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## **Carceral framing of human rights in Russian prisons**

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### **Abstract**

This paper introduces to punishment and society scholarship a new carceral framing of human rights in Russian prisons. Russian imprisonment remains elusive to prisons scholars and ethnographers around the world. Moreover, on the subject of prisoners' rights specifically, the scholarship is dominated by legal discourse. The empirical and theoretical scholarship that has developed over the last twenty years has argued that Russian imprisonment is exceptional in the study of world penal systems with the research seeking to gain a sense of this exceptionality through looking at the inertial legacies of Gulag penal culture on present day punishment forms. This article attempts to challenge this claim and will argue that specifically in the area of human rights, Russia has followed a not dissimilar carceral formation to Western prisons. Through an interrogation of the cultural, political and historical factors underpinning how rights are framed in Russian prisons the article suggests that human rights are operationalised as a lever for legal and penal control. This is a significant new finding in the study of Russian imprisonment because of the questions that arise around penal resilience, how rights and penal power develop through discourse and how global penal norms converge across jurisdictions.

### **Keywords**

Russian, prisons, carceral, framing, human, rights, European, pravosoznaniye

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## Introduction

Campaigns for prisoners' human rights are symbolic and expansive in their efforts to challenge prison standards, administrative decisions and legal rules. Human rights in prisons are debated from multiple standpoints and framed differently to include: their legal status and effects on law (Daems 2011; van Zyl Smit and Snacken, 2013), their framing as part of a struggle for equality and fairness (Morrison, 2010) and their dominant influence in societies formerly marked by atrocity and the absence of the rule of law (McEvoy, 2003; Jefferson and Gaborit, 2015)<sup>1</sup>. While all prison regimes differ in their cultural specificities, rules, laws, infrastructure and norms, it is through the diffusion of human rights law into international human rights obligations, trickling down to domestic laws, national prison service policies outlining fair and transparent decision-making, where legal links and obligations between penal systems are made (Rubin, 2015).

This article is concerned with how rights discourse is diffused and framed by internal and external actors in prisons in Russian prisons. Following the exposure of widespread penal aberrations after the collapse of the USSR, human rights have been unequivocally embraced and absorbed into law, policy and practice with positive effects that include a recognition that all prisoners have rights (albeit applied with varying competency) (see Piacentini, 2004; Bowring, 2013). Furthermore, prisoners' rights have evolved in an ambitious legal- penal reform context that is measured globally against the country's transition from the Soviet penal system. Human rights have brought Russia closer politically, culturally and – crucially – penologically to its European neighbours through, among other things, Russia joining the Council of Europe in 1996; an enactment that brought the institutions of prisons and criminal justice into alignment. Consequently, for twenty five years, penal reform in Russian prisons has been constructed almost entirely from legal discourse. However, when prisoners' rights

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<sup>1</sup>This list is by no mean exhaustive and is an illustrative guide of some of the scholarship on prisoners' rights.

are constructed as entitlements overseen by law, this raises the matter of how those held in prison get caught up in the powerful cross-current of rights and penal power. A question that comes to mind is how do prisoners themselves conceptualise their own rights? Secondly, what does rights discourse tell us about the prison as an object of study, its culture, practices and purpose? These are significant sociological questions practically and theoretically for the study of Russian prisons: first in furthering our understanding of the role of human rights in improving correctional practices in an era of mass incarceration and, secondly, because interpretations of rights can lead to actors ‘framing’ punishment in a particular way.

An important issue to acknowledge here is that while research into prisoners’ rights is almost absent from prison sociology everywhere, by contrast, law scholars and law organisations have been talking about prisoners’ rights for decades<sup>2</sup>. As Calavita and Jenness note, the extensive law literature serves as a reminder that, ‘...while law in everyday life is salient but largely subterranean, in prison it is emblazoned across the landscape’ (Calavita and Jenness, 2015: 73). Part of the explanation for the dominance of legal scholarship on the subject of prisoners’ rights lies in the need (following the atrocities of the Second World War) to integrate a very broad principle of human rights law into all places of detention (Coyle, 2009). Other explanations include: increasing awareness of the risk to the abuse of power in prisons, perceptions that legal doctrine is the most informed and accurate authority on the subject of rights (see Valverde *et. al*, 2005) and because law governs all aspects of prisoners’ behaviour<sup>3</sup>. It has also been argued that the legal empowerment of prisoners has coincided with a harsher penal climate, escalating imprisonment rates (the US leads the world on prison population rates with 2.3 million prisoners held across the criminal justice system)<sup>4</sup>,

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<sup>2</sup> See Appleton, 2014; Behan, 2010; Johnson, 2011; Van Zyl Smit and Snacken, 2013 and the American Civil Liberties Union for detailed discussions of prisoners’ rights.

