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**TÍTULO:** Código de sentencias penales y correccionales de 1845 sobre la responsabilidad de Skoptsy.

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**RESUMEN:** El artículo trata la responsabilidad de los seguidores de la doctrina skopcheskoe (castración) de acuerdo con los artículos de la Ulozhenie de castigos penales y correctivos de 1845. Se presta atención a la interpretación de las regulaciones y su aplicación, particularmente a los materiales relacionados con el juicio judicial del caso Kudrins. En el artículo se destacan las características de la doctrina Skoptsy, que permiten caracterizar las actividades de esta asociación religiosa como peligrosa para la personalidad, la sociedad y el estado. Se estudian los problemas asociados con los seguidores de esta doctrina Oskoplenie (castración). Un estudio muy detallado de estos temas se explica por el importante papel que desempeñan para la calificación correcta de las acciones criminales relevantes.

**PALABRAS CLAVES:** Skoptsy, una secta intolerante, una herejía particularmente dañina, la Ulozhenie de castigos criminales y correctivos de 1845, el Imperio Ruso.

**TITLE:** Code of Criminal and Correctional Sentences of 1845 on the liability of Skoptsy.

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**ABSTRACT:** The article deals with issues related to the responsibility of the skopcheskoe (castration) doctrine followers in accordance with the articles of the Ulozhenie of punishments criminal and corrective of 1845. Attention is paid to the interpretation of regulations and their application, particularly to materials relating to the court trial of so-called the Kudrins' case. In the article, the features of the skoptsy' doctrine are noted, which allow to characterize the activities of this religious association as dangers for personality, society and state. Issues associated with oskoplenie (castration) of followers of this doctrine are studied. A very detailed study of these issues is explained by the important role they played for correct qualification of the relevant criminal actions.

**KEY WORDS:** Skoptsy, bigoted sect, a particularly harmful heresy, the Ulozhenie of punishments criminal and corrective of 1845, the Russian Empire.

**INTRODUCTION.**

For the modern world, a rather important issue is that of the effective state counteraction to different religious (pseudo-religious) associations whose activities involve criminal encroachment on various social relations. In this regard, it is of vital importance to study the experience of legal policy in respect of particularly harmful and bigoted sects in the Russian Empire.

The aim of this work is to study the responsibility to which the members of the sect of the Skoptsy (castrates) were subjected in accordance with the Ulozhenie of punishments criminal and corrective of 1845 (the Code of criminal and corrective punishments of 1845) as an example of such policy. It is necessary to observe a number of articles contained in the second part of "On heresies and schisms" of Chapter II section II of this act.

## **DEVELOPMENT.**

### **Research methodology.**

The database of this study is consisted of various legal normative acts adopted in the Russian Empire in the XIX century, as well as materials of law-enforcement practice of the relevant period and the actual data associated with the implementation of the legal policy of the sect of the Skoptsy, as well as characterization of the activity of this sect.

Along with General scientific dialectical and formal-logical methods the following methods of scientific study were also used:

- 1) The chronological method which, among other things, gives the opportunity to trace the gradual changes in the legal regulation of corresponding social phenomena.
- 2) The specific historical method which allows to study the mentioned religious sect giving the special special conditions to those peculiar social conditions in which it was formed and developed.
- 3) The comparative legal method (for example, the diachronic comparison allows to compare the provisions of certain acts in relation to the sect of Skoptsy which belong to different time periods).
- 4) The formal legal method that allows to understand the various formulations of the analyzed regulations.
- 5) The actualistic method provides the opportunity to consider the experience of the past generations when analyzing current events and predicting the future.

