is important to note that the more open the prison is to public scrutiny, and the more the prisoners have a chance to get out into the community, the less corrupt and violent are staff/prisoner relations; prisoners' complaints are taken seriously and the staff are as subject to regulations as the prisoners.

How webs of social and cultural relationships shape the institution in which they exist, has been studied in many countries. For example, David Downes (1988) has produced a comparative study of the criminal justice systems of the Netherlands and of the England and Wales²⁰⁰. Both the English and Dutch systems are compromises between the various objectives of retribution, deterrence and rehabilitation. Both the 1948 Criminal Justice Act and the Statutory Rules of 1949 in England, which gave rise to the distinction between local and training prisons, may be compared to the 1951 Principles of Imprisonment Act in The Netherlands, Article 26 of which stressed the

¹⁹⁹Интересная Газета (Interesting newspaper, block "Criminogen"), # 9 (47), 1997.

²⁰⁰Downes, D. (1988) *Contrasts in Tolerance: Post-War Penal Policy in The Netherlands and England and Wales*, Clarendon Press. Oxford.

need to prepare "for the return of the detainees to life in free society". Both stress the principle of rehabilitation: accordingly to as prisoners, with markedly different effects.

"In England, they punish you for being a criminal. Then they punish you while they're punishing you. Then you're punished for the rest of your life".

(English prisoner in a Dutch closed prison)

"Dutch prisons are much better, especially at thinking how to bring prisoners back to normal life. There is home leave every weekend or so - here there is no way you can get that experience. If they realise that you are not a thorough-going criminal, they will do their best to establish you in society. Here there is no real attempt to do that, and for the English prisoners that is very bad. He goes out to nothing, so he goes back to crime..."

(Dutch prisoner in English training prison)

"I have committed one crime, but they (the prison staff) are bandits and cheats by nature, and are committing crimes each day of their miserable lives - they beat us, get us started on drugs, and then want us to thank them! ... Their work is just to make a lot of noise about correction. This is what state justice is all about".

(Ukrainian prisoner in Ukrainian prison IES-87)

It is necessary to focus reforms in Ukraine primarily on staff-prisoner relations, but the Ukrainian Ministry of the Internal Affairs has always opposed moves in this direction. Maybe the new Department will be more flexible.

According to current law, prisoners who have served half of their sentence are not eligible for weekly, twenty-four-hour leave as in some other countries²⁰¹. However, anyone in prison can now have tea, whilst those who want vodka or drugs can obtain these products illegally through the guards and need only look sober to avoid punishment. Due to continual overcrowding, the hope for an amnesty or transfer to a semi-open colony for those who have already served half of their term, is the major factor supporting the staff's grip on prisoners' daily existence, on the one hand, and in

²⁰¹For example, in Poland.

giving prisoners an incentive to remain peaceful and obedient to regulations, on the other.

Ideas accepted *a priori* are usually disastrous for a scientific study. We can capture only such elements of human consciousness, which in some way have become elements of our direct experience. Consequently, for every scholar, certain boundaries to understanding exist, delineated in part by his/her range of personal experience and social background. The scope of an individual's practical knowledge about the reality of social stratification in prison, even in the broadest possible sense, is always limited and constitutes only a small part of relational complexities. For example, "blutnoys" isolate themselves from the "victim" and the latter is often unfamiliar with the experience of the former. The results of existing research within penal institutions seem to suggest that we are dealing with the same type of interrelations in all correctional institutions. In spite of transformations, both in time and space, the basic elements and functions of the system of mutual attitudes appear to be constant.

Some studies²⁰² suggest that reality inside penal institutions is imported from the outside together with convicts. This involves a transference of the personal experiences of the inmates and the structural and customary forms of the criminal groups from the free world into the penitentiary. However, the "importation" theory underestimates the specificity of confinement and the accompanying force of the strivings on the part of prisoners to reduce their deprivation, a fact which exerts a decisive influence on the form of the organisation of prison life. The nature of life in correctional institutions in Ukraine was established a long time ago and is a consequence of the paranoia generated by confinement. It also reflects the official pattern of the nomenclature with in the administration and current vague penal policy. A system of interrelationships in which prison paranoia (fear) is the main and necessary factor in the maintenance of internal order - "deprivation", "pain delivery", "zero tolerance", or censorship over convicts' correspondence - has been regarded as the best administrative method since communist times and remains so. These intolerant measures are not effective for the aim of resocialisation of deviants, but are convenient, cheap, and profitable for functionaries, and ensure total control over convicts in Ukrainian prisons.

²⁰²See, for example, John Irwin (1976).

One should assume that every penitentiary creates pain for the incarcerated. However, in every such institution, one should seek those elements which are non-existent in the others. Their absence or presence should be associated with differences in the degree of deprivation. However, it seems that the most influential factor is the economic infrastructure inside the penal system, which influences the relations between the functionaries and convicts, and between the functionaries themselves.

Let us consider a situation in which a group of strangers of the same sex become isolated from society against their own will, and are deprived of all rights and amenities. Consumer articles are delivered to them, but in not sufficient quantities to meet the basic requirements of all confined persons. The group may divide the goods into equal portions corresponding to the number of people and in the same way divide organisational duties equally, so that everyone shoulders the same burden. This choice, however, condemns everyone to dissatisfaction and permanent deprivation.

There is another way: some members of the community appropriate a sufficient amount of goods to satisfy their own requirements at the expense of the others. This model seems to have many elements in common with prison confinement. In penal institutions (as well as in a socialist state employing official propaganda to emphasise solidarity) the distribution of goods and the organisation of life are both imposed by regulations, and, in fact, produce universal dissatisfaction. The incarcerated reject this solution and strive for an illegal redistribution of goods and duties. This type of division leads to the emergence of two distinct social groups - those who appropriate the goods for themselves – the exploiters - and those deprived of the goods – the exploited.

The exploiter perceives the exploited as deprived of certain attributes of humanity, as a thing, and so ignores his point of view. The justification of exploitation (“I deserve more since I possess certain features, which you do not have”) becomes materialised in the form of a normative system which sanctions the division into “persons” and “victim”. The introduction of norms, sanctions, duties and privileges leads to their internalisation and self-identification with a certain role and category of people. The exploited tolerate the exploiter as a person who enjoys a certain superiority, in the face

of which the exploited must withdraw and feel helpless. The realisation of the sanctions becomes possible because of the superior organisation of the exploiters - an integration which creates a social structure on the basis of their interests, the interests of the group. In this way, a dichotomous social structure appears - people ("blutnoys" and "muzhiks") and victims ("activists" and "cocks"). A "blutnoy" is the master, a "muzhik" is the instrument he uses, "activists" consist of convicts who collaborate with the administration, and a "victim" is a commodity, for common consumption (especially sexual slaves - "cocks").

The quantitative ratio between the exploiters and exploited, which guarantees the stability of the configuration, depends on the number of goods in a situation when certain duties have to be performed (cleaning, washing the toilet, etc.) as well as on the social forces necessary which guarantee an effective functioning of sanctions. The equilibrium is constantly disturbed and is reinstated by regulating the number of members in the given categories. However, in turn, the prison administration, which is constantly under pressure from above to achieve a certain level of production and to pursue the discovery of "old" crimes, actively participates in maintaining the stability of the internal structure among convicts and supports their social division. The "blutnoys" refuse to be exploited - they sabotage unpaid work for the "Master" (administration). If a "blutnoy" voluntarily performs unpaid work for the "Master", he loses his status and becomes a "muzhik". If, however, he forces somebody else to do his work for him by an increase in productivity, he reinforces his status. To achieve a profitable industrial regime, the managers of the institution can very easily force every convict to work, but they must avoid internal sabotage. Thus, the silent agreement between the administration and "blutnoys" is a necessity. "Blutnoys" guarantee the fulfilment of a production plan and visible order in the institution in exchange for the privilege of not working too hard or not having to do a stigmatised job themselves. In this way, the penitentiary sphere in Ukraine has been "privatised" by both the administration and the "blutnoys".

"Blutnoys" regard the other convicts as "victims". But the way in which someone is "victimised" expresses the degree of contempt, humiliation or disdain and depends upon the type of norms which the prisoner has violated.

“Victimisation” includes:

- labelling: typical obscene and abusive labels are: cock, masturbator, bitch, whore (labels usually emphasise the passive (female) role in intercourse). If the group member calls someone by such the term, the offended party has to defend his dignity. If he tolerates this outrage, he could become a “victim” and the group may expel him by means of;
- a public slap in the face (for a blutnoy);
- (1) sprinkling with the brush used for cleaning toilets, (2) forcing the hand or the head into the urinal or toilet bowl, or (3) the group urinating on a victim;
- touching with a penis on an uncovered part of the body;
- homosexual rape.

“Muzhiks” is made of social category then a group, and consists of the overwhelming majority of convicts in any correctional institution. Most of them have committed petty (minor) crimes “by chance” or on impulse, under pressure of severe economic circumstances and have regrets about it. They accept that the prison belongs to the “professionals” and, trying to be as quiet as possible, fulfil norms of production and hope for an amnesty. The “blutnoys” decide who belongs to this category according to personal qualities and to a certain extent shape the lives of the “muzhiks”.

“Mad jerks” – these are individuals who do not wish to belong to any group or social category, or who have left the “blutnoys” but who have not been “victimised” in any way. They declare their neutrality and non-involvement. This category of convicts includes all those who used to be “victimised”, but who, due to their persistence and determined efforts to be treated as “mad jerks”, are considered as such. The group is composed largely of “retired”, older inmates. The «blutnoys» and administration include them in a better category of «victims». Harassing them is forbidden and the “muzhiks” can even sit with some of them at the same table. The main motto of “mad jerks” is “to serve their time quietly”. They do not observe any rules except for not sharing a table with “cocks”. High levels of individualism, and a tendency to be independent, ensure that they remain an unorganised group.

“Cocks” are prisoners who have been raped who are then labelled by this stigmatised term. Most of them seem to be dull, mentally deficient, passive, and dependent upon others whose orders they carry out without objection. Some are homosexuals “by nature” who receive gratuities for their services (e.g., cigarettes, tea, food). Some are drug addicts ready to sell themselves for a portion of any narcotic substance.

It is important to note that 90-92% of convicts engaged in some sort of sexual contacts in prison. Except for very rare appointments with wives (permitted one long-term visit in six months (72 hours in a separate room)) this is a matter of homosexual interaction. On average, active or passive sexual roles are assigned to novices within a short time of their appearance in a penitentiary. Permanent passive homosexual partners, so called “cocks”, belong to the most stigmatised category of “victims” and constitute nearly 6 - 10 % of all inmates. 50% of “cocks” are young people aged up to 22, another 30% are aged between 22 and 30. More than 40% of cocks were convicted for rape and paedophile offences. A “cock” usually has between 30 and 50 partners: however, there is a small category in a higher position - they are the personal sexual slaves of the prison “elite” (10-15 people). Oral and anal contacts occur in equal proportions. 5-7% of men create homosexual “families”, within which the roles of “husband” and “wife” can be stable or may vary. Such relationships are carefully concealed from others because discovery leads to the unavoidable “victimisation” of both partners.

All sexual contacts are carried out without any means of protection. Medical workers only test explicit “cocks” who sometimes cause a great deal of infection. For example, according to prison regulations, information about people infected with AIDS is a medical secret and even a commander-in-chief has no access to it. Several cases of sexual terrorism have recently occurred. For example, one “victimised” convict took revenge those who raped him and infected 36 inmates with AIDS. Lack of sexual security reinforces fear in prison. Several collective letters from prisons have appeared in the press – prisoners have asked the authorities to separate convicts infected by AIDS, because they need special medical treatment, but the authorities, as usual, prefer to ignore any problem which needs extra financing. In the last three years a mutant virus has appeared in Ukrainian prisons – a combination of tuberculosis and AIDS. Despite the obvious fact that it is a deadly mixture, statistics have carefully concealed

it to avoid panic among convicts and “noise” from human rights activists and the Council of Europe.

In general, “cocks” do not observe any rules except for the prohibition against informing the administration about “affairs” which they have witnessed. They are usually unorganised, hungry and have nothing to lose except their own lives and hopes for amnesty for “good behaviour”. One of them even declared that: “I’m left in peace. I say what I want, how I want to, no one pays any attention to me.”

The convicts call prisoners who come from the same regions “countrymen” - they have to help and support each other in difficult circumstances, but only if they belong to the same social category. Even if they were brothers or neighbours outside the prison, a “blutnoy” or a “muzhik” will not maintain contact with a “cock” or an “activist” when inside. But after their release, they can be close friends again. Prison makes them speak the same language and share the same criminal ideology and attitudes towards people who have not experienced imprisonment. They forever become members of criminal fraternity.

Nevertheless, in prison there are some principles of transition from one group to another. “Blutnoys” will not accept “victims” into their group. Once “victimised”, an individual is also unable to return to the group of “muzhiks”. In prison, there is only one way - down. Thus to preserve the status of “human being” if suspended of an infringement of the rules set by “blutnoys” and “muzhiks”, one has to perform a difficult task set by the leaders and their assistants:

- supply a sum of money or its equivalent in food, tea, cigarettes, drugs alcohol, or even a female prostitute. The sum depends on the offence and on information available to the guilty person about the hidden group's affairs. The lowest sum, for example, in Strict Regime institutions is \$100, but as a rule it amounts to \$500, or even much more;
- perform an act of self-mutilation (which leads to loss of health);
- enter into open conflict with the administration (which leads to prolonged repression by the administration, loss of health, and a reduced chance of amnesty);

- force another convict to perform a homosexual act (rape causes the danger of loss of health, or even life);
- organise the “victimisation” of an opposition leader (danger of being killed);
- attempt an escape from prison (danger of being killed by guards and automatic extension of sentence by a minimum of three years);

After performance of the assigned task, the group leader decides whether to allow the guilty party to remain in the group or to “victimise” him. In the case of a favourable decision, the leader and his assistants publicly shake hands with the forgiven person and share a meal and a ritual cup of tea called “chefir”²⁰³ with him.

