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Some Aspects of Sentence Execution and Release on Parole in Pre-Revolutionary Russia (the Case of Transbaikal Region)

Olga A. Malygina^a, Alexandra N. Myakhanova^a
and Andrey P. Skiba^{b*}

^a*Banzarov Buryat State University*

Ulan-Ude, Republic of Buryatia, Russian Federation

^b*Academy of Law Management of the Federal Penal Service of Russia
Ryazan, Russian Federation*

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Abstract. The article discusses historical evidence of parole release application presenting a wide range of archival materials and statistical data. This topic provokes interest due to a certain shift towards a concern for the victim's interests observed after the emergence of new criteria in the criminal code. The article is devoted to the history of release on parole in Siberia, particularly in Transbaikal region, in the pre-revolution period. Analysis of the available official documents and personal correspondence of military governors of Transbaikal region gives evidence of their opinions concerning exile and penal servitude in the region in the second half of the 19th-early 20th centuries. The available archival and statistical data have enabled us to show the history of parole practice and to highlight some topical issues of determining the criteria for the detainees' correction, and, accordingly, advisability of their release on parole.

Keywords: military governor, release on parole, service of sentence, Transbaikal region, convict settlers.

Research area: law.

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Parole is one of the most widely used forms of exemption from punishment. At the same time, not all aspects of release on parole are regulated by the current criminal, penal and criminal procedure law in Russia: the provisions for such release are rather vague (which, among other things, precludes from predicting the post-penitentiary behavior of the released person – authors’ note); this type of release is based solely on the detainee’s correction and has no goal to prevent commission of new crimes by both detainees and other persons; there are absolutely no provisions for the release of the detainee from serving any additional punishment; there is no clear specification of the body that must monitor the behavior of persons released from correctional facilities; the court is not obliged (it is its right – authors’ note) to impose post-penitentiary duties on the convicted person in order to control his/her behavior and continued corrective treatment; etc.

This has led to a lack of uniform application practice and corresponding controversy in the legal literature¹. Perhaps, to improve unified application of parole, the Plenum of the Supreme Court of the Russian Federation issued a resolution No. 8 of April 21, 2009 “On the judicial practice of release on parole from serving the sentence and replacing the unserved part of the sentence with a milder punishment”, which managed to resolve some problematic issues.

Meanwhile, the number of detainees who served sentences in detention facilities has decreased almost by half from 1 092 000 people in 2000 to 575 686 people by October 1, 2018²,

¹ Eftremova, I.A. (2018). Material’noe osnovanie uslovno-dosrochnogo osvobozhdeniya ot nakazaniya [The material basis for the early conditional release from punishment]. In *Vserossijskij kriminologicheskij zhurnal [Russian Journal of Criminology]*, 12 (1), 82-91; Kashuba, Y.A., Skiba, A.P. (2011). Institut uslovno-dosrochnogo osvobozhdeniya: novyj vzglyad [Release on Parole: New Views]. In *Chelovek: prestuplenie i nakazanie [Man: Crime and Punishment]*, 1, 14-17; Erkhutuyeva, T.I., Shcherbakov, G.V., Myakhanova, A.N., Dondokova, M.Yu. (2018). Znachenie uslovnogo osuzhdeniya i uslovno-dosrochnogo osvobozhdeniya dlya dostizheniya celej nakazaniya [The importance of probation and parole in achieving the objectives of punishment]. In *Chelovek: prestuplenie i nakazanie [Man: Crime and Punishment]*, 26 (1), 57-63; et al.

² Official web-site of the Russian Federal Penitentiary Service. Available at: fsin.su

and 860 347 people³ were released on parole for the ten-year period from 2007 to 2016. At the same time, until 2009, release on parole was applied on a massive scale, as the number of granted applications for parole in some regions reached 90%⁴, so, in fact, applications for such release were usually declined only in case of outstanding or unexpunged penalty. So, and in 2005 Chairman of the Supreme Court V. Lebedev even proposed to change the procedure of release on parole, recommended to transfer this function from the judiciary agencies to the Ministry of Justice and to psychologists, and pointed out that 82% of parole applications were granted in 2004⁵.

