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## 主 論 文 の 要 旨

論文題目

LEGAL AND SOCIOLOGICAL STUDY OF THE DEATH PENALTY  
IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC IN THE  
INTERNATIONAL AND REGIONAL CONTEXT

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## 論 文 内 容 の 要 旨

This dissertation examines the death penalty in Lao PDR, which demonstrates a unique tendency coupled with abnormal elements. Regardless of the death penalty's existence in domestic black letter law, its practical implementation has been suspended for many years. A serious gap thus exists between law in books and law in practice. Furthermore, one can hardly indicate any progressive movement toward the formal abolition of the death penalty in the Lao PDR, which the international community recommends, especially since the Lao PDR ratified in 2009 the International Covenant on Civil and Political Rights (ICCPR).

From a social perspective, Laotians generally oppose the idea of killing human beings, even by the state, based on their traditional beliefs, which they often tie to the philosophy of peaceful Buddhism. Although not always well-explained by the Laotian society, such a stance may partially explain the phenomenon of the death penalty's practical

non-execution in the country. In other words, when the death penalty in the law contradicts people's mindset, its suspension, at least in applied jurisprudence, is one compromise that may emerge between the people and public authorities. However, the *de facto* moratorium of the death penalty, as is the case in Lao PDR, indicates the far more complex nature of the problem.

This dissertation integrates legal analysis and sociological research into the local, regional and international contexts to address the *de facto* moratorium of the death penalty in Lao PDR and its multiple effects on law, society, and trans-border interactions. The sociological and contextual parts of this dissertation present several findings as follows:

First, Laotian courts overwhelmingly apply death sentences for drug-related crimes. Because these drug crimes have a long history and trans-border context, this dissertation focuses on the comprehensive background, criminological concepts, and complex trans-border circumstances between neighboring states. This research also focuses on relations with the relevant foreign actors in the context of drug crimes.

Second, an unfamiliar reader can better understand the scale and gravity of drug crimes in Laos through the prism of the international context. Drug transactions greatly involve Western countries. People traveling from the West and other parts of the world to Asia, including Lao PDR, often face criminal charges of drug-related offenses in local courts. Simultaneously, gangs belonging to transnational criminal

organizations controlling drug production and trafficking freely move across international borders. Therefore, to curb such illegal international transactions, governments in Asia try to deepen international cooperation and design joint policies to tackle drug crimes. The resolution of the drug problem has been set on a national agenda, and the Lao government is eager to crack down on offenders with the highest penalty to death.

Third, the introduction in the text of the law of the death penalty against drug crimes by Lao PDR should also be seen in various international contexts. On the one hand, historically, Vietnamese law generally worked as a model for Lao Criminal Law in the codification process. The relevant provisions of Laotian criminal law follow the line set by Vietnamese law. The direct influence of Vietnam cannot be denied in terms of, for instance, the great number of crimes punishable by death. On the other hand, the maintenance of the death penalty following the 2001 criminal legal reform, was also triggered by the realistic considerations of UNODC experts aware of local trends that severer punishment against drug crimes indeed positively reflected attitudes and legal provisions of neighboring countries regarding the death penalty policy.

Fourth, neighboring countries generally take a severe attitude against drug crimes. China and Vietnam have long borders with Lao PDR, and one of the biggest records of executions against drug criminals. Available statistics say that 68 persons were executed in Vietnam

between 1 October 2018 and 31 July 2019. Although the number of executions in Vietnam is terrifying, China is believed to be the world's leading executioner of the death penalty, even though the data on actual executions is strictly classified. If Lao PDR radically eases the punishment against drug criminals, there would be a real risk of turning into a "safe heaven" for drug criminals.

Fifth, regional and sub-regional governments gradually develop harmonizing policies other than severe punishments to tackle drug crimes. For instance, the ASEAN Work Plan on Securing Communities Against Illicit Drugs 2016-2025 has established working groups such as Preventive Education, Treatment and Rehabilitation, Law Enforcement, Research, and Alternative Development to combat drug abuse. However, today such a program is not sufficiently launched in the Greater Mekong Sub-region.

What arguments could be raised in the context of the findings of this dissertation with regard to the way toward the abolition of the death penalty in Lao PDR?

The immediate abolition of the death penalty is unrealistic, given the Lao PDR Government's recent notification of May 2021 that the death penalty must be kept as a form of punishment as a preventive measure against serious crimes to maintain social order and national security. *De jure* abolition of the death penalty may only be achieved at the end of a long and complicated process because the current *de facto* moratorium is a product of a broader structure.

In the meantime, to ensure legal consistency, it is recommended that the one-year strict time limit for execution following the denial of a presidential pardon application be lifted. This timeframe is outlined in Articles 255 and 256 of the current Criminal Procedure Law of the Lao PDR and the previous law.

A radical shift in drug policy is required to progress toward the gradual abolition of the death penalty. Anti-drug policy-makers should first acknowledge the current mainstream interpretation of Article 6 of ICCPR. According to it, drug and other crimes, such as attempted murder, corruption, armed robbery, piracy, abduction, sexual offenses, as well as economic and political crimes, which do not result in intentional human killing, cannot ever serve as a basis for the imposition of the death penalty. Simultaneously they should extensively employ alternative policies to address this issue. A comprehensive policy other than that heavily relying on severe punishment for drug problems should be introduced by developing alternative income approaches instead of drug-producing, selling, and dealing. Moreover, to abolish the death penalty for Lao PDR, these policies must change at the level of the Greater Mekong Sub-region. Therefore, the gradual de-criminalization process for drug use should be fully harmonized in regional, sub-regional, and at least in the Greater Mekong area, including Lao PDR.