The “muzhiks” claim that the “blutnoys” are inconsistent in adhering to the principles, which they often break and change at their convenience. However, both groups regard themselves as the true keepers of the principles and “do not permit any concessions”, while their argot is identical. In contrast to the “blutnoys”, “muzhiks” do not file complaints of assault to the courts, as “blutnoys” do in cases of assault committed by prison staff. “Muzhiks” also condemn “blutnoys” for fighting among themselves and causing trouble in prison.

The “blutnoys” regard the “muzhiks” as “victims” and accuse them of silent co-operation with the administration through informing, handling keys, building prison walls and committing “wrongs” in relation to the “blutnoys”; and also they maintain that the “muzhiks” are weaker and cowardly. “Blutnoys” can share a table with “muzhiks”. But if the “muzhiks” greatly outnumber the “blutnoys” they can even forbid the “blutnoys” to sit down at the same table. The reverse situation usually does not occur - the “blutnoys” try to avoid any possible cause for intervention by the prison staff. Consequently, both groups believe that the strength of a group depends, among other things, on the number of its members and so compete for novices. “Muzhiks” actively try to manipulate the “blutnoys” and seem to try to harm those “blutnoys” who have entered their “bad files”. For example, a “muzhik” might steal a packet of tea or a pack of cigarettes belonging to a “blutnoy” and put it under the bedding of another “blutnoy”. The victim, looking for his property, finds it and informs the other

“blutnoys” who might “cast down” and expel the accused. Neither the “muzhiks” nor the “blutnoys” can “cast down” a member of the opposite group directly. “Victims”, or staff who sympathise with them, assist them. “Muzhiks” are unable to use force to make a “victim” of a “blutnoy”, because the “blutnoys” can file a complaint in court and this may cause trouble for the “muzhiks” in spite of the support of the administration. Sometimes “muzhiks” prefer to inform the administration about the behaviour of “blutnoys” and in this way bring down various kinds of repression upon them. The “blutnoys” act in the same way, but more rarely so.

The competition for new members starts after the arrival of a new group of prisoners. The novice is first registered by the administration. After the initial formalities, he is escorted to the building where he deposits his personal belongings, if any. In this building the novice establishes his first contact with local convicts, who usually belong to the group of “activists”. The vast majority of the convicts conveyed from pre-trial prison to a penitentiary regarded themselves as “blutnoys” in civilian life. The rest are either unaffiliated, “muzhiks”, or have already been “victimised” in pre-trial prisons. The “activists”, supported by the administration, try to draw the unaffiliated novices into their own group; if the newcomer refuses, he risks being “victimised”. They try to force a “blutnoy” or “muzhik” to abandon their group and join theirs. The simplest method is to compel a “blutnoy” to touch a key (forbidden for “blutnoys” because only guards keep keys), which automatically turns him into a “muzhik”. In some colonies, the administration forces all novices to write an application to join the “activists”. Those, who refuse to do so, are severely beaten by the guards and activists. As a result, all of them formally become activists, but in reality the division between castes continues to exist.

However, it seems that most novices manage to pass this stage without anyone attempting to force them to join the “activists”. After the appearance of an unaffiliated novice in the cell or block, a new round of enlistment begins. The “blutnoys”, the “muzhiks” and the “activists” try to convince him about the merits of belonging to their group and the disadvantages connected with membership of the other groups. The

²⁰³“Chefir” – an infusion from tea so strong, that cases of death have been brought about by its long-term consumption.

composition of the cell (block) is an important element. In the blocks dominated by the “blutnoys” or “muzhiks”, the novice as a rule becomes a member of the group which has most members. If a novice claiming to be a “blutnoy” is placed in a cell dominated by “blutnoys”, he retains his rank and finds support in his group. But a “blutnoy” who finds himself among “activists” is forced by various methods to join them. If he does not do so, then he is usually “cast down”. Some, under the pressure of becoming a “victim”, join the “muzhiks”. However, even under such circumstances in contemporary in special regime institutions, the refusal to join the “muzhiks” can be brought about by fear of eventual reprisal by “blutnoys”. A lesser revenge hangs over the person “victimised” by force.

Table 39. “Notions” – the rules for “persons”	
	Persons - “blutnoys” and “muzhiks” (norms valid for both groups of convicts)
General principles	<ul style="list-style-type: none"> - the “blutnoys” are equal, a person cannot exploit another person, steal from him, or force him to do something; - a “person” cannot serve anybody; - a “person” is not allowed to inform the administration on another “person”; - “persons” are forbidden to perform homosexual acts with each other; - conflicts between “persons” are solved according to established rules; - any “person” can be ritually expelled from the group for breaking the norms (victimised);
Attitudes to the administration	<ul style="list-style-type: none"> - “persons” are united in the face of a threat on the part of the administration; - it is not permitted: to work with, or work for the benefit of administration (informing, unpaid hard manual work); to contact employees of the administration;
Attitudes toward “victims”)	<ul style="list-style-type: none"> - “persons” are not permitted to enter into any sort of a partnership with the “victim” because they could become “contaminated” and be expelled from the group (cannot shake hands, eat meals at the same table, maintain social contact); - all forms of violence and exploitation of “victims” is permissible (beating, stealing, rape, forcing to work) - a “cock” essentially cannot become a “person”
Prohibitions	<ul style="list-style-type: none"> - to shake hands with members of other groups; - to steal objects belonging to members of their own group; - to lie to members of own group if the matter is serious; - to play a passive (female) role in homosexual intercourse; - to launder someone's underwear; - to “cast down” members of one's own group; - to eat while someone else is using a toilet or with an open toilet nearby; - to pick up objects which have fallen into or near a toilet; - to put “unclean” objects on the table as the table might become “contaminated”; - to lift or carry items belonging to unknown persons (the risk of becoming “unclean” leads to expulsion from the group); - to wash the toilet with a cloth and even more so with bare hands; only a stick or another implement may be used; - to eat meals served by a “victim”; such meals must be refused as “unclean”; - to take a lit cigarette offered by a member of another group; - to handle personal articles (spoon, mug, knife) belonging to others; - to eat at the same table as “victims”;

	<ul style="list-style-type: none"> - complain or inform about a member of one's own group to the administration. - a "victim" cannot sleep in a bunk bed above a "person"; - the highest authority of the "persons" is the meeting of the leaders of cell (living) blocks, who in turn select the head of the whole penal institution (a "father"). He is the direct superior of the leaders of cell blocks and they are, in turn, superior to the leaders of cells. Not every cell has a "blutnoy" as leader - it depends on the numbers of a given group in the cell or proportion of the convicts in that cell. <p>Conclusion: The hierarchy of "blutnoys" and "muzhiks" is based on the principle of "democratic centralism" which they have borrowed from the communists, (who, in turn, were convicts themselves before the October revolution).</p>
	Special norms - "the LAW" - for "Blutnoys" (To be "in law" means to be a professional criminal, belong to criminal fraternity and follow these norms)
Attitude to the social system	<ul style="list-style-type: none"> - the social, economic, and penal systems in Ukraine are faulty; - the law is too strict, unjust and profitable only for the nomenclature; - the best route is to "collect" some money and emigrate; - a person must to do everything possible to undermine the existing social system; - any honest job in this system is slavery which supports it, and thus is senseless;
Attitude to the institution and staff	<ul style="list-style-type: none"> - "no honest person will come to work in prison" - the prison staff is the enemy, they are not seen as humans but simply as "bitches"; - the sentence should be served in such a way as to contribute as little as possible to the aims of the administration; - all inmates are divided into "persons" (blutnoys) and "victims" (blutnoy include "muzhiks" in this category); - one can refuse to work, to carry out orders, etc..
Group obligations	<ul style="list-style-type: none"> - respect the personal dignity of the remaining members; - maintain solidarity even after discharge; - maintain the superiority of their group over others; - a member is to be protected by all means (up to riot) from a "wrong" suffered at the hands of the administration; - provide mutual material aid - sharing food and cigarettes, help those who are locked up in solitary confinement; - be subordinate to those members who hold higher places in the hierarchy of power and decide the affairs of the group; - approve of behaviour which hinders the work of the administration (self-inflicted injuries, bad behaviour toward the staff, refusal to work, sabotage); - a violation of group principles is penalised by expulsion from the group;
Special norms within group	<ul style="list-style-type: none"> - norms valid only for "blutnoys"; - prohibitions against carrying keys and building works in prison; - a "muzhik" can be accepted into the group (but a "muzhik" must perform certain tasks) - one must use only group argot; - It is permissible to file complaints of assault at court.
Attitude to women	women are regarded as "commodities": "they are all mentally and physically weak"; "they all betray, denounce, and are always ready to sell themselves".
Attitude to the future	- after discharge they do not intend to break off contacts made in prison, hope to realise "new plans", and settle old accounts.

It is often stressed that the informal organisation of the inmates supervised by the "blutnoys" is directed against the formal goals or organisational units of the prison - the school, the workplace, the administration, the regulations, and so forth. This attitude is typical for the adherents of deprivation theory. The existence of the prison

subculture, if it does not block outright the process of resocialisation, makes it difficult; while the prison administration, established for its realisation, encounters the animosity of the inmates. Rioting is the most acute form of prisoners' hostility towards functionaries.²⁰⁴ Hostility is, on the one hand, evoked by frustration caused by the pains of confinement and the representatives of the prison system. On the other hand, it is a defensive expression against the functionaries' aggression. Without ignoring the hostile attitudes of the inmates towards the staff, it is clear that a tacit agreement appears to exist between the informal leaders of the prison community and the prison personnel. The authority enjoyed by the informal leaders is possible only with the silent support of the prison employees.

The model for the social functioning of the inmates established by the leading group guarantees the maintenance of a certain cohesion and order within the community. The price is the recognition of the "rights" of those who rule the community from within. If, however, the administration were to abolish those "rights", which remain at odds with the regulations, then the existing order and stability would be threatened and the resultant state of anarchy could lead to a riot. However, this situation is a common feature of any prison. For example, Morris & Morris in their study of Pentonville prison, quoted a statement expressed by one prison officer: "I know for certain that it is impossible for me to do the job on my own, therefore I have to rely on prisoners doing my job for me. In many ways, I am completely in their power. If they want to fiddle things, I either have to condone it or report it. If I reported it, the work simply wouldn't get done and I also stand the risk of being assaulted."²⁰⁵

It is possible to suggest that the community of the prisoners and the functionaries is capable of arranging coexistence based on joint benefits. These benefits can be generated not only by mutual non-intervention but also by co-operation of a material nature. The supply of contraband food, cigarettes, alcohol or drugs involves both the inmates and the functionaries. The links between the staff and the prisoners create profit through mutual non-intervention and co-operation in obtaining personal gains, including better treatment. However, official supporters of the "importation" theory in

²⁰⁴Flyn E. E., (1978), p.304.

²⁰⁵Morris, T. and Morris, P. (1963) pp.270-271.

Ukraine see the attitude of the inmates to the functionaries in another way - the informal organisation of the prison realises aims similar to those outside prison; however, due to limited opportunities for committing crimes, it concentrates on the exchange of skills²⁰⁶. Because of these goals, the incarcerated try to conceal their activities from the administration and relationships between prisoners and the administration become a parallel social functioning rather than an antagonistic relationship. The validity of this point from "importation" theory is very problematic in the context of the current transitional period of all social institutions.

The social structure of the inmates is of a dichotomous nature. Most members of the prison staff view the existence of informal relationships as decidedly negative and informal relationships are placed on a scale starting from socially acceptable forms, such as bypassing regulations, orders and prohibitions, and moving up to destruction of an informal organisation with a criminal ideology, which disorganises resocialisation work in the penitentiary institution. As one of the functionaries stated, "blutnoys" are carriers of an extremely dangerous ideology, directed primarily against order, security, and discipline", and finally he noticed that working with them was a mortal danger for a functionary, and that even their physical existence was an "improper luxury" for Ukrainian society. In other words, he considered himself a social warrior against a "social enemy".

Such an estimation of the social stratification in prisons unambiguously gives rise to the necessity of overcoming it. The everlasting problem is deciding which methods to use. In the recent past the adherents of "importation theory" have practised "direct attack", which consisted of breaking up "criminal culture" by force. The accepted method was the result of successful persuasion that informal relationships inside prison are not the product of the prison - they are not caused by the prison - and therefore should be attacked and destroyed by all means. For example, a "blutnoy", asked whether he is behaving according to the blutnoy code (the law), cannot deny the fact. Otherwise, he automatically becomes a "muzhik". After new prisoners are admitted to the institution, they are asked about their place "in law". Those who publicly denied

²⁰⁶See as an example of "importation" theory works of Clemmer

affiliation were led out of the room and others were beaten by guards until they publicly renounced the “law”, automatically turning themselves into “muzhiks”. The “blutnoys” then abolished the prohibition against readmitting the “muzhiks” to the “people” - the state of being a “muzhik” was annulled for those who were deprived “by force” of their blutnoy status. However, this method, in spite of its ineffectiveness, is still recognised in some Ukrainian penitentiaries.

The next method of the combating criminal subculture in Ukrainian penitentiaries was preceded by a greater period of reflection. Above all, the managers of juvenile colonies accepted the “transmission” theory and realised that it should be possible to eradicate subcultures introduced into the prison: their premise could be proven as an “irrational children's game”. It was recognised that a criminal subculture existed due to division into a group of dominant prisoners and those who were totally exploited by them. Attempts were made to separate “exploiters” and “slaves”. This method was quickly abandoned, because some “blutnoys” were, after a certain time, turned into “victims” while in cells containing “muzhiks” or “victims”, a division into those who were “worthy” and “better” appeared. In other types of institutions, the experiment ended with the same results. Moreover, the forms of prison subculture assumed a more negative, often more sophisticated and dangerous character. Meanwhile, this negative experience inspired the administration to compromise the leaders and reduce their authority. This tactic, as prison staff suggested, appeared to be more effective in controlling prisons.

