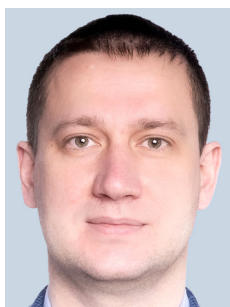
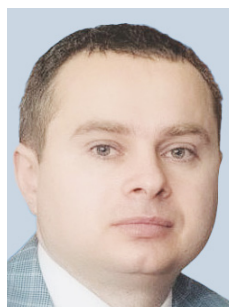


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HISTORY OF THE DEATH PENALTY IN UKRAINE: CAUSES, STAGES AND INFLUENCE ON PUBLIC AWARENESS

Abstract. The purpose of the study is to reveal the historical reasons for the emergence and distribution of death penalty as well as the attitude of Ukrainians to this type of punishment. Particular attention is paid to the attitude of contemporary traditional ideological currents to the death penalty in Ukraine. The research methodology is based on the principles of historicism, continuity and objectivity. The interdisciplinary nature of the study led to the use of a range of general scientific, philosophical and special historical methods, among which we distinguish the following: historical method, comparative method, document analysis, and others.

The scientific novelty of the study lies in the social challenges Ukraine is currently facing, based on which we discuss the need to restore the death penalty. The historical retrospective and evolution of the assertion of the death penalty from ancient times to the present day has shown that the death penalty is not traditional. As a rule, its establishment on the territory of Ukraine is associated with the presence of the territory of our country within other states in a particular historical period, as well as subjective and objective conditions for the development of national liberation movements in the early and mid-twentieth century. Although not an inherent punishment for Ukrainians, the death penalty has a significant impact on the public awareness, as well as the processes of state formation. The formal and declarative nature of this type of punishment in the Old Rus state was replaced by active application in the Polish-Lithuanian era. This in turn influenced the adoption of the death penalty for war crimes among the Cossacks. The most ambiguous period in Ukrainian history and the use of the death penalty is the twentieth century, when the amnesty and renunciation of executions proclaimed by the Third Universal of the Central Rada changed to the use of the death penalty for war crimes during the Hetmanate, Directory and Western Ukraine. For

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Soviet totalitarianism, the death penalty was not so much a method of punishment as an instrument of asserting power.

Under conditions of independence, Ukraine has evolved from a country with one of the highest rates of the death penalty to its abolition. In our opinion, the debates in society and politics evidence the poor legal culture and historical memory, which actually need to be corrected, e.g. through scientific research.

If we try to define the role of the death penalty in historical retrospect, it was not just the factor of realization of a specific legal or ideological worldview, but also a measure of the spread of democratic and humanistic ideals and values. Attitude to the death penalty is a measure of "maturity of society". As an object of repressive policy of the Soviet government, Ukrainians should become the main opponents of the death penalty as a punishment for crime in the 21st century, as Ukraine has always sought European standards of humanity and treatment of convicts.

Keywords: *death penalty, Old Rus State, Polish-Lithuanian era, Cossacks, Ukrainian National and Democratic Revolution, historical culture, historical memory*

Introduction. Punishment as an act of responsibility for an illegal act has always been present in our life. Initially, people were responsible for their actions to nature, gods, family and tribe leaders, princes, kings, emperors, and ultimately, to society represented by the authorities for violating the rules that ensure its functioning. The degree and severity of punishment also evolved and were determined by the specifics of the social and political system, religious beliefs or even mentality. Lex talionis, which remained in force for several millennia, still exists today, since the search for the optimal degree of responsibility for an illegal act recognized as a crime continues. Even in the 21st century, there are no unified rules for punishing people for the same illegal acts. Moreover, in the modern world there is a measure of punishment like the death penalty, which is fully consistent with the original understanding of punishment as "an eye for an eye, a tooth for a tooth".