At the same time, the level of crime recurrence (about 35%) among parolees is, in fact, comparable to those who have been released on completing their term of punishment⁶, which is why it is debatable whether the goals of correction and prevention of new crimes are really achieved through application of parole. In this case, the existence of such type of early release from punishment as parole, in the absence of accurate application criteria and binding to achieving the goals of the criminal penal law (Art. 1 of the Criminal Code of the Russian Federation), can hardly be considered reasonable.

V. Ovchinsky puts forward more arguments against the so-called “humanization of punishment” issue: among those who serve sentences in detention facilities, the majority have committed grave offences and felonies, about half previously served sentences for violent crimes. They are mainly adults with settled life attitudes and sufficient illegal action experience. Therefore, if the parole practice expands further, the main part of such offenders will fall into a situation of growing unemployment and lack of money after release, and

³ Official website of the Judicial Department of the Supreme Court of the Russian Federation. Available at: <http://www.cdep.ru>

⁴ Official website of the Judicial Department Office in the Republic of Buryatia. Available at: <http://usd.bur.sudrf.ru>

⁵ The Supreme Court suggests changing the procedure of parole (2005). In *Rossiyskaya Gazeta*. February, 2

⁶ Resolution of the Federation Council of the Federal Assembly of Russia No. 33-CФ of February 17, 2010. Available at: <https://www.garant.ru/products/ipo/prime/doc/1257249/>

most likely will commit new crimes and face detention again⁷.

In this case, there remains the question of determining the criteria for the detainee's successful correctional rehabilitation, and, accordingly, for advisability of his/her parole.

In recent years, we have witnessed a certain shift towards the interests of the victim, which has been facilitated, among other things, by the amendments to Article 79 of the Criminal Code of the Russian Federation and Article 399 of the Criminal Procedure Code of the Russian Federation. Following the new criteria in the Criminal Code, including full or partial compensation for the inflicted damage or otherwise compensation for the damage inflicted because of the crime, the courts now tend to reject an increasing number of parole applications submitted by convicted persons.

However, there is still a serious challenge that the criminal code does not identify a specialized public body that must exercise control over the behavior of the persons released on parole. Therefore, due to this lack of control, these persons often commit new crimes.

We believe that currently the previous experience of applying this type of exemption from punishment in our domestic legislation acquires particular importance.

In theory, the Institute of parole in Russia, apparently, originated somewhere in the 19th century, against the background of discussions about a progressive system of criminal penalty execution, attempts to classify offenders, etc. The rise of the penitentiary science in Europe occurred in the second half of the 18th – early 19th centuries, together with the development of the foundations for the penitentiary system functioning, which suggested eradication of negative habits leading to crimes by involving detainees in labor and general education, moral impact on an individual – up to early release from punishment for exemplary behavior and positive attitude to work.

Historically, the penal correction system in Siberia was formed in the 17th century. This re-

gion was not chosen for this purpose for several reasons. The Imperial authorities assumed that considerable territorial and information isolation from the provincial centers, lack of developed transport communications, and harsh climate were supposed to provide the necessary regime of sentence serving that would rule out the risk of prisoner escape.

However, in the second half of the 19th century the need to reform the penal system and the penitentiary institutions themselves became urgent⁸. Among the most pressing issues there were: overcrowded detention facilities; lack of work for prisoners in most penal institutions; unsatisfactory state of the detention facilities, most of which were in need of either a major overhaul or a fundamental redesign and reconstruction; imperfect legislation, which led to confusion in the matters concerning detention conditions; numerous violations of the service regime both by prisoners and by the detention facilities staff.⁹

As a result, a law on parole was adopted in 1909¹⁰. According to Art. 2 of this Law, parole could be granted to prisoners if their good behavior during detention gives reason to believe that they will lead a decent life when released. In addition, article 11 of the Law on parole stipulated that in case of parole, the prison governor would offer prisoners to give a written obligation to observe the conditions under which they were granted freedom, and also to indicate the place of residence they chose for the parole period, while Articles 15 and 20, for instance, stipulated a possibility of post-penitentiary control over the behavior of the released persons. It is obvious that the legislator of that time aspired to focus on the detainee correction and prevention of repeated crimes commitment.

