

25. RUSSIA

Area in sq. miles	.	.	8,000,000
Population	.	.	140,000,000
Capital	.	.	Moscow
Population of Capital	.	.	2,000,000

Russia has a probation law (permitting conditional sentence), 12th December 1919. Criminal responsibility of children under fourteen years nil, fourteen to eighteen years partial. There is parole also.

There are probation officers attached to the children's commissions under the names educator-investigators or enquiring tutors paid by the municipality; social inspectors (to combat vagabondage, etc.) and other volunteers. No professional association.

The Juvenile Courts of 1910 are now replaced by children's commissions which are similar to *conseils de tutelle*. There are children's psychiatric clinics and observation homes.

There are several societies dealing with delinquency, but they are not organised and subsidised by the State.

The Russian Ministry of Justice very kindly forwarded a number of books containing much valuable information, for which I return sincere thanks.

The message in Russian accompanying the books runs :
 " In accordance with the order of the People's Commissar of Justice and the Prosecutor for the Republic, Comrade Kursky, the following books are forwarded to you.

" (Signed) GREKOV,
" Procureur of the National Commissar of Justice."

The titles of the books forwarded are :

1. " New Criminal Code of Soviet Russia."
2. " Guide to the Judicial Medical Examinations."
3. Nos. 1 and 2 of the " Judicial Medical Journal."

An official reply to the questionnaire has not yet been received, but I have had the good fortune to receive very complete replies from Mr. Nikolas Okooneff of Leningrad, who was the first children's judge in Russia.

1. Yes, there is a probation law for Russia. The Russian Penal Code permits the court to make a " conditional sentence " where the character of the offender's danger to the community is such that his isolation (custody) is not required.

The term of probation is not less than one year and not more than ten. There is no supervision of the offender who is conditionally sentenced ; but if he commits an identical or similar crime (offence, violation) and is convicted for this new offence, he will be punished in accordance with the first sentence as well, but with the condition that the total imprisonment shall not exceed ten years.

Children under fourteen years of age are not liable to punishment by the court. Their cases are tried by separate commissions in the Commissariat (Ministry) of Public Instruction and only medico-pedagogic measures are applicable to them.

Minors over fourteen and under sixteen years of age are dealt with by the same commissions, but if the commission

finds that medico-pedagogic measures do not meet the necessities of the offender, he is referred to the ordinary courts. When the minor fourteen to sixteen years of age comes before the ordinary courts, the penalties inflicted are only one-half of those inflicted upon adults for the same offence. The death-sentence is not applicable. If the minor's offence does not require his isolation (custody), he may be conditionally sentenced. In the case of minors also there is no fixed supervision after conditional sentence, and the duration of probation is the same as for adults.

The commissions for minors' cases have probation officers—designated "enquiring tutors." These officers make an enquiry into all the conditions of the minor's life and report the results at the hearing of the case before the commission.

The commissions (which resemble the *conseils de tutelle*, guardianship committees, pupillary committees, etc.) have the power to release the offending minor on probation under the supervision of a probation officer.

2. Immediately after the October Revolution of 1917 the Criminal Code was in abeyance and the courts functioned in accordance with the revolutionary conscience of right and wrong. The Commissariat (Ministry) of Justice issued on the 12th December 1919 the guiding principles of criminal law for the Russian Socialistic Federal Sovietic Republic (the largest part of the Union of Sovietic Republics). For the first time in Russia the principle of the conditional sentence was prescribed and this principle has now begun to be very largely utilised. The Criminal Code of the R.S.F.S.R. was promulgated 1st June 1922, and with subsequent modifications is still in force. Arts. 53, 54, 55 (see p. 156 below) contain the rules for the application of the conditional sentence.

The law concerning the commissions for minors' cases was promulgated by edict 17th January 1918. It proclaimed the non-application of courts and of repressive legislation in the case of children, thus abolishing the juvenile courts which up to this time had been organised in many of the big towns of Russia. On the 25th March 1926 a decree of the People's Commissaries was promulgated, modifying the rules applying to the commissions for minors' cases.

3. The law (Arts. 53, 54, 55) is applicable by the courts

to minors aged from fourteen years to eighteen years of age. According to our new Civil Code, majority commences from eighteen years of age.

4. Juvenile offenders may be placed on probation, or on bail, in their families under a probation officer (enquiring-tutor); or under the special supervision of their parents or guardians; or relatives when there is not a sufficient number of probation officers to meet all the cases. Under the latest decree of 26th March 1926, every children's commission is instructed to obtain a sufficient number of probation officers and also of social inspectors for children. The courts may place offending minors in the families on bail, but they have not as yet officers for probation supervision.

For the supervision of offending minors the commissions use also the societies "The Friends of Children," "The Union of Juvenile Communists" and the professional organisations, but there is not sufficient registration of the results obtained.

5. *Probation Officers* (Enquiring Tutors).—(a) About 12 per cent. of these are trained for their work; about 33 per cent. are connected with education, and some are lawyers; about 50 per cent. have received only a general education.

