

Resumé

The right to life and the capital punishment

Death penalty or capital punishment, or extreme penalty, is a punishment that assumes killing (or execution) of condemned person for a criminal offence provided it is possible to impose this sentence in accordance with the criminal law in force. At former times these crimes were called capital or hanging crimes.

With regard to its definitiveness (impossibility of any redress after its execution) it is very controversial punishment. Its supporters argue that it is the sole just sentence for homicide and other felonies, that it excludes recurrence and it has significant deterrent (preventive) effects.

On the other hand, the opponents allege not only moral arguments concerning the right of each person to life but they also mention the danger of judicial error which is incorrigible in this case. Furthermore, the objectors point out that the death sentence is not so intimidating. In addition, the costs of the execution used to be more expensive than life imprisonment. Since 1970s the capital punishment has been gradually cancelled in the majority of European and South American countries. Some states of the USA and the People's Republic of China are among countries that still practise of the death penalty.

I deal with the capital sentence in the first part of my thesis whereas I occupy myself not only with its controversy, but I also describe the catalogue of particular types of execution of this punishment. The right to life, which is imminently connected with the death penalty, is under my investigation in the second part of my thesis.

The right to life belongs to the fundamental human rights. In the Czech legal order it is guaranteed by the provision of article n. 6 of the Charter of Fundamental Rights and Freedoms (The Charter) and article n. 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The issue of capital punishment concerns not only a constitutional or criminal matter but it also becomes an all-society problem. This thesis should help the reader to embrace the formidable question of death penalty and ponder over it not only from the factual point of view, but also from the perspective that is offered by the interconnection of the history and the present.

A certain conclusion can be drawn, namely that a principled rejection of capital punishment symbolises the value of human life whose preservation is an ideal of humane society. Criminal policy, criminal legal rules and the whole legal system of each country have to be humane too. They have to express that even the offender who is being punished for the destruction of human life is not refused this highest value by the society.

By means of the law-making by the legislative power and by exercising of the rights be the judicial power, the entire society should be more moral than the person who is being punished.

From the ethical and philosophical point of view, the society should refuse the death penalty, namely in respect of the conception of fundamental human rights and freedoms, especially the right to life as the highest value. When studying the international law we often reach a conclusion that not only the national legislation in many states during the last decades but also the international law is heading to the complete exclusion of the capital punishment and therefore to the fuller recognition and protection of right to life.