Ukrainian history is characterized by numerous military and political conflicts as well as a long period of totalitarianism, which provides many opportunities for the study of the death penalty. First, the study of the practice of the application of capital punishment allows establishing the degree of development of democratic institutions, the introduction of the idea of humanism, justice and various virtues. Second, the practice of application of the death penalty as well as the attitude of the general public to this type of punishment demonstrate the level of historical and legal culture and memory, the level of civilizational development and mentality.

In view of the above, the logical question is whether the increase in the percentage of people who support the restoration of the death penalty indicates that it is a method of punishment, which is traditional and inherent in Ukrainian historical and legal culture. Is it possible that the death penalty took root in the minds of Ukrainians under the influence of Soviet totalitarianism, for which this type of punishment was legitimate?

Analysis of recent research and publications. Statistics from the first decade of Ukrainian independence prove the validity of these arguments. Until 1995, Ukraine was a country with the highest number of death sentences and the impositions of the death penalty in the world. Thus, 143 people were sentenced to death in 1994 and 74 people in 1995 respectively (A. Didenko). On the positive side, not all sentences were carried out. In 1999, Ukraine renounced the capital punishment, but Ukrainian society has repeatedly called for its restoration. An analysis of the historical past gibes reasons to assert that the use of the death penalty is not inherent in the Ukrainian state tradition as well as ethical and moral standards. This type of punishment was used only under conditions of military conflict or in extreme cases.

In the 21st century, the issue of reinstatement of the death penalty in Ukraine remains relevant, primarily due to war events in the East (when it is proposed to restore the death penalty for treason or torture of prisoners) as well as due to long-term failure to fight corruption (when referring to the experience of China, people suggest punishment by death penalty for corruption). In addition, the media report

in detail on high-profile homicides, often forgetting to inform about investigation findings and trial. In addition, Ukrainian society is not deprived of a significant number of people who commit extremely serious crimes (murderers, rapists, pedophiles, etc.). The recidivism of people committing serious and extremely serious crimes and doing criminal activities for a living are of particular concern for society. In general, the list of categories of people whose actions violate established norms of morality, law and public relations is quite wide.

In the first decade of the 21st century, many Ukrainians advocated the restoration of the death penalty (Figure 1), with the highest percentage of supporters at about 80 % in 2010 (80 % of Ukrainians support the death penalty).



Figure 1. Dynamics of the attitude of Ukrainians towards the restoration of the death penalty.

Source: (Less than 40 % of Ukrainians are in favor of restoring the death penalty, 45 % of Ukrainians want to return the death penalty, almost half of Ukrainians want to return the death penalty)

Based on public sentiment, it seems appropriate to clarify the historical nature of the distribution of the death penalty in Ukraine as the capital punishment.

Over the past few years, there has been renewed interest in the possibility of reinstating the death penalty as a possible means of combating certain types of crime. At the same time, issues related to the study of historical and legal aspects of the existence of this phenomenon require more attention.

The purpose of this work is: 1) to establish the genesis of the death penalty in the Ukrainian practice of combating crime; 2) to identify the main stages and factors that contributed to the approval of the death penalty; 3) to study the attitude to the death penalty of traditional ideological currents in Ukraine.

Formulation of the main material. This topic is of particular interest to historians and lawyers. If the latter deal with the issue of legal regulation of capital punishment, the task of historians is to study the traditions and evolution of capital punishment in a particular state as well as the reflection of the desire to apply capital punishment in the worldview of ordinary people.

Given that human life is considered as the highest value, the use of the death penalty is the subject of much debate among scholars. At the same time, it is foreign

scholars who are actively studying the genesis of the highest degree of punishment and how it affects the legal awareness of the population, forms a set of legal values and attitudes to punishment. In this context, the scientific work of Kevin M. Barry is of particular interest, since he not only traced the evolution of the death penalty as the ultimate punishment, but also determined how the understanding of the right to life has become a fundamental value (K. Barry, 2019). Characteristically, foreign scholars, primarily American ones, are studying the “policy” of the death penalty, which actually evolves in correlation with the legal maturity of society, the growth of civic consciousness. In this regard, there are some interesting conclusions of the 2008 collective monograph of American scientists, which provides statistics on the application of the death penalty to people who did not commit crimes, were innocently convicted, and executed respectively (F. Baumgartner et al.).

