

CHARACTERISTICS OF CHANGES IN THE CRIMINAL LEGISLATION OF RUSSIA AND CHINA

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This article explores and compares the changes in the criminal legislation of Russia and China. The author will first examine the history of the development of the criminal legislation of the two countries, identifying their common and distinguishing features in the process. The author will then compare the basic provisions and structure of the criminal codes of Russia and China as objects of comparative legal research. This article further analyzes the scale, direction and dynamics of changes in the provisions contained in the General and Special parts of the criminal codes of the two countries, in detail. It is concluded that the scale and speed of changes in the Criminal Code of the Russian Federation, is far greater compared to the changes in the Criminal Code of the People's Republic of China, based on various indicators. The author gives general recommendations to the Russian legislator as far as the consideration of scientific developments goes.

Keywords: Criminal Code of the Russian Federation; Criminal Code of the People's Republic of China; "ideal" reform; "real" reform; criminalization; decriminalization.

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Introduction

Russian-Chinese relations have reached a new, unprecedentedly high level of partnership in today's era. Active interaction in various spheres of society and the study of mutual experience have become significant reasons for the development of these relations in recent years. As this close collaboration has shown, our countries have a lot in common, but at the same time there are also significant differences in their approaches and development trends, including in the context of the development of criminal legislation and criminal law.

1. Common and Distinctive Features of the Genesis of the Criminal Legislation of Russia and China

The foundations of Chinese criminal law in the Middle Ages and the Modern Times were laid down by the Tang Code (Chinese Tan Liu Shu) and Ming (Da Minliuy), adopted respectively in 653 and at the end of the 14th century.¹ It can undoubtedly be argued that the foundations of Russian criminal law were also laid in the medieval period, if we proceed from the premise that the Drevneyshaya Pravda or the original charter of the Russkaya Pravda (Russian Truth being the oldest source of Russian law) (Short Edition) (the beginning of the 11th century) is almost entirely devoted to Russian criminal law.

However, despite their similar origins, the future strategic approaches to the development of domestic criminal law and the laws of the two countries diverged. This is clearly reflected in the words of the 19th century researcher of Chinese legislation V. Kozlov, when he said that:

Chinese criminal laws have kept and to this time the imprint of the greatest antiquity... Drawing on materials for its legislation from the experience of

¹ Ахметшин Н.Х. История уголовного права КНР [Nail H. Akhmetshin, *History of Criminal Law of the PRC*] 7 (Moscow: MZ Press, 2005). See details 高铭喧：中国刑法的形成和完善，北京：北京大学出版社，2012年版。[Gao Ming Suan, *Formation and Improvement of Criminal Law of the People's Republic of China*] (Beijing: Beijing University Press, 2012).

thousands of years of meaningful but closed life, China did not need imitations to the peoples of the West...²

This traditional approach of China can be contrasted with the fundamentally different and modern approach of the Russian Empire in the 19th century, which essentially adopted the basic design of the German criminal law as the basis for its criminal legislation.

In the 20th century, the criminal legislation of Russia and China has repeatedly undergone significant changes. In Russia, the first code was the Criminal Code of the Russian Empire of 1903, followed by the Criminal Code of the RSFSR of 1922, its large-scale revision – the Criminal Code of the RSFSR of 1926, and the Criminal Code of the RSFSR of 1960. In China, there was initially the Imperial Criminal Code of 1912, the Criminal Code of the Republic of China of 1928, followed by its revision, the Criminal Code of 1935, and the Criminal Code of the People's Republic of China (PRC) of 1979.

The adoption of the current Criminal Code of the Russian Federation of 1996 was the product of a series of political and socio-economic changes that occurred in the state and society. At the same time, the state and political system of the PRC has not changed. According to some experts, the rapidly changing social situation and the development of criminal law³ was what led to the need for a *new Criminal Code of 1997*.⁴ According to other scholars, due to the various sources of criminal law, the criminal legislation of the People's Republic of China was constantly "swelled up," becoming difficult to comprehend, contradictory and conflicting. Furthermore, the economic realities in the country also changed, demanding the introduction of corrections in the criminal legislation. The particularity of the correction carried out however, was that the legislator of the PRC decided against a profound reform

² Козлов В.С. Китай. Гражданское и уголовное законодательство: справка об административном и судебном устройстве областей, входящих в состав Китайской империи, и о существующем в стране гражданском и уголовном законодательстве [Vladimir S. Kozlov, *China. Civil and Criminal Legislation: A Certificate of Administrative and Judicial Structure of the Regions That Make Up the Chinese Empire, and the Existing Civil and Criminal Legislation in the Country*] 18 (St. Petersburg: Tip. V. Kirschbaum, 1899).

³ During the period 1980–1997 many criminal laws were adopted to improve the Criminal Code. All these laws can be divided into two groups: purely criminal laws and laws in other branches of law, but containing criminal norms. As for the laws of the first category, the Standing Committee of the People's National Assembly adopted 25 such special laws... Until 1997, 107 laws were issued that dealt with other problems of regulation of public relations, but containing norms of criminal law (130 norms). For more information see Медведев С.Н. Уголовный кодекс Китайской народной республики 1997 года // Юридические исследования. 2013. № 2. С. 58–59 [Stanislav N. Medvedev, *Criminal Code of the Chinese People's Republic of 1997*, 2 Legal Research 58 (2013)]. The need to improve the criminal law of the PRC through its full codification served as the reason for the adoption of the new (second in the history of socialistic China) Criminal Code.

⁴ *Id.* at 59.

of the Criminal Code of the PRC (the literature suggests that there was no apparent need to carry out an extensive reform). The legislator chose to merely reissue the former Criminal Code of the PRC in a *new edition* instead.⁵ Even though there are no significant differences in the scientific literature when it comes to the assessment of the reasons for the adoption of the 1997 Criminal Code of the PRC, different opinions are expressed⁶ on the question of whether this code is an edited version of the 1979 Criminal Code of the PRC or an independent normative legal act. Formally, the 1997 Criminal Code of the PRC is an essentially amended version of the Criminal Code of the PRC of 1979, as evidenced by information on its adoption.⁷ At the same time, given the extent of the actual changes made in the Criminal Code, the 1997 Criminal Code of the PRC appears to be a new criminal code altogether.

2. Description of the Structure and Basic Provisions of the Criminal Codes of Russia and China as Objects of Comparative Legal Research

The Criminal Code of the PRC, unlike the Criminal Code of the Russian Federation, in which five principles of criminal legislation are singled out, specifies only three of these principles. It is essentially all about the principles of legality (Article 3),⁸ equality of persons who committed a crime before the law (Article 4) and justice

⁵ Коробеев А.И., Чучаев А.И. Общая характеристика Уголовного кодекса Китая // Уголовный кодекс Китая: Сборник документов [Aleksander I. Korobeev & Aleksander I. Chuchaev, *General Characteristics of the Criminal Code of China in The Criminal Code of China: Collection of Documents*] 8 (A.I. Korobeev & A.I. Chuchaev (eds.), H. Daosyu (transl.), Moscow: Infra-M; Contract, 2017). On the Criminal Code of China of 1997 as a new edition of the Criminal Code of the PRC of 1979, it is also in the preface to the first edition of this code in Russian. See Коробеев А.И. Предисловие // Уголовный кодекс Китайской Народной Республики [Aleksander I. Korobeev, *Foreword in The Criminal Code of the People's Republic of China*] 3–12 (A.I. Korobeev (ed.), D. Vichicov (transl.), St. Petersburg: Yuridichesky tsentr Press, 2001).

