



BACK TO THE KINGS' ERA: IMPLEMENTING MORE SEVERE PUNISHMENTS OTHER THAN THE PUNISHMENT OF HANGING AS DEATH PENALTY IN SRI LANKA

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INTRODUCTION

According to the Oxford Dictionary, the term death penalty which is also known as capital punishment means “a method of punishing people who committed more severe crimes and the punishment results in death.” Death penalty has a long history in Sri Lanka. During the period of Sinhalese kings, the death penalty was a recognized method that was imposed to punish people who committed serious crimes (Talagala C. S, 2012). The main aim of this research study is to focus on the implementation of more severe punishments other than the punishment of hanging for death penalty, to prevent future crimes in Sri Lanka by going through the other jurisdictions in the world that gives severe punishments other than the punishment of hanging as death penalty, which is similar to the punishments of the ancient Sri Lankan system. The main objective of this research study is to identify whether it is appropriate to implement more severe punishments as death penalty other than the punishment of hanging even though the death penalty itself is very controversial.

METHODOLOGY

The Methodology that was used for this research study is the qualitative research method. Under the qualitative research method data has been collected through primary and secondary sources. Primary sources consist of national laws in Sri Lanka such as Criminal Procedure Code, Penal code of Sri Lanka etc. and also other human rights laws such as International Covenant on Civil and Political Rights, Universal Declaration of Human Rights etc. Further, secondary data has taken from published books, e-journals, e-books, reports and conference proceedings etc.

FINDINGS AND DISCUSSIONS

Ancient Methods of Death Penalty

In ancient time, death penalty was given by crushing through elephants, Simple (neck) method of hanging, crucifixion, hanging from a rib on an iron cross, beheading, burning the tongue with a hot iron and then cutting off the head, peeling the skin, beating with a whip or beating with a thick stick, burying the culprit alive, drowning, throwing boiling oil, pouring boiling and cold water on his head alternately until he dies, feeding to wild animals, stoning, by starvation, by poisoning, by pouring between the walls etc. (Usmonovna, O. G, Kholmurodovich O. B, 2020).

Ancient Methods that were used as Death Penalty Techniques in Sri Lanka

Ancient Sinhalese kings punished people by locking the legs of the perpetrator in wood stocks which is called “*dadu kade gahanwa*”, beheading (*dangediya*), being trampled to death by an elephant, pierced to death by the tusks of an elephant, body torn apart by tying each side to two tall trees and the trees felled outwards, stabbed to death using a spear (*hella*) with the victim stretched on the ground face downwards, impalement on a stake (*ula thiyana*), burnt alive, thrown into a cauldron of burning oil, hurling down mountains, pounding the head in a mortar using a pestle, whipped to death (practiced in Islamic states even today) etc. And also, there is a punishment called “*Dethiswadaya*”, which means 32 punishments which



was given by the king. Therefore, in ancient Sri Lanka there were so many physical punishments, mental punishments, verbal punishments and financial punishments (De Alwis L. B. L, 2011).

Methods of Death penalty in the 21st Century

There are several methods of punishments given as death penalty around the world in the 21st century. They are; According to the punishment of **Hanging**, where the perpetrator's neck will be hanged until his death. In other words, it can be stated as "gallows" or "Judicial hanging". In Sri Lanka, death penalty was given by hanging in the gallows too but until 1976 it was not in practice. Pakistan is the country that has given the highest rate of death penalty by hanging followed by Malaysia, Singapore, South Africa, Italy etc. (De Alwis L.B.L, 2011). Another punishment method is **Electric chair**, which means the perpetrator is strapped in a chair with belts and blindfold his eyes, and gives 500 and 2000 volts which lasts for 30 seconds. And this continues until his death (Death penalty information Center, 2021). This punishment method has been carried out by 24 states in the USA (De Alwis L.B.L, 2011). The punishment of **Guillotine**, is another method of giving death penalty in ancient Sri Lanka. This means the perpetrator's head is cut with a lethal sword. This punishment is also known as beheading which is also known as "*dangediya*" in ancient Sri Lanka. This punishment is now existing in Middle East and other Islamic states under their sharia law (De Alwis L.B.L, 2011). Also, punishment of **Lethal injection** is a common method used by many countries to give death penalty. By giving lethal injection, the perpetrator's entire muscle system paralyzed and stops his breathing and then stops his heart. In this punishment his death will result due to anesthetic overdose and also from respiratory and cardiac arrest while that person is in unconscious situation (Death penalty information Center, 2021). This punishment was carried out recently by 4 states in USA. Another method of giving punishment as death penalty is **Gas chamber**, according to this method the perpetrator is strapped in a chair in an air tight chamber and that chamber will be sealed, and it contain with sulfuric acid. After that the heart rate of that person will be checked by the doctor who is in the outside of the chamber by using a long stethoscope until his death (Death penalty information Center, 2021). In USA, 11 states used this punishment as death penalty. **Firing squad** is another method of giving death penalty for wrongdoers in many countries. According to this punishment several gunmen shoot the perpetrator by a volley of gunfire. This punishment method is existing in Mauritius, Vietnam, Angola, Central African Republic, Liberia and many countries in the middle-east. Finally, there is another method of giving death penalty, that is **Stoning to death**, in this punishment the perpetrator is buried in a pit up to his neck and stones were thrown to his head until his death. This punishment method is still used in Arab countries (De Alwis L.B.L, 2011).