⁷ Krizis i nakazaniye. Zhdet li «kholodnoye leto 2009-go» planetu? [Crisis and punishment. Is the “cold summer of 2009” waiting for the planet?] In *Ukraina kriminal'naya*. Available at: http://www.cripo.com.ua/print.php?sect_id=1&aid=68695

⁸ Kalmina, L.V., Malygina, O.A. (2016). «*Blyustitel' neprikosnovennosti*»: institut voennogo gubernatora Zabajkalskoj oblasti [“Guardian of Immunity”: Institute of Military Governor of the Trans-Baikal Region]. Ed. by K. B.-M. Mitupov. Ulan-Ude: Buryat State University press.

⁹ Simatov, A.A. (1998). *Tyuremnaya reforma v Rossii (1860–90-e gg.)* [Prison reform in Russia (1860–90s)]. Avtoref. dis. ... kand. ist. nauk. Irkutsk, 1998. P. 17.

¹⁰ Aleksandrovsky, Yu.V. (1910). *Zakon ob uslovnom dosrochnom osvobozhdenii* [Parole Act]. SPb., Library Edition «Novoe zakonodatel'stvo», P. 30.

Let us consider a number of the above-mentioned issues through the example of the Transbaikalian region.

The process of administrative reforms in the penal system in Transbaikalian region, which started in the middle of the 19th century, was preceded by the establishment of the regional administration in 1851 and introduction of a new administrative and military post of the Military Governor, who held all the administrative power in his hands. This reform led to the fact that supervision over convicts was included in the responsibilities of the Military Governor, and, therefore, to legislative review of the entire penalty system organization in the region. 1859 saw a Supreme Decree on the transition of Transbaikalian penal servitude prisons under the jurisdiction of the Military Governor. In 1864 Kariyskaya penal servitude prison became subordinated to the Military Governor. In 1869, the exiles of the Nerchinsk and Petrovsky factories were transferred from the Mining Department to the Civil Department, which led to establishment of a special administration of the Nerchinsk penal servitude, which was in direct subordination to the Transbaikalian Military Governor. Now the Mining Department was only responsible for providing and managing the work done by convicts. In all other aspects, the latter were administered by self-organized prison departments in different work locations, not connected with each other, and subordinated only to the Military Governor¹¹.

The position of Transbaikalian region Military Governor existed from 1851 to April 1917. Throughout the said period, the future of the convicts and their families was the subject of constant attention for the Transbaikalian region's administration. To be specific, being the top official in the region, the Military Governor was also Vice-chairman of the Transbaikalian regional trustee committee on prisons, while the governors' wives usually presided over the ladies' trustee board on prisons¹².

¹¹ Volochaeva, A.V. (2009). Nerchinskaya ugolovnaya katorga vo vtoroj polovine XIX v. [Nerchinsk penal servitude in the second half of the 19th century]. Avtoref. diss. ...kand. ist. nauk. Ulan-Ude, P. 20.

¹² *Pamyatnaya knizhka Zabajkal'skoj oblasti na 1871 g.* [The memorial book of the Trans-Baikalian region in 1871] (1871). Irkutsk, P. 13; *Pamyatnaya knizhka Zabajkal'skoj*

This activity of the Transbaikalian administration had no occasional character, as they were well aware of the future that awaited the families following the prisoner to Transbaikalia. A. Keiserling, Special Assignments Officer to the Priamur Governor-General A.P. Corfe, said in his memoirs: "I was most deeply and painfully impressed by [...] innocent women and children. The state, of course, allowed them to follow their husbands and supported them during their journey, but when they reached their destination, they immediately lost all custody. The prisoner went to prison, [...] while his family was left unattended to hunger and vice¹³."

