Criminal Law of the People's Republic of China

Adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and amended by the Fifth Session of the Eighth National People's Congress on March 14, 1997)

Part I General Provisions

Chapter I Tasks, Basic Principles, and Scope of Application of the Criminal Law

Article 6. This law is applicable to all who commit crimes within the territory of the PRC except as specially stipulated by law.

This law is also applicable to all who commit crimes aboard a ship or aircraft of the PRC.

When either the act or consequence of a crime takes place within PRC territory, a crime is deemed to have been committed within PRC territory.

Article 7. This law is applicable to PRC citizens who commit the crimes specified in this law outside the territory of the PRC; but those who commit the crimes, provided that this law stipulates a minimum sentence of less than a three-year fixed-term imprisonment for such crimes, may not be dealt with.

This law is applicable to PRC state personnel and military personnel who commit the crimes specified in this law outside PRC territory.
Article 8. This law may be applicable to foreigners, who outside PRC territory, commit crimes against the PRC state or against its citizens, provided that this law stipulates a minimum sentence of not less than a three-year fixed term of imprisonment for such crimes; but an exception is to be made if a crime is not punishable according the law of the place where it was committed.

Article 9. This law is applicable to the crimes specified in international treaties to which the PRC is a signatory state or with which it is a member and the PRC exercises criminal jurisdiction over such crimes within its treaty obligations.

Article 10. Any person who commits a crime outside PRC territory and according to this law bear criminal responsibility may still be dealt with according to this law even if he has been tried in a foreign country; however, a person who has already received criminal punishment in a foreign country may be exempted from punishment or given a mitigated punishment.

Chapter II Crimes

Section 1. Crimes and Criminal Responsibility

Article 13. All acts that endanger the sovereignty, territorial integrity, and security of the state; split the state; subvert the political power of the people's democratic dictatorship and overthrow the socialist system; undermine social and economic order; violate property owned by the state or property collectively owned by the
laboring masses; violate citizens' privately owned property; infringe upon citizens' rights of the person, democratic rights. and other rights; and other acts that endanger society, are crimes if according to law they should be criminally punished. However, if the circumstances are clearly minor and the harm is not great, they are not to be deemed crimes.

Article 14. An intentional crime is a crime constituted as a result of clear knowledge that one's own act will cause socially dangerous consequences, and of hope for or indifference to the occurrence of those consequences.

Criminal responsibility shall be borne for intentional crimes.

Article 15. A negligent crime occurs when one should foresee that one's act may cause socially dangerous consequences but fails to do so because of carelessness or, having foreseen the consequences, readily assumes he can prevent them, with the result that these consequences occur.

Criminal responsibility is to be borne for negligent crimes only when the law so stipulates.

Article 16. Although an act objectively creates harmful consequences, if it does not result from intent or negligence but rather stems from irresistible or unforeseeable causes, it is not a crime.

Article 17. A person who has reached the age of eighteen who commits a crime shall bear criminal responsibility.
A person who has reached the age of fourteen but not the age of eighteen who commits the crimes of intentionally killing another or intentionally injuring another, even causing serious injury or death, and the crimes of rape, robbery, drug trafficking, arson, explosion, and poisoning shall bear criminal responsibility.

A person who has reached the age of fourteen but not the age of eighteen who commits a crime shall be given a lesser punishment or a mitigated punishment.

When a person is not criminally punished because he has not reached the age of eighteen, the head of his family or guardian is to be ordered to subject him to discipline. When necessary, he may also be given shelter and rehabilitation by the government.

Article 18. A mentally ill person who causes dangerous consequences at a time when he is unable to recognize or unable to control his own conduct is not to bear criminal responsibility after being established through accreditation of legal procedures; but his family or guardian shall be ordered to subject him to strict surveillance and arrange for his medical treatment. When necessary, he will be given compulsory medical treatment by the government.

A person whose mental illness is of an intermittent nature shall bear criminal responsibility if he commits a crime during a period of mental normality.
A mentally ill person who commits a crime at a time when he has not yet completely lost his ability to recognize or control his own conduct shall bear criminal responsibility but he may be given a lesser or a mitigated punishment.

An intoxicated person who commits a crime shall bear criminal responsibility.

Article 19. A deaf-mute or a blind person who commits a crime may be given a lesser punishment or a mitigated punishment or be exempted from punishment.

Article 20. Criminal responsibility is not to be borne for an act of legitimate defense that is undertaken to stop present unlawful infringement of the state's and public interest or the rights of the person, property or other rights of the actor or of other people and that causes harm to the unlawful infringer.

Criminal responsibility shall be borne where legitimate defense noticeably exceeds the necessary limits and causes great harm. However, consideration shall be given to imposing a mitigated punishment or to granting exemption from punishment.

Criminal responsibility is not to be borne for a defensive act undertaken against ongoing physical assault, murder, robbery, rape, kidnap, and other violent crimes that seriously endanger personal safety that causes injury or death to the unlawful infringer since such an act is not an excessive defense.

Article 21. Criminal responsibility is not to be borne for damage resulting from an act of urgent danger prevention that must be undertaken in order to avert the
occurrence of present danger to the state or public interest or the rights of the person, property rights, or other rights of the actor or of other people.

Criminal responsibility shall be borne where urgent danger prevention exceeds the necessary limits and causes undue harm. However, consideration shall be given according to the circumstances to imposing a mitigated punishment or to granting exemption from punishment.

The provisions of the first paragraph with respect to preventing danger to oneself do not apply to a person who bears specific responsibility in his post or profession.

Section 2. Preparation for a Crime, Criminal Attempt and Discontinuation of a Crime

Article 22. Preparation for a crime is preparation of the instruments or creation of the conditions for the commission of a crime.

