

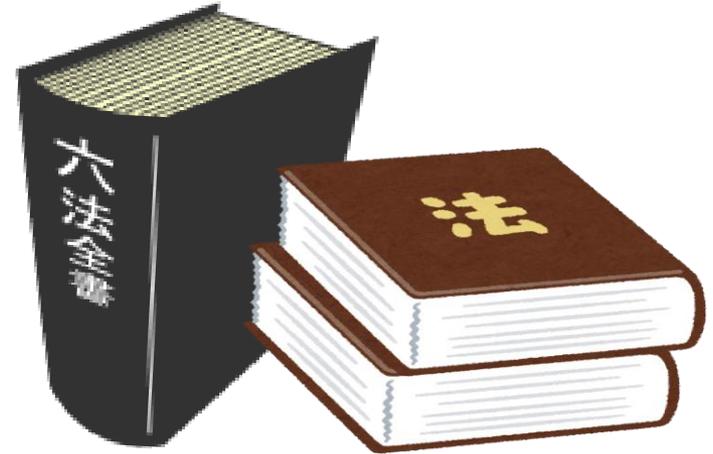
Introduction to Capital Punishment and Policies in Taiwan





1. Remedy after Conviction of Capital Punishment

- Retrial
- Extraordinary Appeal
- Interpretation by Grand Justices of the Constitutional Court
- Amnesty
- Regulations Governing DNA Profiling for Criminal Cases
 - The defendants who face unjust judgement may have prosecutors file retrial, and also apply for reopen of the case by adopting the most advanced DNA profiling technology to the evidence.



- **Directions of Procedures for Trial and Investigation of Crimes Punishable by Death Penalty**
 - Prior to reporting execution to MOJ, Supreme Prosecutors Office shall prudently confirm that 1. no false identification of the inmates; 2. no unreliable and improper expert examination; 3. no inconsistent standards of forensic science; 4. no illegal or improper interrogation; 5. no inefficient or unqualified defense, and 6. no unreliable testimony of secret witness in the case.

- **Directions of Supreme Prosecutors Office for Procedures of Review and Investigation of Disputed Convicted Crimes Punishable by Death Penalty**
 - The Supreme Prosecutors Office has established “Committee for Review of Disputed Convicted Crimes Punishable by Death Penalty” chaired by examiner and forensic experts, scholars of criminal laws or representatives of attorneys to review the feasibility of filing retrial or extraordinary appeal for disputed convicted crimes punishable by death penalty .

Case

In March, 2016, the Taiwan High Prosecutors Office Taichung Branch proactively discovered disputed case of “defendant Zheng” and filed retrial to the Court. On October 26, 2017, Taiwan High Court Taichung Branch announced the defendant Zheng not guilty and the judgement was affirmed on November 21, 2017. This Case is the model example which exhibits the prudent capital punishment execution, human life respect and human rights protection by MOJ.



2. Status of Convicted Offenders

(1) Accommodation Status

- As of Dec. 31, 2018, there are 42 offenders convicted of Capital Punishment who have not been executed.
 - Taipei Detention Center accommodates 23 out of the 42, with 1 female and 22 male.
 - The longest accommodation duration is 22 years, 3 inmates are over 60 years old who they are 83, 66 and 62 years old, respectively.
 - For convicted crimes, 33 (78%) of the 42 were convicted of homicide crimes, followed by crimes of felony murder during robbery (5 inmates) and crimes of felony murder during kidnapping for ransom (4 inmates).

(2) Disobedience by Inmates Convicted of Capital Punishment

■ As of Dec. 31, 2018:

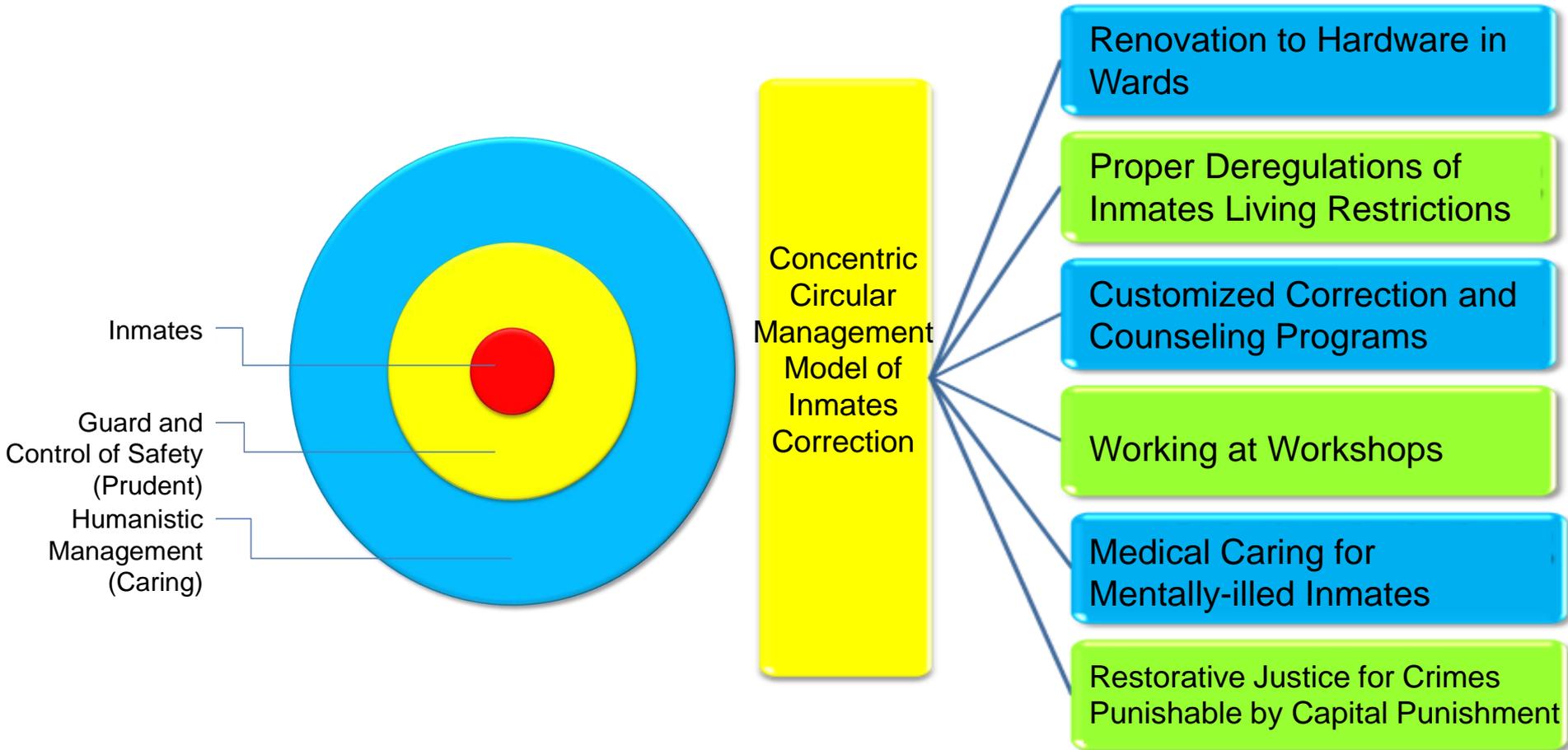
- 13 inmates have accommodation records with no disobedience, 12 have 1 piece of record of disobedience, followed by 8 with 2 pieces, and 9 with 3 or more pieces. There is one inmate who has the most pieces of records as 8 times of disobedience.
- Disobedience types → order interference (24 cases), violent assault (19 cases) and possession of prohibited articles (18 cases).

(3) Application for Execution of Capital Punishment by Inmates

■ Number of Inmates Applying for Execution of Capital Punishment to MOJ and Application Times:

- 10 inmates have applied for execution of Capital Punishment, with 5 applied for over three times and the highest is 7 times.

(4) Correction for Inmates



Renovation to Hardware in Wards



- One bed for one inmate.
- At Taipei Detention Center, inmates can choose the painted colors of the ward to replace the heavy-dark atmosphere with bright colors and the warming environment.

Proper Deregulations of Inmates Living Restrictions



- Visiting and Communication: Twice visits a week and 30 minutes each time for relatives and the duration or visit frequency may be extended or increased if necessary. Telephone or video visiting are also available.
- Portable appliances may be used, and beddings may be purchased after approval by the Institutions.

Customized Correction and Counseling Programs



Humanistic Correction and Education: Including family support, counseling, religious education, courses of artistic and life respect with aims to correct inmate' s life perspectives.