(b) The salaries of probation officers are paid by the municipality, but the volunteers from "The Friends of Children," the members of "The Union of Juvenile Communists" and the members of the professional organisations act as voluntary unpaid probation officers.

6. Offenders (children and adults) are in cases of doubt examined in order to ascertain their mental, physical, etc., condition.

7. The clinics which are used for the examinations are:
(a) attached to the court, viz. diagnostic institutions,

(b) attached to the education authority, viz. investigation institutions (D.O.B.Y.) for children.

8. The examinations of offenders take place before the trial.

9. The following schemes of intelligence tests are used: Binet-Simon, Rossolimo, Terman, etc.

10. Juvenile offenders may be sent for observation as

to their mental, physical, etc., condition to the classifying detention homes for children.

11. At Moscow and Leningrad there are pedagogic high schools in which there are special faculties dealing with the social juridical protection of children (S.P.O.N.).

12. Offenders are referred to the clinics for mental, physical, etc., examinations, both by the courts and by the commissions for minors' cases.

13. There is no association of probation officers. Forty per cent. of the commissions for minors in 1924 had no probation officer.

14. In 159 commissions there were 143 full-time paid probation officers (twenty-two in Moscow and fifteen in Leningrad).

Since 1924 the number of officers has decreased, e.g. there are now only nine in Leningrad, but the decree above mentioned, 26th March 1926, permits us to hope that in the near future the number will increase.

SUPPLEMENTARY INFORMATION

RUSSIAN PENAL CODES

Two Penal Codes were published during 1926, viz.—

(a) The 1922 Penal Code, with subsequent modifications and additions up to 22nd June 1926.

(b) The new Penal Code dated 22nd November 1926, to come into force 1st January 1927.

(My wife has translated into English some of the relevant paragraphs from the new Penal Code now in force, and these are given below.)

It should be noted that the Russian Code assesses the extent to which an offender is a danger to the public, whilst the punishment meted out is considered to be a measure of social defence.

Par. 53.—If the court finds that the extent to which an offender is a danger to the public does not absolutely require his isolation (imprisonment), or the execution of his sentence to penal servitude it has the right to give him a conditional sentence.

In such cases the court orders the sentence not to be executed during a specified time the offender has not committed an offence as serious as, or more serious than, that for which he was originally charged. This specified time of probation is not to be less than one year nor more than ten.

Note.—If the offender is sentenced not only to imprisonment or penal servitude, but also—as an extra measure of social defence—to a money or property fine, this fine must be paid notwithstanding the sentence being conditional.

Par. 54.—If during the time of probation the conditionally sentenced offender is sentenced for a new and not less serious offence, the punishment (*lit.* measure of social defence) ordered conditionally must be inflicted in addition to the punishment for the new offence, with the proviso that the total of the two punishments must not exceed ten years' imprisonment, or in case of penal servitude one year.

Par. 55.—If during the probationary period the conditionally sentenced offender has not committed a new and not less serious offence, the sentence is considered to be void, and the conviction is not registered against him.

Pars. 12 and 50 apply to minors.

Par. 12.—Measures of social defence of a judicial correctional character are not to be applied to minors under fourteen years of age. To such only measures of a medico-pedagogical character can be applied.

For children between fourteen and sixteen years of age judicial correctional methods can be applied only in those cases where the committees for juveniles (commissions for matters concerning youths under age) consider it impossible to apply medico-pedagogical measures to them.*

Par. 50.—When a minor is sentenced to imprisonment or to penal servitude for an offence, the period thereof must not exceed, in the case of minors fourteen to sixteen years, one-half, and in the case of minors sixteen to eighteen years, two-thirds of that which would be given to an adult for the same offence, and the period of punishment (measures of social defence) must not exceed half the maximum time fixed by the Code for that offence.

JURIDICAL CHILD WELFARE

The juridical section of child welfare in Russia has had a chequered history during the present century and some of its phases still remain obscure. I look forward to the publication of Mr. Nikolas Okooneff's book, which will clear up doubtful points and reveal the efforts which Russia has made and is making on behalf of her children.

Meanwhile I would draw attention to an article in the "B.I.P.E." of March 1925, entitled "The Struggle against the Criminality of Children in Post-War Russia" by P. Lublinsky, a professor in Leningrad University, who as president of the 1917 commission for the elaboration of a new series of laws on child welfare is in a position to speak *ex cathedra*. He tells us that prior to the World War, Russian criminal statistics in regard to juveniles were relatively but little different from those of other European and American States. From the beginning of the present century there was a marked tendency towards their diminution, and it was only the revolutionary effervescence of 1905 which brought a temporary increase.

After 1910, the year when juvenile courts were created, the graph

* Cases where correctional methods are applied are extremely rare.

of delinquency again began to fall, whilst at the commencement of the War eight large cities were already equipped with these new child-saving institutions.

As in other belligerent countries the War brought to Russia a significant rise in juvenile delinquency.

