

The Death penalty currently is an obstacle to entry into the European Common Market and Russia dearly seeks admission into the European Common Market - the United States of America, by the way, would not be admitted to the European Common Market because as one of the only major industrial societies, the US of A by law mandates the death penalty.

The following article details the angst of Russia, given the history that capital punishment, that is, the death penalty has held sway in Russia. However, the economics of entry into the European Common Market might just change Russia from a death penalty country to not being one! Oh, the moral power of money and profit!

Russia and the Death Penalty

There are those in modern day Russia who advocate the implementation of the death penalty for use specifically in terms of the Chechen rebels and terrorists in general. Prominent figures such as Alexander Solzhenitsyn have lobbied for the return of the ultimate punishment. On the other hand, not having the death penalty is one of the primary requirements for admission into the European Union (EU). The question of capital punishment poses a difficult legal, moral and political dilemma for Russia's government and people.

The killing of an offender as the legal consequence for a transgression is first mentioned in the law codes of Yaroslav the Wise. The 11th century Ruskaia Pravda states, If a man kills a man, let a brother avenge his killed brother, let a son avenge his father, the father avenge his son, and a nephew avenge his uncle and aunt. This system of vendetta is very similar in form to the Hebrew blood debt laws of the Old Testament. In ancient Slavic culture the son of a murdered man lost his inheritance if he did not avenge his father's death. Likewise, if a man did not avenge the death of his brother, he faced punishment from his mother.

The practice of vendetta killing began to wane in the early 1400s. The state began to gradually take on the duty of punishment for violators of crimes. At first, the list of punishable crimes was brief and, by modern standards, seems odd. For example, one could be put to death for stealing a horse, treason, stealing from a church, arson and being found guilty of stealing for a third time. The three strike law is nothing new! Oddly, murder was punishable with only a fine.

The list of capital offenses steadily grew to the other extreme. By the time of Ivan IV, the Terrible, and the late 1500s, one could be executed for crimes such as bearing false witness, forgery and petty theft. The Law Code of 1649 issued by Alexis (1645 to 1676) applied the death penalty to all forms of treason, forgery and bad thoughts against the Tsar. Additionally, relatives who had knowledge of another person's offense and did not report it were subject to execution as well.

As terrible as Ivan may have been, capital punishment reached its peak during the reign of Alexis' son, Peter I (the Great) during the late 1600s and early 1700s. A landowner who told the census taker that he had fewer peasants than what was fact could be executed. A woman who killed her husband could expect to be buried alive up to her neck and left to suffer a slow death.

Quartering, the process of removing an individual's limbs and, lastly, head one at a time, was practiced mainly in cases of treason and insurrection. This is how Stepan Razin is said to have been executed.

Eventually, the Russian rulers discovered that even the cruelest forms of execution were not reducing the frequency of crime in their country. Catherine II (the Great) put the death penalty on hold during her reign from 1762 to 1796. Execution as a punishment for rebels became an issue with the failed Decembrist revolt in 1825. The death sentence was given to many participants but harsh corporal punishment was imposed instead.

The Bolshevik Revolution of November 1917 brought a brief, official abolishment of capital punishment. However, by mid-1918, it had been reinstated in the form of the Red Terror and the execution of thousands of people seen as disloyal to the party. During the 1920s through 1940s, the death penalty was revoked and restored several times for specific offenses including counter-revolutionary crimes, spying and treason to the Motherland. It has been argued that if Russia had maintained the death penalty against rebels during the 1800s, the Bolshevik Revolution would not have happened. This is a matter of opinion.

A new criminal code was issued in 1960. It included 16 peacetime crimes and 17 wartime crimes that were punishable by death. Most recently, the criminal code of 1996 allowed the death penalty for murder or attempted murder of a public servant such as a policeman or legislator. Women, minors and men over the age of 65 were exempt from this law. President Boris Yeltsin responded to this new code by issuing a moratorium on death sentences in May 1996 as a condition for Russia joining the Council of Europe. Yeltsin promised to abolish the death penalty altogether by February 1999.