Working at Workshops



- Selecting inmates to workshops working based on their personal interests, guard and control of safety and living management, and the works shall be in principle, simple and tool-free.
- Most inmates have low interest in working at workshops.

Medical Caring for Mentally-illed Inmates



- Immediate health checkup upon the reception of new inmates
- Any suspected mentally-illed inmates will be officially registered for Mental Status Examination (MSE) by professional physicians, and sent to medical treatment in the Institution or rehabilitative measure Institutions.

Restorative Justice for Crimes Punishable by Capital Punishment

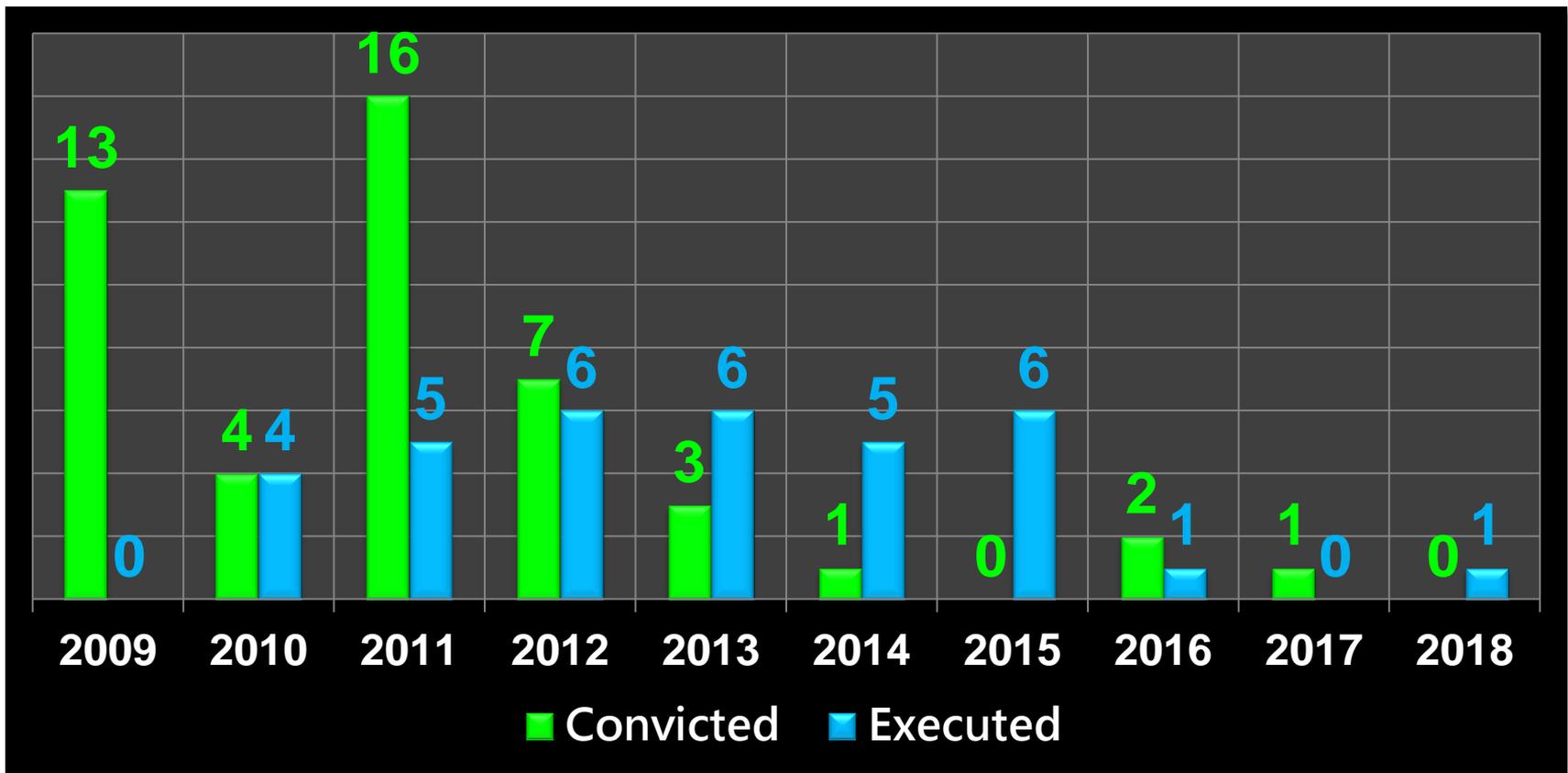


- Invite the restoration facilitators in charge of District Prosecutors Offices and Associations of Victims Support as voluntarily workers in the arrangement of all kinds of counseling programs.
- Establish long-term cooperation for counseling and implement adequate Restorative Justice for Crimes practice at proper timing.