### **Study results.**

The mention of the Skoptsy can be found in articles 207 and 208 (numbered according to the original wording of the Code of 1845). In the first of these articles, a list of especially harmful heresies (non-exhaustive) was assigned. In particular, it stated the following: “Followers of sects, called the dukhobortsy, the iconoclasts, the malakany, the Judaizers, *the skoptsi* (our italics – A. I.), as well as others belonging to the heresies that are established as such by the law have been or later

will be declared particularly hazardous for the propaganda of their heresy and the seduction of other people to it, being convicted of this crime they have been subjected to: arbitrary deprivation of all rights of status and exile from European Russia to the Transcaucasia, from the Caucasus and the Caspian areas and the Georgian province of Imereti to the most remote places of Siberia, in order to settle far from locals and old residents” (Rossiyskoe zakonodatel`stvo, 1988, p. 218; Vysochayshe utverzhdennoe Ulozhenie, 1846).

Article 208 established responsibility for the followers of sects, recognized especially harmful, as well as for the Skoptsy, who had hidden their belonging to this kind of cult and attributed to the urban estate in those places, “where such things are not prohibited by laws”. Also, those were subjected to punishment who “being the dissenters in general”, and the Skoptsy that in urban or rural elections giving a written undertaking not to belong to any dissent, participated “in any election for public office” (Rossiyskoe zakonodatel`stvo, 1988, p. 218; Vysochayshe utverzhdennoe Ulozhenie, 1846).

However, the Skoptsy was among the so-called “bigoted” sects, to which article 212 of the Code of criminal and corrective punishments was devoted. According to this article, those “schismatics, although were not convicted of the seduction of the Orthodox believers, belonging to the heresy, coupled with a fierce fanaticism and infringement on their or other people`s lives, or with unlawful vile actions in the commitment of which they were proven guilty” and then subjected to the penalties according to article 207 of the Code.

The above-mentioned article said that the punishment was provided for the mere fact of belonging to such groups, since the legislator believed that membership in such sects as a rule, entailed the introduction to the “savage activity” (Rossiyskoe zakonodatel`stvo, 1988, p. 219; Vysochayshe utverzhdennoe Ulozhenie 1846). It should be noted that the 1885 year edition of this article of the Code (№ 203 according to the changed numbering) was supplemented with the following

statement: “The Skoptsy, after the deprivation of property rights, depart from all places to a remote region of Eastern Siberia, with a commission of their strictest supervision by the local civil authorities” (Ulozhenie, 1892, p.194).

So, skopchestvo as a doctrine was also mentioned among the especially harmful heresies, whose followers were found liable for the spread of their theories, and at the same time it was considered an example of the heresies connected “with fanatical cruelty” the mere belonging to which served as a basis for punishment. As a possible explanation of this contradiction it was proposed to attribute to the “bigoted” sects not all persons belonging to schismatics, but only those followers of this doctrine, who had castrated themselves or others (Ulozhenie, 1892, p. 186).

Article 211 of the Code was particularly devoted to the activities of the sect of the skoptsy. For the oskopenie (castration) of oneself or others, “under the delusion of fanaticism, though without the use of violence”, the culprits had been sentenced to deprivation of all rights of status and to condemn to “hard labour in factories for a period from four to six years, and in case they are not legally exempted from corporal punishment, to punishment with whips... and branding”. Those convicted of castration of themselves were subjected to the deprivation of all rights of status and exile to the Caucasus region or in Siberia to settle there (Rossiyskoe zakonodatel`stvo, 1988, p. 219; Vysochayshe utverzhdennoe Ulozhenie, 1846).

Although the law includes the statement “for castration oneself” (without any additions), concerning the context, it was obvious, the law meant castration as a result of religious fanaticism. In the absence of a religious purpose or intention to evade military service such self-mutilation did not result in liability (for example, for the singer who wanted to maintain a high voice) (Rossiyskoe zakonodatel`stvo, 1988, p. 340).

