



**Participation of local
self-government bodies
in the implementation
of the penitentiary policy
of the Russian State in
the sixteenth century**

**PARTICIPATION OF LOCAL SELF-GOVERNMENT BODIES IN THE
IMPLEMENTATION OF THE PENITENTIARY POLICY OF THE RUSSIAN STATE IN
THE SIXTEENTH CENTURY**

**PARTICIPACIÓN DE ORGANISMOS LOCALES DE AUTOGOBIERNO EN LA
IMPLEMENTACIÓN DE LA POLÍTICA PENITENCIARIA DEL ESTADO RUSO EN EL
SIGLO XVI.**

ABSTRACT

The paper analyzes the role and importance of the local government in the implementation of the penitentiary policy of the Russian state. Over the period of its existence the penitentiary system of the Czarist Russia remained decentralized. Only because of the prison reform of 1879, the all-Russian body of governance the penitentiary system, the Main Prison Administration, was established. In such circumstances, local government and self-government bodies played a key role in supporting the work of penal institutions.

KEYWORDS: guba office, headman, tselovalnyk, prison

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RESUMEN

El documento analiza el papel y la importancia del gobierno local en la implementación de la política penitenciaria del estado ruso. Durante el período de su existencia, el sistema penitenciario de la Rusia zarista se mantuvo descentralizado. Solo debido a la reforma de la prisión de 1879, se estableció el cuerpo de gobierno de toda Rusia, el sistema penitenciario, la Administración de la Prisión Principal. En tales circunstancias, el gobierno local y los organismos de autogobierno desempeñaron un papel clave en el apoyo al trabajo de las instituciones penales.

PALABRAS CLAVE: oficina de guba, jefe, tselovalnyk, prisión.

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INTRODUCTION

The first participation credit of local self-government bodies in the implementation of the state penitentiary policy was the work of guba and zemstvo (district and county) institutions. Guba and zemstvo government offices cannot be labeled as neither state government bodies nor local self-government bodies. This was a symbiosis of local government and self-government bodies due to their changing features and functions in different historical periods. However, considering the order of their establishment, we can classify them as self-government bodies.

In the first half of the sixteenth century custodial facilities were in the authority of the bodies and individuals functioned as police. In Moscow these were Zemstvo and Rogue Orders while throughout the country – guba offices and in case of their absence – voivodes.

Because of fief-offices inability to fight crime and the increase in the number of offenders, central authorities started guba and zemstvo reforms which resulted in the creation of guba and zemstvo government offices, estate-representative bodies and contributed to the strengthening of state centralizing trends.

At the request of a wealthy part of the population of some territories, they granted the right to set up special self-government bodies, guba offices, in the provincial districts, originally coinciding with the volosts, townships or villages and later with the counties. The legal basis for the establishment of the guba offices was the guba charters and directives №d since 1539 on behalf of the Grand Duke by Rogue Order. They granted residents of the counties the right to elect at the general

assemblies for the counties from competent and ‘well-be-seen’ nobles and boyars the guba headmen and desyatsky, rural police officers, and from the taxed population – tselovalnik, sotsky, pyatidesyatsky, desyatsky officials. The first document of the reform was the Guba Belozerskaya Charter authorized the establishment of a guba government office in the city of Belozero¹.

After the election, the headmen were summoned to the Rogue Order, where they took the oath and received the orders that figured out their competence and powers. Tselovalniks were sworn on the spot, and their lists were sent to the Rogue Order. Guba headmen and tselovalniks were at first elected for an indefinite term, till the “sovereign’s decree”, and then for a certain period, usually a year.

In addition to the police and judicial functions, guba offices were assigned to fulfil criminal executive functions and manage prisons. Direct supervision of inmates was assigned to prison guards and tselovalniks. These categories of prison officers were elected by soshny (agricultural) people, and in Moscow by “black hundreds”. To choose tselovalniks, guards, and clerks was allowed only within the estates involved not less than twenty peasant households. In Moscow executioners were also chosen and held by the Rogue Order.

