

**MAX PLANCK INSTITUTE
FOR FOREIGN AND INTERNATIONAL
CRIMINAL LAW**

Public Opinion on the Death Penalty in China

Results from a General Population Survey Conducted
in Three Provinces in 2007/08

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1. Introduction

Background of this study

This research is part of a larger, ongoing project entitled "Moving the Debate forward: China's Use of the Death Penalty". The project is a cooperative venture between the Great Britain China Centre (London), Beijing Normal University, Wuhan University, the Irish Centre for Human Rights (Galway), the Death Penalty Project (London) and the Max Planck Institute for Foreign and International Criminal Law (Freiburg) and is being financed by the European Commission (European Initiative for Democracy and Human Rights).

The principal goal of the project is to analyze the links that exist between public opinion, criminal policy, legislation and legal practice, and to initiate attitudinal changes amongst political and legal actors as well as the public at large. A further objective is to guide Chinese criminal law reform, particularly with regard to a possible reduction in the number of capital offences, against the background of the ratification of the International Covenant on Civil and Political Rights.

Within this framework, the Max Planck Institute has taken the lead to pursue a general population survey on attitudes towards the death penalty in China. The aims of the population survey are to examine the support levels for the death penalty among the Chinese population, to explore the reasons behind the attitudes and the possible ways to change public opinion, to draw suggestions for death penalty reform in China by measuring the attitudes on different aspects of the death penalty, and finally to see whether there is a distance between the views of Chinese population and the international norms on the imposition of the death penalty.

Parallel to this survey, the University of Wuhan has in close collaboration pursued a survey among legal professionals using a very similar questionnaire. This research in brief reports the first, mainly descriptive results from the population survey. More in-depth analysis and a comparison between the population and the professional survey will follow in later publications.

Previous research in Western countries

Numerous death penalty surveys have been conducted in Western countries, especially in the United States. From 1936 to the present, the Gallup polls have been recording the sentiment about the death penalty in the United States. A Gallup poll conducted on October 2007 found that 69% Americans favoured the death penalty.¹ Popular support for the death penalty also was found in other retentionist countries. A 2004 Japanese government opinion poll showed that 81.4 percent of respondents supported the death penalty.² An Ipsos-Public Affairs poll released by

¹ <http://www.gallup.com/poll/1606/Death-Penalty.aspx>.

² Kamei seeks to undermine death penalty, *The Japan Times*, April 23, 2008. <http://search.japantimes.co.jp/cgi-bin/nn20080423f2.html>.

the Associated Press, conducted from Feb. 9 to Apr. 5, 2007, in South Korea and eight other countries, found that 72% of the Korean respondents supported the death penalty for people convicted of murder.³

Meanwhile, popular support for the death penalty could be found also in abolitionist countries. Even in abolitionist countries, it is not rare to find majorities supporting the death penalty. The Ipsos-Public Affairs poll (mentioned above) found that in Britain, 50% of people were in favor of the death penalty. In Poland, between 60% and 80% of the surveyed population supports the reintroduction of the death penalty, which is the highest support level for the death penalty in the EU.⁴

However, it has been shown that the abolition of the death penalty often happened at a time when the majority of the population still favored this sanction, and that support levels gradually declined after the abolition.⁵ Germany is a good example of this effect. When the West German state abolished the death penalty in 1949, a majority (ca. 55%) of the population supported the death penalty. In 2000, only 23% West Germans were still in support of the death penalty, while 53 percent opposed the death penalty, and 24 percent did not have an opinion.⁶

A lot of research has been devoted to the influence of survey methodology and question wording on results. Most surveys have employed single-item questions like “In general, do you favour or oppose the death penalty?” or “Are you in favour of the death penalty for a person convicted of murder?” While these ‘standard items’ are not useless especially for longitudinal analyses, the results are wide open for interpretation and may be biased. In particular, it has been shown that the support levels for the death penalty tend to be considerably lower in response to more detailed and more specific questions, compared to the general question.⁷ Ellsworth and Ross found that “the levels of support for the death penalty on the abstract question were considerably attenuated when people were asked whether they would vote for the death penalty if guilt were proven in a capital case.”⁸

In addition, numerous studies have found that the support for the death penalty will drop substantially when alternative tough punishments (like life imprisonment without parole or life imprisonment without parole plus work and restitution for victims’ families) are offered. A Washington Post-ABC News national poll conducted in April 2001 found

³ http://www.angus-reid.com/polls/view/death_penalty_backed_in_four_countries/.

