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March, 1976

## Book Review: Brothers of Gulag

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## BOOK REVIEW

### BROTHERS OF GULAG

THE GULAG ARCHIPELAGO 1918-1956: AN EXPERIMENT IN LITERARY INVESTIGATION. VOLUME II. By Aleksandr I. Solzhenitsyn. Translated from the Russian by Thomas P. Whitney. Harper & Row, 1975, Pp. v, 712.

*Reviewed by Ira P. Robbins\**

In these two parts (III, The Destructive-Labor Camps; IV, The Soul and Barbed Wire) of a projected seven part<sup>1</sup> chronicle of man's inhumanity, Solzhenitsyn cements his position as a member of the literati and cognoscenti, taking us from *Volume I's* institutionalized terror in arrest and interrogation at the Lubyanka, to *Volume II's* "meat grinder for unwanted millions,"<sup>2</sup> the labor camps. The *Gulag*<sup>3</sup> slogan of "correction through labor," viewed as nothing less than the pernicious extirpation of body and mind, is described from many perspectives, including the historical, philosophical, psychological; anthropological, sociological, ethnographic, and religious. In one of the more Ciceronian chapters, the author discusses the life and customs of the *zeks*<sup>4</sup> as a nation, striking a chord reminiscent in many ways of the character of the stereotypical American ghetto-dweller.

Solzhenitsyn frequently manifested his thoughts in *Volume I* as would a *pro se* litigant (albeit more articulately), to wit, marked by hyperbole and emotion, and without clear foundation. Similar indications occasionally emerge in *Volume II* (the author states, for example, that from a photograph of the face of Naftaly Frenkel, of whom the legend persisted that he had conceived the idea of the labor camps "[i]t is evident how he brimmed with a vicious human-hating animus"<sup>5</sup>), but for the most part, Solzhenitsyn, who spent nearly eight years in the archipelago<sup>6</sup> of camps and prisons operated

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<sup>1</sup> See A. SOLZHENITSYN, THE GULAG ARCHIPELAGO 1918-1956: AN EXPERIMENT IN LITERARY INVESTIGATION. VOLUME I 617 (1973) (translator's notes) [hereinafter cited as VOLUME I].

<sup>2</sup> See A. SOLZHENITSYN, THE GULAG ARCHIPELAGO 1918-1956: AN EXPERIMENT IN LITERARY INVESTIGATION. VOLUME II 630 (1975) [hereinafter cited as VOLUME II].

<sup>3</sup> This word is the acronym derived from Glavnoe upravlenie lagerei, Chief Administration of the Corrective Labor Camps. VOLUME I at 616 (translator's notes).

<sup>4</sup> *Zek*: "Prison slang for prisoner . . ." *Id.* at 641 (glossary).

<sup>5</sup> VOLUME II at 78-80.

<sup>6</sup> The *image* . . . is that of one far-flung "country" with millions of "natives," consisting of an *archipelago* of islands, some as tiny as a detention cell in a railway station and others as vast as a large Western European country, contained within another

by *Gulag*, and who conducted nearly 200 interviews in his research for this tome, realizes which assertions are verified and which are not. Of course, it makes little sense to speak of him as a litigant in the ordinary sense. Rather, by prosecuting the case "for mute Russia"<sup>7</sup> before the court of public opinion, he seeks to draw attention to the atrocities of the labor camps and to vindicate "all who suffered, all who were squeezed, all who were forced to make a cruel choice"<sup>8</sup> between rebelling against the keepers' tactics and selling themselves out as trustees.

But being in servitude was not maleficent in every sense. In Soviet prison, there was "no meaning, no purpose, left in life";<sup>9</sup> however, while suffering, one could redeem and purify his soul by probing his restless mind for "extended and important thoughts,"<sup>10</sup> which could force him to confront his grief, and digest it. Such cogitations even caused in many the loss of the desire to escape, by "cauterizing of the soul."<sup>11</sup> Like Tolstoi, who dreamed of being put in prison, Solzhenitsyn is grateful for it having been a part of his life and a nourishment of his existence. Had it not inhaled in his psyche, much of the esthesia exhibited in this work undoubtedly would be lacking.

