

The Abolition of the Death Penalty in the USSR in 1947: Domestic Political Conjuncture

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Abstract

The entire history of discourse about the necessity of the death penalty inevitably raised questions of political power, as decisions about its use were formed, primarily, in the depths of governing elites of the country and were adopted either by someone alone or a group of people in the backroom. In this regard, this article is focused on the theoretical-conceptual and historical and scientific understanding of the question on the abolition of the death penalty related to internal and foreign political situation of the period under consideration. The article deals with the question of abolishing the death penalty in the Soviet Union after World War II in the context of the current debate about the necessity of lifting the moratorium on capital punishment in the Russian Federation. We consider the practical feasibility of the solutions. Postulated the thesis that the abolition of the death penalty may be politically opportunistic making that drives the legal aspects of the issue of the death penalty under political circumstances. The article can be used when conducting research in the area of the enforcement of the criminal proceedings, within the institutional history of the death penalty abolition, as well as in contemporary Russian debates about the place of criminal justice in Soviet legal space.

Keywords: abolition of the death penalty, capital punishment, the Soviet Union, the Russian Federation

1. Introduction

The right to live is an absolute value of world civilization, which forms the basis of all other rights and freedoms that are emerging in this area, because all other rights become meaningless in the case of the death of a person (Mutagirov, 2006).

Unfortunately, in the history of new Russia human life has ceased to be the Supreme value. As a result of the murder turns into a common crime, and their number began to grow exponentially. According the number of murders, both in absolute and in relative terms (per hundred thousand of population), Russia took the first place in the world (Andreyeva, 2000). In this regard, a significant role plays the criminal punishment for especially grave crimes and the most radical, controversial and contradictory form of a system of punishment, which deprives people of the right not only to live, but life itself is the death penalty (Lavitskaya, 2015).

In this regard, the discussions on the abolition or retention of the death penalty, its feasibility have been being conducting in Russia since the eighteenth century. However, there is no any consensus – where to put a comma in the sacramental phrase, "execute not pardon".

The death penalty is a complex and multifaceted problem. It affects the political-legal, socio-economic, moral-religious, cultural, psychological and other areas of our life.

One of the most important problems of jurisprudence, causing heated discussions not only among lawyers and politicians, but also among all sensible people for several centuries has been staying the use of the death penalty, and the possibility of its abolition de facto and de jure. Is the death penalty a deterrent to crime, does it violate human rights, whether to apply the death penalty as the norm of punishment in the territory of the Russian Federation or to reject it, whether the state has the right to use this punitive measures for maintaining and

policing (Matveeva, 2013a). These questions arise in the discussion of problems of this kind of punishment, and emerged relatively recently the discussion is far beyond the narrow professional circle. One can distinguish here at least three positions. Some people, recognizing the immorality and irrationality of the death penalty, are against the death penalty and for its immediate repeal. Others support the use of the death penalty, considering it not only within the legal framework, but also as a means of physical destruction of the offender, supporting for reduction of its use and the gradual abolition of the death penalty.

In different States there are different approaches to the death penalty problem solving, and the possibility of its abolition de facto and de jure. Some countries use the death penalty, others use it only in emergencies and there are also countries where capital punishment although the law provides for, but has not been longer assigning.

The attitude to this problem in Russia escalated after the country's accession to the Council of Europe and the signing of several international conventions, in particular the European Convention on human rights, where one of the main of them is identified as the right to life. By acceding to the Protocol No. 6 of the European Convention for the protection of human rights, Russia has pledged to abolish the death penalty in peacetime. Despite a moratorium on death penalty executions, the situation is not clear enough - a majority of citizens of the Russian Federation are against the abolition of the capital punishment. This dual position – on the one hand there are successive steps of the authorities on the legal abolition of the death penalty, and on the other hand, there is an opposition to this by the population and moreover, the constant demands of the actual restoration of the death penalty - requires a detailed scientific understanding (Matveeva, 2013b).

Public interest to the topic of the death penalty and rapid scientific and narrow-minded debates on the moratorium abolition on its use inevitably actualize the question of studying the prehistory of the decision on legally binding non-use of capital punishment.

High-profile acts of terrorism in Volgograd or the republics of the North Caucasus, outrageous cases related to crime against children , or the mass murder like Tzapka case – all this results not only to traditional media wave in print and web - these events bear the need to review the history of the application and the abolition of the death penalty in our country and the need to analyze the current state of the opinion in the Russian society on this issue.

