

# Criminological Problems of Life Imprisonment

Antonyan Yu.M.<sup>1,\*</sup> Antonyan E.A.<sup>2</sup>

<sup>1</sup>*Russian State University for the Humanities, Moscow, Russia*

<sup>2</sup>*Moscow State Law University, Moscow, Russia*

\*Corresponding author. Email: antonyaa@yandex.ru

## ABSTRACT

The nature and content of the criminal punishment in the form of life imprisonment from criminological standpoints are handled in the article. On the basis of the data obtained by the authors through their own empirical studies it was possible to formulate conclusions that are relevant to the criminological science. In particular, prolonged imprisonment was not a process of undergoing the misfortunes; the denial of guilt by the lawbreakers is not mean the repentance; life imprisonment could only be imposed for aggravated murder. A positive attitude to the settlement of disputes about the expediency of the process of the reformation of the category of convicted defendants in question is justified, because the one part of them may be released due to the application of an act of pardon to them, and the other, unfortunately, a minor one, having admitted his guilt, needs to assess the imposed punishment as fair.

**Keywords:** *life imprisonment, convicted defendants, criminal punishment, fairness of punishment, necrophiles, reasons, psychotherapeutic work*

## 1. INTRODUCTION

Despite the fact that the penalty of life imprisonment is enshrined in the domestic system of criminal punishment for more than twenty-five years, there are many disputes among both theorists and practitioners. Such punishment should have a special impact on the convicted defendant, contribute to his or her reformation and decisively suppress similar crimes in the future. Its imposition is determined by the seriousness of what has been done, and meets the principles of justice of retribution and adequacy for the evil done.

Reformation of a convicted defendant under such conditions is elusive. If, however, it is absolutely unattainable in a particular case, it means that it is completely impossible to repeat what they have already done.

## 2. RESEARCH METHODOLOGY

But life imprisonment should not be used to deterrence others: every guilty person should be punished for what he's done. Here it is not necessary to see a connection between the fact of life imprisonment and its impact on the reduction of serious crime. This is exemplified by a number of states that have maintained life imprisonment in their penal systems and do not have high crime rates. But there are also examples of individual states (e.g. Portugal) that have abolished it and do not report high crime rates. The argument in favour of life imprisonment, therefore, is certainly one of fairness and appropriateness to the punishment, not of general prevention. It is this position

that justifies maintaining this type of punishment. Consequently, there is no justification for abolishing the life imprisonment from the point of view of the penological purposes of the criminal punishment or from the point of view of the efficiency of prevention, it is an adequate punishment for grave evil.

## 3. RESEARCH RESULTS

Life imprisonment, as the most severe sanction, generates a lot of discussion and objections, but it is fair given the number of victims and the damage to society.

The best part of life convicts are necrophiles, for whom killing several people is a necessity. Back in the first years of the post-Soviet period, 22% of the defendants to the exceptional measure of punishment - the death penalty - did not file a petition for pardon, they did not care whether to live or die, rather they even sought the latter, for they were men of death.

One of the problems is related to the main feature of life imprisonment - its indefinite duration, with the serving of the sentence before the death of the convicted defendant. Some defendants, especially at the first stage, faced with specific conditions of detention with the prospect of spending their whole lives in them, strongly feel such feelings as depression, despair, trying to settle accounts with life, etc., and the other part - do not experience any strong feelings at all and feel and behave calmly.

Prolonged isolation of life defendants can have a negative impact on the psyche of the defendant and cause even

irreversible processes. Many of them are characterized by a rather high level of conflict, anxiety, morbidity, lack of clearly defined goals for the future and the desire for the reformation. This category is the most problematic in terms of suicidal tendencies.

#### **4. DISCUSSION OF THE RESEARCH RESULTS**

The gradual increase in the number of defendants to life imprisonment raises the issue of psychological support for the category in question and the psychological and professional training of staff to work with them.

Provision of psychological aid and support to defendants, done life, should take place in the process of relations formed by the formula "employee-psychologist-defendant", where the psychologist acts as a link in a chain designed to balance both sides (both the defendant and the employee), which will make it possible for both to realize the need to build interpersonal relations based on mutual understanding and cooperation. Corrections facilities staff only consciously convinced of the very possibility of correcting a convicted defendant and consciously perceived him or her as an individual can really come closer to the implementation of certain psychotherapeutic programs.

The clergy, who play the role of psychotherapists there, can provide great psychological help to the defendants. It's very important in an indefinite restraint.

About 25% of defendants who are prone to escape, assault the prison administration staff and hostage-taking and who have suicidal tendencies and a high risk of self-harm, with strong psychopathy traits, are registered with psychologists, which indicates the need for special psychological and psychotherapeutic measures to be taken with them.

Firstly, defendants serving a life sentence of imprisonment tend to remain in a state of not only physical isolation (isolation), but also mental and moral, which is the main component of their isolation in general. They are subjected to all kinds of oppression under specific conditions, which cannot but affect their psychological breakdown. Here it is appropriate to cite as an example the opinions of those sentenced to life imprisonment themselves. Thus, when they find themselves in isolation for life, they believe that they are disowned, which affects certain deviations in their psyche and they feel it. They think that few people can survive in such conditions. It is possible to observe when the defendant starts talking to himself, I do not pay attention to the presence of a cellmate (cellmates); he shouts at night, etc.