One who read *Volume I* of *Gulag* probably was not unaware that some of the terror described in the interrogation and arrest process was not unique to Soviet Russia. Instances of psychological and physical brutality are not uncommon even in this country. *Volume II* permits the reader to delve more deeply into the similarities between these two systems. Indeed, one renowned federal judge has recently made the connection:

Although we are reasonably certain that the shocking story revealed in The Gulag Archipelago could not take place in this country, the facts of [this] case are reminiscent of Solzhenitsyn's treatise.<sup>12</sup>

To be sure, we may not be perilously close to submersion in the sordid sea that surrounded the Solovetsky Islands,<sup>13</sup> but there are elements which

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country—the U.S.S.R. This archipelago is made up of the enormous network of penal institutions and all the rest of the web of machinery for police oppression and terror imposed throughout the author's period of reference on all Soviet life.

VOLUME I at 616 (translator's notes) (emphasis in original).

<sup>7</sup> VOLUME II at 317.

<sup>8</sup> *Id.* at 265.

<sup>9</sup> *Id.* at 231.

<sup>10</sup> *Id.* at 607.

<sup>11</sup> *Id.* at 392.

<sup>12</sup> United States *ex rel.* Schuster v. Vincent, 524 F.2d 153, 154 (2d Cir. 1975) (Kaufman, C.J.) (inmate unjustifiably languished in state confinement for more than three decades), discussed in Robbins & Herman, *Litigating Without Counsel: Faretta Or For Worse*, 42 BROOKLYN L. REV. — (1976). *Schuster* was decided prior to the publication of VOLUME II.

<sup>13</sup> Solovetsky was the site of one of the more notorious of the labor camps. See VOLUME II at 25, 27, 29, *passim*.

may be significant in evidencing gravitation in that direction. Each system, for example, is anathematized with censorship, overcrowding, inadequate medical facilities, inadequate compensation for work performed, disparities in treatment, arbitrariness, fear, servitude, ignorance, and cruelty. Prison officials often are arrogant, autocratic, malicious, ignorant, and self-guarding. Our disingenuous treatment of the indigent—of which the system of bail, which succeeds in incarcerating those who have yet to be tried, is only one example—echoes the Soviet scheme of creating a ruck of serfs and prisoners who are unable to improve their lot. And many an American prisoner constructively passes the time by evaluating his circumstances, and, occasionally, communicating them well. One New York State inmate, who had brought several successful suits alleging cruel and unusual punishment by prison officials, was caught in a web of punitive transfers from one state institution to another.<sup>14</sup> Finally, he wrote to the Commissioner of Corrections:

I will now as an alternative to living and being a part of the daily and dehumanizing and totally debilitating procedures and conditions of prison subjugation, [which have] deprived me of the one means of normal relief and compensation available to me [*i.e.*, visiting with his friends and family who lived near the Attica Correctional Facility, from which he was transferred], spend the rest of the time that I must spend in these . . . places of human destruction, in my cell, by myself, away from the routine abnormalcy of the prison environment . . . .

I have made a complete and thorough analysis of my situation, and now conclude that the ONLY manner in which I can prevent myself from eventually walking out of here with nothing left within me but blind hate and revenge, is to remove myself as much as is presently possible for me to do, from the abnormal sources and conditions [against which] I have been fighting . . . .

I prefer . . . to live with my books and the universe of intellect and knowledge to be found therein, . . . , and allow . . . my mind, intellect, and human spirit . . . to develop and grow without limit. In all honesty, under the conditions, and in contrast to the alternative, I enjoy my cell.<sup>15</sup>

One clear distinction between the two types of systems is that the Soviet, as described by Solzhenitsyn, was charted on a definite course. The Marxist plan declared that "the *one and only* means of correcting offenders . . . was not solitary contemplation, not moral soul-searching, not repentance, and not languishing . . . —but productive labor."<sup>16</sup> The American federal and state systems, on the other hand, typically are not so theoretically oriented, perhaps only because we do not know what the goals ought to be. But even

<sup>14</sup> See, e.g., *United States ex rel. Haymes v. Montanye*, 505 F.2d 977 (2d Cir. 1974), cert. granted, 422 U.S. 1055 (1975).