According to information which I collected from convicts in IES-87, today functionaries of operative departments use one universal and fail-safe method - to get a potential leader started on drugs. If a prisoner becomes an informal leader of the prison community and this causes problems in the maintenance of order, the administration isolates him in a cell and guards regularly beat him for several days. After several days, when his body becomes an unbearable source of constant pain, the administration transfers him to another cell with two drug addicts. Guards supply them with drugs (most often poppy straw²⁰⁷) and syringes, at the same time continuing to beat the

²⁰⁷Easy to use: boil poppy straw for 2-3 minutes and inject the extract (raw opium) into a vein.

candidate for leadership regularly. To avoid pain, he rapidly becomes a drug addict with the help of his new cellmates. Afterwards, he is ready to conform to the rules of the administration and, moreover, to inform the operative department about all known to him "affairs" in prison without beating. This can be achieved simply by keeping him alone and without drugs for several days in solitary confinement. Drug addicts are the most passive category in the penitentiary - a person "drops down" and becomes a nobody or even a "victim". Many "cocks" engaging in male prostitution inside prisons are drug addicts. I am sure that this information is accurate for most penitentiaries. In spite of the administration officially denying such a practice, in Strict Regime prison IES-87 I observed several drugged prisoners, whose state of drug intoxication was constantly ignored by the functionaries. One of them even tried to bribe me with a handcrafted switchblade knife to ensure my silence. I accepted the bribe as a souvenir.

The failures suffered by the prison staff in their battle against criminal subcultures have convinced the authorities that "it is impossible to liquidate it" and that "an open confrontation will only contribute to the solidarity of the inmate community". Today the administration has become more open to arguments proposed by the supporters of the deprivation theory. But recent regulations from the PD made no headway in this respect and have simply recommended concentrating efforts on prevention and control of the most drastic symptoms of confinement.

In 1991, the post of salaried psychologist was established in the prison system. In prisons where psychologists are competent and adhere to their professional ethics, the level of internal violence and suicide has been slowly reduced. Unfortunately, some of them, under pressure of regulation, have become puppets of the administration; because the vast majority have no professional education²⁰⁸ they do not enjoy the proper respect of the convicts, nor that of the administration. Moreover, regulations oblige prison psychologists to collaborate with the operative department and inform the administration about convicts' confessions or directly manipulate convicts to achieve "repentance" - their confession to crimes committed long before

²⁰⁸During my research mission in a Strict Regime prison (1997) I worked with a salaried psychologist aged 22, who was an actor in theatre before he joined the prison service, and who had received no psychological education at all. He was obliged to conduct psychological tests (2015 convicts). I was depressed when I found 126 grammar mistakes in six pages of his hand-written professional report "Work of psychologist with convicts in prison".

imprisonment. Such “repentance” automatically extends their sentences and eliminates confidence in the psychologist. Under those regulatory circumstances, it is very difficult to adhere to professional ethics.

Concentration on prevention has principally given fresh impetus to the development of the net of informers, which in turn has sharply increased prison paranoia. According to a secret recommendation from PD, it is the main duty of the operative department to keep the group of hidden informers in each institution not less in number than the “in-house”²⁰⁹ group. This means that a minimum of every tenth convict informs the operative department what takes place in the prison.

Everywhere - in cell, block, workplace, or church - the functionaries have their own informers among the “blutnoys”, “muzhiks”, “activists” and “cocks”. The safest form of contact between informers and the staff are periodic talks with convicts. All the inmates of the block are summoned in turn to such an interview with an operative worker. Each is asked whether he has any complaints to be settled and, during these interviews, informers report in detail on events over a given period. The operative department pays special attention to controlling the “blutnoys” and tries to manipulate the situation within the group. Through informers they decide what steps are to be taken by the group. They instruct them, for example, how to compromise or victimise a blutnoy who disrupts order in the prison. The administration also influences the choice of the leader of the “blutnoys” in the whole institution. In so-called “red zones”, inconvenient candidates or leaders already chosen are “dropped down” by the functionaries. Sometimes, in “red zones”, informal leadership does not exist. Not every candidate accepts such an honour in such a place, and the power of the administration becomes unlimited. But even in “red zones”, the administration makes concessions to the “blutnoys”. It does not react, for instance, to the custom of forbidding the “cocks” to sit at table and eat with other groups of convicts and it tolerates their sexual exploitation. Meanwhile, the administration also considers “cocks” “unclean” and does not tolerate “cocks” as employees of the laundry and the kitchen.

The attitude of the administration to the group of “activists”, which it has officially established, is of a dual nature. The profits enjoyed by the administration are

unquestionable, but the “activists” have their own principles and do not go too far in their co-operation. Most serve as informers, but only as long as it does not harm their own group - thus they are not entirely trusted. The informers are often capable of passing false information, so using the administration for settling accounts with other inmates. Informers are not "trusties" in Ukrainian penitentiaries. "Trusties" are those convicts whom the administration trusts, but such people are to be found in each group of convicts. Trusties usually represent the interests of their own group in situations of conflict, but do not necessarily inform the administration.

However, all convicts share an animosity toward the administration, either because they harass them, or, as in the case of “activists”, “victims” and “cocks”, because they do not provide sufficient protection against the “blutnoys” and “muzhiks”, while “blutnoys” and “muzhiks” complain that the functionaries protect only the first three groups.

Usually a convict’s entire prison life is passed in the same place. Other inmates observe him in all the phases of daily life. Almost every activity is carried out within someone else’s view. A convict eats, washes, undresses, reads, works, sleeps and performs his bodily functions in full sight of the others. He talks to his family in the presence of functionaries, his letters are read by the prison staff, and his personal items are often taken during the search. In overcrowded blocks, a constant struggle continues for better places to sleep, to eat or even for priority in using a toilet. An inmate has no opportunity to free himself from the others, unless he is punished by solitary confinement, but even there a guard observes him. To save one’s mental and physical health, in such circumstances, every convict must develop or accept a certain image of his “public” self”. To play the same role for years is very difficult, even for a professional actor and the "show" is experienced as one of the burdens of confinement and produces animosity toward others, and this, in turn, gives rise to conflicts.

The great majority of convicts in prison lose their own individuality to such an extent, that they become passive clients of the system – the “treatment” influences their minds

²⁰⁹ The group employed in the laundry, kitchens and etc.

and speech. This tendency is reflected through their use of the passive voice: I was taken, I was beaten, I was punished, etc. This also assists and sustains a lack of personal responsibility for oneself, a form of chronic institutionalisation.

In IES-87 the opinion expressed by the staff was dominated by doubts over the possibility of re-socialising the recidivists, who, they thought, should be retained in penal institutions; and by the belief that society expects severe condemnation of the recidivists and therefore leaves the convicts “at the mercy” of the prison staff. Convicts called this prison (IES-87) a “red zone”; however, they emphasised that it has not the worst one - it has an extremely ordinary “red zone”.

In the eyes of the staff, recidivists are a “social evil”. Society does not accept their presence among “free people” and demands repression. The accepted approach to convicts justifies in practice the forms, methods and ways of by prison staff realising the basic aim of the system - the resocialisation of deviants. Thus, discipline turns into repression against the inmates and work turns into routine exploitation. Those prisoners who want to avoid exploitation are repressed by the administration to a greater degree. Complaints from the inmates about various hardships - for example, overcrowding or poor food - are usually rejected. The staff members regard themselves as the executors of the social will and believe that inmates have lost their human rights along with their freedom. However, because of overcrowding, staff members in this particular “red zone” are supporters of amnesties in spite of their belief that “sooner or later they will return here, but we will get a little rest from their notorious mugs”. A motion for conditional release or amnesty is not the result of reflection on the chance of re-offending but depends on the “merits” and “benefits” demonstrated in, or for the penal institutions. This practice leaves room for corruption. According to convicts’ relatives, the administration, and especially the commander-in-chief, has the clear opportunity of including a convict under the article of amnesty” for \$1,000 per shortened year of sentence.

The table 40 shows recent changes in the living space available to each prisoner in the strict regime colony #87 in Gorlovka (in the Donetska region).

Table 40. Living space in IES-87 (1996 – 1998)								
Prison capacity, according to standards (2,5m ² per person) – 1170 persons.								
Detachment or block	m ²	internal occupation of convicts	1996		1997		1998	
			quantity of inmates	living space m ² per person	quantity of inmates	living space m ² per person	quantity of inmates	living space m ² per person
1	138	in-house group (laundry, kitchen...)	59	2.33	62	2.22	42	3.2
2	113	disabled (invalids of categories 1 & 2)	103	1.09	101	1.11	104	1.08
3	149.5	Repair and engineering section	101	1.47	124	1.20	128	1.16
4	200.1	commodity production section	132	1.51	137	1.46	136	1.47
5	193.9	metal-construction section	124	1.56	135	1.43	133	1.45
6	194.2	foundry	130	1.49	132	1.47	132	1.47
7	194.2	foundry	127	1.52	131	1.48	133	1.46
8	194.2	foundry	124	1.56	139	1.39	136	1.42
9	194.2	machine-shop	132	1.47	130	1.49	129	1.5
10	189.4	commodity production section	77	2.45	115	1.64	132	1.43
11	194.2	machine-shop + builders	119	1.63	130	1.49	133	1.44
12	200	non-ferrous-metals foundry + garage firemen + auxiliary group (production zone)	128	1.56	129	1,55	135	1.48
13	194.2	commodity production section	120	1.61	131	1.48	131	1.48
14	200	commodity production section	120	1.66	129	1.55	129	1.55
15	189.4	machine-shop	115	1.64	130	1.45	134	1.41
16	189.4	commodity production section	123	1.53	135	1.40	136	1.39
insulator		offenders (in solitary confinement)	21		25		28	
Total	2927.9		1834	1,63	2015	1,48	2031	1.44

For many years the main motto of the prison administration has been: “Those who can be used should be made to work and the rest trampled upon.” The administration tries to employ all the convicts in various ways: (1) Using the services of the inmates: practically every functionary has his personal slave to perform even the most menial chores (“Wash that glass!”, “Convict, the chair!” - “Here you are, commander” etc.) Even the psychologist in IES-87 had his personal so-called “orderly” to sharpen a pencil or hand out the questionnaire. (2) ”eviction” - during searches of convicts and blocks, money, and items which a functionary regards as useful for himself, are simply appropriated. Staff members also search packages sent to the convicts and take “prohibited” articles (convicts claim that they appropriate the contents), they also appropriate contraband. (3) illegal producers of “consumer goods,” such as knives and adornments, have to pay a bribe to functionaries to secure their business. The inmates who refuse to produce or deliver the article, or the bribe, can expect vengeance. They

are often searched, which makes all trade impossible, their requests are rejected, etc.

(4) Functionaries also blackmail convicts with the threat of a bad report in order to receive material benefits or to compel them to supply necessary information about “internal affairs”.

“Useful” prisoners consist of several categories. (1) the in-house group - the cooks, barbers, electricians, woodworkers, fitters etc. These positions are usually granted to the members of the “activists” group who articulate their desire to begin a new, honest life. As can be seen from the table above, these convicts have better living conditions than others. They also perform additional work to that which they are formally obliged to do. The functionaries commission them:

- to make tea, keep the official accounts, clean rooms and uniforms, cut hair etc.;
- to perform school assignments for prison-staff who are students of the penitentiary school and for those who work as foremen in production (university and high school graduates);
- to repair various kinds of equipment (inmates with a profession)
- to produce various useful articles - “consumer’ goods” (made by those who possess manual skills, for example, jewellery, hunting and switchblade knives, axes, and various adornments). This group delivers goods to some of the functionaries in return for payment. They, in turn, resell them profitably to residents of the nearby town or to acquaintances. Sometimes, this profit is much more than a state salary. Some articles are valuable gifts produced especially for high-ranking visitors, who appear in prison on official inspections.

The convicts who are of some use to the functionaries are treated much more leniently than the “useless” mass. Thus, there are always some inmates who voluntarily begin to inform and expect to be treated better than others, as well as counting on receiving a conditional discharge. But it is not only those who are willing to inform who become informers; a convict may also become an informer if he is caught committing some misdemeanour - playing cards, producing “consumer goods”, taking drugs, handling contraband or other serious disciplinary misdeeds. The “squealers” can be divided into informers who work for the operative department, those who work for the penitentiary

department and those who work personally for the commander-in-chief, and even those who work for particular people such as a single functionary or even a leader of a group of convicts. For example, the commander-in-chief of IES-87, a Major Bessonov²¹⁰, suggested that ten of the 13 blutnoys in the prison were his informers. Before he became a commander-in-chief (prison governor) he was for many years head of the operative department in another prison. Thus, he is an expert in “processing” convicts and we can regard his statement as valid.

Informers of the lower level (squealers to the guards) usually provide information about the convicts (who produces the home-made brew²¹¹, who are on drugs and who supplied them, who produces “consumer goods”, who are the leaders and what they do). Often the functionaries promise that a motion for conditional discharge will be forwarded to the administration, and then to the court, but they have very limited opportunities for forcing the authorities of the IES to support this promise. The lower-level functionaries frequently lie to inmates, proposing that their plea will be presented in the near future. Encouraged by hope convicts supply information to them, but, sometimes shortly before the opportunity to appeal before a court arises, the guards write a report and send the squealer to another prison with an appropriate record on his file.

The informers working for the heads of the operative department and the penitentiary department are expected to supply information about the prison staff, civilian workers (employees of the prison enterprises and teachers) and their contacts with the convicts (who trades and with whom, what is being bartered). However, the most important information for the administration of the IES concerns the mood among the convicts and functionaries, protests which are brewing, and planned escapes. The better the informers working for high-ranking personnel play their roles, the greater their significance in the prison community. Some of them are actually more important than the lower-level staff members. It is no accident that the above mentioned commander-in-chief asserted that, to reform his prison he had to dismiss 90% of his staff members, because they were unable to change their obsolete views and methods.

²¹⁰Even his surname, “Bessonov”, literally means “a man who never sleeps”.

However, while all prisoners are to a certain degree oppressed and stigmatised, the most oppressed of all are those who are of no use to the staff. All convicts experience this pressure from the prison staff. This process begins with labelling. The prison staff usually address inmates only as “you thief, you bandit, you criminal, you fucking shit, you bastard, you thug, you rapist, you whore, you fucked cock”, and so on. Constant malicious bullying of prisoners is used as prevention of any sort of objection. I visited eight prisons and, in each case, constant verbal insults of convicts were obligatory for staff, rather than being an unusual event. In one prison I observed how, tired from boredom, a guard gave contradictory commands to a passing convict: “You, bitch, stay there, come here!” The trained prisoner instantaneously stood stock-still and raised his left foot toward the guard. After three or four minutes, sweating all over, the convict was kindly told to “fuck off”. With satisfaction, the guard noted: “You have seen how the truncheon can train those bastards”. Body searches and searches of the cells also aggravate inmates, because the staff take advantage of any opportunity to remove “rubbish” - items which are not forbidden, but to which the inmates are emotionally attached (family photographs, letters, poems, drawings). Such malevolent deprivation is particularly painful for the prisoners.