<sup>3</sup> We acknowledge that prison regimes do differ in their cultural practices and that legal doctrine, while conspicuous, may vary in implementation, scope and reach.

<sup>4</sup> See Coyle (2009) and The Prison Policy Initiative (2016).

increased prison building and risk management (see Hannah-Moffat, 2001; Hoffman, 2011). With reference to Canadian prisons, Hannah-Moffat (2001) argues further that the carceral-legal framing of rights *disguises punishment* and may even enhance penal power. This is because rights discourse is part of penal governmentality that: leaves the institutional dynamics of incarceration intact (through a focus on transforming prisoners into self-governing bodies), makes prisoners feel that they are to blame for their personal circumstances (which puts them at risk of being stigmatized as a trouble-maker) and produces specific tensions between power and vulnerability (which can affect a prisoner's self-identity as an agent with or without rights). The effect of this is that understandings of how rights come to be spatially and temporally organised, and culturally and politically framed, remains hidden (Murphy and Whitty, 2013). Moreover, the institutional and cultural power of imprisonment is structurally framed in ways that can override rights claims (Calavita and Jenness, 2015). A human rights lens, therefore, can be valuable for interrogating questions around the cultural meaning of human rights in prisons, penal exceptionality and the question of commonality between punishment systems. Few Western sociologists have explored these questions in depth but some scholars are analysing carefully the sociological intersections between prison as a place of legal rights and penal power (see Hannah-Moffat, 2001; Calavita and Jenness, 2015; Jefferson and Gamborit, 2015).

Our article is informed by this work but we do not focus on legality and penal power and, instead, we argue that the varying ways that discourses around rights are framed are very important because they reveal socio-political and cultural insights into what compliance might mean in a country such as Russia with clear implications for how and why rights are promoted internally and externally. The paper is drawn from a new project - the first of its kind in world prison sociology – that explores how Russian prisoners develop rights consciousness through a range of remedies (online platforms, legal aid and accessing civil

society groups). The patterns of how prisoners conceptualise rights and how this then shapes understandings about prison as a place of law, punishment and stigmatization will be explored in Piacentini and Katz (forthcoming). In this paper we present an analysis of Russian language research on human rights in prisons alongside a discussion of the European legal and policy discourse. Our analysis of the literature shows that human rights engagement in Russian prisons emerges out of a nexus of discursive frames embedded in socio-political, historical, cultural and (geo) political conditions which we argue are essential to a discussion on prisoners rights (see Garland, 2006). We employ two ‘carceral frames’ that offer a more nuanced approach for interrogating rights in Russian prisons. We find Goffman’s (1974) concept of ‘frames’ particularly instructive because human rights is effecting specific outcomes. Each frame has ‘speech actors’ and different audiences. The first frame we term ‘European penal harmonisation’ and it concerns European penal policy that articulates human rights to Russian political officialdom through a more macro compliance context<sup>5</sup>. For our second frame we use the term *pravosoznaniye* (‘a sense of legal obedience’) which in the context of Russian prisons refers to the internal actors - the Russian epistemic community - who articulate human rights as a form of socialisation that follows from penal control, good discipline and legal obedience. This in turn widens the audience from the micro compliance context (prisoners) to Russian society more broadly. Our findings suggest additional carceral frames by third sector organisations, health providers, the prisoner lawyer, prisoners, ex-prisoners and families of prisoners that operate beyond the boundaries of legal definitions or legal obedience. However, we have selected European harmonisation and *pravosoznaniye* for two reasons. First, these carceral frames demonstrate how the legal/penal interface is experienced by non-penal actors and reveal interesting penal and cultural meanings, which

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<sup>5</sup> There is not the space to go into detail what we mean by the macro compliance context here but it refers to the Council of Europe’s prison institutions and is discussed in more detail in Piacentini and Katz forthcoming.

are significant for a jurisdiction like Russia due its long and complex history of using penal forms as a mode of social control. Second, these two frames disrupt the conventional wisdom that conceptualises Russian imprisonment as exceptional in the study of world penal systems due to the inertial legacies of Gulag penal culture on present day punishment ideas and practices (see Piacentini, 2004 and Pallot and Piacentini, 2012). Our papers offers, therefore, a revised conceptualisation of Russian imprisonment that is significant because of the questions raised around how ideas and norms converge across jurisdictions (which is becoming of increasing interest to international prison sociologists).