⁴ http://www.angus-reid.com/polls/view/death_penalty_backed_in_four_countries/;
see also Carsten Lißmann, *Das Mittelalter in den Köpfen*.
<http://zuender.zeit.de/2007/41/todesstrafe-polen>.

⁵ A good summary see Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective*. 4. ed., Oxford 2008. pp. 375-378.

⁶ Allensbacher Institute, *Allensbacher Jahrbuch der Demoskopie 2002*, pp. 676-677.

⁷ Cullen et al. 2000.

⁸ Phoebe C. Ellsworth and Lee Ross: Public Opinion and Capital Punishment: A Close Examination of the Views of Abolitionists and Retentionists, in *Crime and Delinquency* 29 (1983), pp.116-169 at 122.

that when asked: Do you favour or oppose the death penalty for persons convicted of murder, 63% favoured and 28% opposed the death penalty. When asked: Which punishment do you prefer for people convicted of murder, the death penalty or life in prison with no chance of parole, the percent favouring the death penalty dropped to 46.⁹

Research over the last years has tended to stress that death penalty attitudes are flexible and complex. One crucial issue has been the role of factual information on opinion. In his concurring opinion in *Furman v. Georgia* (1972), Justice Thurgood Marshall argued that the popular support for the death penalty among American people is a function of a lack of knowledge about it, and that opinions are susceptible to reasoned persuasion. Marshall's famous hypotheses guided a whole branch of empirical research on public opinion on the death penalty.¹⁰ While supporting Marshall's diagnosis of general ignorance, Ellsworth and Ross argued that spreading knowledge would not change opinions:¹¹ "General knowledge of the truths that Justice Marshall wanted to teach the public would have only a modest effect on public opinion. At most, it might increase opposition by about the proportion of people who are undecided – currently around 8% – and would probably have little or no impact on those who support the death penalty most strongly."¹² In opposition to this view, Bohm reported that informing about the possibility of executing innocent persons appears to affect public attitudes toward the death penalty.¹³

Research has shown that opinions about capital punishment are embedded into wider social and political attitudes and concerns. The goal of rehabilitation has been found negatively related to the support of the death penalty, as expected. Bowers argued that support for the death penalty may reflect a general desire for harsh or even harsher punishment.¹⁴ It is often assumed that the criminal victimization and fear of crime predict attitudes towards the death penalty. Some scholars maintain that fear of crime directly related to U.S. citizens' willingness to give up basic civil liberties to feel

⁹ Quoted in R.J.Simon and D.A.Blaskovich, *A comparative analysis of capital punishment: statutes, policies, frequencies, and public attitudes the world over* (2002), p.35. Further evidences see William J. Bowers and Benjamin D. Steiner, The people want an alternative to the death penalty, in *Capital Punishment: A reader*(1998), edited by Glen H. Stassen, pp.34-43; Marla Sandys and Edmund F. McGarrell, Attitudes toward capital punishment among Indiana legislators: Diminished support in light of alternative sentencing options, in *Justice Quarterly* 11(1994) pp. 651-677; Robert M. Bohm, *American Death Penalty Opinion: Past, Present, and Future* (2003), pp. 44-46.

¹⁰ Ellsworth and Gross 1994, p.33.

¹¹ Ellsworth and Ross (1983), p.116. Zeisel and Gallup found also that the majority among both supporters and opponents of the death penalty could not be moved by utilitarian considerations. See Hans Zeisel and Alec M. Gallup, Death penalty sentiment in the United States, in *Journal of Quantitative Criminology* 5 (1989), pp.285-296 at 290.

¹² Ellsworth and Gross (1994), p.35.

¹³ Bohm (2003), p.43.

¹⁴ See William J. Bowers, Capital punishment and contemporary values: People's misgiving and the court's misconceptions, in *Law and Society Review* 27(1993), pp. 157-175.

safer.¹⁵ However, Smith found no stronger support for the death penalty among people who had been robbed or threatened with a gun than among people who had not, nor was neighbourhood fear of crime related to attitude toward the death penalty.¹⁶ The study of Tyler and Boeckmann suggested that punitiveness is linked most strongly to judgments about the social conditions and to underlying social values, such as moral cohesion and authoritarianism.¹⁷ Ellsworth and Ross argued that the death penalty attitude is “a matter of an ideological self-image; its function is to define the person and his or her general stance in regard to criminal justice”.¹⁸

