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## **CAPITAL PUNISHMENT IS NOT JUSTICE**

***Abstract:** the article focuses on the problem of the death penalty. The legislation of the Russian Federation and the United States of America on this subject is compared to identify the degree of humanity of each of them in the modern world.*

***Keywords:** death penalty, constitution, punishment, humanity, justice.*

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## **СМЕРТНАЯ КАЗНЬ – НЕ ПРАВОСУДИЕ**

***Аннотация:** статья посвящена проблеме смертной казни. По этому вопросу сравнивается законодательство Российской Федерации и Соединенных Штатов Америки, чтобы выявить степень гуманности каждой из этих стран в современном мире.*

**Ключевые слова:** смертная казнь, конституция, наказание, гуманность, справедливость.

The death penalty is one of the most famous punishments, which was applied as early as the 18th century B.C. in the famous Code of King Hammurabi of Babylon. The death penalty was also part of many other documents. For example, the Fourteenth Century B.C.'s Hittite Code; in the Seventh Century B.C.'s Draconian Code of Athens (death is the only penalty); and in the Fifth Century B.C.'s Roman Law of the Twelve Tablets [1]. Nevertheless, despite such an early origin, this measure of punishment is still used in some parts of the world.

According to the Constitution of the United States of America in The 5th (and the 14th) amendment states that «no person shall be deprived of life, liberty, or property without due process of law», while the 8th amendment prohibits «cruel and unusual punishment.» Since 5th and 8th amendments were passed at the same time it seems that:

1. The Constitution allows the death penalty.
2. The Constitution, at least as understood by its proponents, does not consider the death penalty cruel and unusual punishment [2].

Despite this, statistics show that the death penalty is not a deterrent and is imposed on poorer people and racial minorities. In the USA, although only 13% of the population is African-American, 50% of death row prisoners are African-American.

For example, an African-American boy, George Junius Stinney Jr. He was only 14 years old when they put him in the electric chair in 1944. He was accused of killing two white girls. Stinney's conviction was vacated in 2014, seventy years after he was executed, when a court ruled that he had not received a fair trial, effectively clearing his name [3].

Russia is the complete opposite. The Russian Federation has had a moratorium on the death penalty since 1997. In July 2001, President Putin made his first public statement on this burning issue. He said that he was «against the death penalty because increasing the severity of the punishment does not help to extirpate crime [4].» The Constitution of the Russian Federation Article 20 states:

1. Everyone shall have the right to life.

2. Capital punishment until its complete elimination may be envisaged by a federal law as an exclusive penalty for especially grave crimes against life, and the accused shall be granted the right to have his case examined by jurytrial [5].

The death penalty, however, is not an act of defence against an immediate threat to life. It is the premeditated killing of a prisoner for the purpose of punishment – a purpose which can be met by other means.

A 1996 UN study concluded that execution is not a deterrent. According to statistics, it was clearly seen that in many states of the United States, where the death penalty was used as a form of punishment, it was not lower in those states where it was not used. After that we see a newer problem: justice. More and more people are being punished unjustly. The risk of committing a faulty mistake becomes greater and greater than one might imagine [6].

Another problem with capital punishment is wrongful deaths. As long as capital punishment persists, innocent people will continue to be executed because dramatic mistakes are possible even in the well-developed judiciary systems.

Execution breeds cruelty in society. Since ancient times crowds of people have gathered in squares to watch criminals being hanged, burned, or beheaded. However, in more ancient times, executions were even more cruel and sophisticated. The cruelty of the capital punishment is evident. It is not only a physical but also a psychological impact on a person. This cruelty cannot be justified, no matter how cruel the crime of which the prisoner has been convicted [7].

Execution does not eliminate the cause of crime. The main factors that provoke crime are poverty, lack of education, inequality, and the mental disabilities of the individual offender. The death penalty has no effect on these causes.

Execution does not punish. This one of the most indisputable arguments in support of the prohibition of the death penalty. Punishment is a measure of state coercion applied to a person found guilty of committing a crime and consisting in a certain narrowing of his legal status, giving him special rights and obligations. Execution implies deprivation of the convicted person's right to life.

Execution offers no opportunity for redemption. A serial killer who is particularly brutal in his crimes may not deserve justification in the eyes of the people and relatives of his victims, but he certainly does not have a chance to reflect on his behavior and do good to society—he has no time for it. Moreover, waiting for death often does not motivate, but demotivates the condemned person to reflect: nothing can be changed anyway. The same UN report states that life imprisonment and isolation from society scare criminals far more than the death penalty.

In today's reality, the foundation of law is morality and humanity, through which the protection of human rights and freedoms is guaranteed and realized. Article 3 of the Universal Declaration of Human Rights states that everyone has the right to life.

Thus, it is possible to draw the following conclusion – the death penalty is not an a priori humane form of punishment that denigrates the honor and dignity of man and citizen. In our subjective opinion, this type of sanction for the year 2022 is obsolete and cannot be used in the modern world according to the «an eye for an eye» and «a tooth for a tooth» principle.

Unfortunately, the complete abolition of the death penalty has not yet been completed. Together, we can influence the evolution of policies in this area in countries outside Europe (such as the United States and Japan) in order to legally abolish the death penalty. We must again and again call on these countries to follow the example of European and other countries where society has already said «Yes» to justice, and «No» to cruelty, torture and death. *Capital punishment is not justice.*

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