ABOLITION OF DEATH PENALTY ACT 1995

Act No. 31 of 1995

Proclaimed by [Proclamation No. 18 of 1995] w.e.f 14th December 1995

ARRANGEMENT OF SECTIONS

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An Act

To provide for the abolition of the death penalty

ENACTED by the Parliament of Mauritius as follows-

1. Short title

This Act may be cited as the Abolition of Death Penalty Act 1995.

PART I - ABOLITION OF DEATH PENALTY

2. Abolition of the death penalty

(1) The death penalty is abolished.

(2) Where under an enactment a Court is empowered to impose a sentence of death the Court shall instead of the sentence of death impose a sentence of penal servitude for life.

(3) Where any person has been sentenced to death, and at the commencement of this Act, the sentence has not been executed, the person shall be deemed to have been sentenced to penal servitude for life and shall undergo that sentence.

3. Saving

(1) Nothing in this Act shall render illegal any sentence of death imposed on any person or the execution of any sentence of death on any person before the commencement of this Act.

(2) No action shall lie against the State or any person for any sentence of death imposed or executed before the commencement of this Act.

PART II - CONSEQUENTIAL AMENDMENTS AND REPEALS

4. The Criminal Appeal Act amended

The Criminal Appeal Act is amended-

(a) by repealing section 9 and replacing it by the following section -

9. Time for appealing

(1) Where a person convicted before the Supreme Court desires to appeal under this Act to the Court, he shall give notice of appeal in accordance with rules of court, within 21 days of the date of conviction.

(2) The appellant shall, within 30 days from the expiry of the time limit specified in subsection (1) serve on the Director of Public Prosecutions and lodge in the Registry in such form and manner as may be prescribed by rules of Court, skeleton arguments and submissions on his grounds of appeal.

(3) Any case or argument so presented shall be considered by the Court.

(4) The time within which notice of appeal may be given may be extended by the Court on application made in accordance with rules of court.

(b) in section 21, by deleting the words "(other than sentence of death)".

5. The Criminal Code amended

The Criminal Code is amended-

(a) by repealing section 4 and replacing it by the following section -

4. Crimes

Crimes are offences punishable by-

(a) penal servitude;

(b) a fine exceeding 500 rupees.

(b) by repealing section 10;

(c) in section 37, by deleting subsection (2) and the figure "(1)" at the beginning of subsection (1);

(d) in section 50, by deleting the words "imprisonment for life" and replacing them by the words "penal servitude for life";

(e) in section 51, by deleting the word "death" and replacing it by the words "penal servitude for life";

(f) in section 57 by deleting subsection (1) and replacing it by the following subsection-

(1) Quiconque aura pratiqué des machinations ou entretenu des intelligences avec les puissances étrangères ou leur agents, pour les engager à commettre des hostilités ou à entreprendre la guerre contre l'Etat, ou pour leur en procurer les moyens.

(1) Any person who devises any plot or keeps up intelligence with any foreign power or the agent of a foreign power in order to move or stir it up to commit hostilities or levy war against the State, or to procure for it the means of so doing.

shall be punished by penal servitude for life and forfeiture of property.

(g) by deleting section 60 and replacing it by the following section-

60. Inciting citizens to rise up in arms

L'attentat ou le complot dont le but sera d'exciter les citoyens ou autres habitants de Maurice à s'armer contre l'Etat.

Every attempt or plot the object of which is to excite the citizens or other inhabitants of Mauritius to arm themselves against the State.

shall be punished by penal servitude for life and forfeiture of property.

(h) in sections 61 and 64 by deleting the words "by death or by penal servitude" and replacing them by the words "by penal servitude for life or for a term not exceeding 20 years";

(i) by deleting section 62 and replacing it by the following section -

62. Stirring up civil war

L'attentat ou le complot dont le but sera, soit d'exciter la guerre civile en armant ou en portant les habitants à s'armer les uns contre les autres, soit se porter la devastation, le massacre, ou le pillage dans un ou plusieurs quartiers

Any attempt or plot, of which the object is either to stir up civil war by arming or by inciting the inhabitants to arm themselves against one another, or to carry devastation, massacre or plunder into one or more districts

shall be punishable by penal servitude for life.

(j) by deleting section 65 and replacing it by the following section

65. Setting fire to or destroying State property

Tout individu qui aura incendié ou détruit, d'une manière quelconque des édifices, magasins, arsenaux, vaisseaux ou autres propriétés appartenant à L'Etat ou étant à son usage

Any person who sets fire to, or destroys in any way, any building, storehouse, arsenal, ship or vessel or any other property belonging to the State, or being for the use of the State

shall be punished by penal servitude for life.

(k) in section 71 and 82(2), by deleting the figure "56" and replacing it by the figure "57";

(l) in section 222 by deleting subsection (1) and replacing it by the following subsection-

Any person who is convicted of-

(a) murder or murder of a newly born child, shall be sentenced to penal servitude for 45 years;

(b) attempt at murder or attempt at murder of a newly born child, shall be liable to penal servitude for 45 years.

(m) in section 224, by deleting the words "death or".

(n) by deleting section 347 and replacing it by the following section-

347. Arson causing death

Dans tous les cas prévus par la section 346, si l'incendie a occasionné la mort d'une ou plusieurs personnes se trouvant dans les lieux ou véhicules incendiés au moment où il a éclaté.

In all cases specified in section 346, where the fire caused the death of one or more persons, being in the place or vehicle set on fire at the moment of the fire breaking forth.

the punishment shall be penal servitude for life.

6. The Criminal Code (Supplementary) Act amended

The Criminal Code (Supplementary) Act is amended in section 66, by deleting the words "the punishment shall be death" and replacing them by the words "the punishment shall be penal servitude for life".

7. The Criminal Procedure Act amended

The Criminal Procedure Act is amended -

(a) by repealing sections 131, 141, 156, 157, 168C, 169, the heading "PART VII - DEATH SENTENCE" and sections 171 to 180;

(b) in section 132, by deleting the words "Where an accused is convicted of a crime not punishable with death" and replacing them by the words "Where an accused is, convicted of a crime punishable by a custodial sentence",

(c) in section 133, by deleting the words "in case of a conviction for a misdemeanour or crime not punishable with death,"; and

(d) by repealing the Second Schedule.

8. Commencement

Proclaimed by [Proclamation No. 18 of 1995] w.e.f. 14th December 1995