

The Communist Party of China's Approach to Human Rights and the Death Penalty in China since 1979

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Abstract : The issues of human rights and death penalty are always drawing attentions from international scholars, critics and observers, activities and Chinese scholars, and most of them looking at these problems are just doing with such legal or political from a single perspective, but the real relationship between Chinese political regime and legislation is often ignored. In accordance with the Constitution of P.R.C., Communist Party of China (CPC) does not merely play a key role in political field, but in legislation and law enforcement as well. Therefore, the legislation has to implement the party's theory and outlook, and realize the party's policies. So is the death penalty system, though it is only concrete punishment system. Considering this point, basic upon the introducing the relationship between CPC and legislation, this paper would like to explore the shifting of CPC's outlook on human rights and the death penalty system changes in different eras. In Maoist era, the issue of human rights was rejected and deemed as an exclusion zone, and the death penalty was unjustifiably imposed; human rights were politically recognized and accepted in Deng era, but CPC has its own viewpoints on it. CPC emphasized on national security and stability in that era, and the individual human rights weren't taken correspondingly and reasonably account of. The death penalty was abused and deemed as an important measure to control crime. In post-Deng, human rights were gradually developed and recognized. The term of 'state respect and protect human rights' is contained in Constitution of P.R.C., and the individual human rights are gradually valued, but the CPC still focus on state security, development, and stability, the individual right to life hasn't been enough valued like the right to substance. Although the steps of reforming death penalty are taking, there are still 46 crimes punishable by death. CPC should change its outlook and pay more attention to the right to life, and try to abolish death penalty de facto and de jure.

Keywords : criminal law, communist party of China, death penalty, human rights, China

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