In February 1999, the Russian Constitutional Court ordered all trial judges to cease handing out the death penalty until such time as trial by jury for these cases could be guaranteed. Russia can barely afford to support its court system let alone the additional costs associated with jury trials. All those who stand accused of a crime are tried by a judge only. The Constitution of the Russian Federation states that trials for crimes which carry the death penalty must be heard by a jury (Article 20). There are 89 judicial regions in Russia and only nine have juries.

An argument can be made that the 1996 code is unconstitutional because Article 19 of the Russian Federation Constitution states that men and women shall be treated equal. Thus, if women cannot be executed, neither should men. Of course, one could state the reverse; if men can be put to death, so can women.

The State cannot arrogate the right, which may belong only to the Almighty - to take away a man's life.

President Vladimir Putin, July 9, 2001

World Bank President James Wolfensohn asked for President Putin's comments on the death penalty in Russia during their July 9, 2001, meeting. Putin indicated that he is firmly against the restoration of the death penalty and supported Yeltsin's 1996 stay of all executions. Putin pointed out that the death penalty is not punishment, it is revenge. The president further stated that executing convicted criminals only repeats the brutality of their crimes and has proven

to do little if anything to deter criminal activity. He emphasized that the best way to curb crime was to make punishment a guarantee, something that Russia still must work hard to insure.

A poll conducted June 2001, of 1,500 urban and rural citizens by the Public Opinion Foundation revealed some interesting results. A great number (80%) of Russians polled said they are in favor of the death penalty with 15 percent objecting and 5 percent uncertain. These results were much the same as a similar poll conducted by the foundation in November 1997. Of the 1,500 people surveyed, 70 percent were in favor of the death penalty, 21 percent against and 9 percent undecided. In both polls, the majority of people against capital punishment were under the age of 30. One possible reason for the 10 percent increase in those in favor of the death penalty is the conflict in Chechnya and the desire for vengeance against the rebels.

Those endorsing capital punishment see it as a just consequence for criminals, indicating that they believe in the eye for an eye concept. Still others believe that a person who commits a horrible crime is no longer human and, thus, not eligible for humane consideration. Lastly, there are a few who think that capital punishment does deter crime. The crimes that death penalty supporters believe should be punishable by execution are, in order of most votes, murder, rape, crimes against children, terrorism and drug trafficking.

Clearly a minority of those questioned by this poll disapprove of capital punishment. Most are against it for moral/spiritual reasons. A few see it as pointless as they believe that it does not reduce crime. Finally, most of those in opposition are concerned by their belief that the Russian police and law enforcement organizations have a poor track record when it comes to apprehending criminals. It is worth noting that many who are in favor of the death penalty share this last concern.

To date (July 2001), Russia continues to maintain the stay implemented by Yeltsin in 1996. Russian courts continue to hand down death sentences for crimes indicated in the 1996 Criminal Code but they are not carried out. Sixty-one percent of those questioned in the 2001 Public Opinion Foundation poll are opposed to the stay or moratorium on death sentences with 27 percent in favor. Sixty-seven percent were in favor of carrying out death sentences currently on hold with 11 percent against and roughly 11 percent in favor of doing away with the death penalty completely.

Those readers who are against the death penalty may be disappointed at the response of the vast majority of Russians polled on the matter. It is important to remember that the moral teachings of the Orthodox Church, so long banned, have not had time to take a firm hold in everyday life when matters of this enormity are involved. Like abortion which occurs in startling numbers, the needs of the here and now take precedence. This is human nature and not inherently evil. Many Russians see their society in transformation and, among other things, crime not under control. Capital punishment is seen as a hopeful means to a more peaceful society. Another thing that factors heavily into this issue is the seemingly never ending conflict with Chechnya. Many have lost loved ones and suffered personally at the hands of the rebels. When Solzhenitsyn spoke out in favor of the death penalty, it was specifically in reference to the Chechen rebels.

Those who oppose capital punishment would agree that it is a moral wrong and does not deter crime or terrorism. Both sides are equally against the idea that the current moratorium is the result of conditions issued by the CE as well as the European Union and its World Trade Organization which Russia aspires to join. Most would agree that foreign powers and international organizations should not have the right to dictate a nation's internal policy as a condition for membership or other relations. Such policy is influenced by a society's history and current concerns and needs. These elements will vary from one nation to another and the leaders of a collection of nations should not mandate the domestic laws of the member nations, thereby passing judgment upon them.