His impressions coincided with the view of the governors regarding the fate of the exiles' families. Military Governor E.O. Maciejewski said in his report for 1890: "The situation of these families was extremely sad; often the only bread-winner is in prison, so his wife and children are left to starvation without any opportunity to earn anything"¹⁴.

In their reports, almost all military governors petitioned for shelters for the children of exiled convicts, hospitals and almshouses for sick and elderly exiles. In particular, Military Governor N.P. Dietmar in September 1871 attempted to arrange a shelter for such children in the Nerchinsk penal servitude. He appealed to P. Kosakovsky, Director of the Police Department at the Ministry of Internal Affairs, with this request. In his letter he described in detail the reasons that prompted him to turn to the latter, and named the exact amount of money required to establish a shelter. "In the Nerchinsk factories there is a significant number of exiles' children who are deprived of shelter and food after the death or escape of their par-

oblasti na 1891 g. [The memorial book of the Trans-Baikalian region in 1891] (1891). Chita, P. 19, 21; *Pamyatnaya knizhka Zabajkal'skoj oblasti na 1892 g.* [The memorial book of the Trans-Baikalian region in 1892] (1892). Nerchinsk, P. 23, 25; *Pamyatnaya knizhka Zabajkal'skoj oblasti na 1900 g.* [The memorial book of the Trans-Baikalian region in 1900]. Chita, Vol. 1. P. 21, 22, 24; *Pamyatnaya knizhka Zabajkal'skoj oblasti na 1898 g.* [The memorial book of the Trans-Baikalian region in 1898] (1898). Chita, Vol. 1. P. 21, 24.

¹³ Keiserling, A. (2001). *Vospominanie o russkoj sluzhbe* [Remembering Russian Service]. M., P. 30.

¹⁴ GAZK [State Archive of Trans-Baikalian Territory]. F. 1 (o). Op. 1. D. 2942. L. 18.

ents, or during their detention – the Governor wrote – besides, as they live among exiles, these children begin to follow their immoral example, and fall into debauchery, to which especially girls are betrayed from their early years. Leaving these children without special supervision and shelter, we should expect them to turn into criminals in future; in order to prevent this from happening it is necessary to arrange an orphanage at Kariysky factory, for at least 90 children of both sexes, but meanwhile we have no means either for initial arrangement or for annual maintenance¹⁵. According to the calculations made by General Dietmar, they required a lump sum of 14 500 RUB to provide a building for the orphanage, and the annual sum of \$ 8500 RUB for its maintenance. However, this idea was not implemented¹⁵.

Still, the Military Governor continued his attempts in 1873. N. P. The Dietmar, anyway, managed “to arrange an orphanage to provide care, upbringing and education to the children of exiled convicts at Kariysky factory, which came under the supervision of Nerchinsk punitive laborer administration. The institution has been founded on private means, with the aim to give shelter mostly to orphans and half-orphans of exiled parents... Accommodation and training in the orphanage is free of charge and all the children are fully maintained by the orphanage; there are no visiting students. The children (both boys and girls) are taught literacy on the primary public school level at the orphanage. In summer they are engaged in gardening. There are from 25 to 50 children under care at the orphanage. The maintenance of each, including administration costs, makes about 100 rubles¹⁶.”

According to the “Prison management provisional rules under the jurisdiction of the Ministry of Justice” of December 26, 1897, No. 42, the Transbaikalia region was among “simplified prison management areas”. In 1911, the authorities established a Prison Inspection in the Transbaikalia region. Unlike the Irkutsk

¹⁵ RGIA [Russian State Historical Archive]. F. 1286. Op. 32. D. 691. L. 1-1ob., 7, 10.