⁶ Note that in another publication, co-authors of which are A. Korobeev and A. Chuchaev, already stated that “the current Criminal Code of China was adopted on 14 March 1997 at the 5th session of the 8th National People's Congress of the People's Congress; on 1 October 1997, it entered into legal force, becoming the *second Criminal Code in the history of the People's Republic of China* [the Italics is used by SM]. The first Criminal Code of the People's Republic of China, adopted in 1979, which began operations on 1 January 1980, was a typical example of socialist criminal law.” See Чанхай Л., Коробеев А.И., Чучаев А.И. Уголовный кодекс КНР: совершенствование в процессе реализации (к 20-летию со дня принятия) // Lex Russica. 2018. № 3. С. 129 [Lun Changhai et al., *Penal Code of the PRC: Improvement in the Process of Implementation (on the 20th Anniversary of Adoption)*, 3 Lex Russica 129 (2018)].

⁷ Adopted at the 2nd session of the National People's Congress of the 5th convocation on 1 July 1979. Amendments were made at the 5th session of the National People's Congress of the 8th convocation on 14 March 1997. See *The Criminal Code of China: Collection of Documents*, *supra* note 5, at 35. Here and further quotations of the provisions of the articles of the Criminal Code of the People's Republic of China are given on the basis of the translation proposed in this work.

⁸ Special attention is paid to the analysis of the content of the principle of legality. See 王世洲：第三章——法律原则，《中国现代刑法》总论，北京：北京大学出版社，2011年版。[Wang Shizhou, *Modern Criminal Law of China. General Part: Textbook. Chapter 3 “The Principle of Legality”*] (Beijing: Beijing University Press, 2011).

(Article 5). It is important to note that in accordance with Article 3 of the Criminal Code of China, the analogy of the criminal law which existed in the Criminal Code of the PRC of 1979 is abolished.

The Criminal Code of the PRC, as well as the Criminal Code of the Russian Federation contains a formal material definition of crime. Article 13 of the Criminal Code of the PRC states that

all acts harmful to state sovereignty, territorial integrity and tranquility, aimed at breaking up the state, undermining the power of the people's democratic dictatorship, overthrowing the socialist system, violating the social and economic order, private or collective property of the working masses, infringing upon personal property of citizens, their personal, democratic and other rights, as well as other acts harmful to society, for which this Code provides for a punishment, are crimes.

The same Article in the Criminal Code of the PRC also contains a provision on minor acts. Articles 14 and 15 in the Criminal Code of the PRC give definitions of intentional and negligent crimes.

According to Article 17 of the Criminal Code of the People's Republic of China, as a general rule on criminal liability, the recognized subjects of criminal liability are persons who have reached the age of 16 and committed a crime.

Persons who have reached the age of 14 and are under the age of 16 are only criminally liable if they have committed an intentional killing, intentional injury, resulting in grave bodily harm or death, committed rape, robbery, drug trafficking, arson, explosion, poisoning.

As far as the age for criminal liability is concerned, the Criminal Code of the Russian Federation contains similar provisions. However, according to part 2 of Article 20 of the Criminal Code, the list of crimes, for the committing of which there is criminal liability from the age of 14 onwards, is considerably broader. Taking into account relatively recent changes introduced in accordance with Federal law of 24 November 2014 No. 370-FZ and Federal law of 6 July 2016 No. 375-FZ, which expanded the list of crimes for which persons who have reached the age of 14 at the time of the committing of a crime are criminally liable, part 2 of Article 20 of the Criminal Code of the Russian Federation names 32 such crimes, whereas in paragraph 2 of Article 17 of the Criminal Code of China the list of such crimes is four times shorter.

The Criminal Code of the PRC lists only two cases in which the criminality of an act is precluded: the defense of necessity (Article 20) and the extreme (absolute) necessity (Article 21). Recall that list was compiled in accordance with the Criminal Code of the RSFSR of 1960. The current Criminal Code of the Russian Federation also

includes injury during the detention of a person who committed a crime, physical or mental coercion, justified risk and execution of the order or directive.

As far the stages of the crime are concerned, the Criminal Code of the Republic of China mentions, but unlike the Criminal Code of Russia, does not define the preparation for a crime (Article 22) and attempt to commit a crime (Article 23), but at the same time it does define the concept of voluntary renunciation (Article 24). However, in the Criminal Code of the PRC, as opposed to the Criminal Code of the Russian Federation, the notion of a completed crime is nowhere to be found.

The “high point” of the Criminal Code of the PRC of 1997, compared with the Criminal Code of the PRC of 1979, is the institution of corporate crimes (paragraph 4 “Crimes Committed by the Organization” of Chapter 2 “On Crime” of the Criminal Code of China) or criminal liability of legal persons, which is yet another thing that makes it distinct from the Criminal Code of the Russian Federation. On the one hand, it is striking that only two articles of the General Part of the Criminal Code of the PRC are devoted to this institution. On the other hand, one of the articles creates in essence a corresponding legal institution. In particular, according to Article 30 of the Criminal Code of China,

criminal responsibility must come for the act committed by the company, enterprise, institution, body, public organization and considered by law as an organized crime.

Another article establishes the punishability of legal persons that have committed a corporate crime. As a single punishment, such a legal entity may be fined. A fairly broad list of crimes, for which there is criminal liability of legal persons, is provided for in the Special Part of the Criminal Code of the PRC, that can also be established by special laws. In this context, direct managers and other directly responsible employees can be criminally liable on general grounds.

Unlike the Criminal Code of the Russian Federation, the Criminal Code of the PRC does not contain a definition of punishment and does not define the purposes of its application. Chapter Three “On Punishment” of the Criminal Code of the PRC lists the main types of punishment (Article 33) and additional types of punishment (Article 34). The main penalties include: supervision, arrest, fixed-term deprivation of liberty, life imprisonment and the death penalty. Additional penalties include a fine, the deprivation of political rights and confiscation of property. It is interesting that additional types of punishments can also be used independently. Foreigners who have committed a crime, for example, may be expelled from the PRC as an independent or additional punishment.

The content of Chapter Five “Other Provisions” of the Criminal Code of the PRC (Articles 90–101) is intriguing, within the framework of which a legal interpretation of a number of concepts used in the code is given, such as public and private property, civil servant, grave bodily injury, etc.

With regard to the above mentioned, the number of articles in the General Part of the Criminal Code of the PRC and the Criminal Code were almost identical (in the original version there were 101 and 104 articles, respectively), but the Special Part of the Criminal Code of China had a significantly higher number of articles than the Special Part of the Criminal Code of the Russian Federation (there were 350 and 256 articles respectively).

