

DOI: 10.17516/1997-1370-0668
УДК 343

Punishment and Symbolic Social Exchange: The Unnecessary Victims of Criminal Justice

Oleg N. Bibik*

*Dostoevsky Omsk State University
Omsk, Russian Federation*

Received 20.11.2019, received in revised form 31.08.2020, accepted 08.10.2020

Abstract. This article explores the essence of criminal punishment as an element of symbolic social exchange based on social exchange theory, cultural psychology, and the economics of crime using the example of the death penalty and imprisonment. The study concludes that the choice of punishment for a crime depends entirely on the cultural characteristics of society. The commodity in this exchange is the lifetime of a person, the value of which depends on standard of living and the welfare of society. That is why capital punishment and imprisonment are more often used in countries with lower standards of living. For the same reason, imprisonment rate correlates with homicide rate. The higher the homicide rate, the lower the value of a person's life in a particular country, and the more often imprisonment is used. Raising standards of living increases the marginal harmfulness of criminal punishment, which stimulates its reduction. At the same time, the deflation of criminal punishment for violent crimes is slowing due to decreased tolerance for violence in modern society.

Keywords: criminal penalty, symbolic social exchange, culturally determined behavior, standard of living, human life time, incarceration, the death penalty.

Research area: criminal law, criminology, penal law.

Citation: Bibik, O.N. (2020). Punishment and symbolic social exchange: The unnecessary victims of criminal justice. *J. Sib. Fed. Univ. Humanit. Soc. Sci.*, 13(10), 1618–1637. DOI: 10.17516/1997-1370-0668.

Introduction

The criminal justice system is often considered to be the main guarantor of retributive justice (Dignan, 2005, 32; Karmen, 2010: 20). In this regard, punishment is perceived as a formal attribute of criminal law and the logical conclusion of the criminal prosecution. This view of punishment conceals its true nature, which sometimes leads to serious misconceptions. Therefore, punishment does not bring the expected result, more scholars say that it is undergoing crisis. The failure of the United States' criminal justice rehabilitation model has prompted Martinson to point out the inefficiency of this model in the article 'What Works in Prison Reform?' (1974). Discussion of this article led the researchers' community to the more general conclusion that 'nothing works' (Garland, 2002: 58). Garland is right when he notes that the role of punishment in modern society is not at all obvious or well known. 'Punishment today is a deeply problematic and barely understood aspect of social life, the rationale for which is by no means clear' (1990: 3).

The way out of this methodological deadlock is to study punishment using a multidisciplinary approach, whereby it can be considered as a 'symbolic behavior'. Scholars have already investigated the symbolism of criminal law, in particular, such components as the symbolic function of criminal law, the way a symbolic policy that is based on public fear of crime influences criminal law, the society as 'ostensible beneficiaries' of the criminalization of acts, that is, in fact, content only with politicians' promises to the public (Beale, 2000). The symbolic functions of penal legislation were also considered. Their purpose is to symbolically condemn crimes and criminals, and manifest, in a legal form, the aversion to crimes (Zimring, 2001). The symbolism of the death penalty has also been studied (Semukhina and Galliher, 2009). The material effects of capital punishment, as far as society is concerned, are negligible compared to the number of people who are killed in traffic accidents every year. Capital punishment is important as a sign from which one can infer social attitudes and that is meant to express them (Van den Haag, 1983: 273). For this reason, capital punishment is

primarily a political and cultural symbol (Garland, 2010: 234).

The symbolism of criminal law is not limited by the aspects mentioned above. Criminal punishment is viewed as a cultural agent (Garland, 1990: 249). In this regard, it can be examined using the cultural psychology and economics of crime as culturally determined behavior that is based on rational choice. In addition, studies of criminal punishment underestimate the theory of social exchange, which might consider punishment as reciprocity-based behavior meant to become a symbolic response to a crime. This article aims to fill this gap using the examples of capital punishment and imprisonment as the strictest forms of criminal repression with the highest costs to society.

The Effect of Punishment on Crime

Every year, hundreds of people around the world are subjected to the death penalty, and incarceration is widely used. The current prison population is around 11 million (Institute for Criminal Policy Research, 2019). It can be assumed that the use of these penalties is dictated by their effectiveness. But is this really the case? The answer is 'no'. Both capital punishment and imprisonment have been repeatedly criticized for their significant shortcomings, some of which are discussed below.

In the long run, the application of the death penalty has a habituation effect, where, over time, even the most cruel executions are considered by society to be an ordinary punishment and loses its former influence on people's behavior (Beccaria, 1995: 63-64; Montesquieu, 1989: 84-85). In the United States, no correlation was established between homicide rates and the number of death sentences imposed (Kvashis, 2008). Studies that used similar criminal statistics from the United Kingdom and Canada also support this conclusion (Dills et al., 2010).

Findings indicate that convicts with same characteristics (age, criminal record, type of crime) are more likely to reoffend (Von Hofer and Tham, 2013: 39). Many prisoners already have a criminal record at the time when they are convicted of a new crime (Cooter and Ulen,

2011: 502). According to one hypothesis, a high rate of recidivism is consistent with the rational choice model. If an offender's preferences are stable, the degree of criminal activity usually will not tend to decrease after a conviction. Serving time in jail will only improve an offender's criminal skills, which will be an additional incentive to commit new crimes (Eide et al., 2006: 215). Prisoners are actively involved in the criminal subculture. One Russian study notes that up to 80 percent of prisoners adhere to the norms and traditions of criminal subculture (Ol'khovik and Prozumentov, 2009: 46).

The very atmosphere of a prison is often contaminated by violence and cruelty, both between prisoners and between prisoners and the prison administration. There are frequent cases of outright bullying, where prison essentially turns into hard labor camp to exploit prisoners as slaves, accompanied by constant physical and psychological violence (Tolokonnikova, 2013). In such a situation, talking about correcting criminal behavior is simply blasphemous. Imprisonment only cripples people physically and morally, fostering cruelty and cunning in them. As it was rightly noted, a prison is an 'expensive way of making bad people worse' (Garland, 2002: 132).

The likelihood of recidivism rapidly decreases five years after an offender is released from prison. In the sixth year after their release, the likelihood of returning to prison is equal to that of conviction for those who have never been previously prosecuted. It is not the fear of punishment that keeps the criminal from relapse, but successful resocialization (Bytko, 2018: 160-161).

The lack of significant correlation between the use of punishment and the number of crimes committed has been repeatedly noted. One reason for this is the comparative rarity of punishment. Only approximately 3 percent of offenses result in either a conviction or caution, because less than 50 per cent of crimes are reported to the police; just half of these reported offenses are recorded as crimes; only around 25 per cent of these detected cases result in a conviction (Dignan, 2005: 163, 190). To that point, it should be added that potential criminals are, on average, more prone to take risks

than law-abiding citizens and, when they make a decision to commit a crime, they take into account the likelihood of getting caught and the inevitability of punishment rather than its severity (Cooter and Ulen, 2011; Harel, 2012).

Most people do not commit crimes by virtue of their upbringing, not because they fear punishment (Lynch, 2007: 101). Only about 15 to 20 percent of citizens do not commit crimes for fear of punishment, while almost everyone else does not do this for various moral reasons (Lappi-Seppälä, 2012: 20; Martsev, 2005: 50-51; Shargorodskii, 2003: 270). The vast majority of people are not familiar with criminal law or possible punishment for committing a crime (Tonry, 2008: 286). Thus, in conditions of limited knowledge, the deterrent effect of punishment will be significantly distorted. Surveys conducted in different countries regarding awareness of criminal law rules among potential criminals found that about 18 percent of them had no idea what the sanctions would be, 35 percent would not pay attention to what sanction would be for committing a crime, and only 22 percent confirmed that they would take into account what the punishment would be (Cooter and Ulen, 2011: 496). Among convicts, only 15.6 percent noted that they committed a crime while fearing punishment, while 30.2 percent did not think about punishment at all, 27.5 percent did not fear punishment because they were intoxicated, and 8.1 percent thought they would avoid punishment (Bytko, 2018: 41).