Apart from these scholarly articles it is evident that, in the 21st century, The most common way to execute a person who committed a serious crime in some countries are by injecting that particular person. Apart from USA, this method is existing in China, Taiwan, Thailand, Guatemala, and Vietnam. And most of the countries are Buddhist countries like Sri Lanka. In history most common method that was used as death penalty is, by firing squad and hanging. Apart from Middle East countries, this punishment was used as death penalty in Buddhist Countries like China, Thailand and Taiwan too. Hanging is also an executing method both in law and in practice in Buddhist countries like Japan and Singapore. And there is another way of carrying out the death penalty for serious crimes and that is, by giving an electric shock. This is used in Philippines which also has Buddhism in their country. Therefore, there is a contradiction that why a Buddhist country like Sri Lanka has not implement severe punishments like this as death penalty like other Buddhist countries.



Controversies with regard to implementation of death penalty

Religious perspectives

Sri Lanka is a Buddhist country and the majority of people are Buddhist. According to Buddhist philosophy, killing is a sin. Buddhism recognizes punishment but it does not encourage physical punishment. According to Talagala C.S, “Buddhism does not recognize one particular reason for commission of crimes. It recognizes the background for crimes would be dependent on Karma” (Talagala C.S,2012). Since Sri Lanka is a Buddhist country, there is a problem of reImplementing death penalty into practice and also to implement severe punishments as death penalty because as it stated, it is a sin to kill a person and it does not recognize physical punishment according to Buddhist perspectives.

Human Rights perspectives

According to Article 03 of the Universal Declaration of Human Rights (UDHR) stated “Everyone has the right to life, liberty and security of person” (United Nations (UN)General Assembly,1948). Further, Article 6 of the International Covenant on Civil and Political Rights (ICCPR), this right is recognized and stated that the execution of death penalty only for the most serious crimes for the countries that have not abolished the death penalty (UN General Assembly,1966). Furthermore, Article 2 of the ICCPR mentioned that the state should take all appropriate means adequate to ensure the rights which are guaranteed under ICCPR (UN General Assembly,1966).

Executing the Innocent

According to an article written by Peiris S. it was stated that “there is a high risk of innocent persons being convicted, due to varies instances such as not having adequate scientific technology, police corruptions, not having any mechanism to review the cases when a person is wrongfully convicted but in USA they have specific statutes likes innocent protection Act and also has many innocent protection organizations such as organizations like Arizona project, Florida Innocent project and Arizona justice project etc., and also the errors of the lawyers by not defending the accused properly etc.”(Peiris S, 2018).

RECOMMENDATIONS AND CONCLUSIONS

Buddhism is the dominant religion in Bhutan, Myanmar, Cambodia, Mainland China, Hong Kong, Japan, Tibet, Laos, Macau, Mongolia, Singapore, Sri Lanka, Taiwan, Thailand, Kalmykia and Vietnam. Large Buddhist populations live in North Korea, Nepal, India and South Korea. Among those countries’ death penalty is legal in China, Japan, Singapore, Taiwan, Thailand, Vietnam, North and South Korea and India (Subasinghe W, 2016). As it was stated earlier, the main problem to re implement death penalty in to practice and also to implement severe punishments as death penalty in Sri Lanka is that there are some controversies with regard to religious, human rights and even the possibility of convicting the innocent. When it comes to the religious perspectives, Sri Lanka is also a Buddhist country, but as it was stated earlier there are so many Buddhist countries in the world which implemented the death penalty both in law and in practice, and also gives severe punishments as death penalty. Those countries also have controversies like religious, human rights and even the possibility of convicting the innocent. Even though there are many controversies, those countries have death penalty and also gives severe punishments as death penalty to reduce crimes. Therefore, this contradiction is a good example to recommend.



It is evident that Buddhist countries like Thailand gives death penalty by Lethal injection and by Firing squad, which are severe punishments that is more severe and brutal like punishments that were given in the ancient Sinhalese kings era. And it is also evident that, by giving severe punishments like this as death penalty in Thailand reduced the prisoners rate and it has helped to prevent the prisoner committing future crimes. Therefore, there is a deterrent effect in their system to prevent committing future crimes (FIDH and UCL, 2016). Even though Sri Lanka abolished giving punishment of hanging as death penalty in practice, Japan gives punishment of hanging as death penalty both in law and in practice even though it is a Buddhist country like Sri Lanka and Japan has been considered as one of the countries that have lowest crime rate in the world (Treebold J, 2018). After publication of this research study, one can claim that there is credible evidence to support the abolition of death penalty due to its inhumanity, brutality, immorality, religious and human rights controversies etc. and “they cannot credibly claim there is good empirical evidence to support that view, though they might contend that “common sense” leads to their preferred conclusion. Of course, once upon a time, “common sense” also held that the earth is flat” (Johnson D.T, 2017).

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