

## **SOLIDIFYING SOCIALIST RULE: LEGAL MECHANISMS OF THE FORMATIVE PERIOD OF THE USSR (1922-1932)**

*Ellie Xu*

University of Auckland, New Zealand

Contact email: [elliexu01@gmail.com](mailto:elliexu01@gmail.com)

### **Abstract**

This essay argues that Soviet leadership employed oppression and terror disguised as legal mechanisms to solidify socialist rule in the formative period of the USSR – from the USSR’s birth under Lenin to the conclusion of Stalin’s First Five-Year Plan. While the Soviet legal system aimed to place the law into the hands of the proletariat, the result was an expansion of state power at the expense of the individual. This essay makes three key arguments. First, broad judicial discretion and arbitrariness characterised the prioritisation of the collective and the efficient dismantling of the bourgeois legal profession. Second, severe punitive measures, from the death penalty to the Gulag, promulgated socialist values into daily lives. Third, Soviet leaders imposed collectivisation and engendered class warfare to obscure the oppressive reality of the First Five-Year Plan. Beneath the façade of constitutional legitimacy, the USSR's legal architecture functioned to quell counter-revolutionary dissent and enforce ideological conformity. Ultimately, the human cost of the Soviet legal architecture reveals the profound gulf between the USSR’s stated aims and its lived reality. Vague legislation and unfettered discretionary power left citizens at the mercy of a totalitarian elite — and no rule of law to protect them.

## I Introduction

The formative years of the Union of Soviet Socialist Republics (“USSR”) embodied a nihilistic precept that rejected traditional legal procedure and bourgeois legal institutions; socialism was the means of liberation hindered by the oppressive instrument of law. The Soviet political system epitomised the teachings of Karl Marx, where communism would be the ultimate outcome of the proletarian revolution that overthrows capitalism, eradicating the state and social classes.<sup>1</sup> To repress resistance and establish socialist order, the USSR’s infancy was overwhelmed with extensive loose statutory interpretation, discretionary exercises of power, and notorious decrees to criminalise dissent.

In the legal nihilist vision without lawyers, popular justice would replace the arcane and oppressive institutions and procedures of bourgeois legality. From the nihilist standpoint, law and socialism are incompatible; law is a bourgeois vestige – a pillar of domination from the economic foundation of capitalism oppressing society, whereas socialism is a means of liberation.<sup>2</sup> Nonetheless, the Soviet regime was markedly engaged with the appearance of legality and appointing a complex legal bureaucracy – creating a façade of constitutional existence to assert legitimacy.

While significant scholarship covers Soviet law, enforcement, and lived experiences, this essay addresses how Soviet leaders systematically used legal mechanisms to solidify socialist rule by quelling thoughts of counter-revolution to garner obedience to the new regime. This essay argues that Soviet leadership employed oppression and terror disguised as legal mechanisms to solidify socialist rule in the formative period of the USSR. This period ranges from the birth of the USSR with Vladimir Lenin as the Bolshevik leader to the end of Joseph Stalin’s First Five-Year Plan. Part II contends that the USSR concentrated power in a select few, prioritised collective interests in law, enabled broad judicial discretion, and reduced the education levels of legal practitioners to efficiently promote socialist ideals and dismantle bourgeois remnants in the legal system. Part III explores the punitive and extreme measures enacted to engender obedience to socialist tenets. Part IV analyses the First Five-Year Plan’s collectivisation efforts, where authorities wielded arbitrary power and created artificial starvation to emphasise the collective’s priority over individual rights. All legal mechanisms turned towards the perpetuation of terror to legitimise Soviet rule.

Soviet leaders dressed up totalitarian unfettered discretion and arbitrary criminal decisions as ostensible legitimacy. Ultimately, Lenin and Stalin created an environment of terror that greatly

---

<sup>1</sup> Anne Kerr and Edmund Wright, eds., *A Dictionary of World History* (Oxford University Press, 2015).

<sup>2</sup> Eugene Huskey, “A Framework for the Analysis of Soviet Law,” *The Russian Review* 1991, no. 1 (1991): 53-70.

restricted the rights and liberties of citizens. Whilst they aimed to place the law into the hands of the proletariat, the reality was a landscape of arbitrarily proclaimed crime, persecution of class enemies, and widespread death. This essay argues that through a totalitarian application of legal mechanisms, Soviet leaders exercised unfettered discretion to silence counter-revolutionary opposition and discordant values.

## **II From a Bourgeois Fetish to the Law of the Proletariat**

The principles of the Soviet justice system represented a complete upheaval of traditional legal theory. Soviet leaders dismissed objectivity as bourgeois falsifications, radically departed from conventional individual rights, and framed legal education as a product of ideological enemies.

### ***A The First USSR Constitution and Relevant Laws***

Adopted on 31 January 1924, the Constitution of the Union of Socialist Soviet Republics (“Constitution”)<sup>3</sup> prefaces a denouncement of capitalism, beginning with a declaration dividing the world into capitalism and socialism – the former engages in national conflicts, inequality, and oppression, whereas the socialist camp embraces reciprocal peace, equality, and liberty.<sup>4</sup> Significantly, the Constitution outlines global aspirations for the unionisation of all workers and establishment of the World Wide Socialist Soviet Republic.<sup>5</sup>

### ***1 Supreme Organs of the USSR***

At the time of the Constitution’s adoption, the USSR consisted of nine independent states governed by the Federal Congress of Soviets. Since it only convened annually, the Central Executive Committee (“CEC”) (elected from the Federal Congress) functioned during congressional recesses.<sup>6</sup> Within the CEC, one president was elected from each Republic of the Union to form the Presidium – the supreme organ during the CEC’s sessional recesses.<sup>7</sup> The CEC elected the Politburo to make urgent decisions.<sup>8</sup>

The Constitution granted the CEC extensive overarching powers. Article 17 states that the CEC publishes legislation (including decrees), manages the USSR’s administration, and defines the

---

<sup>3</sup> John N. Hazard, “The Soviet Constitution: An Introduction,” *Lawyer Guild Review* 3, no. 6 (1943): 27-42.

<sup>4</sup> Milton Andrew *Twelve Leading Constitutions with Their Historical Backgrounds* (American University Series, 1931).

<sup>5</sup> Andrew, *Twelve Leading Constitutions*.

<sup>6</sup> Article 8.

<sup>7</sup> Article 29.

<sup>8</sup> Richard Sakwa, *Soviet Politics: In Perspective* (Routledge, 1998).

spheres of the Presidium and the Council of Commissioners of the People (“CCP”). Thus, the CEC held immense authority – all decrees and acts defining political and economic life in the USSR had to be submitted for the CEC’s examination and approval.<sup>9</sup> Furthermore, the CEC could suspend or abrogate decrees and acts of the Presidium, Congress, and all other territorial organs.<sup>10</sup> The Presidium oversaw the enforcement of the Constitution and execution of Congress and CEC decisions by public agents.<sup>11</sup> Consequently, political and legislative power lay with a small political elite with minimal checks.

On the judiciary, the Constitution only referred to the Supreme Court of the USSR, which maintained revolutionary legality amongst the member republics’ Supreme Courts, examining decrees, settling disputes, and the like.<sup>12</sup>

## **2 Restriction of Rights and Liberties**

Whilst the Constitution lacked provisions on individual rights, the Presidium, CEC, and CCP moved to restrict individual rights and freedoms through decrees. The CCP was the executive and administrative organ of the CEC.<sup>13</sup> It controlled the Unified Political Administration of State (“GPU”), aiming to unify the revolutionary efforts of member republics against political and economic counter-revolution, spying, and banditry.<sup>14</sup>

The Decree of 16 October 1922 granted the GPU sweeping powers to classify someone as “socially dangerous” for exile and forced labour.<sup>15</sup> This power included the right to extrajudicial repression, including execution for banditry.<sup>16</sup> Despite violating natural justice principles, Soviet leadership sought to establish the GPU as an instrument of authority and fear even prior to the Constitution’s adoption.

To suppress anti-Soviet thought, the Decree of 9 February 1923 established a Committee of Control with jurisdiction over stage productions and published periodic lists of forbidden and permitted

---

<sup>9</sup> Article 18.

<sup>10</sup> Article 20.

<sup>11</sup> Article 30.

<sup>12</sup> Article 43.

<sup>13</sup> Article 37.

<sup>14</sup> Article 61.