The use of “collective responsibility” is a very sophisticated legacy from communist times. According to the principle of “collective responsibility”, there is no need to establish the identity of the guilty person, as all inmates who theoretically had the chance to commit the slightest offence (for example, breaking a chair) are punished for it. If two prisoners are caught fighting, and no effort is made to find out who began the fight and who was defending himself. Finding out who is really guilty through the wide net of informers would be very easy. In order to prevent internal violations which could cause trouble for functionaries (the suicide of a prisoner, for example), the life of nearby convicts can become a painful nightmare. “Collective responsibility” makes prisoners watch each other constantly and can lead to depression and prison paranoia - “I am always guilty”.

The main aim of the Ukrainian penal system is not to correct certain aspects of a convict's social orientation turning him towards an honest and peaceful coexistence

²¹¹To produce one litre of home-made vodka in prison, convicts need 1kg of sugar and 40 minutes of time.

with others, but to break the will of the person and is thus based on the implementation of universal fear and distrust. "There is no justice in this world. Whoever is in power is right." For example, if the convict argues that some job is senseless, the functionary will order him to do it anyway. "Wash the floor, bastard". "I have just finished. It is still wet and clean." "I say it's dirty. Wash it again you feeble-minded lazybones"(said threateningly). "Oh, yes, it is dirty"...

Inmates, who are openly hostile to the prison staff, not subservient to the functionaries and who do not co-operate with the administration, are oppressed much more than others. They reveal a predisposition for playing the role of leaders, refuse to work "for nothing" and file official complaints against the functionaries. They usually have many more punishments "on their record" than the rest. All their requests or appeals are rejected and they are often transferred from one prison to another. As a rule, convicts admitted from another prison are "welcomed" (beaten) by functionaries, especially if the reason for their transfer was "bad behaviour", or if they are novices accused under articles of the penal code for aggressive crimes (robbery, murder, rape). All newly arrived "blutnoys" are definitely beaten and have to spend a period of time (7 - 30 days) in solitary confinement. During this period, the operative departments recruit new informers and "trample upon" potential leaders and trouble-makers. During solitary confinement, a bowl of food is sometimes thrown on the floor and guards traditionally joke: "Convict number 17, today your rations were eaten by rats". Usually only a few blutnoys maintain their conviction and remain "cool" in the face of the beatings and "trampling" - the majority become muzhiks who sit quietly.

Inmates who are hostile to the administration, but who do not reveal their feelings and try to avoid conflicts with the staff, have easier lives. The functionaries watch them, but these convicts "sit quietly" and do not allow themselves to be provoked by the staff. They explain, "why should one lose one's health and nerves?" and carry out the orders issued by the functionaries. They are punished less frequently, but this does not mean that they are rewarded more often than the others.

The first rule, which any prisoner has to understand absolutely about his relationship with the administration, actually comes from the GULag. It says: "Don't trust, don't

fear, don't ask (beg)". Convicts regard the functionaries as lazy and unintelligent. The inmates claim that the functionaries have often been fired from their previous place of employment because they were unsuitable for work in "human conditions", either because they were underqualified, both personally and mentally, or because of "inborn" laziness. "They envy us and punish us for what we had outside". "Officers here do not need any education, just the desire to get a pension. Now they are forced to complete a training course for penitentiary workers. Some of the prisoners do their homework for them". "When somebody has a higher level of education, then you can see it right away in the cultured way he speaks, but if a guard is a bastard then nothing helps. In our prison only the governor is a well-educated person". "So what, I'm here. ... I tried hard for my family. ... I can work, but what are those bastards doing here? Why, are they allowed to do anything they like? I committed a crime once, but they are bandits and cheats by nature and are committing crimes every day of their miserable lives - they beat us, get us started on drugs, and then want us to thank them!" "Their work is just to make a lot of noise about and around correction."

The reaction of the prisoners to different styles of supervision is a basis for distinguishing various categories of functionaries. Generally, the division includes those who "let you live", and those who "create problems". The first are functionaries who cause no harm - they close their eyes to the prisoners' various irregular activities, "do not show everyone how great they are", do not help, but do not interfere either. There are also functionaries who help and "talk like human beings, offer advice, and even respond positively to a request and propose a conditional release if a convict deserves it". This category of functionary also includes those with whom one can do deals. They provide large amount of tea, cigarettes and drugs and receive money from outside. They also sell "consumer" goods" made by prisoners and earn their share this way. The inmates and the staff of the penal institutions involved in this sort of "partnership" have a close relationship. They play an important role in the exchange of internal information: they have their own informers, and in turn inform prisoners on who among them "squeals", or for which inmate the administration is "preparing something", and what that "something" means.

“Problem makers” like to demonstrate their “omnipotence” more often than others. Inmates call them “policeman” or simply “carrion”. “For them we are not human, but dolts for training”. This category of functionaries believes that everything that is not officially permissible is forbidden. They are the ones who most often carry out beatings, abuse and, according to the prisoners, enjoy doing so. “Policemen” are universally known, become prison legends and are the most feared by inmates. Along with others, they also subsist on extorting “consumer goods” made by prisoners, but never offer anything in exchange. They appropriate various items or money found during searches and “act like disgraceful wolves”.

There is also another small group of so-called “good for nothing”, indifferent functionaries, who fail to perform their duties properly. “They laze around for hours”. Sometimes this is to the inmates’ advantage and sometimes not. For example, during visiting hours they prefer to talk with other functionaries, or read a book, rather than watch the convicts, and they also make fewer searches. But they shorten exercise periods or forbid the inmates to go outside the stuffy block “because they do not like standing around watching people breathe”. Most of them are nearing retirement and claim that they have “served enough”.

To accomplish the complete submission of convicts in the Strict Regime prisons, the administration used only to employ one method - breaking down the prisoners’ resistance and training them to be obedient and “useful”. However, while a temptation the use of total power exceeds legally permissible limits. The prisoner is used to make a functionary's life comfortable - to make money or produce services. He can be ill-treated, exploited, beaten or rewarded in order to demonstrate the functionary's power over him. At this point, the functionary’s authority exceeds its defined boundaries and becomes a personal, private dominance. Thus the functionary goes from the role of supervisor to that of the master who decides the fate of the slave.

The institutions which I visited are characterised by a specific hypocrisy. The prisoners are punished for illicit production, for having money, for the theft of tools and materials, for using drugs and so on. But it is obvious that the inmates are making

things for someone. The articles they make are not needed by any of the convicts, the stolen tools cannot be used in prison, and prisoners do not buy the tea, cigarettes and drugs in town. There has to be someone else, and that could only mean the employees of the administration. But the inmates are penalised and the others are ignored. This situation is also intended to show the prisoners that blackmail is impossible - the inmates are unable to use the evidence against the functionaries; they must remain satisfied with the profits. This breach of ethics offers the functionaries a feeling of special omnipotence. They institute prohibitions, seek out offenders and administer penalties, but, despite their participation, they remain above it all, untainted by their involvement, and they demonstrate this power to the prisoners, intensifying the latter's helplessness. After prison, accustomed to being a passive subject of the rules, a person will feel himself free even in a totalitarian country simply because he is not being watched or threatened day and night. Thus, he tries to hide himself from official eyes and, as a rule, will never take part in politics. He is wise and knows "everything is useless" - "whoever is in power is in power forever", but his "life is very short and there is no sense on spending it in vanity which will lead an ex-convict directly to prison again". Meanwhile, our cultural, political and economic reality is, to some extent, influenced by the fact that every fourth adult voter (male) has experienced some kind of imprisonment. The alienation of people from the state is expressed in a popular saying "My house is beyond the state boundaries - I am nobody, I heard nothing and I know nothing".

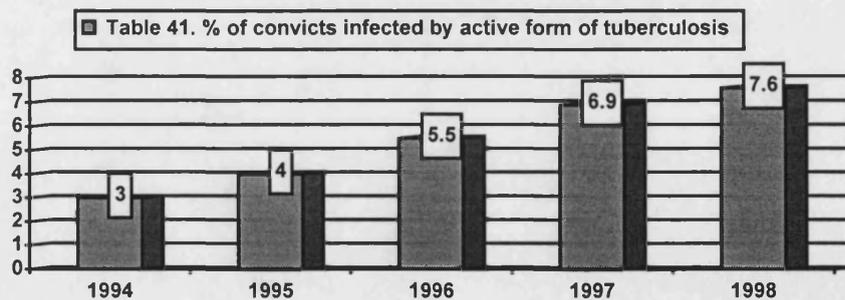
4.4. Attitudes of the prison staff to prisoners (IES-87)

In general, there are two groups of employees in the prison system: those who have permanent and direct contact with the inmates and those whose contact with inmates is rare, unsystematic and circumstantial. Work involving contact with prisoners is particularly attractive in the Strict Regime institutions, because it is less monotonous and offers the opportunity for additional illegal earnings and for obtaining various goods and services. Consequently, the dismissal of a staff member from work with convicts and his transfer to another post is considered a punishment. In addition, the profits which can be made from working with the inmates can result not only from

direct exploitation, but also from the appropriation and removal from the institution of various articles, whose disappearance is regarded as theft, sabotage or destruction committed by the “inherent criminals”.

If the functionaries who work with inmates “stick together” and jointly settle all sorts of business deals, then those who have no such opportunity envy them and are happy to expose them to the higher authorities, and to take advantage of their profitable position. In fact, every functionary whom I contacted in IES-87, with the exception only of the commander-in-chief, presented to me a hand-made gift²¹², which had been extorted from convicts. The income earned by the functionaries from the prisoners is extra, and not controlled by families and wives. By delivering various articles and offering money, the inmates also corrupt the employees responsible for surveillance in the institution. The latter also profit by shutting their eyes to the flourishing “business”.

However, without such mutual exchange, the very survival of prisoners would be problematic, especially given the fact that the food supply to prisons has been reduced by 70% in the last ten years. The “victim”, who is often excluded from such hidden “business” begins to suffer dystrophy in time because of the lack of albumen and protein²¹³. Convicts weakened by malnutrition are in real danger of being affected by tuberculosis or by other infectious diseases.



Source: Informational Bulletin #20, MIA, Kyiv, 1998.

It is quite difficult to be human without humanity and indifferently observe how strong people become “hosts” of their former selves. Thus the official struggle of the governing body against the “black market” in the penal system, rather than

²¹²mainly kitchen, fighting and switchblade knives.

²¹³In August 1997, there were 18 inmates with this diagnosis in the medical isolation block at IES-87.

concentrating financing the system properly, is doomed to be unsuccessful in the end. It only produces anger among both personnel and inmates. The fundamental principle behind current contacts between the functionaries and the inmates is - not to interfere without reason, or at least not as long as everything is in balance and all is going well. As regards my own experience, I felt some sort of social obligation to bring some food and cigarettes for hungry prisoners every time I worked with them during my enquiry.

I must add, that the functionaries were unwilling to talk about their work for fear of disclosing information about their relations within the prison, but many of them did not hide their dissatisfaction with the job. The respondents mentioned as the most negative aspects of their profession: poor salary, the indifference of the state to the current needs of the system; the stifling of criticism; the poor work of some of the functionaries; informing; gossip; favouritism; drunkenness, and the lack of concern for the working man. They also emphasised that promotion among prison staff is usually granted for the ability to make a good impression on one's superior, and to a very small extent on professional skills and hard work. Only the threat of unemployment, or forthcoming retirement, keeps the majority working for the prison system.

The duties of each member of the prison staff are precisely delineated, and this is normal - each is responsible for the duties assigned to him. This obliges the staff to adhere to an absolute execution of the directives issued by the superior officer, but what is really dangerous for human rights is that they lack any right to question their correctness, and are fully accountable for a failure to carry them out. The system of hierarchical subordination reflects the accepted method of directive management and the adopted paradigm of interactions. Under such a form of management, each functionary creates his/her own hidden "private area of freedom to do" what he/she thinks is right and proper in order to make up for the disregarding of his recommendations, which are based on personal experience of real work. The higher the post a functionary holds in the official institutional hierarchy, the greater is the responsibility and the distance from the needs of convicts. The superior is held responsible for the work of his subordinates. However, the greatest responsibility lies with the commander-in-chief of a particular penitentiary. The commander-in-chief is the direct head of the institution and has a paramilitary rank from major up to colonel.

He divides tasks among his personnel, is responsible for administering punishments and rewards (including amnesties) in accordance with the principles of penal policy, and moulds the life of the institution and the environment of its inmates. The burden of responsibility placed upon the commander-in-chief for his own activity or that of his personnel, and for the results of the didactic process, determines his position as a superior of the functionaries employed in the institution and as the superior of its inmates. Such a system of hierarchic responsibility often makes the commander-in-chief something like a Patriarch (convicts traditionally call him "Master") who can distribute punishment or incentives according to his own preferences and understanding of state policy. Currently, the absence of a clear penal policy in Ukraine and the reduction of resources for the upkeep of convicts makes it possible, and sometimes necessary, to interpret rules and regulations with vast discretion.

In turn, the deputies of the commander-in-chief (the heads of departments) and heads of particular services are responsible for their subordinates and for the duties they perform. Lower staff members are responsible for the proper fulfilment of their own duties and those of the functionaries subordinate to them. If they work with convicts, they are responsible for the group of inmates under them.

A violation of prison staff rules can be registered only if a superior detects an offence, or if a functionary who is not directly responsible for the given group of convicts notifies the superiors of the institution. However, a formal notification obliges them or him to take certain steps against all those responsible for violation including inmates, functionaries, and direct superiors. But if the guards find out about a particular violation after it occurs, they may well remain silent and count on the secrecy of others.

