

Should The Death Penalty Be Used In State Corrections?

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Introduction

Today, the most pressing question is the practice of the utilization of the death penalty. Supporters and opponents of her put forward their arguments. The death penalty is primarily a murder, which is carried out by the state within the framework of its right to legitimate violence. It can also be called a legal killing, which is committed by a court verdict. The state's duty is to ensure the safety and peaceful life of citizens. It is also backed up by its right to dispose of the lives of its nationals in some situations (for example, in the case of crimes of such norms, in which it is known in advance that their crime is punishable by deprivation of life) and organize a corresponding system of punishments. The state has applied the death penalty since its inception to the present day. However, the size, forms of practice, the nature of the death penalty in different countries are not the same. If we consider this problem in historical dynamics, then there are such trends. The death penalty may be unfair to the person to whom it should be applied, but it is justified since, by its awesome action, it helps to prevent the commission of the same crimes by others.

Analysis

Let us start with those who advocate the application of capital punishment. First, the punishment must be commensurate with the crime committed. The offender must get what they deserve. If he killed a man, then he must lose his life. Life imprisonment as punishment, in this case, will simply be unfair since the killer will continue to breathe, see, walk, eat, and drink, albeit in a limited space. Some legal experts hold the view that the death penalty will reduce the number of, especially, dangerous crimes. It is proposed to execute criminals publicly, in busy places, so that others do not like it. They believe that a person, before committing an illegal act, will first think that terrible punishment can await him and, possibly, will come to his senses. Also, supporters of the death penalty singled out its positive economic side. According to statistics, the average monthly salary of a school teacher is less than the funds allocated by the state for the maintenance of one prisoner per month. It is unfair that convicts are kept in "places not so remote" at the expense of budgetary funds, that is, with the money of ordinary taxpayers, including relatives of the victims. Thus, the use of the death penalty is beneficial since the savings can be spent on financing more important state programs (Bayron, 2016).

Psychologists say that 90% of criminals are not subject to correction and are capable of relapse.

Convicts have no time to lose for life imprisonment, they are ready for anything. Very often relatives and friends of the victims do not agree with the court verdict. In this regard, the people have a distrust of the judiciary and the state as a whole, which leads to the phenomenon of lynching. There are many known cases when close people of the victim cruelly dealt with the offender, thus becoming themselves beyond the law. Some supporters of capital punishment offer to expiate the guilt of especially dangerous criminals, using their internal organs for transplantation to seriously ill people.

The opponents of the death penalty also have many reasons to be taken into account. First of all, we can highlight the possibility of a judicial error. The human factor plays an important role in the judicial system since it is the judge's decision that the future fate of the possible criminal depends. According to experts, the main cause of crime is rooted in economic, social and other problems of society and the state as a whole (poverty, low level of education, unemployment, etc.) (Zivot, 2012). They believe that it is necessary to improve the quality of life of the population and not to impose more severe penalties. It is also believed that the death penalty is not a deterrent. According to the results of the research, the criminal rarely thinks about the consequences of his actions and possible punishment. Especially if an illegal act is committed, for example, in a state of affect or under the influence of narcotic substances, from all of the above, it can be concluded that the problem of the death penalty will always be discussed in society since the arguments of both sides are not baseless and have a full right to exist (Bayron, 2016).

At present, the norms of civilization are already eliminating the qualified death penalty and oblige it to be implemented in very rapid and painless forms. The number of persons concerning whom the death penalty can be applied has decreased. Earlier, for such punishments, there were no exceptions. Currently, the laws of many countries exclude children from this circle to the established age, the elderly after a certain age and women. From year to year, the number of countries that apply the death penalty is declining. So, in particular, if by the beginning of the First World War, the death penalty was legislatively abolished or suspended only in 7 European countries, then in the late 1980s, It was abolished in 53 countries and suspended in 27 countries (Unnever, 2010). One of the trends in the development of this problem is that over time, the subjective attitude to the death penalty changes. At first, society unanimously recognized the necessity, as well as the moral justification of the death penalty. But already from about the 18 century, Philosophers, scientists, and public figures began to pronounce and reject polar judgments publicly. After that, many social thinkers began to link the principle of humanism with the demand for a complete abolition of the death penalty.

The negative attitude towards the death penalty, reasoned, first of all, by ethical motives, quickly began to gain strength. In many European countries, it has become prevalent and has been translated into legislation and jurisprudence. The change in the view of the death penalty in the modern world is connected with a general change in the attitude of society toward the state, which can be characterized as its legal restriction (Siennick, 2012). The denial of the death penalty was and is of an inherent nature in the sense that it is a blow to the whole power of the state and denotes an alienated character of the right of every person to life. Although consideration of the historical dynamics of the problem of the death penalty shows that it is increasingly losing its ethical sanction,

losing the support of society and is gradually being ousted from legal practice. Nevertheless, the negative view of the death penalty has not yet become indisputable. Discussions on this issue continue to the present time. Let us, first of all, consider the arguments that some authors put forward for the death penalty, and then possible objections to them.