The study of the historical component of the development of the death penalty is also relevant among foreign scholars. Thus, V. Bailey analyzed the tradition in detail, including the legal development of capital punishment in Britain (2000).

The relationship between the death penalty and the development of criminal law has been studied by scholars like D. Johnson (2019) and D. Ordway (2019). The general conclusion from these studies is the need to reform criminal law and abolish the death penalty as a form of capital punishment.

As for the works of Ukrainian scholars, the study of the death penalty, its historical and legal content is similar to the European approach in several areas, namely as an element of the history of punishment and as a part of criminal law separately. Among the Ukrainian scientists, the studies of N. Khudoba, T. Kolomiets, B. Kukhta, V. Nikolskyi, I. Panionko, R. Podkur, Y. Shapoval, S. Slyvka, V. Strus, M. Taranenko, I. Terletska, M. Yatsyshyn and others are of scientific interest.

While researching the problem we are studying, we should pay attention to several methodological principles. First, the chronological bottom line of the study will be the time of Kyivan Rus. Second, the periodization is based on the civilization and state approach that is classical for Ukrainian historical science. Third, the study regards the concept of the death penalty as an exceptional, most severe type of punishment, which consists in the forcible deprivation of life of a convict on behalf of the state and by court or (historically) by decision of other state or military bodies (Great Ukrainian legal encyclopedia, 2016, p. 886).

The first period of the death penalty in Ukraine is the Old Rus period. Information about the frequency of such punishment is extremely scarce, however, the first mentions date back to the reign of Volodymyr Sviatoslavovych, and the initiator of such punishment was the clergy (M. Taranenko, & T. Kolomiets, 2018, p. 89). Interestingly, *Pravda Yaroslava* contains a principle of *lex talionis*, or blood revenge, which was carried out in case of murder: “If a man kills a man, brother avenges his brother, or son avenges his father, or father his son...” (True Russian, p. 24). Thus the legislator offers a material alternative in case of absence of the blood relative who can and has the right to carry out blood revenge. The amount of compensation depended on the social status of the victim. The fact that *Ruska Pravda* (Academic List) begins with the article regulating the use of the death penalty testifies to the fact that this was the most severe type of punishment (for murder). No documents contain detailed information on the number of death sentences in the 11th century, but it is known that the Yaroslavychi, concluding their own edition of *Ruska Pravda*, withdrew the norm of blood revenge altogether, replacing it with monetary compensation. The latter approach was advantageous primarily from a material point of view, and thus was a consequence of the establishment of Christian ethical norms (although Christianity was the state religion in the time of Yaroslav Volodymyrovych, its norms and rules were not inherent in the majority of the population). Confirmation of the latter are the words of Volodymyr Monomakh that “kill neither the righteous nor the guilty... do not harm any Christian” (B. Kukhta, 1994, p. 49).

The lack or popularity of the death penalty in Kyivan Rus is one of the key

factors denying the Norman theory, because the death penalty (the so-called blood eagle) was a popular and traditional form of punishment for the Scandinavians. In fact, the death penalty was extremely popular in the medieval Europe, including the practice of the Catholic Church, which proves the lack of influence of Christian ethics on the culture of responsibility for the executions. However, it cannot be said that the Rus people, realizing the importance of the material component in the process of responsibility for the offense, rather, the norms declared in *Ruska Pravda* were a reflection of the existing mentality and traditional structure of the tribes that formed the Old Rus state.

