

# Legislators' Opinions on the Death Penalty in Taiwan

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In association with:



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In conducting research on opinion leaders, we benefited in particular from the knowledge of death penalty laws and practices, and wider jurisdictional information, provided by the Executive Director of TAEDP, Hsin-Yi Lin, and the team at TAEDP, who provided support and assistance with data collection throughout.

We owe a huge debt of appreciation to the researchers who conducted the interviews with legislators. Their professionalism, dedication and tenacity meant that we managed to reach our target number of interviews in spite of the increasingly difficult conditions imposed by the COVID-19 pandemic and political tensions that surfaced during the fieldwork. The researchers were ably supervised in their collection and transcription of the interview data by Hao-Han Wang, Executive Secretary of TAEDP.

Analysing rich qualitative interview data is never easy. It can be particularly hard to analyse data gathered from legislators, who are knowledgeable, but sufficiently confident to take the interview in a direction that they prefer. Their responses and additional comments often require the interviewer to respond by moving around the interview schedule to try to cover the key questions. This means that the transcript often does not follow the interview schedule. To make sense of such responses – to code and then analyse such data – can be particularly challenging. We were assisted in this task by a researcher at the University of Oxford Centre for Criminology, Luiz Dal Santo. We are grateful to him for his quantitative and qualitative research skills, and his careful attention to detail. In designing the interview schedule, we adapted an interview schedule The Death Penalty Project had prepared for similar work in Zimbabwe – and that it was, at the time, developing in Indonesia – to allow for comparisons across jurisdictions.

Finally, thanks are due to Saul Lehrfreund and Parvais Jabbar, Co-executive Directors of The Death Penalty Project, for commissioning us to conduct this research. Saul ran the project, with dedicated support from his team, at a very difficult time, when travel to Taiwan was not possible. Many times, connectivity was lost or interrupted during our numerous online video meetings with the team in Taipei. His and their patience at such times was most impressive.

**Professor Carolyn Hoyle and Professor Shiow-duan Hawang**

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# Foreword

This report is the fourth in The Death Penalty Project's series of studies and reports on capital punishment in Taiwan, published in association with the Taiwan Alliance to End the Death Penalty. Each previous report has commended Taiwan for taking the progressive step, in 2009, of incorporating the International Covenant on Civil and Political Rights (ICCPR) as a matter of domestic law, voluntarily agreeing to conform to its human rights standards and objectives, including the ultimate abolition of the death penalty. The overriding obligation is that Taiwan must be on an irrevocable path towards the full abolition of the death penalty in the near future.

Public opinion is often cited as a reason to retain the death penalty in Taiwan, but rigorous empirical research that meticulously interrogates public opinion can demonstrate the limits of the claims of widespread public support for capital punishment. In 2019, The Death Penalty Project published two pieces of empirical research conducted by Taiwanese academics; the first, a study of public attitudes towards capital punishment in Taiwan, and the second, a report on wrongful convictions.

The latter uncovered an alarming series of unsafe capital convictions in Taiwan and revealed multiple failings in the criminal justice system, making clear the urgent need to uphold international human rights standards that safeguard those facing execution. The findings from the study are consistent with the experiences in other retentionist countries – namely, the risk that innocent people will be sentenced to death and executed wherever capital punishment is imposed. As many abolitionist countries have recognised, error is inevitable, and the only solution is to abolish the death penalty.

The former study – on public attitudes to capital punishment – supported a growing body of international research demonstrating nuances in public opinion and a greater openness to abolition than more superficial, binary polling has previously suggested. Claims of widespread public support for capital punishment can significantly overstate the extent of the public's interest in the issue. The study revealed that, when researchers presented participants with four factual questions about the death penalty, only four out of 2,000 people could provide correct answers to all four questions. More than half (55%) did not know the answers to any. The study also showed that support for the death penalty in abstract is not inevitably sustained when people are asked to consider specific realistic cases. While 85% of respondents in Taiwan initially opposed abolition, when asked for their views on a specific scenario case detailing the offender's mitigating circumstances, only one-third of respondents continued to support the imposition of the death penalty.

This report presents evidence from a new study focused on the country's legislators. It sought to establish their views on the continued use of capital punishment. As an influential group with the power to steer political and legal change, and advance abolition, their views are essential to guiding future advocacy work, shaping discourse and, ultimately, penal policy.

As with similar studies on opinion formers conducted elsewhere, this research found that the majority of legislators (61%) are in favour of ending the use of the death penalty in Taiwan. Interviews revealed low levels of trust in the administration of criminal justice, with the vast majority of legislators concerned about wrongful convictions – the majority of those in favour of abolition citing a fear of executing the innocent as one of their key rationales for abolishing capital punishment. These findings accord with our 2019 report on unsafe convictions in capital cases in Taiwan, showing that legislators recognise the systemic flaws in the criminal justice system and the very real risk of error in the administration of the

death penalty. It is imperative that legislators in Taiwan share their concerns about the imposition of a wrongful punishment that is irrevocable, so they may play a key role in informing and influencing society.

Though the majority of legislators support the abolition of the death penalty, the research uncovered a hesitancy to act because of fear of public backlash. Abolitionists and retentionists both believed that the government retained the death penalty and resisted a moratorium on executions because of a fear that such measures would prove unpopular among the electorate. The legislators were presented with key findings from the 2019 public opinion study, which challenged the perceived notion that the majority supported retention and would not accept abolition, and the legislators were again asked for their own views on whether the death penalty should be abolished or retained. The responses were astonishing – the number in favour of abolition increased from 61% to 81%, and the proportion of legislators supporting retention of the death penalty dropped from 39% to 19%, with no one expressing ‘strong’ support for the punishment.

This remarkable finding shows the power that rigorous research has in shifting the debate around capital punishment. By building upon previous research and incorporating past findings, a robust collection of data has emerged revealing that the public are less wedded to the retention of capital punishment than previously assumed, and that legislators are reasonably well informed on the latest research, conscious of the fallibility of the criminal justice system and the risk posed in terms of wrongful conviction, and supportive and flexible in their attitudes towards abolition. Taken together the findings clearly set out a case for penal reform, and for Taiwan to take concrete steps to abolish the death penalty and to inform the public of the human rights case for doing so. We know now that the majority of legislators will not only influence society, but also support government initiatives aimed at ending the death penalty.

The research further highlights the need for Taiwan to fulfil its obligations under international law, particularly the ICCPR. We hope it can assist policy-makers as they continue on the irrevocable path to abolishing the death penalty, and that it will provide the government, civil society and other stakeholders with insights into a growing openness among the public and influential groups to accept abolition.

We would like to thank Professor Carolyn Hoyle and Professor Shiow-duan Hawang, the authors of the study, for their dedication and commitment in undertaking this important research. Our sincere thanks, as always, to the team at The Death Penalty Project and Taiwan Alliance to End the Death Penalty, whose tireless contribution helped to make this study possible. Special thanks also go to Chi-ting Serena Chuang, Szu-min Chan and Yang Kang, for their work translating the report.

**Saul Lehrfreund and Hsin-Yi Lin**

**Co-Executive Director of The Death Penalty Project, and Executive  
Director of the Taiwan Alliance to End the Death Penalty**

# Key findings

This report considers findings from interviews with 38 legislators in Taiwan. We sought evidence of their knowledge about the current administration of the criminal justice system, and the death penalty in particular; of their views on capital punishment; and of their rationales for those views, as well as their likely responses to changes in penal policy.

Initially, we found that 61% of legislators interviewed supported the abolition of the death penalty. Most were concerned about the risks of executing the wrongfully convicted, felt it was not a better deterrent than a long prison sentence, or considered it to be an abuse of human rights.

Most of the 39% who were in favour of retention of the death penalty believed it deterred people from committing crimes, that the public were in favour of its retention, and that victims needed it to help them recover. However, the majority of these (60%) wanted to see it further restricted in its use, with no retentionists wishing to see an expansion of the death penalty.

Furthermore, only 16% of all legislators we interviewed said they would oppose an Act of Parliament to abolish the death penalty, with no one saying they 'would strongly and vigorously oppose abolition and definitely vote against it'.

Abolitionists and retentionists both thought that the government retained the death penalty and resisted a moratorium on executions because of the perceived notion that the majority of citizens are in favour of retention and that such measures would lead the government to become unpopular among the electorate. A third reason was that the death penalty was believed to be necessary to deter crime.

Respondents overwhelmingly cited deterrence, public opinion and justice for victims as the primary purposes of sentencing to death. Yet, all interviewees had much more faith in social justice measures (such as improved moral education of young people, efforts to reduce poverty and better preventive treatment of those with mental illness) than in criminal justice measures for reducing violent crimes in Taiwan. Better control of the drugs trade was also included among measures for reducing drug offences. Only one respondent mentioned 'more executions' as a means of reducing violent crime, and that was their last choice in the list of options.

Most interviewees were reasonably well informed about the administration of, and research on, the death penalty, but abolitionists were considerably better informed than retentionists.

Most interviewees did not have high levels of trust in the Taiwanese criminal justice system to offer adequate safeguards, though trust was higher among retentionists than abolitionists. The vast majority of legislators thought that wrongful convictions 'sometimes' occurred, but whereas almost a third of abolitionists thought they occurred 'often' or 'very often', only 8% of retentionists believed that. Almost half of our interviewees felt that the police could never be trusted, with trust in prosecutors and the courts being higher, but not great.

When offered a series of possible public reactions to abolition, more than half of the participants believed 'there would be demonstrations of strong public dissatisfaction, in the media and elsewhere,

against the decision and repeated calls for its reinstatement'. Almost two-thirds admitted that their stance on abolition was influenced by concerns about this public antipathy, though this apprehension was considerably higher among retentionists.

However, when presented with a range of robust empirical data on the Taiwanese public's actual views on the death penalty – from a survey conducted in 2013 and published in 2019 that revealed support to be weaker than respondents might have believed – the proportion of legislators supporting retention of the death penalty dropped from 39% to 19%, with no one expressing 'strong' support for retention, and support for abolition increased from 61% to 81%.<sup>1</sup>

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<sup>1</sup> In 2013, the Taiwan Alliance to End the Death Penalty commissioned Professor Chiu Hei-Yuan, of Academia Sinica, to conduct a sophisticated and in-depth public opinion survey. It provided important insights into the strength of the Taiwanese public's oft-cited support for the death penalty, revealing a much more nuanced picture than previous, more superficial, surveys. The findings were published in 2019 by The Death Penalty Project: Hei-Yuan C. and Hood R., *For or Against Abolition of the Death Penalty: Evidence from Taiwan*, The Death Penalty Project, 2019.





# **PART ONE**

The purpose of the study

## 1.1 The context

The new millennium saw a shift in the politics and practice of the death penalty in Taiwan. It was increasingly perceived as incompatible with a developing commitment to democracy and human rights, and the number of people executed and sentenced to death declined considerably. Indeed, when we compare Taiwan's contemporary stance with its over-reliance on judicial and extrajudicial executions during the 'White Terror' campaign against intellectuals in the 1950s, and in the decades to follow, up to the beginning of democratic transition in 1986, we see significant change. We can also appreciate that Taiwan is now clearly distinguished from its powerful neighbour, the People's Republic of China, which continues to execute at a very high rate.

While the execution rate in Taiwan remained reasonably high from the mid-1980s until the early 2000s, surpassed in Asia only by Singapore<sup>2</sup>, it had declined significantly since the pre-democracy levels of the 1970s, notwithstanding sudden increases between 1988 and 1992, and in the late-1990s.<sup>3</sup> As Taiwan democratised, the abolition of the death penalty was presented as a long-term goal by various Ministers of Justice.<sup>4</sup> As early as 1990, the Vice-Minister of Justice stated that Taiwan intended to abolish, but only when social conditions and public opinion were conducive. Since then, various similar statements have been made and, in 2005, the government published A Policy of Gradual Abolition of the Death Penalty making clear that 'a popular consensus on abolition must be established' before significant legislative change.<sup>5</sup>

The number of people executed decreased towards the end of the past century, from 38 in 1997 to 10 in 2001, and to none between 2006 and 2010, when the Minister of Justice imposed an unofficial moratorium. A further boost to the abolitionist effort came in 2009, when Taiwan incorporated the International Covenant on Civil and Political Rights (ICCPR) into its domestic law, signalling the government's commitment to international human rights principles and standards, including the injunction in Article 6(6) not to delay or prevent the abolition of capital punishment.<sup>6</sup>

The declining execution rate since the start of the new millennium reflected revisions to the capital statutes that progressively restricted the death penalty to fewer offences, changes to the Code of Criminal Procedure, and the abolition of mandatory death sentences, which came in 2006. Nevertheless, it was also strongly influenced by shifting political imperatives towards developing human rights and a desire for the nation to dissociate itself from the excesses of its authoritarian history.