It was the Special Part of the Criminal Code of the PRC of 1997 that underwent the greatest number of changes in comparison with the Criminal Code of the PRC of 1979. There were eight chapters in the Special Part of the Criminal Code of the PRC of 1979, whilst the special part of the current Criminal Code of the PRC of 1997 was divided into 10 chapters. By comparison, the Special Part of the Criminal Code of the Russian Federation only includes six sections.

The order of the chapters in the Special Part of the Criminal Code of PRC corresponds to the fixed priorities of criminal law protection – the chapters begin with crimes against the state, then the society, and they end with crimes against the person. The Special Part of the Criminal Code of the PRC starts with the relatively small Chapter One “Crimes Against State Security” (Articles 102–113). This is then followed by Chapter Two, “Crimes Against Public Safety” (Articles 114–139-1), and the largest chapter of the code in terms of the number of articles, Chapter Three “Crimes Related to the Violation of the Economic Order of the Socialist Market” (Articles 140–231). Further chapters are arranged in the following way: Chapter Four “Crimes Against the Rights of the Individual and the Democratic Rights of Citizens” (Articles 232–262-2), Chapter Five “Crimes Against Property” (Articles 263-276-1), Chapter Six “Crimes Against the Order of Government and Public Order” (Articles 277–367), which is the second largest in terms of the number of articles in the Special Part of the Criminal Code of the People’s Republic of China, Chapter Seven “Crimes Against the Interests of State Defense” (Articles 368–381), Chapter Eight “Corruption and Bribery” (Articles 382–396), Chapter Nine “Official Crimes” (Articles 397–419) and Chapter Ten “Crimes of Servicemen the Revolt of the Military Duty” (Articles 420–451). It is however surprising, that there is no independent chapter devoted to crimes of international character in the Special Part of the Criminal Code of the PRC (for example, like the Criminal Code of the Russian Federation, which contains Section XII “Crimes Against the Peace and Security of Humanity”).

Another feature of the Criminal Code of the PRC is that it contains the Additional Part (Article 452), which sets out the provisions on the implementation of the Code and its two annexes. Annex One contains a list of rules, additional regulations and decisions adopted by the Standing Committee of the National People’s Congress of the PRC that are included in the Code, but have lost their force since its introduction . The second Annex contains a list of additional regulations and decisions that are still in force, but only with regard to administrative penalties and administrative measures; the provisions on criminal liability included in the Criminal Code of the PRC are no longer in force.

Overall, there are a number of both differences and similarities in the structures of the 1996 Criminal Code of the Russian Federation and the 1997 Criminal Code of the PRC, as well as in the content of their basic provisions. Some of the similarities can partly be attributed to the fact that the formation and development of Chinese criminal law and legislation was certainly influenced by Soviet criminal law at the time.

The current Criminal Code of the Russian Federation and the Criminal Code of the PRC both came into force in 1997: on 1 January and 1 October respectively. Although the Criminal Code of the Russian Federation came into force 9 months earlier than the Criminal Code of the PRC, this is considered to be a trivial difference for the purposes of conducting a brief comparative analysis of the quantitative and qualitative changes in the criminal legislation of the two countries.

3. Comparative Characteristics of the Scale and Direction of Changes in the Provisions of the Criminal Codes of Russia and China

In the past 21 years, the order of the Criminal Code of the Russian Federation has changed significantly: there have been amendments and additions introduced to 214 federal laws (by year: 1998 – 2 federal laws, 1999 – 7, 2001 – 8, 2002 – 8, 2003 – 7, 2004 – 5, 2005 – 2, 2006 – 4, 2007 – 10, 2008 – 8, 2009 – 13, 2010 – 22; 2011 – 12, 2012 – 14, 2013 – 22, 2014 – 25, 2015 – 15, 2016 – 14, 2017 – 16 federal laws⁹). It is remarkable that in the first 15 years, 108 federal laws (or 50.5% of all laws that changed the norms of the Criminal Code of the Russian Federation) were introduced in the Criminal Code of the Russian Federation, and that 106 further laws were added in just the last six years, amounting to 49.5% of the specified number of laws. Different experts give different figures that characterize the “variability” of the Russian criminal law. In particular, according to the estimates of V. Tsepelev, the number of changes made in the Criminal Code of Russia reached two thousand.¹⁰

Lun Changhai notes that throughout the 20 years of the existence of the Criminal Code of China, there have been huge changes in the structure of society, economy, culture and other aspects of life, including the transformation of the criminal justice system. During this period (just over 20 years), the legislative body of the PRC consistently promulgated one separate Criminal Law, introduced 10 amendments

⁹ Hereinafter, the calculations changes in the Criminal Code of the Russian Federation were made taking into account the amendments and additions introduced by the Federal law of 31 December 2017 No. 501-FZ “On Amendments to Articles 205 and 207 of the Criminal Code of the Russian Federation and Article 151 of the Code of Criminal Procedure of the Russian Federation.”

¹⁰ Цепелев В.Ф. Уголовный закон: современное состояние и перспективы развития // Качество уголовного закона: проблемы Общей части: Монография [Valery F. Tsepelev, *Criminal Law: Current State and Prospects of Development in Quality of the Criminal Law: Problems of the General Part: Monograph*] 12 (A.I. Rarog (ed.), Moscow: Prospekt, 2016).

to the Criminal Code and 13 criminal legislative comments...¹¹ The total number of changes made to the Criminal Code of the PRC in the last 20 years was 180.¹² When comparing the two codes in this respect, in the comparable period that both codes underwent changes, the Russian legislator in comparison to the Chinese legislator, adopted about 20 (!) times more laws by which the Criminal Code of the Russian Federation was amended and the number of changes made was more than 12 times greater than the changes made by the Chinese.

During the period under review, six of the aforementioned 214 federal laws which were amended in the Criminal Code of the Russian Federation, provided for the introduction of new articles in the General Part of the Criminal Code of the Russian Federation (they introduced 12 new articles: Articles 53.1, 63.1, 72.1, 76.1, 76.2, 80.1, 82.1, 104.1–104.5 of the Criminal Code of the Russian Federation (the last five articles were incorporated in the Criminal Code in the following two new chapters: 15.1 “Confiscation of Property” and 15.2 “Judicial Fine”). At the same time, only three articles were excluded from the General Part of the Criminal Code of the Russian Federation (Articles 16, 52 and 77 of the Criminal Code of the Russian Federation). 77 (or more than 36%) of the above 214 federal laws provided for the introduction of new articles of the Special Part of the Criminal Code of the Russian Federation, i.e. the introduction of new criminal and legal prohibitions. Thus, in the 21 years of the Criminal Code of the Russian Federation, its Special Part was supplemented with 113¹³ (approximately 44%) new articles (based on the fact that the Special Part of the Criminal Code initially contained 256 articles), whilst only 10 articles were deleted in total (about 3.9%). Over the specified period, the total number of articles of the Criminal Code of the Russian Federation increased by 112 and reached 472 articles. Compared to the original 360 articles, there has been a consequent increase of 31.1%.