<sup>15</sup> Andrew, *Twelve Leading Constitutions*.

<sup>16</sup> Gerard Pieter van den Berg “The Soviet Union and the Death Penalty,” *Soviet Studies* 35, no. 2 (1983): 154-174.

works. Subsequently, the Decree of 12 May 1923 required all scientific, literary, and art societies to abide by a constitution corresponding to the model approved by the Commissioners of Justice, Interior, and Instruction.<sup>17</sup> Soviet leadership quickly curtailed creative freedoms – perhaps in the wake of the recent revolutions, they deemed a populace devoid of dreams as necessary for the regime’s survival.

The Decree of 6 June 1922 established the Main Directorate of Literature and Publishing Houses (“Glavlit”) and political editors under Glavlit authority.<sup>18</sup> The Glavlit controlled the press, publishing houses, bookstores, and libraries.<sup>19</sup> The decree instructed the Glavlit to censor works that contained agitation to Soviet power, revealed military secrets, aroused public opinion with false information, or were pornographic. Its vague nature allowed considerable latitude in classifying pieces as anti-Soviet agitation. In May 1923, the Politburo issued more comprehensive guidelines for the Glavlit to align private publishers to state needs. For example, non-Marxist works could only be sold in limited editions for the ideologically conscious (immune to the teachings) or bourgeois specialists already infected by them. This prevented the autodidacts or students who might fall victim to the contagious ideas from being exposed to the literature. The Politburo prohibited pulp literature and genre works unless they helped spread Soviet influence among the bourgeoisie.<sup>20</sup> By establishing mechanisms to censor non-Soviet ideology, the regime ensured the media helped to propagate the Soviet cause and depleted any tinder of counter-revolution and unaligned thoughts.

Soon after, to concentrate ideological control, the secret police’s power widened, with sole discretion over whether changes could be made to theatrical texts (Decree of 11 March 1928) and special surveillance over press censorship compliance (Decree of 16 September 1930).<sup>21</sup>

Soviet legislation deprived citizens of power and freedom, consolidating control in the supreme organs. Decrees were an efficacious method to legitimise actions to rapidly further ideologies. For Soviet leadership, legitimising its power and suppressing opposition was paramount – it was a totalitarian regime maintaining the appearance of legal adherence in climates of radical upheaval to suppress dissent.

---

<sup>17</sup> Andrew, *Twelve Leading Constitutions*.

<sup>18</sup> Brian Kassof, “Glavlit, Ideological Censorship, and Russian-Language Book Publishing, 1922-38,” *The Russian Review* 74, no. 1 (2015): 69-96.

<sup>19</sup> Andrew, *Twelve Leading Constitutions*.

<sup>20</sup> Kassof, “Glavlit.”

<sup>21</sup> Andrew, *Twelve Leading Constitutions*.

## ***B Prioritisation of Collective Interests over Personal Interests***

USSR leaders exalted Marxist doctrine to justify state control over all facets of society. A core precept of Marxism and communism is the social ownership of property and the central planning of the economy. A communist society abolishes all private ownership in production and the market economy. Instead, planning ministries set production targets for factories and collective farms (*kolkhozy*). Notably, the USSR was never a technical communist state as a small political elite controlled society,<sup>22</sup> rendering it a fundamentally totalitarian regime.

Lenin's methods of instilling Soviet ideology were severe from the outset. His Decree of 22 July 1918 stated that anyone guilty of selling, buying up, or keeping for sale business food products which had been placed under the RSFSR's monopoly was liable for imprisonment for at least 10 years, accompanied with the most severe forced labour and confiscation of their property. Essentially, any peasant who kept grains to sell would have been committing a crime under this decree.<sup>23</sup> The importance of the collective good was so great that peasant farmers could be prosecuted for not surrendering all produce to the State. The decree ordered the already strained countryside to surrender its harvest annually without compensation, sparking peasant revolts. In the end of 1920, the State began repressing the Tambov peasants' rebellion. There was no trial for the Tambov peasants, but throughout the province, authorities established concentration camps to house the families of peasants who participated in the revolts. If the suspected rebel did not materialise to trade his family's freedom with his head within three weeks, their family faced exile.<sup>24</sup> The State strategically targeted families to achieve its goals.

In the hard-lined pursuit of the Marxist ideal, Stalin eliminated private business from cities and individual farming from the countryside during the First Five-Year Plan. When he assumed power, Stalin used law, particularly criminal law, to secure the regime's ideological priorities, instituting a system of socialist property to rival the role of private property in capitalist societies.<sup>25</sup> In 1930, the Decree of 30 January 1930 and the Decree of 1 February 1930 enabled the confiscation of *kulak* (affluent peasant farmer) property and the redistribution to the indivisible funds of the *kolkhoz*<sup>26</sup> (rural

---

<sup>22</sup> Kerr and Wright, eds. *A Dictionary*.

<sup>23</sup> Aleksandr Solzhenitsyn, *The Gulag Archipelago* (Harper & Row, 1973).

<sup>24</sup> Solzhenitsyn, *The Gulag Archipelago*.

<sup>25</sup> Yoram Gorlizki, "Communism and the Law," in *The Oxford Handbook of European Legal History*, eds. Heikki Pihlajamäki, Markus D. Dubber, and Mark Godfrey (Oxford University Press, 2018).

<sup>26</sup> David R. Marples, *Motherland: Russia in the Twentieth Century* (Routledge, 2002).

association operating under co-operative management and public ownership of the principal means of production).<sup>27</sup> The decrees were to eliminate the capitalist practice of private ownership of the means of production.

The Soviet legal system epitomised the prioritisation of the collective. The Soviet procuracy secured state interests by denying established individual legal rights, such as excluding defence counsel from investigation until its conclusion. After court hearings, cases could undergo supplementary investigation to provide investigators with a second chance to make their arguments where they failed the first time. Furthermore, there was a denial of testimonial privileges – family members, priests, and professionals could not refuse to testify against defendants. Soviet trial judges issued special rulings independent of judgments to address the social context that induced the crime. In Soviet civil law, judges were to account for interests beyond the parties', even if it meant introducing law that neither party cited.<sup>28</sup> As such, with the procurators (effectively state representatives), social priorities permeated judicial outcomes.

Instilling the Soviet ideal was so vital to the regime's success that it systematically deprived citizens of property. It threatened families, eliminated private ownership, and prioritised the collective in law.

### ***C Broad Judicial Discretion and Social Danger***

The role of judges involved employing their socialist legal consciousnesses to punish retroactively and interpret the law expansively to include novel crime. Thus, any act could be criminal if it was deemed counter-revolutionary.

Despite the USSR's embrace of Marxist principles, Lenin inverted the Marxist argument that the law is an instrument of bourgeois oppression – instead arguing that the law should be in the hands of the working class within a proletarian state. The law had to be more transparent with simpler court proceedings and increased flexibility, prioritising the trial's "social purpose" over adherence to statute – the trial judge possessed discretion over the social purpose. Article 1 of the RSFSR Civil Code 1922 enshrined this prioritisation: the law protected civil rights except in circumstances where one exercised the civil rights in contradiction with their socio-economic purpose.<sup>29</sup> Judges epitomised social purpose and disregarded civil rights when they were deemed counter-revolutionary.

---

<sup>27</sup> Alexander Vucinich, "The Kolkhoz: Its Social Structure and Development" *The American Slavic and East European Review* 8, no. 1 (1949): 10-24.

<sup>28</sup> Gorlizki, "Communism and the Law."

<sup>29</sup> Gorlizki, "Communism and the Law."

In criminal matters, the emphasis of Soviet dogma was even more pronounced. In the RSFSR Criminal Code 1922, “social danger” was the key to judicial sanctioning. Individuals could be prosecuted for committing or being a social danger. Courts could apply the doctrine of analogy, imposing penalties for acts that, while not explicitly prohibited in the code, bore similarity to defined offences.<sup>30</sup> Significantly, the RSFSR Criminal Code 1922 was the model for all future Soviet codes. Since it was to be applied adhering to the doctrines of retroactivity and analogy for alleged criminal actions, courts could hear crimes committed prior to the code’s enactment and could consider criminal actions absent in the code.<sup>31</sup> The State delegated judges incredible discretion to interpret social dangers, greatly accentuating the spirit of class favouritism – prioritising the proletariat’s interests over the bourgeoisie’s. Thus, judges had immense judicial discretion to hand down judgments for novel crimes based on their socialist legal consciousnesses.<sup>32</sup> Law in the hands of the working class led to judges punishing any actions not imbued with socialist values.

