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PEOPLE'S REPUBLIC OF CHINA

The death penalty is listed as a principal type of punishment under article 28, section 1 ("Types of Punishments"), Chapter III ("Punishments"), of the Criminal Law of the People's Republic of China. ^{1/} Section 5 ("The Death Penalty") of Chapter III, articles 43-47, deals with the applicability of the penalty, the means of execution, and the conditions of suspension of the sentence. ^{2/} The Criminal Law was adopted on July 1, 1979, and became effective January 1, 1980. Crimes for which the death penalty may be applied are found under Part Two, "Special Provisions." They include counterrevolution (art. 103), endangerment of public security leading to serious injury or death or to major damage of public or private property (art. 106), sabotage (art. 110), murder (art. 132), rape (art. 139), corruption by state personnel (art. 155), and intentional sabotage with treasonous intent of permanent boundary tablets, boundary markers, or survey indicators on the national borders (art. 175).

In 1982, the Criminal Law was amended by the "Decision of the Standing Committee of the National People's Congress Regarding the Severe Punishment of Criminals Who Seriously Undermine the Economy." The Decision states that the death penalty may be applied

"[w]ith respect to the crimes of seeking exorbitant profits through smuggling, speculative arbitrage and speculation in Article 118..., the crime of theft in Article 152, the crime of

^{1/} For the Chinese text and the English translation, see the bilingual publication The Criminal Law and the Criminal Procedure Law of China 18, 76 (Beijing, Foreign Languages Press, 1984).

^{2/} Id. at 21-22, 78-79.

sale of narcotics in Article 171, [and] the crime of stealing and exporting precious cultural relics in Article 173.... 3/

The Decision also states that the crime of acceptance of bribes (art. 185, para. 1 and 2) is to be handled in accordance with the crime of corruption (art. 155) if it involves state personnel, and that in particularly serious cases the death penalty may be applied. 4/

The "Decision of the Standing Committee of the National People's Congress Regarding the Severe Punishment of Criminal Elements Who Seriously Endanger Public Security," adopted on September 2, 1983, increased the maximum punishment for certain other crimes to include the death penalty. 5/ The crimes affected were organization or use of superstition, superstitious sects, or secret societies to carry out counterrevolutionary activity (art. 99); illegal manufacture, trade in, or transport of arms or ammunition, or theft or seizure of the arms and ammunition of state organs (art. 112); intentional injury or serious injury to another's person, or intentional injury resulting in the death of another person (art. 134); forcing women into prostitution (art. 140); abduction and sale of people (art. 141); assembling of a crowd to engage in hooligan activities (art. 160); luring women into prostitution or sheltering them in prostitution for the purpose of financial gain (art. 169).

3/ Supra note 1, at 230, 234.

4/ Id. at 230-231, 235.

5/ Id. at 241-242, 243-245.

On January 21, 1988, two supplementary regulations to the above Decision, adopted by the Standing Committee, went into effect. These regulations

impose a death penalty for those smuggling narcotic drugs, weapons, ammunition, counterfeit money, and rare cultural relics, animals and their products, gold, white silver and other valuable metals the state prohibits to export, or goods worth more than half a million yuan. The capital penalty applies to those who protect smuggling with arms. 6/

In addition, life imprisonment or the death penalty will be meted out in particularly serious cases of embezzlement, bribery, or infliction of losses on the state or individual units.

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February 1988

TTH:WZ:psc
02/26/88

6/ Xinhua (English), Jan. 21, 1988, as cited in Foreign Broadcast Information Service, Daily Report: China, Jan. 22, 1988, at 9.

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REPUBLIC OF CHINA (TAIWAN)

The Criminal Code of the Republic of China provides for the death penalty under article 33 of Chapter V, "Punishment," of Part One, "General Provisions." ^{1/} The Code was promulgated on January 1, 1935, and went into effect on July 1 of that year. It was last amended on December 26, 1969.

Crimes punishable by death, found in Part Two, "Special Provisions," of the Criminal Code include ringleadership of certain violent acts that threaten the internal security of the state (Chap. I, art. 101, para. 1); various offenses against the external security of the state (Chap. II, arts. 103, para. 1, 104, para. 1, 105, para. 1, 107, para. 1); abandonment of the territory in his charge through serious neglect of duty on the part of a public official (Chap. IV, art. 120, para. 1); rape with intentional murder (Chap. XVI, art. 223); use of his authority by a public official to compel another person to commit offenses related to the cultivation of the poppy plant with intent to manufacture opium or morphine, or to the sale or transport of poppy seeds with intent to manufacture opium or morphine (Chap. XX, art. 261); murder (Chap. XXII, art. 271, para. 1); murder of a lineal blood ascendant (art. 272, para. 1); robbery resulting in death (Chap. XXX, art. 328, para. 3); robbery committed in conjunction with arson, rape, kidnapping for ransom, or intentional homicide (art. 332); acts of piracy (art. 333); acts of piracy committed in conjunction with arson,

^{1/} The Chinese text of the Code is in Tsui hsin liu fa ch'uan shu [The Most Recent Complete Book of the Six Codes] 916 (Taipei, San-min Books, 1986). For an English translation, see 2 A Compilation of the Laws of the Republic of China 189 (Taipei, San-min Books, 1974).

rape, kidnapping for ransom, or intentional homicide (art. 334); kidnapping (Chap. XXXIII, art. 347, para. 1 and 2); kidnapping and intentional murder or rape of the victim (art. 348, para. 1 and 2).

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