However, hopes that Taiwan was well on its way to *de facto* abolition were dashed in 2010, after the Minister of Justice, Wang Ching-feng, was forced to resign for declaring that she would never give her approval for an execution. Her successor, Tseng Yung-Fu, then authorised the execution of four prisoners who had been convicted of murder.<sup>7</sup>

<sup>2</sup> Amnesty International, *Singapore: The Death Penalty: A Hidden Toll of Executions*, 2004, ASA 36/001/2004.

<sup>3</sup> These increases were correlated with rising crime, a series of high-profile offences and concerns about corruption; see, Johnson D. and Zimring F., *The Next Frontier: National Development, Political Change, and the Death Penalty in Asia*, 2009, Oxford University Press, ch6.

<sup>4</sup> FIDH, *The Hidden Face of Taiwan: Lessons Learnt from the ICCPR/IESCR Review Process*, 2013, 13.

<sup>5</sup> Hood R., *The Death Penalty: A Worldwide Perspective*, Oxford University Press, 3<sup>rd</sup> edn, 2003, p47.

<sup>6</sup> For a detailed review of the extent to which Taiwan has met these obligations see *The Death Penalty in Taiwan; A Report on Taiwan's Legal Obligations Under the International Covenant on Civil and Political Rights*, The Death Penalty Project, 2014.

<sup>7</sup> *Taiwan News*, 1 June 2010.

Soon after, Taiwan's Constitutional Court decided not to hear a constitutional challenge to procedural issues relating to the death penalty filed on behalf of 40 death-row prisoners, a decision that Chang Wen-chen and Chang Chuan-fen, of the Taiwan Alliance to End the Death Penalty, described as based on 'poor reasoning' and as distancing Taiwan from the international human rights community.<sup>8</sup> In 2012, President Ma Ying-jeou declared that he would seek public support for moving towards abolition<sup>9</sup> and, in the following year, Taiwan came under renewed pressure from the international community to intensify its efforts towards abolition and – as a first and decisive step – introduce a moratorium on executions. However, the Taiwanese government argued that it would be difficult for Taiwan to abolish the death penalty at that stage.<sup>10</sup>

Executions resumed in 2010, with a handful of cases each year. Each execution generated international criticisms, including concerns that the provisions of the ICCPR had not been adhered to in any of the recent executions.<sup>11</sup> In 2016, President Tsai Ing-wen came to office, soon after the execution of Cheng Chieh in May.<sup>12</sup> Government officials within this new administration were clear that their goal was abolition.<sup>13</sup> However, in 2018 Lee Hung-Chi was executed.<sup>14</sup> While the Ministry of Justice defended the execution in terms of a lack of consensus on abolition, national and international human rights groups lamented the negative consequences of the execution on Taiwan's efforts to build stronger relationships with other countries. As Keir Starmer and Saul Lehrfreund put it in an article published in the *Taipei Times*: 'We worry that, in lifting the moratorium and carrying out an execution, Taiwan has taken a huge step backward, putting its international reputation at risk.'<sup>15</sup> The next – and, to date, the last – execution under her Presidency came in April 2020, when Weng Jen-hsien was shot, having been sentenced to death in 2017 for murder.<sup>16</sup>

While the death penalty is frequently discussed in presidential and legislative elections, no candidate has ever campaigned explicitly on a platform of promising abolition, we must assume for fear of losing support. That said, election results suggest that candidates who have expressed support for abolition in the past were not punished at the ballot box. Almost a decade ago, the then government cited public support among the rationales for retention.<sup>17</sup> Since then, a consensus has emerged that the political and legislative elites would support abolition, but the people are against it, a narrative that can be seen in many jurisdictions, especially across Asia.

It is certainly the case that public opinion polls in Taiwan have demonstrated apparently strong support for the death penalty, with surveys indicating that between 72% and 85% of people were opposed to abolition<sup>18</sup>, as they have in many other countries.<sup>19</sup> But, as is often the case, more rigorous empirical research

<sup>8</sup> Wen-chen C. and Chuan-fen C., *My Country Kills: Constitutional Challenges to the Death Penalty in Taiwan*, Taiwan Alliance to End the Death Penalty, 2011.

<sup>9</sup> FIDH, *The Hidden Face of Taiwan: Lessons Learnt from the ICCPR/IESCR Review Process*, 2013, 13; *The Death Penalty in Taiwan: A Report on Taiwan's Legal Obligations Under the International Covenant on Civil and Political Rights*, The Death Penalty Project, 2014.

<sup>10</sup> Amnesty International *Death Sentences and Executions in 2013*, 2013, pp27.

<sup>11</sup> Lehrfreund S., 'The Death Penalty: End It, Do Not Mend It', *Taipei Times*, 5 July 2014.

<sup>12</sup> Starmer K. and Lehrfreund S., 'Time to Abolish the Death Penalty', *Taipei Times*, 5 October, 2016.

<sup>13</sup> Starmer K. and Lehrfreund S., 'The Risk to Taiwan from Executions', *Taipei Times*, 2 October 2018.

<sup>14</sup> Amnesty International, Taiwan: First Execution Under President Tsai Ing-wen a Crushing Setback to Abolition Hopes, [www.amnesty.org/en/latest/news/2018/08/taiwan-dp](http://www.amnesty.org/en/latest/news/2018/08/taiwan-dp), 2018.

<sup>15</sup> Starmer K. and Lehrfreund S., 'The Risk to Taiwan from Executions', *Taipei Times*, 2 October 2018.

<sup>16</sup> FIDH, 'Second Execution Under President Tsai Condemned', [www.fidh.org/en/region/asia/taiwan/second-execution-under-president-tsai-condemned](http://www.fidh.org/en/region/asia/taiwan/second-execution-under-president-tsai-condemned), 2020.

<sup>17</sup> FIDH, *The Hidden Face of Taiwan: Lessons Learnt from the ICCPR/IESCR Review Process* 2013, 13.

<sup>18</sup> Hei-Yuan C. and Hood R., *For or Against Abolition of the Death Penalty: Evidence from Taiwan*, The Death Penalty Project, 2019.

<sup>19</sup> Hood R., 'Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys in Eight Countries', *Berkeley Journal of Criminal Law* 23 2018, pp.218-242.

showed that public opinion in Taiwan is not a major barrier to political action to abolish.<sup>20</sup> A rigorous and sophisticated empirical study conducted in 2013 by Professor Chiu Hei-Yuan, for the Taiwan Alliance to End the Death Penalty, found that while 85% of the public initially expressed reluctance to support abolition of the death penalty, most were not strongly opposed to abolition. Furthermore, support for the death penalty declined in response to questions about alternative penalties, information about specific but realistic cases with mitigating circumstances, and to knowledge about the unreliability and unfairness of the criminal process and judicial decision-making.

In concluding their report on this survey, Professors Hood and Chiu were clear that 'the strength of opposition to abolition has been exaggerated considerably'. They called on the government and its agencies to 'play an active role in mapping out short-term and long-term plans for abolishing the death penalty and informing the public of the human rights case for doing so'.<sup>21</sup>

It is clear from the past 20 years or so that while public opinion may support capital punishment, support is not strong or uncompromising. Furthermore, the impetus for progressive restriction of the death penalty in Taiwan is, and has been for some time, 'leadership from the front'. As happened across many parts of Europe, Taiwanese elites, particularly those in politics, would appear to be motivated to support abolition by a desire to break with an authoritarian past and to demonstrate the nation's commitment to human rights.<sup>22</sup> We must look to those with the power to make change to end the dwindling, but enduring, resort to executions in Taiwan. Legislators have such power and yet we know little about their views on this important matter.

## 1.2 The rationale for research on legislators

Around the world, where abolition has come about, it has not been as a result of the majority of the general public demanding it; it has been driven by the 'elites'. Yet governments in retentionist countries, hesitant about change, assert that the public do not want abolition, and that political leaders should represent 'the will of the people' if they are to remain in power.<sup>23</sup> This leads us to question who can shift the will of the people, especially if it is based on erroneous information and an unjustified faith in punishments to reduce the rates of violent crime?

Politicians, criminal justice professionals and influential people in civil society, as well as news editors, can all be considered elites – 'opinion formers' whose views influence government, but also, importantly, can sway public opinion. They hold privileged positions in society and, as such, can influence political and legal change. Yet, before The Death Penalty Project began to commission a series of studies of opinion formers, there was little research to establish what they thought about the death penalty, what shaped their opinions, and whether or not such people could be relied on to support government initiatives towards abolition.

Knowing what opinion formers understand about crime and justice, and what they believe the death penalty provides that other, non-irrevocable and more humane punishments cannot, is crucial to shaping

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<sup>20</sup> Hei-Yuan C. and Hood R., *For or Against Abolition of the Death Penalty: Evidence from Taiwan*, The Death Penalty Project, 2019.

<sup>21</sup> *ibid.*

<sup>22</sup> Johnson D. and Zimring F., *The Next Frontier: National Development, Political Change, and the Death Penalty in Asia*, Oxford University Press, 2009, ch6.

<sup>23</sup> Hood R. and Hoyle C., 'Towards the Global Elimination of the Death Penalty: A Cruel, Inhuman and Degrading Punishment', in Carlen P. and Franca L. (eds.), *Alternative Criminologies*, Routledge 2018, ch24.

discourse and, ultimately, penal policy. Interviews with opinion formers offer insights into the mindset of those who play a key role in informing and influencing society.<sup>24</sup> Legislators in Taiwan are particularly well placed to do so. They could, for example, play a key role in Taiwan's decision on whether or not to abolish the death penalty, not least by passing an act to incorporate the Second Optional Protocol to the ICCPR into domestic law or by passing legislation to abolish the death penalty.

With the considerable decline in executions in Taiwan over the past two decades, and the many statements in favour of abolition from government ministers and others, the time is right to shift the discourse on the death penalty and chart a path to abolition. We aimed to help this process by conducting and making use of a survey of the views of legislators in Taiwan.<sup>25</sup> This was aimed at eliciting their understanding of the administration of the death penalty, their thoughts on both its potential efficacy and the risks associated with retaining an irrevocable punishment, and their receptivity to abolition. We aimed to provide nuanced insights into why Taiwan retains the death penalty, identify any fault lines among legislators' views, and guide the direction of advocacy work and media campaigns aimed at identifying the most feasible strategies for pursuing abolition.

### 1.3 Research design and methods

The Death Penalty Project is fast developing expertise in conducting research with 'opinion leaders' – those who are likely to have an influence on political outcomes. To date, and always working with local partners, such studies have been conducted in Bangladesh, India,<sup>26</sup> the Eastern Caribbean and Barbados<sup>27</sup>, Zimbabwe<sup>28</sup> and Indonesia.<sup>29</sup> Interviews with opinion leaders do not reveal 'the truth' about justice goals or processes; accounts are inevitably subjective, reflecting an active process of creation of meanings. That said, in most countries these are the voices that will be heard and that can shape policy, practice and discourse, and their views are therefore valuable in charting a path to reform or abolition of the death penalty.

