

# Book Review

To Each According to His Needs . . .

*The Gulag Archipelago 1918-1956: An Experiment in Literary Investigation.* By Aleksandr I. Solzhenitsyn. Translated by Thomas P. Whitney. New York: Harper & Row, 1974. Pp. xii, 660. \$12.50, \$1.95 (paperbound).

Reviewed by Leon Lipson<sup>†</sup>

This violent and gripping work comprises the first two parts (I, The Prison Industry; II, Perpetual Motion) of a projected seven, which are designed to take up three volumes in all.<sup>1</sup> As a few readers of this Journal may still not know, the title is derived from a Soviet acronym and an image of the author's: Gulag, from *Glavnoe upravlenie lagerei*, chief administration of (corrective-labor) camps;<sup>2</sup> Archipelago, from Solzhenitsyn's perception "of that amazing country of *Gulag* which, though scattered in an Archipelago geographically, was, in the psychological sense, fused into a continent—an almost invisible, almost imperceptible country inhabited by the zek people."<sup>3</sup>

In more than one sense the book is a discharge. It discharges Solzhenitsyn's files of the stories told him by scores of fellow prisoners, beached, like him, on one or another of the many islands of the Archipelago by one or another of the many waves of repression produced by one or another of the several governments that have ruled the Soviet Union. It helps to discharge some of his own memories of arrest, prosecution, and confinement.<sup>4</sup> It discharges some of the debt Solzhenitsyn felt he owed to his informants in camps or prisons, or out in the "big zone,"<sup>5</sup> as well as to the friend who killed herself

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1. A. SOLZHENITSYN, *THE GULAG ARCHIPELAGO* 617 (1974) (translator's notes) [hereinafter cited to page number only].

2. P. 616 (translator's notes).

3. P. x. *Zek*: "Prison slang for prisoner, . . ." P. 641 (glossary).

4. Solzhenitsyn has transmuted still other memories, in particular those of the penal research-institute to which he was lucky enough to wangle assignment, into novelistic form in *THE FIRST CIRCLE* (1968).

5. The "big zone" is popular Soviet slang for the (Soviet) world outside of the places of confinement. By implication, the term reduces the "outside" to an extension of the inside. It recalls the jest, current in Russia in the early 1950's, that the Soviet population

in 1973 after Soviet interrogators had forced her to reveal where she had hidden a portion of Solzhenitsyn's manuscript. And it discharges (but surely does not deplete) Solzhenitsyn's scorn and contempt of the leaders who in the name of supreme virtue wrought injustice on a scale seldom known elsewhere,<sup>6</sup> and of the followers who applauded persecution until (sometimes, even after) they fell victim to it.

In the course of the discharge we are given many marvelous catalogues. There is the catalogue of the waves surging through "our great prison sewage disposal system"<sup>7</sup>: the wave of the pre-revolutionary revolutionaries (Mensheviks, Socialist Revolutionaries, Anarchists, Popular Socialists), whom the victorious Bolsheviks started to put away as early as 1918; the wave of Russian expeditionary soldiers returning from abroad in 1919; the wave of elements of the intelligentsia considered close to the Party of Constitutional Democrats (1919); waves of speculators, of rebellious peasants, of rebellious sailors, of critical students (1919-1921, 1924-1925); the waves of religious officials, clerics, sectarians (1922); the waves of national-minority leaders, of ex-officers and their families, of Cossacks, of former state officials (1920's); waves of alleged wreckers and saboteurs (engineers, administrators, intellectuals), historians, still more national-minority leaders (middle and late 1920's); waves of Trotskyites, of men who had profited from the New Economic Policy, of possessors of gold (late 1920's); the "multimillion wave of *dispossessed kulaks*"<sup>8</sup> (strong peasants) (1929-30); the waves of those who were blamed for agricultural losses, such as agronomists and illegal gleaners (1930's); the wave of those convicted of counter-revolutionary agitation, which surged repeatedly in the 1930's and 40's; and many more.

There is the catalogue, copiously illustrated, of the offenses punishable under Article 58 of the Criminal Code of the Russian Republic of 1926,<sup>9</sup> which embraced what we would, but the Soviet authorities did not, call political crimes. There is a catalogue of the circumstances of arrest: the places where the police caught their victims, the mis-

was divisible into three groups: prisoners, ex-prisoners, and future prisoners. Solzhenitsyn's metaphor of the archipelago, applying an "outside" term to the collection of "inside" places, complements the term "big zone."