It should also be added that there is no scientific justification for the types and severities of criminal punishments. They are used absolutely arbitrarily, taking into account only common sense. In different countries, sanctions for the same crimes vary significantly, which in no way correlates with the success of criminal policy. For example, in Russia, murder is punishable by imprisonment of 6 to 15 years, in Germany – from 5 to 15 years. In France, this crime is punishable by 30 years in prison, and in Texas (USA) – by the death penalty. At the same time, the murder rate per 100,000 people in 2016 in Russia is 10.8, in Germany – 1.2, in France – 1.4, in the US – 5.4 (UNODC, 2019a). If the punishment really played a decisive role in preventing murder, the picture would be

completely different. It can be assumed that the severity of punishment is determined by the mentality of the nation, its culture, the nature and degree of institutionalization of violence as a way to solve socioeconomic problems.

Numerous studies convincingly prove that criminal punishment does not have a significant impact on crime (Kury and Il'chenko, 2013). Therefore, crime rates and punishment policies are fairly independent of one another (Lappi-Seppälä, 2012; Lynch, 2007). It is not punishment that affects criminality, but rather the socioeconomic development of society and its shortcomings, including property inequality, poverty, and family dysfunction. It is no accident that the vast majority of prisoners are homeless, unemployed, mentally ill, uneducated, and raised in single-parent households (Von Hofer and Tham, 2013: 40). Moreover, in a number of countries (in Russia, for example), the number of crimes committed by unemployed people determines the overall crime dynamics (Bytko, 2018: 68-70). Therefore, it is fair to say that imprisonment is a punishment for the poor (Lynch, 2007: 108). Why then, is imprisonment so widely used and the death penalty is not abolished? An explanation should be sought in human behavior, the cornerstone of which is symbolic social exchange.

Social Exchange and Culture

Society exists only because people believe that the best way to solve problems is to combine their efforts with other people's efforts. Otherwise, like many other species, human beings would lead a solitary lifestyle or create smaller groups. People tend to live together, because in this way, they mitigate costs and have more opportunities. Reciprocity as a strategy is more successful than other behaviors (Rapoport, 1991).

Reciprocity is the exchange of certain acts and benefits between people. According to the theory of social exchange, social behavior is an interaction in order to satisfy needs, reinforced by rewards and avoidance of sanctions. It is exchange of activities leading to rewards and costs (Kultigin, 1997: 85; Ritzer, 2011: 421). The price of this way of life is mutual dependence, reflected in social exchange

(‘you give it to me, and I give it to you’). Social exchange suggests ‘that two beings are mutually dependent upon each other because they are both incomplete, and it does no more than interpret externally this mutual dependence’ (Durkheim, 1984: 22).

Crime and Punishment as Elements of Social Exchange

The use of criminal punishment in response to a crime can be considered as a special case of social exchange. The understanding of punishment as payment for a crime is repeatedly found in research. For example, punishment can be regarded as a retribution that the guilty man makes to each of his fellow citizens, for the crime that has wronged them all (Foucault, 1995: 109). Punishment in criminal law is compared to price in business (Jhering, 1913: 367). Crime and punishment can be viewed either as completely identical acts or as an equivalent exchange of one act for another act (Sorokin, 2006: 207-208, 224). ‘If, therefore, the infliction of punishment can be regarded as a form of barter, it is largely of a type which one party to the exchange controls by the imposition of valid prices’ (Christie, 1968: 166). Criminal punishment is understood as an exchange of the wrongs caused by the offender for the deprivations and restrictions by which he must ‘pay’ for the wrongs. In this sense, criminal punishment performs the same function as money (Mitskevich, 2005: 304-305).

The exchange of punishment for a crime was investigated in Pashukanis's exchange theory of law. In accordance with this theory, law arises in the presence of communication of separate isolated entities connected by equivalent exchange. Crime is a special type of exchange, in which the exchange or contractual relationship is established post factum, after an intentional act by one of the parties. Accordingly, the crime is exchanged for the equivalent wrong inflicted on the offender: punishment (Pashukanis, 1980; Shchitov, 2012). Becker described the peculiarity of the ‘contract’ concluded when committing a crime as follows: ‘Those punished would be debtors in ‘transactions’ that were never agreed to by their ‘creditors’ ...’ (1968: 196).

The Symbolism of Social Exchange

In the exchange process, one must identify the objects to be exchanged and determine its rules. In nature, there are no necessary tools for this process. To solve this problem, a person may use a system of significant symbols, as his own behavior is symbolic (Faules and Alexander, 1978). The origins of this behavior lie in the enormous impact that culture has on humans (Heine, 2015; Matsumoto and Juang, 2016). The cultural organization of behavior does not imply a simple stimulus-response relationship, but mediation by a sign. The sign is used to streamline human behavior and ensure communication (Cole, 1996; Vygotsky, 1999).

An example of symbolic social exchange is economic relations. They are carried out with the help of money, which has an artificial cultural essence as well as rules for its use. For example, metal coins and paper money are tokens. They have virtually no inherent value. The reasons for their use in social exchange are the acceptability of such an exchange (established practice, anticipation of similar actions of other people), legal tender (state support of this commodity), and the relative scarcity of money (McConnell et al., 2009: 631-634). Reciprocity of exchange and trust in the economic system are essential for the use of money as a symbolic mediator. The indicated conditions are characteristic of any type of exchange.

In order to organize the exchange of crime and punishment, people also create a symbolic space with the help of culture, since, in nature, there are no criteria for determining the balance of crime and punishment. Norms and values determine the application of punishment in response to a crime. As a result, this exchange is deeply symbolic, as evidenced by numerous examples. There are cases when criminal punishment was applied not only to people, but also to animals and even inanimate objects (Durkheim, 1984; Kantorovich, 2011). Such punishments included killing an animal or throwing inanimate objects outside the country (Plato, 1999: 873-874). Mutilation as punishment is often also symbolic. In particular, in the Code of Hammurabi, removal of the tongue was a punishment for denying one's adoptive parents. Amputation of a breast was

the punishment for a wet nurse who replaced a dead child with a living one. If a son beat his father, the Code demanded that his hands be cut off (Volkov, 1914).

Punishment to an already deceased person is also symbolic. In 1661, in Tayborne, Lord Protector of England Oliver Cromwell was posthumously executed; his remains were hanged, drowned in the river, and quartered. Similar practices were common in other countries. For example, in Russia, the boyar Ivan Miloslavsky was also posthumously executed (Tagantsev, 2001: 469).

In the modern world, symbolic punishments still take place. Even if we are sure that the guilty person will not commit a new crime, he must still be punished to restore justice. Thus, even when one offender completely lost his eyesight, he continued to serve his term in prison after being convicted of especially serious crimes (Kurchenko, 2017). As of January 1, 2017, there were 20,963 disabled convicts who were serving their term in Russian prisons. Materials regarding 3,491 prisoners were sent to courts for release due to illness, and 1,683 people were released from serving sentences in connection with disease. 2,635 people died from diseases in prisons. More than half of seriously ill convicts do not live to see a court ruling or die in correctional facilities after courts rejected requests for early release (Zaborovskaya, 2018). This practice of treating prisoners is common in many countries. In the US in particular, there is also a large number of disabled people behind bars. Among them there are mentally ill, paralyzed, wheelchair-bound, completely blind, and terminally ill people (Megalli, 2015; Morgan, 2017; UN, 2009; Vallas, 2016).

