



Research article

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Victims Without the Right to Defense Speech and Victimization of Victims' Families Without the Right to Posthumous Speech: The Example of Serbia

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Abstract. In Serbia, after the end of World War II, from 1944 to 1953, tens of thousands of citizens were executed by the secret police without the victims having the right to a defense, and the victimization of their families was such that they were forbidden to defend the victims. The methods of execution varied, from killing victims in their homes and yards to taking family members to unknown locations, where they were then executed without a trial—often without the family being informed of where they were killed and buried. During this period, one percent (1%) of the population of Serbia was executed. The bloody history of tens of thousands of victims without the right to a judicial process, without the right for their families to defend them or seek protection for the executed, is deeply rooted in the consciousness of the citizens of Serbia. This situation has created a culture of fear and silence, where these topics are often not discussed, and those who survived faced additional stigmatization. Given that these victims were left without the right to defense, it is important to recognize and investigate how this historical injustice has shaped the collective consciousness and identity of contemporary Serbian society. Additionally, it is necessary to work on the rehabilitation and recognition of these victims, as well as to provide support to their families, in order to enable confrontation with the past and the construction of a more just society. In this sense, this topic requires not only academic analysis but also social dialogue that will contribute to understanding and reconciliation, as well as strengthening human rights and justice in contemporary Serbia.

Keywords: victim, liquidation, right to defense speech, family, victimization, Serbia

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Научная статья

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Жертвы без права на защиту и свободу слова, а также виктимизация семей жертв без права на посмертное высказывание: пример Сербии

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Аннотация. В Сербии после окончания Второй мировой войны, с 1944 по 1953 год, десятки тысяч граждан были казнены тайной полицией без права на защиту, а их семьи подвергались таким преследованиям, что им было запрещено защищать своих близких. Методы казни были разнообразны: от убийства жертв в их домах и дворах до перевозки членов семей в неизвестные места, где их затем казнили без суда — часто без уведомления семьи о месте убийства и захоронения. За этот период был казнен один процент (1 %) населения Сербии. Кровавая история десятков тысяч жертв, лишенных права на судебный процесс, без права их семей защищать их или искать защиты для казненных, глубоко укоренилась в сознании граждан Сербии. Эта ситуация породила культуру страха и молчания, где эти темы часто не обсуждаются, а выжившие подвергаются дополнительной стигматизации. Учитывая, что эти жертвы были лишены права на защиту, важно признать и исследовать, как эта историческая несправедливость сформировала коллективное сознание и идентичность современного сербского общества. Кроме того, необходимо работать над реабилитацией и признанием этих жертв, а также оказывать поддержку их семьям, чтобы обеспечить возможность противостояния прошлому и построения более справедливого общества. В этом смысле данная тема требует не только академического анализа, но и

социального диалога, который будет способствовать пониманию и примирению, а также укреплению прав человека и справедливости в современной Сербии.

Ключевые слова: жертва, ликвидация, право на защиту, семья, виктимизация, Сербия

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Introduction

In contemporary society, the rights of victims and their families are often overlooked, especially in the context of war crimes and violence. This paper explores the phenomenon of victimization of the families of victims in Serbia, focusing on the lack of the right to defense and posthumous speech. This topic is particularly significant in light of the historical circumstances that have shaped Serbian society, as well as in the context of modern legal and social norms relating to the rights of victims.

The motivation and scientific need for conducting this research [1] on this topic stem from the long and tragic past of the state of Serbia [2], when the Communist Party came to power after the monarchy [3] through revolutionary violence [4], a bloody coup [5] during and after World War II in 1944 [6], in the Kingdom of Serbia led by the king [7]. Following the establishment of the communist regime, there was a systematic violation of human rights, which left deep scars on the collective consciousness of the people. In this context, the rights of victims were often neglected, and the families of victims faced additional victimization, not only from the loss of loved ones but also from the inability to express their grief and seek justice.