While it is interesting to know what proportion of legislators is for or against abolition of the death penalty, rich empirical data on their views and understandings, and the reasons for those views, can provide so much more than headline results. Interviews that go beyond the simplistic 'for or against' opinion polls often uncover important nuances of opinion, and generally show that respondents are far less resistant to the abolition of the death penalty than may be assumed.<sup>30</sup> For example, in the Eastern Caribbean, where there was an even split between abolitionists and retentionists among the opinion leaders interviewed, most did not predict that there would be grave consequences if the death penalty were to be abolished completely and, with only a few exceptions, stated that they would not oppose total

<sup>24</sup> Richards D., *Elite Interviewing: Approaches and Pitfalls*, *Politics*, 16(3) 1996, pp199-200.

<sup>25</sup> As in our study of opinion formers in Zimbabwe, we chose not to interview judges, and for similar reasons. Our colleagues at the Taiwan Alliance to End the Death Penalty had on many occasions been told by judges that they do not consider promoting abolition as their responsibility, though they would of course abide by any change in legislation to abolish the death penalty. Furthermore, they believed it would be extremely difficult to find judges willing to be interviewed.

<sup>26</sup> Hoyle C. and Lehrfreund S., *Contradictions in Judicial Support for Capital Punishment in India and Bangladesh: Utilitarian Rationales*, *Asian Journal of Criminology* 1, 2019, pp1-21; see also *Matters of Judgment: A Judges' Opinion Study on the Death Penalty and the Criminal Justice System*, *National Law University of Delhi*, 2018.

<sup>27</sup> Hood R. and Seemungal F., *Sentenced to Death Without Execution: Why Capital Punishment Has Not Yet Been Abolished in the Eastern Caribbean and Barbados*, The Death Penalty Project, 2020.

<sup>28</sup> Hoyle C., *Time to Abolish the Death Penalty in Zimbabwe: Exploring the Views of its Opinion Leaders*, The Death Penalty Project, 2020.

<sup>29</sup> Hoyle C., *Appetite for Abolition: Opinion Formers' Views on the Death Penalty in Indonesia*, London: The Death Penalty Project, 2021.

<sup>30</sup> Hood R., *Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys in Eight Countries*, *Berkeley Journal of Criminal Law* 23 2018, pp218-242.

abolition of capital punishment if their government were to take the lead. In Indonesia and Zimbabwe, our research established strong support for abolition among opinion formers.

On this project, Professor Shiow-duan Hawang, of Soochow University, and I worked closely with the Taiwan Alliance to End the Death Penalty (TAEDP). We designed the survey instrument to take account of jurisdictional particularities, but it built on The Death Penalty Project's experience of conducting research elsewhere to allow comparative analysis, and this report makes occasional references to those other studies where relevant.

Throughout the planning, preparation and implementation of this study, we were impeded at various stages by restrictions imposed because of the COVID-19 pandemic. All of our preparatory discussions with our partners were conducted through online video meetings, with sometimes frustrating disruption to connectivity. Researchers were recruited to conduct the interviews, but, as we were not able to fly out to Taiwan, we had to provide online training. Our colleagues there assisted with practice interviews with the team and suggested minor adjustments to the research tool to improve the interview process and reduce error and non-compliance. Despite COVID-19-related restrictions, the interviews were done face to face.

Following the design and translation of the interview schedule and training of researchers, invitations to be interviewed were sent to all legislators in Taiwan at the end of June 2020. These were accompanied by a detailed information sheet describing the purpose of the research and explaining the process for consenting to be interviewed. After this, the team made phone calls to legislators' offices to establish if they were willing to be interviewed.

Taiwan's Legislative Yuan has two legislative sessions each year. During recess, legislators return to their constituencies. The original plan was to interview them in their respective constituencies, but this proved to be difficult because of their busy schedules. Hence, by December 2020, only 11 legislators had been interviewed, notwithstanding numerous efforts to contact them. At this stage, further written invitations were sent and calls made to contact the 30 legislators who had not yet responded. In all communications with legislators, it was made clear that this is an independent study and there was full transparency about the research team. Nonetheless, where contact with legislators was made directly by Professor Hawang, they proved more willing to be interviewed.

By the end of May 2021, when the empirical study was stopped because local COVID-19 infections had surged and the government had imposed 'level 3 alert pandemic measures', we had secured interviews with 38 legislators – about a third of all (113) legislators.

All those who were invited to be interviewed were provided with participant information sheets that explained: the purpose of the research; that it was being conducted by an independent academic institution; that all interview data would be confidential; that any quotations would be fully anonymised before publication; and that they could withdraw their cooperation with the project at any stage. The 38 legislators who agreed to be interviewed signed informed consent sheets and interviews lasted on average 30 minutes. While 24 legislators refused to be interviewed or failed to respond to requests to be interviewed without providing a reason, others were happy to explain their reluctance. Most of them explained that they were too busy, but a few told us that they were unfamiliar with, or uninterested in, the issue, while others expressed a desire to remain neutral or to simply follow the party caucus policy.

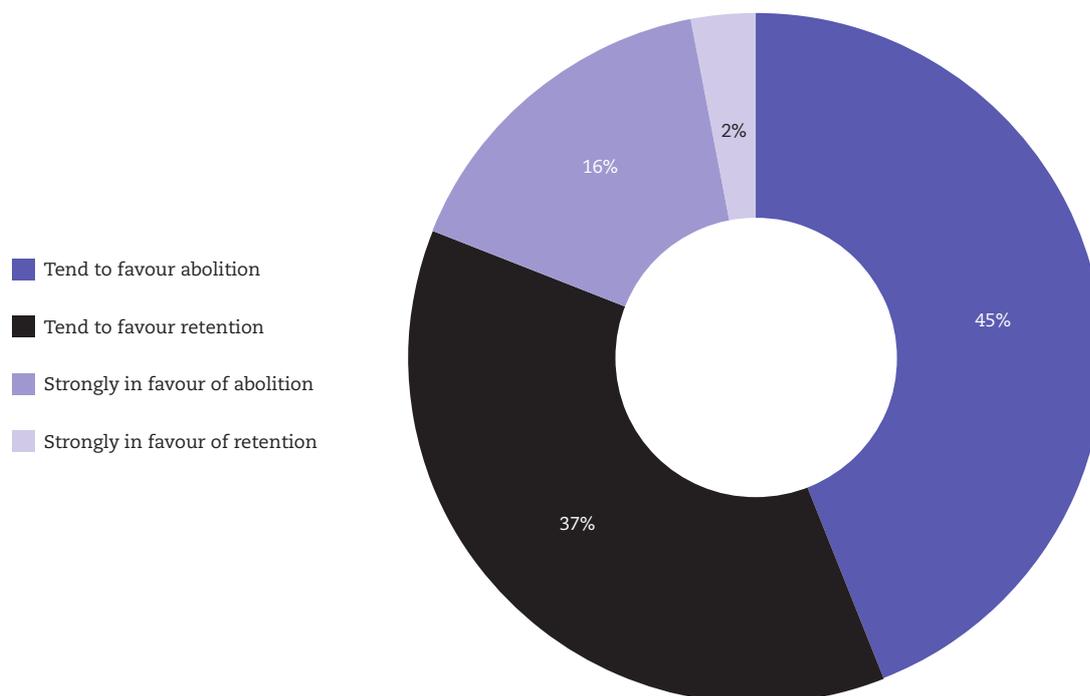


**PART TWO**  
The findings

## 2.1 Views on abolition and retention of the death penalty

Most legislators we interviewed favoured the abolition of the death penalty in Taiwan. As we see from the data presented in Figure 1, 61% supported abolition, whereas only 39% were in favour of retention. The difference in strength of support is relevant: only one of the legislators claimed to be 'strongly in favour of retention', while 16% were 'strongly in favour of abolition' (see Q3 of the interview schedule, reproduced in the Appendix).<sup>31</sup>

**Figure 1. Legislators' opinions on abolition or retention**



All legislators we interviewed were asked about their reasons for being in favour of either abolition or retention (Q5). Among those who claimed to be retentionists, the most highly ranked reason for retention was 'it is necessary to deter people from crime'. The two other frequent responses were: 'because I believe the public want the death penalty for serious crimes' and 'relatives of victims need to be satisfied'. Table 1 shows the complete ranking of answers in order, from the most highly ranked to the lowest ranked responses.

<sup>31</sup> Where numbers do not add up to exactly 100, it is because of 'rounding up' or 'rounding down' percentages.

**Table 1. Legislators' reasons for favouring retention of the death penalty**

Ranking	Reason
1	It's necessary to deter people from crime
2	Because I believe the public want the death penalty for serious crimes
3	Relatives of victims need to be satisfied
4	Other reason
5	There will always be some criminals who deserve to be executed
6	Relatives and others might take matters into their own hands without the death penalty
7	My ideological beliefs support the death penalty

Those who chose 'other reason' were asked to elaborate. Some provided religious rationales, but others referred to the seriousness of certain crimes and their reflections suggested a desert rationale, as we can see from the quotations below:

**'A small number of the offenders should die to atone for their sins'.**

**'There would always be some extreme crimes that have to be expiated by death'.**

**'For certain crimes, the offenders could only repent by sacrificing their life'.**

Abolitionist legislators were also asked to rank their reasons for supporting complete abolition (Q7). The three highest ranked answers were 'people may be wrongfully convicted and executed', the death penalty 'has no special or extra deterrent effect than a long term of imprisonment', and 'it is an abuse of human rights'. Although in a different order, these were also the three highest-ranked answers given by abolitionist opinion formers interviewed in Indonesia, Zimbabwe, and the Eastern Caribbean. Table 2 presents the complete ranking of answers given by abolitionist legislators in order, from the highest to the lowest ranked.

**Table 2. Legislators' reasons for favouring abolition of the death penalty**

Ranking	Reason
1	People may be wrongfully convicted and executed
2	It has no special or extra deterrent effect than a long term of imprisonment
3	It is an abuse of human rights
4	Other reason
5	Every criminal deserves an opportunity to be rehabilitated
6	It cannot be carried out in a non-arbitrary/fair way
7	It is pointless to impose a punishment that will not be carried out by execution for a long time, and maybe never
8	Indigent defendants have such limited access to justice that a fair trial cannot be guaranteed
9	It is a stain on the reputation of this country
10	My ideological beliefs forbid the use of the death penalty

In this case, the main 'other reasons' were related to the sanctity of human life:

**'A government should not be granted absolute and irreversible powers. [...] the core issue of whether the death penalty should be abolished/retained is the legitimacy of this power to kill.'**

**'No one has the right to deprive someone else's life.'**

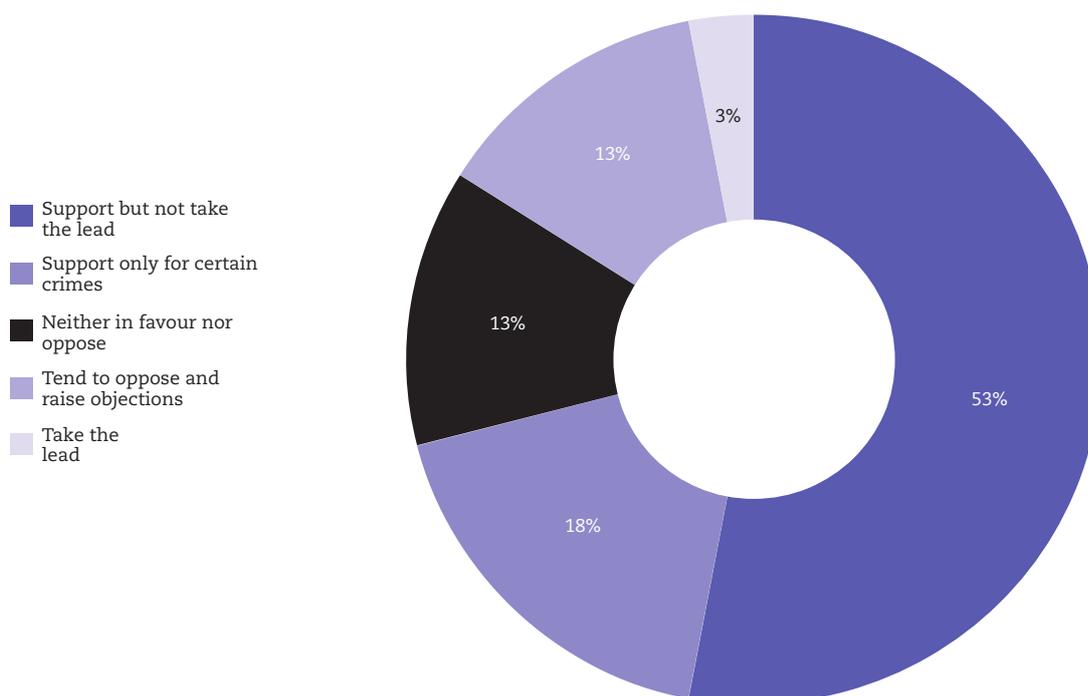
Others referred to the state's responsibility for creating the social conditions within which people offend:

**'It's the society's responsibility. I think that the society is partly responsible for the criminals and the crimes they committed. [...] society is partly responsible for the cause, reason, and background of the crimes. By executing, the society is just devolving its responsibility.'**

**'An individual's sickness is the society's sickness; and the society needs to be held accountable for a person committing a crime.'**

In addition to their personal views on abolition or retention of the death penalty, legislators were asked if they would personally be willing to either support or not to oppose an Act of Parliament to abolish capital punishment in Taiwan (Q16). As Figure 2 illustrates, while only one argued they 'would strongly and vigorously support abolition and take the lead', more than half (53%) of the legislators argued that they would 'support abolition, but not take the lead'. Almost a fifth (18%) 'would only support abolition for certain crimes', while 13% 'would not be in favour of abolition, but would not oppose it'. Just 13% of legislators said they 'would oppose abolition and might raise objections' and no interviewee said they 'would strongly and vigorously oppose abolition and definitely vote against it'.