¹¹ The Standing Committee of the National People's Congress of the People's Republic of China has the right to give explanations to the laws, i.e. legislative comments.

¹² Чанхай Л. 20 лет Уголовному кодексу КНР: с 1997 по 2017 гг. // Социология уголовного права и реформирование уголовного законодательства: Сборник статей (материалы IV Международной научно-практической конференции «Социология уголовного права и реформирование уголовного законодательства», состоявшейся 28 сентября 2017 г.) [Lun Changhai, *20 Years of the Criminal Code of the PRC: From 1997 to 2017 in Sociology of Criminal Law and Reform of Criminal Law: Collection of Articles (Materials of the IV International Scientific and Practical Conference “Sociology of Criminal Law and Reform of Criminal Law,” held on 28 September 2017)*] 156 (E.N. Salygin et al. (eds.), Moscow: Yurisprudentsiya, 2018).

¹³ The point is about Articles 110.1, 110.2, 116.1, 127.1, 127.2, 128.1, 138.1, 141.1, 142.1, 142.2, 145.1, 151.1, 151.2, 158.1, 159.1–159.6, 170.1, 170.2, 171.1–171.4, 172.1, 172.2, 173.1, 173.2, 174.1, 185.1–185.6, 191.1, 193.1, 199.1–199.4, 200.1–200.3, 201.1, 204.1, 204.2, 205.1–205.6, 212.1, 215.1–215.4, 217.1, 217.2, 222.1, 223.1, 226.1, 228.1–228.4, 229.1, 230.1, 230.2, 234.1, 235.1, 238.1, 240.1, 242.1, 242.2, 243.1–243.3, 258.1, 263.1, 264.1, 267.1, 271.1, 274.1, 280.1, 282.1–282.3, 283.1, 284.1, 285.1–285.4, 286.1, 291.1, 291.2, 292.1, 298.1, 314.1, 322.1–322.3, 325.1, 327.1, 327.2, 330.1, 330.2, 354.1, 361 of the Criminal Code of the Russian Federation.

The Criminal Code of the PRC initially contained 452 articles, 101 of which were part of its General Part, with the Special Part containing 350 articles and the Additional Provisions containing one article. During the period under review, the General Part of the Criminal Code of the PRC, under Amendments No. 8 and No. 9, was supplemented with two articles (Articles 17-1 and 37-1 of the Criminal Code of China), regulating thereby the possibility of criminal sentencing for persons over 75 years old and the possibility of the prohibition to engage in the relevant profession. The introduction of new articles in the Special Part of the Criminal Code of the PRC was practically envisaged by all amendments (with the exception of Amendment No. 2). In the last 20 years of the Chinese Criminal Code, its Special Part was supplemented by 37 (approximately 11%) new articles (Articles 120-1–120-6, 133-1, 135-1, 139-1, 162-1, 162-2, 169-1, 175-1, 177-1, 185-1, 205-1, 210-1, 224-1, 234-1, 244-1, 253-1, 260-1, 262-1, 262-2, 276-1, 280-1, 284-1, 286-1, 287-1, 287-2, 291-1, 307-1, 308-1, 388-1, 390-1, 399-1, 408-1 of the Criminal Code of the PRC), while only one article was excluded from it (Article 199 of the Criminal Code of the People's Republic of China, which in essence contains a specially qualified composition of certain types of fraudulent activities, drawn up on the basis of committing them on an especially large scale or inflicting especially serious damage to the state or national interests, and the punishment of which was imprisonment or the death penalty and confiscation of property). During the specified period, the total number of articles of the Criminal Code of the People's Republic of China increased by 38, amounting to a mere total increase of 8.4%. In summary, over the comparable period of time, there were almost three times fewer new articles introduced in the Special Part of the Criminal Code of the PRC, compared with the new articles introduced in the Special Part of the Criminal Code of the Russian Federation.

As far as the Special Part of the Criminal Code of the Russian Federation is concerned, the most new articles in relative terms (i.e. in comparison with the total number of articles originally contained in the corresponding section of the Criminal Code) were introduced in Section VIII "Economic Crimes" of the Criminal Code of the Russian Federation (36 articles or about 76.5%) (the section contained 47 articles in its original version). Section IX "Crimes Against Public Safety and Public Order" of the Criminal Code of the Russian Federation had the greatest increase in the number of its articles in absolute terms (38 articles or about 54%) (the original version consisted of 70 articles). Section X "Crimes Against State Power" of the Criminal Code of the Russian Federation had an increase of 24 articles or approximately 43% (the section originally contained 56 articles), while Section VII "Crimes Against the Person" of the Criminal Code of the Russian Federation was supplemented with only 13 new articles (approximately 24.5%, with the section originally containing 53 articles) and Section XII "Crimes Against Peace and Human Security" of the Criminal Code of the Russian Federation was supplemented with two articles (25%) (in the original version, the section includes eight articles). At the same time, only 10 articles were

removed from the Special Part of the Criminal Code of the Russian Federation during the period under review. Half of all articles in the Special Part of the Criminal Code of the Russian Federation, which are no longer in force (five out of ten), were contained in Section VIII of the Criminal Code (Articles 159.4, 173, 182, 188, 200 of the Criminal Code), three articles (Articles 129, 130, 152 of the Criminal Code) were contained in Section VII of the Criminal Code, one article was contained in Section IX of the Criminal Code (Article 265 of the Criminal Code) and Section X of the Criminal Code (Article 298 of the Criminal Code).

At this point, an analysis will follow on the position of new articles in the chapters of the Special Part of the Criminal Code of China and a comparison with the distribution of articles in the Special Part of the Criminal Code of the Russian Federation will be made. The same number of articles (nine each) was introduced in Chapter Two "Crimes Against Public Security" and Chapter Three "Crimes Related to the Violation of the Economic Order of the Socialist Market." However, in relative terms, these chapters had an increase of approximately 35% and 10% in their articles respectively (in the original version, Chapter Two contained 26 articles and Chapter Three included 92 articles). One should nonetheless take into account that Chapter Six of "Crimes Against Governance and Public Order" had eight articles added to it (or approximately 9%) (originally this chapter contained 91 articles) and the majority of prohibitions contained in the articles were based on the structure of the Criminal Code of the Russian Federation refers to crimes relating to public security and public order (Section IX of the Criminal Code of the Russian Federation). Although the framework of Chapter Five "Crime Against Property" of the Criminal Code of the PRC on prohibited crimes is based on the structure of the Criminal Code of the Russian Federation and evidently refers to crimes in the sphere of economy (Section VIII of the Criminal Code), there was only one article added to it (Article 276-1 of the Criminal Code of China). In both absolute and relative terms, a relatively small number of new articles was introduced in Chapters Three and Five of the Criminal Code of China, possibly due to the economic sphere in China being subject to very detailed penal regulation. This is evidenced, in particular, by the fact that the original wording of Chapter Three of the Criminal Code contained almost three times more articles than the original version of Chapter 22 of Crimes in the Sphere of Economic Activity of the Criminal Code (92 and 32 articles respectively). Two articles (Articles 388-1 and 390-1 of the Criminal Code of the PRC) (or approximately 13%) were added to Chapter Eight "Corruption and Bribery" (initially the Chapter included 15 articles) and two more articles (Articles 399-1 and 408-1 of the Criminal Code of China) (or about 9%) were added to Chapter Nine "Official Crimes" (initially the Chapter included 23 articles). It should be noted that the crimes listed in Chapters Eight and Nine of the Criminal Code of the PRC can be conditionally compared with crimes against state power contained in the structure of the Criminal Code of the Russian Federation (Section X).