Nonetheless, some members of the RSFSR Criminal Code 1922 drafting committee argued that the code should incorporate the traditional legal concept of *nullum crimen sine lege, nulla poena sine lege*<sup>33</sup> (no crime without the law, no sanctions without the law).<sup>34</sup> However, since Russia was a new state, the code needed to anticipate crimes that society or leadership may have to consider in the future. Thus, it entailed broad authority to adjudicate such hypothetical or future crimes. Subsequently, the RSFSR Criminal Code 1926 strengthened the doctrine of analogy as a key principle of Soviet criminal law.<sup>35</sup> Article 6 of the 1926 code defined crime as an act or omission that is a social danger towards the Soviet system or violates the Worker-Peasant Regime during the transition to a communist system. Article 19 attributed liability to perpetration, attempt, incitement, aiding and abetting, and preparatory acts.<sup>36</sup> This authorised wide interpretations to capture any counter-

---

<sup>30</sup> Gorlizki, “Communism and the Law.”

<sup>31</sup> David M. Crowe, ed., *Stalin’s Soviet Justice: ‘Show’ Trials, War Crimes Trials, and Nuremberg* (Bloomsbury Publishing, 2019).

<sup>32</sup> Crowe, *Stalin’s Soviet Justice*.

<sup>33</sup> Crowe, *Stalin’s Soviet Justice*.

<sup>34</sup> Claus Kress, “Nulla Poena Nullum Crimen Sine Lege,” in *Max Planck Encyclopedia for Public International Law* (Oxford University Press, 2010).

<sup>35</sup> Crowe, *Stalin’s Soviet Justice*.

<sup>36</sup> Adam Lityński, “Soviet Criminal Law in the Eyes of a Gulag Prisoner: Alexandr Solzhenitsyn’s Lecture on Criminal Law in Light of “The Gulag Archipelago”,” *Krakowskie Studia z Historii Państwa i Prawa* 16 (2023): 105-119, eJournals.

revolutionary act or omission. The Soviet regime used the sacred halo of written law to legitimise contraventions of natural justice through the façade of fundamental legality.<sup>37</sup>

In the 1930s, Stalin's leadership had three main consequences on the law. Firstly, the regime strengthened the distinction between strict legality and political justice administered through summary extrajudicial procedures.<sup>38</sup> Police could make decisions on the spot, bypassing court procedures and violating natural justice principles. Secondly, Stalin expanded the "social danger" element of the RSFSR Criminal Code 1922 to encompass socially harmful elements. This catch-all category consisted of social identity and social origins considerations as opposed to statutory violations.<sup>39</sup> In the 1920s, someone with two previous court convictions was an example of a socially harmful element. However, in the 1930s, socially harmful "alien" elements included itinerants, unemployed people, and actual or suspected petty criminals. After 1935, not being usefully employed or being religious were socially harmful elements that could result in summary arrest and sentencing by extrajudicial police sentencing boards – consequences were up to five years in corrective labour camps or deportation colonies.<sup>40</sup> Thus, the severity of violating the socialist ideal rapidly increased over time.

Equipped with broad judicial discretion, courts in the USSR's formative years could control citizens' actions and quash inklings of anti-socialist sentiment. Furthermore, the threat of extrajudicial sentencing for social dangers demanded heightened care in thoughts and actions, instilling a pervasive climate of fear.

### ***D Reduction in Education Levels of Legal Practitioners***

Legal amateurs resolved disputes and maintained social order in the transition from bourgeois law to a socialist society. This anti-professional sentiment sought to end formal legal education and experience.<sup>41</sup> Whilst it seems counter-productive to replace lawyers and judges with laypeople to apply and uphold the law, it was done to place the law into the hands of the working class. In a new state that prioritised the proletariat, law was merely a tool for the proletariat to maintain order on the path towards a lawless communist society.

---

<sup>37</sup> Hannah Arendt, *Origins of Totalitarianism* (Meridian Books, 1958).

<sup>38</sup> Gorlizki, "Communism and the Law."

<sup>39</sup> Gorlizki, "Communism and the Law."

<sup>40</sup> David Shearer, *Policing Stalin's Socialism: Repression and Social Order in the Soviet Union, 1924-1953* (Yale University Press, 2009).

<sup>41</sup> Huskey, "A Framework."

## **1 Appointing procurators and judges**

Bolshevik politicians and jurists agreed that judges and procurators had to be Communist Party members and largely from working-class backgrounds. This is because their “own people” had to administer criminal law to serve socialism – they expected only Communists and workers to have the appropriate revolutionary consciousness to effectively apply discretion in the Soviet regime’s interests. By 1923, 78.9% of procurators and 63.0% of people’s court judges were party members. At the provincial level, 97.6% of procurators held party cards, 76.0% of provincial court judges were party members, and 100% of provincial people’s court chiefs were party members. By 1928, 100% of procurators, 85.6% of people’s court judges, and 54.1% of investigators were party members.<sup>42</sup> Permeating Communists and party loyalists across courts ensured that judgments promulgated Soviet and revolutionary dogma throughout the justice system and people’s lives.

Any citizen eligible to vote, who had either served three years as a government employee or two years as an investigator, was eligible for election to a one-year term as a people’s judge. Party officials paid little heed to the suitability of their choices for judgeship nominations, willing to assign practically any party member to the position. In parallel, it was common for party authorities to approve the commissariats’ suggestions for appointments to governmental posts without examining them.<sup>43</sup> Those with socialist beliefs could occupy the judgeships and operate on fervent loyalty to the regime.

Many failures arose in the people’s courts as most new judges did not know the law (substantive or procedural) or did not attempt to learn. Thus, they did not render their verdicts based on knowledge of the codes. Consequently, there was a large proportion of successfully appealed cases to higher courts in the 1920s and first half of the 1930s. After reviewing the people’s court judges’ performances, the provincial courts called for the early removal of several judges and ceased the re-nomination of many others. Thus, there was a higher turnover rate in the people’s courts and only a portion of people’s court judges had learned their practices from experience. Exacerbating the matter of problematic judges, party officials would transfer the most talented judges to more prestigious local government posts,<sup>44</sup> further undermining the judiciary’s quality.

---

<sup>42</sup> Peter Solomon, *Soviet Criminal Justice under Stalin* (Cambridge University Press, 1996).

<sup>43</sup> Peter Solomon, “Local Political Power and Soviet Criminal Justice, 1922-41,” *Soviet Studies* 37, no. 3 (1985): 305-329.

<sup>44</sup> Solomon, “Local Political Power.”

Judges' lack of legal training compromised the Soviet legal system, but the law indeed became the proletariat's tool outside the bourgeoisie's grasp.

## **2 Education levels**

Legal expertise was suspect in the newly incorporated USSR, especially if it was attained prior to the revolution – the paragon of justice without jurists was prevalent in its purest form. 29% of procurators in the USSR had completed higher legal education in 1923, dropping to 11-12% in the early 1930s. Similarly, 8.4% of people's court judges had received higher legal education in 1923 and 4.2% in 1935.<sup>45</sup> By 1935, 84.6% of these judges' highest education level was elementary school.<sup>46</sup>

In the 1920s and 1930s, most legal officials had not completed high school. At the USSR's incorporation, few trained lawyers remained, and even fewer had the political credentials required for procurator or judge positions. The Bolshevik leaders placed the Communist lawyers, or those lawyers permitted to join the party, into key positions in central legal agencies, favouring the procuracy over courts. In 1923, 26.7% of provincial procurators had higher legal education, 17.5% of provincial procurators had other higher legal education, and 18.9% of provincial court judges received higher education. Even though procurators were to supervise the legality of government agencies' acts, where legal knowledge was indispensable, most of them lacked legal education.<sup>47</sup> Evidently, the push against legal professionals in traditionally legal roles succeeded – the working class could incorporate socialist ideas into the law without the constraints of bourgeois legal education.