**Figure 2. Legislators' cautious support for an Act of Parliament to abolish capital punishment**



Clearly, support for the death penalty among those legislators we interviewed is weak. While those in the minority who favoured retention offered utilitarian and pragmatic rationales – a belief in its deterrent effect and public support – many of those who were opposed to capital punishment had more principled objections, concerning human rights and the risk of wrongful convictions. Moreover, the majority of legislators would support legislation to abolish capital punishment, with no one stating they would vigorously oppose it.

## 2.2 Opinions among retentionist legislators

While the death penalty in Taiwan has been discretionary since 2006, it remains a sentencing option for more than 50 offences. However, in practice, over the past 10 years or so, only offences resulting in the loss of life have been punished by death. There would appear to be little appetite for expanding its use, even among those in favour of the death penalty. Although nearly 40% of participants claimed to support retention of the death penalty, the majority of those (60%) wanted to see it further restricted, with just 40% preferring the status quo. No participants declared a preference for further expansion of the death penalty (Q4).

Those retentionists who expressed a preference for the status quo justified their stance by reference either to the infrequency of resort to the death penalty – the fact that, in practice, death sentences are reserved for only ‘the worst of the worst’ offenders – or to their belief in a safe and fair criminal and penal process. Reports published by The Death Penalty Project in 2014 and 2015 made clear that, while Taiwan had passed legislation to incorporate the ICCPR into domestic law in 2009, death penalty practice did not meet its minimum standards.<sup>32</sup> A further report, published in 2019, presented alarming evidence of unsafe capital convictions in Taiwan, displaying flaws in the criminal justice response to cases throughout the criminal justice system.<sup>33</sup> We were surprised, therefore, to find that a few retentionists claimed that judicial and criminal justice processes in death penalty cases were ‘extremely careful’.

Those interviewees who support retention of the death penalty, but want to see it further restricted, wished to see the restriction of crimes to which the death penalty is imposed and an expansion of alternative sentences (Q4b).

We were interested to know if retentionist legislators were influenced by the worldwide movement away from the death penalty and informed them that, since 1989, the number of countries worldwide that have completely abolished the death penalty has risen from 35 to 109. We asked if this fact altered their view on whether Taiwan should follow this international trend (Q6). Although the majority (60%) said they would ‘probably still be opposed to abolition’, a fifth said they ‘would probably now favour abolition’; just a few (7%) were unsure. Significantly, only 13% claimed to remain definitely opposed to abolition. This is a clear sign that accurate information about practices elsewhere can change people’s minds about the death penalty in their own country.

Some of those who were not influenced by international trends explained that public opinion was in favour of the death penalty and that the social conditions in Taiwan did not currently favour abolition.

<sup>32</sup> *The Death Penalty in Taiwan; A Report on Taiwan’s Legal Obligations Under the International Covenant on Civil and Political Rights*, The Death Penalty Project, 2014; *Handbook of Forensic Psychiatric Practice for Capital Cases in Taiwan*, The Death Penalty Project, 2015.

<sup>33</sup> Hoyle C., *Unsafe Convictions in Capital Cases in Taiwan: A Report Based on the Research and Findings of Chang Chuan-Fen*, The Death Penalty Project, 2019.

However, most referred to the importance of national sovereignty on such an issue. As one interviewee put it:

**'I am strongly against the idea of abolishing the death penalty to follow the international trend. I think the situation in every country is different. It's like the difference in religion; Buddhism, Christianity and Islam are dominant in different countries. In Muslim countries, it is allowed to have four wives, but we do not have to follow suit because it is the "international trend". Another example is the legalisation of marijuana. Although marijuana is legalised in the United States, it does not mean Taiwan should legalise marijuana as well. To me, it is unacceptable for Taiwan to legalise something because other countries have done so. I do not think Taiwan has to do something that is popular in the international community.'**

Notwithstanding the appeal of sovereignty, the vast majority (87%) of retentionist legislators agreed that there are types of crime for which the death penalty should never be imposed (Q18). The list of crimes cited by participants is extensive, but comprises non-violent crimes in general, such as theft, defamation, piracy, political crimes and white-collar crimes. One participant was quite specific: 'other sentences can be imposed instead of the death penalty in most crimes except murder'. The most common answer though did not focus on a type of crime, but on the conditions in which the crime was committed: in short, where self-defence was a mitigating factor.

Furthermore, the majority (67%) agreed that certain groups of people should never be sentenced to death (Q19). Juveniles and pregnant women were mentioned by 80% and 70% respectively; those with mental illness were referred to by 40% of legislators, and the elderly by 30%.

In practice, Taiwan restricts capital punishment to serious offences resulting in a loss of life, and even those legislators who wish to retain the death penalty have no appetite for expanding the category of offences or offenders subject to it. Furthermore, a fifth said they would now favour abolition upon being given information about international trends away from the death penalty.

## 2.3 Participants' knowledge and opinions on the death penalty

Surveys that do not test the knowledge foundation on which opinions are based can be misleading. It is important to know if opinions among the public are based on sound knowledge about the use and administration of the death penalty or merely reflect prejudice or misinformation. Arguably, the more informed an opinion is, the more credence we should give it.

In public opinion surveys that we have conducted, knowledge about the death penalty among the public has been very low<sup>34</sup>, but our research on opinion formers in Indonesia, Zimbabwe, and the Eastern Caribbean have revealed much higher levels of knowledge about, and engagement with, the death penalty than among the public. While this is not surprising, it is important, given that those more knowledgeable people in positions of authority or influence are less likely to support the death penalty. Hence, we wished to understand whether legislators in Taiwan are similarly well informed.

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<sup>34</sup> Hood R., *Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys in Eight Countries*, *Berkeley Journal of Criminal Law* 23, 2018, pp.218-242.

To test legislators' knowledge, at the beginning of the interview they were presented with eight 'main facts' about the death penalty in Taiwan, and then asked if they were unfamiliar with and/or surprised about any of those facts (Q1). Exactly half of the interviewees were familiar with all eight main facts. The least known fact was that 'since 2020, crime victims can apply to participate in judicial proceedings, during which they will be given the right to express their opinions on the evidence and sentence'. Another relatively unknown fact was that 'Taiwan retains the death penalty by a single shot to the heart from behind as a discretionary punishment for murder, other offences resulting in death, drug trafficking, and a selection of crimes against the state'. These facts were not known by, respectively, just over a fifth and a sixth of legislators. All other facts were known by at least 85% of the participants.

During the interview, legislators were also asked how well informed they consider themselves to be and how well informed their politicians are about two key issues on the death penalty. The difference between abolitionists and retentionists was considerable. When asked about how well informed they personally are about research evidence from other countries regarding the lack of any extra deterrent effect of the death penalty on the murder rate, compared with the deterrent effect of long-term imprisonment (Q11A), just over half of all participants claimed to 'know something about it' (55%). However, when we consider their stance on the death penalty, we find only 40% of retentionists think they are well informed, as opposed to 65% of abolitionists. Furthermore, while 24% of all respondents claimed to be very well informed, abolitionists were more likely to be so: 30% of abolitionists claimed to be well informed, compared with only 13% of retentionists. Similarly, those who claimed to be 'not very well informed' are much more likely to identify as retentionists (a third) than abolitionists (just 4%). It is also relevant to consider that 13% of retentionists responded to this question saying they 'do not agree with the research results'.

The situation was very similar when participants were asked how well informed they are about the research evidence from other countries regarding the inevitability of error and conviction of the innocent in countries that retain the death penalty (Q12A). On average, 60% of legislators claimed to know something about it. However, the percentage of those who claimed to be very well informed is considerably higher for abolitionists (30%) than for retentionists (7%), whereas proportionally more retentionists (33%) than abolitionists (9%) said they were not very well informed about it.

On both topics – research evidence on the lack of extra deterrent effect and the inevitability of error – legislators considered themselves to be better informed than politicians.

Overall, those legislators we interviewed are fairly well informed about the death penalty, but we found differences across our two groups of 'retentionists' and 'abolitionists', with those who identified as abolitionists being considerably more knowledgeable, and more likely to see themselves as 'very well informed', with most of those who said they were not very well informed identifying as retentionists. Similar to other studies of opinion formers we have conducted, legislators considered themselves to be better informed than their politicians.

## 2.4 Participants' views on sentencing and crime prevention

As discussed above, legislators' who support capital punishment justify their stance in terms of its potential to deter serious crime. However, regardless of their different positions on capital punishment, all legislators could offer a clear rationale for death sentences. These were the same as those found across our other studies of opinion formers; they focused on deterrence, public opinion and justice for victims.

When asked for their opinions on the main purposes of sentencing an offender to death (Q17), 10 rationales were suggested, with retribution most often cited, by more than a third of legislators:

**'People who commit unforgiveable crimes before God must pay with their own life.'**

**'They deserve it. The crimes they committed should be punished with the death penalty.'**

Other reasons mentioned by at least 10% of participants were, from the most to the least frequently suggested: deterrence, to meet 'public expectations', to do 'justice for victims', and incapacitation:

**'Sentencing the worst of the worst criminals to death can serve as a warning message to the society.'**

**'It is the public who want it, and the government is just responding to the public opinion.'**

**'Allow the victims' families to find relief.'**

**'The purpose is to remove from the society an offender who has committed an extraordinarily heinous crime that is beyond tolerance by the public.'**

Even those opposed to the death penalty see deterrence as the most obvious capital sentencing rationale. But when we asked our interviewees what best prevents crime, similar to opinion formers in other countries they did not turn to death sentences or executions.

Legislators were asked what is most likely to reduce violent crimes in Taiwan and asked to rank the various possible measures presented on a card (Q13). 'Better moral education of young people against the use of violence' was by far the highest-ranked option, being the first choice for about 40% of participants. The second highest-ranked option was 'efforts to reduce poverty', with 'better preventive treatment of the mentally ill' the most common second choice selected by participants. Notably, the option of 'more executions' was mentioned by only one legislator, who ranked it as the very last possible option. Table 3 shows the order of preference of the participants and makes clear that legislators in Taiwan, like opinion formers in Zimbabwe and in Indonesia, do not believe that the death penalty has a role in reducing violent crime.<sup>35</sup>

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<sup>35</sup> Hoyle C., *Time to Abolish the Death Penalty in Zimbabwe: Exploring the Views of its Opinion Leaders*, The Death Penalty Project, 2020; C. Hoyle, *Appetite for Abolition: Opinion Formers' Views on the Death Penalty in Indonesia*, London: The Death Penalty Project, 2021.