Questions of the death penalty's use or abolition are not abstract theoretical by nature, and become a real challenge, exciting wide masses of the Russian society. This problem requires a scientific approach to its comprehension, in which the theory of the death penalty should be closely linked with the study of practical experience of its application in Russia and abroad, in the past and present.

2. Methodological Framework

When considering the historically-motivated justification of the death penalty's abolition, in addition to traditional references on the experience of other states, where supporters and opponents of capital punishment prove their point of view on the basis of certain examples, there are attempts to do it using the local experience. As a rule either the period of the late XIX - early XX centuries associated with Russian Empire is taken into consideration, or the Soviet period, where both points of view are well documented.

Increasing number of judicial and extrajudicial executions at the end of the Russian Empire was replaced by a large-scale application of the death penalty under the accelerated office peculiar associated with the periods of civil wars and revolutions, when the value of human life was sacrificed for the political and ideological expediency.

Aggravation of class struggle in the USSR in 30-ies and intra-party struggle within the CPSU (b) (Communist Party of the Soviet Union) (Stalin, 1949) led to a period of the widest application of the death penalty in the country's history, which still remains one of the most controversial and painful issues of socio-historical discourse.

Violations of socialist legality and the large number of victims of mass repressions (Zemskov, 2009)., both guilty and innocent ones, still have a significant impact on modern political and legal consciousness as an example of reckless and indiscriminate application of the death penalty in the short-term gain of political struggle.

The remarkable is the fact that the same political regime of Joseph Stalin, in which, on political or criminal articles from 1921 to 1953 were executed from 680 to 840 thousand people, in 1947, was followed by the abolition of capital punishment prescribed at that time by a wide range of articles of the current legislation (in particular the numerous points of the 58th article of the Criminal Code of the RSFSR (Russian Union of Federative Soviet Republics) (RSFSR Criminal Code, 1938), especially according to them hundreds of thousands of people were sentenced to death).

Here we will not consider what percentage of the sentences was deserved and what was a violation of socialist legality, because this topic belongs to a definite historical research. We are interested in the issue about the refusal of the Stalinist political regime from the practice of the death penalty after world War II and the reasons for the adoption of this political decision.

This aspect of perspective is interesting because it gives an opportunity to study the motivation of abolition of higher authorities, in fact, adhering to the view that the death penalty is not only enshrined in law, but part of the political and ideological approach connected with merciless destruction as criminals who have committed very serious crimes so repression against obvious and imaginary opponents of the Stalinist regime.

If we move away from ideological assessments associated with apologetics or denigrate of Stalin's regime (which, in our opinion, was the apparent lack of Soviet and post-Soviet historiography), then, considering the issues on abolition and the subsequent restoration of the death penalty in the USSR, we can see in this not a suddenly awakened humanity and not thirst for blood, but a very practical solution of the political functionaries, who demonstrated a purely utilitarian and opportunistic approach to the problem of the death penalty and its application. It seems that in the process of conducting research a very relevant and global problem should be put in and comprehended - whether the state ought to kill a person on the basis of the application of criminal law if it is necessary to decide those or other questions within the internal policy. It is necessary to examine this issue in details to see the obvious similarities of the contemporary discourse surrounding the death penalty problem in 1947 – 1950-ies.

3. Results

The end of World War II spawned many problems associated with the issues of collaboration and reformatting of the USSR (the Union of Soviet Socialist Republics) relations with the anti-Hitler coalition. The desire of the authorities to ensure ideological unity of society, necessary to restore the destroyed economy of the country, brought to life on May 26, 1947 the decree of the Presidium of the Supreme Council of the USSR "On the abolition of the death penalty": "Historic victory of the Soviet people over the enemy showed not only the growing power of the Soviet state, but also, above all, a singular devotion to the Soviet Motherland and the Soviet Government its entire population.

However, the international situation during the past period after the surrender of Germany and Japan showed that peace could be considered secure for a long time, despite the attempts of aggressive elements to provoke a war.

Taking into account these circumstances and meeting the wishes of trade unions of workers and employees and other authoritative organizations, expressing the views of a broad public circles, the Presidium of the Supreme Council of the USSR believed that the death penalty was no longer necessary in peacetime.

The Presidium of the Supreme Council of the USSR decrees:

1. To cancel in peace time the death penalty prescribed for the crimes by the existing laws in the USSR.
2. For crimes punishable by existing laws with the death penalty, in peace time the sentence in a labor camp for a period of 25 years had to be applied.
3. The death penalty which was not executed before the publication of the Decree, was to be replaced by the punishment, defined by the superior court, article 2 of this Decree" (Records of the Supreme Council of the USSR, 1947).