The Symbolic Destruction of Crime: Punishment as a Ritual

The punishment of an animal, the execution of a deceased person, as well as the imprisonment of a person who is visually impaired or terminally ill may seem meaningless. At the same time, we sometimes perform similar acts under the influence of emotions, which are influenced mainly by the desire to even the score like when one might hit a broken

piece of equipment out of frustration. Taken alone, these actions are ineffective, as an act of aggression allows no catharsis. Aggressive behavior only fuels aggression in the future (Myers and Twenge, 2013: 386-390). But such behavior, similarly to the punishment of the 'delinquent' equipment object, enables us to control our emotions at a primitive level, partially freeing the nervous system from the tension generated by stress.

In fact, we observe the same mechanism with regard to punishments, which to a certain extent are an embodiment of our emotions and help release accumulated mental energy and satisfy the need for retribution for a crime. For example, after the verdict was released for the Norwegian killer Andreas Breivik, who killed 77 people, victims said they experienced relief (RIA Novosti, 2012). After a court decision was made in the Russian Federation in the case of the crash of the motor ship Bulgaria, in which 122 people died, relatives of the victims noted that the punishment for the guilty brought them moral satisfaction, and that they were 'relieved' after the court made a fair decision (Bakhtiyarova, 2015). In the US, the serial killer Danny Rolling was executed by lethal injection; the relatives of his victims said they finally felt relief and even inspiration, and that now they can calm down and live with the memories of their dead relatives (Garland, 2010: 1-2).

Durkheim noted that the wrong that a crime inflicts upon society is nullified by the punishment (1982a: 33). The crime as such cannot be eliminated or cancelled. That is why a substitute is needed, a symbol, in regard to which an act of destruction is carried out. The relationship between the signifier and the signified is characterized by the transfer of emotions caused by the crime. A symbol takes the place of the signified and stimulates the corresponding emotions. Ultimately, punishment embodies the symbolic destruction of a crime. The object of punishment becomes a symbolic substitution of collective emotions caused by a crime, which are transferred from the irreparable wrong done by a crime to the object of imputation (stones, children, mentally ill) (Fauconnet, 1928: 236-264; Gephard, 2006: 132-136). In this regard, Giertsen reasonably believes

that punishment is a symbolic act which in its essence cannot be equivalent to a crime and does not relate to damage to the victim. Punishment is only a sign that wrong has been done to society, which must be compensated somehow (cited in Christie, 2004: 84-85).

Punishment is a ritual that is performed whenever a crime is committed. One of the main functions of the ritual is an integrating or connecting function, since with its help, the society periodically updates and affirms itself and its unity. The ritual is necessary for the realization of solidarity and the interconnectedness of society. (Baiburin, 1993: 31) Punishment plays the same role, as it is intended to calm the society frustrated by a crime. Suffering from punishment is a sign indicating that the sentiments of the collectivity are still unchanged, that the communion of minds sharing the same beliefs remains absolute, and in this way the injury that the crime has inflicted upon society is made good (Durkheim, 1984: 63). For example, as advocates of the death penalty have noted, it should be used as a sign of respect for victims of murders, affirming the importance of their lives to society (Garland, 2010: 293). Punishment is a kind of signal confirming that society as an association of people for the sake of mutually beneficial cooperation still exists. Society has no point if no one can avenge the criminal.

Rituals of belonging and exclusion are indications that you are being accepted within or excluded from the organization and/or work group (Harris and Nelson, 2008: 248). Accordingly, for victims, punishment is associated with a ritual of belonging, whereas for a criminal it is a ritual of exclusion. The ritual nature of punishment is instrumental in controlling not only human emotions, but also public opinion (Garland, 1990).

Psychological Trauma and Retaliation

Society uses punishment to appease crime victims through symbolic retribution. This reaction is typical, though not entirely effective. The punishment of the guilty does not play a significant role in the mental healing of the victims. The terrible injuries inflicted by the crime are not treated with punishment. Decades lat-

er, people can hardly endure their misfortune, and even a criminal's execution cannot comfort them (Panteleeva, 2016). To alleviate the post-traumatic stress syndrome caused by the crime, social support for the victim is necessary, from family members, friends, and loved ones. Indeed, for the victim to return to normal life, it is important to publicly acknowledge the traumatic event and to compensate for the damage and bring the perpetrator to justice, which helps to restore a sense of order and justice. At the same time, this does not imply that equivalent wrong or other severe punishment should be inflicted. On the contrary, both recognition and redress can be carried out only symbolically (Herman, 2015).

In the process of recovery, the victim usually tries to resist the experience of grief, masking it with fantasies of revenge, forgiveness, or compensation. In this fantasy, revenge is a mirror image of the traumatic memory, in which the offender and the victim change places. The revenge fantasy is a form of catharsis, and although the traumatized person imagines that revenge will bring relief, the repeated fantasies actually only increase his or her suffering. Victims are extremely disappointed, because revenge cannot change or compensate the damage. Group discussions of various revenge fantasies demonstrate that the victim is able to understand how little he or she really needs revenge. The victim must give up the fantasy of revenge for healing, but this does not require abandoning the pursuit of justice (Herman, 2015).

Thus, the victim of crime actually needs psychological assistance, which is artificially replaced by punishment. All this would not be so tragic if the price of this sinister ritual were not millions of human fates. These are unnecessary victims of criminal justice.

There is no need for severe punishment if it does not bring benefit, especially if it is possible to meet the needs for retribution differently, for example, by reconciling the victim and the offender. In the model of restorative justice, this idea is fully implemented. It is noteworthy that victims of crime who have gone through restorative justice procedures believe that they have been treated

fairly. They were satisfied even with the symbolic compensation of the damage caused in the form of relatively small amounts of money (Dignan, 2005: 154, 164). Since a human being is a symbolic creature, both beheading and a fine can represent for us the 'destruction' of the same crime – the question is largely about the ability to control our emotions. It should be recalled that in ancient times, many nations punished murder by forcing the murderer to pay a monetary fine to the relatives of the victim. Thus, the problem of the choice of punishment for the crime is entirely related to the cultural characteristics of society.

In economic exchange, there is money (symbols) that is actually provided with commodities that they signify in general, and there is money (simulacra) that is not provided with the signified (for example, with an artificial increase in the money supply). The same phenomenon is observed in another area of symbolic exchange – in the sphere of criminal justice, in which there are also punishments that are not provided with the real needs of society. It is quite possible to remove them from circulation, which will make it possible to save a huge amount of resources. There are examples of the abolition of the death penalty that are not accompanied in the long term by an increase in homicide rate and crime rate in general (Dills et al., 2010; Kvashis, 2008; Mocan and Gittings, 2010). Therefore, it is worth thinking about further reduction of penalties and their severity, especially the death penalty and imprisonment. At the same time, the devaluation of punishment should be carried out only if we take into account the real level of public confidence in the criminal justice system. Otherwise, there will be attempts to solve the problem by extrajudicial means.

Commodities in the exchange of punishment for a crime

Crime and punishment are included in social exchange, which takes place only in the cultural environment. Their balance is determined by commodities. In economics, the role of the commodity is played by money, by which objects of exchange are valued. In the exchange of punishment for a crime, the role of the com-

modity is claimed by money, as well as by a person's lifetime.