From the outset, many Bolsheviks were suspicious of lawyers and prepared to bestow politically trusted amateurs the capability to administer the law. Whilst the Bolsheviks did not promote higher legal education, by the mid-1920s, most provincial courts sponsored a short course in law (usually three months) for some court and procuracy officials. In 1926, the Commissariat of Justice established one-year legal courses for selected talented legal officials. Regardless of whether those courses were academically inadequate, they did provide legal officials with rudimentary legal knowledge. By 1932, 35% of people's court judges had participated in those courses. In terms of law students, in 1914, over 2,000 graduated from Moscow University during tsarism; across the RSFSR, an average of 500 lawyers graduated each year in the 1920s, decreasing to the mid-300s in the 1930s.<sup>48</sup> Although the

---

<sup>45</sup> Huskey, "A Framework."

<sup>46</sup> Solomon, *Soviet Criminal Justice*.

<sup>47</sup> Solomon, *Soviet Criminal Justice*.

<sup>48</sup> Solomon, *Soviet Criminal Justice*.

law shifted into the hands of the proletariat, the regime realised that critical legal functions required formal training to maintain the system's credibility.

Soviet leaders prioritised legal officials being party members and created lax eligibility criteria. Perceptibly, the legal system lacked in integrity and competence.

The law of early Soviet society restricted liberties under the guise of advancing the socialist cause. The Constitution centralised law-making power among a small group that caused the immediate implementation of their decrees. Soviet leadership promoted the belief that collective interests should always prevail over private interests, with harsh penalties for opposition. Furthermore, Soviet leaders crafted legislation so broadly that judges could employ wide interpretation methods to encompass counter-revolutionary novel and retroactive crimes. The dramatic decline in education levels of judges and procurators was the incontrovertible ramification of rejecting the elite and elevating the working class. Perhaps the USSR did not operate well under the principle that law is oppression and socialism is liberation – entrusting unqualified individuals to apply the law according to their socialist legalist consciences does not liberate, but rather, it oppresses those under the regime.

### **III The Penal Nature of Enforcing Socialism**

Soviet leaders applied the harshest penalties to counter-revolutionaries, quashing dissent through fear, death, and exile. While Marx was not a principal proponent of the death penalty, he acknowledged its necessity in revolutionary contexts. The intertwining of capital punishment and terror of the secret police's power of summary execution became a hallmark of the regime.<sup>49</sup> The prison population soared from a maximum number of 184,000 in Imperial Russia to two million in 1932 and three million in 1933, reflecting the collectivisation crackdown.<sup>50</sup> The regime used punishment to deter disobedience, stirring passionate adulation for the State and a rejection of alternative ideologies.

#### **A The Death Penalty**

The RSFSR Criminal Code 1922 provided for the death penalty's application until its abolition – a foundation for death penalty provisions in subsequent codes. Article 100 provided the death penalty's application for theft from state storehouses, trains, ships, and other warehouses if the act was

---

<sup>49</sup> van den Berg, *The Soviet Union*.

<sup>50</sup> Michael Jakobson, *Origins of the Gulag: The Soviet Prison Camp System 1917-1934* (The University Press of Kentucky, 1993).

committed systematically or in significant quantities,<sup>51</sup> suppressing residual bourgeois corrupt practices. Articles 114, 110, and 111 further prioritised collective interests, where, respectively, bribery, abuse of power, and the pronouncement of an unjustified sentence to gain profit or for other ulterior personal motives were capital offences.<sup>52</sup> These measures isolated and erased the influence of corrupted capitalist ideologies from the nascent utopian socialist state.

A special Decree of 15 November 1923 replaced the GPU with the OGPU, expanding the OGPU's functions to the suppression of counter-revolutionary acts, including banditry, and the execution of special duties assigned to it by the CEC or CCP.<sup>53</sup> As mentioned in Part II, the GPU had the powers of extrajudicial repression, including execution for banditry, and the decree remained in place upon the OGPU's inception.

The RSFSR Criminal Code 1926 viewed the death penalty as an exceptional measure to protect the workers' state. In 1927, art 167 restricted the death penalty's application to some political and military crimes and banditry, reducing death sentences as a proportion of all sentences from around 0.1% in 1922-1925 to 0.03% in 1928.<sup>54</sup> Perhaps this was Soviet leadership's attempt to return to Marxist roots that only viewed the death penalty as necessary for the revolution. This contrasted the 21 February 1918 decree, "The Socialist Fatherland is in Danger!" That decree gave Bolshevik authorities the right to shoot enemies of the regime on the spot, and Lenin planted the seed for the Bolshevik reign of terror.<sup>55</sup> However, the regime later reverted to this earlier Bolshevik approach.

Notably, Lenin's brief Commissar of Justice, Isaac Steinberg, strongly opposed the Decree of 21 February 1918, stating it undermined the entire pathos of the manifesto. Lenin responded that there could be no Bolshevik victory without the cruellest revolutionary terror necessary for revolutionary justice.<sup>56</sup> A constant fear of death was a constant submission to socialism. Although, later on, Lenin reverted on the more extreme revolutionary ideals, where the adoption of the New Economic Policy looked to forward-looking revolutionary legality and focused on class interests and protection of the

---

<sup>51</sup> van den Berg, "The Soviet Union."

<sup>52</sup> van den Berg, "The Soviet Union."

<sup>53</sup> CIA *Soviet Intelligence Organization and Functions of The Ministry of State Security (MGB)* (CIA-RDP78-02546R000100130001-3, 1948).

<sup>54</sup> van den Berg, "The Soviet Union."

<sup>55</sup> Crowe, *Stalin's Soviet Justice*.

<sup>56</sup> Crowe, *Stalin's Soviet Justice*.

proletariat's state authority.<sup>57</sup> Announced in 1921, the New Economic Policy relaxed the socialist ideals and restored some capitalist elements like leasing enterprises to private capitalists.<sup>58</sup> Whilst there was a lull in Lenin's steadfast approach, Stalin later implemented arguably more extreme measures to maintain order and prioritise the socialist ideal.

While it is unclear whether the OGPU retained its summary execution powers in the latter half of the 1920s, the Court Chamber (court session of the OGPU) was reported to be active in 1928.<sup>59</sup> Per the Statute on Camps of Correctional Labour 1930, a court sentence of at least three years or the OGPU could send people to such camps. A 14 March 1933 decree clarified the OGPU's powers, interpreting the 15 November 1923 decree as conveying power to the OGPU to apply all repressive measures in its court sessions in cases of subversive activities, arson, bombings, and damage to state enterprises' mechanical equipment. Further, a special instruction of the CEC and CCP of 4 February 1930 ordered there be no hesitation in shooting *kulaki* who were active counter-revolutionaries, reflecting a systematic approach to terror during the dekulakisation campaign. The balance of evidence indicates that the summary execution system was officially restored during the dekulakisation campaign.<sup>60</sup> The OGPU's jurisdiction and powers were wide, ensuring all necessary terror, fear, and obedience were prevalent to strengthen the socialist sentiment.

The Decree of 7 August 1932 extended the collectivisation campaign's death penalty to property theft from trains, ships, and collective farms – labelling thieves as enemies of the people. Stalin called them counter-revolutionaries, and therefore, they were political offenders violating the socialist ideology. This law resulted in nearly 10,000 monthly sentences in 1932 and 1933 – 400 a month on average were death sentences.<sup>61</sup>

Revolutionary times demand revolutionary measures, and Soviet leaders liberally employed the death penalty as a tool for political control, handing it down for a broad spectrum of offences – from simply being a *kulak* to a thief. As such, they reinforced their authority and command over the republics through legal instruments of terror to maintain fear and obedience.

## ***B The Gulag as an Instrument of Repression***

---

<sup>57</sup> Crowe, *Stalin's Soviet Justice*.

<sup>58</sup> Vladimir Lenin, *V. I. Lenin Collected Works Volume 33 August 1921 – March 1923* (Progress Publishers, 1973).

<sup>59</sup> van den Berg, "The Soviet Union."

<sup>60</sup> van den Berg, "The Soviet Union."

<sup>61</sup> van den Berg, "The Soviet Union."