Previous research in and on China

Johnson and Zimring recently stated that “although Asia is the most important region of the world when it comes to capital punishment, it is also one of the most understudied.”¹⁹ This fully applies to China. Very few surveys have tried to measure public attitudes toward the death penalty in China. The Law Institute of Chinese Academy of Social Science (CASS) and the National Bureau of Statistics of China conducted a population survey in 1995 in three Chinese provinces, using the single-item question “what is your attitude toward the death penalty?” They found that over 95% of the respondents supported the death penalty. This study explored the correlation between demographics and general death penalty attitudes. However, these findings should be taken with particular caution due to serious concerns about reliability and validity.²⁰

Other surveys used university students as respondents. In 2005, JIA Yu published a paper on death penalty attitudes among 1873 students from a college in northwest China. It was found that 93.8% of the surveyed supported the death penalty for murder. Attitudes towards other capital crimes were also asked. One has to consider that this study used non-random sampling, and the majority of the respondents were law students (81%).²¹

Scholars of Chinese origin in the United States attempted a cross-cultural comparison to students’ attitudes toward the death penalty. In the Cao and Cullen study,

¹⁵ Barbara Sims and Eric Johnston, Examining public opinion about crime and justice: A statewide study, in *Criminal Justice Policy Review* 15 (2004), pp.270-293 at 272.

¹⁶ Tom W. Smith, A trend analysis of attitudes towards capital punishment, 1936-1974. In Davis, J. E. ed., *Studies of Social Change since 1948*, Vol. 2 (1975), pp. 257-318.

¹⁷ Tom R. Tyler and Robert J. Boeckmann, Three strikes and you are out, but why? The psychology of public support for punishing rule breakers, in *Law and Society Review* 31(1997), pp.237-236.

¹⁸ Ellsworth and Ross (1983), p. 168.; cf. Tom R. Tyler and Renee Weber, Support for the death penalty: Instrumental response to crime or symbolic attitude? In *Law and Society Review* 17 (1982), pp.21-45

¹⁹ David Johnson and Franklin Zimring, Taking capital punishment seriously, in: *Asian Criminology* 1 (2006).

²⁰ See HU Yunteng, *Retention and Abolition: studies on basic theories of death penalty* (in Chinese), 2000, pp.341-346.

²¹ JIA Yu, An Investigation Report on Views of Death Penalty of Positivist Research (on Chinese), in: *Legal Science Review* 3(2005).

78.2% of Chinese students in China (N=203) agreed the statement “I believe that capital punishment should be used because people who take a life deserve to be punished by having their own life taken.”²² A limitation of these finding is that the data were collected in 1988, which can not reflect the political, economical and cultural changes China has experienced thereafter.²³ Jiang et al. conducted a survey among Chinese students (N=524) at a Chinese university in 2005 and found that nearly 70% of the respondents supported the death penalty.²⁴

Liang et al. (2006) compared Chinese college students both at home and abroad (in the United States) to explore whether the exposure to western values has an effect on the change of death penalty attitudes. The study found that the overseas Chinese students were even more supportive of the death penalty than the students at home (83% vs. 62.7%, after providing alternatives 68.4% vs. 52.6%).²⁵ However, the sample size in this survey was very small (60 in China, 57 in the U.S.).

As an additional study accompanying the current "Moving the Debate forward" project, we conducted a survey among Chinese students studying at German universities in 2007. In this survey, 69% of around 900 Chinese respondents favoured death penalty in general, but only 40% proposed the death penalty in the most severe version of murder vignette which were randomly allocated to respondents.²⁶

To conclude this brief overview, there is a dearth of public opinion research on the death penalty in China. The current study is to our knowledge the first systematic and scientific attempt to gauge and analyze public attitudes on the death penalty in China.

2. Survey Methods and Data

The public opinion survey was conducted in Beijing, Hubei and Guangdong provinces by the Research Center for Contemporary China (RCCC) at Peking University. The survey was administered as face-to-face interviews. The fieldwork took place between November 1, 2007 and January 20, 2008. Prior to the survey, a pretest was carried out in Beijing, and the results were used to revise the questionnaire.

²² Liqun Cao and Francis T. Cullen, Thinking about crime and control: A comparative study of Chinese and American ideology, in *International Criminal Justice Review* 11(2001), pp.58-81.

²³ See also Shanhe Jiang, Eric G. Lambert, and Jin Wang, Capital punishment views in China and the United States: A preliminary study among college students, in: *International Journal of Offender Therapy and Comparative Criminology* 51 (2007), pp.84-97 at 87.

²⁴ See Jiang et al.(2007), pp.90-93.

²⁵ See Bin Liang, Hong Lu, Terance D. Miethe and Lening Zhang, Sources of Variation in Pro-Death Penalty Attitudes in China, in: *British Journal of Criminology* 46 (2006).p.128.

