

The Right to Life, as One of the Fundamental Human Rights

Stela Mecaj

University Ismail Qemali Vlora, Albania

Abstract

The right to life is the basis of all fundamental human rights and freedoms as all other rights derive from it. The right to life will be protected at all costs as life is the most valuable thing any of us has. Article 21 of the Constitution of Albania states that the right to life is protected by law and no one can violate it. One of the problems that society has encountered in terms of guaranteeing the right to life is the application of the death penalty. There are still many countries in the world who still apply this macabre and outdated sentence. Albania together with EU countries has given up the application of the death penalty and now applies only the sentence of life imprisonment. Countries like Japan, USA, Saudi Arabia, North Korea as well as many other developed or non-developed countries still apply this punishment. In some US states this sentence has been abolished, but the US still has a long way to go for a future without the death penalty. The death penalty is nothing but a relic of the past of which humanity is not proud. We cannot change the past, but we can act in the present for a better future where the right to life is not violated by anyone even by the state itself. Life is precious and should not be violated by anyone as the violation of this right violates every right that arises from it.

Keywords: the right to life, the death penalty, the European Convention on Human Rights etc.

1. Introduction

“Hanging is not a machine of death, but is a symbol of terror, cruelty and disregard for life, the common denominator of this primitive savagery, medieval fanaticism and modern totalitarianism. It stands for everything that humanity must reject if it aspires to survive the current crisis.” (Hodgkinson and Rutherford, *Capital Punishment Global Issues and Prospects*, Waterside Press, Volume II, 1996; KOESTLER, *Reflects on hanging*, New York, Macmillan, 1957, p. 170).

According to Article 21 of the Constitution of the Republic of Albania, "The life of the person is protected by law". No one, be it a natural or legal person, nor the state itself, can intentionally take someone's life. The right to life belongs to the personal freedoms enshrined in the constitution along with freedom of speech, information and many other freedoms. The right to life itself lays the foundation for the guarantee of all other freedoms and rights, this right protected by law forms the foundation for all other freedoms and without it none of them would be possible doing so. the right to life and life itself is the most valuable thing of the person thus guaranteed and by the state itself, a right that no one can violate.

The death penalty has always been an issue that has aroused debate, there are various authors who defend the death penalty by saying that this sentence belongs to society, belongs to the authority of the state, but there are also authors who are against the death penalty. The latter classify the death penalty as a relic of the past, as a way of punishment that goes out of fashion that no longer has a place in developed human society and must remain there in the past as the state itself must guarantee this right. not only from evildoers but also from oneself, as no one can take a life intentionally.

Albania also joined other European countries in abolishing the death penalty and thus respecting the fundamental human rights and freedoms. The death penalty was abolished for murder on 1 October 2000 and still remained for military treason. The reason for the abolition of the death penalty in Albania and other European countries is the signing of protocol no. 6 of the ECHR. In 2007 Albania ratified protocol no. 13 of the ECHR thus abolishing the death penalty for military offenses by prohibiting it in all circumstances and replacing it with life imprisonment.

According to Amnesty International, a large number of states are listed against the death penalty where by May 2012, 140 states (Amnesty International, 2013) had repealed it in law or practice. But there are still a large number of states that continue to impose such penalties. The countries with the highest number of executions are: China, Iran, Saudi Arabia, Iraq and the USA, while in Europe we encounter only Belarus. (Amnesty International 2012 Report, pp. 34-35). Japan also although a very developed country and with a high economic standard still applies the death penalty for various crimes, one of the most used ways in Japan for the execution of perpetrators sentenced to death is hanging differently from the US where the most method used by it is execution by means of toxic injections.

2. The death penalty in Albania

Albania was under the dictatorship of Enver Hoxha after the Second World War. During this regime in Albania we had the application of the death penalty for various offenses. Fortunately, Albania has abolished the death penalty and no longer applies it, thus joining the EU countries in the fight against human rights violations and assisting in creating a future where fundamental human rights and freedoms are not violated by anyone. not even by the state itself. Many people in Albania as in many other countries with a dictatorial regime as mentioned in the case of North Korea have been sentenced to death for political reasons, they may have been political enemies of the dictator or may have spoken out against the system.

Some offenses for which persons were sentenced to death in Albania while this sentence was still in force were:

1. Attempt to escape from the country. (During the dictatorial regime)
2. Premeditated murder.
3. Insulting the leader and coming out against the dictatorial system.

The death penalty was applied in Albania for a decade after the fall of the dictatorship and then it was banned.

Methods used for execution:

1. Hanging.

2. Shooting.

2.1. Execution of the perpetrators of the Libofsha massacre

The Libofsha massacre is the case of the last death sentence in Albania in the '90s. The two people found guilty of this murder were sentenced to be hanged. It had been 8 months since democracy was proclaimed and the legislation had not changed yet. The incident took place on May 29, 1992 in the village of Libofsha when the two brothers entered the Puto family's apartment at midnight with the intention of robbing the family. As a result they killed 5 people. The event caused a great commotion in Albania at that time, the public opinion demanded the death penalty for the perpetrators. This would be the last death sentence in Albania, thus making it possible to leave behind this terrible sentence of the past, a sentence that has no place in today's society.

3. Provisions of the European Convention on Human Rights on the right to life

The European Convention on Human Rights (ECHR) is an international instrument for the protection of human rights and fundamental freedoms in Europe. Drafted in 1950 by the then newly formed Council of Europe, the convention entered into force on 3 September 1953. All member states of the Council of Europe are signatories to the Convention and new members must ratify this convention as soon as possible.