We begin with an examination of Russian penal history that is followed by an outline of our methodology and our findings of how human rights coalesces around two carceral frames. In our conclusion we highlight the complexities around prison sociology's engagement with human rights discourse across world prison populations. We argue that to better engage with how human rights can address problems within prisons around the world and why some penal practices remain resilient, reflection on the socio-political context is required.

### *Russian prisons briefly*

World prison population rates vary considerably per 100,000 of the population. As total prison population numbers go the United States, China and Russia continue to be the top three places of high punishment with 2.2 million, 1.64 million and around 640,000 prisoners respectively in each jurisdiction (Walmsley, 2016). Since 2000, prison population rates have been falling in Russia from over one million prisoners in total in 2000 (729 prisoners held per 100,000) to 677, 287 (471 per 100,000) in 2014, and climbing slightly in 2015 to 686, 200

prisoners in 2015<sup>6</sup>. With epithets such as ‘Dante-esque’, ‘infernal’ and ‘at bursting point’, that the Russian penal system has reduced its prison population to almost half the size it was in 2000 is a remarkable achievement<sup>7</sup>. What is striking about these descriptions is the foregrounding of penal aberrations in Russian-Soviet culture. According to the historian Martin Malia, Solzhenitsyn’s *The Gulag Archipelago* bore witness to ‘the bankruptcy of Soviet order...[and] traced in clinical precision and with moral passion the development of the “human sewage system” of the camps and the “metastasis” of the “cancer” of terror, not only throughout the Siberian archipelago, but in nominally free Soviet society’ (Malia, 1999: 396). There is certainly an existential ‘feel’ to incarceration in Soviet Russia that is captured in the early work of Conquest (1968) who wrote of the extraordinary ambition to weave penal policy into economic planning that would guarantee the endurance of a Soviet utopia. This is what we might refer to as Russia’s penal peculiarity: conventional norms around crime and punishment were subverted and supplanted.

Soviet studies’ scholars have in the past followed the development of the forced labour camps - the Gulag Archipelago - which has become the widely used metaphor for describing all Soviet prison establishments. While prison camp numbers have been debated for decades, where scholars do agree is that the Soviet penal system was marked by mass death, chaos, redemption, punishment, astute bureaucratic planning and yet, also, random jettisoning of the weak and ill into communities because economic targets could not be delivered (Shearer, 2015). One of us interviewed a survivor of Stalin’s Gulag in Moscow in 1997 and she described her prison ordeal thus: ‘I was kidnapped off the street, transported to

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<sup>6</sup>The Ministry of Justice for the Russian Federation (MinYust) at <http://www.fsin.su/>, accessed on June 22, 2015. The FSIN figure for 2015 was recorded on July 1, 2015. The Ministry of Justice has not published a prison population rate per 100,000 for the year 2015 so we revert here to the World Prison Brief, which records the total population on 01 May 2015 as slightly lower than the FSIN figure: 676,532 and 468 per 100,000. See <http://www.prisonstudies.org/country/russian-federation> accessed June 22, 2015. For a complete breakdown of the structure of the Russian penal system, see the official website of the Ministry of Justice of the Russian Federation at <http://fsin.ru>.

<sup>7</sup> The background population figure against which this is calculated has also fallen so the drop looks bigger than it is possibly is.



a camp in Siberia, forced to work in the dress I was picked up in. Prisoners were everywhere and dropped dead around you through frost-bite and starvation. We were forced to bury them on the spot they fell<sup>8</sup>. This experience is recounted in countless prisoner memoirs, which have since formed into a distinctive cultural landscape of penal memorialisation. Contradictions around commemorating Soviet penal atrocities, particularly during the Stalin era, continue. Of interest to us is how Russian penal-history scholarship is now productively calling into question the relationship between the penal system and Soviet society. In Solzhenitsyn's Gulag, the penal system was presupposed as a world physically cut off and remote. Recent scholarship has challenged this by arguing that there was porosity between the barbed wire fences and Soviet society and, further, that there was a dynamic and interactive relationship between penality and Soviet society (see Healey, 2015). As Brown (2007) notes, the prison system existed at one end of a spectrum of repression but at the other end, all Soviet citizens were subject to an incarcerated geography of Soviet-style socialism (through rigid restrictions on internal movement, brutal labour laws and internal exile).

