

On the Ethical Justification of the Abolishment of Death Penalty: From the Restorative Moral Imagination Approach

ABSTRACTS:

Calls for the abolition of death penalty in Taiwan have been heard for decades, even back to the days of Japanese colonization. However, its sound had never been so loud and clear until the year of 2000, when religious leaders, scholars, lawyers, and activists from different tracks of society made their strong appeal to the former President Chen for an end of death penalty, or moratorium at least. With endless effort of Taiwan Alliance to End the Death Penalty, in 2005, Taiwan eventually started a four year moratorium. However, ever since 2010, due to the pressure of mass media and so called 'public opinion', Taiwanese government restarts the execution of the death row inmates.

The ethical debate on the death penalty between local retentionists and abolitionists used to center either on the theories of punishment, be it deterrence, rehabilitation, incapacitation, or retribution, or the expressive meaning of societal solidarity against heinous crimes. Neither of these approaches really solves the complexities and dilemmas of capital punishment in terms of freedom and security, rights and responsibilities of both of the offenders and the victims. Nor can such debate really take the society's role of response to crime into serious consideration.

Recently, due to the newly emerging criminological trend of restorative justice, a new front of battle has been drawn for the two parties. The discourse of the abolitionists needs to integrate a new way of judicial thinking in order to show why restorative justice is ethically justified in opposing the execution, as well as how the abolition of the death penalty can be an indispensable key point to help build a community of caring, security, and peace. This paper wants to argue these by way of restorative moral imagination, showing that the use of different models, symbols and metaphors of criminal justice of imaginative thinking in the literatures of restorative justice can better satisfy the needs of all the stakeholders of serious crimes without resorting to capital punishment.