The period of assertion of the death penalty in Ukraine was the Polish-Lithuanian era. At this time, both the types of crimes punishable by death and approaches to the execution of the defendant expanded. Wheeling, quartering, hanging, impalement, and drowning turned into mass public events, the purpose of which was both to prevent the commission of similar crimes in the future and to demonstrate the power of law and the state over ordinary citizens. M. Yatsyshyn has studied the Lithuanian statutes and calculated that the death penalty is mentioned 20 times in the first Statute of 1529, 60 times in the Statute of 1566, and more than 10 in 1588 (M. Yatsyshyn, 2015, p. 81). Such cruelty of the legislation of the 16th century can be explained by the traditional for that time way of social relations and the existence of serfdom, in which peasants were deprived of any rights, and their lives and freedom were controlled by landowners. Without going into the legal assessment of the status of a person and a citizen of the Polish-Lithuanian era, we note that such punishments arrived from Europe, because material and corporal punishments which did not include the death of the offender always prevailed in Ukraine. It can be proved by the so-called Cossack Law. Having no written form, it was customary in nature, and therefore represented the traditional Ukrainian ways of taking responsibility for the crimes committed. Professor S. Slyvka rightly considers Cossack Law as conservative and social (S. Slyvka, 1996, p. 165). All death sentences applied exclusively to crimes of a political or military nature and were carried out on the spot, without trial or investigation. This extraordinary nature of the legislation was dictated by the traditional way of life of the Cossacks, which was later transformed into civilian life.

However, it is difficult to say unequivocally whether the death penalty can be considered traditional for the Cossack era. On the one hand, it was semantic in nature and associated with military and spiritual loyalty and ethics. From a mundane point of view, it was better for a Cossack to die in battle with the enemy than to be executed for desertion or betrayal.

In view of this, punishments involving property recovery or infliction of non-pecuniary damage due to disparagement of the convicts honor like public beatings were common. (I. Panonko, & V. Strus, 2010, p. 162). This method proves the connection between the customary norms of the Cossacks and Kyivan Rus, where the death penalty was abnormal and was often replaced by material compensation. Accordingly, it can be argued that the traditional Ukrainian mentality is characterized by the preservation of human life, its value. On the territory of modern Ukraine, the death penalty was stipulated by the Lithuanian statutes, Polish legislation, as well as the legal norms of the Russian Empire. For the latter, the death penalty became a classic form of punishment in the 18th century and transformed from a means of punishment into a form of social and moral pressure on people. Thus, at the beginning of the 18th century, royal laws included 123 crimes, for which the death penalty was provided (M. Taranenko, & T. Kolomiets, 2018, p. 90). By the end of the century, the Russian Empire attempted to unify legislation providing for the death penalty, as well as measures to limit and even ban it.

The next stage during which the death penalty was approved was the 19th century, when the Ukrainian lands were divided between the Habsburg and Romanov empires. At this time, it is difficult to say that the application of capital punishment

was traditionally Ukrainian, as the force of Austrian or Russian law did not provide for the possibility of applying customary law. Thus, Austrian law stipulated about ten types of crimes for which the death penalty was imposed by hanging or execution (N. Khudoba, 2009, p. 421). In the Russian Empire, the Charter to the Gentry abolished the death penalty for the upper strata of society as early as 1785. In practice, such sentences were still handed down, but they ceased to be public.

The 20th century seems interesting in terms of studying the scale of the death penalty in Ukraine, when Ukrainians restored the nation state three times (1917, 1941 and 1991). Our lands were part of foreign states with different approaches to the death penalty. In the end, our ancestors felt all the cruelty of the Soviet totalitarian system in which the death penalty was almost the main tool in the fight against opponents of the government.

The period of the Ukrainian national and democratic revolution of 1917–1921 became a time of some world outlook and legal metamorphoses in terms of the application of the death penalty. Formally and legally, the death penalty existed in all Ukrainian forms of statehood at that time: the Ukrainian People's Republic during the Central Rada and the Directorate, the Ukrainian State of P. Skoropadskyi and the Western Ukrainian People's Republic. It should be noted that the death penalty was abolished in the Third Universal of the Central Council (III Universal of the Ukrainian Central Council). In the Hetmanate of P. Skoropadsky, the Directorate of the Ukrainian People's Republic and the Western Ukrainian People's Republic, the death penalty was used primarily in relation to war crimes. Unfortunately, there is no information about the number of death sentences in 1917–1921. There are several reasons why the death penalty did not become widespread during the revolutionary period. First, Ukrainian national governments did not have the time and objective conditions to draft their own legislation. Second, in the conditions of war with the Bolsheviks or the Poles, the use of the death penalty was justified only in the case of crimes among the military. The abolition of the death penalty in the Third Universal of the Central Rada testified to the lack of historical experience in the application of such a punishment. In addition, Ukrainian political leaders were well aware of the demoralizing nature of such punishment even at the time.

