

The Application of the Criminal Policy of Temper Justice with Mercy in the Crimes of the Underworld Forces

Wang Xiying

Tianjin University of commerce, Tianjin, China

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Abstract: On January 24, 2018, after the Central Committee of the Communist Party of China and the State Council issued the “Notice on Launching a Special Struggle to Suppress Gangsters and Evil”, combating underworld crimes has become a key task in today's society. The existence of crimes committed by the underworld means great loss of property to the people and great damage to the country's social order, which must be strictly controlled. However, while severely cracking down, we must implement the criminal policy of both leniency and strictness, so that punishment should be the crime, and the human rights of criminal suspects should be protected while severely cracking down, so as to maintain social stability. It is the ideological guidance and practice that everyone's basic work that criminal law scholars should do more. This article is specifically developed based on this consideration.

1. Introduction

On January 24, 2018, the Central Committee of the Communist Party of China and the State Council issued the “Notice on Launching a Special Struggle to Suppress Evil Gangs” (hereinafter referred to as the “Notice”). The “Notice” puts forward the overall goals, key areas, and key points of anti-gangs my country has begun a new round of strict governance in key areas. Unlike in the past, in the new era, my country must place the fight against criminal underworld crimes under a policy of both leniency and strictness, and coordinate the key and strict governance with the overall direction of national policies to jointly promote social progress. Therefore, how to clarify the relationship between the criminal policy of both leniency and strictness in the new era and the legislation against criminal forces will be the focus of national work in the future, and it will also be a long-term hot issue in criminal law theory.

2. Necessity of the Criminal Policy of Combining Leniency and Severity in the Application of Gangland Crimes

2.1 Policy Requirements

Strictly speaking, the term “underworld” is not a legal concept, but it can be related to the

definition of underworld organizations stipulated by law. Judges handling corresponding cases in judicial practice will also distinguish underworld organizations from underworld organizations. Treat it equally, and think it evolved from the evil forces. The “Notice” stipulates that the special struggle against criminals and evil should “strictly implement the criminal policy of combining leniency and strictness, and the criminal organizers, leaders, backbone members and their “protective umbrellas” of the underworld should be severely punished in accordance with the law, and the circumstances of the crime should be severely punished. Other minor participants shall be given lighter and mitigated punishments in accordance with the law. ” That is to say, the criminal policy of both leniency and strictness should be implemented when dealing with criminal underworld organizations. Then, according to Zhang Mingkai, of course, the interpretation method implies the most. In the play, it is obvious that the light is light, and when convicted, the light is clear. The handling of the underworld and evil forces should also comply with the criminal policy of mercy and strictness.

2. 1. 1 Realistic Needs

Implementing the criminal policy of combining leniency and strictness in the special struggle against criminals is a requirement for building a harmonious society. Under normal circumstances, crimes committed by the underworld forces have many characteristics such as great social harm, far-reaching impact, and severely disrupting the normal life of the country and society. Therefore, many members of the public will involuntarily choose to severely crack down on crimes by the underworld forces in order to. To eradicate this evil force from crime. However, Italian scholar Philip’s crime saturation theory believes that the social phenomenon of crime is the result of the interaction of human factors, natural factors, and social factors. Different societies have different and due crimes. From this point of view, crimes committed by the underworld is also an inevitable situation in the current stage of social development. The attitude towards such crimes should be the same as other crimes, and the criminal policy of both leniency and strictness should be used to make better adjustments, rather than blindly severely cracked down.

2. 2 The Pursuit of Justice

After combining the characteristics of various criminal law disciplines, Liszt proposed: The best criminal policy is the best social policy concept. Liszt, a positivist criminologist, upholds a view of social justice. In his view, the purpose of criminal law is not to achieve retaliatory justice, but to make reasonable criminal law the foundation and encourage perpetrators to receiveAfter reasonable criminal punishment, they can return to society. This view still applies to today's society. In this complicated society, procedural justice is often more valued than substantive justice, and the realization of justice is more dependent on reasonable systems. Therefore, the universal value of social justice must also be realized in the fight against crimes committed by the underworld. The pursuit of social justice determines that the punishment of such crimes cannot be completely based on the retaliatory standpoint, but more attention should be paid to the realization of reasonable punishment and social prevention goals.

3. The Specific Application of Situational Policies in the Crimes of Underworld Forces

3. 1 Strict by Law

Since the crimes committed by the underworld forces are extremely harmful to society, seriously threaten people's lives and property, and disrupt the normal order of the society, the guidelines and

policies for the underworld crimes must be strictly handled. The “Notice” pointed out that the special struggle for the eradication of gangs must adhere to the policy of “strike early, hit the small, accurate fights, eliminate evils, treat both symptoms and root causes, and cure at the source”, focusing on combating the umbrella of evil forces, and dealing with many evil forces. The crime has been severely punished. These regulations are related to the state's strict management of the crimes of the underworld forces. The purpose is to achieve the effect of general prevention of the crimes of these underworld forces, and to achieve an intellectual deterrence purpose through legal means, which is to advocate the use of penalties. The implementation of the law makes the general public know the horror of punishment and dare not commit a crime, and rely on the execution of the criminal to deter those who have not committed the crime to prevent the occurrence of crime.

3.2 Leniency According to Law

Article 30 of the “Several Opinions of the Supreme People's Court on Implementing the Criminal Policy of Tempering Justice with Mercy”The principle of handling different members of the organization: separate situations and treat differently, that is, assign the criminal responsibility that each member should bear through the division of labor of various members of the triad group. Lighter punishment. These are all manifestations of the lenient aspects of crimes committed by the underworld and evil forces, as well as the manifestation of the principle of individual punishment. Liszt once said that what should be punished is not the behavior, but the actor. Drawing lessons from my country's judicial practice, Qu Xinjiu changed it to what should be punished is the behavior and the actor is punished. This modification It is more in line with my country's judicial reality, and can also be reflected in the “leniency” in the criminal policy of both leniency and strictness, and then applied to the current crimes in my country.

3.3 Leniency and Strict

Economics refers more to a kind of coordination that organically combines the lenient and strict provisions of the criminal law, and at the same time grasps the standards, not too lenient, nor too strict, so that various laws and regulations are in harmony. Advance harmoniously on the road. When it comes to crimes committed by the underworld forces, it is to organically combine the strict punishment of the first offender and the active participants with the lenient between the accomplices and coerced accomplices, so as to effectively combat the spread of the underworld forces and conform to the development of today's harmonious society. Process, focusing on the unification of legal and social effects.

4. Summary

Fighting against power crimes is an important direction for Xi Jinping's new era of criminal crimes. This time, a campaign to severely crack down on power crimes in key areas will surely create a strong deterrent to corresponding evil forces crimes, and the crimes committed by evil forces in our society will certainly be greatly reduced. The social security situation will be greatly improved, and the people's sense of security, happiness, and sense of gain will be greatly enhanced. While affirming that the overall policy of the sport is correct, we must look at this issue from a higher perspective and from the perspective of criminal policy to further examine the rationality of the sport, so that it can further conform to the direction of society. One type of crime can never be completely eliminated. What we can do is to better prevent it and control it in a controllable area so that social stability can be maintained. The same is true for crimes committed by the underworld. Only by adhering to the criminal policy of both leniency and strictness to better prevent and control

them can deviations be better avoided.

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