According to our observations, such criminals are not always passed by the lack of freedom, if forever. Many of them do not think at all, do not concentrate on their situation, just live (continue to live) as always.

Secondly, according to Part 5 of Article 79 of the Criminal Code of the Russian Federation, a life convict can be released after serving at least 25 years. Here one cannot

help but question the achievement of the goal - their correction and, consequently, the advisability of such an exemption. Even if we assume that one of the defendants will be released on probation after serving a 25-year term, he will already reach old age and lose the ability to work, and therefore will not be able to provide for himself, and there will be significant changes in his psychological, and physiological appearance. During the 25 years of being in strict isolation by such defendants (as opposed to defendants by a certain term of imprisonment) the existing social ties will be lost, he will be socially incompatible with others, and most importantly - he will not have at least some prospects significant for life. Once released, such a person will not be accepted by society because of the changes that his or her personality has undergone in the process of long-term strict isolation from the outside world. And this is understandable because we are not just talking about the isolation of a person, but about the isolation of those who have done something terrible, caused great evil and he should blame himself first. It is the evil he has caused that will prevent society from showing humanity to him, although it is necessary to talk about humanity on the part of society when it comes to the possibility of early release of a life convict.

In the process of serving a life sentence, defendants severely degenerate and there is no need to talk about the degree of their reformation. At the same time, they continue to behave as a socialized person. Thus, about 4% control their behavior, continue to think rationally and the reason that I note the staff of correctional colonies for this category of defendants. But most of these defendants do regress. From the note of life defendant Eugene S.: "... I can't take this life anymore... I don't want to do all this when I'm hungry. I try to kill and eat my cellmate because I want meat so much." If it is possible for a life defendant to maintain his physical and mental health by the time of possible early release, the possible stress will be in conditions of freedom that will not be familiar to him, absolutely unfamiliar, have nothing to do with those in which he stayed until the moment of conviction. Having developed over the years a habit of strict observance of the order of his or her life, with almost complete suppression from outside, when almost all questions of his or her life are solved by the staff of the correctional facility, such a defendant objectively loses the existing skills for independent behavior, decision-making in a specific situation and initiative in his or her actions in freedom.

Does it mean that life imprisonment should be abolished? We don't suppose you can do that. Life imprisonment is not an alternative to the death penalty, it is a separate type of punishment that can be applied alongside the death penalty.

For many years now, disputes over the rejection of a moratorium on the death penalty in our country and the assessment of the effectiveness of life imprisonment as an alternative to commutation of the death penalty have continued unabated. Today we have two multipolar positions.

Representatives of the former (supporters of life imprisonment) believe that the death penalty does not

scare the perpetrators of crime, as evidenced by both the history of peoples and official court statistics. Moreover, more serious crimes are also committed in those countries whose criminal laws provide for the most severe penalties. Consequently, the death penalty does not deter people from committing crimes.

Some believe that life imprisonment may well be considered as an alternative to summary execution and the most possible type of criminal sanction within the framework of the existence of a rule of law and a free society. Moreover, the existence of life imprisonment as an alternative to the death penalty clearly demonstrates the direction of domestic policies aimed at protecting the inalienable human right to life.

The life imprisonment mainly makes it impossible to have irreversible consequences and, with regard to the implementation of domestic policies, the State is based on the objectives of humanism and social justice. The life imprisonment should have a positive impact on society and its legal consciousness, explaining the possibility of ensuring security to society, applying fair punishment without causing death to the offender. A number of foreign studies show that the very fact that the death penalty has been abolished has no impact on crime, and the application of the death penalty is much more expensive.

The opinion of the defendants themselves is that some consider it appropriate to apply the death penalty to them, while others are afraid to even think about it despite the fact that they themselves have killed many innocent people.

Proponents of the death penalty do not believe that life imprisonment differs from the death penalty in that it represents "death by installments, which is a rather painful process, not only for the life convicts themselves, but also for the relatives of the victims, who do not consider it fair enough to leave their murderers alive.

There is also the problem of gender inequality in the imposition of life imprisonment. Article 57, Clause 2 of the Criminal Code defines the categories of persons who are not sentenced to life imprisonment. These are women, minors under the age of 18, men over 65 at the time of sentencing. Consequently, only men in the 18-65 age group may be punished. The impossibility of condemning other categories (listed above) for life is justified by the principles of justice and humanism, as well as by taking into account in criminal law the social, physiological and age differences of different categories of persons, which is necessary to ensure effective and complete resolution of the challenges facing criminal punishment in a State governed by the rule of law.

In no case should the implementation of the gender approach in the imposition of the criminal penalty of life imprisonment upset the balance of harmony with the implementation of such principles as justice, equality and humanism. At the same time, initially, by restricting the

appointment of certain species to persons solely because of their biological peculiarities (gender), the legislator violates international, constitutional and general principles of law, giving priority to gender stereotypes and supposed distribution justice.