¹⁶ Khoroshin, M.P. (1891). *Zabaikalie. Kratkij istoricheskij, geograficheskij i statisticheskij ocherk Zabajkal'skoj oblasti* [Transbaikalia. A brief historical, geographical and statistical outline of the Transbaikalia region]. Irkutsk. P. 115.

province, where the Prison Inspector was in direct subordination to the Chief of the Prison Head Office, in Transbaikalia the post of Prison Inspector was established under the Military Governor of the Transbaikalia region¹⁷. The position was temporary, as it was established only for the period of the Amur railway construction.

It is in the Amur railway construction period that we find the first mentioning of convict early release granted for their diligent work, rather than clemency, which was in common practice in pre-revolutionary Russia. Thus, V. I. Kosov, Military Governor of the Transbaikalia region, wrote: “Part of the Amur railway, this highly important transportation line that is going to connect the country by a continuous rail route running within the borders of Russia, passes through the Transbaikalia region. Unfavorable soil conditions and a variety of other reasons have caused a great difficulty in recruiting workers to the road construction. The urgency of the construction work was the reason to draw prisoners as labor force, especially convicts, who by the nature of their punishment were condemned to hard labor; in view of the particularly severe conditions of work, hard laborers were given not only an opportunity to earn money, but also some benefits concerning their punishment term¹⁸.” This practice was used throughout the construction period.

The legislative introduction of the parole institution allowed to relieve the pressure from the prisons. Thus, in 1910 12353 convicts were released on parole, in 1911 – 14040, and in 1912 – 11544¹⁹.

Further development of the parole institution is associated with the adoption in 1915 of

¹⁷ Istorija penitenciarnoj sistemy v Buryatii (XVIII– nachalo XXI vv.) [The history of the penitentiary system in Buryatia (XVIII – early XXI centuries)] (2006). Pod obshch. red. S.P. Susha. Ulan-Ude. P. 65.

¹⁸ Vsepoddannejšij otchet o sostojanii Zabajkal'skoj oblasti za 1910 g. [The most comprehensive report on the state of the Trans-Baikalia region in 1910]. In *NSB RGIA KPZ* [Scientific reference library of the Russian State Historical Archive. Collection of printed notes]. No. 21. P. 7-8.

¹⁹ Uporov, I.V. (2004). *Penitenciarная политика России в XVIII-XX vv.: istoriko-pravovoj analiz tendencij razvitiya* [Penitentiary policy of Russia in the XVIII-XX centuries: Historical and legal analysis of development trends]. SPb.: Izd-vo «Yuridicheskij centr Press». P. 288.

the general prison instruction, which stated, in particular, that “deprivation of liberty, which prevents the acts of crime from continuing, is aimed not only at punishment, but also at correction, elimination of bad inclinations and habits, as well as at preparation for a fair working life outside prison”. This document also defined the tasks of prison staff and revealed the content of their work on prisoner moral correction. The staff had to “instill in the prisoners the correct notion of common civil responsibilities that require devotion to one’s homeland and submission to the existing laws and authorities”.

A change in the service conditions and procedure for prisoners would depend on their attitude towards compliance with the regime, and was recognized as one of the most important incentives for their correction. The notions of “test subjects” and “groups under correction” were introduced in the legislation that regulated the organization of prison life. When serving their sentence in correctional departments, those detainees who had proven their good conduct for two years and had demonstrated diligence in work, could be included into a special improving detainee unit.

One more problem facing the Military Governor was the care of elderly people who had been released from prison. By 1909, the number of elderly settlers who were unable to work, and, therefore, received a three-ruble allowance, had reached 157 people in the region. In fact, according to Military Governor V.I. Kosov, the number of such people who were in need was much higher, although the lack of funds gave no opportunity to grant support to all of them. In many cases, as the Governor pointed out in his report, “the elderly exiles become a burden for the local community who have to support the existence of these unfortunate ones”²⁰.

Yet, the social situation in Transbaikalia was in the first place aggravated by those de-

tainees who got released from prison and settled down in the region as exiles, which could not but cause discontent among the local population that suffered from the crime figures “flooding” Siberia.