When taking office, prison officials took an oath, a kiss of the cross. They carried out official functions for the payment received from the people who elected them. The abuse of their official position, expressed in the illegal release from prison of prisoners, or the use of their labor in their household or transfer them to another person for this purpose, entailed the application of property penalties and punishment with a whip to voivodes, headmen and wardens. In addition, the electors were liable for claims against prison officers in case of claims against them arising from the unfair or negligent performance of their duties. The escape of the robber from prison, if he was charged with property claims by the plaintiff, automatically shifted the property responsibility for this claim to tselovalniks and guards. The deliberate abandonment of

1. *Records of the history of USSR / ed. by N.S. Borisov, A.D. Gorsky. Moscow, 1987. P. 154-156.*

service by the guard was punished by corporal punishment, followed by imprisonment. Thus, the article 104 of the chapter XXI of the Council Code defined: "and there will be in the cities whether the governors and commanding people or guba headmen release thieves from prisons without a sovereign decree... and this is found out... then the magistrates, clerks, and headmen should get severe punishment, whip them mercilessly as if they were those thieves they released".

Duties of a guba headman on the prison management were set up in the article 101 of the chapter XXI of the Council Code: "in the cities prisons are the responsibility of guba headmen; guba headmen have to often inspect prisons to make prisons safe and there is no reason for prisoners to escape". The article has decided the liability of the labial elders for negligent performance of their duties: "in the cities and prisons, the thieves leave unpunished because of headmen's carelessness and malpractice for which headmen themselves should be charged by guba tselovalniks".²

In addition to the Council Code, several other legal instruments regulated certain duties of the penal institutions. For example, in the Memory, the written order, to the headman Maxim Agibalov on the creation of a guba office in Zimnegorsky Yam dated 31 January 1663, in addition to other duties a headman was given the responsibility for repair of prison buildings and the construction of new prisons³.

According to the Acts on elections of prison guards and assistant records of 1671, a watchman was required: "to keep prisoners inside a prison by any means, prevent their escape from a city, not let them steal or play cards, keep them far from axes, knives, bradawls, and ropes, allow no visit to a pub and drinking alcohol". In addition, they should "being in charge, commit no theft, never play dices and cards, never keep a pub... and always stay sober".

Tselovalniks also had to "prevent prisoners from getting away and stay near the prison without being away for a moment".⁴ Improved certificate of 1688 elaborated on the duties of prison officials even more: "all prisoners, robbers and thieves of all sorts should not get out; saws and cutters should be kept away to prevent any wish or intention among prisoners to use them".

It is difficult to find significant difference in the duties and legal status of prison guards and tselovalniks. However, we can assume that the position of a tselovalnik was higher because he was elected while a guard was hired.

The Book of Edicts of the Rogue Order of 1555 ordered local communities to choose sixteen watchmen to guard the prison in shifts during the year.⁵ According to the Royal Charter to the Cherdyn commander Sarych Linev, for failure to perform or negligent performance of his duties a prison guard can go to jail, albeit for a short time: "... to make them, being on the lookout, not to steal, throughout the day and night be present; and those watchmen who start stealing and missing their guard be whipped and put in jail".⁶

Residents perceived the provision of prisons as a very burdensome duty and tried to sabotage it in every way. This catalyzed the adoption of the decree of 1666, according to which tselovalniks and watchmen in large Muscovite prisons were no longer selected but had to be hired by the Rogue Order in the number of eight people for a year from among the capital's townspeople.

A heavy burden of the taxable population was also a duty to build prisons. There have been many disputes who should finance the construction of prisons. For example, for this reason, the construction of a special prison for keeping the protopope Avvakum and three of his supporters exiled to Pustoozero took two years. Other decrees, predicting disobedience, prescribed that the entire population of

2. Council Code of 1649 // *Russian Legislation of the X-XX Centuries*. Vol. 3. Acts of Zemstvo County Councils. – Moscow, 1985. P. 247.