The Gulag network of Soviet prisons and corrective labour camps was integral to the Soviet penal system's goal to build a socialist state through re-education. Criminals and aliens to the proletariat required special education or correction through collective labour and cultural propaganda.<sup>62</sup> Correspondingly, propaganda in totalitarianism operates as psychological warfare to impose government-sanctioned terror upon the regime's transgressors.<sup>63</sup>

The experimental phase of Soviet penology saw Soviet leadership creating the Solovetsky Camp of Forced Labour of Special Significance ("SLON") – the blueprint of the 1930s Gulag system.<sup>64</sup> While the SLON was not the only prison in the USSR in the 1920s, it shaped the entire Gulag system and was the first place that the Soviets began forced labour as re-education in 1926.<sup>65</sup> Due to the SLON's importance in shaping the Gulag system, this section focuses primarily on the SLON. It transformed the most socially dangerous inmates through education, labour, and the collective's power – education in the sense of re-educating criminals, class enemies, and political prisoners through labour and other methods.<sup>66</sup> The 13 October 1923 decree establishing SLON asserted that the camp's purpose was to isolate particularly dangerous state criminals (both criminal and political) who have done or may do significant harm to the USSR's peace and integrity.<sup>67</sup> The word choice of "may" underscores the discretionary nature prevalent in the USSR's legal enforcement.

### **1 Religious suppression**

Throughout the 1920s and 1930s, one of the secret police's primary goals was the systematic destruction of religion. In 1922, the GPU carried out a church revolution,<sup>68</sup> severing the church from the State and eliminating the church's traditional functions like education and marriage. Authorities either destroyed or repurposed the physical churches and transferred property ownership to lay associations. They placed the head of the Orthodox Church, Patriarch Tikhon, under house arrest for his vocal opposition to the Soviet regime, closed monasteries, and executed or arrested priests. To maintain some degree of religious freedom, Soviet leaders set up the Living Church – comprised of

---

<sup>62</sup> Ilkka Mäkinen, "Libraries in Hell: Cultural Activities in Soviet Prisons and Labor Camps from the 1930s to 1950s," *Libraries & Culture* 28, no. 2 (1993): 117-142.

<sup>63</sup> Arendt, *Origins of Totalitarianism*.

<sup>64</sup> Alan Barenberg and Emily D Johnson, eds., *Rethinking the Gulag: Identities, Sources, Legacies* (Indiana University Press, 2022).

<sup>65</sup> Anne Applebaum, *Gulag: A History* (Random House, 2004).

<sup>66</sup> Barenberg and Johnson, eds., *Rethinking the Gulag*.

<sup>67</sup> Tolokontseva Daria, "Use of correctional and labour measures on the inmates of the Solovetsky camp in the 1920s and 1930s," *Arctic Review on Law and Politics* 3, no. 2 (2012): 186-199.

<sup>68</sup> Solzhenitsyn, *The Gulag Archipelago*.

clergymen sympathetic to socialist ideals who pledged loyalty to both the USSR and Patriarch Tikhon.<sup>69</sup> From the early 1920s, arrests extended to theosophists, mystics, spiritualists, religious groups, and Berdyayev philosophers. Whilst monks and nuns were distinctive of old Russian life, they were not desired in USSR society. The GPU intensively rounded them up, arrested them, and exiled them.<sup>70</sup> Marx famously stated, “[Religion] is the opium of the people.”<sup>71</sup> Soviet leadership used law enforcement to create a secular society not founded upon supposedly intoxicated thoughts. The secret police arrested and sentenced ordinary believers – the elderly and particularly women – the most stubborn prisoners. Intriguingly, the reason for their arrests was not for their faith, but for openly declaring their convictions to raise their children religious.<sup>72</sup> As with literature censorship, it was vital to Soviet leaders that the new generation was devoid of alternative influences – anti-Soviet and free thought represented threats to the revolutionary agenda.

On 25 February 1927, the CEC amalgamated all forms of counter-revolutionary agitation and propaganda under art 58.10 of the RSFSR Criminal Code 1926 – agitation being the spreading of any idea among the masses and propaganda being the transmission of ideas in a limited circle. The article also punished the dissemination, retention, or preparation of literature for anti-Soviet agitation or propaganda. Counter-revolutionary crime retained its definition of overthrowing, subverting, or weakening the state under art 58.1.<sup>73</sup> Accordingly, the religious education of children was counter-revolutionary propaganda, and therefore, was a political crime under art 58.10. While the accused could renounce their religion at trial, it was rare, and when it did occur, the father would renounce his religion and raise the children at home while the mother was sent to the Solovetsky Islands as women maintained greater firmness in their faith during the period. Strikingly, individuals convicted of the counter-revolutionary crime of religious activity received 10-year sentences (the longest term available at the time). Also to purify society in the big cities, prostitutes were sentenced to the Solovetsky Islands for three years. Post-incarceration, prostitutes could return home while religious prisoners were banished from their hometowns and prohibited from returning to their children,<sup>74</sup> reflecting the heightened salience of socialist reverence over other “impure” activities.

---

<sup>69</sup> Barenberg and Johnson, eds., *Rethinking the Gulag*.

<sup>70</sup> Solzhenitsyn, *The Gulag Archipelago*.

<sup>71</sup> Karl Marx, *A Contribution to the Critique of Hegel's Philosophy of Right* (Oxford University Press, 1970).

<sup>72</sup> Solzhenitsyn, *The Gulag Archipelago*.

<sup>73</sup> Sarah Davies, “The Crime of ‘Anti-Soviet Agitation’ in the Soviet Union in the 1930’s,” *Cahiers Du Monde Russe* 39, no. 1/2 (1998): 149-167.

<sup>74</sup> Solzhenitsyn, *The Gulag Archipelago*.

Religion was a vessel for anti-Soviet thought, and free thought is the most dangerous thing in a revolutionary socialist state.

## **2 Forced labour**

The RSFSR Criminal Code 1922 stated that the principal objective of punishment was the correction and rehabilitation of prisoners. The Corrective Labour Code 1924 connected the execution of sentences with corrective labour and art 6 declared it should not physically harm nor humiliate human dignity.<sup>75</sup> However, prisoners were punished with forced labour to further the nation's prosperity. When the Soviet Government sought to achieve its economic goals, the camp system's population surged exponentially – from 19,876 prisoners in April 1929 to 170,000 in 1930. A major factor in this rise could be the Soviet leaders' decision in 1929 to assign the OGPU to establish new camps modelled after the SLON,<sup>76</sup> the central institutions of totalitarian organisational power –<sup>77</sup> the quintessential tool of counter-revolutionary repression.

The mid-1920s saw a clear tone of making concentration camps economic models for the USSR. Like pre-Solovetsky Bolshevik camps that rewarded extra work with additional food, SLON authorities tied prisoners' rations according to their quantity of work, eliminating weaker prisoners within weeks. Naftaly Aronovich Frenkel, a former prisoner who became one of the most influential SLON commanders, developed a system that categorised prisoners according to their physical abilities (heavy work, light work, and invalids) and fed them accordingly. This brutal system set unattainable work for some, such as city-dwellers unaccustomed to cutting trees, and whittled out the weak, who also received less food, so would become ill or die. Frenkel removed the category of political prisoners in 1925, who received privileges like newspapers – both criminal and political prisoners were potential labourers.<sup>78</sup>

The forced labour system transformed prisoners from liabilities into assets contributing to the USSR's economic growth ambitions.

### **(a) Statute on Camps of Correctional Labour 1930**

---

<sup>75</sup> Daria, "Correctional and Labour Measures."

<sup>76</sup> Felicitas Fischer von Weikersthal, "State-Introduced Slavery in Soviet Forced Labor Camps," in *The Palgrave Handbook of Global Slavery throughout History*, eds. Damian A Pargas and Julian Schiel (Palgrave Macmillan, 2023).

<sup>77</sup> Arendt, *Origins of Totalitarianism*.

<sup>78</sup> Applebaum, *Gulag: A History*.