6. This achievement was formally manifested in the criminal trial, to which Solzhenitsyn's most succinct reference is the following:

On the threshold of the classless society, we were at last capable of realizing *the conflictless trial*—a reflection of the absence of inner conflict in our social structure—in which not only the judge and the prosecutor but also the defense lawyers and the defendants themselves would strive collectively to achieve their common purpose.

P. 374.

7. P. 417.

8. Pp. 54-55.

9. Pp. 60-67. For a discussion of the role played by Article 58 in Solzhenitsyn's novel *The First Circle*, see Weisberg, Book Review, 41 U. CHI. L. REV. 417, 418-30 (1974).

leading assurances by which the victims had been lulled, the illusions they persistently harbored of early vindication and release, the rare resistance. There are catalogues of the modes of search and seizure, of the brutalities of interrogation, of the whimsical procedures of conviction and sentencing, of the transit camps and prisons and labor camps, of the regular criminals who lorded it over the politicals, of warders and camp commandants, and of the diet of prisoners.

Especially the prisoners' diet. As an old *zek* Solzhenitsyn puts first things first, and reverts again and again to the trouble the *zeks* had to keep body and soul together, from the scene in the preface, with prisoners wolfing down prehistoric salamander discovered in a frozen stream, to the scene in the cells of a former church, where a prisoner (having no container) would have to lap up the contents of parcels from his family as the guards poured them through the swill trough of the cell door into the palms of his hands or his handkerchief or the flaps of his coat or his mouth.<sup>10</sup>

Solzhenitsyn's catalogue of the political offenses is not intended, and should not be appraised, as a contribution to legal scholarship. He has arranged under the statutory heads some of the material he has received from the people who had been ground up in the process. His method could not lead him to statistical compilation, even of the arrests or the convictions under the chosen Articles, and the government has provided none. Neither does he have much room for reporting acquittals or dismissed charges, few though these may have been. The proceedings in court, with few exceptions, are not at the center of his attention. Finally, he was naturally unable to report in detail on the inner workings of the Special Boards (*Osso* or *Oso*, *Osoby* *Soveschaniia*), nonjudicial administrative committees which from late 1934 to (probably) 1953 or a little later processed hundreds of thousands of cases to nearly inevitable conviction and substantial terms in penal camps. For a generation, the *Osso* were the most prevalent vehicle of official Soviet repression. As the *Osso* tried their cases usually on files, Solzhenitsyn's informants could hardly supply him with data on the trials themselves.

The prisoners' lot is regarded from two perspectives, to which roughly equal halves of the book are devoted. One half shows the prisoners' own point of view; the other half, interspersed, shows the viewpoint of the Soviet bureaucrat. From one angle the author (an ex-prisoner who when he wrote had good reason to think of himself as a future

10. Pp. ix, 606.

prisoner) looks at the prisoners looking at themselves; here he is angry, outraged, and compassionate. From the other angle he looks at the prisoners in the way he imagines the wardens and prosecutors did; here he is angry, outraged, and denunciatory. Where the halves overlap, as in the accounts of Soviet officials who fall into the jaws of the monster that they had helped to build, denunciation and compassion jangle. For example, Solzhenitsyn has a long running argument with the ghost of N. V. Krylenko, who was chief prosecutor from 1918 to 1931, and later People's Commissar of Justice. Krylenko's account of his speeches for the prosecution in the first five years after the Revolution of 1917 is the main basis for some 60 pages in the heart of Solzhenitsyn's book.<sup>11</sup> Solzhenitsyn jibes at the prosecutor's fumbling attempts to reconcile expediency and legality, his disingenuous manipulation of evidence in order to save those whom the self-anointed trustees of the Revolution considered useful to the Revolution, the self-righteousness and arrogance of his justifications. As the reader follows the thumping, derisive commentary he gradually realizes that what he is watching is the *zek's* revenge. Solzhenitsyn is, for once, the interrogator: cool, comfortable, seated, well-fed, cigarettes within easy reach. Krylenko is the prisoner: filthy, wan, harassed, bone-tired, ever put in the wrong, his protestations derided, his every stragem exposed disdainfully and turned into one more count of the moral-political indictment.