According to N.M. Yadrintsev, the Siberian region had to bear a burden of maintaining criminals for the whole country, so the entire weight of the detention system fell upon only a small part of the population in the Russian Empire – mainly on the Siberian peasantry. Apart from the constant threat of crime repetition and of the vicious morals of the criminal circles spreading over Siberian communities, the local population suffered financially, too, as all the duties connected with the exiles lay upon them, which explains why the rural communities protested against exiles being registered within their borders²¹.

In 1889, Military Governor M.P. Khoroshkhin wrote in his report: “Detached from his previous situation, quite spoiled both morally and physically during a long way to the exile destination and, then, detention, empty-handed, such a settler would turn up at a place assigned to him to stay and settle. Here he has to start all his household from scratch and up to the last board, the community has to assign land to him to be his allotment, and he must lead a working life. Many choose not to work, and the society willingly dismisses them. Gradually the exile population has accumulated in the region, has grown to tens of thousands and become a major curse corroding the region, an incurable disease depleting the local population, who, in the end, have to feed all those who either do not want to work or cannot work due to illness or old age”²².

Military Governor V.I. Kosov supported his predecessor in his report for 1910: “The issue of the exiles’ situation in Transbaikalia is becoming more acute with every year, since currently there are only three volosts left at our

²⁰ Vsepodannejšij otchet o sostoyanii Zabajkal’skoj oblasti za 1910 g. [The most comprehensive report on the state of the Trans-Baikal region in 1910]. In *NSB RGIA KPZ [Scientific reference library of the Russian State Historical Archive. Collection of printed notes]*. No. 10/1. P. 1.

²¹ Yadrintsev, N.M. (1882). *Sibir’, kak koloniya: K yubileyu trekhsotletiya: Sovrem. polozhenie Sibiri. Yeyo nuzhdy i potrebnosti. Yeyo proshloe i budushchee [Siberia as a colony: to the anniversary of the three hundredth anniversary: the present situation of Siberia. Her needs and needs. Her past and future]*. SPb., Vol. XII. P. 215–216.

²² *GAZK [State Archive of Trans-Baikal Territory]*. F. 1. Op. 1 (o). D. 2811. L. 46–46 ob.

disposal for their settlement, while the rest are exempt from such settlement, according to the law on land management; yet, there are from 600 to 700 settlers arriving from hard labor exile each year. The greater part of the exile figures, being unsuitable for farming and unable to find jobs in the places of settlement, naturally seeks to move away from there [...] the local communities are happy to get rid of them and do not prevent the settlers from withdrawal. As a result there occurs a steady influx of criminals to cities and towns, and, consequently, a steady increase in the number of committed crimes there”²³.

Many of the exiles had no desire to start a household, but chose to live as tramps and do odd jobs. While in the 1880s and 1890s there was only about 5 % of the homeless among the old-timer peasants in Eastern Siberia, this proportion was higher than 50% among the exile population. Some of them headed for the cities and towns in search of jobs and earnings of various kind²⁴.

One of the most popular types of employment for those exiles in Transbaikalia, who did not want to start their household, was work at private gold mines, which attracted labourers with relatively high earnings.

N.M. Yadrinsev considered the “incalculable evil of exile” to be the major obstacle to the distribution of common civil rights in Siberia. In his opinion, both the Siberian administration and the Siberian society were equally aware of the drawbacks of exile and the necessity of its cancellation²⁵.

²³ Vsepoddannejšij otčet voennogo gubernatora Zabajkal’skoj oblasti za 1910 g. [The most comprehensive report on the state of the Trans-Baikal region in 1910]. In *NSB RGIA KPZ* [Scientific reference library of the Russian State Historical Archive. Collection of printed notes]. No. 21. P.2.

²⁴ Solovieva E.I. (1983). *Rasselenie i položenie ssyl’nyh v Sibiri vo vtoroj polovine XIX v.* [Resettlement and the situation of exiles in Siberia in the second half of the 19th century]. *Politicheskie ssyl’nye v Sibiri (XVIII – nachalo XX v.)* [Political exiles in Siberia (XVIII – beginning of XX century)]. Novosibirsk, 1983. P. 218.