Chapter Six and Chapter Four “Crimes Against the Rights of the Individual and the Democratic Rights of Citizens” had an increase of six articles (or approximately 19%) (the original version of Chapter Four contained 31 articles). In the Criminal Code of the Russian Federation, these crimes relate to crimes against the individual (Section VII). Therefore, during the period under review, Chapter Two of the Criminal Code of the PRC experienced the greatest increase of new articles, both in absolute and relative terms. It is noteworthy that Chapter Four comes second, as far as the number of newly introduced articles in relative terms is concerned. It would seem that in this sphere of life of the Chinese society over the past 20 years, there have been significant changes that required the reform of criminal law regulation. In this regard, academics rightly point out that

despite the fact that the chapter on crimes against these social values (the speech on Chapter Four of the Criminal Code of China) is not in the first place, as far as the system of the Special Part of the Criminal Code of China is concerned, this does not diminish its potential.¹⁴

It should be noted that the only article that lost its force in the Criminal Code of the PRC (Article 199) was contained in Chapter Three “Crimes Related to the Violation of the Economic Order of the Socialist Market.” More detailed data characterizing the designated aspect of the reform of sections in the Special Section of the Criminal Code of the Russian Federation and the chapters of the Special Part of the Criminal Code of the People’s Republic of China are presented in the table below.

Section of the CC of the RF	The Amount of Introduced New Articles		Chapter of the CC of the PRC	The Amount of Introduced New Articles	
	In absolute terms	% of original amount if articles		In absolute terms	% of original amount if articles
Section VII “Crimes Against the Person”	13 (Articles 110.1, 110.2, 116.1, 127.1, 127.2, 128.1, 138.1, 141.1, 142.1, 142.2, 145.1, 151.1, 151.2 of the CC of the RF)	24,5	Chapter 4 “Crimes Against the Person and the Democratic Rights of Citizens”	6 (Articles 234-1, 244-1, 253-1, 260-1, 262-1, 262-2 of the CC of the PRC)	19

¹⁴ See Changhai et al. 2018, at 135.

Section VIII "Economic Crimes"	36 (Articles 158.1, 159.1–159.6, 170.1, 170.2, 171.1, 171.2, 172.1, 172.2, 171.3, 171.4, 173.1, 173.2, 174.1, 185.1–185.6, 191.1, 193.1, 199.1, 199.2, 199.3, 199.4, 200.1–200.3, 201.1, 204.1, 204.2 of the CC of the RF)	76,5	Chapter 3 "Crimes Related to the Violation of the Economic Order of the Socialist Market"	9 (Articles 162-1, 162-2, 169-1, 175-1, 177-1, 185-1, 205-1, 210-1, 224-1 of the CC of the PRC)	10
			Chapter 5 "Crimes Against Property"	1 (Article 276-1 of the CC of the PRC)	7
Section IX "Crimes Against Public Safety and Public Order"	38 (Articles 205.1–205.6, 212.1, 215.1–215.4, 217.1, 217.2, 222.1, 223.1, 226.1, 228.1–228.4, 229.1, 230.1, 230.2, 234.1, 235.1, 238.1, 240.1, 242.1, 242.2, 243.1–243.3, 258.1, 263.1, 264.1, 267.1, 271.1, 274.1 of the CC of the RF)	54	Chapter 2 "Crimes Against Public Safety"	9 (Articles 120-1–120-6, 133-1, 135-1, 139-1 of the CC of the PRC)	35
			Chapter 6 "Crimes Against the Public Administration and Public Order"	8 (Articles 280-1, 284-1, 286-1, 287-1, 287-2, 291-1, 307-1, 308-1 of the CC of the PRC)	9
Section X "Crimes Against State Power"	24 (Articles 280.1, 282.1–282.3, 283.1, 284.1, 285.1–285.4, 286.1, 291.1, 291.2, 292.1, 298.1, 314.1, 322.1–322.3, 325.1, 327.1, 327.2, 330.1, 330.2 of the CC of the RF)	43	Chapter 1 "Crimes Against State Security"	0	0
			Chapter 8 "Corruption and Bribery"	2 (Articles 388-1, 390-1 of the CC of the PRC)	13
			Chapter 9 "Malfeasance"	2 (Articles 399-1, 408-1 of the CC of the PRC)	9

Section XI "Crimes Against Military Service"	0	0	Chapter 7 "Crimes Against the Interests of the State"	0	0
			Chapter 10 "Crimes by Combatants Against Their Military Duty"	0	0
Section XII "Crimes Against the Peace and Security of Humanity"	2 (Articles 354.1, 361 of the CC of the RF)	25	–	–	–
TOTAL	113	44		37	11

The comparison of Chapter 21 "Crimes Against Property" and Chapter 22 "Crimes in the Sphere of Economic Activity" included in Section VIII "Economic Crimes" of the Criminal Code of the Russian Federation with Chapter Three "Crimes Related to the Violation of the Economic Order of the Socialist Market" and Chapter Five "Crimes Against Property" of the Criminal Code of the People's Republic of China is quite clear. The comparison between Section X "Crimes Against State Power" of the Criminal Code of the Russian Federation and Chapter One "Crimes Against State Security," Chapter Eight "Corruption and Bribery" and Chapter Nine "Official Crimes" of the Criminal Code of China, may at first glance seem rather restricted and qualified. This is, first and foremost, due to the fact that Chapter Eight of the Criminal Code of China, based on its name,¹⁵ contains not only provisions against bribery, but also other corruption crimes. Based on the Russian legal definition of the concept of corruption, proposed in paragraph 1 of Article 1 of the Federal law of 25 December 2008 No. 273-FZ, it follows that corruption crimes can also be committed beyond the sphere of public administration. One of the basic corruption crimes is commercial bribery. Article 204 formulates the prohibition of the committing of an appropriate crime and is contained in Chapter 23 "Crimes Against the Interests of Service in Commercial and Other Organizations" of Section VIII in the structure of the Criminal Code of the Russian Federation. However, in this case the Russian rather broad definition of corruption will be followed, which as explained,

¹⁵ Note that the title of this chapter in various translations of the Criminal Code of the PRC in Russian sounds uniformly, without alternative.