<sup>15</sup> Letter from Rodney R. Haymes to Peter Preiser, then Commissioner of Corrections of the State of New York, Jan. 25, 1975. A copy of the letter is on file in the Office of the Clerk of the United States Court of Appeals for the Second Circuit.

<sup>16</sup> VOLUME II at 143 (emphasis in original).

in a system where the end is articulated, the routes by which it is approached can become muddled. Thus, over time, "correction through labor" was translated into punishment (hence the heading, "The Destructive-Labor Camps"), as it became plain that "correction" was not for everyone.<sup>17</sup> Certainly, when there is no well-defined purpose, the roads can be at least as difficult to travel, assuming that they are even headed in the proper direction.

This is not to de-emphasize the many distinctions between the theories and practices of the two systems. Rather, it is to make clear that the similarities are striking, so much so as to cloud the differences, and precipitate upon this country droplets of the forboding *Gulag*. Solzhenitsyn writes that

[a]mong the many joyous renunciations brought us by the new world were the renunciation of exploitation, the renunciation of colonies, the renunciation of obligatory military service, the renunciation of secret diplomacy, secret assignments and transfers, the renunciation of secret police, the renunciation of "divine law," and many, many other fairy-tale renunciations in addition. But not, to be sure, renunciation of prisons.<sup>18</sup>

So, too, for the United States.

Our prisons—sometimes seen as indispensable housings for society's deviants,<sup>19</sup> but more often viewed as a "national disgrace,"<sup>20</sup> a "cancer,"<sup>21</sup> a symbol of man's inhumanity to his fellows<sup>22</sup>—and those who reside therein

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<sup>17</sup> A related example in which theory and practice were at odds in the Soviet system concerns the habitude of camp officials toward the prisoners. The theory:

—In the *Guiding Principles* of 1919: Given the fact that punishment is not vengeance, then it may include no elements of torture.

—In 1920: The use of the condescending familiar form of address is forbidden in speaking to the prisoners. . . .

—The Corrective Labor Code of 1924, Article 49: "The prison regime must be deprived of all elements of torture; handcuffs, punishment cells[!], strict solitary confinement, deprivation of food, visits through a grating only are under no circumstances permitted."

VOLUME II at 146 (brackets in original). If Solzhenitsyn's treatise betokens anything, however, it is that prisoners were treated in any manner but one that was in accordance with these guidelines. As one example, regarding the proscription of condescension toward prisoners, the author exclaims: "forgive my language, but what about '— in the mouth' —is that permissible?", *id.*, implying that it was not a *sui generis* practice. For the American equivalent of the above standards, which also are not strictly followed in practice, see, e.g., THE AMERICAN CORRECTIONAL ASSOCIATION, CORRECTION OFFICERS TRAINING GUIDE 63, 67 (1955).

<sup>18</sup> VOLUME II at 114.

<sup>19</sup> See, e.g., Casey, *Catchall Jails*, 293 ANNALS 30 (May, 1954).

<sup>20</sup> Bass, *Correcting the Correctional System: A Responsibility of the Legal Profession*, 5 CLEARINGHOUSE REV. 125 (1971).

<sup>21</sup> H. GRISWOLD, M. MISENHEIMER, A. POWERS & E. TROMANHAUSER, AN EYE FOR AN EYE 230 (1970) [hereinafter cited as AN EYE FOR AN EYE].

<sup>22</sup> See, e.g., E. CLEAVER, *On Becoming*, in SOUL ON ICE 3 (1968).