The Statute on Camps of Correctional Labour 1930 provides a clear understanding of the purpose and practices of Soviet labour camps.<sup>79</sup> Section 1 outlines the camps' purposes to protect society from socially dangerous violators of the law by isolating them, forcing socially useful labour, and allowing their adaptation to the conditions of toilers (workers, peasants, and clerical employees). The OGPU held general jurisdiction over the camps,<sup>80</sup> with authority delegated to camp chiefs who directed camp operations like isolating prisoners, penalising employees, guiding productive and economic enterprises of the camp, raising the cultural level and qualifications of the prisoners, and adapting the prisoners to a toiler community by training them for socially useful work.<sup>81</sup>

The OGPU approved the organisational structure for each camp.<sup>82</sup> The rating board registered prisoners, evaluated how their labour could be used, and calculated and approved worker bonuses.<sup>83</sup> The cultural education unit inculcated Soviet dogma in the prisoners, aiming to liquidate illiteracy. It controlled the curriculum, training methods, and political direction of industrial training and technical courses. The unit also oversaw theatrical works in camps, including the repertoires, and directed the organisation of camp libraries.<sup>84</sup> Notably, Red Corners were instituted immediately after the Soviet revolution to spread propaganda and teach people to read. They were multi-purpose rooms serving as clubs, libraries, and reading rooms.<sup>85</sup> The cultural education unit directed the labour camps' propaganda through Red Corners, conducted publishing activities, controlled physical culture work, and conducted criminological studies of prisoners.<sup>86</sup> The Statute mandated illiterate prisoners up to 50 years of age to attend the camp's cultural and educational institutions for re-education.<sup>87</sup>

The camps employed three types of treatment for inmates. Firstly, initial treatment compelled inmates to perform general work and live in designated camp quarters. Secondly, alleviated treatment involved permanent work in offices, enterprises, and natural resources exploitation. They were to live in dormitories attached to the enterprises and could earn work bonuses. Thirdly, privileged treatment entailed the right to leave the camp and occupy administrative or economic managerial posts of the

---

<sup>79</sup> Translated by Vladimir Gsovski.

<sup>80</sup> Section 3.

<sup>81</sup> Section 4.

<sup>82</sup> Section 9.

<sup>83</sup> Section 6.

<sup>84</sup> Section 7.

<sup>85</sup> Mäkinen, "Libraries in Hell."

<sup>86</sup> Section 7.

<sup>87</sup> Section 46.

camp. However, non-toilers and prisoners convicted of counter-revolutionary crimes could not occupy administrative and managerial roles.<sup>88</sup>

Mirroring SLON practices, s 14 separates prisoners into three categories to achieve greater consistency and efficiency in camp operations:

- (1) Toilers and first-time offenders whose sentences were five years or under and were not sentenced for counter-revolutionary crimes.
- (2) Toilers and first-time offenders whose sentences exceeded five years and were not sentenced for counter-revolutionary crimes.
- (3) Non-toilers and individuals convicted of counter-revolutionary crimes.<sup>89</sup>

The initial treatment duration corresponded directly to these categories, with minimum periods set at six months, one year, and two years, respectively.<sup>90</sup> This structure highlights the Soviet regime's strategy of suppressing opposition by prosecuting anyone who deviated from socialist values. The OGPU imposed the harshest conditions for the longest periods upon class criminals and those who committed anti-Soviet acts – disobedience was the gravest offence. The bourgeoisie and counter-revolutionists were the worst type of criminal that called for the worst treatment – Soviet leaders leveraged ongoing class and ideological wars to spread acquiescence to the supreme socialist way of life. Thus, the OGPU immersed all inmates in the plight of the proletariat.

With any action being potentially anti-Soviet at the whim of the OGPU and judges, the Soviet legal system operated with capricious cruelty. Reinforcing terror as a tool of state control, the secret police and the Gulag quashed perceived threats through penal methods ranging from death to cultural re-education. These legal mechanisms secured a climate of fear that cemented the regime's power and stifled deviations from socialist ideals.

#### **IV The First Five-Year Plan**

The USSR's First Five-Year Plan spanned from 1 October 1928 to 30 September 1932 as an agrarian-industrial scheme to convert the USSR into an industrial state of the most modern type.<sup>91</sup> Its goals were to boost investment, increase consumption, and grow both industrial and agricultural

---

<sup>88</sup> Section 16.

<sup>89</sup> Section 15.

<sup>90</sup> Section 17.

<sup>91</sup> Archibald H Charteris, "The Russian Five-Year Plan," *The Australian Quarterly* 2, no. 8 (1930): 54-67.

production.<sup>92</sup> The plan's drastic measures resulted in the famine of 1932-1933 where over six million people died.<sup>93</sup>

### **A Collectivisation**

The grain crisis began in late 1927, prompting Soviet leaders to enact a series of “extraordinary measures” to procure grain from peasants, as grain collection reductions would harm the USSR's industrialisation efforts. These included economic measures like progressive taxation and distribution of credits. However, the State also extensively applied art 107 of the RSFSR Criminal Code 1926 that criminalised speculation, targeting peasants who refused to sell grain to the Government.<sup>94</sup> Authorities would prosecute *kulaki* in tax payment arrears under art 60, fining offenders and auctioning their property to recover debts.<sup>95</sup> Despite the harvest already harming peasants, the State used legislation and special powers to progress collectivisation.

The Politburo ignored constitutional procedures to apply the extraordinary measures and allowed party functionaries to enforce them without authorisation – they arrested peasants who refused to sell grain, searched their households, and confiscated grain. The measures resulted in arbitrary actions like assaults and intimidation against dissenting peasants,<sup>96</sup> processes antithetical to the rule of law. Thus, the State emphasised the absence of separation of powers in the USSR, where all government organs have one purpose.<sup>97</sup> Next, the coercive Ural-Siberian method permeated the USSR,<sup>98</sup> emerging in March 1929 in Siberia, where village assemblies (excluding *kulaki*) voted on a grain delivery plan to the State and levied grain quotas of approximately 65% on *kulaki* and 35% on the *serednyaki* (middle peasants). Non-compliance with the strict delivery deadlines resulted in a fine of five times the quota. The State seized and auctioned property from those who did not pay the fines; persistent non-compliance led to imprisonment and exile.<sup>99</sup> Political expedience was the sole

---

<sup>92</sup> Peter Kenez, *A History of the Soviet Union from the Beginning to the End* (Cambridge University Press, 1999).

<sup>93</sup> Stéphane Courtois et al., *The Black Book of Communism: Crimes, Terror, Repression* (Harvard University Press, 1999).

<sup>94</sup> Hiroshi Oda, “Revolutionary Legality in the USSR: 1928-1930,” *Review of Socialist Law* 6, no. 2 (1980): 141-152.

<sup>95</sup> Roberta T. Manning, “The Rise and Fall of “the Extraordinary Measures,” January-June. 1928: Toward a Reexamination of the Onset of the Stalin Revolution,” *The Carl Beck Papers in Russian & European Studies* 1504 (2001).

<sup>96</sup> Oda, “Revolutionary Legality.”

<sup>97</sup> George C. Guins, *Soviet Law and Soviet Society* (Springer, 1954).

<sup>98</sup> Oda, “Revolutionary Legality.”

<sup>99</sup> James Hughes, “Capturing the Russian Peasantry: Stalinist Grain Procurement and the Ural-Siberian Method,” *Slavic Review* 53, no. 1 (1994): 76.

determinator of the binding force of law, where Soviet leaders set aside the law in the name of revolutionary legality. So-called extraordinary measures were not temporary in reality, but permanent features of the Soviet regime.<sup>100</sup> Control was not asserted through legitimate legal avenues, but through a blatant disregard for the law.

Whilst the central Government established the Ural-Siberian method in March, it retrospectively legitimised the model on 28 June 1929 by amending art 6 of the RSFSR Criminal Code 1926. The method was often conflated with art 107 anti-speculation to expropriate grain from the *kulaki*.<sup>101</sup> This class war further brutalised the peasantry, where concealment of grain was a crime. Government policies were, perhaps deliberately, vague; the terms *kulak* and surplus were never precisely defined. As such, authorities could claim anyone was a *kulak* and any peasant with seemingly surplus food could be a target.<sup>102</sup> With broad discretion and retroactive approval mechanisms emblematic of Soviet totalitarianism, it becomes easy to see why there was such submission to the regime.

Stalin's war on the peasantry effectively collectivised farms – 11 million households joined collectives in January and February 1930. However, Soviet authorities imposed impossible procurement and tax obligations on opposers. The authorities declared those who openly opposed collectivisation as *kulaki* and punished them. The undefined *kulak* term enabled Bolsheviks to expel potential and actual political opponents like priests. Once declared a *kulak*, the *kulak* property became part of the collective farms.<sup>103</sup> Using criminal codes to retrospectively commandeer grain and impose arbitrary punishments was symbolic of ruthless Soviet control.

### ***B Kulak Deportations***

During the 1927-1929 grain crisis, most Soviet officials blamed *kulaki* for allegedly withholding marketable grain.<sup>104</sup> As such, the OGPU intensified its persecution of *kulaki* – deporting, exiling, and executing them for simply being a *kulak*.