Sorokin believed that punishments and rewards have a tendency to standardization. The result is a unit of exchange that is money. However, they have not yet been able to replace all types of punishments and rewards (2006: 225).

According to the exchange theory of law, a fine involves monetary compensation for a consequence, and imprisonment is subconsciously associated with the idea of an abstract person and human labor, measured by time. But in the end, all crimes are measured by an individual's lifetime, which he or she will spend paying off a fine or serving a sentence in prison (Pashukanis, 1980: 120-123; Shchitov, 2012: 44-45). Christie seems to share this approach, noting it in relation to imprisonment: 'We let the poor pay with the only commodity that is close to being equally distributed in society: time' (1982: 95). Conclusions on the exchange theory of law were in fact confirmed by Becker, who believes that the '[a person's] only scarce resource is his limited amount of time' (1976: 6).

A person's lifetime as a commodity in the social exchange of crimes and punishments fits quite naturally into the logic of the development of society, its culture and, above all, the culture of consumption. A human's lifetime is the time during which he is able to consume. The reason for choosing such value is the existence of cultural stereotypes. Time is the most important factor in our lives in light of modern cultural values. We often hear expressions that reflect this, such as 'we only live once' or 'getting the most out of life'. This principle plays a decisive role in determining the price of a crime.

The modern system of criminal penalties is obviously focused on the time of a person's life as his or her main asset when punishment is applied (for example, imprisonment, actually deprives a person of part of his life, a fine deprives a person of time spent on earning the necessary means for living). It is because of this circumstance that imprisonment has become so widespread, and the death penalty continues to be imposed. These means are used not to reduce crime rates, but rather to deprive the perpetrator of a portion or the en-

tirety of his lifetime, to restore social justice, to ensure the reciprocity and equivalence of public relations. Human life is used as a measure not only in determining the severity of the punishment, but also to assess the seriousness of the crime. Therefore, it is no coincidence that society with its 'quality of life' is regarded by legal scholars as a collective victim (Garland, 2002).

The Wellbeing of Society and the Repressiveness of Criminal Punishment.

An increase in income that partly results from an increase in earnings raises the relative cost of time and of time-intensive commodities (Becker 1976: 113). Since a person's lifetime is the commodity in the exchange of punishments for crimes, attitudes to the risk of losing this commodity will also change as society's well-being increases. As a result, the marginal harmfulness of punishment will increase. Becker reasonably noted that the value of the term of imprisonment gets bigger as the income of the offender gets bigger: 'Indeed, if the monetary value of the punishment by, say, imprisonment were independent of income, the length of the sentence would be inversely related to income, because the value placed on a given sentence is positively related to income' (1968: 195; 1976: 65).

Increased well-being of society increases the marginal harmfulness of the anti-benefit – the criminal punishment – with its unchanged formal meaning, which ultimately stimulates the mitigation of criminal sanctions. Historical data confirm this pattern.

For example, in ancient times and much later, the death penalty was quite common, a relatively ordinary phenomenon, because people in those days sustained a miserable existence and did not value their lives. Individuals' lives were likewise not valued by society or the state. Therefore, it is no coincidence that up to the 16th-17th centuries the death penalty was widely used (Foinitskii, 2000: 130). It was not viewed as a severe punishment as it is today (Posner, 1985: 1211). In the 21st century, we see a radically different set of ideas about the permissibility of repressive punishment, because

the quality of human life has increased. Human life is considered through the prism of the current level of development of society, and therefore it is valued much more. As a result, the death penalty is not currently applied in industrialized countries (except the United States). Many developing countries, including Russia, have actually abolished capital punishment.

Incarceration and Standard of Living

If we analyze incarceration rates, we can easily see its prevalence in countries with a lower standard of living. With the exception of the United States, the list of 100 countries with the highest per capita incarceration rates does not include any of the nations in the G7. The industrialized countries of North America and Europe are predominantly in the middle or at the lower end of this ranking (Institute for Criminal Policy Research, 2019). In the United States, by contrast, the use of imprisonment is widespread (Mass Imprisonment, 2001).

The reasons the United States occupies the first place in this ranking lie in the actual value of human life in this country. It should be remembered that in the United States free circulation of firearms is allowed and that the death penalty is permitted in a number of states. The US is actively involved in armed conflicts. The country has a high homicide rate, uncommon for a developed country. In 2016, it amounted to 5.4 murders per 100,000 people. In comparison, the next G7 country in the ranking is Canada with a homicide rate of 1.7 per 100,000 people. (UNODC, 2019a) The United States has a high level of interpersonal violence, including deadly violence, which is due not only to the armed population, but also to the tradition of tolerance of private violence, which was formed in the absence of effective state control. As a result, the application of the death penalty in this country does not bring the expected results. On the contrary, the states that have abolished the death penalty have a lower murder rate than the states that have retained this penalty (Garland, 2010). Since the death penalty devalues human life for society, the application of this punishment stimulates murders.

Societal approval of violence determines the relatively low value of human life in the

United States, which is naturally found in the widespread use of imprisonment. If citizens are willing to buy weapon, then they are presumably ready to use it and to kill a person. This willingness is changing the system of values. The same thing happens at war, when a soldier who takes weapon is mentally preparing to become a murderer, and it is the war that devalues human life, which opens up the possibility for a variety of atrocities.

Evidence of the link between living standards and the use of imprisonment includes the existence of an established negative correlation between social security spending and the number of prisoners in the United States. In the states where social security costs are higher, the number of prisoners is lower (Beckett and Western, 2001). Obviously, the higher the costs mentioned, the higher the living standards, the more human life is valued, the lower incarceration rates will be.

The Link Between Homicide and Incarceration

In support of the hypothesis of the impact of living standards on the severity of punishment, I conducted a study of the correlation between murder rates and the imprisoned population (UNODC, 2019a; UNODC, 2019b). The study showed that the use of this punishment correlates with murder rates.

A significant correlation between these indicators is noted in Europe. All countries in the region (29 countries and territories) were examined using the available of data for 2016 (Table 1). The results established that the linear coefficient of correlation on the Chaddock scale is 0.8, a high rate of correlation .

Data from 2003-2016 were also examined by applying the above methodology (Table 2). As you can see from the data, the number of murders is significantly correlated with the use of imprisonment.

It should be noted, however, that murders constitute a small part of the overall crime rate. For example, in Russia in 2018 they accounted for only about 1.1 percent of all convicts (Judicial Department at the Supreme Court of the Russian Federation, 2019). While murderers are not the dominant group among criminals,

Table 1. Number of prisoners and victims of homicide in Europe per 100,000 persons, 2016

Country (Territory)	Number of prisoners per 100 thousand inhabitants	Number of victims of homicide per 100 thousand inhabitants
Bulgaria	103.0	1.1
The Czech Republic	211.9	0.6
Hungary	181.1	2.1
Poland	187.2	0.7
Romania	138.8	1.2
Russian Federation	438.0	10.8
Slovakia	183.7	1.0
Denmark	59.7	1.0
Finland	57.4	1.4
Iceland	37.3	0.3
Ireland	78.4	0.8
Lithuania	233.7	5.2
Sweden	60.1	1.1
Great Britain (England and Wales)	143.6	1.2
Great Britain (Northern Ireland)	75.5	1.0
Great Britain (Scotland)	139.7	1.2
Albania	206.0	2.7
Croatia	73.8	1.0
Greece	85.4	0.8
Kosovo	90.7	1.6
Montenegro	178.7	4.5
Portugal	134.1	0.6
Serbia	121.0	1.4
Slovenia	63.0	0.5
Spain	128.4	0.6
Austria	99.1	0.7
France	105.8	1.4
Germany	78.5	1.2
Switzerland	78.0	0.5

the more murders, the less valuable a person's life is in a particular country, and the more often incarceration is used. The number of murders itself cannot directly affect the number of prisoners. This indicator simply reflects the value of human life.