Poor Krylenko! The state prosecutor, the scourge of the counter-revolutionaries, the Commissar of Justice, was shot by his régime in 1938, after doing some time in prisons later familiar to Solzhenitsyn; but his fall from power has been foreshadowed so often in the early part of *Gulag* that when we finally do meet him, trying vainly to squeeze into the space beneath the bunks on the floor of his cell, the mechanism of ironic recognition has lost its spring.<sup>12</sup> Perhaps the frequent references to Krylenko's subsequent fate were intended not so much to give the reader the shiver of foreboding as to balance, if only by punctuation, the author's assaults on the régime that could put a Krylenko in power.

Solzhenitsyn's disdain for the Communist Party extends to his appraisal of the Purges exaggerated as Great (1936-1938), which Solzhenitsyn demotes to the status of a wave among waves. This was the

11. See pp. 306-70, in which Krylenko's *Za Pyat Let (1918-1922)* [For Five Years] is cited over 60 times. Solzhenitsyn wrote the book in Russia, with limited and haphazard access to secondary material.

12. P. 395, *adumbrated* on pp. 306, 318, 320, 324, 375.

wave that caught many of the highest Party leaders, who had helped Stalin in the physical liquidation of scores of thousands of others. The prominence of some of the victims, and the bizarre spectacle of incredible confessions given credence, led some foreign observers to focus on that one part of that one wave. Khrushchev's secret speech of February 1956, the first authoritative though severely limited Soviet admission of the falsity of the trials, also concentrated on the persecution of "honest Communists." Solzhenitsyn reminds us that for every Party leader who was unjustly arrested in that time many unsung victims in and out of the Party were "taken" also.<sup>13</sup>

Attention to Party leaders raises the famously vexed question of the causes of the false confessions. Here paying a tribute to Koestler's *Darkness at Noon* and suggesting the efficacy of threats and promises, Solzhenitsyn does not add much to other speculation and reminiscence.<sup>14</sup> What he does stress, repeatedly, is a negative observation. Some of the perplexity that the confessions had aroused was based on the notion that Old Bolsheviks, veterans of the rigors of revolutionary secrecy, underground life, and the terrors of Tsarist prisons, should have been able to withstand Soviet persecution if they had really not been guilty of the charges. Solzhenitsyn takes this naïve idea between his teeth and worries the life out of it. He points out (i) that some of them committed suicide under interrogation; (ii) that some of them indeed did hold out, and in return for their strength of mind were shot; (iii) that Tsarist prisons, especially in the last years of the Empire, were models of liberality and humaneness compared to Soviet prisons and could not have tempered the Bolshevik revolutionaries to the necessary hardness;<sup>15</sup> and (iv) that many of the Party men, because they lacked "an individual point of view,"<sup>16</sup> were left

13. "Arrest" was the formal word; "take" (*vziat'*) was the popular term, as Solzhenitsyn recognizes, e.g., at pp. 7, 32. I have heard that in the thirties a Soviet textbook of the English language had to be confiscated and pulped because of the embarrassment that attended the recitations of one of the strong-verb paradigms: "I shall be taken, you will be taken, they had been taken, we were taken, she is being taken, . . ."

14. Cf. N. LEITES & E. BERNAUT, *RITUAL OF LIQUIDATION: THE CASE OF THE MOSCOW TRIALS* (1954); *THE GREAT PURGE TRIAL XXV-XXVI*, xl-xlviii (R. Tucker & S. Cohen eds. 1965). See also, for post-war Czechoslovakia, A. LONDON, *THE CONFESSION* (1970).

15. Contrast with this Harold Laski's blithe praise of Soviet "achievement" in the reform of prisons: "Just as with ourselves suffragettes and conscientious objectors greatly improved the level of prison treatment, so, unquestionably, the old revolutionists who continued, like Mr. Vyshinsky, in the service of the law, had not forgotten their old [Tsarist] experience." H. LASKI, *LAW AND JUSTICE IN SOVIET RUSSIA* 26 (1935). In his preface Laski disclaims reference to "legal administration by the OGPU" (the abbreviation for the secret police who until 1934 administered the camps of the Gulag type); but he makes many statements that seem to bear (inaccurately) on Soviet justice as a whole, and in the body of his pamphlet he alludes twice to the "OGPU settlement" at Bolshevo, a show prison; see *id.* at 14, 28.