When analyzing the text of the document two main reasons having bright ideological and political basis are clearly stated. Of course, it is not about pure humanism, but about political practice, when law becomes a subordinate position in relation to the current political and ideological conjuncture.

This is a very important point which is observed currently too in the analysis of modern requirements on the return of the death penalty under the influence of certain events and the political environment associated with them.

In the case of the death penalty abolition in post-war USSR the first reason was the need to unite Soviet society, which led to political and ideological lines on the silencing of mass collaboration in some areas of the USSR, as well as mitigation of punishment for the participants of Russian, Ukrainian, Baltic collaborationist formations, unsullied by war crimes and crimes against humanity.

This line was part of the Soviet leadership's ideological approach to the issue of collaboration, which was especially evident in the period of 40 - 80-ies. A striking example of this line was the story of one of the executioners of Khatyn -Gregory Vasyura (Ivanov, 2010). The leaders of the Soviet republics took care of the inviolability of the international unity of the Belarusian and Ukrainian peoples. Especially actively cared about

nondisclosure of the case about Vasyura first secretary of the Communist Party of Ukraine, member of the Politburo, Vladimir Scherbitsky. As a result of this pressure, the correspondents were allowed to process only selectively, and further none of the materials produced by them, have been published (Yeliseyev, 2013).

Later, V. Scherbitsky insisted that at the publication of materials related to the investigation of Nazi crimes in the occupied territories of the USSR the data on national accomplices of punitive, in particular, of the Ukrainian police and penal battalions were not published.

The origins of this line had their beginning in the late 40s, when the background of the ongoing trials of punitive and collaborators beared a new approach of hushing up this dark page of the Great Patriotic War.

Good goal of uniting people, embodied in a decree on the abolition of the death penalty and the various ideological directives, eventually turned into a very weak study of the history of collaboration and lack of his conviction that came to fruition after the collapse of the USSR, when apologetics collaboration became part of the political and ideological course of the nearest neighbors of the Russian Federation - former fraternal Soviet republics of USSR, which became a separate independent states (The prosecutor offered to shoot members of the gang Tzapka).

Here we see as an element of humanity in the ideological motivation of the USSR Supreme Council Presidium, from a historical point of view, has brought serious consequences related to the systematic attempts to revise the results of World War II and the Nuremberg Tribunal.

The second aspect that influenced this decision was the foreign policy situation, which at that time was in a state of political transformation. Former allies in the anti-Hitler coalition had only recently entered the Cold War, and Winston Churchill's speech in Fulton not yet fully perceived as the beginning of a long standoff in decades.

Successful cooperation in the Yalta and Potsdam conferences and illusions associated with the policies of Franklin Roosevelt, were based on the assumption that the joined struggle against fascism would not allow former allies to come to a direct confrontation.

Characteristic view of Stalin clearly shows that even after the start of the Cold War, the hope of reaching a compromise has been one of the central lines of the Soviet ideological doctrine. "I have already spoken of the Temple of Peace. This temple should be built by workers from all countries. If two of the workmen especially know each other well and are old friends, if their families are mixed and, quoting clever words that caught my eye the day before yesterday, "if they have faith in each other's purpose, hope for the future of each other and indulge the shortcomings of each other, "then why cannot they work together for the common goal as friends and partners? Why cannot they share their tools and thus increase the ability to work with each other? They not only can but must do it, otherwise the Temple will not be erected or after building collapses by worthless puples, and we will again, for the third time in school of the war, which will be much more severe than the one from which we just came out» (Stalin, 1949).

Further events related to the increase of tension in the occupied by the allies Germany, the Berlin crisis, the development of the Chinese civil war and the escalation of tensions on the Korean peninsula clearly demonstrated the fallacy of the thesis that peace was secured.

Good goal, in fact, was the result of an incorrect assessment of what was happening in the world, and formally in a state of peace time, the Soviet Union maintained a mobilization economic and political model, actually in a state of cold war with a large part of the Earth.

It would seem that recognition of the obvious errors in 2nd paragraph's motivation of the USSR Supreme Council Presidium was to encourage the restoration of the death penalty for the correction of an error. But the strengthening of the political struggle within the USSR and foreign political situation led to the restoration of the death penalty completely on another occasion, at the same time, as in the case of its cancellation, the decision was formalized by the approval of the masses.