²⁵ Yadrinsev, N.M. (1882). *Sibir’, kak koloniya: K jubileju trekhstoletiya: Sovrem. položenie Sibiri. Yeyo nuzhdy i potrebnosti. Yeyo proshloe i budushchee* [Siberia as a colony: to the anniversary of the three hundredth anniversary: the present situation of Siberia. Her needs and needs. Her past and future]. SPb., Vol. XII. P. 222.

In his report for 1889 M.P. Khoroshkhin appealed to the Emperor: “I submit to your Majesty’s gracious consideration an indication of another powerful means for the region’s improvement: this is cancellation or restriction of exile to Transbaikalia. [...] the day, when by your Majesty’s grace the exile to Transbaikalia is abolished or limited, will be a joyful day for the region not only in the short run, but for many, many future generations”²⁶.

According to Military Governor V.I. Markov, exile to the Transbaikal region was necessary at the time when the region had such a low population that it was impossible to hire workers to develop the mines, while their delivery from central Russia, due to the lack of efficient transportation ways, was too complicated and costly. However, by the beginning of the 20th century, the Military Governor emphasizes, the above mentioned conditions had changed, and exile labor became a threat for the region. Its existence in the Transbaikal region, in Nerchinsk Factory area close to the border with China, “is a dangerous anachronism,” V.I. Markov argued, because “our eastern neighbor is not the same as it was some time ago”. The presence of an exile colony near the Chinese border, the Governor believed, was inconvenient even in peacetime, while in case of a military situation would pose a very serious threat, as up to 3.5 thousand criminals would be located in the rear and on the flanks of the Russian army. In the wartime conditions it would be impossible to evacuate them and it might be easy for them to break free. The Military Governor also argued that if the interior Russian regions could wait for a legislative decision concerning the exile issue, “the situation for the border area of Transbaikalia was different. No one can say for sure when the strength of our situation in this area may be severely tried”²⁷.

Besides, exiled detainees were involved in major projects of state importance.

²⁶ GAZK [State Archive of Trans-Baikal Territory]. F. 1. Op. 1 (o). D. 2811. L. 46 ob.

²⁷ Vsepoddannejšij otčet Voennogo gubernatora Zabajkal’skoj oblasti za 1908 g. [The most comprehensive report on the state of the Trans-Baikal region in 1910]. In *NSB RGIA KPZ* [Scientific reference library of the Russian State Historical Archive. Collection of printed notes]. No. 34. P.11.

For example, part of the Amur railway ran through the Transbaikal region, but unfavorable soil conditions and other reasons caused difficulties with engaging convicted workers in its construction. The need for the railroad to be rapidly constructed made it necessary to employ labor force in the face of convicts, especially exiled detainees, who essentially were convicted to hard labor; however, they were given not only an opportunity to earn money, but also benefits in reducing the period of serving the sentence. Thus, in April 1910, the first batch of 225 people was sent from the Aleksandrovsky central prison (near Irkutsk), so during the summer working season, up to 2,500 convicts were already working on the railroad construction – part of them had been transferred from the Nerchinsk penal servitude and another part – from European Russia.²⁸

By that time, the number of exiled settlers in the region had only been 16,981 persons of both sexes, i.e. 2.8% of the total population. Meanwhile, there were more than 24,000 exiles in 1890 (i.e. about 5% of the population – authors' note), which indicates a significant decrease in the number of such persons. This change in the exile figures is explained by the introduction of the Royal Manifesto of 1891 (thanks to this act on granting of favors to the exiled, their numbers in the Transbaikal region had decreased from 5% to 2.8% – authors' note).²⁹

In practice, release on parole could be granted to convicts on condition that their positive behavior during detention gave sufficient grounds to believe that upon release from detention they were likely to lead a good life. An early released person was transferred for the entire remaining unserved imprisonment term under the supervision and care of the local patronage society or the local committee or the Department of the Trustee Society for Prisons.