We are talking here about ethical, and moral arguments, considering that the death penalty can be considered justified, not just taken by force, possible, but justified, that is, from social welfare, justice and humanism. The key to such arguments is the following. The death penalty is a fair payment; it is a moral act since it is used as punishment for the murder committed (Zivot, 2012). This argument is the most common. It seems to be very strong and convincing since justice is indeed based here on the position of equivalent. However, the principle of the equivalent is not observed in this case. Murder, for which the death penalty is punished, qualifies here as a crime. And the death penalty itself is an act of state activity. It turns out that the crime is equated with the act of state activity.

The death penalty surpasses other forms of murder according to the psychological criterion (Bayron, 2016). The convict knows about death in the past, expects it, parted with his relatives, this and much more makes murder by the death penalty psychologically, no doubt more difficult than in most other cases. Equivalence in punishment is also not respected because the forces of the executioner and the victim become obviously unequal. Everyone understands that an adult murdering a child whom he could disarm or punish in some other way commits an unjust act, even if the child has already done the bloody things before. The murderer, whatever he was, in front of the state and society, is weaker than such a child in front of an adult.

Finally, the death penalty cannot be considered an equivalent punishment if it is applied to other types of crime than murder (Johnson & McGunigall-Smith, 2008). But even in cases of murder, it does not become equivalent since it does not take into account the various shades of guilt of the convict. This argument, which is based on the awesome action of the death penalty, and indeed this intimidating action, can seem significant only at first glance. With a deeper approach, it is easily refuted. The death of a criminal in the sense of intimidating others is less effective than his long, hopelessly excruciating existence outside of freedom. The death penalty as punishment can indeed make a very strong impression, but this impression does not remain in the person's memory for long. Further, if the death penalty were practiced only to intimidate others, it would not in time come carrying out in secret (Bradley. A., 2002).

In the application of the death penalty, as in all other cases, punishment is not the reason that prevents crime since the offender commits his crime not because he agrees with the next severe crime for this crime and is already ready to bear it but precisely because he hopes to escape punishment. And perhaps most importantly, statistically, by experience, the researchers of this problem have established that the use of the death penalty does not reduce the number of crimes in the society to which it is applied, for this reason, and its cancellation does not increase them. This is primarily true of the murders in society – the presence or absence of such punishment as the death penalty does not affect their number and quality characteristics. There is a very well-known example

in the literature which confirms the argument that the death penalty exerts a disciplining influence on others through deterrence. In 1894, during the public execution of a criminal in France, one of the curious spectators climbed a tree in front of the guillotine to better see the spectacle (Donohue & Wolfers, 2006). They wanted to take it off the tree first, and for that reason, they remembered well. It is interesting that only a year later, this man was executed on the same square for the same crime committed by a criminal who was subjected to public executions.

The death penalty is beneficial to society in that it frees him from very dangerous criminals. It can be argued that society could protect itself from them and use lifelong prison isolation. If we talk about the welfare of society, it must consist in repairing the damage inflicted by the criminal (McCann, 2008). And the death penalty just does not compensate. The death penalty can be justified by humane considerations about the person who committed the crime since a lifelong, hopeless, unbearably heavy imprisonment in solitary confinement is much worse than a quick death. But, firstly, the conditions for serving a sentence can be made more acceptable, and secondly, if it is a question of humane treatment of the offender, it would be more correct to allow the perpetrator to choose the death penalty or life imprisonment. In general, human (moral) must be considered only such an action which received the consent of the one (or those) that it directly concerns. When discussing the problem of the death penalty in the media and public policy, one of the most popular arguments in favor of the death penalty is the reference to the United States of America.

However, it should be noted that in the United States, the situation is not as straightforward as it might seem at first glance (Unnever, 2010). According to The Gallup Organization, by the end of 2005, only 64% of the US adult population supported the death penalty. In 2006, American society was divided for the first time exactly in half on the issue of the mandatory death penalty. 50% of respondents expressed their opinion that life imprisonment without the right to early release should be an adequate punishment for, especially, grave crimes. In 2008, 64% of US citizens supported the death penalty (Brace & Boyea, 2008).