Today's prison system is indeed a creaking edifice of complexity, painful memory and, in some respects, cultural exceptionality, because the Russian penal system's roots are mostly found in totalitarianism. The judiciary, for example, operated as defenders of the state and not as arbitrators of conflicts between citizens or between the state and the citizen. This hybridity between law and ideology may partly explain Russia's 'tortured legacy of law' (Hendley, 2012: 18). The Soviet penal system has also left a spatial and penological imprint on today's system through the inertial forces of collectivism, which has shackled the penal system to an age-old cultural sensibility of confining prisoners together in large detachment blocks (see Piacentini and Slade, 2015)<sup>9</sup>. The penal system today is strongly defined by its

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<sup>8</sup> Unpublished interview, see Piacentini (2004) for details.

<sup>9</sup> Due to space limitations we are unable to outline recent penal change but we refer readers to Pridemore (2005), Bowring (2013) and Solomon (2015) for in-depth analyses of Russian criminal justice and legal reform.

capacity to become human rights facing, which has re-oriented penal ideology away from the century-long Marxist/Leninist penal doctrine towards something recognisably different, Western and Europe-facing (see Van Zyl Smit and Snacken, 2013). Whereas these developments have stressed the importance of human rights for penal reform – to create a new penal image so to speak – how the working practices of penal punishment are defined and articulated today is less known (see McAuley, 2016). Also, given the interconnections between the Soviet state and society, channelled through the vast prison complex, we also do not know if contemporary prisons have a place in articulating this interconnection. We return to these questions further on but as Bowring 2013 has pointed out, Russia now regularly accepts a level of political and legal interference in penal matters that would have been unheard of twenty five years ago, which is worth interrogating further because it reveals specific things about how international law has shaped Russian imprisonment and specifically the framing of human rights, which we discuss in more detail after we have outlined our methodology.

### *Methods*

The paper presents a conceptual framing of prisoners' rights in Russia. Aside from the important work by Calavita and Jenness (2013, 2015), Sexton (2014) and Hannah-Moffat (1999, 2001, 2014), prison sociology does not explicitly deal with rights, nor does it interrogate how prisoners interpret troubles in prison, contest conditions, standards and raise grievances about human rights violations. This is an interesting omission given that prisons are environments where there is an unequal distribution of power. We have analysed the English-language prison policy on Russia and we have studied the legal and socio-legal research on imprisonment, rights and risk in Western penal systems. We have also reviewed

over three hundred Russian-language publications mainly in judicial studies journals by Russian scholars from a wide range of disciplines (criminology, law, sociology, socio-legal studies and psychology). Our approach to coding this research literature was to capture where and how the human rights of prisoners were discussed. We then coded the Russian language research into the following themes around: adaptation and rehabilitation, contact with home, experiencing every day punishment and engaging with authorities.

From the two frames we discovered themes around how human rights in prisons are communicated externally and internally. We then developed an analytical framework based on Goffman's concept of framing, which is a way of organising how societies and groups communicate ideas (Goffman, 1974). According to Goffman, framing is generally considered as either 'frames of thought' (how we mentally process, represent and interpret reality) or 'frames of communication', which is of particular interest to us because it consists of the communication of ideas between different speech actors. Framing, therefore, is active and processual. Since framing is a popular conceptual framework in politics, where facts are presented in public discourse in such a way that connects a problem to a solution, it is an appropriate conceptual framework for analysing human rights in Russian prisons because rights violations require action and remedy across various constituencies. If we consider that human rights follow a particular frame of 'communication', this opens up the question of 'communication between whom'? Upon analysing the literature on the subject, we have come to understand that human rights sits at the nexus of two carceral frames of communication: one directed by an external speech actor communicating to Russian prison constituencies, and the second an internal speech actor directing its discourse on human rights towards Russian society more broadly. We outline our two carceral frames in the sections that follow and explore the framing effects on Russia's culture of punishment.