—variously called animals,<sup>23</sup> slaves,<sup>24</sup> sinners,<sup>25</sup> or unfortunate victims of circumstance<sup>26</sup>—have for two centuries been in the thoughts and on the lips of this nation's conscience.<sup>27</sup> Yet for all the reflection that has occurred, for all the discourse on the coexistent and probably inconsistent tripartite aims of custody, coercion, and correction, for all the hundreds of millions of dollars expended each year in pursuit of resolutions to the problems resulting in and created by incarceration, we have achieved remarkably little consensus on the nature of the questions or keys to their solutions. Still there are members from all corners of the system who are restive with its theories and practices. There are inmates who are not deterred by prison punishment, and those for whom attempts at rehabilitation have little effect.<sup>28</sup> There are prison employees who assume the role of the moral forces of goodness,<sup>29</sup> yet who frequently are not equipped to handle even routine confrontations.<sup>30</sup> There are prison administrators who seek to align their visions, if any, of gradual penal reform with the essential concomitants of discipline and security, but who often are frustrated in their attempts by judges who perceive themselves as last bastions of hope and freedom for

<sup>23</sup> See, e.g., Sostre, *The New Prisoner*, in PRISONERS' RIGHTS SOURCEBOOK: THEORY, LITIGATION, PRACTICE 35 (M. Hermann & M. Haft eds. 1973).

<sup>24</sup> See, e.g., Morales v. Schmidt, 340 F. Supp. 544, 548-49 (W.D. Wis. 1972), *remanded*, 494 F.2d 85 (7th Cir. 1974) (*en banc*).

<sup>25</sup> See, e.g., H. MAINE, ANCIENT LAW 359-60 (1874).

<sup>26</sup> See, e.g., AN EYE FOR AN EYE, *supra* note 21, at 188-89. See generally Merton, *Social Structure and Anomie*, 3 AM. SOC. REV. 672 (1938).

<sup>27</sup> See, e.g., H. BARNES, HISTORY OF THE PENAL, REFORMATORY AND CORRECTIONAL INSTITUTIONS OF THE STATE OF NEW JERSEY, REPORT OF THE PRISON INQUIRY COMMISSION, VOLUME II (1917) and THE EVOLUTION OF PENOLOGY IN PENNSYLVANIA (1927); S. BATES, PRISONS AND BEYOND (1936); F. HAYNES, THE AMERICAN PRISON SYSTEM (1939); O. LEWIS, THE DEVELOPMENT OF AMERICAN PRISONS AND PRISON CUSTOMS 1776-1845 (1922); B. MCKELVEY, AMERICAN PRISONS (1936); N. MORRIS, THE FUTURE OF IMPRISONMENT (1974); L. ROBINSON, PENOLOGY IN THE UNITED STATES (1921); F. WINES, PUNISHMENT AND REHABILITATION (1895); Teeters, *State of Prisons in the United States: 1870-1970*, 33:4 FED. PROB. 18 (1969).

<sup>28</sup> See, e.g., United States *ex rel.* Haymes v. Montanye, 505 F.2d 977 (2d Cir. 1974) ("It is clear beyond cavil that American prisons have failed dismally to fulfill the ambition of contemporary penologists that prisoners should be treated and rehabilitated. Although it is impossible to deny that many are sentenced to prison as punishment, however, we cannot condone the idea that the mere fact of incarceration permits a prisoner to be punished at the whim of those charged with his confinement."), *cert. granted*, 422 U.S. 1055 (1975).

<sup>29</sup> Unfortunately, good and evil too often are equated with the color of one's skin. This factor seriously compounds prison tension and prisoners' frustrations. See, e.g., NEW YORK STATE SPECIAL COMMISSION ON ATTICA, ATTICA: THE OFFICIAL REPORT (1972) [hereinafter cited as ATTICA REPORT]. See also G. JACKSON, BLOOD IN MY EYE (1972); Waters, *Why Attica Exploded*, *The Militant*, Oct. 1, 1971.

<sup>30</sup> See ATTICA REPORT, *supra* note 29; Evans, *Correctional Institution Personnel—Amateurs or Professionals?*, 293 ANNALS 70 (May, 1954).

those who otherwise might succumb to isolation, loneliness, psychological and physical illness, filth, noise, and what they see generally as a corrupt system of justice.<sup>31</sup> And there is the taxpaying public, many of whose constituents hold the respectable ideal of universal humane concern for all individuals, on an equal basis, but who must also deal with the vicissitudes of keeping secure their persons and property.