If we characterize the Soviet period, the use of the death penalty that became widespread under "military communism" has become a tool of terror against civilians rather than punishment. There were more death sentences handed down in the 1930s than in other decades of Soviet rule. We completely agree with the opinion of A. Muzyka (Great Ukrainian legal encyclopedia: in 20 volumes, 2016, p. 887), that during the Stalinist terror, the death penalty as an extreme measure of punishment lost its legal properties, legal significance and expediency. Its objective properties in the field of prevention of especially serious crimes have been significantly weakened. It served Stalin's political interests, namely the destruction of his political opposition, the strengthening of personal power in the state, the unleashing of terror on us. According to the verdicts of the ODPUs (United State Political Administration), the NKVD troikas (People's Commissariat of Internal Affairs), the Special Meeting, military tribunals, and courts, about 1 million citizens were executed by a firing squad in the period from 1930 to 1953. A special peak in the use of the death penalty occurred in 1937–1938, when more than 646 thousand people were executed (D. Lyskov, 2017).

In the Ukrainian context, D. Vedieneiev states that about a million people were arrested in the USSR in the period from 1927 to 1990; 545 thousand of them were sentenced to various prison terms, and 140 thousand were executed (Political repressions of the 1920s and 1980s and problems of forming national memory) (statistics reflect the number of victims with official death sentences, and the number of victims of Soviet repression is ten times higher). According to the historian, this information is conditional, as it is based on materials from Ukrainian archives, while Russian ones are not available.

The most inhumane was the Criminal Code of 1935, which effectively legalized the use of all punishments, including the death penalty, for persons over 12 years old.

The decree of the Presidium of the Verkhovna Rada of the USSR as May 26, 1947 abolished the death penalty in peacetime, but three years later, the Decree of the Presidium of the Verkhovna Rada of the USSR as January 12, 1950 reinstated the death penalty for traitors, spies and saboteurs. Moreover, this list was only expanded later (1954, 1958, 1961, 1962, 1965, 1973).

The Soviet totalitarian system has been studied in detail by Ukrainian historians: V. Nikolskyi (2003, 624 p.), R. Podkur (2012), I. Terletska (2010, 2011), Yu. Shapoval (2013,), V. Vasyliiev (2007), and others. The common conclusion of all researchers is that terror and repression are key elements of Soviet public policy, which was aimed not at establishing law and order, but at establishing a closed society with limited rights. In this case, the death penalty was not a mechanism of punishment, but the cheapest tool to eliminate those who were officially recognized as opponents of the Soviet system. In fact, during the preparation of the Criminal Code of 1922, Lenin personally recommended expanding the use of execution and proposed to supplement six articles, which provided for the application of capital punishment, with six more articles on unauthorized return from abroad, on responsibility for actions against the revolutionary movement during the autocracy, on agitation and propaganda, etc. (L. Misinkevych, 2013, p. 7). Soviet law reflected the atrophied consciousness of the contemporary leaders of the state, who regarded terror as the only possible way to establish and operate the Bolshevik government.