According to “research conducted in Serbia after the parliamentary elections in 2000, when the communist government was defeated in the elections” [8, p. 1-2], an official document was established and presented to the public stating that the secret police [9], hid-

den within the State Security Service [10] - the Department for the Protection of the People, formed in 1944 [11], carried out liquidations of citizens [12]. These liquidations were carried out without the right to a fair trial, which further emphasizes the injustice suffered by the victims and their families. According to “research by the Institute for Contemporary History of Serbia, the liquidations were carried out without the right to a fair trial – more than 59,912 citizens were killed in over 200 mass graves since 1944, for which identification has been established” [13, p. 71]. Based on “excavations of mass graves, the list is still not final; so far, 70,000 corpses have been found in common graves of those who thought differently from the revolutionary authorities [14], and they were buried in mass graves that were unmarked and without the families’ right to know where they were buried” [15, p. 25-26].

This situation further complicates the process of healing and reconciliation within society, as the families of victims are left without the opportunity to express their grief and seek justice. In this sense, exploring the right to a defense speech and posthumous speech becomes crucial for understanding the broader context of victimization of victims’ families in Serbia, as well as for developing strategies that would enable the restoration of their rights and dignity.

Therefore, this paper will focus on analyzing the legal framework that regulates the rights of victims, as well as the social and cultural aspects that shape the perception and treatment of victims and their families in

contemporary Serbia. It will also explore the possibilities for improving the rights of victims and providing adequate support to families in the process of healing and reconciliation.

Research Results

Victimization can be defined as the process in which an individual or group becomes a victim of a criminal act. In this context, the victimization of the families of victims occurs when their rights are not recognized or are denied. According to some research, the families of victims often face additional traumas arising from a lack of legal protection and social support.

In Serbia, the legislative framework regarding the rights of victims is established, but in practice, it often does not function. Victims and their families do not have adequate access to justice, and their rights to a defense are often neglected [83]. This is particularly true for the families of victims of war crimes, who face additional obstacles in realizing their rights. The victimization of the families of victims manifests through various forms of emotional and psychological stress. These families often experience marginalization in society, and their experiences are frequently ignored in public discourse [84]. Furthermore, the lack of the right to a posthumous speech further complicates their healing process, as they are denied the opportunity to express their grief and pain for their loved ones [85].

When considering victimization, it is important to reflect on the historical perspective of the application of police powers by the State Security Agency in Serbia. What do we know at the very beginning of this introductory opus through a historical view of the application of police powers [16] by the State Security Agency in Serbia [17]? In Serbia, after World War II, the security system [18] reached “criminal perfection” [19], when a mechanism for liquidations, torture [20], and the production of fear among citizens [21] was created. This criminal perfection was framed [22] in an almost Christian idea of the Department for the Protection of the People (Department for the Protection of the People – PPP) – the first security agency

in communist Serbia [23], which was established in June 1944 [24]. From that mimicry, a beast was born, the idea of communism [25], and the creative hand in the development and practice bears the handwriting of the secret police [26; 27]. This criminal practice became part of everyday life, and the secret police were a key instrument in preserving power.

This secret police [28] represented the drawn sword of the revolution [29], the shield of the revolution [24, p. 5], the most combative organ for preserving the achievements of communism [30]. Immediately after its creation, it was methodologically organized [31] according to the model of “guided from a single center and organizationally set up for the entire Serbia” [13, p. 87]. Its orientation towards the use of violence [32] was not a result of excess or a state of emergency [33, p. 6], but rather part of a detailed plan transformed into a permanent, total, and perfect repressive system [34] managed by the ubiquitous secret police [35] based on police powers [36]. It was the backbone of the repressive apparatus [37]. The goal was to establish a dictatorship [38] of one ideology and one party [39]. The secret police within the State Security Service [40] consisted of people [41] from various social strata, proven communists [39]. They underwent training and were prepared for the future task of terrorizing and liquidating dissenters of communist thought [42] and the system of power [43]. They were “required to be conspiratorial-minded and to carry out orders without too much thinking”.