The functionaries may be found guilty of serious misdemeanours. Such as in a case where a guard has beaten a prisoner and, to make it impossible for him to demand an official medical examination, has placed him in solitary confinement. In this cell, threatened with further violence, the convict then takes his life. This event is serious enough for its disclosure to lead to certain consequences for superior officers and for the commander-in-chief personally, because it testifies unfavourably on the work of

the correctional institution. The case would have to involve the prosecutor, who would bring an investigation and further accusations against the perpetrators. Such an investigation could disclose other violations of rules and regulations and this is very dangerous for the commander-in-chief.

The convicts constitute the foundation of a pyramid whose particular levels of responsibility lead to the pinnacle - to the commander-in-chief who is responsible for the whole penitentiary or pre-trial prison. No official is subordinate to the convicts. The lack of responsibility demonstrates their non-participation in formal power and leads to the conspiracy, and even sabotage. In other words, as Goffman pointed out, total institutions take over total responsibility for the subordinates and must secure for them everything that is regarded as indispensable.²¹⁴

Each level of the prison system, when threatened with dire consequences, will try to endow the inconvenient event with an official interpretation, which helps those involved to avoid responsibility. Superiors will intentionally ignore the actions of their staff, preparing their own suitable versions of, for example, an incident of suicide, by such means as persuading or forcing the convict witnesses to make false statements. Events which leave no material traces, but testify negatively about the work of superiors, such as the drunkenness of functionaries while on duty, or the supply to convicts of prohibited goods like alcohol, drugs, or even a female prostitute, may be "forgotten" by the superior unless they are officially informed about such misbehaviour. The unwillingness of superiors to be officially informed about incidents perpetrated by their own subordinates or a silent agreement to prepare a tolerable official version of events to avoid disclosure at a higher level are characteristics of prison management. Its main feature is the disruption of information exchange - the avoidance of negative knowledge. Such an orientation leads to a conspiracy of ignorance, which obviously in turn is a defensive measure against the pyramidally organised paramilitary system of responsibility.

If the staff of a correctional institution are able to meet the expectations of superiors at a level higher than their own institution, the evaluation of the work of the penitentiary

²¹⁴Goffman, E., (1976), pp.15-21.

units and their commander-in-chiefs will be heightened. This evaluation is made on the basis of information supplied by the commander-in-chief himself to the central office. In other words, the commander-in-chief is judged by his superiors on the basis of his own information about the implementation of orders and not on the basis of their actual realisation. Because of the absence of an independent civil inspection system in Ukraine, the commander-in-chief can conduct his own “private” penitentiary policy.

The estimation of the nature and number of misdemeanours committed by functionaries and reported to the central office is one of the most important bases on which the PD can evaluate the discipline and merits of the prison staff. A hierarchical list of penitentiaries in particular regions is then composed according to the number of their misdeeds, and this list constitutes the main document for conducting personnel policy and for the division of rewards and bonuses among the regions and institutions. Under these circumstances, it is understandable that staff of different penitentiaries are anxious to keep the number of internal violations and crimes low to create the best possible picture of the personnel, their morale, qualifications, and their managerial efficiency.

No commander-in-chief likes to receive a formal notification about misconduct committed by a staff member, because such a report leaves evidence in the documents, while he himself is obliged to take a stand in the case. The possibility of comparison with other penitentiary units or with the same institution at a different date means that statistics can become dangerous. All events that might eventually affect the index adversely will be suitably sanitised in accordance with the adopted paradigm of interaction. “Privatism” in the penitentiary sphere by the administration makes it very difficult and sometimes impossible for independent scholars to get access to correctional institutions and/or to be sure that the statistics are correct. The power of the administration to disclose or hide negative events, and the absence of clear-cut criteria for reporting, both generate informal channels of information and uncertainty and can lead to poor decisions being made at the highest levels of the hierarchy. Convicts call institutions with extreme control, secrecy and manipulation levels, “red zones”. The main slogan of the staff in “red zones” is “Control by all means!”. Such places look extremely good from the official statistical point of view and they even

look well managed when one sees them with one's own eyes; but the invisible reality of their operation is depressingly sub-standard.

As no staff member is interested in giving formal notification of misdemeanours committed by employees and convicts to the commander-in-chief, such notifications are made only when the misdemeanours cannot be ignored. Usually staff members of one department make reports about misdeeds in another. For a competent commander-in-chief to receive some valid information, he must act according to the old roman principle of "divide and rule". He must constantly create and sustain conflicts between departments as well as between influential convicts. Most often, the conflicts involve members of the operative department. Commander-in-chiefs understand that the tendency to conceal the misdeeds of staff members raises the possibility that management might lose control of the situation inside their institutions. To avoid that, informal channels of information are developed. What is officially neither seen nor heard unofficially becomes the object of intense scrutiny. The administration organises an inflow of information from trusties in menial positions and from convicts about the work of the staff and the behaviour of other inmates. The commander-in-chief tries to give the impression that he knows everything and that "the walls have ears".

The informal information system implies, in turn, an informal system of punishment and rewards. A known, but not registered, violation may become the reason for informal punishment of the perpetrator: additional work hours, unpaid work, lack of promotion, a change of posts for staff members, or additional forms of social deprivation for convicts which could transform their lives into a total nightmare. Moreover, the administration specifically supports obsolete rules and regulations from GULag times in order to receive constant information about violations. For example, card games are illegal, but practically every convict plays card games, which gives the administration the legal right at any moment to punish the great majority of inmates. Hundreds of such experiences make the convicts feel powerless - unprotected from the arbitrariness of the administration. The situation in which one "has nothing" on another person, even if mutual, offers no feeling of security in the presence of others. The constant risk of behaving in a way contrary to regulations makes the other person a potential witness. Everyone seeks information which is harmful to others, something

that can be passed on to superiors to hurt others' reputations. The aim for the most part is not to harm another person, but to have something on him to be sure that he is no better than oneself. Each member of the prison staff and every member of the convict community concentrate on detecting something bad about other convicts and colleagues. They are forced to dislike someone who has a clean slate and they must then hunt for some misfortune on the other's part to prove that he is no better than anyone else. The consequence is damaging to the process of resocialisation - the belief in the negative essence of everybody and the need to prove this belief through the collection of carefully selected evidence.

If convicts think that a new staff member is "too clean", they organise an inflow of false information through informal networks which, despite lack of proof, is easily believed and produces a "black" picture of a functionary - for example, that he is corrupt, a thief or an informer. Therefore, convicts begin to offer him bribes openly and corrupt colleagues accept him as an accomplice. This situation shows him the reality of hidden rules. His "rehabilitative" illusions melt into the air. To be accepted, he begins striving not to be "worse" than other colleagues. He is forced to lower his own moral standards, permitting himself to indulge in unsuitable behaviour. However, the picture of the "generalised other" produced by the community of functionaries is sufficiently negative for everyone to see themselves in a more favourable light.²¹⁵

A way of eliminating feelings of insecurity is to try not to cross the path of a person who has something on one. Information about those who can harm one is a subject of constant analysis. Another outcome occurs when two people have something on each other. On this basis they can build mutual trust, become friends, and feel free in each other's company. A friendship that does not include such a mutual acknowledgement of "sins" is worth nothing. This equilibrium is the main model of interaction, which the whole inmate community (both convicts and members of staff) strives to follow. The two partners arrange their relations with other parties in a way which cannot endanger the mutual trust. Convicts strive to involve the greatest possible number of staff members in corrupt practices, a necessity for the reduction of the feeling of threat. Such shadow interactions in the institution eliminate other relations, planned and

²¹⁵See classical work of G. H. Mead "Mind, Self and Society" (Russian edition, Moscow, 1991.)

expressed in formal regulations. Indeed, legal regulations now play a limited role in shaping the life of Ukrainian penitentiaries. Shadow interactions operate among both the superiors and the subordinates, which has transformed the prison service into something like a form of “mutual imprisonment”. Moreover, an average convict serves his penalty for four years, but prison staff must serve twenty years in prison before retirement to receive a state pension. It is very difficult to distinguish who is the real inhabitant of the cells and who the upholder of prison traditions and customs in correctional institutions²¹⁶.

This shadow reality in correctional institutions is an essential feature for any investigation into the system which refers to such notion as social solidarity. As no one has the chance to live without his faults being known to others, no one is even able to talk about his own misconduct. Disclosure of even a small fragment could end with disclosure of the whole, which would be unprofitable for everyone involved. Consequently, the appearance of someone new, including an academic investigator, means that the prison population must know what role to play in front of this new person and begin its own investigation through a series of tests and provocations. If the tested person is considered dangerous to the established system of relations, he is automatically excluded from the exchange of information and doomed to social isolation.

4.5. Conclusions

Achieving a level of control, which permeates all aspects of the lives of subordinates, is possible only in isolation from the external world. However, the inmate’s life is supposed to be a duplication of the life enjoyed by free people: each person must work and learn, and have leisure time and rest, while food, clothing, and articles of personal use must be guaranteed for him. Everyone receives the same things in the same amounts - complete standardisation and uniformity. Thus, prison is the best model of a rational society. Nothing is excessive, nothing is unnecessary, and the pattern of social relations is deeply fixed. “A week, a month, a year or a decade are like books of

²¹⁶See, for example Morris, T. & P. (1963)

various thickness, each with identical pages²¹⁷". Prisons designed to represent a model of social order, however, it is also can be seen that adaptation to the rules in practice undermines the exercise of free will – people becoming institutionalised.

Let us imagine that someone steals a large sum of money or hides it from taxation. Happy that his undertaking was successful, he boasts about his venture to his friends. The "friends" steal his money and our offender finds himself in a strange situation. He knows who took the money, but cannot seek legal assistance - the money was gained by means of crime. The "friends" assume correctly that he will not notify the police; if he did, he could be charged himself. To act sensibly he must keep the whole matter secret. With this assurance, he can try to regain the money by, for example, organising a group of persons who will force the new owners to return it, or who will at least punish them severely. None of the parties involved will seek legal methods to end the conflict, but the desire to resolve it will provoke a large expansion in the concealed sphere of life. This type of event produces a shadow reality in which the interested parties will strive to avoid legal regulation. The threats of disclosure and further legal punishment make the participants' silence necessary. The more intolerant legal rules are to offenders, the more secret will be an offence. Thus intolerant legal measures result in illegal intolerance - a peaceful petty thief or defaulter of taxes often becomes a violent criminal. Shadow interactions lead to the creation of a shadow field for special social laws and to an unwritten normative order that regulates secret events. The abrogated regulations and formal hierarchy are replaced by an informal social structure, produced within hidden interactions. To generalise, it is suggested that more tolerant legislation towards offenders in effect supports the law-abiding individual.

A visit to Ukrainian prisons is something like a return to the times of forgotten socialism. Both parties - convicts and functionaries are compressed into a form of life, which was established by something impersonal and unknown. Until the new rules have been passed the old ones are still in force. The prison staff so used to the old ways that, they find sometimes impossible or even useless to rid themselves of deeply integrated habits inherited from the totalitarian years.

²¹⁷Moczydlovski, P. (1992), p.164.

CONCLUSION

The standards of a nation's civilisation can be judged by opening the doors of its prisons.

F. Dostoevsky

The impact of totalitarianism on the Ukraine's legitimate structures was pertinent to the development of a certain type of mass consciousness conducive to deviance and criminality. As a result of minimising social expenses and placing severe tax pressure on producers, deviance, in many ways, became a means of survival. The long-term centralisation of power and the character of the planned economy weakened state structures, in particular the criminal justice system. In spite of some improvements, the law in Ukraine is still totalitarian - it operates as an instrument of the strong, providing little or no protection for the vulnerable: it conspires to incarcerate the small fry and leave the big fish swimming free. The absence of an established liberal-democratic tradition makes people indifferent, silent witnesses. When independent Ukraine committed itself to market reforms, it could only employ the necessary expertise from the existing black market. As the old nomenclature *Apparat* began to crumble, its more active members filled the power vacuum with a clear orientation towards wealth. If the Soviet nomenclature was obsessed with power, the new nomenclature is obsessed with wealth. Thus, the contemplative conformity as a style of state management in the 80s was transformed into the explicit narrow egoism of the 90s. This change of priorities led the new generation into a fully active business partnership, on equal terms, with organised crime, which required some kind of hidden social compromise. The shadow structures in Ukraine are much more pragmatic and flexible than the obsolete state machinery. They provide employment (for more than 70% of the active labour force) in conditions of deindustrialisation of the national economy, as well as social protection, investments and even pensions for their members, and they also impose unavoidable punishments on offenders. Privatisation, banking, media financed by advertising, stock markets, charity funds, security: all these elements are now controlled to a large degree by the shadow state. Many politicians who stand as people's deputies, actually represent the corporate interests of illegal enterprises. Thus,

the current domination of the Ukrainian legal systems by shadow structures is leading to their eventual legitimisation as the market becomes more established.

Many processes and features of the transitional period in economics, politics and in the socio-psychological area have contributed to the social exclusion and the criminalisation of social life. The power of the state to criminalise has been greatly extended in recent years. The people have become exhausted by the endless drawn out socio-economic crises; the failure of economic reform is negatively influencing the social life of Ukrainians and has led to an increase in criminality. In particular, the economic crises have led to:

- a reduction in the possibilities to earn decent money legally and a constant increase in mass unemployment;
- the impoverishment of the majority of the population;
- a sharp division of the population into the rich and the poor (by income). At the same, the time, the availability of expensive consumer goods, without any possibility of legal earning money needed to pay for them, means that there is an increasingly strong motivation to turn to crime in order to achieve the necessary prosperity;
- the marginalisation of part of the population, an increase in the number of homeless people and those who do not work and do not study;
- uncontrolled immigration (particularly from Asia).

Crises in the political sphere have contributed to:

- a decrease in the authority of the state;
- a loss of control over many of the state's social processes and an increase in ineffectiveness of the state administration;
- unprecedented corruption at all levels;
- a struggle by local nomenclature clans for economic privileges;
- a low level of legal assistance and protection;
- constant changes in business legislation (irrelevant and vague norms).