In pre-revolutionary literature, we can meet a number of judgments, pertaining to qualification of such criminal acts. In particular, for the definition of body of a crime (*corpus delicti*), realized in castration of other persons it was not required that the damage to the genital organs had meanwhile reached the intended purpose, i.e. deprivation of the ability to “sexual intercourse and to reproduction of the posterity”. The fact of the damage of another person’s genitals “under the delusion of fanaticism” was enough. That’s why about women’s *oskopenie* (castration) it was stated: “it is certainly not necessary to cut out the ovary, but to perform a circumcision of large and small vulva lips” (Belogrits-Kotlyarevskiy, 1904, p. 501), but “an attack operation”, an infliction of a small physical harm or any external action (on relevant organs), with the above mentioned purpose though had not been consummated, were considered as the attempt to commit this crime (Belogrits-Kotlyarevskiy, 1904, p. 501).

The given interpretation of the end of a considered crime was associated with the nature of castration. According to it, certain actions should contain “a more or less serious damage to the genitals; on the other hand deprivation of the ability to copulate is the purpose”, achieving of which, as a rule, was not required. In this context, there are mentioned cases of re-castration and differentiation of the *skoptsy* according to the degree of mutilation into two categories: the *Skoptsy* of the “small seal” (being deprived of the scrotum, they kept the ability to copulate) and the *skoptsy* of the “large seal” (deprived of the corresponding ability because of the “cutting out their whole genitals”). It was explained that the committing mutilation of “great seal” over the *skoptsy* of the “small seal” by anyone was the new act of castration, which complemented the previous one and fell within the purview of the above-mentioned article of the Code (Belogrits-Kotlyarevskiy, 1904, p. 502).

The articles of the Code of 1845 under consideration, concerning the skoptsy, in the aggregate, are likely to encounter some contradiction, which A.V. Lokhvitskiy drew the attention to. On one hand the skoptsy can not exist, the skopchestvo is a crime deserved criminal punishment, and on the other hand, “it is evident that the skoptsy quietly live in the inner provinces, enjoy civil rights, but not able to get into elected office and be attributed in some cities” (see article 208). The author explained this issue as follows: “the government, after changing the view on skopchestvo, decided to exile the skoptsy to Siberia, but only new adherents, and those who, during the period of the tolerance of their teachings have been found and left at places of residence, were naturally not chastised. So, some articles of the Code referring to the old skoptsy, who received special passports and others, new ones”.

It is also noted that the decision to exile “new” skoptsy to Eastern Siberia has never been observed strictly. “Otherwise, how to explain the fact that according to official statistical reports there were over 7,000 skoptsy known to the government, if was likely be able to stay alive not more than a few dozen?” (Lokhvitskiy, 1867, p. 301).

As for the “old” skoptsy and “period of tolerance”, we are talking about a particular period of the reign of Emperor Alexander I. The program, which Alexander I was guided to the old belief and sectarianism until the twenties of the XIX century, can be expressed as follows: “the general rule adopted by Me on the fallacy of this kind (in particular, he meant the sect of the dukhobory – *I. A.*)... is that, without doing violence against conscience and without interfering the internal confession of faith, however, however not to allow any external signs of retreat from the Church and strictly prohibit all these things; the temptations not as a heresy but as a violation of common decency and order” (Obzor meropriyatiy, 1903, p. 45).

Although initially during Alexander I reign, it was ordered to send the skoptsy to the army later a decree was issued, intended “not to pursue” those skoptsy, who told frankly where they were castrated. As it was noted, this law “has accorded a great favour to the skoptsy, they frankly confessed that they castrated themselves and were left alone” (Obzor meropriyatiy Ministerstva, 1903, pp. 46-47).

However, in the reign of Alexander I the law regulations concerning the skoptsy, were often changed (there is an opinion that “the skoptsy, due to their agility and evasiveness, always found a way to dodge them” (Obzor meropriyatiy, 1903, p. 47). In general, the peculiarities of the government's regulations of “dissidence” at the end of the reign of Emperor Alexander I, indicate from the point of view of researchers the lack of any connection with those that were published in the beginning of his reign. Accordingly, in 1820s of the reign of Alexander I there was a turn to the persecution of old believers and sectarians (including the skoptsy).