The result was a decree of the Supreme Council Presidium on January 12, 1950 "On the application of the death penalty for traitors, spies, saboteurs. "In view of the applications received from the national republics, of the trade unions, peasant organizations, as well as cultural figures about the need to amend the decree on the abolition of the death penalty to ensure that this decree does not extend to the traitors, spies, saboteurs and subversives, the Presidium of the Supreme Council of USSR decrees:

1. In the form of exemptions from the Decree of the USSR Supreme Council Presidium 26 May 1947 about the abolishing the death penalty use it for traitors, spies, saboteurs as a capital punishment.
2. This Decree is to be entered into force on the day of its publication" (Bulletin of the Supreme Council of the

USSR, 1950).

The formal reason for the restoration of the death penalty in the Soviet Union was "Leningrad Affair" which was not mentioned directly in the decree (Demidov, 1990). Today not all its circumstances and motives of the participants, from both the accused and by the prosecutors are known. Most historians agree that it was a result of political in-fighting, where an influential organization of the Leningrad Communists was defeated and was destroyed politically, and its leaders - physically, and the death penalty was applied to them violating the basic legal principle because the law wasn't retroactive, as the decree on the restoration of the death penalty came after the beginning of the process.

At the trial, which began on September 29, 1950, all the accused persons pleaded their guilty – their statements were agreed with the prosecution and investigators. Only Voznesensky dared to deviate from the investigators. Sharply separated from accomplices, he called them "Bonapartism", "someone like Tito." Recognizing the other accusations, Voznesensky asked to keep him alive to continue his scientific research.

The accused were hoping their lives would be saved, because the death penalty was abolished in 1947, and for the loss of secret documents Voznesensky could receive a maximum of 15 years in the camps. But specifically in order to eliminate the "Leningrad group", 12 January 1950 the death penalty was restored for treason, espionage and sabotage. Despite the fact that such accusations to the "Leningrad" were not filed, on the night of October 1, 1950 N. Voznesensky, A. Kuznetsov, P. Popkov, Y. Kapustin, M. Rodionov and P. Lazutin were sentenced to death and shot in an hour. Three more defendants were sentenced to 10-15 years imprisonment. And it was only beginning in October after closed trials in different cities of the country 17 leaders from Leningrad were eliminated. In 1950 – 1952, more than 200 people from "Leningrad" clan were sentenced to various terms of imprisonment (Shubin, 1949).

Historians are arguing about whether these people were guilty in fault that they were charged with the investigation and put forward various versions (Prudnikova, 2013) of the springs of hardware struggle, but this question is beyond the scope of our study.

We are in fact interested in what iconic political case that has affected the country's leadership, has brought to life a solution that is entirely stemmed from the changing conditions. After the end of mass repressions in the late 30-ies a serious hardware struggle in the leadership of the party and state resurfaced, and political regime, in the person of its leaders from members of the Politburo and the Presidium of the Supreme Council, brought back to life a proven mechanism of political infighting associated with the use of the death penalty not only to spies and saboteurs, but also to domestic political opponents, for the sake of destruction of which the obvious legal principles were neglected, which lost the place for political expediency.

Reasonably there is a direct analogy with the explosion of public discontent in the Russian Federation, when, after a committed terrorist attack major civil society demands to adjust the legal system under one specific situation that entails self-evidence of the death penalty use in other situations of a similar nature.

In addition to the violation of basic principles of law, this decision shows how easy the opportunistic decision caused, in fact, one case dealing with the internal political struggle in the Soviet leadership, restored the death penalty in the punishment system, and it remained active capital punishment as in the days of the USSR, and in the early years of the Russian Federation.

And although the case was closed long ago, the defendants were shot or were imprisonment and subsequently rehabilitated, the legal implications of this case were entrenched in the Soviet legislation in the form of the death penalty's restoring, which has not disappeared and during the dismantling of the Stalinist regime, and remained unchanged part of the penal system of the USSR as the highest measure of social protection. It seems that to some extent the moratorium on the death penalty in the Russian Federation, in addition to current political, ideological and legal purposes, was the actual revision of the principle of the death penalty restoration in the context of the "Leningrad affair", that provides its legal stability, despite public pressure and legal expertise.

4. Discussions

In general, this case shows that, on the one hand, "there is nothing more permanent than temporary" and, on the other hand, demonstrates that the seemingly unshakable, decades-old approach to capital punishment, can be as easily removed as installed. An important lesson is given here that the law and enshrined in it the rules is not something eternal and unchanging, and is the product of human creativity, and therefore contains an element of imperfection, which in this question is defined as in opportunistic and utilitarian approach to the question of the cancellation and subsequent reinstatement of the death penalty, so complete rejection of the death penalty in light of the triumph of the new ideology and reboot of the political system.