For the sake of objectivity, it should be emphasized that the methods of terror against the population carried out by the OUN (B) Security Service (Organization of Ukrainian Nationalists, Bandera members) were also unjustified. In fact, the activities of the OUN and its attempts to restore Ukrainian statehood are one of the most controversial and politicized topics in modern history. The whole phase of the OUN's active struggle from 1941 to the early 1950s was a wartime event that did not abate even after the end of World War II. It is clear that the underground status, as well as the constant confrontation with the Bolshevik authorities led to the use of the death penalty as the highest and main punishment. At the same time, the methods and grounds for the death penalty were clearly regulated. Thus, Art. 22 of the OUN Judicial Regulations stated that if a member of the nationalist underground expressed a desire to side with the enemy in a combat situation, he should be executed (death punishment) on the spot, without prior trial or investigation (Rules of the judiciary in the OUN). All these remarks concerned only the military, so it can be said that the OUN's judicial system was analogous to the drumhead court-martial, and the OUN Security Service, which was engaged in intelligence, counterintelligence and investigative activities, also carried out legal proceedings because it handled an operational situation as well reasons and the consequences of the offense.

If we discuss the statistics of death sentences, then according to source studies of Ukrainian scientists, 889 people out of 938 who were under investigation were executed in the period from January to October, 1945 in Volhynia only (D. Viedienieiev, & H. Bystrukhin, 2006, p. 220). In this case, it is difficult to talk about the objectivity of the investigation, respect for human rights, but the only objective condition for such "cruelty" is the armed struggle against the NKVD-KGB (People's Commissariat of Internal Affairs – People's Commissariat of State Security). On the other hand, the ideology of the OUN was a symbiosis of liberalism and totalitarianism. The execution of spies for the enemy, including the NKVD-KGB, was an element of intimidation and warning of all OUN members from such actions. Confirmation of the ideological orientation of the judicial system is evidenced by the demonstrative executions of people accused of espionage. At the same time, the military was executed by firing squad, and civilians were publicly hanged. The latter intended to demonstrate the inadmissibility of acts of cooperation with the Soviet administration.

In the first decade after gaining independence, Ukraine has become a country where death sentences were handed down increasingly often. The moratorium on the death penalty in 1999 (there were previous attempts in 1995 and 1997) demonstrated the desire of our statesmen to establish democratic freedoms, when human life is considered the greatest value, even if it is the life of a person who committed a serious crime. The abolition of the death penalty is partly linked to the state's presence in the Council of Europe, (D. Viedienieiev, & H. Bystrukhin, 2006, 408 p.) but as we see, this type of punishment is not historically typical for Ukraine.

Finally, the death penalty disappeared from the legal field of Ukraine on April 5, 2001 with the adoption of the Criminal Code of Ukraine, where this inhumane punishment was replaced by life imprisonment (as a remark, such changes were made in 2000 to the previous Criminal Code, but the Code of 2001 was the Code of Independent Ukraine, not the "reformed" code of the Ukrainian Soviet Socialist Republic).

However, the data in Figure 1 show that there is a strong belief about the effectiveness of the death penalty in Ukrainian society. It is noteworthy that among the contemporary political parties and ideological currents advocating the restoration of the capital punishment, there are Communists and the All-Ukrainian Union Freedom (V. Burlakova) (they consider themselves the successors of the OUN and S. Bandera), as well as the leader of Radical Party) (Recommendation no. 1246, 1994 of the Parliamentary Assembly of the Council of Europe "On the abolition of the death penalty"). In our opinion, this situation can be explained by both political manipulation and the search for support from voters, as well as by the historical memory of the death penalty of the Soviet era (the Union of Soviet Socialist Republics) and the struggle of the nationalist underground.

Conclusions. Determining the impact of the death penalty on historical processes, as well as the development of public sentiment, we would like to note that as a form of punishment, the death penalty is not a traditional form of punishment for Ukrainian lands. The formal and declarative nature of this type of punishment in the Old Rus state was replaced by active application in the Polish-Lithuanian era. This in turn influenced the adoption of the death penalty for war crimes among the Cossacks. The most ambiguous period of Ukrainian history in regard to the use of the death penalty is the twentieth century, when the proclamation of the Third Universal of the Central Rada changed its status to the use in case of war crimes during the Hetmanate, Directory and Western Ukraine (Western Ukrainian People's Republic), and it also became part of state policy in the Soviet era. For Soviet totalitarianism, the death penalty was not so much a method of punishment as an instrument of asserting its own power.