Data for the year 2010 were also studied for countries (territories), grouped geographically (America, Africa, Europe, Asia, Oceania). This period was chosen because statistics

on the greatest number of countries (territories) were available. In all regions except Europe, the correlation of incarceration and homicide was noted as weak at 0.1.

Attempts to apply economic criteria yield a different result. Using indicators such as GDP per capita at purchasing power parity in 2010 (International Monetary Fund, 2019) and taking into account the availability of data on the number of murders and prisoners per 100

Table 2. Correlation of murders and imprisonment in Europe, 2003–2016

Year	The number of countries or territories sampled	Linear correlation coefficient for murders and imprisonment
2003	31	0.8
2004	41	0.8
2005	41	0.8
2006	40	0.9
2007	38	0.9
2008	42	0.9
2009	39	0.8
2010	43	0.6
2011	40	0.6
2012	40	0.6
2013	40	0.9
2014	42	0.9
2015	35	0.8
2016	29	0.8

thousand, people in the sample of the first 100 countries and territories (Table 3), the study reveals a moderate correlation of 0.4. A similar correlation of 0.4 is found in a sample of the first 70 countries and territories. In the sample of the first 50 countries and territories, the correlation is estimated to be salient and its indicator is 0.6. Finally, in the sample of the first 20 countries and territories, there is a high coefficient of correlation, 0.8.

Countries and territories in which the studied indicators are not correlated or moderately correlated are likely to experience economic difficulties with an increase in incarceration (for example, Brazil, Jamaica, Dominican Republic, Colombia, Namibia, South Africa, Venezuela). There are exceptions among more developed countries (territories), in which these indicators also moderately correlate. In this case, we may be dealing with an artificial restriction (for example, Finland) or an extension of the use of incarceration (for example, the USA, Singapore, Taiwan, Macau), possibly for political or cultural reasons. Thus, the greater the economic potential of the state for the use of imprisonment, the greater the correlation of murder with this punishment.

Reducing the Society's Tolerance for Violence

Raising the standard of living may decrease the severity of criminal punishment. However, there are factors that objectively inhibit its deflation. The study of the evolution of views in the juries of Great Britain from the end of the 18th century to the beginning of the 20th century showed that, during this period, the perception of violence in society changed: people became less tolerant of violent crimes due to cultural and institutional changes. This was partly the result of the recognition of the state as a subject that is exclusively entitled to use violence (Klingenstein et al., 2014).

One of the evidence of the decrease of tolerance to violence in modern society is a study conducted in Japan. The study recorded a decrease in violent crime, including murder, in the period from 1980 to 2015 and a simultaneous increase in panic among those people who believed that the country was becoming more dangerous. The number of such people increased from 50 to 85 percent. A particular trend in media coverage of murders was identified: the rarer the murders, the greater the sensational coverage in the media. To this point,

Table 3. Number of incarcerated individuals and homicide victims in the world based on the IMF's GDP per capita purchasing power parity rating, rate per 100,000 persons, 2010

Country (Territory)	Number of victims of homicide per 100 thousand inhabitants	The number of prisoners per 100,000 inhabitants
1	2	3
China, Macau	0.4	173
Luxembourg	2	134.1
Brunei Darussalam	0.3	97.5
Singapore	0.4	268.1
Kuwait	2	139.4
Norway	0.6	72.9
Switzerland	0.7	73.6
USA	4.8	738.4
China, Hong Kong	0.5	144.6
Netherlands	0.9	86.1
Ireland	1.1	93.3
Austria	0.7	104.8
Sweden	1.0	72.9
Denmark	0.8	71
Australia	1.0	134.3
Germany	1.0	87.6
Belgium	1.7	96.5
Bahrain	0.9	88.6
Canada	1.6	115.6
Iceland	0.6	52.1
Finland	2.2	62.7
China, Taiwan	0.8	282.7
France	1.3	96.1
Great Britain (England and Wales)	1.1	150.8
Great Britain (Northern Ireland)	1.3	81.2
Great Britain (Scotland)	1.9	149.3
Japan	0.4	56.8
Cyprus	0.7	57.2
Italy	0.9	116
Puerto Rico	27.4	293.1
Spain	0.9	158
New Zealand	1.0	193
Libya	3.1	214.6
Trinidad and Tobago	35.6	277.9
Bahamas	26.1	354.2
Israel	2	271.9
Greece	1.5	107.9
Malta	1.0	140.3

Continued Table 3

1	2	3
Slovenia	0.7	66.1
The Czech Republic	1.0	207.9
Portugal	1.2	111.1
Slovakia	1.5	185.6
Saint Kitts and Nevis	40.8	548.2
Hungary	1.4	164.5
Estonia	5.3	254.7
Poland	1.1	214.9
Antigua and Barbuda	6.3	311.6
Lithuania	7	292.6
Malaysia	1.9	136.5
Kazakhstan	8.5	336.2
Seychelles	9.8	472.6
Croatia	1.4	119.3
Chile	3.2	354
Latvia	3.3	320
Turkey	4.2	166.2
Uruguay	6.1	257.8
Venezuela (Bolivarian Republic of)	45.1	140.6
Romania	2	138.2
Barbados	11.1	325.5
Lebanon	3.8	116.7
Azerbaijan	2.3	243.2
Belarus	4.2	418.3
Mexico	22	160.3
Bulgaria	2	126.7
Mauritius	2.6	196.2
Panama	12.6	344.3
Brazil	22	261.2
Montenegro	2.4	233.4
Thailand	5.4	313.7
Maldives	1.6	227.7
Botswana	15	347.7
Serbia	1.4	124.2
Costa Rica	11.6	231.9
Algeria	0.7	135.7
Iraq (Central Iraq)	9.7	94.9
Saint Lucia	25.5	304.8
South Africa	30.8	316.6
North Macedonia	2.1	121.5

Continued Table 3

1	2	3
Dominican Republic	25	209.6
Grenada	9.6	418.4
Colombia	33.7	183.9
Dominica	21	412.9
Saint Vincent and the Grenadines	22.9	950.5
Paraguay	11.9	99.8
Bosnia and Herzegovina	1.5	73.7
Albania	4.3	158.4
Jordan	1.6	117.4
China	1.0	121.1
Ecuador	17.6	79
Namibia	14.4	195.6
Indonesia	0.4	48.6
Sri Lanka	3.8	128.8
Kosovo	6	75.1
Ukraine	4.3	336.4
Mongolia	8.8	273.6
Fiji	2.3	127.6
Georgia	4.4	559.7
Morocco	1.4	200.2
Armenia	1.9	178.7
Philippines	9.5	101.8

despite a stable homicide rate in 2004, these was increased criminal liability for murder under aggravating circumstances ('heinous murder') (Morozov, 2016: 35-37, 43).

Another proof of the above mentioned idea is revealed in a sociological survey conducted in Japan in 1977, 1997, and 2015 on the social attitudes to crimes. Its data show that public concern regarding crimes involving violent death changed little and even tended to slightly increase. At the same time, the public started to perceive crimes that did not lead to violent death, in most cases, as less dangerous (Morozov, 2016: 270).