We need not follow the professor into the reasons for the disturbing increase. It was so high that after the first revolution of 1917, the temporary Government which replaced Tsarism found it imperative to deal with this serious and urgent problem of child offenders. In June 1917 Professor Lublinsky presided over the special commission above mentioned. Among its recommendations were:

- (1) Guardianship courts for minors.
- (2) A specialised children's judge similar to the corresponding Belgian judge created under the Belgian law of 1912.
- (3) Probation officers to assist him.
- (4) The suppression of imprisonment for minors.
- (5) A law for the protection of minors in moral danger and the withdrawal of parental or guardian authority where necessary.

These recommendations did not materialise because of the national upheaval. The revolution of October 1917 suppressed the courts of justice of the existing types, including the juvenile courts, which were still not very numerous.

However, the Decree of 14th January 1918 created "commissions for minors" under the Ministry of Public Assistance to replace the juvenile courts. The commissions consisted of at least one representative of each of the three Ministries—Public Assistance, Justice and Public Education—and a physician. The question of these "special commissions" to replace juvenile courts had been previously discussed in 1909-10. They resemble the *conseils de tutelle* of the three Scandinavian countries fulfilling judicial functions as regards minors up to the ages of fourteen years or fifteen years in those countries. The Russian commissions were to make an enquiry concerning the acts of minors (up to seventeen years) who were dangerous from the social point of view, and where necessary to send them to the institutions of the Ministry of Public Assistance. This Ministry was the guardianship authority and not the commissions. In order to help the commissions to fulfil their duties, "The Institute of Social Help for Minors" was formed, upon which the commissions were represented. The "Brothers and Sisters" of the Public Assistance authority fulfilled the duties of probation officers. They received general instruction in their duties on American lines. Whilst the commissions played a great rôle in forming a special organisation for child welfare, their constitution was unsatisfactory because it did not make sufficient provision for a personnel containing legal, medical and pedagogical elements, and in an enormous part of Russia with its republics and autonomous cities the decree remained a dead letter.

In March 1920 the constitution of the commissions was modified and transferred to the direction of the Ministry of Public Education. A teacher, doctor and jurist were added to the membership of the commissions. The age at which medico-pedagogic measures might be taken was raised to eighteen years.

In 1920 the methods of enquiry concerning the minor, instructions as to the commissions' rights and the measures to be taken, were laid down. There was no appeal from their decisions, but the Ministry of Education could propose a revision.

In the spring of 1922 the Sovietic Penal Code was promulgated, under which the competence of the commissions was restricted to cases up to sixteen years of age.

The professor states that minors sixteen to eighteen always come before the ordinary correctional tribunals, but capital punishment cannot be inflicted, and where imprisonment is ordered the amount is two-thirds of the amount to which an adult would be liable in the same circumstances. The conditional sentence is applicable to these minors, and in the case of workmen and peasants who are minors, institutions for special education may be employed.

Towards the end of 1924 the Code for correctional penitentiaries was issued which dealt with the houses of education for adolescents of fourteen to sixteen years, and for those of sixteen to eighteen years. They have well-thought-out curricula, but they are too few in number, and colonies have been organised in the country as a temporary expedient to meet the deficiency.

Special Governmental organisations have been formed for the protection of children. Up to three years of age, children come under the Health Authority, and all the rest up to eighteen years under the section for the social-juridical protection of minors—an integral department of the Ministry of Education.

The following facts will interest probation officers. "Conditional sentence" is given by the courts only. The children's commissions very seldom use a "conditional sentence," as they have the power to change their decisions when necessary. Probation officers are not now attached to the courts, but to the children's commissions. The juvenile courts 1910-17 inclusive had a staff of probation officers variously named guardians, trustees, wardens of children. Why these names were considered to be "bourgeois" would be difficult to explain, but under the commissions the names were changed to "educator investigators" or "enquiry tutors." Meanwhile it was estimated that there were 300,000 homeless children addicted to vagabondage and mendicity. This fact clamoured for urgent measures and the probation staff was augmented by recruits from the students of high schools, members of the juvenile Communist organisations and from the professional organisations. These were called "Children's Social inspectors," and their number varied constantly, often exceeding 400 and sometimes falling below that number (see p. 155, § 4).

The social inspectors of children are chosen from those who have had pedagogic training. They see to it that the regulations for the protection of children are carried out; they visit places of amusement, cinemas, bars, etc., in order to watch over children's welfare. They watch beggars, prostitutes, etc., on the streets and try to prevent the exploitation or ill-treatment of children. They make familial enquiries also, and when they arrest a child on the streets they take him to a reception home (not to a police-

station) and advise the "section for the protection of children"; indeed they remind us forcibly of the children's police referred to under Holland, p. 123.

The enquiry tutors (*délégués*, or probation officers) work in touch with the commissions. They prepare the child's record or dossier, giving the result of enquiries as to the child's character and his environment, and they suggest the judicial treatment suited to his needs. They supervise the offender's family and their duties are identical with those of American probation officers, and, like them, they are paid municipal officials.

Professor Lublinsky considers 143 probation officers and 400 social inspectors as utterly inadequate for the Republic. He believes that the commissions are not sufficient, and that opinion is gradually growing in favour of special tribunals for adolescents, beside the commissions for the junior children.