

Scaling back capital punishment

Amendments to laws related to criminal affairs limit the use of the death penalty, better protect human rights

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In the 40 years since China adopted the reform and opening-up policy, the country has moved to gradually limit the use of the death penalty, a punishment that was once seen as a cornerstone in the fight to deter offenders and maintain public order.

Experts say the move away from capital punishment is partly a result of the nation's growing economic strength, but is also motivated by a desire to prevent irreversible miscarriages of justice.

Zhou Guangquan, a professor of criminal law at Tsinghua University in Beijing, referred to the case of Nie Shubin as an example.

In 1995, Nie was executed at the age of 21 after being convicted of raping and killing a woman in North China's Hebei province. In 2016, however, the Supreme People's Court, China's top court, quashed Nie's conviction and pronounced him not guilty posthumously after ruling that the evidence presented at his trial had been obtained illegally and could not guarantee a flawless conviction.

Moreover, in 2013, during a trial at Handan Intermediate People's Court in Hebei, a man named Wang Shujin confessed to the crimes that led to Nie's execution.

Cases like Nie's demonstrate that the death penalty must be used in a prudent and controlled fashion, according to Zhou, who was pleased to see greater restrictions on its use written into a report issued at the Third Plenary Session of the 18th Central Committee of the Communist Party of China in 2013.

"It was a signal that capital punishment would be used less frequently in China," he said, adding that the loss of a young life and the anguish suffered by Nie's family "was too devastating to be erased by simply overturning the conviction".

Mo Hongxian, a professor of law at Wuhan University, Central China's Hubei province, has focused on the use of the death penalty since 1997. She said the 2013 report was likely the first time the prudent application of capital punishment had been mentioned in a national-level document.

"It can be regarded as a display of firm support for the drive to limit the use of the death penalty in the past two decades," Mo said.

A key move in 2007 saw the Supreme People's Court being given the power of final arbitration over the use of capital punishment, meaning it has to approve all death sentences passed by lower-level courts.

Meanwhile, "innocent until proven guilty" and "punishment stipu-



Crimes not subject to death penalty since 2015



- ▶ Smuggling weapons and ammunition
- ▶ Smuggling nuclear materials
- ▶ Smuggling counterfeit bank notes
- ▶ Counterfeiting banknotes
- ▶ Collecting funds by fraudulent or illegal fundraising
- ▶ Organizing prostitution
- ▶ Coercing people into prostitution
- ▶ Interfering with military duties
- ▶ Spreading rumors during wartime

Source: The Criminal Law
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lated by law" were enshrined as basic principles in the Criminal Law.

In 2011, the death penalty was abolished for dozens of nonviolent crimes, such as fraud of financial documents and theft.

"These measures illustrate the country's determination to protect human rights," said Mo, who was born in 1954 and has witnessed all 40 years of reform and opening-up.

She added that the changes were a direct result of China's rapid economic development, stronger management of public security and the public's growing legal awareness, and noted that the abolition of the death penalty for a growing number of crimes is in line with global trends.

Although the number of people sentenced to death every year is never disclosed, both Mo and Zhou are optimistic about further reductions in the use of capital punishment for a wide range of nonviolent crimes.

In the 1980s and early 90s, the government set harsh penalties to act as a deterrent and to maintain public security.

According to Hu Yunteng, a senior judge at the Supreme People's Court, from 1982 to 1996, rural people flooded into China's big cities, seeking job opportunities in the rapidly diversifying market. However, the nation's urban management systems could not keep pace with the changes, let alone solve them.

The changes also resulted in a rise in criminal activity, especially financial offenses, that harmed public security and threw the fledgling market into disarray. In response, the government tried to solve the problem by adding more than 100 new crimes to the statute books, imposing harsher punishments and extending the death penalty to 40 more crimes, he said.

In 1983, sentences ranging from five years imprisonment to death — often referred to as "tougher penalties" — accounted for about 50 percent of convictions.

Meanwhile, provincial-level courts had the right to impose the death penalty, especially when ruling on crimes such as intentional homicide (the crime of murder does not exist in Chinese law), rape, robbery, bombing and drug-related offenses, Hu said.

"At the time, the judicial system preferred tougher punishments and placed great emphasis on efficient solving of cases, so we were not strict enough in ensuring that evidence was relevant and correctly obtained," he said.

Economic growth accelerated after China further opened up in the late 1990s, which led to a fall in the number of robberies and other