The use of the death penalty by members of the nationalist underground, including the OUN, is ambiguous. The objective factor of confrontation with the Soviet secret services did not always justify excessive cruelty to the civilian population, but the legal assessment of the activities of the OUN and UPA (Ukrainian Insurgent Army) is the subject of a separate study.

Under conditions of independence, Ukraine has evolved from a country with one of the highest rates of the death penalty to its abolition. In our opinion, the debates in society and politics are evidence of poor legal culture and historical memory, which actually need to be corrected, e.g. through scientific research.

Considering the role of the death penalty in historical retrospect, it is, in addition to the factor of realization of a specific legal or ideological worldview, a measure of the spread of democratic and humanistic ideals and values. Attitude to the death penalty is a measure of "maturity of society". As an object of repressive policy of the Soviet government, Ukrainians should become the main opponents of the death penalty as a punishment for crimes in the 21st century.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ІСТОРІЯ СМЕРТНОЇ КАРИ В УКРАЇНІ: ПРИЧИНИ, ЕТАПИ ТА ВПЛИВ НА ГРОМАДСЬКУ СВІДОМІСТЬ

Анотація. Мета дослідження – розкрити історичні причини виникнення та поширення смертної кари, а також ставлення українців до цього виду покарання. Особливу увагу приділено ставленню сучасних традиційних ідеологічних течій до смертної кари в Україні. Методологія дослідження базується на принципах історизму, наступності та об'єктивності. Міждисциплінарний характер дослідження зумовив використання цілого ряду загальнонаукових, філософських та спеціально-історичних методів, серед яких виділяємо: історичний метод, порівняльний метод, аналіз документів та ін. Наукова новизна дослідження полягає в суспільних викликах, які стоять перед Україною, виходячи з яких ми обговорюємо необхідність відновлення смертної кари. Історична ретроспектива та еволюція утвердження смертної кари від найдавніших часів до наших днів показали, що смертна кара не є традиційною.

Як правило, її встановлення на території України пов'язане з наявністю території нашої країни в складі інших держав у певний історичний період, а також суб'єктивними та об'єктивними умовами розвитку національно-визвольних рухів на початку та в середині двадцятого століття. Хоча смертна кара не є притаманним українцям покаранням, вона має значний вплив на свідомість суспільства, а також на процеси державотворення. Формально-декларативний характер цього виду покарань у Давньоруській державі змінився активним застосуванням у польсько-литовський період. Це, в свою чергу, вплинуло на прийняття серед козаків смертної кари за воєнні злочини.

Найнеоднозначнішим періодом в історії України та застосування смертної кари є ХХ століття, коли проголошена III Універсалом Центральної Ради амністія та відмова від розстрілів змінилася на застосування смертної кари за воєнні злочини часів Гетьманщини. Для радянського тоталітаризму смертна кара була не стільки методом покарання, скільки інструментом утвердження влади. За умов незалежності Україна пройшла шлях від країни з одним із найвищих показників смертної кари до її скасування. На нашу думку, суперечки в суспільстві та політиці свідчать про погану правову культуру та історичну пам'ять, які насправді потребують виправлення, наприклад, шляхом наукових досліджень. Якщо спробувати визначити роль смертної кари в історичній ретроспективі, то вона була не лише чинником реалізації конкретного правового чи ідеологічного світогляду, а й мірилом поширення демократичних та гуманістичних ідеалів та цінностей. Ставлення до смертної кари є мірилом "зрілості суспільства". Як об'єкт репресивної політики радянської влади, українці мають стати головними противниками смертної кари як покарання за злочин у ХХІ столітті, оскільки Україна завжди прагнула до європейських стандартів гуманності та поведіння із засудженими.

Ключові слова: смертна кара, Давньоруська держава, польсько-литовський період, козацтво, Українська національно-демократична революція, історична культура, історична пам'ять

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