*Carceral frame one: European penal harmonisation*

Within prison sociology, framing processes can generate conceptual and empirical questions about how penal ideas come to be communicated between different audiences. For our purposes, the carceral frame of European penal harmonisation has re-shaped Russian penal culture by shifting it towards the protection of prisoners through *external* legal obligations<sup>10</sup>. Thus, when Russia joined the Council of Europe in 1996 it did indeed accede to a series of Council of Europe Conventions immediately including new Criminal and Procedural Codes and a Criminal Correctional Code with the legal obligation to integrate European standards and principles into all legislation covering places of confinement and the European Prison Rules (1987, 2006). While the list of obligations and ratifications is extensive, in signing the European Convention of Human Rights and Fundamental Freedoms, it was commonly stated within Council of Europe officialdom that it is ‘now beyond doubt that Russia was part of Europe and that the wealth of Russia’s culture was an inalienable part of Europe’s common heritage’ (Bowring, 2013: 159). Prison law experts argue further that relevant to creating a common penal language was penal reductionism, which was effective in reducing prison numbers. On a conceptual level it paved the way for a new carceral frame around ideas of penal commonalty with European penal sensibilities (Van Zyl Smit and Snacken 2013).

At that time, there was no official communication that a harmonisation frame around human rights and penal commonality was ‘replacing’ Soviet penality, but the extent of the compatibility between Russian and European prison law was resolved - in principle at least - when Russia joined Europe’s political institutions (with carceral harmonisation underpinning that process). International penal institutions (speech actors) were communicating to Russian

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<sup>10</sup> We wish to note here that the paper does not go into detail on prisoner litigation and prisoner claims although we concur that prisoners are legal actors. Our interest here is in the sociological and cultural dimensions of the compliance context.

prison officialdom (audiences) and asking: can, and should, Russia become a European penal system? This question was answered in part through the compliance-based political obligations, considerations and legal accessions that developed between Council of Europe institutions and Russia so much so that Europe, as a normative power, dominated penal discourse inside Russia (Bowring, 2013). At the same time, an additional discourse that Russia was more European than Asian was surfacing, which was interesting because it was politically provocative (in the context of setting out legal obligations to ratify European rules and norms) and resulted in harnessing Russia to a common European vision (see Glotov, 1996). It is also notable that in the mid -1990s acceptance of Russia into the European Union (EU) was held as essential for the political security of Europe (Bowring, 2013). As Bowring notes ‘...most in favour of Russian accession concentrated on European security and the future of the project of European unity, rather than on the protection of human rights in Russia’ (Bowring, 2013: 152). Russian prisons, therefore, become inextricably linked not only to European judicial ‘macro compliance’ but also to geo-political stability.

Further evidence of a European penal harmonisation frame can be found in prison policy. The Russian prison service, *Federalnaya Sluzhba Iсполneniys Nakazanii*’ (The Federal Service for the Management of Prisons) regularly posts pronouncements on ‘protecting prisoners’ rights’, ‘relationship building with non-governmental groups around rights’, ‘prioritising the rights of families’ and ‘partnership initiatives and memoranda of understandings with several EU nations’. Indeed, the process has been so sweeping that a survey of all of Russia’s 1230 penal institutions would show up evidence of some human rights rationalisation with a vast amount of official policies and protocols aiming to support prisoners now available. As the prison service website states: ‘we are communicating through open data of all our prison establishments and conditions’<sup>11</sup>. More recently in 2015, Russia

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<sup>11</sup> See <http://www.fsin.su/opendata/>, accessed January 05 2016.

as a member of the Council of Europe was a participant in the Twentieth Council of Europe Conference on Probation and Prison Services held in Romania where Russia made presentations on civil society engagement, human rights of children in custody, addressing the funding of prisons in fragile economic times and how local communities can work with prisoners to prepare for release. What is striking about these developments is how Russian prison authorities are creating some open content and different types of communication systems between the penal system and different audiences (prisoners, families, Council of Europe officials and so on). Unlike the traditional bureaucratic flow of Soviet penal management where information on prisons flowed secretively and vertically, nowadays, and with external obligations for penal accountability driving penal management, Russian-language policy on good prison practice opens up questions about how the penal system presents itself and what it communicates externally. However, what is less evident from the penal harmonisation frame is a cultivated public discourse, a penal narrative, that links past to present, which reveals and discusses the social dynamics of incarceration, and which promotes cultural change not just through changing frameworks but through *reflexive practices*.