can be found in paragraph 1 of Article 1 of the Federal law of 25 December 2008 No. 273-FZ "On Combating Corruption." According to Article 382 of the Criminal Code of China: "Assignment, embezzlement, fraudulent acquisition or unlawful acquisition of public property by public employees by using public servants with the use of their official advantages" is regarded as corruption. At the same time, an analysis of the penal prohibitions contained in Chapter Eight of the Criminal Code of the PRC showed that the overwhelming majority of them involve civil servants, i.e. they are aimed at protecting state power. Thus, it is argued that the aforementioned comparison of Section X of the Criminal Code with Chapters One, Eight and Nine of the Criminal Code of the People's Republic of China is a purposeful and justified one. A comparison of Section IX "Crimes Against Public Safety and Public Order" of the Criminal Code with Chapters Two "Crimes Against Public Security" and Six "Crimes Against the Order of Government and Public Order" of the Criminal Code of the PRC was made with a certain degree of limitation and exclusion. Chapter Six of the Chinese Criminal Code provides not only for prohibitions on crimes related to crimes against public safety and public order, which are contained in Section IX of the Criminal Code of the Russian Federation. In addition to these prohibitions, which are contained mainly in paragraphs 4–10 and in paragraph 1 of the indicated chapter, the chapter also contains prohibitions in paragraph 2 on "Crimes Against Justice" (Articles 305–317 of the Criminal Code of China) and paragraph 3 "Crimes Against the Regime of the State Border" (Articles 318–323 of the Criminal Code of the PRC), related to crimes against state power (Section X) in the structure of the Criminal Code of the Russian Federation. Recognizing this element of qualification in the comparison between Chapter Six of the Criminal Code of the PRC and Section IX of the Criminal Code of the Russian Federation, it should be emphasized that most of the crimes enshrined in Chapter Six of the Criminal Code of the PRC have public order and public safety as a common theme, and similar prohibitions are included in Section IX of the Criminal Code of the Russian Federation. Incidentally, the translation of the title of Chapter Six of the Criminal Code of the PRC in Russian, is given in some sources as "Crimes Against Public Order and Order of Government"¹⁶ or "Crimes Against the Order of Public Administration."¹⁷

At this point, an analysis of the reforms of the Criminal Code of the Russian Federation and the Criminal Code of the PRC, in terms of the number of new crimes introduced, will follow. The number of crimes contained in the Special Part of the Criminal Code of the Russian Federation has increased over the comparable period from 534 to 890, by 66.666% (or by 2/3). Section VIII of the Criminal Code of the Russian Federation had the greatest number of crimes added to it, increasing by more

¹⁶ See *Особая часть УК КНР // Бизнес в Китае: информационно-аналитический портал* [A Special Part of the Criminal Code of China, Business in China: Informational and Analytical Portal] (Nov. 14, 2018), available at <http://asia-business.ru/law/law1/criminalcode/code/#6>.

¹⁷ Korobeev 2001, at 186.

than two (more precisely 2.05) times in the last 21 years – from 102 to 209 crimes. In Section IX of the Criminal Code of the Russian Federation, the number of crimes have increased by 1.77 times (from 160 to 283), in Section X of the Criminal Code the number of crimes increased by 1.67 times (from 106 to 177), in Section XII of the Criminal Code the number of crimes increased by 1.54 times (from 13 to 20) and in Section VII of the Criminal Code the number of crimes increased by 1.46 times (from 105 to 153 crimes). In Section XI, the number of crimes (48) remained unchanged. With respect to the Criminal Code of the PRC, experts note that in the 20 years of the Criminal Code, 60 new acts have been criminalized, with the Criminal Code containing only 473 crimes at the present time.¹⁸ It should furthermore be taken into account that in the criminal legal doctrine of China, apart from the traditional one, there is a new (systemic) theory of offence.¹⁹ Issues of the concept and structure of crime are actively discussed by Chinese experts in the field of criminal law. In terms of the number of offences contained in the Special Part of the Criminal Code of the Russian Federation, the Special Part of the Criminal Code of the PRC has changed to a much lesser extent than the Special Part of the Criminal Code of the Russian Federation.

4. Comparative Characteristics of the Dynamics of Changes in the Provisions of the Criminal Codes of the Two Countries

Having described the scale of the reforms of the Criminal Code of the Russian Federation and the Criminal Code of the PRC that occurred over a comparable time period in general terms, it is also deemed necessary to examine the dynamics of this process in detail. It should be noted that the Criminal Code of the Russian Federation and the Criminal Code of the People's Republic of China have been reformed in different ways and at different points in time.

The legislative body of China introduced amendments to the Criminal Code at least once a year on average, with the longest interval between making changes being 1646 days and the shortest interval only 120 days.²⁰ Overall, the frequency of amendments to the Criminal Code of the PRC is at a high level.²¹ The longest period of non-introduction of any changes in the Criminal Code of the Russian Federation was 608 days, but at the same time, there were also several times when several

¹⁸ Changhai et al. 2018, at 134.

¹⁹ For more details see 何秉松, (俄)科米萨罗夫, (俄)科罗别耶夫主编: 中国与俄罗斯犯罪构成理论比较研究, 北京: 北京大学出版社2009年版. [*The Doctrine of the Elements of the Crime in the Criminal Law of China and Russia: Rather-Legal Research*] (V.S. Komissarov et al. (eds.), Beijing: Beijing University Press, 2011).

²⁰ 赵秉志: 中国刑法立法晚近20年之回眸与前瞻, 中国法学研究2017年第5期48页. [Zhao Binji, *Review and Perspectives of Chinese Legislation in the Field of Criminal Law over the Past 20 Years*, 5 *Jurisprudence of China* 48 (2017)].

²¹ Changhai 2018, at 157.

federal laws were adopted on the same day, thereby introducing amendments and additions to the Criminal Code of the Russian Federation. One such example would be the 23 April 2018, when four Federal laws were signed, which then introduced amendments and additions to the Criminal Code of the Russian Federation (Federal laws No. 96-FZ, No. 99-FZ, No. 111-FZ and No. 114-FZ). The first three of these Federal laws came into force simultaneously, on 4 May 2018.

It is widely known that the first changes in the Criminal Code were introduced in 1998. It is however fascinating that the changes introduced by Federal law of 27 May 1998 No. 77-FZ²² (the first law that introduced changes to the Criminal Code of the Russian Federation) can be attributed to the results, so to speak, of an “ideal reform” (which ends with the introduction or exclusion of a provision in the Criminal code). The main indicators of the “ideal reform” of the Criminal Code of the Russian Federation and the Criminal Code of the PRC can be found earlier on in the article. A distinction between an “ideal” and a “real” reform should be drawn, with the latter referring to the amendment of existing provisions in the Criminal Code, as opposed to the introduction of new regulations or the exclusion of existing ones. This kind of reform will be explored at a later stage in this article.

The average “speed” of the “ideal” reform of the Criminal Code of the Russian Federation has increased by approximately four times in the last seven years. In the first fourteen years (2/3 of the term) of the Criminal Code, about three new articles per year were introduced, whilst around 12 such articles were added in the last incomplete seven years (about 1/3 of the validity period). It is interesting that exactly 12 new articles were introduced in the Special Part of the Criminal Code of the Russian Federation in 2017.