**Table 3. Measures that legislators think are most likely to be able to reduce violent crimes in Taiwan**

Ranking	Measures
1	Better moral education of young people against the use of violence
2	Efforts to reduce poverty
3	Better preventive treatment of the mentally ill
4	More effective policing in bringing offenders to justice
5	Better services to prevent domestic violence
6	Better control of the drug trade
7	Other measures
8	More therapeutic (health care) interventions for drug users
9	Longer prison sentences
10	More death sentences
11	More executions

Legislators were also asked about the measures they consider most likely to be able to reduce drug-related crimes in Taiwan and given nine options (Q14). Again, ‘better moral education of young people...’ was the highest-ranked measure, with ‘better control of the drug trade’ second. As for violent crime, the options related to the death penalty were not ranked among the three main measures by any legislator, as shown by the ranking of measures in Table 4.

**Table 4. Measures that legislators think are most likely to be able to reduce drug-related crimes in Taiwan**

Ranking	Measures
1	Better moral education of young people against the misuse of drugs
2	Better control of the drug trade
3	Efforts to reduce poverty and improve housing
4	More effective policing in bringing offenders to justice
5	Better preventive treatment for drug users
6	Longer prison sentences
7	Other measures
8	More death sentences
9	More executions

While we may not be surprised that opinion formers in fields outside of the law and criminal justice believe that social justice measures are better able to reduce serious crime than harsh penal policy, our data show that this view is apparent among legislators in Taiwan. It begs the question, what faith do they have in the criminal justice system?

## 2.5 Legislators' views on the safety and efficacy of the criminal justice system

Opinion surveys consistently demonstrate that support for capital punishment is contingent on a belief in a fair and equitable pre-trial and trial process.<sup>36</sup> Support tends to falter when people become aware that the criminal process, in all countries, is fallible and can generate wrongful convictions and, of course, the sentencing to death and execution of innocent people. We found in our studies of opinion formers in Zimbabwe and Indonesia low levels of trust in those justice systems, and while that is not inevitably correlated with low support for the death penalty<sup>37</sup>, it can be harnessed by those who believe that it is unsafe to retain an irrevocable punishment in jurisdictions where the criminal process is flawed. Given that our previous research has demonstrated considerable failures of due process safeguards to protect those exposed to capital punishment in Taiwan<sup>38</sup>, it is crucial to know if those responsible for legislation in Taiwan have trust in the safety and efficacy of the criminal and penal process, and we assessed this through a series of five questions (Q20-24).

First, interviewees were asked how often they believe wrongful convictions occur in Taiwan. Just a small minority (11%) believe they rarely occur. The majority of both retentionists and abolitionists thought they 'sometimes' occurred, 71% and 65% respectively. However, 30% of abolitionists believed wrongful convictions occur often or very often in Taiwan, compared with only 8% of retentionists, suggesting that concerns about the frequency of wrongful convictions could, in part, explain abolitionist proclivities.

Legislators were also asked if they think the Taiwanese criminal justice system offers adequate and fair procedural safeguards for defendants to prevent miscarriages of justice, such as recording police interrogations, providing effective counsel, and ensuring that evidence is gathered in a fair process. Half of the participants believed they are 'adequate only some of the time', with just less than a quarter considering that they are 'adequate in most cases'. Again, retentionists and abolitionists gave different answers. Though the majority of both believed procedural safeguards are only sometimes adequate, retentionists were more likely to believe that they are adequate in most cases, whereas abolitionists were much more likely to assert that they are 'rarely adequate' (22% of abolitionists). However, none of our participants were of the view that safeguards are 'always adequate', whereas three of them insisted that they are 'always inadequate'.

The third question addressed participants' trust in the police to ensure that suspects are treated fairly. Most legislators thought that 'sometimes' the police could be trusted, but a large portion of abolitionists (43%) and retentionists (40%) thought that the police could 'never' or 'rarely' be trusted, suggesting low levels of faith in the police among legislators.

Legislators' trust slightly increased when asked about their views on prosecutors. Nearly 60% of the participants believed prosecutors can be sometimes trusted to ensure that suspects are treated fairly.

<sup>36</sup> Hood R., Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys in Eight Countries, *Berkeley Journal of Criminal Law* 23, 2018, pp.218-242.

<sup>37</sup> For example, despite very low levels of trust in the criminal justice system in India, many former Supreme Court judges there remained in favour of the death penalty; see Hoyle C. & Lehrfreund S., Contradictions in Judicial Support for Capital Punishment in India and Bangladesh: Utilitarian Rationales, *Asian Journal of Criminology*, 2020, 15, 141-161.

<sup>38</sup> *The Death Penalty in Taiwan: A Report on Taiwan's legal Obligations under the International Covenant on Civil and Political Rights*, The Death Penalty Project, 2014; Hoyle C., *Unsafe Convictions in Capital Cases in Taiwan: A Report Based on the Research and Findings of Chang Chuan-Fen*, The Death Penalty Project, 2019.

The comparison between retentionists and abolitionists again shows that the former have greater levels of trust in the criminal justice system than the latter: more retentionists answered that prosecutors ‘usually can be trusted (27%) than ‘rarely’ (20%), while more abolitionists answered ‘rarely’ (26%) than ‘usually’ (13%).

Finally, interviewees were asked if they think defendants are treated fairly in court at trial. Here, levels of confidence increased again. Only two legislators believed this rarely happens, whereas the majority were of the view that defendants are ‘sometimes’ treated fairly in court (63%), with 31% of interviewees believing that this ‘usually’ happens. While these data suggest different levels of trust between retentionists and abolitionists, in the same direction as above, these differences were not significant.

It is hardly surprising that the vast majority of legislators – who are, after all, knowledgeable about the legal system – are aware that wrongful convictions sometimes occur in Taiwan. Research conducted by The Death Penalty Project has shown that at least a sixth – and probably many more – of convictions that resulted in a death penalty over the decade from 2006–15 were unsafe.<sup>39</sup> Other research they conducted in Taiwan established serious abuses of defendants’ human rights, with considerable breaches of due process protections and death penalty practices that did not meet the minimum standards of the ICCPR.<sup>40</sup> Our interviews with legislators suggest that, even if safeguards have improved in the criminal justice system of Taiwan since that research, legislators do not have much faith in the system, especially at the pre-trial stage.

## 2.6 Participants’ views on abolition of the death penalty

Participants were asked why they think the Taiwanese government has not yet imposed a formal moratorium on the death penalty (Q15). This was an open question, with no options given to participants, and, unlike other questions, produced similar responses from abolitionists and retentionists. The main reasons offered related to public and political resistance and a sense that the political climate was not yet ready for abolition:

**‘Mainly because of the pressure from public objection against abolition. The people are against abolition because they feel for the victims’ situation and are worried about the safety of their own surrounding environment, and these emotions are contagious. People want a safe environment. When a major violent case appears, the public would only become more certain of their pre-existing beliefs and values.’**

**‘The vast majority of the public do not support it. Most people I know do not agree to a moratorium on executions.’**

**‘The political environment hasn’t been fulfilled. No political party stands forward to take on the issue.’**

More importantly, legislators were asked why they think Taiwan has not yet abolished the death penalty (Q2). Not surprisingly, their responses were the same as for the question about a moratorium, though

<sup>39</sup> Hoyle C., *Unsafe Convictions in Capital Cases in Taiwan: A Report Based on the Research and Findings of Chang Chuan-Fen*, The Death Penalty Project, 2019.

<sup>40</sup> *The Death Penalty in Taiwan: A Report on Taiwan’s Legal Obligations Under the International Covenant on Civil and Political Rights*, The Death Penalty Project, 2014.

here they had a show card with suggested possible responses. The highest-ranked option for 65% of participants referred to public opinion: 'Because the majority of citizens are still in favour of the death penalty, there is no pressure to do so.' The second highest-ranked option ('Because politicians think support for abolition would make them unpopular with their electorate AND/OR stir up opposition in the media') also refers to public opposition to abolition, with government assumptions about the death penalty deterring crime ranking third. In this regard, legislators in Taiwan responded very similarly to opinion formers in the Eastern Caribbean and in Indonesia. Table 5 illustrates the order of reasons chosen by legislators, from the highest to the lowest ranked.

**Table 5. Legislators' opinions on why Taiwan has not abolished the death penalty**

Ranking	Reasons
1	Because the majority of citizens are still in favour of the death penalty, there is no pressure to do so
2	Because politicians think support for abolition would make them unpopular with their electorate AND/OR stir up opposition in the media
3	Because the government believes that it is necessary as a deterrent to control the incidence of crime
4	Because this is a matter for each nation to decide according to their own circumstances
5	Because of the ideological beliefs of those with the power to abolish
6	Other reasons
7	Because there is an absence of political leadership to make the legal change
8	Because the judges are not in favour of abolition

Given their concerns about public antipathy towards abolition, it is important to know what legislators think would happen if the government were to abolish the death penalty (Q9). More than half of the participants believed 'there would be demonstrations of strong public dissatisfaction, in the media and elsewhere, against the decision and repeated calls for its reinstatement'. About a quarter believed that 'there might be some demonstrations or expressions of dissatisfaction leading up to abolition, but the majority of the public would come to accept it once the law was passed'. Only a small minority believed that 'a majority of the public would immediately accept it'. In this regard, Taiwanese legislators were more concerned about public response to abolition than the opinion formers we interviewed in Indonesia and in Zimbabwe.

It is important to know if these concerns about the potential for adverse reactions to abolition among the public influence legislators' personal views on whether Taiwan should retain or abolish the death penalty. Their responses to Q10 suggest they do, with 63% saying they were influenced by this. However, responses varied considerably between retentionists and abolitionists. Whereas a clear majority (87%) of retentionists responded in the affirmative, less than half (48%) of abolitionists agreed that a possible negative public response to abolition influenced their personal views.

Their justifications, however, were similar; that they are people's representatives, so should always consider public opinion and act accordingly, as illustrated by the following quotations:

**‘As a legislator, whose job is to reflect the public opinion, I must take the people’s will into consideration.’**

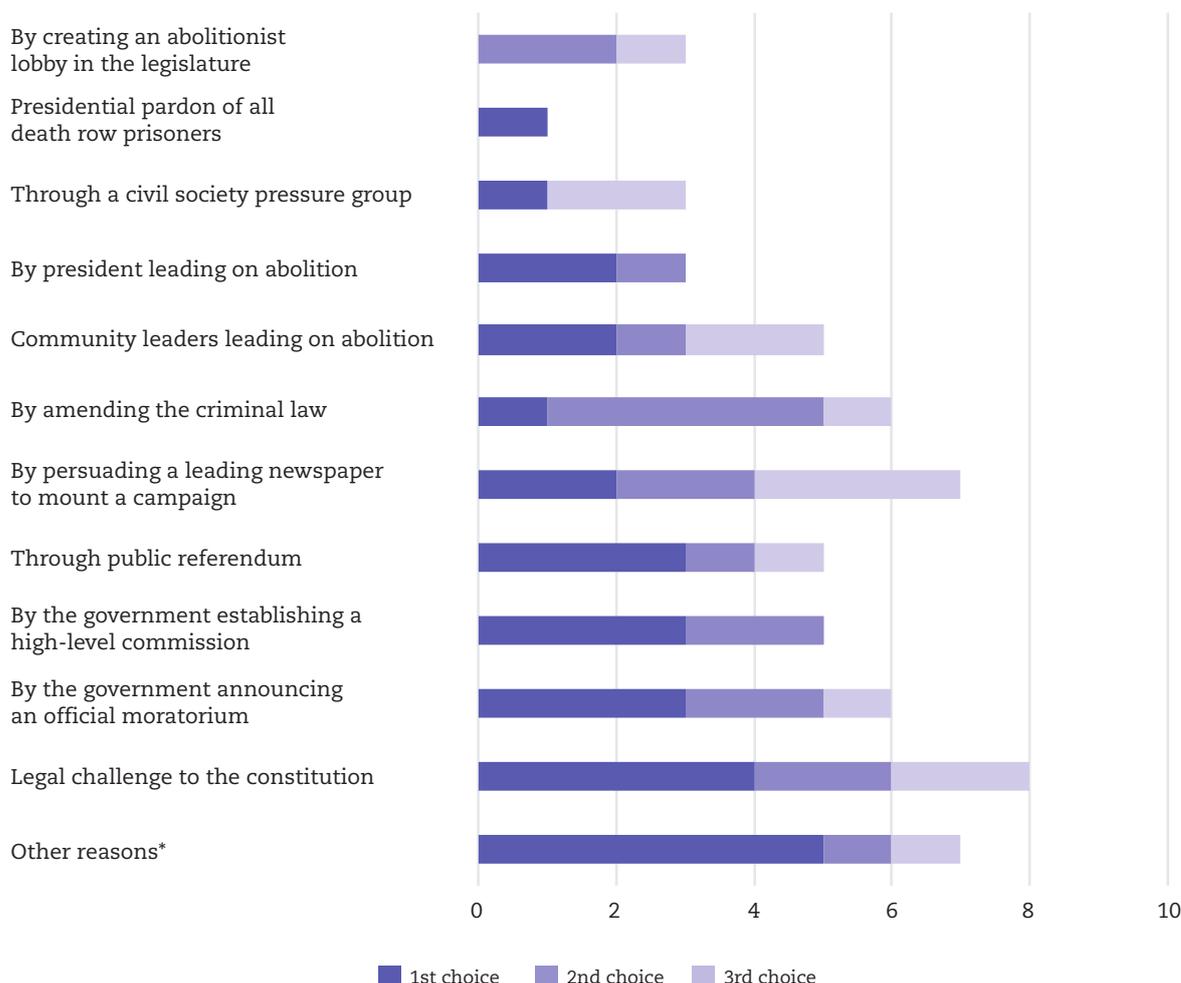
**‘We are legislators. Legislators are elected by the people, so we represent the will of our constituents. If the majority of people support the death penalty, this will constitute a certain level of pressure to their representatives. And since representatives have to represent the majority, pressure from public opinion will inevitably influence the legislative bodies on its discussions of all bills. This is true with any law, not just the ones related to the death penalty.’**

Among those who denied being influenced by public opinion, some mentioned that human rights must be defended, even if to do so goes against public opinion. Others, however, were clear that while public opinion does not influence their personal view on the matter, it might well impact on their behaviour, communication with others and their political action.

Legislators who support abolition of the death penalty were asked how they think this could begin to be achieved (Q8). As Figure 3 shows, there is little accord on this matter.

**Figure 3. Legislators’ thoughts on how abolition could begin to be achieved**

\*See Q.8 in Appendix for full description of possible routes to abolition.



All options were chosen by a few and the numbers of interviewees choosing each option – either as a first, second or third choice – were too few to generate firm conclusions.

Our data show that, although 39% of legislators we interviewed identified as retentionists, only one was strongly in favour of retention. Research elsewhere suggests that where there is weak support for the death penalty, where the issue is not salient and where knowledge about the criminal and penal process is relatively poor, more accurate information can shift views towards an abolitionist position. This research, like other opinion studies, revealed a correlation between knowledge and opinions about the death penalty. For example, we found that some of those who initially identified as retentionists changed to an abolitionist stance upon discovering that there was a worldwide trend towards abolition. Towards the end of the interview, all participants were presented with some key findings from a public opinion survey of a representative sample of more than 2,000 Taiwanese citizens, conducted by the Taiwan Alliance to End the Death Penalty and The Death Penalty Project, and published in 2019.<sup>41</sup>

In a series of questions (Q25-30), legislators were told that the survey had revealed the following:

- only a minority (32%) of respondents were strongly opposed to abolition of the death penalty;
- most people (69%) had no confidence in the fairness of decisions made by Taiwan's judiciary and more than half (54%) had no confidence in the fairness of death sentences;
- three-quarters of respondents thought that Taiwan's legal system protects people with status and power, and 78% thought that poor people were more likely than rich people to be sentenced to death;
- nearly three-quarters (73%) of people believed that a wrongful conviction could happen and nearly 65% believed that some innocent people have been sentenced to death;
- the public's support for the death penalty weakened when they considered notorious miscarriages of justice and that knowledge about such cases reduced the proportion of respondents who were strongly opposed to abolition to just 6%;
- almost three-quarters (71%) of respondents to the survey said they would support abolition of the death penalty if it could be replaced with life imprisonment without the prospect of parole, with the prisoner made to work to earn money to pay compensation to victims and their families.

After each of these findings was presented, the interviewer asked the legislator if the new information had changed their views on abolition, and in each case the levels of support for the abolition of the death penalty increased. In response to most questions, the level of support for abolition shifted from 61% to 66%. However, in response to Q30, which gave information about strong public support for abolition if the death penalty were to be replaced with life imprisonment without parole and compensation to victims, 82% of legislators supported abolition.

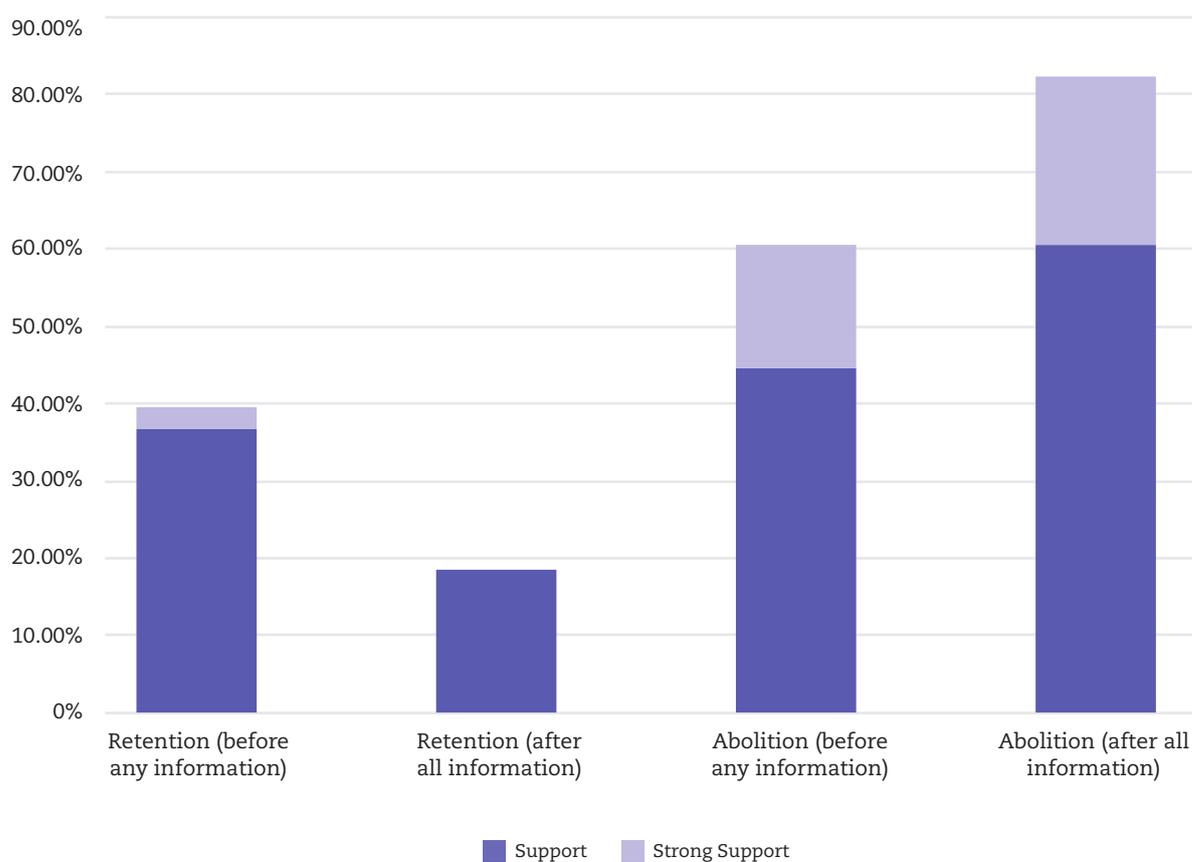
Figure 4 shows a comparison of support (and strong support) for both abolition and retention of the death penalty from the beginning of the interview, before any information was given to participants, and the end of the interview, after this series of key findings had been presented.

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<sup>41</sup> See note 1.

It reveals that, at the beginning, 39% of the legislators claimed to support retention, with just one being strongly in favour of retention. By the end, 19% claimed to still support retention, with no one expressing strong support. In other words, half of the retentionists shifted their position to abolitionist following presentation of this survey data, so that support for the abolition of the death penalty increased from 61% to 81%, with 21% of these strongly supporting abolition. These are remarkable findings on a shift in opinions among already knowledgeable people.

**Figure 4. Legislators' support for abolition and retention before and after receiving information**







**PART THREE**  
Conclusion

Until the early years of the transition to democracy, Taiwan made great use of the death penalty. Since then, there has been significant change, all the more apparent when we compare Taiwan's rates of death sentences and executions with her neighbour, China. Over the past two decades, politicians have articulated their aspirations to abolish the death penalty, the mandatory death penalty has been abolished, and the ICCPR has been incorporated into domestic law, though, in practice, the criminal justice system does not yet meet its minimum standards. In these regards, as in others, Taiwan has sought to distinguish itself from China, and from its own authoritarian past and project an image of a progressive, democratic nation, one that is moving towards abolition of the death penalty.

Nevertheless, when pressed by the international community to abolish or at least introduce a moratorium on executions, the government defends its retentionist position in terms of public opinion – in particular, a lack of consensus on abolition. However, rigorous research suggests public opinion is not in fact a barrier to abolition; that the public are not strongly opposed to it. And this report suggests that not only are legislators we interviewed in Taiwan not opposed to abolition, but a significant majority are in favour of it.

Legislators, like other opinion formers we have interviewed in Indonesia, the Eastern Caribbean and Zimbabwe, express similar rationales for capital punishment to the public: deterrence and public opinion, with some faith that it can relieve victims' anguish. There is, though, no robust empirical evidence to support claims about victims or deterrence. Furthermore, though legislators we interviewed defended the death penalty in terms of its potential to deter serious crime, when asked what measures best reduce both violent and drug crimes, they identified social justice measures, just like our respondents in similar surveys in other countries.

As elsewhere, those who support abolition draw on a rationale of human rights, but are also, more pragmatically, concerned about the risk of wrongful convictions. Other research conducted by The Death Penalty Project shows that fears about wrongful convictions in a criminal justice system marred by failures to provide adequate due process safeguards are not unreasonable. And our report shows little faith in the justice system among the legislators we interviewed, who were, for the main part, quite knowledgeable about the due process failures and the risks of wrongful convictions, with those supporting abolition more knowledgeable than those supporting retention. It also demonstrates that evidence of wrongful convictions and poor safeguards can shift some legislators away from their initial retentionist positions.

Legislators made clear that, regardless of their own views, the government is reluctant to abolish for fear of alienating a public that support capital punishment and were concerned about public hostility should the government abolish. However, when they were told that a rigorous public opinion survey carried out in Taiwan in 2013 had established that only a minority of people were strongly opposed to abolition, and that the majority had no confidence in the justice process and would support abolition of the death penalty if it was replaced by life imprisonment, support for abolition among our legislators increased to 81%.

International discourse on capital punishment has, in the past three decades, been transformed from an issue of criminal justice, crime control, public opinion and culture, to be determined by each state as a matter of national sovereignty, into an issue of universal human rights – namely, the right to life and the right not to be subjected to a cruel, inhuman and degrading punishment. Accordingly, a majority of nations, including some in Asia, now condemn the death penalty as arbitrary, unsafe, degrading and unnecessary for the safety of citizens.