Some interest views on the issue can be found in the position of the Committee of Ministers of 30 January 1826, “On the spreading of previous decisions about the skoptsy on those who were castrated by others”. It was noted that existed legalisation related only to those persons who castrated others, or castrated “themselves”; but those who after the publication of the Committee regulations dated 4 August 1816 were castrated, were not subjected to any regulations.

Many of the revealed skoptsy during interrogation indicated that “castration over them was committed by unknown people”. The conclusion was made that the skoptsy, being “in some way” aware of the limitations of the law, deliberately concealed the names and place of residence of those who have castrated them, or “Committing self-castration falsely attributed other crimes to those who died for sure, in the confidence that they were not liable to any punishment, and according to this some of them even did not delay the time of their castration” (Vysochayshe utverzhdennoe polozhenie, 1831).



Therefore, it was assumed reasonable to extend existing regulations on the "newly revealed" skoptsy, who during interrogation would claim:

- 1) That they were castrated by either unknown, or by now already died people.
- 2) That they were castrated during sleep, or "at the very young age, so they do not remember who and when did it, and even did not suffer any pain from the surgery, or were subjected to violence".
- 3) That they lost their reproductive organs due to injury, disease, or any other similar" cases. Such persons were considered to be self-castrated deliberately (Vysochayshe utverzhdennoe polozhenie, 1831).

Comparing the above mentioned propositions (about disseminations of the provisions of the corresponding legislative acts on three categories of the skoptsy) with later legislation, we should note that they were reproduced in the Russian Empire code of laws (in the volume devoted to criminal law) in the editions of 1832 and 1842, (Svod zakonov, 1832; Svod zakonov, 1842), but not in the Code of criminal and corrective punishments of 1845. However, a similar injunctions against unacceptability of skoptsy` remarks of above mentioned circumstances as a kind of justification can be found in article 588 of The Laws on legal proceedings in cases of crimes and misdemeanors (Code of criminal laws in ed. 1857) (Svod zakonov, 1857). Such practice was applied until the publication of judicial statutes in 1864.

If to speak about the practice of the above-mentioned legal norms, so-called the Kudrins` case (the first public trial over the skoptsy) which was examined in Moscow in 1871 can be an example of it. It should be noted that during this process experts characterized the essence of the skoptsy doctrine as a distortion of Christian view on redemption and denial of the Church established by Jesus Christ, although outwardly they followed the sacraments and rites of the Church.

As Christ Redeemer, they recognized Selivanov, the founder of their heretic cult, who committed “so called redemption by castration”. At the same time, the skoptsy saw Selivanov as the embodiment of Emperor Peter III, whose solemn advent and accession they were constantly expecting (on this basis, it was assumed that castration falsely recognize the legitimacy of existing authorities). On the other hand, one of the defendant’s lawyers expressed the following opinion about the political ideas of the skoptsy: “Skopcheskaya heresy has been existed for a century; during this period, there were some political movements in our country, but try to remember whether the dissenters, especially skoptsy, took part in it.

It is probably known, that many living abroad propagandists repeatedly tried to attract dissenters, but all their attempts failed". It was also said about the manifestation of the skoptsy political nature in the belief that the above-mentioned Selivanov was still alive, and that he would come for the skoptsy redemption and would: "in order to claim and understand it literally one must be ignorant; I regard this doctrine as the expectation of the Messiah`s advent by the Jews, but it absolutely impossible to allow that the skoptsy were expecting the bodily coming and accession of Selivanov. Selivanov lived 100 years ago, and now he would be at least 150 years.

As the characteristics of the present case, the experts’ opinion can be provided, but they must be treated very carefully, since science does not have enough data to give the opinion about the skoptsy; moreover, experts are members of the Spiritual Department, they examine this case from the Church’s point of view; and from the point of view of the Orthodox Church every slightest deviation from its rules would be regarded bad” (Protsess Kudrinykh, 1900, p. 99).