Our view is that these communications on human rights are deceptively simple, because without changing the structure of imprisonment itself, or debate punishment forms, Russia becoming a signatory to important European instruments disguises the inner machinations of Russian penal culture, which continues to be a strong penal state in the following ways. First, the penal system still looks essentially ‘the same’, in much the same way as some nineteenth century North American prison buildings remain in use despite numerous changes in penal architecture since they were first built. Second, some practices and norms have significant *cultural resonance* with Soviet times: the continued use of penal exile, the unique penal architecture (deeply implicated in Soviet society’s interpretation of the

individual and the collective and where criminal sub-cultures thrive) remains, and the absence of either alternatives to custody or a probation service, means a period in custody remains the default sentence for many minor offences (Pallot and Piacentini, 2012)<sup>12</sup>. Russia's sentencing system has come under scrutiny too for appearing to carry forward Soviet practices of punishing high-profile offenders, such as the cases of Mikhail Khodorkovsky and Pussy Riot, and for the disproportionate use of imprisonment. The penal system remains subject to much international concern for inhumane conditions including an acute lack of space in cells and other unjustified restrictions such as insufficient sanitary provision and lack of natural light (see Bowring, 2013; McAuley, 2016). It is debatable, therefore, whether human rights, even if widely adopted in Russian jurisprudence, is leading to the necessary institutional change because elements of Soviet political and penal approaches to incarceration and a destabilisation of the rule of law continue (see Bowring, 2013).

In summary, what is so compelling about the penal harmonisation frame is how the diffusion of human rights law into prisons has in a sense masked how we make sense of current penal forms in contemporary Russia. This has had the effect of creating a kind of penal resilience. There is also some resonance here with Western penal systems where judicial processes operate within culturally specific socio-economic and political contexts (see Norrie, 2001 and Scott, 2013). As Scott (2013) notes, 'Sight must not be lost of how present legal rights reflect as much, if not more, the interests of those in positions to define them as of those they pertain to defend them (Scott, 2013: 237). This is an instructive comment in the Russian context because of the long history of state and judicial repression delivered through its penal system. Equally plausibly, the emboldening of state power may also be happening because rights in prison can be highly restrictive, static and difficult to

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<sup>12</sup> Although fines are now firmly established.

negotiate for prisoners. Only very few prisoners benefit from judicial rights in Russia (Bowring, 2013) and because of increased legalism, or ‘juridification’, human rights for many has turned into a metric and something to react against, rather than a universal ideal that is built from good prisoner-staff relations (see Scott 2013).

In the next part of our paper we examine the very particular way that rights are conceptualised as legal obedience (*pravosoznaniye*) by Russian expert knowledge producers (see Valverde *et. al*, 2005).

*Carceral frame two: pravosoznaniye (a sense of legal obedience)*

Other than Bill Bowring’s work, we are not aware of any English-language research that interrogates the sociology of prisoners’ rights in Russia. Moreover, many Russian scholars have struggled to disseminate concepts and ideas around prisoners’ rights to English speaking audiences. We note that although the Russian research persuasively accounts for the recognition of rights in prisons, the scholarship frames human rights as intended to instil in offenders legal obedience and to ensure that prisoner behaviour coheres with a penal policy organised around institutional control. While this will be explained as culturally specific to Russian/Soviet society, the co-opting of prisoners’ rights discourses for effective prison management also – remarkably - resonates with how rights are discussed in Western penal settings where human rights, and prisoners, are perceived as institutional, legal and state risks. This then raises an important question about whether, purposely or not, the Russian prison research conceptualises rights as reinforcing state power.

