

WOULD SOCRATES BE SENTENCED TO DEATH PENALTY TODAY?

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Abstract

Socrates was a classical Greek philosopher. Though he made no writings, he was well known as one of the wisest men of his time. Socrates was always questioning other people's behaviour and thoughts. He especially questioned the collective notion of "might makes right" that he felt was common in Greece during this period.

Socrates's paradoxical wisdom made the prominent Athenians he publicly questioned look foolish, turning them against him and leading to accusations of wrongdoing. Socrates defended his role as a gadfly as Plato named him, until the end: at his trial, when Socrates was asked to propose his own punishment, he suggested a wage paid by the government and free dinners for the rest of his life instead, to finance the time he spent as Athens's benefactor.

In 399 BC, Socrates went on trial and was found guilty of corrupting the minds of the youth of Athens and for "not believing in the gods of the state", even for creating new gods. He was sentenced to death, caused by the drinking of a mixture containing poison hemlock.

But, would he be sentenced to death according to today's law?

Key words: *Socrates, trial, death penalty, values, modern law*

Why Socrates was that strange

Some modern authors say that „in the history of philosophy there is no figure that awakens as many interesting and helpful, varied and baffling suggestions, as does the quaint and inscrutable Athenian Socrates, who used as freely to confess his own ignorances as he did his physical ugliness, and as relentlessly to expose the sham wisdom of others as he did the sham beauty of face and form that concealed the ugly soul; who more than any other man possessed that sublime indifference to non-essentials which comes from a recognition of the irrelative worthlessness“¹. It is indeed the truth, because Socrates and his way of thinking and searching thru the mists of phrases people say everyday was then and even now in the 21st century –rather unique.

¹ Charles M. Bakewell, "The Unique Case of Socrates", International Journal of Ethics, Vol. 20, No. 1 (Oct., 1909), 10.

Socrates has never written a word . So we don't have an authentic source to which we can compare the reports of Plato, Xenophon, Diogenes, and other Socrates contemporaries, and find out about truthfulness of his statements, his specific wisdom, beliefs and other crucial facts- or we still don't have proofs that he has written anything at all². All we know about Socrates comes from another man living at the same time, who was not as objective as required for someone who writes about custodial facts, not about their impressions of facts and events. Presumable facts about Socrates come either from his pupils who were devoted with their bodies and minds to Socrates, or from Socrates' philosophical or political opponents. As we cannot engage directly with Socrates, it is hard to tell whether all or anything that others say that Socrates has said is true, or not. From this point of view, we can easily suspect if there is anything that was attributed to him, that Socrates has really said it; if there was the trial held for Socrates, after which he was sentenced to death, even we can doubt his existence. Since we are accustomed to the world in which Socrates and his philosophy exist, all other difficulties and doubts in his existence in this article will be left aside. Whether Socrates really existed or was an invented figure, he was responsible for the development of antique and modern philosophies in every sense, and the proceedings against him as well as his death, even after 25 centuries remain the subject of scattered discussions.

Not only modern philosophers, but even Socrates' contemporaries were saying that he was- rather strange. They say he was physically ugly, and yet enough handsome to be seen in many important places and with important men and particularly with statesmen. He was always saying about his own ignorance and lack of knowledge about the world³, life and other important things, and yet, one of the main reasons for Socrates' trial was his constant need to be ironic about everything and everybody, even about wisdom of other people. „Socrates's lifework consisted in the examination of people's lives, his own and others', because "the unexamined life is not worth living for a human being," as he says at his trial"⁴.

It seems nothing has changed so far- you can be always ironic about yourself, but irony about others' knowledge, virtue and values can be seen as firing arrows straight to someone's heart. That kind of arrow has brought a death penalty to Socrates. „His interesting and unusually magnetic personality, with an exceptional genius for stimulating others to construct philosophies"⁵ led him through his life and thus brought him to the end, because of his impenetrableness and conviction that sticking to his opinion and holding firmly to his beliefs should be worth - of dying. Or maybe, his controversial ironic preaching made him a lot of friends and enemies on both sides: on side of democracy advocates and on side of oligarchs, and just while on the trial, one side prevailed.

While on his trial, Socrates was debating about strangeness of his own position. „Strange“ meant in this case someone that is foreign(er), unknown, and yet, he never left Athens for his whole life. Socrates here was using specific wordplay- „strange“ means awkward(which was more approximate description of him), and also means foreigner. How could he be foreigner to his own city and people living nearby for his whole life, he stated on his trial?

² Nails, Debra, "Socrates", The Stanford Encyclopedia of Philosophy (Spring 2018 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/spr2018/entries/socrates/>.

³ As in Plato, Apology 21d, Translation used in this article : *Plato's Apology of Socrates*, <http://www.sjsu.edu/people/james.lindahl/courses/Phil70A/s3/apology.pdf>

⁴ Socrates said this in Plato, Apology 38a, quoted by: Nails, Debra, "Socrates", The Stanford Encyclopedia of Philosophy.