The dynamics of the “ideal” reform of the Criminal Code of the Russian Federation will now be explored in detail. In 1998, there was one article introduced in the Special Part of the Criminal Code of the Russian Federation and three new ones in 1999. In 2000, as well as in 2005 and 2007, no new articles were introduced in the Criminal Code of the Russian Federation. In 2001, the Special Part of the Criminal Code was supplemented with only one and in 2002 with four new articles. In accordance with the Federal law of 8 December 2003 No. 162-FZ,²³ 11 articles were introduced

²² Федеральный закон от 27 мая 1998 г. № 77-ФЗ «О дополнении Уголовного кодекса Российской Федерации статьей 215.1» // Собрание законодательства РФ. 1998. № 22. Ст. 2332 [Federal Law No. 77-FZ of 27 May 1998. On the Supplementation of the Criminal Code of the Russian Federation with Article 215.1, Legislation Bulletin of the Russian Federation, 1998, No. 22, Art. 2332].

²³ Федеральный закон от 8 декабря 2003 г. № 162-ФЗ «О внесении изменений и дополнений в Уголовный кодекс Российской Федерации» // Собрание законодательства РФ. 2003. № 50. Ст. 4848 [Federal Law No. 162-FZ of 8 December 2003. On Amendments and Additions to the Criminal Code of the Russian Federation, Legislation Bulletin of the Russian Federation, 2003, No. 50, Art. 4848]. Recall that this law was changed 265 articles, of which 227 articles of the Special Part of the Criminal Code. Assessing the scale of the changes, many scientists spoke only of the new Criminal Code of the Russian Federation.

in the Criminal Code of the Russian Federation (including one article in the General Part of the Criminal Code of the Russian Federation – Article 80.1). In accordance with this Federal law, seven articles were deleted from the Criminal Code of the Russian Federation for the first time – Articles 16, 52, 77, 152, 182, 200, 265). In the same year, in 2003, two more articles were added to the Special Part of the Criminal Code of the Russian Federation. Overall, 13 new articles were added to the Criminal Code of the Russian Federation in 2013. This made 2013 an exceptional year, seeing as never before had there been so many new articles introduced in the Criminal Code of the Russian Federation all at once. In 2004 and 2008, only one new article was introduced in the Special Part of the Criminal Code of the Russian Federation. In 2006, five new articles were introduced in the Criminal Code of the Russian Federation, three of which (Chapter 15.1 “Confiscation of Property” (Articles 104.1–104.3 of the Criminal Code of the Russian Federation)) were introduced in the General Part of the Criminal Code of the Russian Federation. In 2009, four such articles (including one article in the General Part of the Criminal Code – Article 63.1 of the Criminal Code) were introduced. In 2010, the Special part of the Criminal Code was supplemented with six new articles, whilst in the same year one article was excluded from it (Article 173 of the Criminal Code of the Russian Federation). 14 articles were further introduced in accordance with Federal law of 7 December 2011 No. 420-FZ²⁴ of the Criminal Code of the Russian Federation, (including three articles in the General Part of the Criminal Code of the Russian Federation). In accordance with the same Law, four articles (Articles 129, 130, 188 and 298 of the Criminal Code of the Russian Federation) were removed from the Special Part of the Criminal Code of the Russian Federation. After 2011, the pace of the “ideal” reform of the Criminal Code of the Russian Federation changed significantly. In 2012, 13 new articles were introduced into the Special Part of the Criminal Code of the Russian Federation. In 2013 and 2014, 14 new articles were introduced in the Special Part of the Criminal Code of the Russian Federation, and one more article (Article 72.1 of the Criminal Code) was added to the General Part of the Criminal Code of the Russian Federation in 2013. In 2015, only four new articles were added to the Special Part of the Criminal Code of the Russian Federation. 14 new articles were introduced in the Criminal Code in 2016, three of which were introduced in the General part (Chapter 15.2 “Judicial Fine” (Articles 104.4–104.5 of the Criminal Code) and Article 76.1 of the Criminal Code). In the same year, Article 159.4 was removed from the Special Part of the Criminal Code of the Russian Federation. In 2017, 12 new articles were introduced in the Special Part of the Criminal Code of the Russian Federation (Articles 110.1,

²⁴ Федеральный закон от 7 декабря 2011 г. № 420-ФЗ «О внесении изменений в Уголовный кодекс Российской Федерации и отдельные законодательные акты Российской Федерации» // Собрание законодательства РФ. 2011. № 50. Ст. 7362 [Federal Law No. 420-FZ of 7 December 2011. On Amendments to the Criminal Code of the Russian Federation and Certain Legislative Acts of the Russian Federation, Legislation Bulletin of the Russian Federation, 2011, No. 50, Art. 7362].

110.2, 151.2, 171.3, 171.4, 142.2, 199.3, 199.4, 201.1, 274.1 and 285.4 of the Criminal Code of the Russian Federation). For greater clarity, the data describing the speed of the “ideal” reform of the Criminal Code of the Russian Federation is presented in the table below.

The Amount of Intro-duced Articles	The Year of Introduction of New Articles																				
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
In General Part of the CC of the RF	0	0	0	0	0	0	1	0	0	3	0	0	1	0	3	0	1	0	0	3	0
In Section VII of the CC of the RF			1				4								2	1				1	4
In Section VIII of the CC of the RF			1			1	3						3	3	3	6	2	3	1	5	5
In Section IX of the CC of the RF	0	1			1	1	3			2				1	4	3	9	6	2	3	2
In Section X of the CC of the RF			1			2	2	1				1		2	2	3	3	4	1	1	1
In Section XI of the CC of the RF																		1		1	
In Section XII of the CC of the RF																					
In the Special Part of the CC of the RF	0	1	3	0	1	4	12	1	0	2	0	1	3	6	11	13	14	14	4	11	12
Total in the CC of the RF	0	1	3	0	1	4	13	1	0	5	0	1	4	6	14	13	15	14	4	14	12

We must now consider the dynamics of the “ideal” reform of the Criminal Code of the People’s Republic of China. The first new (not contained in the original version) article is Article 162-1, establishing liability for concealing or deliberately destroying accounting documents, books, financial and accounting reports under aggravating circumstances. It was first introduced in the Criminal Code of the PRC in accordance with the law “Amendments No. 1”, adopted on 25 December 1999. Two more new articles (Articles 120-1 and 291-1) were added to the Special Part of the Criminal Code

of the People's Republic of China in accordance with the law "Amendments No. 3" of 29 December 2001. One new article was introduced in accordance with "Amendments No. 4" of 28 December 2002 and "Amendments No. 5" of 28 February 2005. Eight articles were introduced in the Special Part of the Criminal Code of the People's Republic of China at once, in accordance with "Amendments No. 6" of 29 June 2006 and four articles were introduced according to "Amendments No. 7" of 28 February 2009. One new article (Article 17-1) was introduced in the General Part and six articles in the Special Part of the Criminal Code of the PRC, in accordance with "Amendments No. 8" of 25 February 2011. The peak of the ideal reform of the Criminal Code of the PRC is associated with "Amendments No. 9" of 29 August 2015, which together with "Amendment No. 8" introduced one article in the General Part of the Code, and 14 new articles in its Special Part, in that way making it the year with the highest number of new articles. The unusually large number of amendments made to the Criminal Code of the PRC as a result of the law "Amendments No. 9" is partly explained by the fact that no amendments at all were carried out between 2012–2014. For clarification purposes, the data illustrating the speed of the "ideal" reform of the Criminal Code of the PRC is also presented in the table below.