The Convention established the European Court of Human Rights (ECtHR). Any individual who believes that his rights under the Convention have been violated by a State party to the Convention may bring an action before this Court.

Article 2 and Article 3 of the ECHR

Article 2: The right to life

1. Everyone's right to life is protected by law. No one shall be arbitrarily deprived of his life except in the execution of a sentence for a crime for which the sentence is provided by law.

2. Deprivation of life is not considered to be caused in contradiction with this article in cases when this deprivation comes from the use of force, which is absolutely necessary:

- a) In protection of any person from unlawful violence;
- b) To make a lawful arrest or to prevent the escape of a lawfully detained person;
- c) To oppose, in accordance with the law, a riot or uprising.

This article is the most important article of the ECHR because on this article is based the abolition of the death penalty where even the state itself can not violate this right.

Another very important article of the ECHR is Article 3 Prohibition of torture

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

One of the problems encountered by the parties to the convention in the case of extradition to the United States has been when these persons risked the death penalty, but as a party to the convention if these states are aware that the person is at risk of being sentenced to death or persecuted at the place of extradition they cannot extradite him without first obtaining a prior guarantee.

In the case of persecuted persons, a State party to the Convention may not extradite them if it is aware that the person has been persecuted at the place of extradition for political or religious reasons.

Protocol 6 and Protocol 13 to the ECHR

Protocol 6 abolished the death penalty in peacetime.

Protocol 13 abolished the death penalty in time of war and for treason by replacing it with life imprisonment.

4. Discussions

The issue of the death penalty has always been a matter of debate between the parties, there are various perpetrators but also citizens who think that the death penalty should be reinstated for a certain number of crimes, but there are also those perpetrators who think that the death penalty should remain in the past of Albania because according to them for the death penalty has no place in its present or in the future.

Public opinion is often shocked by certain events in the country, making citizens reconsider the death penalty, even for a moment, and even those perpetrators or citizens who are against the death penalty may think twice. when they hear of a macabre crime and whether it would be fair for the perpetrator to be sentenced to death or not.

In our country the death penalty is not applied, but rare horrific events which shock the public opinion revive this debate. But is this debate fair, should the death penalty be used as a punishment or is this debate created out of a sense of revenge and not out of a desire to do true justice. The debate over whether to uphold or abolish the death penalty has long been going on in the Western world.

4.1. Opinions of some authors who are in favor of the death penalty

Both the proponents and the opponents of capital punishment have brought their arguments, which not infrequently, contradict each other. Many countries that are considered democratic still have the death penalty. In the US this sentence is in force in 28 states. These authors are convinced that the existence of the death penalty does not affect democratic coexistence. On the contrary, the existence in law and practical implementation of crimes with serious consequences of this type of punishment would be a kind of warning and

prohibition sign that reminds all criminals that their violation should be punished even with taking life. Punishments generally do not only aim at punishing offenders, but also at influencing other persons who disregard neither the moral norms nor the legality that governs social coexistence. So, the existence of law and punishment also has a preventive character.

There are many authors who are in favor of the death penalty and who think that the death penalty has its own importance and plays an important role. According to them, it is absolutely moral to sentence to death a person who, by his own free will, has taken an innocent life or destroyed a life as in the case of juvenile rape. These persons are unworthy, as their actions have made them undesirable in society, but does this justify taking their lives?

4.2. Against the death penalty:

There are many authors who defend the death penalty as there are many others on the opposite side, where according to which the death penalty is a thing of the past and Albania did the right thing by joining other European countries by banning the death penalty. For these authors life is expensive, the life of anyone, but also the life of a murderer, a person unworthy of society and that life has its own value and taking it would bring no benefit. Despite the support of the death penalty, the philosopher Immanuel Kant, distinguishes a flaw of this system by stating that to punish someone rather than intimidate others, means that this person is used only as a tool and thus injustice is done to him. (Kant, *The Metaphysical Elements of Justice*, 1797, p. 100-101). So if we only punish to give the perpetrator a punishment and that is not enough to intimidate future perpetrators, it means we are creating injustice for potential victims.

The purpose of the justice system and the sanctions themselves for certain acts is the re-education, the correction of persons, it is an attempt to make them worthy of society. It is a hope for them, a hope for all humanity, it is a desire to never give up because life is precious. The death penalty has been part of society since its inception, but will he continue to accompany it, or will their paths be parted. Perhaps the death penalty is better left in the history books, in the past.

5. Conclusions

The death penalty is a method of punishment, which belongs to the past and has no place in developed human society. The death penalty is the most severe punishment that can be imposed on a person. It is enabled by laws which, although paradoxically prohibiting murder, are at the same time the driving force of this crime which is in complete contradiction with the freedom and the right to life that are simultaneously provided by law.

Most non-developed countries have abolished the death penalty and many countries are making the same choice. The death penalty violates the right to life which is the basic right from which all freedoms and rights of the people derive and we must have its guarantee even by the state itself as he himself can not violate the right to life .

The European Convention on Human Rights is a symbol of the joint effort of States parties to guarantee fundamental human rights and freedoms. 47 states are parties to the convention. The Convention started with only the 10 founding states, thus going a long way, but necessary in the unification of states to guarantee fundamental rights and freedoms.

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