One who prepares for a crime may, in comparison with one who consummates the crime, be given a lesser punishment or a mitigated punishment or be exempted from punishment.

Article 23. Criminal attempt occurs when a crime has already begun to be carried out but is not consummated because of factors independent of the will of the criminal element.
One who attempts to commit a crime may, in comparison with one who consummates the crime, be given a lesser punishment or a mitigated punishment.

Article 24. Discontinuation of a crime occurs when, during the process of committing a crime, the actor voluntarily discontinues the crime or voluntarily and effectively prevents the consequences of the crime from occurring.

One who discontinues a crime shall be exempted from punishment when there is no harm done or be given a mitigated punishment when there is harm done.

Section 3. Joint Crimes

Article 25. A joint crime is an intentional crime committed by two or more persons jointly.

A negligent crime committed by two or more persons jointly is not to be punished as a joint crime; those who should bear criminal responsibility are to be punished separately according to the crimes they have committed.

Article 26. A principal offender is one who organizes and leads a criminal group in conducting criminal activities or plays a principal role in a joint crime.

A crime syndicate is a more or less permanent crime organization composed of three or more persons for the purpose of jointly committing crimes.

The head who organizes or leads a crime syndicate shall bear criminal responsibility for all the crimes committed by the syndicate.
A principal offender other than the one stipulated in the third paragraph shall bear criminal responsibility for all the crimes he participated in, organized, or directed.

Article 27. An accomplice is one who plays a secondary or supplementary role in a joint crime.

An accomplice shall, in comparison with a principal offender, be given a lesser punishment or a mitigated punishment or be exempted from punishment.

Article 28. One who is coerced to participate in a crime shall, according to the circumstances of his crime, be given a mitigated punishment or be exempted from punishment.

Article 29. One who instigates others to commit a crime shall be punished according to the role he plays in the joint crime. One who instigates a person under the age of eighteen to commit a crime shall be given a heavier punishment.

If the instigated person does not commit the instigated crime, the instigator may be given a lesser punishment or a mitigated punishment.

Section 4. Crimes Committed by a Unit

Article 30. A company, enterprise, institution, organization, or group which commits an act endangering society that is considered a crime under the law shall bear criminal responsibility.
Article 31. A unit responsible for a criminal act shall be fined. The person in charge and other personnel who are directly responsible shall also bear criminal responsibility. Where there are other stipulations in the Special Provisions of this Law or other laws, those stipulations shall apply.

PART II Special Provisions

Chapter VI Crimes of Disrupting the Order of Social Administration

Section 3. Crimes of Disrupting Administration of the Border

Article 318. Whoever organizes people to secretly cross the national boundary (border) shall be sentenced to not less than two years and not more than seven years of fixed-term imprisonment and a fine; or not less than seven years of fixed-term imprisonment or to life imprisonment, and may in addition be sentenced to a fine or confiscation of property for any of the following situations:

(1) ringleader who organizes people to secretly cross the national boundary (border);

(2) repeatedly organizing people to secretly cross the national boundary (border) or organizing a large number of people to secretly cross the national boundary (border);

(3) causing serious injuries and deaths to the people being organized;
(4) depriving or restricting personal freedom of the people being organized;

(5) resisting investigation by violent or threatening methods;

(6) obtaining huge amounts of illegal income;

(7) other exceptionally serious circumstances.

Whoever commits the crimes mentioned in the preceding paragraph, killing, harming, raping, and kidnapping and selling the people being organized, or the crimes of killing and harming investigating personnel shall be punished in accordance with the stipulations concerning combined punishment for more than one crime.

Article 319. Whoever defrauds people, in the name of labor export and economic and trade exchanges or for other reasons, of their exit documents such as passports and visas through fraud and deception for use in organizing people in the secret crossing of the national boundary (border) shall be sentenced to not more than three years of fixed-term imprisonment, and may in addition be sentenced to a fine; and when the circumstances are serious, not less than three years and not more than 10 years of fixed-term imprisonment, and may in addition be sentenced to a fine.

Institutions which commit the crimes mentioned in the preceding paragraph shall be sentenced to a fine, and principal personnel directly responsible for the crime and other personnel with direct responsibility shall be punished in accordance with the stipulations of the preceding paragraph.
Article 320. Whoever provides fake and altered exit and entry documents such as passports and visas, or sells exit and entry documents such as passports and visas, shall be sentenced to not more than five years of fixed-term imprisonment, and may in addition be sentenced to a fine; and when the circumstances are serious, not less than five years of fixed-term imprisonment, and may in addition be sentenced to a fine.

Article 321. Whoever transports people secretly across the national boundary (border) shall be sentenced to not more than five years of fixed-term imprisonment and criminal detention or control, and may in addition be sentenced to a fine; or not less than five years and not more than 10 years of fixed-term imprisonment and a fine for any of the following situations:

(1) repeatedly involving in transporting activities or transporting a large number of people;

(2) using transportation means such as ships and vehicles that do not meet essential safety conditions and that are sufficient to cause serious consequences;

(3) obtaining huge amount of illegal income;

(4) other exceptionally serious circumstances.

Whoever, in the course of transporting people secretly across the national boundary (border), causes heavy injuries and deaths to the people being transported or resists investigation by violent and threatening methods shall be sentenced to not less than
seven years of fixed-term imprisonment, and may in addition be sentenced to a fine.

Whoever commits the crimes mentioned in the two preceding paragraphs by killing, harming, raping, and kidnapping and selling the people being transported; or the crimes of killing and harming investigating personnel shall be punished in accordance with the stipulations concerning combined punishment for more than one crime.