Despite the opinion of the majority of the population, the US criminal policy is aimed at humanizing criminal legislation. Almost every year, at least one state refuses this type of punishment; in the same states where it remains, laws are adopted that significantly limit the possibility of the death penalty. So, in some states of the USA (for example, Arizona, Connecticut, Florida, Missouri and North Carolina), legislative acts have been adopted prohibiting the use of the death penalty for mentally retarded people, and attempts are being made to introduce a moratorium on the death penalty. Since 2007, the death penalty has not been applied in the states of New Jersey, New York, and since 2009 – in New Mexico. In March 2011, the exceptional penalty was abolished in Illinois (Bayron, 2016).

Today, in the United States, the death penalty as a form of punishment is provided both at the federal level and at the state level (legislation of 35 out of 50 US states provides for capital punishment). Punishment in the form of the death penalty is established for the commission of particularly serious crimes, such as murder, high treason, and rape, with aggravating circumstances. In total, there are about 70 offenses that allow the imposition of the death penalty. At present, persons under the age of

18 cannot be sentenced to death. However, until recently, persons under the age of 16 could be sentenced to death. In those states where the age of criminal liability was not legally established (Alabama, Florida, etc.), an adolescent of 10-12 years could be sentenced to death but not younger than seven years (Zivot, 2012).

Chapter 228 of Title 18 of the United States Code describes the procedure for the imposition and execution of a death sentence. § 3592 contains a list of mitigating and aggravating circumstances that must be considered when deciding whether to justify the death penalty. Ambient conditions include:

- reduced ability of the accused to assess the correctness of his behavior or to coordinate his behavior with the requirements of the law;
- the presence of the fact of compulsion to commit a crime;
- the presence of another accused, equally guilty of a crime (it is noteworthy that the paragraph contains a provision according to which the accused should not be charged with the death penalty);
- The consent of the victim to cause his death
- Aggravating circumstances include:
 - an abominable, cruel or perverted way of committing a crime;
 - the previous conviction for a violent felony committed with the use of firearms;
 - a previous conviction for two drug crimes;
 - prior conviction for sexual assault or pedophilia;
 - Vulnerability of the victim (due to age or inferiority);

Committing a crime against high-ranking officials or law enforcement officials.

After sentencing to death, a person is transferred to the Attorney General (Minister of Justice) and is there until the procedures for appealing and reviewing the verdict expire. After this, the Attorney General transfers the convicted person to the federal judicial executor, who exercises control over the execution of the sentence. Execution of the sentence occurs in the state where it was pronounced. Delayed execution of the sentence to a pregnant woman before the birth of a child is granted (Atkins, Podboy, Larson, & Schenker, 2007). Deferment of the penalty is also allowed against a person who, as a result of a mental disorder, is not able to understand why he was sentenced to death (Bayron, 2016). However, since 1976, 44 people with mental disorders have been executed in the United States.

The ways of execution of death sentences are different. As a rule, the execution is performed in an electric chair. But in some states, executions are executed in the form of poisoning by lethal gas (carbon monoxide and hydrocyanic acid), by the introduction of a lethal injection (hypnotic and paralyzing substance), and also by execution. From 1976 (after the abolition of the moratorium) until

2002, 755 people were executed in the United States; by 2008, this number had increased to 1100 people. In 1999, about one hundred people were executed in the United States, in 2001 – 66 people, in 2002 – 70 people. In 2003, the number of executed criminals was 65 people. In 2008, 37 executions were carried out, and in 2009, 52 people were executed. In 2010, there were about 110 death sentences, almost three times less than the number of similar sentences in the mid-1990s. The death penalty in the United States in recent decades has not been used so often. According to statistics, only about 0.06% of those sentenced to death are subject to execution. In anticipation of the sentence, the convicted person goes to prison for more than 11 years, which provides an opportunity to ascertain the justice of the sentenced verdict and to exclude judicial errors as much as possible (Atkins et al., 2007).

Conclusion

Thus, we see that in some countries of the world, the death penalty has been abolished either completely or for crimes of general jurisdiction. Against this background, it is of particular concern that until now, at the legislative level, the question of abolishing the death penalty has not been resolved, while at the beginning of the 20th century, was an active supporter of the abolition of this type of punishment as the death penalty. Undoubtedly, during the transition period, the period of the demolition of the socialist economic system, the transition from a totalitarian to a democratic state, there was no time and no opportunity to think about the price of human life. However, today, the situation is quite stable economically, politically and socially. Certain stability is noted in the criminological plan. The crime rate remains high, but the crime rates are quite stable. Also, as criminological studies show, the death penalty does not affect both the dynamics of crime in general and the dynamics of violent crime. Given the preceding, it seems that at present, there is a need to find other ways to combat crime, the focus of which would be aimed at eliminating its causes. Countries that have built their policies on a truly democratic basis have taken a decisive step and completely abolished the death penalty. It seems that states that proclaimed themselves a democratic state, with the priority of the right to life, it is time to stop making half-hearted decisions and, at the legislative level exclude the death penalty from the system of punishments.

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