The problems posed by the institution of life imprisonment are important not only from the standpoint of criminal law, but also for society as a whole, as they need to be comprehensively addressed.

A particular challenge in considering a gender perspective in the imposition of life imprisonment is that the legislator, by providing for the biological, mental and physical inequality of men and women, failed to take into account the fact that women commit very subtle and violent crimes, including as leaders of criminal groups, and as accomplices to rape and single killers, which puts them on an equal footing with men. It seems necessary to provide for the possibility of life imprisonment for women in domestic criminal legislation.

Not meeting such important needs of spiritual life as the need for work, communication, education during life imprisonment are key to the emergence of a state of tension, change of self-esteem, violation of psycho-emotional processes. Life imprisonment carries an asocial reaction in the form of aggression to the fact that the convicted person's social ties are disintegrating, his or her social status and social role are changing. It also experiences various moral and social losses, which affect the disorganized processes of consciousness, activity and behavior of such a defendant.

Studies have shown that about 40% of defendants replied that they preferred the death penalty to life imprisonment when asked about their options, explaining this by their mental feelings or the hardships of serving the sentence. There are also known cases of defendants' suicides. But is it always about preferring death to life imprisonment? Or does the defendant have a different kind of experience and not at all related to the conditions of isolation? In fact, 10% of the surveyed defendants were found to be unwilling to live.

The leading argument in favor of life imprisonment is the possibility of preserving human life. But does it really stay that way? N.I. Nekrasov, answering that question, notes: "Is it possible to call life a permanent stay in the four walls of the cell, without the slightest hope, even before death, to see freedom burdened by a mass of restrictions? It's more like an existence in the format of a biological mass, devoid of any meaningful social content. In V.N. Andreeva's opinion, life imprisonment brings to despair, "taking away any hope from the prisoners, makes them indifferent to correction or to obtaining any benefit, and fills their heads with thoughts of violence, rampage and escape.

## 5. CONCLUSION

Life imprisonment in the modern world, on the one hand, strengthens the punitive function of the state, and on the other shows humanism, condescending to the criminal, not allowing deprivation of his life. Humanism on the part of the state also manifests itself in the fact that a convicted person has a certain hope of early release under the conditions established by law. At the same time, the unfavourable criminogenic situation associated with the commission of serious and particularly serious crimes entitles the State to take the most severe criminal law measures in combating crime. And here, of course, there is a pattern of introducing life imprisonment into the system of criminal sanctions.

It is also important to take into account the fact that showing humanism only to the criminal can mean showing indifference to the victim, taking into account that showing such humanism does not correspond to the perception of people of justice and punishment for a serious crime (evil). It is also necessary to take into account the fact that humanism solely for the criminal means showing criminal indifference to his victim, especially since such humanism does not correspond to the ideas of people about justice and punishment for grave evil.

It is known that life imprisonment, by its legal nature, can have a sufficiently strong preventive effect on a convicted person, causing the latter special subjective feelings and even mental suffering. Uncertainty of life perspective, caused by the measure of life imprisonment imposed by the court, may have a negative impact on the offender, close to a state of frustration (collapse of hopes).

## REFERENCES

- [1] Yu.M. Antonyan, Murderers serving life imprisonment, *Society and law* 2 (29) (2010) 148-154.
- [2] S.A. Borovikov, S.N. Shishigina, S.K. Amandykova, P.K. Dolzhikov, Life imprisonment and provisional release in Russia and Germany, *Vestnik of St. Petersburg University: Law* 10(3) (2019) 533-546.
- [3] A.V. Kokurin, V.I. Seliverstov, Convicted to life imprisonment: on the materials of a special census of defendants and detainees (12-18 November 2009), Moscow, Vol. 4 (2011).
- [4] Yu. V. Slavinskaya, About psychological support of life imprisonment defendants, *Innovative development* 12 (17) (2017) 219-220.
- [5] Yu. V. Slavinskaya, Approaches to diagnosing the personality structure of convicts serving life imprisonment, *Applied legal psychology*, No. 1 (2018) 123-134.
- [6] V.A. Utkin, A.P. Kinderkov, Life imprisonment, Tomsk (1997).
- [7] V.K. Yatsuchenko, Application of punishment in the form of life imprisonment in Russia and abroad, *Bulletin of Science and Practice* 4(5) (2018) 518-523.
- [8] L.Sh. Sheleff. Book review: Ultimate penalties, capital punishment, life imprisonment, physical torture, *Federal Probation*, V. 52 (1988) 94-95.
- [9] G.E. Rush, Book review: Ultimate penalties: capital punishment, life imprisonment, physical torture, *Criminal Justice Review* 14(1) (1989) 108-109.
- [10] A.I. Rarog, Criminal Policy and Criminal Law Ambitions, *All-Russian Criminological Journal* 10(3) (2016) 470-479.
- [11] Dirk van Zyl Smit, C. Appleton, *Life Imprisonment: a global human rights analysis*, Harvard University Press (2019).