

**The Evolution of the Death Penalty in America  
—The Significance of Striking Down the Juvenile  
Death Penalty in *Roper v. Simmons***

*Yu-Yeh Wang*

Institute of European and American Studies, Academia Sinica  
No. 128, Sec. 2, Academia Rd., Taipei 11529, Taiwan  
E-mail: yywang@sinica.edu.tw

**Abstract**

This paper probes differences between the United States and other civilized countries in the use of the death penalty. During the later half of the 20th Century, western European countries started down their path of abolishing the death penalty for all crimes, while the United States, in the late 1970s, began using the death penalty more heavily to combat increasingly violent crime. At the turn of the 21st Century, the US was unique in that it remained not only outside of the two-thirds of countries having abolished the death penalty, but also in executing juveniles in the greatest numbers: The U.S. remains the only country to execute juveniles at the turn of the 21th Century. In 2005, evidently compelled by international indignation, the U.S. Supreme Court struck down the juvenile death penalty in *Roper v. Simmons*. The Court held that the imposition of the death penalty on juvenile offenders under 18 years of age was “cruel and unusual punishment” and hence forbidden by the Eighth and Fourteenth Amendments. This paper examines the definition of juvenile under traditional common law, the theory of special treatment for juvenile delinquents, the U.S.’s strategy for dealing with juvenile delinquency, and then focuses on the facts and legal issues of *Roper*, and discusses the significance and the possible impact of this judgment on the practice of the death penalty in the U.S.

**Key Words:** juvenile offender, juvenile delinquency, death penalty, moratorium, cruel and unusual punishment