²⁶ Shenghui Qi & Dietrich Oberwittler, On the Road to the Rule of Law: Crime, Crime Control, and Public Opinion in China, in: *European Journal on Criminal Policy and Research* 15 (2009), pp.

Sampling Design

The survey targets Chinese citizens aged 18 to 70 years (born between November 1, 1937 and October 31, 1989) who have resided in dwellings in Beijing municipality, Hubei province and Guangdong province for no less than six months. Those who lived in institutions (military bases, hospitals, prisons, nursing homes, etc.) were not included in the target population.

Respondents were sampled through stratified, multi-stage PPS (population proportional to size) sampling. For the purpose of urban-rural contrast, stratification according to the characteristics of the urban and the rural areas was taken as the first step of the sampling process. In order to obtain a self-weighting sample, the number of primary sampling units (PSUs) within each stratum was proportional to the population size of that stratum.

Out of 102 county-level units in Hubei Province and 123 county-level units in Guangdong Province, 10 (PSUs) were drawn by PPS in each province, and then, two township-level units (SSUs) within each of the selected county-level units. The measures of size (MOS) used at these first and second stage were the population size of the county and township units, including migrants.

At the third stage, the sampled area (township) was divided into GIS grids that link the specific cells to the boundary of the township on the maps. Two Tertiary Sampling Units were drawn by PPS technique in each SSU, so that there were 40 HSM in total.

Fieldwork

The field manager team, consisting of six full-time staff of the RCCC, was established by autumn 2007. Interviewers were college students, in Beijing 63, in Hubei 86, in Guangdong 82. RCCC's field managers conducted a two-day training session for the interviewers in each of the research sites.

Trained samplers equipped with GPS receivers were then sent to locate and enumerate the sampled "spatial square seconds", or SSS. In order to maintain equal probabilities of selection across households, all dwellings enumerated in the SSSs were included in the sample. Using systematic sampling, we drew at least 40 dwellings per half-square minutes (HSM). The respondent was selected from the dwelling using the Kish Grid method (randomly). To maintain equal probability and thus representativeness, once the respondent was selected no other person in the household could be substituted for that person in the event of refusal, not being able to contact the person, etc.

If the designated respondent was not available, the interviewer tried to make an appointment through a member of the household for a later visit. If no one was at home, the interviewer would make a call-back at some other time. If the dwelling or respondent refused to be interviewed, the supervisor would assign another interviewer to pay a visit – as required by the RCCC standard interview procedures; there must be at least four more call-backs before declaring the particular case as non-response.

The verification included three rounds of checking: by the interviewer her/himself right after leaving the dwelling, by his/her field supervisor in the field and by the data manager in RCCC Beijing office. Approximately 30 percent of each interviewer's completed interviews were verified by the supervisor on location. Verifications were randomly assigned, which involved phone calls and/or re-visit to the respondent by the inspectors, asking, for example, a set of selected factual questions, and if necessary, re-interviewing. There were 1,315 such verifications done in this project.

Weighting

Weighting is applied to adjust for unequal probabilities of respondents to be selected. For example, a person living in a single-person household is always selected, while in a 4-person household, the chances to be selected is only 1:4 (= 0.25) for every member of the household. Also, using equal sample sizes in all three provinces, households in Beijing were much more likely to be selected than in Guangdong. Both aspects are adjusted by the weighting factor used in estimates of descriptive results which gives more weight to respondents living in households with more eligible members and more weight to respondents living in more populated provinces. This weight is used in all descriptive results but not in correlational analyses.

Interpretation of Response Behavior

It is generally known in public opinion research that the results of surveys are affected by so-called 'response sets' which indicate the tendency of respondents to answer not completely in accordance to their 'true' opinions.²⁷ The most important influences are social desirability (the tendency to adjust one's answers to the perceived expectations of the interviewers) and acquiescence, a general tendency to answer rather positively than negatively to all questions independent from their contents. A consequence of these effects is that survey results should not always be taken at face value, i.e. a result of 60% 'yes' or 'no' should not be taken as an absolute value. Previous survey research has demonstrated that these response behaviors can be more influential in Asian compared with Western nations.²⁸ We have found some indications for the presence of acquiescence in this survey data, and as a consequence, we advice to interpret the following results with some caution and will devote more in-depth analysis to these problems in the future.