16. P. 414.

without moral support when the leaders of the Cause proposed to destroy them for the good of that Cause. On a rather different plane, Solzhenitsyn also appears to believe that it served them right.

Solzhenitsyn should not be blamed for not having written either of four different books. He has not traced in any orderly detail the Soviet law of substantive crimes, criminal procedure, or penal ("corrective-labor") law; he has not expounded the various Soviet ideas of coercion-to-virtue as found in the work of Pashukanis, Vyshinsky, Golunsky, and their successors; he has not given us a connected survivor's memoir along the lines of Gliksman, Ginzburg, Marchenko,<sup>17</sup> or others, though he draws on a few of them; and he does not attempt a rounded assessment of the contributions made by Lenin, Stalin, and other Soviet political leaders to the massive official terror that ruled the waves. He does take pains to cite Lenin's numerous calls for severity in punishment;<sup>18</sup> this is a blow in a polemic among Soviet dissidents, some of whom would like to think of Stalinism as a gross betrayal rather than a variant continuation of Lenin's régime.<sup>19</sup> For Solzhenitsyn, the Law had begun to attack the people long before, and did not stop after, the shambles of the thirties.

It may be in this context, and it need not be in the context of Solzhenitsyn's supposed Slavophilism or anti-Western or anti-democratic attitudes,<sup>20</sup> that we are to understand his frequent comparisons of Soviet rule with Tsarism. Most of the comparisons end in a contrast unfavorable to Soviet rule: The Tsarist but not the Soviet convoys

17. J. GLIKSMAN, *TELL THE WEST* (1948); E. GINZBURG, *JOURNEY INTO THE WHIRLWIND* (1967); A. MARCHENKO, *MY TESTIMONY* (1969).

18. Some have defended Lenin by stressing the desperate insecurity of the new régime in the first months after the coup of October 1917 or in the first years of civil war and intervention. Indeed the pious can find quotations from Lenin's works demanding drastic punishment in the heat of the 1917-1918 period and other quotations insisting on humaneness toward some of the innocent. Solzhenitsyn notes, however, that in 1922—more than four years after the Revolution and more than one year after the relative relaxation reflected in the New Economic Policy—Lenin improved the draft of a criminal code by increasing the number of articles (adding six to the six present) which required execution by shooting, including some making certain forms of propaganda and agitation capital offenses. Pp. 352-53.

19. See, e.g., R. MEDVEDEV, *LET HISTORY JUDGE* (1971); cf. W. LEONHARD, *THREE FACES OF MARXISM* 79-80 (1974).

20. Neither the Soviet adherents nor the Soviet critics of their régime are monolithic; many dissidents who respect Solzhenitsyn as an artist and an expressive public conscience are opposed to some of his political and social attitudes. Thus there are some who believe that he wrongly condemns Communism in the large for the excesses of some officials in some periods; there are some who think he fails to distinguish between the real Lenin and the Lenin distorted by his successors; some think that he would accept Communism (in the sense of authoritative rule over collectivized society) without Marxism; some believe he is anti-Western and in some sense anti-democratic even though pro-freedom; others believe him to be a modern Slavophile, nostalgically attached to Russian Orthodoxy and peasant values. See, e.g., R. MEDVEDEV, *supra* note 19; Steiner, *Books: The Forests of the Night*, *NEW YORKER*, Aug. 5, 1974, at 78.

allowed prisoners to rest on arrival in camp, the Tsarist but not the Soviet prisons afforded inmates an opportunity for education, the Tsarist but not the Soviet régime gave something like an adequate diet to prisoners in transit from place of conviction to place of stay, and political prisoners were subjected to less provocation and fewer reprisals in Tsarist camps than in Soviet camps.<sup>21</sup> In short, the evidence he cites would support the assertion that Tsarism, especially in its last years, was more responsive to claims of due process and humane-ness (at least for political prisoners) than the Soviet régime—strong or weak, harsh or “liberalizing,” Leninist or Stalinist or post-Stalinist—has ever been. Solzhenitsyn does not make that assertion, but it is consistent with his sympathy with the badgered ex-Tsarist engineers, the bedeviled churchmen, and other victims of the heavy Soviet bureaucracy.