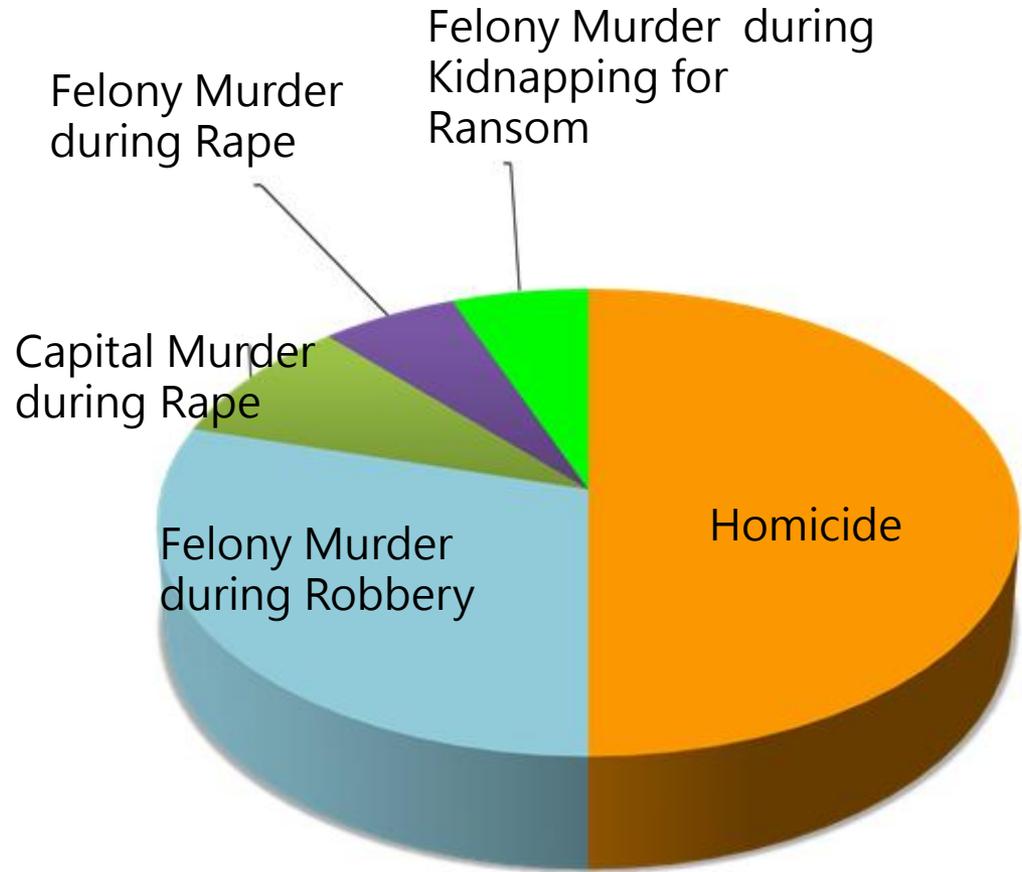
3.The Convicted Crimes, Number of Execution and Sentenced of Death Penalty Execution, 2009-2018

