

論荀子的刑罰觀
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摘要

Capital punishment, the most strict penalty, is that the government takes away the criminal's life, who is the citizen with the legal rights in the country. Many governments have executed the criminals since the ancient times; therefore, it has the value and important reasons for preserving the death penalty.

Since human beings' thoughts changed, especially from the 18th century, the development of the human rights has been making the execution of capital punishment be evaluated and negotiated as an appropriate punishment or not.

The abolishment or preserve of capital punishment, which is the focus of argument in the legalism, has turned into a social problem instead of a religious problem. This study attempts to discuss the possibility of abolishing or preserving capital punishment from Xunzi's points of view instead of repeating the preceding controversies.

The abolishment or preserve of capital punishment is related to the acknowledgement of legal rights for human life, that is the value of life. Different points of view revealing from various debates and negotiations have difficulty resulting in the one and only conclusion. The discussion of this study would be focused on the basis of Xunzi's thought

“ritual”. First, Xunzi always connects legalism with ritual and insists no substitute for ritual. He said, “The principles of governing a country must be based on creating the rituals and instituting laws. The sages and gentlemen can carry them out in order to deserve honor; the common people think they have the correct ways to follow. People comprehend the moral practice and follow the rules to avoid being punished. If the country is well controlled in this way, the world will be always in peace.” (成相)
Second, setting on the moral principles is to honor and express people's

good; the establishment of the laws is to remove the evil people from society. The moral principles assisted with the laws can build the standard of managing a country. If the “punishment” and “removing the evil” are considered ahead of “the laws” and “the honor of good” , people have no idea of the correct ways to follow, and completely lose the concern for the respect of human nature. Viewing the connection of “ritual” , “legalism” and “punishment” , I try to analyze and integrate Xunzi’ s perspective for capital punishment.

關鍵字：Xunzi, ritual, punishment