N. A. Nadezhdin, the author of “The study on skopcheskaya heresy” which was mentioned during the Kudrins` trial, believed the as for the governmental view the most correct and complete characteristic of the skoptsy is given by the decree of Alexander I, who declared them “enemies of humanity, the corrupters of morality, violators of the divine laws as well as civil ones”. “They are

definitely the enemies of humanity, for they insult human nature by disfigurement, the effects of which influence not only body but soul as well. By the destruction of marriage, the chief family union, castration undermines the basic foundations of public morality; and what is more important that by producing bodily inability the wickedness of lust is not tamed, but on the contrary, it becomes furious, violent, brutally savage.

The irrevocable cancellation of all natural feelings and aspirations which follows castration, if combined with the spirit of the Sect, put castrates in irreconcilably hostile relationship with the conditions of public union and civil order: accompanied by the continuous violations of the laws, inconspicuous only because they are committed in secret” (Keĭ siev, 1862, p. 239).

We can say that castration was the chief feature in the teaching and life of Skoptsy it was called the main anti-moral element in skopchestvo as “the anti-social and anti-moral action”. It is known, that the castration operation which the first skoptsy undertook consisted in “cutting out seed kernels or the testicles, called them “udesnye bliznyata”. This was done by “burning” of the scrotum with a hot iron and corresponded with consistent literally with the name of such an operation “baptism of fire”.

Later on, there was established the practice of using a razor, knife or other long sharp tool, with which the scrotum was cut. The latter was preliminarily bandaged with a thread (a thin rope). Later to achieve the “perfect dispassion and complete purity”, the skoptsy began to expose themselves to cutting “the genital organ, which they called the “key to the abyss””. This operation, fulfilled with such tools as an axe or chisel, was called “full baptism” or, as has been already mentioned, the “laying on of the tsar seal”. According to N.I. Nadezhdin, the second type of oskoplenie (castration) started spreading in St. Petersburg no earlier than 1816, and from the point of view of the so-called “old skoptsy” (“undergone kernel cutting”), was “a criminal of innovation which founder were the Zamoskovnye skoptsy” (Keĭ siev, 1862, pp. 124-125).

“Study on skopcheskaya heresy” stated that the signs of women castrations usually could be seen “on the breasts or in the genital organs. The former is sometimes cut out completely, sometimes only nipples are cut, burned or etched; and sometimes it is limited to the cutting a part of a breast, especially under the left one. As for the genitals a clitoris, small vulva lips, and sometimes a part of big ones are cut out. In fact, women castration can be made only by cutting “ovaries”: but this operation, due to extreme difficulty in execution, is considered in conventional Medicine (we are talking about the first half of the XIX century – I. A.) highly doubtful if not completely impossible” (Kel’siev, 1862, p. 128).

Castration of women, according to “old skoptsy” also belonged to innovations, started spreading in St. Petersburg in 1816 (as well as a secondary “full” castration of men supposedly fulfilled against the will of Selivanov, the founder of the sect. However, this data is disputed because it is believed that Selivanov subjected himself to a “full” castration (Kel’siev, 1862, pp. 126-129).

The topicality of the consideration of the ways of castration is justified by “the first important evidence” that a person’s belonging to skopchestvo was his / her castration. So, during the Kudrins’ trial the question whether strips, cuts and scars on the breasts are considered to be a sign of a women castration was focused in particular (Protsess Kudrinykh, 1900, pp. 109-110).

Also, N.I. Nadezhdin stated that from the reports of the local authorities the existence of a special kind of skoptsy, called “turncoats” became known. It was stated that they “do not deprive themselves of any parts of the body; but, probably since childhood, they have twisted their “the spermatic cord or testicles”, to which the kernels suspended, and thereby severed any organic connection between them and the rest of the body, which prevents them from the maturation of sperm in the testicles, and therefore, in its consequences, is compared with castration”. In addition, a new sect founded by peasant Kutkin was mentioned, which gave “a strong reason to suspect” that

they practiced castration by “cutting or pricking” of spermatic cords”, which had the same effects as twisting”.