The Amount of Introduced Articles	The Year of Introduction of New Articles																																						
	3 months of 1997	1998	1999 (Amendments No. 1)		2000		2001 (Amendments Nos. 2 & 3)		2002 (Amendments No. 4)		2003		2004		2005 (Amendments No. 5)		2006 (Amendments No. 6)		2007		2008		2009 (Amendments No. 7)		2010		2011 (Amendments No. 8)		2012		2013		2014		2015 (Amendments No. 9)		2016		2017 (Amendments No. 10)
In the General Part of the CC of the PRC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0		
In Chapter 1 of the CC of the PRC																																							
In Chapter 2 of the CC of the PRC						1										2										1								5					
In Chapter 3 of the CC of the PRC			1												1	4						1			2														

In Chapter 4 of the CC of the PRC						1				1			2		1				1		
In Chapter 5 of the CC of the PRC															1						
In Chapter 6 of the CC of the PRC						1													7		
In Chapter 7 of the CC of the PRC																					
In Chapter 8 of the CC of the PRC													1						1		
In Chapter 9 of the CC of the PRC										1					1						
In Chapter 10 of the CC of the PRC																					
In the Special Part of the CC of the PRC	0	0	1	0	2	1	0	0	1	8	0	0	4	0	6	0	0	0	14	0	0
Total in the CC of the PRC	0	0	1	0	2	1	0	0	1	8	0	0	4	0	7	0	0	0	15	0	0

There are some things which should be noted about the “real” reform of the Criminal Code of the Russian Federation and the Criminal Code of the PRC. In the Criminal Code of the Russian Federation, the relative number of articles that existed in the original wording of the code, to which amendments or additions were made (often repeatedly), is more than 85%. At the same time, there were 62 articles amended in the General Part of the Criminal Code of the Russian Federation (or approximately 60% of the total number of articles that existed in the original version of the General Part of the Criminal Code of the Russian Federation). There are currently 245 articles in the Special Part of the Criminal Code of the Russian Federation (or 96.5% of the total number of articles that existed in the original version of the Special Part of the Criminal Code). According to Lun Changhai, the percentage of edited articles is 39.82% overall. Among them, changes were made to 23 articles in the General Part of the Criminal Code of China, with the percentage of the edited articles being 22.77%. 145 articles were further edited in its Special Part, with the

percentage of the edited articles being 41.42%. In the two decades of the existence of the Criminal Code of China, almost 40% of its content has been modified.²⁵

Conclusion

In terms of assessing the changes and additions made to the Russian criminal law, the opinion of scholars who believe that numerous changes to the Criminal Code have made the Russian criminal law unsystematic should be followed. In particular, V. Luneev came to the conclusion that Russian criminal law-making does not have a historical, economic, criminological, sociological, purely scientific and legal basis or tradition. It is unstable, situational, superficial, scientifically unreasonable and, as a result of all the above, is not effective and even criminogenic.²⁶

Concerning the assessment of changes and additions to the Chinese criminal law, Pan Dunmei rightly points out that the changes and additions to the Chinese Criminal Code *are caused by a real need* in the Chinese society and they will lay the foundation for further development and improvement of Chinese criminal legislation.²⁷ The specifics of the implementation of changes and additions to the Criminal Code of the PRC, in comparison with the changes implemented in the Criminal Code of the Russian Federation, is manifested in the fact that they have a systemic nature, with the changes being well-thought-out and more rational. Perhaps one of the reasons for this success was the negative experience of lawmaking, when it came to the Criminal Code of the PRC of 1979. In this sense, the Russian legislator has made the same mistakes more often. On the other hand, the Chinese legislator approaches the evaluation of the introduction of a new legal criminal norm very carefully. This is clearly displayed not only by the introduction of a relatively small number of new articles in the Criminal Code of the PRC over a long period of time, but also due to the fact that only one article lost its force in the CPC in the comparable period of time.

In this regard, let us recall that even more than thirty years ago, V. Kudryavtsev wrote that in order to make a decision in the legislative practice to classify a conduct as criminal and punishable, it is necessary to consistently consider at least four specific issues, namely: a) whether there is a need (necessity) for a legislative prohibition of such actions; b) whether this prohibition is permissible within the existing public and legal system; c) if it is feasible from a practical point of view; d) whether it is a useful (expedient) prohibition, taking into account the complexity of all other social, political,

²⁵ Changhai 2018, at 157.

²⁶ Лунеев В.В. Истоки и пороки российского уголовного законодательства [Viktor V. Luneev, *Origins and Vices of Russian Criminal Lawmaking*] 216 (Moscow: Yurlitinform, 2014).

²⁷ Дунмэй П. Изменения уголовного законодательства Китая: общая характеристика // Lex Russica. 2016. № 8. С. 87 [Pan Dunmei, *Changes in China's Criminal Legislation: A General Characteristic*, 8 Lex Russica 87 (2016)].

psychological, etc. circumstances.²⁸ The need for a prohibition, its permissibility, practical feasibility and expediency are the four aspects, which according to the academic are the scientific prerequisites of criminalization. It seems that the Chinese legislator has carefully learned and applied this lesson and principles, bearing in mind the rather unsuccessful codification linked with the Criminal Code of the PRC of 1979. In this regard, the Russian legislator does not only ignore the scientific guidelines on criminalization and decriminalization that exist in the domestic doctrine of criminal law and criminology, but continues to make the same mistakes, thus being stuck in the eternal search for “his own way,” making changes and additions to the Criminal Code of the Russian Federation with the method of constant trial and error.

In this regard, it is necessary to take a leaf out of the Chinese legislator’s book, as far as their thoughtfulness, balance and consistency in making decisions on changing the criminal law is concerned. It is necessary to understand that through the introduction of another penal prohibition, it is impossible to solve many social problems, “criminal law is more than an acute tool” for these purposes.

It seems that each penal prohibition should be subject to a legal assessment in the process of both lawmaking and law enforcement. The necessity of a prohibition, its permissibility, practical feasibility, and most importantly expediency, as the four scientific prerequisites for criminalization, should, in the writer’s opinion, be continuously assessed, and not only when an appropriate penal prohibition is introduced. In this sense, it is obvious that it has long been necessary to “revise” the Criminal Code of the Russian Federation through the prism of the scientific prerequisites for criminalization.

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²⁸ Кудрявцев В.Н. Научные предпосылки криминализации // Криминология и уголовная политика [Vladimir N. Kudryavtsev, *Scientific Prerequisites for Criminalization in Criminology and Criminal Policy*] 105 (S.G. Kelina et al. (eds.), Moscow: Publishing House IGIP of the USSR Academy of Sciences, 1985).

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