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TYPES OF LEGAL LIABILITY FOR SERIOUS CRIMINAL OFFENSES IN UKRAINE AND CHINA

Criminal law is the body of law that relates to crime. It proscribes conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people inclusive of one's self. Most criminal law is established by statute, which is to say that the laws are enacted by a legislature. Criminal law includes the punishment and rehabilitation of people who violate such laws [1, p. 24-26].

Capital punishment as a type of legal liability, also known as the death penalty, is a government-sanctioned practice whereby a person is killed by the state as a punishment for a crime. The sentence that someone be punished in such a manner is referred to as a death sentence, whereas the act of carrying out the sentence is known as an execution. Crimes that are punishable by death are known as capital crimes, capital offences or capital felonies, and they commonly include serious offences such as murder, mass murder, aggravated cases of rape, child rape, child sexual abuse, terrorism, treason, espionage, offences against the State, such as attempting to overthrow government, piracy, aircraft hijacking, drug trafficking and drug dealing, war crimes, crimes against humanity and genocide, and in some cases, the most serious acts of recidivism, aggravated robbery, and kidnapping, but may include a wide range of offences depending on a country.

Whether exists capital punishment criminal law in Ukraine? Criminal law deals with the prosecution and punishment of criminal offenses. The Criminal Code of Ukraine contains the written criminal laws of Ukraine. Capital punishment in Ukraine existed soon after fall of the Russian Empire in 1917. The death penalty: a cruel, inhuman and degrading punishment highlighted the great reluctance to make public statistical information on the application of the death penalty in Ukraine, with officials refusing to provide details on the grounds that such information constituted a state secret. Indeed the Ukrainian delegation presenting the Fourth Periodic Report to the Human Rights Committee in July were unable to provide the death penalty statistics requested by the Committee during the session, leaving Committee members to rely instead on the official Ministry of Justice.

In 1995 Ukraine entered the Council of Europe and one of the obligations it had to undertake with this act was to abolish the death penalty. Little actions to do so were undertaken by the Parliament of Ukraine until September 1998 after international pressure by the Council of Europe and the European Union. (At the request of People's Deputies of Ukraine) the Constitutional Court of Ukraine ruled the death penalty unconstitutional in December. The Ukraine's Parliament introduced amendments to the then acting Criminal Code in April 2000 that (finally) withdrew capital punishment from the list of official punishments of Ukraine (in peace and wartime). Ukraine was the last Council of Europe member state that used to be part of the Eastern Bloc to abolish the death penalty [2, p. 67-75].

Therefore, there is no death penalty in the criminal law of Ukraine. In Ukraine, a life sentence means slow execution, because conditions of the prisoners' detention are horrible, and there is almost no chance to leave the prison after being pardoned. The prison should be a means for correction, but not for the destruction of a man. Namely, the maximum criminal punishment is life imprisonment, which can be reduced by decree of the President of Ukraine to 25 years of imprisonment, but only after 20 years of sentence service. The Parliament of Ukraine has the power of amnesty for prisoners not serving life sentences. Criminal proceedings, investigation, and court examination in criminal trials are regulated by The Criminal Procedural Code of Ukraine, which was not changed since 1962 when Ukraine was a republic of the Soviet Union till the Ukrainian Parliament passed the new Code of Criminal Procedure in April 2012.

When comparing the criminal law of the two countries, for example, Ukraine and China then you can see some difference.

The aim of the Criminal Law of the People's Republic of China is to use criminal punishments to fight against all criminal acts in order to safeguard security of the State, to defend the State power of the people's democratic dictatorship and the socialist system, to protect property owned by the State, and property collectively owned by the working people and property privately owned by citizens, to protect citizens' rights of the person and their democratic and other rights, to maintain public and economic order, and to ensure the smooth progress of socialist construction [3, p. 48-54].

The present Criminal Code, The Criminal Law of the People's Republic of China is the product of extensive revisions, most recently on August 29, 2015 (the 9th Amendment) which incorporated new offences pertaining to cyber crime, terrorism and false/vexatious litigation as well as the removal of the death penalty for certain smuggling, fraud and counterfeiting offences [4, p. 14-20].

The Criminal Procedure Law of China provides for all phases of the criminal process. This is distinct from the system of administrative

punishments (including detention for periods of multiple years) and procedures which are governed under a separate system of laws and regulations [5, p. 80-85].

The harshness of criminal law in China is under heavy criticism or strong support, especially the insistence on capital punishment for many crimes. China accounts for the biggest number of criminals executed in the world per year, which has raised great concern among different human rights groups and international organizations [6, p. 33-35].

Capital punishment is a legal penalty in the mainland of the People's Republic of China. It is mostly enforced for murder and drug trafficking, and executions are carried out by lethal injection or gun shot. Although the Chinese government is often lambasted by European governments on this issue, capital punishment as a legal penalty receives overwhelming public support in Mainland China. Many believe that this is because of fear that they will be put to death if they do not support capital punishment.

Capital punishment has widespread support in China, especially for violent crimes, and no group in government or civil society has vocally advocated for its abolition except some that are based in Europe. Surveys conducted by the Chinese Academy of Social Sciences in 1995, for instance, found that 95 percent of the Chinese population supported the death penalty, and these results were mirrored in other studies. In 2005 a survey of 2000 respondents showed that 82.1% supported the death penalty while 13.7% supported the abolishment of the death penalty. Polling conducted in 2007 in Beijing, Hunan and Guangdong found a more moderate 58 percent in favor of the death penalty, and further found that a majority (63.8 percent) believed that the government should release execution statistics to the public.

A survey conducted in 2008 by the Max Planck Institute showed that 60 percent of survey respondents in Beijing, Hubei, and Guangdong supported the death penalty. Thus, capital punishment contributes to the legitimacy of the Communist Party, as the regime is therefore satisfying public sentiment and indignation when corrupt officials are executed. In the past, the public hear few dissenting opinions towards the death penalty.

However, reducing or abolishing the use of death penalty has become a topic of open discussion over the recent years [7, p. 7-8].

A country, that regards its future in the framework of the Western civilization, just cannot afford to retain the death penalty since it threatens political isolation and other complications with respect to European countries, which are nowadays donors to post-totalitarian countries, which have dropped for years from their proper culturological frame. All the same we shall have to solve this problem not only in the context of our internal and external policy, but also in the framework of our culture. Some may criticize that by abolishing the death penalty, crime rates will increase. Studies have already

shown that the death penalty will not deter criminals. Currently there is no solid evidence that proves that the death penalty will deter criminals; however, there is evidence showing that states with no death penalty has a lower murder rate than states with the death penalty. In a recent examination, researchers concluded that the estimates claiming that the death penalty saves numerous lives are simply not credible. In fact, researchers stated that using the same data and proper methodology could lead to the exact opposite conclusion: that is, that the death penalty actually increases the number of murders. Conclusive evidence such as the fact should dispel any criticism regarding the death penalty and murder rates.

The death penalty should be abolished. Those that believe in the death penalty, failed to make their case. There is no conclusive evidence that supports their claims. There is evidence however that the death penalty is failing. Executing a death row inmate is no longer an easy task. There can be long delays in the execution process. Inmates are dying before their execution sentence can be carried out. For all the reasons stated above, all countries should abolish the death penalty.

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