On the one hand, criminal punishment is becoming less severe, as society is increasingly horrified and disgusted by violence. But on the other hand, the more despicable some acts seem to us, the more we may feel

legitimized to inflict pain on those who perform them (Durkheim, 1982b: 38; Ruggiero, 2013: 291).

Decreased tolerance for violence has already led to significant changes in criminal policy. For example, in France, scholars note a change in the characteristics of a typical prisoner. While in 1980, he or she was most likely a thief, in 2010 he or she was most likely a rapist, murderer, or drug dealer. At the same time, for the noted period, the number of highly violent crimes did not change and remained very low. Against this background, punishment for serious violence has been made more severe (Robert, 2013). A similar situation exists in Sweden, where imprisonment is most often linked with crimes related to drugs, violence, and sexual assault. Although homicide and manslaughter have

declined slightly since the 1980s, the number of prisoners sentenced to life imprisonment has increased dramatically. (Von Hofer and Tham, 2013) In Germany, there is also an increased attention of society and media to the problem of violent crimes, as well as sexual offenses. Individuals convicted of these crimes are more likely to receive a prison sentence and tend to receive longer sentences (Dollinger and Kretschmann, 2013).

A similar trend is developing in Russia, where prisoners are mostly convicted of violent crimes, especially murder. In 2018 there were 460,923 people in adult correctional institutions, among those 91,130 people (19.8%) had been convicted of murder, deliberate serious bodily harm – 46,167 people (10%), rape or violent sexual actions – 21,465 people (4.7%), robbery – 23,409 people (5.1%), robbery with violence – 29,547 people (6.4%) (The Federal Penitentiary Service, 2019).

On the one hand, the improvement in the living standards of country softens criminal penalties, and on the other hand, it tightens them in relation to violent crimes. As a result of increased well-being, we value our lives and health more and demand increased protection.

Conclusion

Like our ancestors, who punished inanimate objects and animals, we punish even in cases where punishment would not bring any benefits beyond short-term relief. Punishment as a way to get rid of negative emotions causes serious and unjustifiable wrong to society. There is no sense in denying that in some cases it curbs the growth of crime, for example, in the case of serial killers or professional

criminals who are imprisoned for long periods of time or for life. But in general, punishment, unlike socio-economic factors, has little effect on crime.

Any punishment is an element of symbolic social exchange of the wrong caused to an offender in response to a crime. The exchange is determined by the commodity, which is a human life. Time is the most important factor in our lives, according to modern cultural values, and it plays a decisive role in shaping the price of crime. Criminal justice is obviously focused on taking into account the lost time of human life in the application of punishment. Thus, incarceration is widely used and the death penalty is still retained. With the help of these punishments, we are not trying to reduce crime, but only to restore justice, depriving the guilty of part of his or her lifetime. Since a person's lifetime is the commodity exchanged in a criminal sentence, incarceration is used more frequently in countries with a lower standard of living. For the same reason, the dynamics of imprisonment rate correlate with the dynamics of murder rate. Although murderers are not the dominant group among criminals, the higher the homicide rate, the lower the value of a person's life in a particular country, and the more often imprisonment is used in that country.

Raising the standard of living and welfare of society increases the marginal harmfulness of criminal punishment, which ultimately softens it. However, there are factors that objectively inhibit deflation of criminal punishment for violent crimes. They include decreased tolerance for violence in the modern society.

References

- Baiburin, A.K. (1993). *Ritual v traditsionnoi kul'ture. Strukturno-semanticheskii analiz vostochno-slavyanskikh obryadov* [Ritual in traditional culture. Structural and semantic analysis of East Slavic rites]. Saint-Petersburg, Nauka, 240 p.
- Bakhtiyarova, A. (2015). *Poterpevshie 'Bulgarii': 'Peresmotr prigovora dlya nas – pobeda'* [Victims of 'Bulgaria': 'Review of the sentence for us – victory']. Arguments and facts, April 7th. Available at: http://www.kazan.aif.ru/incidents/1481172?utm_source=aifrelated&utm_medium=click&utm_campaign=aifrelated (accessed 25 June 2019).
- Beale, S. (2000). Federalizing Hate Crimes: Symbolic Politics, Expressive Law, or Tool for Criminal Enforcement? In *Boston University Law Review*, 80, 1227-1281.

- Beccaria, C. (1995). *On Crimes and Punishments and Other Writings*. Cambridge Texts in the History of Political Thought. Bellamy, R. (ed.), Davies, R. (trans.). Cambridge, Cambridge University Press, 177 p. DOI: 10.1017/CBO9780511802485.
- Becker, G. (1968). Crime and punishment: an economic approach. In *Journal of Political Economy*, 76 (2), 169–217.
- Becker, G. (1976). *The Economic Approach to Human Behavior*. Chicago, University Of Chicago Press, 314 p.
- Beckett, K., Western, B. (2001). Governing social marginality: Welfare, incarceration, and the transformation of state policy. In *Garland, D. (ed.). Mass imprisonment: Social causes and consequences*. London, Sage Publications, 35-50.
- Bytko, S.Yu. (2018). *Effektivnost' predupreditel'nogo vozdeistviya ugovornogo nakazaniya na prestupnost': teoreticheskii i prikladnoi aspekty [Effectiveness of preventive effect of criminal punishment on crime: theoretical and applied aspects]*. Doctoral thesis. Saratov, Saratov State Academy of Law, 471 p.
- Christie, N. (1968). Changes in Penal Values. In *Christie, N. et al. (eds.). Scandinavian Studies in Criminology*. Vol. 2. Oslo, Universitetsforlaget, 161-172.
- Christie, N. (1982). *Limits to Pain*. Oxford, Martin Robertson, 121 p.
- Christie, N. (2004). *A Suitable Amount of Crime*. London – New York, Routledge, 148 p.
- Cole, M. (1996). *Cultural psychology. A once and future discipline*. Cambridge, Harvard University Press, 400 p.
- Cooter, R., Ulen, T. (2011). *Law and economics*. 6th ed. New York, Prentice Hall, 555 p.
- Dignan, J. (2005). *Understanding victims and restorative justice*. Maidenhead, Open University Press, 238 p.
- Dills, A.K., Miron, J.A., Summers, G. (2010). What Do Economists Know about Crime? In *Di Tella, R., Edwards, S., Schargrodsky, E. (eds.). The economics of crime: lessons for and from Latin America*. Chicago, The University of Chicago Press, 269-302.
- Dollinger, B., Kretschmann, A. (2013). Contradictions in German Penal Practices: The Long Good-bye from the Rehabilitation Principle. In *Ruggiero, V., Ryan, M. (eds.). Punishment in Europe: A Critical Anatomy of Penal Systems. Palgrave Studies in Prisons and Penology*. Basingstoke, Palgrave Macmillan, 132-156.
- Durkheim, E. (1982a). *The rules of sociological method*. New York, The Free Press, 264 p.
- Durkheim, E. (1982b). Two Laws of Penal Evolution. In *Gane, M. (ed.). The Radical Sociology of Durkheim and Mauss*. London and New York, Routledge, 21-49.
- Durkheim, E. (1984). *The Division of Labor in Society (Contemporary social theory)*. London, Mac-Millan, 352 p.
- Eide, E., Rubin, P.H., Shepherd, J.M. (2006). Economics of Crime. In *Foundations and Trends in Microeconomics*, 2 (3), 205-279.
- Fauconnet, P. (1928). *La Responsabilité. Etude de Sociologie [Responsibility. Sociological research]*. Paris, Librairie Félix Alcan. Available at: http://classiques.uqac.ca/classiques/fauconnet_paul/la_responsabilite/fauconnet_responsabilite.pdf (accessed 1 July 2019).
- Faules, D.F., Alexander, D.C. (1978). *Communication and social behavior: A symbolic interaction perspective*. Reading, Addison-Wesley, 275 p.
- Foinitskii, I.Ya. (2000). *Uchenie o nakazanii v svyazi s tyur'movedeniem [The doctrine of punishment in connection with prison studies]*. Moscow, Dobrosvet – 2000, Gorodets, 464 p.
- Foucault, M. (1995). *Discipline and Punish: The Birth of the Prison*. New York, Vintage Books, 333 p.
- Garland, D. (1990). *Punishment and Modern Society: A Study in Social Theory*. Chicago, University of Chicago Press, 303 p.
- Garland, D. (2002). *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago, University of Chicago Press, 307 p.
- Garland, D. (2010). *Peculiar Institution. America's Death Penalty in an Age of Abolition*. Cambridge, Belknap Press of Harvard University Press, 417 p.