The slogan was: “Whoever cannot kill a citizen who thinks differently from a communist cannot be a true communist and employed in the secret police” [44, p. 92]. Another slogan was even more specific and monstrous: “Enter straight - you will not leave healthy; enter as an enemy of communism - you will not leave alive [39 c 56].” “Liquidations were carried out according to a pre-prepared and well-thought-out plan” [45, p. 59]. “Directives from the top leadership of the Secret Security Agency were precise; the utmost secrecy and uncompromising confrontation were required” [46, p. 88] with citizens who thought differ-

ently from the ruling party [47]. One of the most important methods learned during the training of personnel was concealment[48], which was carried out through the commissioners of the secret police[49]. “In every part of civic life, there was an agent of the secret police. One operational document, as noted by a researcher of the secret police, states: ‘It should be kept in mind that agents must not know each other; shootings must be carried out in the utmost secrecy, so that no one must know. Keep this in mind, because if you do not adhere to this, you will bear full personal responsibility’ [50, p. 85]. The state of Serbia has clearly defined obligations[51], which is undoubtedly established by the fact that during and after the liberation of Belgrade and all of Serbia[52], in the wave of mass liquidations by the secret police of class enemies of the revolution[53], ‘tens of thousands of citizens: professors, teachers, students, pupils, peasants, craftsmen, workers, traders, priests, painters, actors, journalists, government officials, former officers and gendarmes, were shot in peace, their property confiscated, and hundreds of thousands of their family members deprived of the most basic civil and human rights long after that, many of them permanently’ [13, p. 94].

The method of liquidation of Serbian citizens: Immediately after the Second World War, starting in 1944, the secret police within the State Security Service [54] began to apply two methods of liquidation of citizens for non-compliance with legal procedures [55]. The first method was arresting citizens, torturing them, and after several days of terror, the agents took them to unknown places and liquidated them there [13]. Another method was to take several citizens in groups to unknown places, where they were shot at the same time [9]. Citizens “were subjected to various forms of torture, agony and torture by agents of the secret police, cruelties such as breaking nails, hanging by the genitals, mutilation, beatings. After arrest, a short stay in places unknown to the family, usually only a few days or weeks where they were interrogated, citizens were tied with telephone wire and usually in only

their underwear taken in groups of 15 to 30 to the places of execution. cases of liquidation of the wounded that exist directly from hospitals taken to be shot” [56, p. 78]. As the Doctor points out, “it was done due to intimidation and additional shame not only of those liquidated, but also of their families” [56, p. 29]. The system operated according to the salami technique method, where anyone who had any contact with party opponents [57] was linked to them and arrested [39; 86]. In the second half of the twentieth century in Serbia, this secret police began to hire criminal groups to carry out dirty work, first abroad, and then, especially in the nineties, in the country in the fight against communist dissidents, where prominent citizens were kidnapped and then liquidated [58]. According to the author’s findings [59] “Only in the period from 1948 to 1956, about 56,000 citizens were arrested, about 32,000 went through remand prisons, and more than 16,500 went through the Mermer camp” [59, p. 82].

The same author finds (2011) that “two-thirds of the citizens were not there based on a court verdict, but based on an administrative decision of the party, which was implemented by the secret police, who sent them to forced educational work in the Mermer camp”[44, p. 19]. About all these executions and tortures, the secret police carefully kept records of those killed and interrogated, so that they could later follow their family members and descendants, they did the same as the communist secret police services of Central and Eastern Europe kept detailed records not only of their victims but also of all other individuals [60]. The executioners were from different social strata: “a large number of one hundred and twenty-eight priests of the Serbian Orthodox Church, seven thousand industrialists, merchants and artisans, a large number of actors, professors, lawyers, judges, intellectuals of various occupations, while at the same time their entire property was confiscated, and their descendants were thrown out into the street” [61, p. 14]. There are many examples of shooting of minors, students, and the most cruel is the arrest of several people born in 1933 and

even in 1935, who were children at the time of the shooting in 1945 — they were not fourteen years old [15, p. 29].