The human rights approach has also challenged the view that the death penalty is a political necessity. Governments typically defend retention of the death penalty on the grounds that it is demanded by a large majority of the population and that, without satisfying public opinion, governments and their criminal justice systems would lose legitimacy, perhaps leading to non-compliance among citizens or, worse, extra-judicial killings. While public opinion should not be ignored entirely, a country concerned for the rights of all its people should not merely accept popular opinion as a reason for sentencing people to death, especially when that opinion is often based on misconceptions about the assumed deterrent effect of capital punishment and about the fairness and safety of its application.

In fact, no countries have abolished the death penalty because of popular demand; elites have abolished capital punishment notwithstanding public appetite for it. However, the public have followed political leadership and, over time, shifted their views towards endorsement of abolition. Experience shows that a generation that has grown to maturity with no expectation that death will be the penalty for the most serious crimes is far more likely to regard capital punishment as a barbaric relic of the past.

Taiwan, like all other nations that retain the death penalty, cannot administer it safely and fairly. Knowledge of that persuades both public and elites that any potential benefits of retention are outweighed by the pitfalls. Politicians have expressed a desire to abolish capital punishment and we now know that neither public opinion nor legislators' views present a barrier to abolition. Indeed, given their support for abolition of the death penalty, legislators could be particularly influential in shifting discourse and, ultimately, death penalty practice in Taiwan.

Politicians and legislators could join forces to bring about this positive change and finally move Taiwan away from its reliance on a punishment that is not only ineffective, but also debases those sentenced to death and all of those associated with its administration. Those who commit the most serious crimes deserve a fitting punishment, after a safe and thorough review of the evidence against them by an impartial court. However, imprisonment is a fitting punishment for serious crimes, with life imprisonment appropriate for the worst offences, with the most aggravating features and no mitigating circumstances. Evidence from all other countries that have abolished the death penalty shows that the public will accept this.





**APPENDIX:**  
Survey instrument

## THE VIEWS OF LEGISLATORS ON THE DEATH PENALTY IN TAIWAN

**[Interviewer to record the following data by hand; only record qualitative data if the interviewee does not consent to the interview being recorded]**

NAME OF INTERVIEWEE .....

DATE OF INTERVIEW .....

Thank you for agreeing to respond to the invitation to take part in this research.

**[Interviewer to give a copy of the Participant Information Sheet to the interviewee to read, if they have not already been provided with a copy before the interview]**

The purpose of this interview is to ask you whether you think:

EITHER that the death penalty should be retained OR should be abolished completely;

WHY you EITHER support the law as it is, OR wish to see it changed;

AND IF YOU FAVOUR ABOLITION, WHAT YOU THINK THE MAIN OBSTACLES ARE TO ACHIEVING THIS AND HOW THEY MIGHT BE OVERCOME.

When the findings are published, the views you express in this interview will not be attributable to you personally or in a way that would enable you to be identified. Your anonymity will be preserved.

If you have read the Participant Information Sheet and are happy with the assurances provided, please read, sign and date the CONSENT FORM.

INTERVIEWER: GIVE ONE COPY OF THE SIGNED FORM TO THE PERSON BEING INTERVIEWED TO RETAIN, AND KEEP THE SECOND COPY

**1. I would like to show you a card which provides a summary of the current scope and use of the death penalty in Taiwan. May I ask you whether you were unfamiliar with any of these facts?  
If SO, which ones?**

*[Interviewer: Please Show card 1 & CIRCLE the code for those mentioned]*

*[Show card 1]*

MAIN FACTS: TAIWAN	CODE
Taiwan retains the death penalty by a single shot to the heart from behind as a discretionary punishment for murder, other offences resulting in death, drug trafficking, and a selection of crimes against the state.	1
After a halt in executions in 2019, 2017 and between 2006 and 2009, the last execution was in April 2020. Two executions were carried out after the Tsai administration assumed office in 2016, while 33 were carried out in the eight years of the Kuomintang administration between 2008 and 2012.	2
Over the past 10 years, just a handful of people have been sentenced to death each year, all for murder.	3
There are currently 38 prisoners under sentence of death.	4
In 2009 Taiwan incorporated the International Covenant on Civil and Political Rights into domestic law, and Taiwan's Democratic Progressive Party has made clear its intention to bring an end to executions and, yet, no action has been taken by the government to institute an official moratorium on use of the death penalty.	5
A death row prisoner was awarded more than NT\$17 million (US\$550,000) by the High Court as compensation for being wrongfully convicted and sentenced to death in 2006. He was acquitted of all charges in 2017.	6
Crime victims can apply for compensation from Association for Victims Support; the source of the compensation includes government funding, inmate's salary, proceeds of crime, and the fine in a deferred prosecution agreement, etc.	7
Since 2020, crime victims can apply to participate in judicial proceedings, during which they will be given the right to express their opinions on the evidence and sentence.	8

**1b. For the facts that you are not aware of, do any of them surprise you?**

**If SO, which ones?**

*[Interviewer: Please TICK those mentioned]*

**2. Why do you think Taiwan has not abolished the death penalty?**

*[Interviewer: Please show card 2 & ask the interviewee to RANK the MAIN reason with 1, and ANY others they think might be a reason in order of importance (from 2-7). Make it clear – and in similarly worded ranking questions – that there is no need to rank ALL the statements, only those they think are relevant.]*

*[Show card 2]*

MAIN REASONS	RANK
Because the majority of citizens are still in favour of the death penalty, there is no pressure to do so	1
Because politicians think support for abolition would make them unpopular with their electorate AND/OR stir up opposition in the media	2
Because there is an absence of political leadership to make the legal change	7
Because the judges are not in favour of abolition	6
Because the government believes that it is necessary as a deterrent to control the incidence of crime	5
Because this is a matter for each nation to decide according to their own circumstances	3
Because of the ideological beliefs of those with the power to abolish	4

**3. Are you personally in favour of your country retaining the death penalty in its legislation or abolishing it altogether?**

OPINION	CODE
I am <b>strongly/firmly</b> in favour of retaining it	1
I tend to favour retaining it	2
I tend to favour abolishing it [ <b>move straight to Q7</b> ]	3
I am <b>strongly/firmly</b> in favour of abolishing it [ <b>move straight to Q7</b> ]	4

*[Interviewer: If the respondent is in favour of retaining the death penalty but wishes to change it in some way, code as 1 or 2 (according to their strength of feeling) and explain that the next question will explore their views on the changes that they wish to make].*

*[Interviewer: Qs 4-6 FOR RETENTIONISTS ONLY, i.e. those who answered 1 or 2]*

**4. Which of these options would you prefer instead of complete abolition?**

*[Show card 4]*

	CODE
The death penalty should be retained and left as it is ( <b>status quo</b> )	1
I would like to see it further <b>restricted</b> , with additional limits on the types of offenders who can be sentenced to death or the crimes for which it can be imposed	2
The death penalty should be retained but made <b>less restrictive</b> , with fewer limits on the types of offenders who can be sentenced to death or the crimes for which it can be imposed	3

**4a. [If interviewee prefers the status quo]: Why are you content to leave the law and practice as it is?**

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**4b. [If interviewee would like to see change]: What changes would you like to see introduced?**

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**5. Why are you personally in favour of retaining the death penalty?**

*[Interviewer: Please show card 5 & ask the interviewee to RANK the MAIN reason with 1, and ANY others they think might be a reason in order of importance (from 2-7).]*

[Show card 5]

REASONS	RANK
It's necessary to deter people from crime	
Because I believe the public want the death penalty for serious crimes	
There will always be some criminals who deserve to be executed	
Relatives of victims need to be satisfied	
Relatives and others might take matters into their own hands without the death penalty	
My ideological beliefs support the death penalty	
Other reason (Please specify)	

6. Since 1989, the number of countries worldwide that have completely abolished the death penalty has risen from 35 to 105. Does this fact alter your view on whether Taiwan should follow this international trend?

	CODE
YES: I would definitely now favour abolition	1
YES: I would probably now favour abolition	2
NO: I would probably still be opposed to abolition	3
NO: I would definitely still be opposed to abolition	4
I am not sure/no opinion	5

6a. IF YES: Why?

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6b. IF NO: Why not?

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[Interviewer: for RETENTIONISTS, move straight to Q9]

ASK ABOLITIONISTS ONLY (i.e. those who answered 3 or 4 to QUESTION 3)

7. What are your reasons for supporting complete abolition?

[Interviewer: Please show card 7 & ask the interviewee to RANK the MAIN reason with 1, and ANY others they think might be a reason in order of importance (from 2-10).

[Show card 7]

REASONS	RANK
It is pointless to impose a punishment that will not be carried out by execution for a long time, and maybe never	
It has no special or extra deterrent effect than a long term of imprisonment	
People may be wrongfully convicted and executed	
It cannot be carried out in a non-arbitrary/fair way	
Indigent defendants have such limited access to justice that a fair trial cannot be guaranteed	
Every criminal deserves an opportunity to be rehabilitated	
It is an abuse of human rights	
It is a stain on the reputation of this country	
My ideological beliefs forbid the use of the death penalty	
Other reason (please specify) ----- ----- ----- -----	

**8. How do you think abolition could begin to be achieved in your country?**

[Interviewer: Please show card 8 & ask the interviewee to RANK the MAIN reason with 1, and ANY others they think might be a reason in order of importance (from 2-12).

[Show card 8]

REASONS	RANK
Through a civil society pressure group	
By amending the criminal law to abolish the death penalty	
By creating an abolitionist lobby in the legislature	
By persuading government to establish a High-level Commission to report on the subject	
By the government announcing an official moratorium	
By the President granting a pardon to all prisoners facing death and converting their sentences to life imprisonment	
By a legal challenge to the constitutionality of the death penalty	
By persuading the President to lead a movement for abolition	
By persuading a leading newspaper to mount a campaign	
By persuading Community Leaders to lead a movement for abolition	
Through a public referendum	
Other	

FOR ALL REMAINING QUESTIONS, ASK ALL (RETENTIONISTS AND ABOLITIONISTS)

**9. What do you think would happen if the government were to abolish the death penalty?**

*[Interviewer: Please show card 9 & ask the interviewee to RANK the MAIN consequence with 1, and ANY others they think might happen in order of importance (from 2-5).*

*[Show card 9]*

POTENTIAL CONSEQUENCES	RANK
There would be demonstrations of STRONG public dissatisfaction, in the media and elsewhere against the decision and REPEATED calls for its reinstatement.	
There might be SOME demonstrations or expressions of dissatisfaction leading up to abolition, but the majority of the public would come to ACCEPT IT once the law was passed.	
A majority of the public would IMMEDIATELY ACCEPT IT.	
Relatives of victims or others might seek to take the law INTO THEIR OWN HANDS.	
Other reason (please specify) ----- ----- ----- -----	

**10. Do your feelings about the possible public response to abolition influence your personal views on whether Taiwan should retain or abolish the death penalty?**

Yes	
No	
Don't know	

***IF YES: Why?***

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***IF NO: Why not?***

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11a. How well informed are YOU PERSONALLY about research evidence from other countries regarding the lack of any extra deterrent effect of the death penalty on the murder rate, compared with the deterrent effect of long-term imprisonment?

	ME PERSONALLY (CODE 11A)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

11b. How well informed are POLITICIANS about research evidence from other countries regarding the lack of any extra deterrent effect of the death penalty on the murder rate, compared with the deterrent effect of long-term imprisonment?

	POLITICIANS (CODE 11B)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

12a. How well informed are YOU PERSONALLY about the research evidence from other countries regarding the inevitability of error and conviction of the innocent in countries that retain the death penalty?

	ME PERSONALLY (CODE 12A)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

12b. How well informed are POLITICIANS about the research evidence from other countries regarding the inevitability of error and conviction of the innocent in countries that retain the death penalty?