The details of that bureaucratic treatment, as they are flung out in Solzhenitsyn's declamatory and indignant narration, owe something to the combination of collectivism, poverty, and self-righteous doctrine, but they also recall an older Russian tradition. Arrests are made by quota for regions of the country and categories of victims.<sup>22</sup> Prisoners are sent into special punishment cells not because of the particular infractions that serve as their ostensible occasion but in accordance with a schedule.<sup>23</sup> An interrogator recruits a tortured prisoner to enlist in a nonexistent anti-Soviet organization, apparently because the role in a framed scenario had to be filled, and that prisoner fitted the casting requirements.<sup>24</sup> A cavalry inspector, sentenced to be shot as a wrecker for recommending that stallions be gelded before the age of three, is left in the death cell for months because his appeal is mis-addressed; by the time it makes the rounds, he has to be rehabilitated, because the Commissar of Defense has meanwhile given orders that stallions be gelded before the age of three.<sup>25</sup> One wonders whether

21. Pp. 577, 495, 499, 29. Solzhenitsyn compares Tsarism favorably with Soviet rule in other ways, too: for example, he observes that children of poor members of the intelligentsia had more equal access to education before the Revolution. P. 388.

22. P. 11.

23. P. 481.

24. P. 404. For a more particular account of some famous frame-ups, see R. CONQUEST, *THE GREAT TERROR* (1968). Of special interest is his discussion of the episode in one of the major show trials in which a defendant (Krestinsky) retracted his confession and then retracted his retraction. The issue that is joined in the analytical debate in which Conquest takes part is whether Krestinsky's first retraction was prearranged by the secret police in order to dispel foreign suspicions of the trial's smoothness, or was a temporary show of courageous defiance, smothered by appropriate techniques applied between Krestinsky's two appearances in court. *Id.* at 367-72. What no one seems to doubt is the falsity of the original confession and of its ultimate confirmation.

25. Pp. 453-54. If the offender had stood high enough on the political ladder, the “rightness” of his policy would, if anything, have aggravated the punishment.

the great nineteenth-century Russian satirists are writing the script, but the grotesque inventions of a Gogol or a Saltykov-Shchedrin seem pale and limited when set against plain Soviet fact.

As the world knows well, Solzhenitsyn was deeply marked by his own passage through the prison sewage disposal system. This book not only tries to make a sort of sense—expressive, not formal or theoretical—out of his and others' experience; it also conveys a deep revulsion. The metaphor of waves and sewage disposal, it turns out, is itself only the main carrier of Solzhenitsyn's preoccupation with liquid mess. Melting snow discomfits the ill-clad prisoners. They are served thin gruel. They suffer over and over from dysentery, and unavoidably spatter themselves and their neighbors. Crowded by the thousands into the penal transport steamers, they vomit from seasickness and are too weak to get up out of it. And always, in the prisons and in the camps, on the road and at work, they are accompanied by the stale dirt of urine: urine in their boots, urine overflowing the latrine barrels. (Correspondingly of course, they seldom get pure drinking water and seldom have a chance to get really clean.)

The same system that submerges millions of *zeks* in this pollution soils the jailers in a different flow: money, goods, possessions. The jailers swindle the prisoners, they take bribes, they confiscate belongings illegally and with nearly total impunity, they mock the ideals of Communism in whose name they operate the system. Solzhenitsyn leaves no doubt which corruption he thinks is worse. From the first kind he has earned (yet another) discharge. To the second, they are still in thrall.





In Honor of Myres Smith McDougal

Sterling Professor of Law

*It is the "naked power boys," as Professor Myres McDougal calls them, who often insist that there is no such thing as international "law." Mac's lifetime efforts as scholar and teacher refute that cynical assertion. He set out to show the essential characteristics of that aggregate of processes we call "law," and he has demonstrated how international law fits within that understanding.*

*But this definitional victory is the smallest part of Mac's achievement. His conceptual framework reveals sharply law's potential as an alternative to naked power for the ordering of the world community. And, perhaps most importantly, his work stresses the responsibility of all—lawyers, government officials, scholars, citizens—to make the alternative yet more effective, but at the same time more completely committed to human dignity. In a world where the naked power boys occupy far too many seats of power, Mac's is a most refreshing, and sorely needed, ethical stance.*

*The Editors are pleased to dedicate this issue to Professor McDougal on the occasion of his retirement from teaching.*



PROFESSOR MYRES S. McDOUGAL