Among these sectors, myriad opinions exist regarding the proper course to follow in reaching a solution. They range from the abolition of prisons, at one extreme,<sup>32</sup> to the execution of prisoners, at the other.<sup>33</sup> All positions, ultimately, can be evaluated against the backdrop of the Eighth Amendment to the United States Constitution, which states that "cruel and unusual punishments [shall not be] inflicted."<sup>34</sup> Chief Justice Warren observed that

[t]he basic concept underlying the Eighth Amendment is nothing less than the dignity of man. While the State has the power to punish, the Amendment stands to assure that this power be exercised within the limits of civilized standards. . . . The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.<sup>35</sup>

Courts, however, primarily operate only after the fact, and the application of the Eighth Amendment defines only the most fundamental standards. Rather, the burden is on the legislatures, presumably representative of the

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<sup>31</sup> See Kaufman, *Prison: The Judge's Dilemma*, 41 *FORDHAM L. REV.* 495 (1973). See generally Flannery & Robbins, *The Misunderstood Pro Se Litigant: More than a Pawn in the Game*, 41 *BROOKLYN L. REV.* 769, 772, 777-86, 787-88 (1975). Conversely, the judges may be frustrated by the dilatory or nonexistent execution of their orders granting relief. See, e.g., *Rhem v. Malcolm*, 377 F. Supp. 995 (S.D.N.Y.), enforcing 371 F. Supp. 594 (S.D.N.Y.), *aff'd and remanded*, 507 F.2d 333 (2d Cir. 1974), *on remand*, 389 F. Supp. 964 (S.D.N.Y.), *aff'd*, 527 F.2d 1041 (2d Cir. 1975).

<sup>32</sup> E.g., *Morales v. Schmidt*, 340 F. Supp. 544, 548-49 (W.D. Wis. 1972) ("[I] am persuaded that the institution of prison probably must end. In many respects it is as intolerable within the United States as was the institution of slavery, equally brutalizing to all involved, equally toxic to the social system, equally subversive to the brotherhood of man, even more costly by some standards, and probably less rational."), *remanded*, 494 F.2d 85 (7th Cir. 1974) (*en banc*).

<sup>33</sup> E.g., *TIME*, Letter to the Editor, Dec. 29, 1975, at 3, col. 2:

I could scream every time I read about a prison riot . . . .

When people go to prison because they walked into a store with a gun and held it up, they have given up their right to have any rights. . . . Just shoot them when they riot. That will put a stop to it.

<sup>34</sup> U.S. Consr. amend. VIII. This portion of the amendment was made applicable to the states in *Robinson v. United States*, 370 U.S. 660 (1962).

<sup>35</sup> *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958) (Warren, C.J.). Although the Chief Justice was speaking only for a plurality (with Justices Black, Douglas, and Whittaker), a majority of the Court referred approvingly to these words in *Furman v. Georgia*, 408 U.S. 238 (1972). See *id.* at 242 (Douglas, J.), 269-70 (Brennan, J.), 327 (Marshall, J.), 409 (Blackmun, J.), 306 n.1 (Stewart, J.).

people's will, to determine the aims and policies of American penal systems. Yet neither the politicians nor their constituents are completely cognizant of the congeries of corrections and corrections law.<sup>36</sup> Moreover, even were this perceptive pale to be overcome, there still would have to be strenuous efforts made—if Solzhenitsyn's "brief to the people" is to succeed—to execute the practices of the system in accordance with the theories which are established to support it. These endeavors should be undertaken promptly, for until we approach a fuller understanding of the nature of our institutions and their inhabitants, the tumor that is our prisons is doomed to gestate at the portals of *Gulag*, and wallow in its pestilence.

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<sup>36</sup> Indeed, perhaps we ought first to determine whether the term "corrections" is a misnomer, and, further, whether that is what we actually desire.