In the introduction we outlined our second carceral frame, *pravosoznaniye*, which we define a ‘sense of legal obedience’. The Russian language scholarship we have examined comes up with many definitions of *pravosoznaniye*, not easily translatable into English:



‘cognitive spheres of legal influence’, ‘the prisoner group consciousness’, ‘convicts group law consciousness’, ‘legal views of prisoners’, ‘legal outlooks of prisoners’, ‘deformation of consciousness’, ‘moral and legal notions’ and ‘subjective rights and legitimate interests of convicts’. Interestingly, *pravosoznaniye* captures a socio-legal and, moreover, a cultural understanding of rights amongst prisoners as both morally and spiritually rooted in legal obedience. Studies of legal consciousness are useful to consider here particularly in the ways that the literature trains attention on how people understand the law and then act on those understandings (see Ewick and Silbey, 1998; Nielson, 2000; Nazarova, 2003). Legal consciousness is not the same as legal obedience but there are certainly common concerns around how rights consciousness is linked to self-identity and how this shapes whether individuals feel they are treated fairly by institutions and by the law (Neilson, 2000). Our understanding of *pravosoznaniye* as legal obedience is based on the legal-historical scholarship of Ilyin, the nineteenth century Russian legal scholar of ‘legal consciousness’. However, our translation of *pravosoznaniye* does not define it as a weapon of the weak (see Cowan, 2004) and instead understands it as form of ideological and social obedience (see Forsova, 2013).

More broadly, Russian scholarship addresses the subject from a social-psychological and offender-management perspective. Research conducted by Dvoryanchikov and Savkina (2011), with a cohort of adolescent prisoners, found that when an offender was more rights aware, they were more conscientious about what the authors call a ‘law abiding, ideal self’. Similarly, Panova (2008, 2011), Drozdov and Yavorskii (2013) Mikhailov (2013) and Fedorova (2014) argue that human rights are a catalyst for improved ‘social behaviour’ in prison, which may enhance adaptation to a period of imprisonment. In an interesting paper analysing statistical data from penal colonies in the Urals, Molchanov and Verbitskaya (2014) suggest that instilling a ‘culture of rights’ in prisons can improve the security of the

regimes. Suchkova (2012, 2013 and 2014) and Il'yagueva (2007) posit the view that prisoners respond to laws in Russia in nefarious and complex ways that can have the effect of identifying with the norms of prison subcultures than with the formal legal rules of the regime. Yunusov (2014) offers a more universal reading of human rights, arguing that human rights must feature prominently in offender management to ensure that social and legal justice is delivered. The subject of prisoner litigation forms part of a wide legal literature on the legal compliance of prisoners and offers a descriptive outline of which legal rights apply to prisoners, rather than probe in theoretical detail how the framing of rights might impact on ideas about punishment and, importantly, a prisoner's sense of legal consciousness (see Il'yaguyeva, 2007; Drosdov and Yavorskii, 2013; Efremova, 2014). Balancing rights awareness with the ongoing custodial demands of discipline and 'good behaviour' is presented as the main goal of efficient penal regimes. There is also a body of policy research that outlines the measures that can be undertaken by prison officers to 'correct' prisoners' rights awareness in order to instil in prisoners a sense of 'socio-legal competence' (with unexamined assumptions that human rights will change prisoner behaviour, see Beloborodov, 1988, 1998; Panova, 2011)).

This framing of rights as a 'sense of legal obedience' carries forward a long history of how expert knowledge producers researched punishment for state purposes and spoke to 'operationalising political norms' (see Piacentini, 2004). This cuts to the heart of academic independence in a changing Russia with very interesting parallels with criminological research in the United Kingdom. In the field referred to as 'administrative criminology' a scholar may put to one side a potential criticism of a government policy in the short term, because of a strategy of securing funding to build up a programme of research that might influence change in the long term. Many Russian scholars are penal practitioners who work within a particular habitus and cultural understanding of person and state that frames rights in

a particular way. For example, freedom of conscience, gay prisoners' rights, or civil society are rarely mentioned in the socio-legal scholarship on prisoners' rights (for a notable exception, see Rudakov, 2012)<sup>13</sup>. Our second carceral frame can also be explained in part by the hybrid political system of Vladimir Putin. One of the most important features of the Russian political state is its hybrid nature combining elements of both democracy and autocracy. In the hybrid system, there is an acceptance of some opposition and of civil-society groups, which co-exist alongside coercion, corruption and political clientelism. Hence, although rights are engaged with according to specific external obligations and tolerance of EU institutions, rights discourse is also viewed as integral to better punishment, and a stronger commitment (from prisoners) to a law abiding life. This suggests that rights are viewed partly as universal entitlements but also as a mode of state control diffused through a particular cultural consensus on law, personhood and ideology (Hale, 2009). This reflects the hybrid approach but also something other than a revival of Soviet penalty: how rights have come to be framed to internal audiences suggests that the discourse is politically bloated and delivered by speech actors (expert knowledge producers) communicating prisoner compliance to penal and political officialdom. Indeed as Bowring (2013) notes, the hijacking of rights by state control logic also reflects a too close 'intermingling of law and ideology in Russia' (Bowring, 2013:49).