- Gephard, W. (2006). *Recht als Kultur. Zur kultursociologischen Analyse des Rechts* [Law as culture. On the cultural and sociological analysis of law]. Frankfurt am Main, Vittorio Klostermann, 323 p.
- Harel, A. (2012). Economic analysis of criminal law: a survey. In Harel, A., Hylton, K. (eds.). *Research handbook of the economic analysis of criminal law*. Cheltenham, Edward Elgar, 10-50.
- Harris, T.E., Nelson, M.D. (2008). *Applied organizational communication: theory and practice in a global environment*. New York, Lawrence Erlbaum Associates, Taylor & Francis Group, 469 p.
- Heine, S.J. (2015). *Cultural Psychology. 3rd ed.* New York, WW Norton & Company, 752 p.
- Herman, J. (2015). *Trauma and Recovery: The Aftermath of Violence from Domestic Abuse to Political Terror*. New York, Basic Books, 326 p.
- Institute for Criminal Policy Research (2019). Highest to Lowest – Prison Population Rate. Available at: http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All (accessed 25 June 2019).
- International Monetary Fund (2019). World Economic Outlook Database. Available at: <https://www.imf.org/external/pubs/ft/weo/2019/01/weodata/index.aspx> (accessed 25 June 2019).
- Jhering, R. (1913). *Law as a Means to an End*. Boston, The Boston Book Company, 483 p.
- Judicial Department at the Supreme Court of the Russian Federation (2018). *Sudebnaya statistika za 2018 god. Forma № 10.1* [Judicial statistics for 2018. Form No. 10.1]. Available at: <http://www.cdep.ru/index.php?id=79&item=4894> (accessed 2 April 2019).
- Kantorovich, Ya. A. (2011). *Protsessy protiv zhivotnykh v Srednie veka* [Proceedings against animals in the Middle ages]. Moscow, Krasand, 64 p.
- Karmen, A. (2010). *Crime Victims: An Introduction to Victimology*. 7th ed. Belmont, Wadsworth Cengage Learning, 493 p.
- Klingensteina, S., Hitchcockb, T., DeDeoa, S. (2014). The civilizing process in London's Old Bailey. In *Psychological and cognitive sciences*, 111 (26), 9419-9424.
- Kultigin, V.P. (1997). Kontseptsiya sotsial'nogo obmena v sovremennoi sotsiologii [The concept of social exchange in modern sociology]. In *Sotsiologicheskie issledovaniya* [Sociological studies], 5, 85-99.
- Kurchenko, V.N. (2017). Osvobozhdenie ot nakazaniya v svyazi s boleznyu: aktual'nye voprosy pravoprimeneniya [Exemption from punishment due to illness: topical issues of law enforcement]. In *Ugolovnoe pravo* [Criminal law], 3, 37-43.
- Kury, H., Il'chenko, O. (2013). Effektivnost' nakazaniya: rezul'taty mezhdunarodnykh issledovaniy [Punishment efficiency: results of international research]. In *Aktual'nye problemy ekonomiki i prava* [Actual problems of economics and law], 2 (26), 240–256.
- Kvashis, V.E. (2008). *Smertnaya kazn'. Mirovye tendentsii, problemy i perspektivy* [The death penalty. Global trends, problems and prospects]. Moscow, Yurayt, 800 p.
- Lappi-Seppälä, T. (2012). Kontrol' za chislennost'yu zaklyuchennykh: opyt Finlyandii [Controlling Prisoner Rates: Experiences from Finland]. In *Ot 'strany tyurem' k obshchestvu s ogranichennym prichineniem boli: finskii opyt sokrashcheniya chisla zaklyuchennykh* [From the 'land of incarcerations' towards the society with a minimal use of pain: Finnish experience of reducing the prison population]. Helsinki, National Research Institute of Legal Policy, 13-48.
- Lynch, M.J. (2007). *Big prisons, big dreams: crime and the failure of America's penal system*. New Brunswick, Rutgers University Press, 274 p.
- Martinson, R. (1974). 'What works? – Questions and answers about prison reform'. In *The Public Interest*, 35, 22-54.
- Martsev, A.I. (2005). *Izbrannye trudy* [Selected works]. Omsk, Omsk Academy of the Ministry of the Interior of Russia, 272 p.
- Mass imprisonment: Social causes and consequences* (2001). Garland, D. (ed.). London, Sage Publications, 184 p.
- Matsumoto, D., Juang, L. (2016). *Culture and psychology*. 6th ed. Belmont, Wadsworth / Cengage Learning, 544 p.