Though, this suspicion, “accepted by indigenes as an unquestionable certainty”, was not confirmed by the local medical examination, some experienced and knowledgeable doctors whom the above - mentioned author named, believed that if such an operation (in spite of the difficulty in performance) was successfully done, it would not be possible to diagnose it as well as the operation of twisting, by external examination only (Kel`siev, 1862, pp. 126-127).

While assessing the value of these data a fact should be taken into account that according to the opinion of the Senate, the belonging to skopchestvo without its distribution, or involving other people into it, *without self-castration or castration of others* (italics is ours – A. I.) was not punishable (Poznyshev, 1905, p. 321). So, some sources talk about the existence of the so-called novoskopchestvo or spiritual skopchestvo, whose adherents apparently denied factual castration (according to other sources, castration should be done at the old age in order not to be prosecuted for belonging to the bigoted sect) (Skvortsov, 1898, pp. 131-133).

Discussing the state administration of injunctions concerning adherents of skopchestvo and their interpretation, we should agree with V. Kel`siev that “the most terrible charge that can be brought against skoptsy” is castration of children and violent castration of adults. However, this author wondered whether such cases were the result of “bigoted zeal” of some individuals or a General rule of the sect in whole.

As arguments in favor of the former option, he cited considerations of some “dissenters”, stated that it would be offensive for them to prey with a person, who adhered them out of fear or bondage. In accordance with it, from the point of view of the skoptsy “it hardly need to castrate an uncertain, lacking of faith person; it is incredible to assume that they would not have any temptation before the

final entry into the Sect, and how could they strongly and solidly keep their ships (names of skoptsy`s communes – *I. A.*), if anybody and everybody was accepted?" (Kel`siev, 1862, pp. V, VI). Recognizing that an attack on someone, an encroachment on someone`s personality, violence of any kind should be preventable and persecuted by the state, V. Kel`siev expressed a pretty controversial opinion, that the skoptsy (as the followers of all religious associations in general) should be given absolute freedom to do "absolutely anything" *with themselves* (italics is ours – *A. I.*).

From this point of view, the skoptsy, as well as followers of the doctrines, suggesting "self-destruction", cannot be stopped by anything, "except declaring absolute freedom to cut and drew themselves as much as they want. An absolute permission of suicide – will inevitably kill bigotry. Only persecution and mystery provide an opportunity to exist" such sects. It is assumed that freedom of conscience, together with the provision of other rights and freedoms (for "destruction of evil" preaching should be used, hearing of which is not supposed to be mandatory), if does not destroy similar phenomena, then, in any case, weakens them (Kel`siev, 1860, pp. XVII, XXVII).

## **CONCLUSIONS.**

In summary, one can observe the tendency of the state reflected in the examined legal regulations banning the organization and operation of religious associations that use the means "undermining morality and public order".

The aim of the punishment for the Skoptsy was deprivation of the doctrine adherents of any opportunity to influence others and spread their beliefs. However, taking into account the shortcomings of pre-revolutionary criminal legislation (in particular, certain archaic regulations of "crimes against the faith"); there were suggestions to improve it, including regulations regarding the responsibility of the followers of the "bigoted" sects. In particular, it was assumed that castration made with the consent of a castrated person (as well as self-castration) should not be considered as

a crime provided that a castrated person was of full legal age, *compos mentis*, and his consent was not a random statement.

In conclusion, taking into account the pre-revolutionary practice of the state policy concerning the Skoptsy, it is possible to make the following judgment on the issues of modern religious policy. In our opinion, in relation to religious groups, like the sect of the Skoptsy, it is appropriate to speak about a reasonable combination of coercive measures (in the case of violent acts against others) and persuasion (e.g. in relation to voluntary violent acts that a person performs over him / herself).

### **Conflict of interest.**

The authors confirm the absence of a conflict of interest.

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