The conditional nature of early release consisted in the opportunity of its revocation

“if the person released on parole commits any criminal act during the period of conditional release, for which he will be convicted by a court sentence, or if his vicious behavior, which may threaten personal or public safety or order, is established (such as: alcohol abuse, lewdness, loitering, bumming, dealing with vicious people, etc.)”. In case the released person was returned to the place of detention, the period spent at liberty was not counted in the service term.³⁰

To conclude, we can say that the harsh conditions in the sentence service facilities, overcrowding, lack of separation and classification of criminals, etc. led to the introduction of the parole institution in Russia. Its practical application helped to resolve the issue of saving public funds for maintenance of the detention facilities, and allowed to unload the penitentiaries, which had turned into places that promoted spread of criminal subculture and contributed to repeated crime growth. When discussing the possibility of reestablishing exile as a type of criminal punishment³¹, one should take into account the shortcomings of its application in the pre-revolutionary period: lack of work for such convicts, growing pressure on the local communities connected with exile maintenance costs, etc.

As a result, the historical experience of parole application shows that release of a convicted person by itself gives no guarantee of either their correction or prevention of new crimes committed by such convicts. In view of this, it becomes obvious that we need not only clearly defined criteria for early release of convicts, but also post-penitentiary monitoring of their behavior.

²⁸ Vsepoddannejšij otčet o sostoyanii Zabajkal'skoj oblasti za 1910 g. [The most comprehensive report on the state of the Trans-Baikal region in 1910]. In *NSB RGLA KPZ* [Scientific reference library of the Russian State Historical Archive. Collection of printed notes]. No. 21. P. 7-8

²⁹ *GAZK* [State Archive of Trans-Baikal Territory] F. 1(o), op. 1, d. 3354. L. 23ob.-24.

³⁰ Vsepoddannejšij otčet o sostoyanii Zabajkal'skoj oblasti za 1910 g. [The most comprehensive report on the state of the Trans-Baikal region in 1910]. In *NSB RGLA KPZ* [Scientific reference library of the Russian State Historical Archive. Collection of printed notes]. No. 21. P. 2.

³¹ Krymov, A.A., Rodionov, A.V., Skiba, A.P. (2017). Exile on penal servitude in the Russian Empire in the XIX century: some aspects of applying. In *Codrul Cosminului*, 1, 151-164; Skiba A.P., Rodionov A.V. (2016). O reanimacii ssylki kak ugolovnogo nakazaniya: pravovye i ehkonomicheskie aspekty [About the Exile Promulgation as a Criminal Punishment: Legal and Economic Aspects]. In *Ugolovno-ispolnitel'noe pravo*, 4, 17-21.

Некоторые аспекты исполнения наказаний и условно-досрочного освобождения осужденных в дореволюционной России (на примере Забайкальской области)

М.А. Малыгина^а, А.Н. Мяханова^а, А.П. Скиба^б

*^аБурятский государственный университет
имени Доржи Банзарова*

Российская Федерация, Республика Бурятия, Улан-Удэ

*^бАкадемия права и управления Федеральной службы
исполнения наказаний России*

Российская Федерация, Рязань

Аннотация. В статье на основе широкого круга архивных материалов и статистических данных представлен исторический опыт применения условно-досрочного освобождения. Интерес к этой теме вызван определенным уклоном в сторону учета интереса потерпевшего, в связи с появлением в УК РФ новых критериев. Статья посвящена истории условно-досрочного освобождения в Сибири, в частности в Забайкалье, в дореволюционный период. Проанализировав имеющиеся официальные документы и личную переписку военных губернаторов Забайкальской области, авторы представляют их мнение относительно ссылки и каторги в регионе во второй половине XIX – начале XX в. Имеющиеся архивные и статистические данные помогли показать историю становления применения УДО и осветить актуальные вопросы определения критериев исправления осужденного и, соответственно, целесообразности его условно-досрочного освобождения.

Ключевые слова: военный губернатор, условно-досрочное освобождение, отбывание наказания, Забайкальская область, ссыльнопоселенцы.

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