Whilst collectivisation efforts began in 1927, they climaxed in the 1929-1930 period – it was a paramount objective to eliminate peasants who either opposed collectivisation or were expected to

---

<sup>100</sup> Oda, “Revolutionary Legality.”

<sup>101</sup> Hughes, “Capturing the Russian Peasantry.”

<sup>102</sup> Kenez, *A History*.

<sup>103</sup> Kenez, *A History*.

<sup>104</sup> Mark B. Tauger, “Stalin, Soviet Agriculture, and Collectivisation,” in *Food and Conflict in Europe in the Age of the Two World Wars*, eds. Frank Trentmann and Flemming Just (Palgrave Macmillan, 2006).

do so.<sup>105</sup> In 1929, the OGPU began arresting the fathers of *kulak* families and executing them. In 1930, mass deportations began and extended to Siberia, leaving the deportees to themselves.<sup>106</sup> Attuned to the anti-bourgeois sentiment, Stalin advocated for the elimination of the *kulak* class –<sup>107</sup> the class enemies of Soviet society.

Collectivisation meant that even poorer peasants' small plots of land and animals were incorporated into the *kolkhoz*.<sup>108</sup> The distinction between *kulaki* and *serednyaki* hinged on whether the farmer hired help. Per a real-life account, if one had five hectares and no employees, one was a *serednyak*. However, if one had two hectares and hired help – regardless of whether one paid the workers well, it was deemed exploitation.<sup>109</sup> Vigilant of capitalist residuals, Soviet leadership asserted any farmer who employed labourers regardless of a farmer's financial status belonged to the bourgeois elite.

The 30 January 1930 decree divided the *kulaki* into three categories:

- (1) Counter-revolutionary *aktiv* – these individuals were to be confined to concentration camps; the State was to execute those within this category who organised terrorist acts, counter-revolutionary disturbances, and insurrectionary organisations.
- (2) Remaining elements of *kulak aktiv* – to be exiled to remote USSR locations.
- (3) All others – could remain in their own districts.<sup>110</sup>

The decree aimed to liquidate 3-5% of farms in grain-producing regions and 2-3% in grain-deficit regions.<sup>111</sup> Accentuating class divisions, the decree warned not to harm *serednyaki*, Red Army families, or families with long-time industrial workers. Hastily, the OGPU began carrying out the repressive measures against category-one and category-two *kulaki* from February to May, planning to send 60,000 *kulaki* to concentration camps (some faced execution) and 150,000 *kulaki* to distant regions. The OGPU sent the category-two *kulaki* to sparsely populated or uninhabited areas in the

---

<sup>105</sup> CIA Report of Interrogation: No. 5865 (519b7f9f993294098d513ce6, 1945).

<sup>106</sup> Lityński, "Soviet Criminal Law."

<sup>107</sup> Lynne Viola, "The Role of the OGPU in Dekulakization, Mass Deportations, and Special Resettlement in 1930," *The Carl Beck Papers in Russian and East European Studies* 1406 (2000).

<sup>108</sup> CIA Report of Interrogation: 5865.

<sup>109</sup> Byelorussian male, interview in the Harvard Project on the Soviet Social System (Schedule A, Volume 13, Case 188, 7, 11 December 1950).

<sup>110</sup> Robert W. Davies and Stephen G. Wheatcroft, *The Industrialisation of Soviet Russia 5: The Years of Hunger* (Palgrave Macmillan, 2009).

<sup>111</sup> Lynne Viola, "The Campaign to Eliminate the Kulak as a Class, Winter 1929-1930: A Reevaluation of the Legislation," *Slavic Review* 45, no. 3 (1986): 503-524.

North, Siberia, Urals, and Kazakhstan to work in industries like agriculture and fishing under commandants. The decree ordered the resettlement of category-three *kulaki* outside the collective farms to small villages administered by the county soviet executive committee to work in industries like forestry and construction. Families of the exiles and internees were also to be exiled unless with the district soviet executive committee's permission to remain. Since category-one *kulaki* were sent to concentration camps, the State exiled category-one *kulak* families with category-two *kulak* families after consideration of how socially dangerous they were and whether they were able-bodied labourers.<sup>112</sup> Punishing families for the "crime" of being related to a *kulak* was a cruel violation of natural justice principles, but highly logical to instil fear and obedience to socialist ideals. Soviet leaders needed to accelerate their collectivisation plans, and penalising one individual does not stamp out the capitalist value of ownership.

Throughout 1929, the socialisation of livestock and inventory and arbitrary criminal charges that entailed the confiscation of possessions resulted in self-dekulakisation. To avoid the *kulak* classification, some farmers slaughtered their livestock, sold their property, or fled.<sup>113</sup> Exacerbating the matter, the Decree of 1 February 1930 prohibited leasing land and using hired labour in agriculture, mandating the confiscation of the means of production from *kulaki*.<sup>114</sup> From late 1929 to mid-1930, in Siberia, an estimated 59,200 of its 76,300 *kulak* farms were dekulakised: 14,700 from the *piatokratnoe* tax (fine of five times the value of grain owed by *kulak* households)<sup>115</sup>, 10,600 from court decisions, 26,000 from the 1 February 1930 decree, 4,000 self-dekulakisations, and 3,700 were in a miscellaneous category. Additionally, 3,600 fled with families and 4,000 fled without families.<sup>116</sup> Estimates of the number of deported individuals vary from two million to over 10 million.<sup>117</sup> The intensified fear of being classified as a *kulak* drove many to uproot their lives and diminish their inventory to avoid repercussions.

Moreover, the Decree of 27 December 1932 stated that all citizens over 16 years of age who permanently lived in towns, workers' settlements, state farms, and construction sites had to register a

---

<sup>112</sup> Viola, "The Role of the OGPU."

<sup>113</sup> Viola, "The Campaign."

<sup>114</sup> V. Rumiantsev and M. Strakhov, "Law of Ukraine under the Totalitarian-Repressive Regime (1929-1939)" (2013) 2013(1) *Law in Ukraine: Legal Journal* 2013, no. 1 (2013): 314-323.

<sup>115</sup> Lynne Viola et al., eds., *The War Against the Peasantry, 1927-1930: The Tragedy of the Soviet Countryside* (Yale University Press, 2008).

<sup>116</sup> Viola, "The Campaign."

<sup>117</sup> Lityński, "Soviet Criminal Law."

passport with the police to obtain a residence permit for their locality.<sup>118</sup> *Kulaki* were ineligible for passports, so could not work and were fined, expelled, imprisoned, or exiled if the OGPU caught them.<sup>119</sup> Soviet officials exploited the law to confine the *kulaki* to a life of deprivation with no means of private work and escape.

Through a series of immediate implementation decrees, Soviet leaders promulgated the criminality of *kulaki*. The categorisation of *kulaki* aligned with the Soviet systematic approach to counter-revolutionaries, mandating harsher penalties based on the level of anti-Soviet attributes.

### **C Holodomor**

Holodomor translates to extermination by hunger. An estimated 2.5 to four million excess deaths occurred in the Ukrainian Holodomor. The number of excess deaths does not account for the demographic ramifications of the decrease in the birth rate, decline in life expectancy, and the demographic trough created by the rate of childhood deaths.<sup>120</sup> Stalin's regime effectuated death by omission (refusing to import grain and refusing to appeal for or accept international help) and by commission (repressive decrees and mass deportations).<sup>121</sup>

#### **1 Decree of 7 August 1932**

Article 2(1) of the Decree of 7 August 1932 declared the property of collective farms as government property, branding this new category of socialist property sacred and inviolable. Significantly, art 2(2) provided consequences of execution by shooting with property confiscation as judicial retaliation for theft of collective farm property. Imprisonment for a 10-year minimum coupled with property confiscation was the alternative penalty in extenuating circumstances. However, whilst the law was purposed towards the pillaging of collective property, it also applied if one stole via larceny, embezzling officials, misappropriation, fraud, or any other illegal means.<sup>122</sup>

---

<sup>118</sup> Gijs Kessler, "The passport system and state control over population flows in the Soviet Union, 1932-1940," *Cahiers du monde russe* 42 (2001): 477-503, OpenEdition Journals.

<sup>119</sup> Colin P. Neufeldt, "The Public and Private Lives of Mennonite Kolkhoz Chairmen in the Khortytsia and Molochansk German National Raiony in Ukraine (1928-1934)," *The Carl Beck Papers in Russian and East European Studies* 2305.