❖ Number of Executed Offenders, 2009-2018

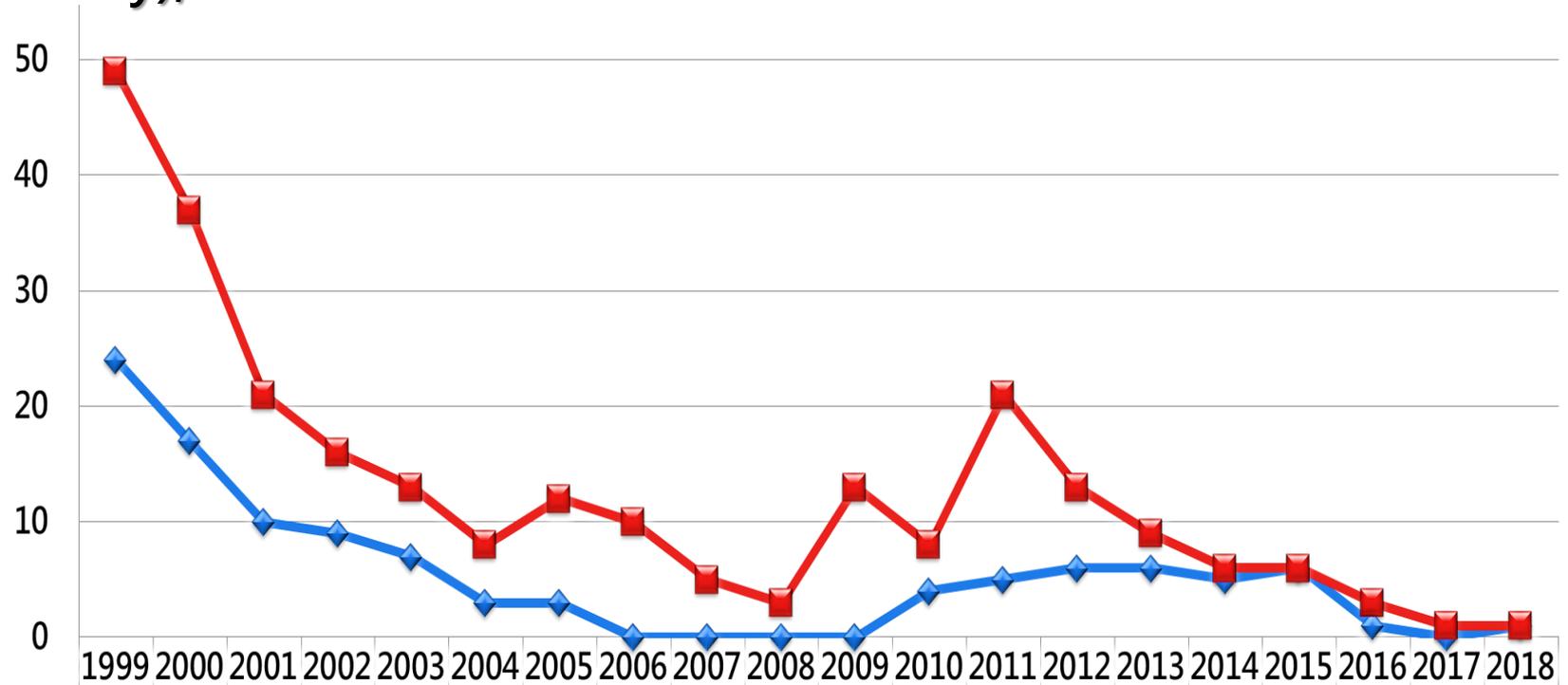


❖ Number of Executed Offenders and the Convicted Crimes, 2009-2018

Convicted Crimes	Offenders
Homicide	17
Felony Murder during Robbery	10
Capital Murder during Rape	3
Felony Murder during Rape	2
Felony Murder during Kidnapping for Ransom	2



❖ Sentencing and Execution of Capital Punishment (Death Penalty), 1999-2018



Convicted	25	20	11	7	6	5	9	10	5	3	13	4	16	7	3	1	0	2	1	0
Executed	24	17	10	9	7	3	3	0	0	0	0	4	5	6	6	5	6	1	0	1

Avg. per Decade	1999~2008	2009~2018
Convicted	10.1	4.7
Executed	7.3	3.4

□ Legal Basis for Review and Execution of Capital Punishment → Comprehensive and Through Review as well as Execution Ruled by Law

- The Code of Criminal Procedure
- Directions of Procedures for Trial and Investigation of Crimes Punishable by Death Penalty
- Death Penalty Procedural Rules

- Exhaustion of all remedies
- Restriction of subjects punishable by Capital Punishment (death penalty)
- Restriction of measures for execution of capital punishment (death penalty)

- Implementation of Articles 6 and 7 of ICCPR to guarantee the protection of right to life
- Comprehensively and thoroughly review criminal cases
- Execution ruled by law



4. Future Vision

Protect and Guard Right to Life

Core Value

Basic Pillars

Prudent Prosecution and Trial Process

Prudent Execution of Punishment

Enhancement of Protection of Victims and Their Relatives

Key Focuses

Dedicated to Minimizing the Execution of Capital Punishment

Dedicated to Implementing Prudent Prosecution and Trial Process

Dedicated to Implementing Prudent Execution of Punishment

Dedicated to Improving the Efficiency of Victims Protection System

Dedicated to Promoting Education of Human Rights and Life Respect

Dedicated to Minimizing the Execution of Capital Punishment

- Court judgements and Paragraph 2 of Article 6 of ICCPR: "...sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime..."
- The definition of term "the most serious crimes" shall be limited to "there was an intention to kill which resulted in the loss of life" according to the interpretation of ECOSOC and United Nations Human Rights Committee.