⁵ Charles M. Bakewell, 13.

Yet, we find him today, as well as his fellow citizens - rather strange, because of his life and more over, because of his death.

The Crime and the Punishment of Socrates- then and now

The Athens of Socrates's time was famous in history as the very place (and period of time as well) where democracy and freedom of speech were born. Yet that city put Socrates, its most famous philosopher, to death. Presumably this was because its citizens did not like what he was teaching. Or was he ever teaching? Even on trial Socrates, claims that he never taught⁶, but he just tried to provoke his fellow citizens to find out by themselves what they think about some crucial matters. When they have an opinion on something, Socrates would provoke them to reconsider it, to think even more and to come to a new point of view. Sometimes they were verbally persuaded to start thinking like Socrates, or at least they could doubt their own opinion because of the questions that he asked them. And these questions were never ordinary; they always had a touch of suggestiveness and irony. Enough to make someone to change his mind or to provoke someone, on the other side. So, in this terms, he wasn't really teaching anyone, but he was like any modern psychotherapist asking more and more questions⁷. How can then anyone only because of asking questions, be put on trial and even get death penalty?

In 399 B.C.E., Socrates was executed by the Athenian court on charges of impiety and corrupting the youth. The first explicit charge of not submitting to state religion is considered as rather serious, although there were a lot of gods and religious practices at that time. The second charge of corrupting the youth asserts that Socrates had turned the youth away from showing respect to their parents and in some way directed them towards dishonourable behaviour⁸. This charge rests upon a thinking that Socrates is a teacher who educates students for a fee mainly in the art of rhetoric. Young men who were following Socrates didn't pay any fee to him for any class or conversation that he had with him, so that charge seems meaningless from the start. Socrates used to speak to anyone who was willing to listen whether he was young or old⁹.

"The charges Socrates faced seem ridiculous to us, but in Ancient Athens they were genuinely felt to serve the communal good" says Paul Cartledge¹⁰. „By removing him, society had in, Athenians' eyes, been cleansed and reaffirmed.", continues Cartledge. When Socrates rest in peace, the Athenians could also have kind of rest- of him. Each of these two allegations is equally meaningless and inaccurate, because there were sufficient evidences showing precisely contrary to the allegations set out in the allegations.

⁶ Teaching at that time meant giving lessons on specific matters, such as oratory, virtue, etc, in exchange for money. Socrates said that he did none of those two, so he wasn't a sophist at all : Plato, Apology, 18d-19a.

⁷ According to American Psychiatric Association, „Psychotherapy, or talk therapy, is a way to help people with a broad variety of mental illnesses and emotional difficulties. Psychotherapy can help eliminate or control troubling symptoms so a person can function better and can increase well-being and healing.“. One of the types of psychotherapy is „Cognitive behavioral therapy (CBT) , which helps people identify and change thinking and behavior patterns that are harmful or ineffective, replacing them with more accurate thoughts and functional behaviors. It can help a person focus on current problems and how to solve them. It often involves practicing new skills in the “real world.” So, it seems that Socrates was one of the first CBT practitioners.

⁸ Gregory A. McBrayer, “ Corrupting the Youth: Xenophon and Plato on Socrates and Alcibiades “, Kentron [Online], 33 | 2017, <http://journals.openedition.org/kentron/1026> ; DOI : 10.4000/kentron.1026

⁹ Lucano de Krešenco, ISTORIJA GRČKE FILOZOFIJE (od Sokrata nadalje), Beograd, 2009, 12 and further.

¹⁰ Paul Cartledge, Ancient Greek Political Thought in Practice (Key Themes in Ancient History) 1st Edition, Cambridge University Press, 2009

Socrates spent his final hours in a cell in the Athens jail. He refused proposition to escape from the prison and decided to patiently wait for his last hour, in conversations with his most trustworthy pupils. Some modern authors call the end of this strange philosophically-political process – „the most famous and the most interesting suicide of man in history“¹¹ and portray Socrates as „an arrogant, bullying elitist who welcomed death and did his best to antagonize the jury that sentenced him „¹². Socrates needed that much this hemlock to fulfill his mission, that even he did everything in his power to get it, says I.F.Stone and Doug Linder.¹³ So his patient waiting for death to come, or in this case- waiting for death to drink it, was a kind of his own philosophical performance and also the last act of a lifetime devoted to some sort of subversion and underestimation of others.

Richard Kraut thinks that in case of Socrates' trial, we had exactly the trial of “a thinker who has been influential in terms of practical politics and blaming him for the way his message was misinterpreted”¹⁴. The death penalty was a logical consequence of many previous processes., which we will not examine further here. Our specific interest in this article is whater Socrates would be sentenced to death penalty for „crimes“ that he is been charged of.

