

Empirical Evidence in Support of Abolition of the Mandatory Death Penalty in Trinidad and Tobago

Introduction

Trinidad and Tobago is now one of the few nations in the world that retains in its law the mandatory death penalty for murder, even though there have been no executions for murder for over 20 years— since 1999. In 2015, 21 men were mandatorily sentenced to death in Trinidad and Tobago and, at present, it is believed that about 45 prisoners are on 'death row' under sentence of death.

In 2006, The Death Penalty Project commissioned Professor Roger Hood, Emeritus Professor of Criminology at Oxford University, along with Dr Florence Seemungal, to design and report on the findings from an empirical investigation into the administration of the mandatory death penalty in Trinidad and Tobago.

In 2009, The Death Penalty Project commissioned the pair to produce a second report, an opinion survey of key stakeholders on the problems associated with the administration of the death penalty in Trinidad & Tobago.

In 2011, a third report was commissioned: Public Opinion on the Mandatory Death Penalty in Trinidad. The research was fully supported throughout by the Faculty of Law at the University of West Indies, St Augustine Campus, and carried out with the approval of the authorities in Trinidad and Tobago, including the Chief Justice, the Director of Public Prosecutions, the Commissioner of Police, the Chief Magistrate and the Commissioner of Prisons.

A Rare and Arbitrary Fate (2006)

The report was based on a detailed study of all cases of homicide recorded by the police as murder in the years 1998 - 2002, and on all cases where a person was committed for trial on indictment for murder in the same years.

It provided for the first time an analysis of the kinds and circumstances of murders, and characteristics of the accused and of victims, that had been committed in Trinidad and Tobago in these years and, by following-up the cases, how many and which kinds and circumstances of murder had resulted in conviction and a mandatory death sentence.

82%

of cases of murders arising from 'gang-related' and 'drug-related' killings (a quarter of all recorded murders), no suspect had been identified

of all recorded murders had resulted in a conviction for murder and a mandatory death sentence

5%

20%

of those indicted for murder were convicted of murder, and after appeal less than one in 10 had their murder conviction upheld

Among those indicted for murder, conviction and a subsequent mandatory death sentence was highest among those who had been charged with a domestic murder. Among all those indicted there was a great deal of variability and arbitrariness: not all those who were mandatorily sentenced to death had committed crimes that would be regarded as 'the worst of the worst'

of those charged with murder, 44% were acquitted and 35% convicted of manslaughter, with only 21% convicted and sentenced to death

44%



The implications of these findings were:

- The certainty of conviction for murder was so low that the mandatory death penalty could not be an effective deterrent to murder.
- There was a great deal of arbitrariness affecting which defendants were sentenced to death. Thus, the mandatory death penalty was inevitably inequitable.
- The lack of sentencing flexibility of the mandatory death penalty may have been a major factor producing the low rate of conviction for murder.

Experiences and Perceptions: Judges, Prosecutors and Counsel (2009)

This study was based on 51 in-depth interviews. Respondents included 16 High Court and Appeal Court Judges in Trinidad and Tobago; 13 Senior State Prosecutors and 22 defence counsel registered with the Criminal Bar Association of Trinidad and Tobago. Key findings included:

- Just over half of the 51 interviewed, recalled instances when a mandatory death sentence had been imposed which they considered to be an excessive punishment given the nature of the murder and the characteristics of the defendant.
- Only four of the 51 respondents were in favour of the law to remain as it is. Most favoured a distinction between capital and non-capital murder, but less than one in five would want an inflexible mandatory death penalty for capital murder.
- A majority (30) of the 51 respondents said they had dealt with cases where, in their view, the jury would have brought in a verdict of guilty to murder, had the penalty not been a mandatory death sentence.
- Two thirds of respondents, including 11 of the 13 Prosecutors, believed that the conviction rate for murder would increase if the mandatory element were to be abolished.

These findings show that there was very little support for the status quo amongst those who were involved in administering punishment for murder

Public Opinion (2011)

A national public opinion survey was designed by Roger Hood and undertaken by Media Facts and Opinion (MFO) in December 2010. It was based on face-to-face interviews with 1,000 respondents, randomly chosen from the voters list. In addition to general questions about their views on the mandatory death penalty, the respondents were asked to 'judge' what the appropriate sentence would be, in their opinion, when shown scenarios of three different murders: a domestic murder, a robbery murder, and a gang/drug related murder. For each type of murder there were two versions: one with mitigating elements and the other with aggravating factors. They were randomly assigned so that each case was 'judged' by half of the sample. The key findings were:

26%

were in favour of the death penalty being the mandatory punishment on conviction for murder, whatever the circumstances

favoured a discretionary system of sentencing to reflect the circumstances of the case, and a small minority said they favoured complete abolition

63%

However, when judging all three cases presented to them, only one in five thought that the death sentence should be imposed on all of them. A quarter of respondents were not in favour of the death penalty for any of the three cases



Where the case had mitigating circumstances, such as youth or no previous criminal record, less than half the respondents thought the death penalty was the appropriate sentence

89%



35%

When the 1,000 interviewees were asked whether they would support the death penalty if it were proven that innocent persons had been executed, the proportion of those who initially supported the death penalty fell from 89% to 35%

When asked which of five different social and policing policies they thought would be most effective in combatting serious violence leading to death, only one in five citizens chose 'Greater number of executions of murderers'

20%

43%

favoured a policy of 'better moral education of young people'

Conclusion

Those who believe that the time has come to abolish the mandatory death penalty for murder in Trinidad and Tobago need not be concerned that they will be faced with strong opposition from either criminal justice professionals or members of the general public. The research shows not only that the mandatory death penalty is not an effective method for securing convictions for murder, but that a discretionary, and therefore more just, system of administering the ultimate punishment is to be preferred by a majority in both parts of the community.

Download the reports

The studies are available to read in full on our website please click below.