Having considered briefly the history of the rejection of capital punishment in the USSR and a quick return to this extent, we can say that entities, appealing to the experience of the abolition of the death penalty in contemporary historical and legal arguments of the justified or unjustified use of the death penalty, do not fully understand that the abolition of the death penalty in those years is not a sign of humanity, formalized by the rule of law (although, humanization of criminal legislation, of course, was, but this was not the dominant factor in the abolition of the death penalty). The main reasons for the cancellation and subsequent return of the death penalty were political and ideological motives related to internal and foreign political situation of the late 40-ies of XX century.

Accordingly, carrying out historical parallels, we must recognize that the moratorium on the death penalty in the Russian Federation is reminiscent of the same result of political situation, because with overwhelming of public support for the idea of the return of the death penalty in practice of domestic justice (The survey of Public Opinion Foundation, 2013), political and ideological motives, the Russian authorities were put above public opinion and to humanity also have indirect relevance.

A similar view can be given on the issue about the return of the death penalty, justified by references to its return in the Soviet legal field in 1950. Considering the decision of the USSR Supreme Council as a historic precedent, proponents of the practical application of the death penalty forget that the changes in legislation that led to the restoration of capital punishment, occurred as a direct consequence of the changed political situation.

It's not a question of humanity or the issue of changing the statistical indicators of criminal activity through tougher penalties. It is an attempt to adjust the legal norms under political demands of government and society, which may be associated with political or economic strife in domestic politics and a desire to use public opinion for the political populism and demagoguery.

The study of the genesis of the death penalty in 1947 and its return in 1950 gives an important insight to the modern researcher that even this ultimate rule of law can be used as a common tool of domestic policy to address those or other purposes beyond the jurisdiction of the courts sentencing as well as a tool that affects not only the issues of justice and institutionalized legal retribution, but also as an element of internal policy and ideological course, based on it.

In modern Russia the need for the death penalty have long gone beyond the philosophical debate about the rights humanism and attempts to bring a direct relationship between the level of crime on the availability of the death penalty.

Each resonant criminal case, causing disputes' updating about the need to abolish the moratorium on the death penalty - is, first of all, the unsolved social and societal problem in which certain social and political groups see in death penalty the impossibility of arbitrary solution of such problems through the adoption of opportunistic solutions about the introduction of the death penalty and, as a rule, in isolation from the whole complex of the existing penal laws.

Pretty typical becomes a situation where calls to return the death penalty justified by any reason, such as the increasing incidence of terrorist acts.

We believe that public debate in Russia associated with the question of the need for the death penalty, is about in the same logical paradigm as the decision of the USSR Supreme Council Presidium in the period under discussion

Accordingly, in our view, it is important in the study of practical experience of such an approach to consider not a specific situational cause, but to be focused on the development of common criteria for the practical necessity of the death penalty and the need to harmonize this with the basic components of public perceptions of fairness of punishment in principle, but not in the form of the situational linking with problems with private issues.

All this leads to the thesis that the Soviet experience of 1947-1950's and the experience of socio-political and legal debate about the death penalty demonstrates the importance of this issue to the public on a number of components.

The transition of questions on criminal laws' changing about the application or abolition of the death penalty to the full competence of the supreme bodies of state authority in the framework of a political regime that excludes the possibility of the whole society to influence the enforcement of the death penalty means that in the great majority of cases the government will use an arbitrary and in fact opportunistic approach with respect to the availability and implementation of the highest measure of punishment by death.

Therefore, to determine the possibility of practical application of the death penalty as capital punishment seems

necessary to hold a national referendum on the need for the death penalty. This truly democratic procedure should be preceded by its broad public discussion about various aspects of the problems of enforcement of the death penalty, so that by the time the national voting decision making by the citizens of the country, would be based on the best possible complete picture of the positive and negative aspects of the death penalty.

This nationwide legitimization of the death penalty or a moratorium on its use, not only remove the acuteness of the question on the lack of legal mechanisms of punishment for especially serious crimes, but will move away from tactical and situational interpretations determining the attitude to the issue of the death penalty.

5. Conclusion

Thus, the considered experience of the death penalty in the Soviet Union gives us a good example of how usurping the right to decide the question of life and death, the state leaves this question at the mercy of politicians, which often use it as just another tool of political and ideological struggle, which can be used or used in isolation from the problems of the institutionalized deprivation of human life and the need for government retribution for offenses having the greatest danger to the public.

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