In closed prison institutions, where the main sources for obtaining goods by the prisoners are external, a strong polarisation of the prison community is unavoidable. One group of convicts becomes the object of exploitation by the others. On this basis,

the official laws which govern the prison community and the normative system are transformed into something informal and convenient for functionaries in maintaining internal order, which, in turn, influences the behaviour of convicts for the worse. Internal habits and customs, which govern the system, are contrary to prison regulations and to the principles of confinement contained in the executive penal code. In fact, Ukrainian prisons have been "privatised" by the functionaries. Current administrative methods, based on the fear of inmates of being totally deprived, contradict international obligations and the Constitution of Ukraine. The choice which convicts must make at present is either to allow themselves to be exploited or to become the objects of oppression. The silent, invisible resistance of the inmates to such an order serves as evidence against the adopted type of supervision. It is very convenient to explain this only by the evil inherent in the criminals themselves. However, a typical feature of representatives of the management within the penal system of Ukraine is fatalism expressed in the belief that resocialising the inmates is impossible. This gives rise to the reinforcement of the obsolete thesis about biological determinants of criminal behaviour; hence the popularity of the "importation" theory among new reformers of the present penal system. "If it is impossible to resocialise and correct "inherent criminals", then we must make the system as cheap and as dreadful as possible".

To say that total control in prison acts against the influence of the "blutnoys" inside the institution would only be half the truth. Total control is also concerned with not revealing information for public consideration about the reality behind bars, and insofar as revelation already happens, the concern is then to influence the way it is perceived. For example, using statistical data with negative comments through the mass media inflames public anger and hatred against deviants and encourages the public to permit the violation of prisoners' human rights to be ignored because "they deserve it all". They deserve only one meeting with wives every six months, the fact that their correspondence is checked by the administration, that fact that they have no access to telephone to call a lawyer, and that they cannot have more than one parcel (8 kilos) every six months. In 1997, the monthly monetary maintenance for the nutrition of the average convict was 33.46 Hrivnas (£11). In 1999, it was the same, but the

national currency had fallen in value, and in December it was worth only 8.40 Hrivnas per pound sterling. This means that rations now cost £3.98 per month. Moreover, in many prisons significant economies have been achieved through a 50% cut in the recommended levels of prisoners' food provision. In several regions the quantity has fallen to 23-33% of the original amount. Such a situation has adversely influenced the health of convicts. The problem of tuberculosis is now the most important challenge. In 1996, 3.500 cases of this disease were registered in prisons. On 1.07.1998 Ukrainian prisons contained 15.178 people affected by tuberculosis, 13.855 of whom had the active form of this disease. The current situation is so serious that suggestions have been made for the establishment of a net of special hospitals in the penitentiaries for those suffering from tuberculosis. Only 20-30% of convicts are fully employed and in receipt of wages from the prison enterprises; their living space has been reduced to 1.5 m², and they do not have the right to "freedom of association", but have the right to vote. Suicide among prisoners is 3.5 times higher than among the general population. Of course, they do have the right to file a complaint against a particular functionary but they must address it to the administration of the penal institution, in which they are incarcerated.

While the main pattern of development of civilian life in Ukraine has changed, the isolated "archipelago of justice" has remained rooted in the past. In practice, the pattern of life in prison creates people who are unable to find their place in the outside world, and they become "secondary" deviants, that is that deviate from the strictly delineated, inhumane paths of prison conduct. Fearing punishment, they develop a "public self", pay lip-service to "collectivism" and belonging to the group, but in their inner, private worlds they hide misconduct from their supervisors. Everyone witnesses violations of official rules and regulations and can testify against each other. This mutuality serves as a guarantee against disclosure. When everyone can become an accused, there is no accuser. However, this situation contradicts the planned goal. Therefore no such disclosure is permitted and supervisors lose their moral authority. Both sides know that they are not acting according to the Law, but circumstances force them to act in accordance with informal, private interests. Listening to representatives of the penal system they seem to demand tolerance as much as supporters of the public collective

interest, but if we study their behaviour we can see the pure "privatisation" of collective interests for their personal benefit. From a position in which it was intended that supervisors would watch over various processes being developed in prison, they have been reduced to just one of the elements in these processes. The declared aim of the current penal system in Ukraine - the resocialisation of offenders - cannot be successfully performed, if the system does not overcome its type of information exchange. An informal set of informers implies an informal system of punishments and rewards. The "privatisation" of penitentiaries by the informal alliances of prison staff and criminal leaders leads to corruption of the whole penal system. Unnecessary secrecy about the realities of prison life and the current low levels of pay and social security for prison staff have stimulated shadow production and interchange within the penitentiaries, but this system long duration has led to a mutual degradation of the two sides of the prison community. Thus appears a two-sided show has become a distinctive feature of penitentiaries in Ukraine. Visitors are usually shown specially prepared cells or blocks to acquaint the public with prison life. However, the aim of a visit is the most important stimulus for the administration to show reality in either a more attractive, or a more horrible light than is really. If it is necessary to report on the impact of money received from a significant source and invested in improvement of the prison facilities, the visitor is shown a white-washed picture. If a visitor has access to sources of finance and there exists the possibility of obtaining some money or publicity through him, both of which are vital for future financing, then everything he is shown is especially squalid. In both cases, the public always receives distorted information about its own penal system. The wrong information, in turn, leads to the wrong actions been taken.

The administration stimulates prison paranoia by implementing obsolete rules from the GULag era, having forgotten that men go to prison as a punishment in itself and not for additional retribution; the mere absence of the crank and treadmill does not preclude the existence of punishments other than the deprivation of liberty. Hundreds of existing exclusions make convicts feel themselves to be unprotected from administrative arbitrariness. The authority enjoyed by criminal leaders is possible only with the silent support of the prison administration. Thus, pain generated by confinement is increased

by effecting administration and supervision through a system of interrelations in which fear and distrust are the main and necessary factors for the maintenance of internal order. The misuse of authority by prison staff also causes favouritism. As a rule, the promotion of prison staff within the penal system is based on superficially impressing superiors, rather than on professional competence. It is necessary to reconsider the effectiveness of the evaluation system and the competence of particular workers. The penal system has to be judged not on its ability to contain, but on its ability to resocialise its inmates, and on its success in the prevention of reoffending. At the moment, data on the recidivism of particular ex-prisoners who were supervised in particular prisons by particular officers not exists. This data could be decisive in evaluating the contribution of particular regimes, such as social work in a penitentiary. According to the concept of tolerance, resocialisation is considered as successful if it helps an offender to achieve some kind of reconciliation with society. The influence and consequences of administrative practice are an important measure of social tolerance within the State. Our study shows inverse correlation between dogmatism, which is still embedded into penal practice in Ukraine, and tolerance (Sig. 0.763). In fact, on the one hand, the social administration and practice in Ukrainian penal institutions has led to stigmatised dependence and/or the exasperation of individuals and to their further alienation and segregation, which can be interpreted as an unacceptable level of tolerance and a tendency that, in turn, leads to recidivism. On the other hand, the conservatism of the paramilitary prison staff itself creates and reinforces a deviant type of administrative practice. What is really needed is the demilitarisation of the prison system. This is a social service, not military one. It is strange to have six military prison generals in Ukraine. What are they for? To attack recidivism and force it to surrender? In the meantime, a visit to a Ukrainian prison is something like a return to the era of totalitarianism. As in the best model of a rationalised society (the pattern of social relations is deeply fixed), prisons represent a model of social order and a leading paradigm of social interactions in their most distinctive forms. In Ukrainian prisons, both parties - convicts and functionaries - are compressed into a form of life which was created to contain and control "public enemies" according to the adopted model of "justice". The penal institutions are now highly bureaucratized and this leads to a lack of attention not only to prisoners' basic

needs but also, even, to the aims of the system - resocialisation and the prevention of recidivism. The achievement of these goals is problematic without a certain flexibility and tolerance, particularly in the transitional period from a totalitarian state to a civil state. Our penal system is not about the correction of some features of the convict's social orientation and the encouragement of an honest, legal way of life, but the temporary elimination of some crimes through social isolation. The current system enables those in higher positions to make decisions "downwards" without the careful consideration of other functionaries. The resultant total dependence of the lower ranks on their superiors indicates that this hierarchical subordination actually presumes a division of labour, but not of competence. The system of hierarchical subordination without public accountability reflects the accepted method of directive management – but each functionary creates his/her own hidden "private area of freedom to do" what he/she thinks is right and proper. In the absence of an independent civil inspection system and a clearly fixed state penal policy, any commander-in-chief (prison governor) in any particular penitentiary can conduct his own "private" penal policy with impunity. Obsolete methods of social work play a limited role in re-shaping the life of Ukrainian penitentiaries. Shadow interactions appear among both the superiors and the subordinates. Such interactions inside a correctional institution transform the prison service into something like "mutual imprisonment". If we take into account the fact that the food supply to prisons in the last ten years has been reduced by 70%, without illegal mutual exchange, support, and the turning of a blind eye by the authorities, the very survival of prisoners and peace in the prisons (absence of riots) would be problematic. Shadow interactions in prisons eliminate all other relations, planned and expressed in the totalitarianism of formal regulations. Thus, the informal system of material exchange implies an informal system of more tolerant interactions. An average convict serves his penalty for four years, but prison staff must serve twenty years in prison before retirement to receive their state pension. "Everyone can privatise only that which he controls and guards". Thus, the administration is the upholder of those prison traditions and customs which help to achieve this hidden aim and simultaneously secure the functionaries' jobs. This situation contradicts the public interest in resocialising offenders and in reducing recidivism. The empirical study of administrative practices in prisons highlighted not only extremely low levels of social

tolerance, but two contradictory sets of values – "declarative" statements and a "shadow" list, which most employees of the penal system employed in reality (Table 42).

Table 42. Declared and shadow lists of professional values of prison staff	
Declarative List (right to tolerance)	Shadow List (possibility of survival)
1. The aim of the penal system is resocialisation – encouragement to choose an honest way of life.	1. The aim of the penal system is to damp on the prisoner's "evil will" through fear of punishment. Full resocialisation is impossible.
2. The prisoner has a right to expect that his communications should have a confidential status (the right to privacy).	2. The prisoners' communications to officials of the penal system, involving them in the maintenance of prison order, have the character of knowledge that gives power over the convict.
3. The convict has the right not to be judged by the prison staff. (a non-judgemental attitude)	3. The prisoners' actions, by their nature, are problematic and must be judged with suspicion.
4. The prisoners should be regarded with positive feelings (the notion of acceptance).	4. A prisoner can be deprived and "outlawed". (the "just deserts" notion)
5. All men have innate dignity and worth. (principle of "individuation")	5. Prisoners are the objects of a large-scale bureaucratic organisation and are to be treated as "cyphers".
6. Prisoners have the right to determine the course of their future actions. (principle of self-determination)	6. Prisoners and ex-prisoners' actions and feelings must be strictly monitored and controlled.
7. Not putting the personal interests of the members of prison staff before those of the convicts. Protection of public interest - responsibilities held by prison staff in trust for society. (service orientation)	7. Personal security and benefits are the main stimulus for working in prison. Public interest is irrelevant – responsibilities held by prison staff are accountable to direct superiors. (individual motivation)

Delinquency is largely made possible by the absence of (effective) beliefs that forbid delinquency²¹⁸, and a workable model of penal policy must face the wider issues of the nature of social justice. It is necessary to understand clearly whether the relationships in the prison community are deviant, or whether they are in opposition to the penal policy conducted by the State. In other words, whose rules are broken, and why, and where do we go from here? It is hard to see how prison conditions in Ukraine will improve without a major reorientation of law and order policies towards social tolerance and the use of alternative sanctions to imprisonment. This would involve the implementation of accessible welfare programmes for ex-prisoners and youths at risk, the financing of educational programmes (for both prisoners and prison staff) and the demilitarisation of the prison service. In turn, such a challenge is impossible without the long-term re-orientation of the public, turning away from mass alienation and social exclusion towards the expansion of citizenship (participation, civil society); it

also means politicians turning away from a totalitarian type of management, and developing at least the capacity to learn from experience. However, it is now vital urgency to develop humanitarian programmes for staff training which are oriented towards increasing of their low levels of social tolerance and promotion of the European Convention of Human Rights and these tasks does not require huge financing. Considering the enormous enlargement in recent years of all police structures (nearly a million employees), it is impossible to ignore the fact that their methods, which are based on the belief that rehabilitation is an unrealistic and unrealisable aim, threaten the development of democracy. It is not wise for Ukraine to give way to "moral panic" or to blindly follow the policy of "prisonisation" - building more prisons, and employing more police officers. Following that rout, Ukraine could easily return to the standards of a police state, not a liberal-democratic civil society. Ukraine's very freedom and social security are dependent on mutually tolerant attitudes, in particular, on how they are expressed in our criminal justice system and penal policy.

The economic infrastructure inside the Ukrainian penal system influences all types of interrelations. In the penitentiaries, the main sources for obtaining goods by the prisoners are external. On this basis, the official regulations which govern the prison community are subverted into something informal and convenient for functionaries in maintaining internal order, which in turn, influences the behaviour of convicts for the worse. The choice which convicts must make at present is either to allow themselves to be exploited or to become the object of internal deprivation. An average prisoner is used to make the functionary's life comfortable - to make money or produce services. Convicts can be ill treated, exploited, beaten or rewarded in order to demonstrate the functionaries' power over them. At that moment, the functionary's authority exceeds its defined boundaries, becomes personal and a matter of private dominance, and he goes from the role of supervisor to that of the master who decides the fate of the slave. Sometimes, profit from illegal exchange is much more than the state salary of a functionary. Thus, a silent agreement is developed between the administration and the criminal leaders inside the penitentiaries. This group guarantees visible order in the

²¹Hirschi, (1969), p.198.

institution in exchange for the privilege of not working too hard or performing a stigmatised job. In this way, the penitentiary sphere in Ukraine is "privatised" by both the administration and the criminals.

The shadow production and interchange within penitentiaries leads to the mutual degradation of both sides of the prison community. Everyone witnesses violations of the official rules and regulations and can testify against each other. This mutuality serves as a guarantee against disclosure. When everyone can be accused, there is no accuser. Both sides know that they are not acting in accordance with the law, but circumstances force them to act according to personal interests. If prisoners witness corruption in prison, how they can improve their behaviour in the future?