3. Memory to the Headman Maxim Agibalov on the Creation of a Guba office in Zimnegorsky Yam of January 31, 1663 // *Judicial Acts*. – Sankt-Petersburg, 1838. № 352. Pp. 378-379.

4. Sergeevsky N.D. *Punishment in Russian Law of the XVII Century*. Sankt-Petersburg, 1887. P. 203.

5. *Chrestomathy on the History of Russian Law*. Ed. by M. Vladimírsky-Budanov. 3rd edition, 1888 // *Allpravo.Ru* – 2005. P. 181.

6. Royal Charter to the Cherdyn commander Sarych Linev of March 24, 1630 // *Historical Acts*. Vol. 3. – Sankt-Petersburg, 1841. № 163. P. 291.

a guba should take part in the construction of a prison without exception. As a rule, residents performed their duties, very rarely the state itself paid for the construction of the prison. A few charters imposed on local communities the obligation to build prisons and organize their protection by the community. For example, the Guba Charter to the Trinity Lavra of St. Sergius of 1586 instructed local farmers "...they in those counties and villages should make prisons for rogues and thieves and choose guards for these prisons..."⁷

The obligation to finance the construction of guba prisons lay on the tax estates until the second half of the seventeenth century and only on November 27, 1679 the nominal decree with a boyar sentence "On the non-charging from the town and county people on the prison constructing and other small expenses of the monetary fee" was adopted.⁸

According to the Book of Edicts of the Rogue Order of 1555, guba prisons were to replace the corrupt and abusive private prisons. The new prisons gave separation of prisoners who had committed criminal offences from other offenders.

A typical guba prison was surrounded by a jail and often a moat. The horizontal log structure of the prison made it possible to easily set up separate cells for the detention of various categories of criminals, depending on the sex and severity of the offence.

Thus, during zemstvo-guba government reforms, a fundamentally new category of prisons at the disposal of local authorities was created, with a completely new range of penitentiary means and methods. The activities of the municipal penal institutions marked a qualitatively new stage in the development of the national penitentiary. As it was rightly pointed out by V. Rogov: "the criminals were seldom divided into two categories. "Felony" professional criminals were considered hopeless for "reformation". They were executed. The remaining mass of offenders has been subjected to consistent and systematic coercive measures to preserve them active members

of society. Social usefulness of a person for the state was the main concern of the last. At the same time, the broad spiritual freedom of the individual, expressed in religious tolerance, was allowed. The punitive doctrine of the state was not aimed at preventive terror, but at creating conditions under which the offender "returned" under public supervision to social life, forcibly changing his way of thinking following the official ideology."⁹

It seems that this vector of the penitentiary doctrine was formed not least since the prison administration consisted not of civil servants but of elected residents of the counties and that the broad strata of the society was directly involved in the implementation of the penitentiary policy.

In the seventeenth century the local government was reorganized. Guba and zemstvo government offices were re-subordinated to voivodes appointed from the center. Administrative, police, judicial and military powers became the exclusive prerogative of voivodes. Over time, provincial guba bodies lost their independence and electivity and were included into the centralized state administrative system.

Relation to the apostles, grows in the third part of the trilogy to the limits of authenticity and extreme accuracy in the perception of historical persons and events. ■

7. *Guba Charter to the Trinity Lavra of St. Sergius of 1586 // Acts collected in libraries and archives of the Russian Empire. Vol. 1. Sankt-Petersburg, 1836. № 330. P. 393.*

8. *Complete Collection of Laws. First Collection. № 780.*

9. Rogov V.A. *History of Criminal Law, Terror, and Persecution in the Russian State of XV-XVII Centuries. Moscow: Jurist, 1995. P. 61.*

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