<sup>120</sup> Olga Andriewsky, "Towards a Decentred History: The Study of the Holodomor and Ukrainian Historiography," *East/West: Journal of Ukrainian Studies* 2, no. 1 (2015): 18-52.

<sup>121</sup> Michael Ellman, "Stalin and the Soviet famine of 1932-33 Revisited," *Europe-Asia Studies* 59, no. 4 (2007): 663-693.

<sup>122</sup> Vladimir Gsovski, *Soviet Civil Law* (University of Michigan Law School, 1948).

Before this decree, Soviet leaders reserved 10-year labour camp sentences and execution for treason. However, after its passage, the law equated stealing a few grains of wheat from a *kolkhoz* to wartime treachery. Remarkably, the law had no precedent – months earlier, the Russian Supreme Court sentenced someone who stole wheat from a *kolkhoz* to one year of forced labour. Stalin followed the decree's pronouncement with press stories detailing peasants executed for stealing or possessing grain,<sup>123</sup> instilling fear in the population. In the RSFSR, there were 22,400 convictions under the law in 1932 and 103,400 in 1933 – a testament to the crackdown on anti-Soviet sentiment. Further, an internal instruction on 8 May 1933 about the 7 August 1932 law instructed local authorities to isolate and attack the class enemy while renouncing mass repression against toilers.<sup>124</sup> Evidently, Soviets attempted to use the class war it created to justify and incite terror in peasants.

In the 1932-1933 period, the OGPU charged around 250,000 people under it, leading to over 200,000 sentences (usually of five to 10 years in the Gulag) – around 11,000 were death sentences.<sup>125</sup> Forced labour was favourable for Soviet leadership as the prisoners could work on industrial projects in mines, factories, and logging. After the law's institution, Gulag inmates increased from 260,000 in 1932 to 510,000 in 1934. As the Gulag system did not have the resources and capacity for this influx of prisoners, Gulag deaths increased from 4.81% in 1932 to 15.3% in 1933.<sup>126</sup>

## **2 Blacklisting**

The Decree of 20 November 1932 formalised the system of blacklisting of Soviet villages – a system permeating Ukraine and the Kuban. The decree would condemn villages to death, stripping residents of supplies and prohibiting them from leaving. Collective farm workers did not receive grain payments until the farm met their grain delivery quota. The blacklists targeted entire villages, not just imposing penalties on collective farms for falling behind on their grain deliveries or private farmers who failed to pay their taxes. Albeit, the quota was only one criterion on the path to being blacklisted – most Ukrainian farms did not meet their quotas in the 1932-1933 winter periods. Other criteria were village size and political history – whether the village had known supporters of the Ukrainian People's Republic in 1919 or had a history of resisting prior Bolshevik grain requisitioning and collectivisation. Blacklisting served a prophylactic effect and was retribution for demonstrating previous opposition to the socialist regime. Additionally, the Decree of 22 January 1933, purposed to prevent the mass

---

<sup>123</sup> Anne Applebaum, *Red Famine: Stalin's War on Ukraine* (Doubleday, 2017).

<sup>124</sup> V. P. Popov, "State Terror in Soviet Russia, 1923-1953: Sources and their Interpretation," *Russian Social Science Review* 35, no. 5 (1994): 48-70.

<sup>125</sup> Ellman, "Stalin."

<sup>126</sup> Applebaum, *Red Famine*.

exodus of starving peasants, prohibited the sale of train or boat tickets to peasants – the OGPU and militia were closing off Soviet Ukraine and Kuban. Authorities arrested nearly 220,000 people in the six weeks following the decree's issuance.<sup>127</sup>

The Decree of 18 November 1932 extended forcible grain requisitions in Ukraine to the confiscation of meat and produce from those who failed to meet their grain quotas.<sup>128</sup> Two days later, authorities introduced a meat penalty – those who failed to meet their grain quotas had to pay a tax in meat. Importantly, cattle and swine were reserves against starvation for those who still had livestock. Yet, families had to surrender their livestock to the State and still had to fulfil the original grain quota.<sup>129</sup> In accordance with the blacklist system, collective farms that failed to meet their grain targets had to immediately surrender fifteen times the amount of grain normally due in one month. As blacklisted communities could not trade or receive food deliveries, those communities became zones of death.<sup>130</sup>

The starvation was known to officials – the Head of the Kyiv GPU remarked on 12 March 1933 that cannibalism had become a habit, where eating human flesh was becoming increasingly accepted in several villages.<sup>131</sup> Families turned on one another, with the OGPU recording that in Soviet Ukraine, families murdered their weakest members, usually children, to consume. However, this solution was impermanent – numerous parents killed and consumed their children but nonetheless starved to death later. A first-hand account illustrated the dire nature of the famine, where one would die by refusing to steal, refusing to prostitute oneself, giving food to others, refusing to cannibalise, and refusing to kill.<sup>132</sup> Instead of combatting the starvation crisis with food, OGPU files record the imprisonment, execution, and lynching of cannibals.<sup>133</sup> Stalin operated on the promise of stability to hide his intention of creating permanent instability. The terror arises with the realisation that the population exists completely subdued by the grips of communism.<sup>134</sup> Where Soviet leaders promised the fruits of industrialisation and collectivisation to the people, the reality of the constant threat of starvation and death prevailed.

---

<sup>127</sup> Andriewsky, "Towards a Decentred History."

<sup>128</sup> Neufeldt, "Public and Private Lives."

<sup>129</sup> Timothy Snyder, *Bloodlands: Europe between Hitler and Stalin* (Basic Books, 2010).

<sup>130</sup> Snyder, *Bloodlands*.

<sup>131</sup> Nicolas Werth, "Keynote Address for the Holodomor Conference, Harvard Ukrainian Research Institute, 17-18 November 2008," *Harvard Ukrainian Studies* 30, no. 1/4 (2008): 29-38.

<sup>132</sup> Snyder, *Bloodlands*.

<sup>133</sup> Applebaum *Red Famine*.

<sup>134</sup> Arendt, *Origins of Totalitarianism*.

The First Five-Year Plan's collectivisation and industrialisation was supported by legal frameworks that criminalised dissent and targeted *kulaki* as class enemies. Decrees, the OGPU, and punitive measures promoted blind obedience, rather than justice. These legal mechanisms established a system of terror that consolidated authoritarian rule in Soviet society – citizens resorted to desperate choices in these artificially created dire circumstances.

## **V Conclusion**

Power, terror, and force were the USSR's weapons for controlling its population. Indeed, the country successfully collectivised, embedding socialist ideology into its fabric that resonates with former Soviet republics to this day. Yet, I argue that this was achieved by constitutionally concentrating power in a small political elite who enacted decrees and used legislation widely to enforce compliance through the proletariat. The punishments for violating Soviet ideals were severe, ranging from confiscation to execution, with forced labour fuelling the USSR's industrialisation. The country's collectivisation and class war became entrenched in daily life, where death and starvation were the brutal outcomes of state repression.

This essay reveals that loose discretionary power and vague legislation plagued the formative years of the USSR, helping Soviet leaders instil socialist ideology and maintain control over the republics. I argue that Soviet leaders placed strong emphasis on appearing legitimate through legal mechanisms to solidify their rule, but this appearance of legality was to embed socialist dogma, not to achieve justice. While the law indeed became the proletariat's, it was riddled with errors and arbitrariness. Enforcing socialism came with a heavy human price – both physically and culturally. Legislating for collectivisation included extraordinary measures, deportations, and mass starvation. The totalitarian regime projected an appearance of legality, but in reality, it expanded state power at the expense of individual rights. No man is above the rule of law, but where the rule of law does not exist, one's life is at the mercy of the totalitarian elite.

## **Author bio**

**Ellie Xu** is a Business Analyst at McKinsey & Company based in Sydney, Australia. Ellie holds a Bachelor of Commerce and a Bachelor of Laws (Honours) from the University of Auckland. While a student, Ellie gained professional experience in law, finance, and consulting across Australia and New Zealand. She was a Seasonal Clerk at King & Wood Mallesons, Investment Banking Summer Analyst at Goldman Sachs, Investment Banking Winter Intern at ICA Partners, Financial Services Consulting Intern at EY, and Corporate Finance Intern at KPMG. During her studies, Ellie served as a Teaching Assistant at the University of Auckland's Department of Commercial Law. Ellie holds a University of Auckland Innovation Blue Award and a Distinguished Graduate Award.