Contemporary social policy even blocks existing legitimate opportunities. Largely, people turn to crime when they need simply to survive the transitional period. For example, the opening up of new opportunities, educational and financial programmes are more effective ways of reducing criminality than the prospect of punishment is. This also may be accomplished by redefining some prohibited activities as legal. The people's protest against the exploitative social order takes the form of a rejection of its values and non-compliance with its rules. Unconscious resistance occurs at the psychological level and is a reaction to oppression. The result of entrenched state intolerance is internal value-conflicts, criminality and stigma. A tolerant attitude to deviants usually causes fewer problems than an intolerant one; thus, the main sociological theories include some form of tolerance as an integral aspect of social policy.

The methods of criminal activity always adjust to changing social and economic conditions. This is why it is first of all necessary to create the conditions for the elimination of the causes which support the spread of the shadow economy, corruption and the criminalisation of the younger generation. It is urgently necessary to:

- a) draw up scientific, legal and statistical criteria about crime, the shadow economy and their causes;
- b) organise publication (which has to be open for research and study) of the annual reports of the law enforcement bodies such as the Ministry of Justice, the Ministry

of Internal Affairs, the State Department for the Execution of Sentences, the Tax Police and the Security Service of Ukraine for systematic trends analysis.

At the same time, we should have no illusions about easy solutions to these problems. We know of no example of a country with a market economy without a shadow sector. However, it is usually between five and 12%, not 60-70%. Thus, it is imperative that the causes and trends of illegal activities are studied a view to minimising their influence on society.

On the one hand, Ukraine has to de-criminalise its Criminal Code and introduce alternative sanctions for non-professional offenders which commit manor crimes as well as legalising some illegal businesses through significant changes in tax policy in favour of small businesses. On the other hand, the way to improve the struggle against the shadow economy, especially in dealing with its leaders, is to fix a more precise definition of their criminal responsibility in a new Criminal Code. There should be a clear definition of "criminal association", as a group of persons organised for joint criminal activity. At the moment, in the absence of this definition the state is struggling with the Shadow economy, which has resulted in the apprehension of "soldiers" and not the "generals". The "generals" continue to enlist new "soldiers" among the young unemployed and are planning new stages in the development of the Shadow State in Ukraine.

The combined influences of political and economic factors have led to an alienation of the population from the state. The "new millennium" public conscience in Ukraine has developed some criminal features during transitional period, which are difficult to overcome:

- (1) Loss of social solidarity and belief in a positive future;
- (2) An undermining of the idea of "law and order". A significant part of the younger generation now considers crime as a normal way to achieve prosperity in the conditions of a market economy;
- (3) Contempt for law enforcement structures, distrust in the ability of law enforcement bodies to protect the public interest;

4) The absence of an uniting ideology. We mean that, in conditions of sharp impoverishment, after the deligitimisation of Marxism, neither religion nor a national philosophy has been able to win the hearts of the majority. In such circumstances, a significant part of the population develops the ideology and morality of individual survival.

Modern societies are highly unstable and the pluralisation of life has resulted in a greater complexity of values and norms. Consequently, social tolerance has become an important component of civil society and, as a concept of interaction, has to be embedded in administrative practices. The word "tolerance" does not exist in the vocabulary of the prison community at present, but interactions are much more tolerant than those recommended by the official regulations. People can unite not necessarily only in order to achieve common goals; having different aims, they might need each other and co-operate to accomplish their own separate purposes. The necessity for tolerance is sometimes mentioned by Ukrainian political leaders and tolerance has found its place in speeches to leaders of the international community in the search for finance for reforms, but it is still not clearly fixed in penal policy and it is not supported by legislation. Consequently, there has been a rise in "tolerance" only through effective co-operation in illegal fields - in the shadow economy and in the invisible, hidden life of prisons. Accustomed to being a passive subject of the rules, a person will feel himself to be free, even in a totalitarian country, simply because nobody is actually watching or threatening him daily life. Contemporary Ukrainians live in the Shadow State, solve problems according to Shadow Laws, maintain a Shadow democracy, earn hidden incomes, and so have become indifferent to the social problems of disadvantaged groups rather than tolerant.

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Вечірній Київ (Evening Kyiv)

Всеукраинские Ведомости (All-Ukrainian News)
Голос України (Voice of Ukraine)
День (The Day)
Зеркало недели (Mirror of the Week)
Интересная газета (Interesting Newspaper //special issue “Criminogen”, monthly)
Киевские Ведомости (Kyiv news)
Київський вісник (Kyiv Reporter)
Практика предпринимательства (Business Practice)
Робітнича газета України (Ukraine Labour)
Столичная газета (Capital Newspaper)
Тюрьма и воля (Prison and Liberty)
Українські Новини (Ukrainian News)
Українські проблеми (Ukrainian Problems)
Урядовий кур'єр (Governmental Bulletin)
Факты и комментарии (Facts and Comments)
Шлях перемоги (The Road to Victory)
Юридичний кур'єр (Juridical Bulletin)
Intelnews Business Journal (in English)

Glossary

Actirovka - when a prisoner becomes very sick and can no longer work (see: *dohodyaga*), prison doctors apply for an amnesty on the grounds of bad health. This “charity” serves to reduce the internal death rate in prisons. As a rule, after “*actirovka*” an ex-prisoner dies from “natural causes” in two-six months, but such statistics do not exist.

Activists - the group which consist of convicts who openly collaborate with the prison administration.

Blutnoy – (outlaw) - a professional criminal who reject official legislation and follows "the notions" – the special rules of behaviour in the criminal world. Blutnoys declare that they live not according to the common law, but by "notions".

Cekhoviks - the organisers of illegal production. By the end of '70s “*cekhs*” (illegal enterprises) operated in the USSR on massive scale. Cekhovics deducted % of their income to influential members of the nomenclature so they would turn a blind eye to these factories. Soon, officials themselves began organisation of illegal production in state factories and got control over the shadow producers.

Cocks - the group of homosexuals and those who were raped (punishment). This group fulfils the most stigmatising work inside prisons (cleaning toilets etc.) and provides "sexual services".

Dohodyaga – a prisoner who is sick, exhausted and no longer capable of work. Literally translation – “approached to death”.

Dystrophic – an exhausted prisoner whose weight is 20 kilos less than is normal for his height. For example, a person 184 cm tall and weight 62 kilos is a "dystrophic"; if the difference is more than 30 kilos, (in our case 54 kilos or less) he becomes a "*dohodyaga*".

GULag – The Central Directorate of (Prison) Camps was established in 1930.

Hrivna – Ukrainian national currency introduced in 1996. In 1996, 1\$ = 1,86 Hrivnas, in 1997=2.04 Hrivnas, in 1998=3,40 Hrivnas, in 1999 1\$ = 4,50 Hrivnas, in 2000 US \$1= 5,50 Hrivnas.

Muzhik – a person who has committed a crime by accident or for survival (i.e. non-professional criminal²¹⁹), but who is loyal to professional criminals, follows the "notions" and does not inform the administration about hidden prison life.

NKVD – The People's Commissariat for Internal Affairs. Until 1946, all Ministries in the USSR were known as "People's Commissariats". After 1946, the NKVD became the Ministry of Internal Affairs (MIA).

Obschuk – The shared common "pot" of criminal leaders, i.e. money collected by professional criminals for mutual aid.

OGPU - United State Political Administration, predecessor of the KGB.

Oper – operational commissioner – a post in the NKVD, VCheKa, OGPU, MIA and KGB. The network of operational commissioners covered all the territory of the USSR.

Pajka – rations inside prisons and colonies, a norm of daily food supply (soup, mash, meat, fish, tea, and sugar).

PD – (Penitentiary Department) the State Department for the Execution of Sentences.

Prison stratification: *persons* ("blutnoys" and "muzhiks") and *victims* ("activists" and "cocks"). The highest status in prison belongs to the group of "blutnoys" and the lowest to the "cock" group.

Red Zone - prison colonies where the administration once achieved, and then for years preserved, total control over inmates. "Blutnoys" in "Red Zones" do not play so important a role in the prison community as in other penitentiaries. The main roles in prison life belong to "muzhiks" and "activists". Due to constant administrative pressure, "blutnoys" "sit quietly" and claim that they are nothing more than "muzhiks".

RSFSR – Russian Socialist Federation of Soviet Republics. In 1924 it renamed the USSR.

SLON - Solovetsky Camps of the Special Assignment, established in 1922 on Solovetsky islands in the White Sea.

Stukhachestvo - large scale informing or squealing. The term derives from the word "stukhach" - informer and provocateur.

²¹⁹ Muzhik is the Ukrainian for: 1) an uncouth country fellow; 2) a he-man.

"Thieves in the law" – godfathers of the criminal fraternity.

VcheKa - the All-Russia Extraordinary Commission for Combating Counter-revolution and Sabotage – a political subdivision of the NKVD.

Verhovna Rada – the Ukrainian Parliament (432 People's Deputies).

II. Mark your agreement (+) or disagreement (-) with the statements about the significance and the role of social welfare in our state.

	The Welfare State:	“+”or”-”
28	Makes people more ready to help each other	
29	Makes people less willing to look after themselves	
30	Makes for a more caring society	
31	Costs too much in tax	
32	Gives people the satisfaction of helping others they do not know	
33	Saps the will to work	
34	Makes people more equal	
35	Makes people less ready to look after their relatives	
36	Meets people’s needs satisfactorily	
37	Doesn’t provide enough in benefits and services	
38	Makes people who get benefit and services feel like second-class citizens	
39	Is more or less fair	
40	Has too many rules and regulations	
41	Doesn’t affect most people much	
42	Helps people who do not deserve help	
43	Gives most people value for money	
44	Makes people take less responsibility for their children	
45	Is good in principle but needs reform	
46	Helps the working class more than the middle class	
47	Is something most people do not feel involved in	
48	Causes bad feeling between taxpayers and people who get benefits and services	
49	Is necessary in a modern society	
50	Gives people a greater sense of security	
51	Interferes too much in people’s lives	
52	Makes for a just society	
53	Helps people who do not need help	

III. Mark each statement in the right margin according to how much you agree or disagree with it. Please mark every one. Write +1, +2, +3, or -1, -2, -3, depending on how you feel in each case.

- +1: I agree a little -1: I disagree a little
+2: I agree on the whole -2: I disagree on the whole
+3: I agree very much -3: I disagree very much

54	The highest form of government is a democracy and the highest form of democracy is a government run by those who are most intelligent.	
55	Even though freedom of speech for all groups is a worthwhile goal, it is unfortunately necessary to restrict the freedom of certain political groups.	
56	Man on his own is a helpless and miserable creature.	
57	Fundamentally, the world we live in is a pretty lonesome place.	
58	Most people just do not give a “penny” for others.	
59	I’d like it if I could find someone who would tell me how to solve my personal problems.	
60	There is so much to be done and so little time to do it	
61	It is better to be a dead hero than to be a live coward.	
62	The main thing in life is for a person to want to do something important.	
63	If given the chance, I would do something of great benefit to the world.	
64	Most people are failures and it is the system which is responsible for this.	
65	I am sure I am being talked about.	
66	There is a number of people I have come to hate because of the things they stand for.	
67	In the history of mankind there have probably been just a handful of really great thinkers.	
68	To compromise with our political opponents is dangerous because it usually leads to the betrayal of our own side.	

69	When it comes to differences of opinion in religion we must be careful not to compromise with those who believe differently from the way we do.	
70	Of all the different philosophies which exist in this world there is probably only one which is correct.	
71	In times like these, a person must be pretty selfish if he primarily considers his own happiness.	
72	It is only when a person devotes himself to an ideal or cause that life becomes meaningful.	
73	The worst crime a person could commit is to attack publicly the people who believe in the same thing as he does.	
74	A group which tolerates too much difference of opinions among its own members cannot exist for a long time.	
75	My blood boils whenever a person stubbornly refuses to admit he's wrong.	
76	A person who thinks primarily of his own happiness is beneath contempt.	
77	Most of the ideas which get printed nowadays aren't worth the paper they are printed on.	
78	The present is all too often full of unhappiness.	
79	If a man is to accomplish his mission in life, it is sometimes necessary to gamble "all or nothing at all".	
80	Unfortunately, a good many people with whom I have discussed important social and moral problems do not really understand what's going on.	
81	It is only natural for a person to be rather fearful of the future.	

82. Select the statement (one choice), which is most correct for Ukraine:

- 1) Our justice system (police and the courts) works properly - it guarantees and protects equal rights of all citizens and it is objective and incorruptible.
- 2) The lack of professional qualifications among detectives and judges sometimes causes infringement of the law.
- 3) Our justice system protects the interests of the nomenclature and the people's deputies first of all.
- 4) At the moment our justice system is totally corrupt and protects the interests of those people, who can pay large bribes (no matter who they are).

83. Select the statement according to your opinion (one choice):

- 1) All people sentenced to imprisonment are pure criminals.
- 2) Many prisoners receive sentences which are too severe and sometimes unjust.
- 3) Punishment is given only to people, who have no friends in high office.
- 4) Our prisons mainly contain people who have not offered bribes detectives and judges.