Constitution: Rights of citizens in Serbia

Analyzing the provisions of the Constitution of the Republic of Serbia [62], the findings show that “Article 19 prescribes the purpose of the constitutional guarantee, which guarantees the inalienability of human rights [63] the preservation of human dignity and the full freedom and equality of every individual in a fair, open and democratic society [64], based on the principle of the rule of law, and that the achieved level of human rights cannot be reduced [65]. Furthermore, the provisions of Article 24 of the same Constitution guarantee and guarantee the right to human life, which is inviolable, also, the protection of the rights of persons deprived of liberty, the manner of treatment of persons deprived of liberty, as well as protection against torture, inhuman or degrading treatment and punishment [89] and that there is no death penalty in the Republic of Serbia [66] are also emphasized. Constitutional provisions also guarantee physical and psychological integrity which is inviolable [67] where it is prescribed that no one may be subjected to torture, inhuman or degrading treatment or punishment” [68].

In addition to the fact that Article 27 of the Constitution guarantees the right to freedom and security and stipulates that everyone has the right to personal freedom and security [67] the secret police liquidated tens of thousands of Serbian citizens without trial, as research results show, without the right of the liquidated and their families to know where they were buried” [68]. The Constitution also prescribes the procedure with a person deprived of liberty in Article 28, where the authority undertakes to inform him of his rights in a language he understands, to inform him of the reasons for which he was deprived liberty, that he has the right to inform the person of his choice about his deprivation of liberty” [68].

The findings of the research show that the secret police did not respect any constitutional provision that “prohibits the torture

of arrested citizens, nor does it respect the rights related to the treatment of a person deprived of liberty, where it is prescribed that the actions of the authorities must be humane and respect the dignity of the arrested citizen [87]. A person deprived of liberty by a state authority must be informed immediately, in a language he understands, of the reasons for the deprivation of liberty, of the accusation against him, as well as of his rights and has the right to be informed without delay A person who is deprived of his liberty has the right to initiate a procedure in which the court will decide on the legality of his detention and to order his release. A person deprived of his liberty must be treated humanely and with respect for his dignity. Extortion of testimony is prohibited [68].

From the previous findings proposed in the paper, it can be seen that the secret police acted in their actions by exercising their powers contrary to the Constitution, because their interpretation of the right to security threatens the security of every citizen. The activities of the Secret Security Service do not show that they will respect the constitution, the duration throughout history shows that they act contrary to the Constitution, the agency does not understand that a country is only as safe as each of its citizens.

For what values can the Secret Security Service commit its resources paid by citizens? In the Constitution of Serbia, “those values that can be called universal are: freedom, independence, peace, security, democracy, the rule of law and many other rights. The Constitution allows that only the stated values can be protected. The Constitution does not recognize the liquidation of citizens or the punishment of citizens without judicial proceedings. Contrary to what is prescribed in the Constitution, it can be determined from the findings that the Security Agency determines the extent of security at its own discretion and to whom it will be provided” [68].

When one finally reads the acquired insights into the historical characteristics of the Secret Security Service in disregarding the Constitution of the country in which it

was founded and exercises its powers, several findings are made: it is a crime that the agency has been committing for decades; the acquired power allows them to interpret and apply the word and spirit of the Constitution, whenever they need it, situationally and/or arbitrarily, and the government gives them cover in advance for various, even criminal, security moves and undertakings.

Finally, when looking at the historical characteristics of the activities of the secret service, one comes to the conclusion that it is a long-term crime against human rights. This agency, using its power, interprets and applies the Constitution in a way that suits them, often contrary to its spirit and letter. Citizens are aware of these problems, which is confirmed by the results of a survey in which 98.2% of respondents expressed the need to conduct investigative procedures against previous criminal activities of the secret service (Survey) [69]. This high percentage of support indicates a general concern and desire for justice and accountability, which is key to building a democratic and just society.

In the light of these findings, it is necessary to review the operation of the secret service and establish transparency and responsibility in its work, in order to protect human rights and ensure the safety of all citizens of the Republic of Serbia.