- Review and amend the current substantive laws and limit crimes punishable by the capital punishment to those with the nature of "intention to kill which resulted in the loss of life" .

Dedicated to Implementing Prudent Prosecution and Trial Process

- Establish objective sentence standards and abide by proportionality.
- Adopt the "pre-sentence investigation" from Common Law Systems.
- Legalize and institutionalize the sentence debate and discussion procedures.
- Adopt bifurcated trial proceeding.
- Decision of Capital Punishment shall only be determined by unanimity.
- Mandatory defense for accused crimes punishable by Capital Punishment shall be implemented to guarantee the rights to be heard.
- Inquisitorial investigation and mandatory assessment on mental status of the accused.



- Establish more prudent sentence procedures of Capital Punishment and more efficiently guarantee human rights and correctness of the judgement.

Dedicated to Implementing Prudent Execution of Punishment

- No punishment is allowed when insanity exists after conviction.
- Paragraph 1 of Article 19 of Criminal Code of the Republic of China amended on Feb. 2, 2005, "An offense is not punishable if it is committed by a person who is mentally disorder or defects and, as a result, is unable or less able to judge his act or lack the ability to act according to his judgment." However, the term "insane" specified in Article 465 of the Code of Criminal Procedure has not been amended.

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- Amend to Article 465 of the Code of Criminal Procedure, and to the assessment of MSE for offenders convicted of Capital Punishment.

Dedicated to Improving the Efficiency of Victims Protection System

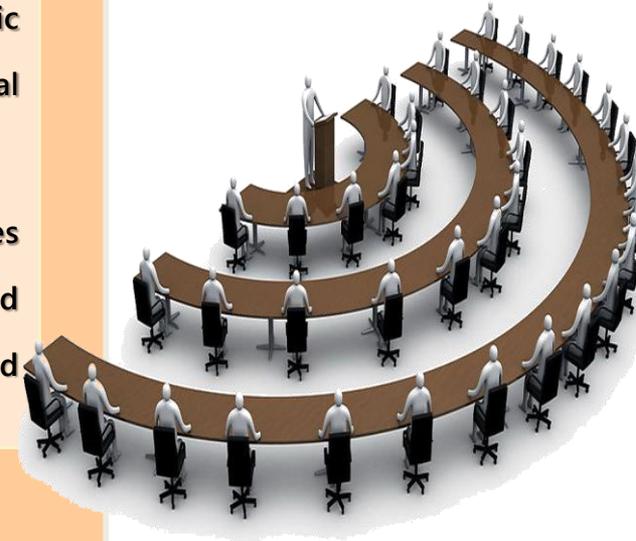
- Implement victims protection system based on "Programs for Improving Victims Protection Systems" approved by Executive Yuan.
- Legalize and institutionalize the procedures of Restorative Justice for Crimes.
- Guarantee and improve the rights of victims' legal proceedings.

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- Implement the improved victims protection system.

Dedicated to Promoting Education of Human Rights and Life Respect

- MOJ will keep improving the current operation of model functions and the participation and cooperation of human rights NGOs to enhance the public understanding of the right to life and Capital Punishment to reach social consensus.
- Representatives of EETO, members of British Parliament and representatives from German Institute in Taipei had visited MOJ in September, October and November, 2018, respectively. All of them are willing to offer assistance and share experiences of Capital Punishment abolishment.

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- MOJ is planning to invite domestic and foreign scholars and legal professionals to jointly convene seminars or conferences discussing relevant issues of ICCPR, and to guide the public to examine and discuss the nature of right to life in a rational manner, and to introduce principles and core values of human rights to reach social consensus.





5. Conclusion

- The Ministry of Justice will continue the policy of abolishment of Capital Punishment gradually, and educate and persuade the public by sharing the experience of death penalty abolishment in Europe and other countries. MOJ will also focus on related issues and promote “Fundamental Programs for Gradual Abolishment of Capital Punishment” with proper supporting measures that balance human rights and victims protection and ease public concerns.





Thank You!

Jan. 11, 2019