	POLITICIANS (CODE 12B)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

### 13. What measures do you think are most likely to be able to reduce violent crimes in Taiwan?

*[Interviewer: Please show card 13 & ask the interviewee to RANK the measure most likely to reduce violent crime with 1, and ANY others in order of importance (from 2-10)].*

*[Show card 13]*

MEASURES TO REDUCE VIOLENT CRIME	RANK
Better moral education of young people against the use of violence	
More effective policing in bringing offenders to justice	
Better preventive treatment of the mentally ill	
Better control of the drug trade	
More therapeutic (health care) interventions for drug users	
Better services to prevent domestic violence	
Efforts to reduce poverty	
Longer prison sentences	
More death sentences	
More executions	

### 14. In your opinion, what measures do you think are most likely to be able to reduce drug-related crimes in Taiwan?

*[Interviewer: Please show card 14 & ask the interviewee to RANK the measure most likely to reduce violent crime with 1, and ANY others in order of importance (from 2-8)].*

*[Show card 14]*

MEASURES TO REDUCE DRUG CRIMES	RANK
Better moral education of young people against the misuse of drugs	
More effective policing in bringing offenders to justice	
Better preventive treatment for drug users	
Better control of the drug trade	
Efforts to reduce poverty and improve housing	
Longer prison sentences	
More death sentences	
More executions	

### 15. Why do you think the Taiwanese government has not yet imposed a formal moratorium on the death penalty?

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**16. Would you personally be willing to either support, or not to oppose, an Act of Parliament to abolish capital punishment completely in Taiwan?**

*[Interviewer: Please show card 16 and ask the interviewee which of the statements best reflects their opinion.]*

*[Show card 16]*

OPINION	CODE
I would strongly and vigorously support abolition and will take the lead	1
I would be willing to support abolition but not to take the lead	2
I would only support abolition for certain crimes (please explain which crimes below)	3
I would not be in favour of abolition, but I would not oppose it	4
I would tend to oppose abolition; for example, I might raise objections	5
I would strongly and vigorously oppose abolition and would definitely vote against it	6

**17. In your view, what is the main purpose of sentencing an offender to death?**

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*[Interviewer: Qs 18-19 FOR RETENTIONISTS ONLY]*

**18. In your view, are there any types of crime for which a death penalty should never be imposed?**

	CODE
YES:	1
NO:	2
I am not sure/ No opinion	3

**18a. IF YES: which crimes?**

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**19. In your view, are there any groups of people in the population who should never be sentenced to death?**

	CODE
YES:	1
NO:	2
I am not sure/ No opinion	3

19a. IF YES: which groups of people?

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*[Interviewer: Tell the interviewee that you will now ask some questions about trust in the criminal process in Taiwan]*

20. How often do you think **wrongful convictions** occur in Taiwan?

	Never	Rarely	Sometimes	Often	Very often	Not sure/ No opinion
Code:	1	2	3	4	5	6

21. Do you think the Taiwanese **criminal justice system** offers adequate and fair procedural safeguards for defendants to prevent miscarriages of justice, such as recording police interrogations, providing effective counsel, and ensuring that evidence is gathered in a fair process?

	Safeguards are always inadequate	Safeguards are rarely adequate	The safeguards are adequate only some of the time	Safeguards are adequate in most cases	Safeguards are always adequate	Not sure/ No opinion
Code:	1	2	3	4	5	6

22. Do you think the **police** can be trusted to ensure that suspects are treated fairly?

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion
Code:	1	2	3	4	5	6

23. Do you think **prosecutors** can be trusted to ensure that suspects are treated fairly?

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion
Code:	1	2	3	4	5	6

24. Do you think that defendants are treated fairly in court at trial?

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion
Code:	1	2	3	4	5	6

**Interviewer: Tell the interviewee:**

*In 2019, The Taiwan Alliance to End the Death Penalty (TAEDP) and The Death Penalty Project published a summary of the main findings of a public opinion survey of a representative sample of over 2,000 Taiwanese citizens, using face-to-face interviews. The survey was conducted for TAEDP by a team of researchers led by Professor Chiu Hei-Yuan, of the Institute of Sociology, Academia Sinica. I am going to give you some information from that survey and ask if it changes your views on abolition. Although I've asked for your views earlier in the interview, for each of these new points, I will ask again if you support abolition or are opposed to it, and I will ask how strong your opinions are.*

**25. That survey found that only a minority (32%) of respondents were strongly opposed to abolition of the death penalty.**

**Does that information change your views on abolition?**

	CODE
I STRONGLY support ABOLITION in that case	1
I support abolition in that case	2
I am opposed to abolition	3
I am STRONGLY OPPOSED to abolition	4

**26. The survey found that most people (69%) had no confidence in the fairness of decisions made by Taiwan's judiciary and more than half (54%) had no confidence in the fairness of death sentences.**

**Does that information change your views on abolition?**

	CODE
I STRONGLY support ABOLITION in that case	1
I support abolition in that case	2
I am opposed to abolition	3
I am STRONGLY OPPOSED to abolition	4

**27. The survey also found that three quarters of respondents thought that Taiwan's legal system protects people with status and power, and 78% thought that poor people were more likely than rich people to be sentenced to death.**

**Does that information change your views on abolition?**

	CODE
I STRONGLY support ABOLITION in that case	1
I support abolition in that case	2
I am opposed to abolition	3
I am STRONGLY OPPOSED to abolition	4

28. The survey found that nearly three-quarters (73%) of people believed that a **wrongful conviction** could happen and nearly 65% believed that some innocent people have been sentenced to death.

Does that information change your views on abolition?

	CODE
I STRONGLY support ABOLITION in that case	1
I support abolition in that case	2
I am opposed to abolition	3
I am STRONGLY OPPOSED to abolition	4

29. The survey found that the **public’s support for the death penalty weakened** when they considered **notorious miscarriages of justice** and that knowledge about such cases reduced the proportion of respondents who were strongly opposed to abolition to just 6%.

Does that information change your views on abolition?

	CODE
I STRONGLY support ABOLITION in that case	1
I support abolition in that case	2
I am opposed to abolition	3
I am STRONGLY OPPOSED to abolition	4

30. Almost three-quarters (71%) of respondents to the survey said they would support abolition of the death penalty if it could be **replaced with life imprisonment without the prospect of parole**, with the prisoner made to work to earn money to pay compensation to victims and their families.

Does that information change your views on abolition?

	CODE
I STRONGLY support ABOLITION in that case	1
I support abolition in that case	2
I am opposed to abolition	3
I am STRONGLY OPPOSED to abolition	4

31. Do you have any final comments or thoughts on what we have discussed?

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## About the authors



### **Carolyn Hoyle**

Professor Carolyn Hoyle has been at the University of Oxford Centre for Criminology since 1991 and was Centre Director from 2012-17. She is Director of the Oxford Death Penalty Research Unit, and co-author of the leading international study on the death penalty, *The Death Penalty: A Worldwide Perspective*, the last edition of which was published in 2015 by Oxford University Press. She has published empirical and theoretical research on a wide range of criminological topics in addition to the death penalty: wrongful convictions, policing, domestic violence, and restorative justice. She lectures extensively, and supervises research students on these and other criminological topics. She has conducted several studies for The Death Penalty Project, including studies of opinion formers' views on the death penalty in India, Bangladesh and Zimbabwe, and is currently conducting a similar study in Kenya. She is also working closely with The Death Penalty Project and other leading international and national NGOs on a study of foreign nationals at risk of the death penalty in Asia and the Middle East.



### **Shiow-duan Hawang**

Dr Shiow-duan Hawang is Distinguished Professor of the Department of Political Science at Soochow University, Taipei, Taiwan, and, since 1 August 2016, has been Dean of the School of Liberal Arts and Social Sciences at the university. She is also a commissioner of the Central Election Commission.

From 2015-19, Dr Hawang served as President of Citizen Congress Watch, a civil society organisation that aims to oversee the behaviour of members of Congress and promote congressional reforms and transparency. In addition, she served as chair of the Department of Political Science and was Director of the Chang Fo-Chuan Center for the Studies of Human Rights at Soochow University from 2009-15. Her main research interests include comparative politics, voting behaviour, congressional politics, political culture, constitutional systems, and human rights.

# Other publications by The Death Penalty Project

## Previous publications in the series on capital punishment in Taiwan

This report, produced by a collaboration between The Death Penalty Project and the Taiwan Alliance to End the Death Penalty, is the latest in a series of publications that focus on the continued use of the death penalty in Taiwan. Earlier publications in this series include:

- *For or Against Abolition of the Death penalty: Evidence from Taiwan* (2019), by Chiu Hei-Yuan, edited by Roger Hood
- *Unsafe Convictions in Capital Cases in Taiwan* (2019), by Carolyn Hoyle, based on the research and findings of Chang Chuan-Fen
- *The Handbook of Forensic Psychiatric Practice for Capital Cases in Taiwan* (2015)
- *Death Penalty in Taiwan: A Report on Taiwan's Legal Obligations under the International Covenant on Civil and Political Rights* (2014).

## Further studies by The Death Penalty Project exploring attitudes to the death penalty

This report adds to a growing and diverse collection of empirical research commissioned by The Death Penalty Project, examining attitudes towards capital punishment around the world. Previous reports include:

- *Investigating Attitudes to the Death Penalty in Indonesia, Part Two – Public Opinion: No Barrier to Abolition* (2021), by Carolyn Hoyle, with assistance from Diana Batchelor
- *Investigating Attitudes to the Death Penalty in Indonesia, Part One – Opinion Formers: An Appetite for Change* (2021), by Carolyn Hoyle
- *Time to Abolish the Death Penalty in Zimbabwe: Exploring the Views of its Opinion Leaders* (2020), by Carolyn Hoyle
- *Sentenced to Death Without Execution: Why Capital Punishment Has Not Yet Been Abolished in the Eastern Caribbean and Barbados* (2020), by Roger Hood and Florence Seemungal
- *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (2018), by Mai Sato
- *The Public Opinion Myth: Why Japan Retains the Death Penalty* (2015), by Mai Sato
- *The Death Penalty in Malaysia: Public Opinion on the Mandatory Death Penalty for Drug Trafficking, Murder and Firearms Offences* (2013), by Roger Hood
- *Public Opinion on the Mandatory Death Penalty in Trinidad* (2011), by Roger Hood and Florence Seemungal.

These reports and other publications by The Death Penalty Project are available to view and download at [www.deathpenaltyproject.org](http://www.deathpenaltyproject.org)

# The Death Penalty Project

The Death Penalty Project is a legal action NGO in the UK, with special consultative status before the United Nations Economic and Social Council. For more than three decades it has provided free legal representation to death row prisoners around the world, to highlight miscarriages of justice and breaches of human rights. It also assists other vulnerable prisoners, including juveniles, those who suffer from mental health issues, and prisoners who are serving long-term sentences.

The Death Penalty Project has been commissioning, supporting and publishing independent academic research on attitudes towards the death penalty for almost a decade. It uses original data from public opinion surveys and other empirical research to engage in dialogue with policy-makers and politicians, and challenge popular misconceptions around the death penalty.

The Death Penalty Project has been working in Asia for more than 15 years and has represented individuals facing execution and partnered with local lawyers in bringing strategic litigation to restrict the scope and application of the death penalty. In parallel, The Death Penalty Project has provided expert training and assistance for those involved in the criminal justice system, and has engaged with governments, parliamentarians and civil society in discussions on death penalty reform.

# Taiwan Alliance to End the Death Penalty

Taiwan Alliance to End the Death Penalty (TAEDP) is a coalition of Taiwanese abolitionist groups, non-governmental organisations and research institutes. The Alliance, formed in 2003, is the first coalition in Taiwan that advocates for the abolition of the death penalty and promotes reform of Taiwan's penal system. TAEDP undertakes its work through several different approaches. It works on individual death penalty cases and monitors trial procedures to ensure that every defendant receives a fair trial. TAEDP also regularly hosts training programmes and seminars for criminal defence attorneys. As a human rights organisation, TAEDP is not only concerned with the rights of those facing the death penalty, but also advocates for victims' rights and a more comprehensive victim support system for those affected by murder and other serious crimes. TAEDP regularly holds open forums to communicate with the general public, and collaborates with school teachers to develop teaching plans and other educational materials.

In association with:



Authors' affiliation