- McConnell, C.R., Brue, S.L., Flynn, S.M. (2009). *Economics: principles, problems, and policies*. 18th ed. Boston, McGraw-Hill / Irwin, 786 p.
- Megalli, M. (2015). At Louisiana's Angola Prison, Lawsuit Claims, the Sick Face Neglect, Isolation, and Death. Available at: <https://solitarywatch.org/2015/09/23/at-louisianas-angola-prison-lawsuit-claims-the-sick-face-neglect-isolation-and-death/> (accessed 25 June 2019).
- Mitskevich, A.F. (2005). *Ugolovnoe nakazanie: ponyatie, tseli i mekhanizmy deistviya* [Criminal punishment. Concept, purpose and mechanisms of operation]. Saint-Petersburg, Juridichesky Center Press, 329 p.
- Mocan, N., Gittings, K. (2010). The Impact of Incentives on Human Behavior: Can We Make It Disappear? The Case of the Death Penalty. In *Di Tella R, Edwards S, Schargrodsky E. (eds.). The economics of crime: lessons for and from Latin America*. Chicago: The University of Chicago Press, pp. 379-418.
- Montesquieu (1989). *The Spirit of the Laws*. Cohler, A.M., Miller, B.C., Stone, H.S. (transl. and eds.). Cambridge: Cambridge University Press, 757 p.
- Morgan, J. (2017). *Prisoners With Physical Disabilities Are Forgotten And Neglected in America*. Available at: <https://www.aclu.org/blog/prisoners-rights/solitary-confinement/prisoners-physical-disabilities-are-forgotten-and> (accessed 25 June 2019).
- Morozov, N.A. (2016). *Prestupnost' v sovremennoi Yaponii: problemy kriminologicheskoi i ugolovno-pravovoi politiki* [Crime in modern Japan: problems of criminological and criminal law policy]. Doctoral thesis. Moscow, Lomonosov Moscow State University, 430 p.
- Myers, D., Twenge, J. (2013). *Social psychology*. 11th ed. New York, McGraw-Hill, 742 p.
- Ol'khovik, N.V., Prozumentov, L.M. (2009). *Retsidivnaya prestupnost' osuzhdennykh i ee preduprezhdenie* [Recidivism of convicted persons and its prevention]. Tomsk, Tomsk University press, 159 p.
- Panteleeva, E. (2016). *Rodstvenniki ubiits i ikh zhertv: dve pravdy o zhizni i smerti* [Relatives of the killers and their victims: two truths about life and death]. Available at: <https://www.sb.by/articles/dve-pravdy-o-zhizni-i-smerti.html> (accessed June 25, 2019).
- Pashukanis, E. (1980). *Selected Writings on Marxism and Law*. London, Academic Press, 374 p.
- Plato (1999). *Zakony* [Laws]. Moscow, Mysl', 830 p.
- Posner, R.A. (1985). An Economic Theory of the Criminal Law. In *Columbia Law Review*, 85 (6), 1193-1231.
- Rapoport, A. (1991). Prisoner's Dilemma. In *Eatwell, J., Milgate, M., Newman, P. (eds.). The world of economics*. New York, Norton, 587-583.
- RIA Novosti (2012). *Breivik priznan vmenyaemym i mozhnet provesti v tyur'me vsyu zhizn'* [Breivik found mentally sane and can spend a lifetime in prison], 24 Aug. Available at: <https://ria.ru/20120824/729912159.html> (accessed 25 June 2019).
- Ritzer, G. (2011). *Sociological Theory*. 8th ed. New York, McGraw-Hill, 827 p.
- Robert, P. (2013). The French Criminal Justice System. In *Ruggiero, V., Ryan, M. (eds.). Punishment in Europe: A Critical Anatomy of Penal Systems. Palgrave Studies in Prisons and Penology*. Basingstoke, Palgrave Macmillan, 111-131.
- Ruggiero, V. (2013). Conclusion. In *Ruggiero, V., Ryan, M. (eds.). Punishment in Europe: A Critical Anatomy of Penal Systems. Palgrave Studies in Prisons and Penology*. Basingstoke, Palgrave Macmillan, 287-296.
- Semukhina, O., Galliher J. (2009). Death penalty politics and symbolic law in Russia. In *International Journal of Law Crime and Justice*, 37, 131-153.
- Shargorodskii, M.D. (2003). *Izbrannye raboty po ugolovnomu pravu* [Selected works on criminal law]. Saint-Petersburg, Juridichesky Center Press, 434 p.
- Shchitov, N.G. (2012). Sotsiologo-pravovaya teoriya nakazaniya E. B. Pashukanisa [Punishment theory in E.B. Pashukanis sociology of law]. In *Sotsiologicheskie issledovaniya* [Sociological studies], 3, 39-49.
- Sorokin, P.A. (2006). *Prestuplenie i kara, podvig i nagrada: sotsiologicheskii etyud ob osnovnykh formakh obshchestvennogo povedeniya i morali* [Crime and punishment, feat and reward: sociological study of the main forms of social behavior and morals]. Moscow, Astrel, 624 p.

Tagantsev, N.S. (2001). *Russkoe ugovnoe pravo: Chast' Obshchaya. Tom 2* [Russian criminal law: General Part. Vol. 2]. Tula, Avtograf, 688 p.

The Federal Penitentiary Service (2019). *Kharakteristika lits, sodержashchikhsya v ispravitel'nykh koloniyakh dlya vzroslykh* [Characteristics of persons held in adult correctional labor colony]. Available at: <http://fsin.su/structure/inspector/iao/statistika/Xar-ka%20lic%20sodergahixsya%20v%20IK/> (accessed 25 June 2019).

Tolokonnikova, N. (2013). *'Vy teper' vsegda budete nakazany'. Pis'mo iz mordovskoi ispravitel'noi kolonii* ['You will always be punished now'. A letter from the Mordovian corrective colony]. Available at: <https://lenta.ru/articles/2013/09/23/tolokonnikova/> (accessed 31 May 2019).

Tonry, M. (2008). Learning from the Limitations of Deterrence Research. In *Crime and Justice*, 37 (1), 279-311.

United Nations (2009). Handbook on Prisoners with special needs. Criminal Justice Handbook Series. New York Official website. Available at: http://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf (accessed 25 June 2019).

UNODC (2019a). Intentional Homicide Victims. Available at: <https://dataunodc.un.org/crime/intentional-homicide-victims> (accessed 25 June 2019).

UNODC (2019b). Total prison population. Available at: <https://dataunodc.un.org/crime/total-prison-population> ((accessed 25 June 2019).

Vallas, R. (2016). *Disabled Behind Bars*. Available at: <https://www.americanprogress.org/issues/criminal-justice/reports/2016/07/18/141447/disabled-behind-bars/> (accessed 25 June 2019).

Van den Haag, E., Conrad, J.P. (1983). *The Death Penalty a Debate*. New York, Plenum Press, 305 p. DOI: 10.1007/978-1-4899-2787-3.

Volkov, I.M. (1914). *Zakony Vavilonskogo tsarya Khammurabi* [Laws of the Babylonian king Hammurabi]. Moscow, Partnership A.A. Levenson, 89 p.

Von Hofer, H., Tham, H. (2013). Punishment in Sweden: A Changing Penal Landscape. In *Ruggiero, V., Ryan, M. (eds.). Punishment in Europe: A Critical Anatomy of Penal Systems. Palgrave Studies in Prisons and Penology*. Basingstoke, Palgrave Macmillan, 33-57.

Vygotsky, L.S. (1999). *The Collected Works of LS Vygotsky: Vol. 6: Scientific Legacy (Cognition and Language: A Series in Psycholinguistics)*. New York, Kluwer Academic / Plenum Publishers, 334 p.

Zaborovskaya, Yu.M. (2018). Osobennosti mediko-sotsial'nogo i material'no-bytovogo obespecheniya osuzhdennykh invalidov [Features of medical, social and material support of convicted disabled persons]. In *Meditsinskoe pravo* [Medical law], 1, 52 – 55.

Zimring, F. (2001). Imprisonment rates and the new politics of criminal punishment. In *Garland, D. (ed.). Mass imprisonment: Social causes and consequences*. London: Sage Publications, 145-149.

Наказание и символический социальный обмен: ненужные жертвы уголовной юстиции

О.Н. Бибик

*Омский государственный университет им. Ф.М. Достоевского
Российская Федерация, Омск*

Аннотация. В данной статье исследуется сущность уголовного наказания в качестве элемента символического социального обмена на основе теории социального обмена и культурно-исторической психологии на примере смертной казни и лишения свободы. Сделан вывод, что эквивалентом при таком обмене выступает время жизни человека. В связи с этим смертная казнь и лишение свободы применяются чаще в странах с более низким уровнем жизни. По этой же причине динамика использования лишения свободы коррелирует с динамикой убийств. Чем больше убийств, тем меньше стоимость жизни человека в конкретной стране, тем чаще в ней применяется лишение свободы. Повышение уровня жизни увеличивает предельную вредность уголовного наказания, что стимулирует его смягчение. Вместе с тем процесс дефляции уголовного наказания за насильственные преступления замедляется ввиду уменьшения в современном обществе толерантности к насилию.

Ключевые слова: уголовное наказание, символический социальный обмен, культурно обусловленное поведение, уровень жизни, лишение свободы, смертная казнь, время жизни человека.

Научная специальность: 12.00.08 – уголовное право и криминология, уголовно-исполнительное право.