Analysis and discussion

If there is at least one civilizational universal of the human race, then it is certainly the search for knowledge. The results of the research show that the secret police, which was hidden as a formation unit within the Secret Security Service, using police powers to arrest and detain citizens, liquidated 1% of the total population of Serbia, about 7,000,000: [70] in the period from 1944 to the middle of the sixth decade of the last century, without the right to a trial [71]. At the same time, it is not clear at first glance why there is a need for knowledge in this area of scientific and social life [72]? This need is immanently woven into human nature [73], and this work is the product of the need of the scientific, professional, lay and civ-

il public [74] not only in Serbia [75] but also in the world, to more successfully and efficiently improve the world around them in security [76] civil, legal and every other aspect of the rights of man and citizen [77], with the right to freedom of opinion [78], to a different opinion, the right to speak and the right [79], to just trial [80], which the security-legal system [81] of the state must provide. The responsibility of states to help victims in the European legal space stems primarily from the European Convention on Human Rights (ECHR), taking into account the positive obligation of member states to ensure the effective implementation of the rights and freedoms it regulates. There are no specific provisions in the ECHR dealing with the rights of victims, however, the European Court of Human Rights has created significant practice that has strengthened the position of the victim guaranteed by the acts of the Council of Europe.

In front of the stated scope of victimization, victims who were liquidated without the right to a trial, without the right to a word of defense, and the right of the victim to know where they are buried, is a question before which the political, legal and civil democratic public must not remain closed eyes and ears, and even less – none [82]. This is because blindly agreeing with what has been done, in the future it always acquires not only sporadic and occasional but also long-lasting surprising proportions, which are always harmful: first, it must be pointed out here that this approach can deceive us into thinking that it is a legal shoal in the river of society; secondly, we must admit that there are many eddies in it that are not visible at first glance on the surface and that research recognizes, and are very capable of dragging the social community and every citizen to the bottom every time they are given the opportunity to do so; thirdly, Serbia's approach deviates from democratic values; fourth, tens of thousands of citizens were liquidated without the right to court proceedings, without the right to speak, with victimization of families without the right to defend the victims.

Conclusion

Victims without the right to defend themselves and the victimization of victims' families without the right to a posthumous speech represent a serious problem in Serbia. It is necessary to improve the legislative framework and allow the victims' families to have their voices heard. Only in this way can we enable the process of healing and justice for all victims.

This article offers a periodization and analysis of the repression of the secret police formed within Serbia, rescuing from oblivion its crimes, denied and hushed up for decades, and restoring the dignity of thousands of innocent citizens of Serbia, liquidated by that state agency.

Moreover, the findings from the research material in the paper indicate that Serbia should accept the values of democratic states, that the Secret Security Service cannot exercise police powers.

Hiding the secret police in the Secret Security Services is not a common practice in the democratic countries of the world, as it was applied in Serbia in the 20th century.

The research presented in the article, in addition to scientific knowledge and materials, can be a historical monument to the citizens of Serbia and the state of Serbia, who were in the clutches of the most brutal repression of its secret police in the 20th century, a monu-

ment to victims without the right to defend themselves and the victimization of their families without the right to defend their family members and know where they were liquidated and buried.

States should enact a legal act by which the right of victims to submit a property claim in civil-law matters does not become statute-barred, for example, compensation for damages-restitution of property, lost profits, rehabilitation; that all records and files that have been built on the person who was liquidated in the above manner be delivered to the family members before destruction, and then destroyed by the commission, and the record of destruction delivered to the family members - the Commission would be obliged to inform the family members about the existence of the file; that before the destruction of the file, copies of the file on the family members of the liquidated victim about the measures that the secret service implemented against them should be submitted - the Commission would be obliged to inform the family members about the existence of the file - that after the decision of the family members to take over a copy of the file, all documents created by applying the methods of the secret service about the liquidated victim's family would be destroyed, for which a written confirmation and a record of the commission's destruction would be issued.

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