84. Please evaluate to what extent this set of factors hinders social work in prison?

	<i>0 – not hinder at all ⇒ 5 hinders very much</i>	0	1	2	3	4	5
1	Old rules and regulations						
2	Lack of co-operation between different departments						
3	Frequent visits by control commissions						
4	Miserable salary of prison staff						
5	Poor financing of the prison system (nutrition, health service etc.)						
6	Corrupt employees of the prison service (low level)						
7	Poor qualifications of the prison staff						
8	Corruption in the State Department for the Execution of Sentences						
9	Prisoners' idle labour (unemployment inside colonies)						
10	Prisoners' hostility (organised resistance)						
11	Prisoners' indifference to their own fate						
12	Other (write in)						

IV. Please give some information about yourself: (circle or insert)

85. Sex: m-1; f-2.

86. Age.....full years.

87. Experience of current penal system...years.

88. Present family status:

- | | |
|-------------------------|----------------------------|
| 1. married | 2. have permanent partner |
| 3. have close relatives | 4. have different partners |
| 5. bringing up a child | 6. alone |

89. How many years you have been working for the prison service?

90. What post do you hold at the moment

91. Education

92. Type of education

- | | | | |
|-------------------------|--------------|-----------|----------|
| 1. unfinished secondary | 1 | 2 | 3 |
| 2. secondary | humanitarian | technical | military |
| 3. special secondary | | | |
| 4. unfinished higher | | | |
| 5. higher | | | |

93. Living conditions: 1. good 2. satisfactory 3. bad

Your current relations with: good neutral bad

94. relatives - - - - - 1 2 3

95. bosses (administration) - -- -1 2 3

96. Whom would you address first in dire straits ?

- | | | | |
|--------------|--------------------|-----------------------|---------------------|
| 1. Relatives | 3. Religion/priest | 5. A lawyer | 7. The mass media |
| 2. Friends | 4. My local deputy | 6. The administration | 8. Manage by myself |

Other

Has the attitude of other people to you always depended on the differences mentioned below:

- | | | |
|------------------------------|-----|----|
| | Yes | No |
| 97. Other nationality (race) | 1 | 0 |
| 98. Financial state | 1 | 0 |
| 99. Different moral values | 1 | 0 |
| 100. Your past | 1 | 0 |
| 101. Your profession | 1 | 0 |
| 102. Your state of health | 1 | 0 |

103. What in particular would you like to be changed in the way the penal system functions?

.....

Appendix II

Region	Registered facts of negligence / prohibited relationships between personnel and convicts														
	Total:			Administration			Civilians			Military guards			Other		
	'96	'97	+-%	'96	'97	+-%	'96	'97	+-%	'96	'97	+-%	'96	'97	+-%
Cherkasska	16	16	0	4	6	50	3	1	-67	0	7	600	9	2	-78
Chemihivska	5	3	-40	0	1	100	2	1	-50	3	1	-67	0	0	0
Chemivetska	5	2	-60	0	0	0	4	2	-50	1	0	-100	0	0	0
Crimea (Aut. Rep.)	9	4	-56	1	3	200	1	1	0	7	0	-700	0	0	0
Dnepropetrovska	24	18	-25	3	4	33.3	8	3	-63	13	11	-15	0	0	0
Donetska	25	3	-88	6	1	-83	10	1	-90	9	1	-89	0	0	0
Ivano-Frankivska	0	1	100	0	0	0	0	1	100	0	0	0	0	0	0
Kharkivska	62	60	-3.2	10	14	40	9	9	0	9	6	-33	34	31	-8.8
Khersonska	10	21	110	4	10	150	4	5	25	2	6	200	0	0	0
Khmelnyska	7	2	-71	1	2	100	3	0	-300	3	0	-300	0	0	0
Kiyivska	14	16	14.3	2	10	400	7	4	-43	3	2	-33	2	0	-200
Kirovogradska	19	23	21.1	1	0	-100	5	9	80	0	0	0	13	14	7.69
Luganska	30	42	40	8	20	150	6	4	-33	15	18	20	1	0	-100
Lvivska	38	25	-34	15	8	-47	14	14	0	7	3	-57	2	0	-200
Mycolayivska	33	7	-79	0	3	300	3	3	0	4	0	-400	26	1	-96
Odeska	40	25	-38	3	2	-33	3	2	-33	8	4	-50	26	17	-35
Poltavska	11	7	-36	0	2	200	3	4	33	5	1	-80	3	0	-300
Rivnenska	5	4	-20	0	4	400	1	0	-100	1	0	-100	3	0	-300
Symska	50	45	-10	2	2	0	0	3	300	4	1	-75	44	39	-11
Temopilaska	5	11	120	0	2	200	5	8	60	0	1	100	0	0	0
Vinnitska	15	11	-27	6	5	-17	2	3	50	7	2	-71	0	1	100
Volynska	11	13	18.2	0	0	0	0	2	200	0	0	0	11	11	0
Zaporizhska	86	78	-9.3	6	6	0	16	18	12.5	14	13	-7.1	50	41	-18
Zhitomirska	9	12	33.3	1	2	100	1	3	200	1	2	100	6	5	-17
TOTAL (1997)	529	449	-15	73	106	45.2	110	101	-8.2	116	79	-32	230	162	-30

Region	Disclosed facts of banned items supplied to convicts by prison staff	Withdrawal of prohibited items in 1997								Crimes prevented inside colonies	
		Hrvinas		\$		Alcohol (litres)		Drugs (grams)		1997	+-%
		Total	From convicts	Total	From convicts	Total	From convicts	Total	From convicts		
Cherkasska	16	2217	779	1396	527	33	8	516.9	105.3	20	81.8
Chemihivska	3	677	426	632	171	1.85	0	872	871	4	-20
Chemivetska	2	153	142	749	211	0	0	6.2	0	52	62.3
Crimea	4	1195	764	63	63	45	4	130.7	130.7	19	-5
Dnepropetrovska	18	2468	494	344	202	41	1.5	263	110.4	673	93.9
Donetska	3	6699	1775	775	155	150	1.5	6467	1.4	676	16.75
Ivano-Frankivska	1	644.6	0	268	0	2.75	0	40.3	6	35	150
Kharkivska	61	3949	1081	718	310	42	0.3	88.41	5	503	26.7
Khersonska	21	2164	619	1095	288	155	58.7	1393	0	224	7.1
Khmelnyska	2	1046	408	1906	436	6.2	0	26	0	186	34.8
Kiyivska	16	2862	1217	1524	789	74.2	10.3	321	56	124	7.8
Kirovogradk	17	1149	709	461	246	22.5	4.5	189.8	18.43	95	5.5
Luganska	42	8049	2699	437	222	137	47	4732	157	556	2.4
Lvivska	24	2448	1635	666	0	61.7	20	117	117	95	-45.1
Mycolayivska	9	3803	1540	2165	283	112	11	357.3	17.1	50	-3.85
Odeska	8	1725	801	768	353	93.7	20	207.6	5.2	57	46.1
Poltavska	7	1981	452	693	289	40.7	0	65.2	0	267	0
Rivnenska	4	293	256	792	79	24.8	0	11.6	0	115	-1.7
Symska	6	860	189	1153	348	60.8	0	122.5	0	105	1
Temopilaska	13	1791	388	159	0	8	0	13.1	0	14	16.7
Vinnitska	11	1036	605	296	196	61.2	0	25.64	0	59	-3.28
Volynska	2	525	287	156	20	10	0	0	0	78	0
Zaporizhska	17	4505	2306	2519	1005	39	3.5	1662	40	512	-5.2
Zhitomirska	6	625	174	382	156	22.6	4	82.3	46.9	285	7.5
TOTAL	313	52864.6	19746	20117	6349	1245	194.3	17710.5	1582	4804	19.84

	1997 Region	Registered crimes (convicts) inside IES	Actions aimed at disrupting IES	Deliberate murder	Attempted murder	SHB	Escape from guarded colony	Escape from Colony-settlement	Attempt at escape	Hooliganism	Drugs-related crimes	Theft of state property	Theft of private property	Persistent insubordination	Threat of violence	Keeping weapons	Other crimes	Crime level per 1000
1	Cherkasska	23				2			1		5	1		6		5	3	5.6
2	Chernihivska	9						1			3	2	2				1	3.35
3	Chemivetska	5				1					1			3				2.42
4	Crimea (A. Rep.)	12				1					5			2		4		5.46
5	Dnepropetrovska	39		1				2	2	1	2			26			5	2.48
6	Donetska	119						33	3	3	1			67	5	1	6	5.09
7	Ivano-Frankivska	1						1										0.58
8	Kharkivska	39		1				12	1	1	1		1	20		1	1	2.6
9	Khersonska	12			1	1	1		1		1			3		3	1	1.56
10	Khmelnitska	4						1					1	1	1			0.71
11	Kiyivska	14		1	1	1			2		3			5		1		2.71
12	Kirovogradska	23						9			1			8		4	1	7.23
13	Luganska	54					1	11			10			13		18	1	3.63
14	Lvivska	12				4	1		1	1	1			3		1		1.51
15	Mycolayivska	18				4		3	1		1			7		2		2.89
16	Odeska	12				1		2	1		3			2		2	1	1.74
17	Poltavska	19				1		1						15		2		3.2
18	Rivnenska	11				1								8			2	3.29
19	Symska	10					1	5						4				2.52
20	Temopilska	7									1			6				2.52
21	Vinnitska	42				2	1	12						15	6	4	2	8.44
22	Volynska	8						2						5			1	5.76
23	Zaporizhska	26					1	17			2			3	1		2	2.4
24	Zhitomirska	6				1			1		1			3				1
	TOTAL	525	0	1	1	1	1	31	1	1	3	3	1	121	1	4	5	44.95
	Total in 1996	560	3	10	0	24	6	126	25	9	36	2	3	226	17	46	27	3.4
	+ / - %	-6.3	-100	-70	100	-17	0	-11	-44	-33	16.7	50	0	-0.4	-24	6.5	3.7	-5.9

According to data from Department for the Executions of Sentences, during 1997 several types of crime were not registered at all. In particular: robbery, sodomy and actions aimed at disrupting life in prison.

	Region	Average daily population in labour colonies of all types	Paid job available for % plan 76.6%	Average salary Plan - 4.20 Hm/Day	Debts of prisoners wages Hrivnas (000s)	Delays to pay off salary for: months	The scale of production Hrivnas (000s)	Sale of production		Residue of unsold production				Annual balance profit / loss Hrivnas (000s)		Profitability of production %		Production growth/recession	
								Total Hrivnas (000s)	Barter including %	Remainder in warehouses		Debtor debts		Industrial	Agricultural	Industrial	Agricultural	1991-96 (% for 6 years)	1997 %
										1.01 1997	1.01 1998	1.01 1997	1.01 1998						
1	Cherkasska	4460	30.2	1.89	5	3.9	3490	2817	61.9	574.4	1218.4	399.4	410.1	254	0	9.8	0	-29.5	-4.9
2	Chernihivska	2835	35.5	1.19	89	2.8	2286	2384	44.5	350.8	400.4	485.3	209.5	105	0	4.7	0	-60	10
3	Chemivetska	2071	72.9	1.21	86	4.1	1609	809	63.5	1198	1987	68	76	38	0	4.9	0	-53.9	-5.2
4	Crimea (A. Rep.)	2239	17.6	2.96	62	2.7	953	889	72	933.4	1001	29.2	64.9	-91	0	-7.5	0	-93.2	71.3
5	Dnipropetrovska	17243	40.3	1.41	467	3.8	14508	12434	61.5	2999.1	3497.9	2611.7	3979.4	851	-443	6.6	-44	-31.6	23.8
6	Donetska	25116	42.3	1.69	1665	5	34707	35428	90.7	6423.2	7053.5	5235.3	8420.6	3323	31	9.9	3.5	-26.6	16.1
7	Ivano-Frankivska	1945	44.4	1.60	140	5.4	1570	1273	70	655.8	876.4	341	443.1	102	0	7.7	0	-68.7	3
8	Kharkivska	16307	57.9	1.34	813	4.2	22389	21193	41.4	2092.7	3606	2991	2224.1	913	29	4.5	2.2	-72.8	20.6
9	Khersonska	7828	25.5	1.07	171	3.1	2703	2325	72.6	1364.2	1591.8	310.4	337.2	125	0	5.2	0	-68.6	5.4
10	Khmelnitska	5670	49.0	1.39	339	3.9	9091	6790	74.3	2492.1	4782.5	497.7	480.5	809	0	12.6	0	-49.3	9.8
11	Kiyivska	6447	38.9	2.74	426	4.5	9099	7124	79.6	3051.7	3906.1	417	792.5	527	0	7.4	0	-57.2	-6.6
12	Kirovogradsk	3265	45.1	1.73	41	1.3	4108	4678	37.7	911.3	1376.5	785	640.9	645	-895	15.9	-99.7	-18.5	3.7
13	Luhanska	16202	54.3	1.57	1395	6.3	18947	1665	94.4	5204	7479.8	2791.3	2806.9	1337	-232	7.6	-17.5	-62.8	-10
14	Lvivska	8244	49.6	1.43	628	5.5	7677	6874	84.4	2380.1	3010.4	809.9	933.7	246	0	3.4	0	-34.5	17.4
15	Mycolayivska	6443	43.3	1.29	261	5	4116	4171	82.9	1129.1	1248.2	677.7	653	318	41	8.2	11.7	-20	45.4
16	Odeska	7323	28.4	1.36	138	5.7	6562	4810	32.8	1023.3	1441	712.8	2313	402	0	8.9	0	-53.2	13.8
17	Poltavska	6902	59.1	1.44	150	3.5	3650	3044	58.3	1075.4	1567.1	552.7	578.4	173	-98	5.8	-2.1	-56.5	-7.2
18	Rivnenska	3807	61.8	1.63	190	3.2	6551	5208	76.4	1440.3	2523.8	641.3	899.3	553	0	11.9	0	-64.9	-16.1
19	Symska	4325	62.5	1.38	302	4.7	6503	5138	75	2310.3	3298.3	1162.6	1003.6	888	3	20.3	2.9	-53.8	23.6
20	Ternopiliska	2675	31.6	1.25	20.9	5.3	1642	1406	48.7	543.3	820.1	217.2	213.2	64	0	4.8	0	-88.2	-1.3
21	Vinnitska	6113	60.3	1.65	86	1.1	9489	8455	64.5	2524.7	3598.8	391.6	306.9	856	0	11.1	0	-57.6	10.6
22	Volynska	1313	79.5	1.54	92	2.9	2380	1968	66.4	503.1	1013.4	238.9	136.9	70	0	3.6	0	-88.9	19.6
23	Zaporizhska	11352	46.9	1.83	140	5.4	18975	16427	71.6	4959.7	6691.4	2374.2	1367.3	2618	-375	16.8	-15.6	-50.4	5.4
24	Zhytomiriska	6461	43.8	1.47	284	2.5	11901	10654	78.5	2511	3451.7	1003	1244	603	0	5.4	0	-75.5	-5.8
	TOTAL	176586	46.7	1.41	7990.9	4	204906	167964	66.81	48651	69440.51	25744.2	30535	15729	-1939	7.9	-6.117.5	-55.67	10.1