Socrates could be sentenced to death penalty only in those countries where the capital punishment isn't abolished. In USA, there are 21 federal states without the death penalty(so we can say that Socrates would be safe from this kind of punishment in these states)¹⁵: Alaska (1957) Connecticut (2012) Delaware (2016) Hawaii (1957) Illinois (2011) Iowa (1965) Maine (1887) Maryland (2013) Massachusetts (1984) Michigan (1847) Minnesota (1911) New Hampshire (2019) New Jersey (2007) New Mexico (2009) New York (2007) North Dakota (1973) Rhode Island (1984) Vermont (1972) Washington (2018) West Virginia (1965) Wisconsin (1853) . As of 2019, in Europe, the death penalty for both civilian and military crimes has been abolished in all countries except Belarus. Belarus carried out two executions in 2018, and the last execution occurred in Ukraine in 1997. So on the territory of EU and the half of USA Socrates , no matter how hard the charges were, would not be sentenced to death.

All other federal states in USA still hold death penalty as possibility, and due to that, there were 25 executions in those states in 2018; of whom 23 died by lethal injection and two, in Tennessee, by electrocution, marking the first calendar year since 2000 in which more than one inmate was executed in that way. In 21 countries around the world were executions due to death row¹⁶ in 2018; for some states there are not precise number of executions.

In Republic of Serbia, capital punishment was abolished by amendments on 26 February 2002. The last execution, in Serbia took place on 14 February 1992, and the last death sentences were pronounced in 2001. We are bound by several international conventions prohibiting capital punishment, such as Second Optional Protocol to the International

¹¹ I. F. Stone , The Trial of Socrates, Anchor; Reprint edition , 1989, on several places in the same book.

¹² Editorial review of I.F Stone's book, from Publishers Weekly, on pages of the same book.

¹³ Doug Linder ,The Trial of Socrates,2002.Available on : <http://dx.doi.org/10.2139/ssrn.1021249>

¹⁴ Richard Kraut,Socrates and the State.Princeton University Press; Reprint edition (July 1, 1987)

¹⁵ All number are according to data available on the site of The Death Penalty Information Center, <https://deathpenaltyinfo.org/>. in brackets is the year when the death penalty was abolished in that federal state.

¹⁶ All data available on: <http://www.capitalpunishmentuk.org/overview.html>.

Covenant on Civil and Political Rights (2001)¹⁷, Protocols No. 6¹⁸ and No. 13¹⁹ to the European Convention on Human Rights (2004)²⁰. Also, Article 2 Of The Treaty of European Union²¹ is talking about values of EU :”respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non - discrimination, tolerance, justice, solidarity and equality between women and men prevail”. It means that EU firmly stands for respect of all human rights and especially for justice and freedom. So, we can say that Socrates would be free of death penalty in all European countries, except in Belarus.

It seems in the end that Socrates, maybe, wouldn't be found guilty because of his specific philosophical statement and way of living—unless it does not impair someone's privacy or rights and freedoms of other people, or it represents a breakthrough in the security protocols of secret services. In that case, he could face the sentence of life imprisonment, which in some states is without the possibility of parole for some crimes. He would preserve his life and also- his way of thinking and preaching to others.

Serbian Constitution²² in Article 24 prohibits capital punishment due to inviolability of human life. So, in our country, Socrates would be also safe of capital punishment. Having in mind charges put against him -not recognizing the state's gods and state's religion and corrupting the youth, and specific political agenda behind those charges, Socrates's situation partially resembles on the following crimes in Criminal Code of Republic of Serbia²³:

*Violation of reputation according to racial, religious, national or other affiliation
Article 174*

Who publicly expose a person or a group because of particular race, color, religion, nationality, ethnic origin or some other personal character, shall be punished by a fine or imprisonment for up to one year.

Attack on constitutional order

Article 308

Whoever by force or threat of use of force tries to change the constitutional order of Serbia or to overthrow the highest state bodies, shall be punished by imprisonment of three to fifteen years.

Article 325, Responding to resistance

was erased

¹⁷ Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989, ratified in our country in 2001, available on : <https://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>

¹⁸ https://www.echr.coe.int/Documents/Library_Collection_P6_ETS114E_ENG.pdf

¹⁹ https://www.echr.coe.int/Documents/Library_Collection_P13_ETS187E_ENG.pdf

²⁰ Ratified in Serbia in 2004.

²¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M002>

²² Constitution published in: Sl. glasnik RS, br. 98/2006. Available on : https://www.paragraf.rs/propisi/ustav_republike_srbije.html

²³ Published in : Sl. glasnik RS, br. 85/2005, 88/2005 - ispr., 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 i 94/2016), available on : https://www.paragraf.rs/propisi/krivicni_zakonik.html

So, Socrates would be at least sentenced to pay a fee as he suggested himself, or be sentenced to imprisonment up to fifteen years, in the worst case.

We can conclude that, in the 21st century, the death penalty would not have been imposed on Socrates, regardless of the crime he committed, and all that due to the need to civilize the sentences and due to the statement that even by killing the killer-the state would not be able to return the victim. Capital punishment is more over seen as relict of past wildlife and state without rules and rights of people.