We referred earlier to the work of Kathryn Hendley who describes law as having having a tortured legacy in Russia. McAuley (2006) goes further and argues that Russia has become '*a dictatorship of law...used as a means to control and for the achievement of political ends, and that has little to do with the rule of law*' (McAuley, 2006: 9, our emphasis). In light of this, our understanding of *pravosoznaniye* sees legal obedience extend

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<sup>13</sup> However, gender and parental issues are discussed in Drozdov and Marchenko (2012) and Prys' (2011) and Kovaleva, 2012).

beyond the prisoner self to Russian society more broadly because it combines an account of state-society relations (from historically honed ideas about the relationship between the individual and the state from the Soviet era) with a reading of rights awareness (as initiating law abiding behaviour among prisoners). In our conclusion we attempt to pull these two carceral frames closer together and ask specific questions around how efforts to change penal frameworks through human rights connect to, or disconnect from, institutional practices.

### *Conclusion*

Legal-institutional insights into prisoners' rights reveal a particular strength of human rights law, which is that it gives a rare glimpse of daily life in prison regimes. Furthermore, when the rights of prisoners are discussed, debated and contested, the very ordinariness of imprisonment becomes the exceptional in terms of inhumane and cruel conditions. While we have not discussed prisoner litigation or prisoners' experiences of contesting rights violations, we draw three key conclusions about how rights are framed in discourse and some potential implications for penal policy at the international and national levels. These conclusions are: how the Russia case study reinforces the urgent need to look at cultural and socio-political meanings of rights in penal spaces; the resonances between Western and Russian prison establishments on this subject, and the international policy implications. First, is that in framing human rights as engendering legal obedience it is plausible that the 'communication of human rights to internal actors' is aimed at enhancing the normative power of the state, which for a nation like Russia has profound political and cultural echoes. While we concur with McAuley (2016) that human rights in Russia have held the criminal justice system to account, we underscore how the legacies of Russia's troubled and traumatic penal history cannot be separated from a conceptualisation of human rights around obedience and social

control. Second, are the resonances between Russia and Western prisons around rights, which can have the effect of leaving the penal-institutional and cultural dynamics of punishment legitimate (see Hannah-Moffat, 2001). This is problematic for penal reform policy because when human rights and prisons interact, the penal reform process can fail to change working practices inside institutions. Third, are the international policy dimensions of our carceral frames. The international human rights prison community needs to consider questions around commonality and cultural specificity in how rights are promoted abroad by Western policy officials and consumed elsewhere. As the Russia case study reveals, alongside the legal definitions, there are different political and cultural constructions of what compliance actually means by different actors (internal and external) that have left the cultural, political and social ‘architecture’ around incarceration resilient. Without the recognition of how contemporary Russian prisons have grown from a historical spectrum of carceral space, the current penal reform processes will struggle to reflect current penal realities and every day punishment discourse.

More research is also required to interrogate how the two frames interact with other frames that we have discovered from our study because it may be the case that the law/rights interface is different for different penal actors. We are particularly keen to analyse how *pravosoznaniye* is internalised by prisoners. Ultimately, the two carceral frames outlined here have fascinated us primarily because they are active and processual modes of communication about penal ideas and this helps us better understand the prison sociological questions – of relevance to prison systems everywhere – around what the prison is for as an object of study. The carceral frames outlined here also offer insights into what we might call the ‘visible bureaucracies of rights mobilisation’ (institutional regulation, procedural monitoring, adherence to legal obligations) and the audiences to which penal bureaucracy must speak (see Feeley and Swearingen, 2003). While there are important points of connection and overlap

between the two, the turn towards human rights discourse upends how we might discuss punishment forms in societies marked by transition and, importantly, the connects and disconnects between how external and internal speech actors frame rights become especially relevant.

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