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## **THE IMPACT OF THE MORATORIUM ON THE DEATH PENALTY ON PUBLIC OPINION AND HUMAN RIGHTS MOVEMENTS**

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Prior to the entry into force of the law "On the Abolition of the Death Penalty", the Constitution of the Republic of Kazakhstan recorded that the death penalty as an exceptional measure of punishment is applied for particularly serious crimes related to encroachment on human life. The right to life is a fundamental, inalienable, inalienable right, it is enshrined in almost all international human rights treaties, and is reproduced in all constitutions of countries around the world, including our Basic Law [1].

The analysis showed that already in the first years after independence, with the beginning of legal reform in Kazakhstan, a course for the phased abolition of the death penalty was simultaneously outlined. Initially, the death penalty was abolished by law for embezzlement, counterfeiting, and violation of the rules of foreign exchange transactions. Later, they refused to use the death penalty for banditry, organizing mass riots in correctional institutions, rape and taking bribes. The essence of this direction was to reduce the number of norms in criminal legislation providing for the death penalty.

Since 2004, no death penalty has been carried out due to the current moratorium. However, even the entry into force of the law "On the Abolition of the Death Penalty" in 2021 did not exclude its application. According to the previous wording, the death penalty was envisaged as an exceptional measure of punishment for terrorist crimes involving the death of people, as well as for particularly serious crimes committed during wartime, with the right to petition for pardon granted to the sentenced person. The 2022 amendments put an end to the issue of the use of the death penalty as a capital punishment. Today, this is life imprisonment [2].

Even in the first program of legal reform in 1991, a phased restriction of the use of the death penalty was provided for. The legislation of the Soviet period provided for the use of the death penalty not only for premeditated murders, but also for economic, official crimes, and rape. The humanization of criminal punishment has led to the fact that capital punishment has been applied for crimes related to deliberate encroachment on human life. In total, 150 people were executed in Kazakhstan

Before the moratorium was imposed, 266 people were sentenced to death by firing squad. Of these, 150 have been activated, and 27 people have been amnestied. The fate of the remaining 89 people is unclear. It can be assumed that these convicts died or committed suicide while awaiting sentencing.

In particular, 61 people were sentenced to death in 1997, 63 in 1998, 63 in 1999, 40 in 2000, and 39 in 2001. The last death sentence was carried out against 12 people in 2003.

According to the association "Together against the Death Penalty", 2,148 sentences were carried out in 2005 in 22 countries around the world. Fortunately, Kazakhstan was not among them.

The announcement of the moratorium is a progressive step by which we have shown the whole world and our citizens the need to be more humane towards each other [3].

The moratorium was preceded by a survey of the population, which gave practically nothing new. Even in those countries that have long abandoned the death penalty, there are those who advocate the preservation or restoration of the death penalty. Kazakhstan is no exception. Somewhere around seventy percent of the respondents were in favor of capital punishment. At the same time, the results of the survey allow us to conclude that the people who voted for its preservation do not know the arguments on this issue and are not familiar with some of the nuances of this problem.

Many believe that the death penalty is the main means of combating crimes such as international terrorism and drug smuggling. But if we seriously analyze this issue, it turns out that the death penalty, on the contrary, hinders the fight against transnational crime. Such forms of organized crime as drug transit, human trafficking, and terrorism are international in nature. Therefore, when bringing criminals to criminal responsibility, the question of their extradition often arises. So, States that have renounced the death penalty do not extradite criminals to those countries where it persists [4].

Supporters of the use of the death penalty believe that this measure of punishment is a moral act, since it is used for a particularly serious crime, and it, having a frightening effect, serves as a deterrent to crime. At the same time, the position of opponents of the death penalty is no less convincing. In their opinion, the death penalty is the only irreversible measure of punishment affecting the first of the natural human rights – the right to life. A person's life is not given by the state, so it is not for him to take it away. Nowhere did the fear of this punishment become a reliable barrier capable of deterring a person from committing a crime, and the death penalty did not frighten anyone. The state is not an instrument of revenge, and it should not be like criminals, they say. In addition, the possibility of a miscarriage of justice remains unavoidable.

It is still unknown which is more difficult – execution or life imprisonment. And according to a number of experts, murderers should live in order to experience such hardships that would serve them on earth as eternal punishment for their crime. If anyone advocates the death penalty, then it should be taken into account that shooting a criminal is not an adequate retribution for the serious crimes committed by him. What kind of punishment could be fair against Norwegian Anders Breivik, who shot 77 innocent people, mostly teenagers? Nevertheless, he was sentenced to only 21 years in prison, the conditions of which can be envied not only by convicts. Perhaps that is why in ancient times they were guided by the so-called talion principle, according to which punishment should have been equal to a crime [5].

Public opinion is not a simple and dynamic category. Even if the degree of rigor of different social groups may change at different times, nevertheless, it is unlikely to reach a public consensus on the issue of the death penalty. It will always remain controversial and problematic, as it is always problematic to overcome the inconsistency between the arguments of the heart and the mind. As noted, it is based on an excess of emotions, on stereotypes of the past.

According to the society, the death penalty is acceptable primarily in relation to persons involved in the rape of minors. Most of our fellow citizens are also in favor of using the death penalty for terrorists, drug traffickers and those who committed premeditated murder.

In all other cases, as a rule, respondents oppose the death penalty. Fellow citizens have the most negative attitude towards the application of such a punishment measure against persons convicted of corruption, treason and espionage, who committed an armed robbery. The majority of citizens are also against the death penalty of people who are leading the preparation of a military coup or who have committed an assassination attempt on the head of state [6].

Currently, the adoption of a moratorium on the death penalty can be called a reality of our time. Bolat Baykadamov, Commissioner for Human Rights in the Republic of Kazakhstan, believes that in modern conditions, the state's attitude to the problem of the death penalty determines the level of its development. The world has become even more appreciative of such values as human rights, and among them, undoubtedly, the defining value is the right to life. There is no place for the

death penalty in a civilized country. And therefore it is regarded as contrary to human nature. Kazakhstan has become a different country since independence, and therefore we can decide.

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## GENOCIDE AND ITS PUBLIC DANGER

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The Universal Declaration of Human Rights (UDHR) is a document adopted by the United Nations General Assembly on December 10, 1948. The UDHR is an international standard that establishes fundamental rights and freedoms that must be recognized and protected by all States of the world.

The UDHR consists of 30 articles that cover a wide range of rights, including the right to life, freedom from torture and ill-treatment, freedom of thought, conscience and religion, equality before the law, the right to education, work and health, as well as the rights to freedom of movement, participation in Government and freedom of expression [1].

The UDHR is one of the most important documents in the history of human rights and serves as an important guideline for States and organizations around the world in ensuring and protecting human rights. She emphasizes the universality, indivisibility and interconnectedness of all human rights and calls on all States to ensure their protection for all their citizens without discrimination of any kind.

The UDHR established after World War II in response to the horrific human rights violations that were committed during that war. The United Nations General Assembly adopted it on December 10, 1948 in Paris.

Human rights are universal and indivisible rights that belong to each person as their individual rights. They established in laws and international documents, including the Universal