Empirical Assessment of Sampling Results

The survey yielded a very satisfactory response rate of ca. 70% which is above the response rates in many current population surveys in Western countries (table 2.1). It appears that the respondents reflect the socio-demographic diversity of the Chinese

²⁷ Paul P. Biemer et al (eds.), *Measurement Errors in Surveys*, Hoboken, N.J. 1991

²⁸ Gordon Cheung and Roger B. Rensvold, *Assessing Extreme and Acquiescence Response Sets in Cross-Cultural Research Using Structural Equations Modeling*, *Journal of Cross-Cultural Psychology* 31(2000), pp. 187-212; Anne-Wil Harzing, *Response Styles in Cross-national Survey Research: A 26-country Study*, *International Journal of Cross Cultural Management* 6(2006), pp. 243-266.

population. In particular, a large share of respondents are less-educated manual laborers or peasants living smaller cities and in the countryside (table 2.2).

Tab. 2.1: Sample size and response rate

Province	Sample	Eligible Sample	Completed	Response Rate:
Hubei Province	2309	2183	1506	69%
Guangdong Province	2208	2075	1465	71%
Beijing	2377	2212	1501	68%

Tab. 2.2: occupational status of respondents

“ What is/was your current job?”	Province			Total
	Beijing	Hubei	Guangdong	
agriculture, feeding, fishing	13.7	41.3	33.4	34.7
business services	4.7	4.6	1.9	3.1
self-employed	6.1	12.1	9.1	10.0
private entrepreneur	1.4	.5	1.5	1.1
workers	18.5	11.2	27.9	21.2
administrative clerk	1.9	1.9	1.2	1.5
management clerk	3.2	2.9	2.3	2.6
police	.2	.2	.0	.1
technician	7.6	4.8	3.7	4.4
common employees	20.6	6.4	5.7	7.1
other	18.3	12.6	10.3	11.7
don't know	.7	.7	.8	.7
no answer	2.9	1,0	2.2	1.8
Total	100%	100%	100%	100%

There are some noticeable differences between the provinces: Respondents in Beijing are higher educated, and more respondents are students. This is partly due that the random sampling of areas included a student's dormitory. There are also more wealthy respondents in Beijing, and much more have a home internet access. Hubei respondents work in agriculture to a larger proportion, Guangdong respondents tend to be industrial workers. Yet, on the whole, occupations and social status is widely spread in all provinces.

One of the distinct features of present China are migrant workers. Due to the elaborated sampling design, we were able to achieve a good coverage of these migrants. According to our final counts, 37.4% of respondents in Beijing, 13.1% in Hubei, and 31.7% in Guangdong were RHFL – not living at the address officially registered, that is, the migrants.

3.1 Support levels of the death penalty and the elasticity of attitudes

Support levels of the death penalty

Questions about the death penalty start with knowledge and interest in this issue. Both are generally very low. Only ca. 25% of all respondents are interested in the issue of death penalty, and slightly more claim some or much knowledge (Table 3.1.1). Thus, it seems that the question of the death penalty does not have a high salience in the minds of the general population. They rarely discuss it and don't seem to hold very strong views about it.

In order to overcome the shortcomings of the single-item general question, we tried to measure the death penalty attitudes from different aspects. When confronted with the standard general question, without any qualifications as to the type and circumstances of the crime or the characteristics of the offender, 57.8% of the respondents support the death penalty, 14% oppose it and 28% are undecided (table 3.1.2). Even if when asked from the opposite about their attitudes toward abolition, still a moderate majority support the death penalty (55% in the question “Should China follow the practice of many countries abolishing the death penalty” and 53% in the question “Should China speed up to abolish the death penalty”, table 3.1.3). But if asked more concretely about their support level of the death penalty for specific crimes, 78% of the respondents support the death penalty for murder which is much higher than for the death penalty generally (graph 3.1.1). This percentage is somewhat higher than what has been found for the USA. For instance, a Gallup poll of 2007 indicates that 69% of Americans respond "yes" when asked this question: "Are you in favor of the death penalty for a person convicted of murder?"

For other 13 specific crimes we have listed, only intentional injury resulting in death, drug dealing, and rape of a minor girl draw a majority in favor of the death penalty. (graph 3.1.1). No popular support for the death penalty is found for most of the non-violent crimes such as counterfeiting, producing fake medicine, theft, corruption, embezzlement, organizing prostitution, or espionage. One may interpret these preferences as an indication what types of crime the Chinese population regards as the most serious crimes and for which the death penalty seems appropriate. With few exceptions, this concept is restricted to serious (and lethal) violent crimes.

Table 3.1.1: Interest in and knowledge about the death penalty in China by education level (%)

(%)	no de- gree , primary school	Middle school	(vocatio- nal, tech- nical) high school	professional high school / college/ university	total	
<i>A) Interest in the issue</i>						
very interested	1.6	3.1	3.4	3.8	2.8	} 25.9
interested	20.3	24.1	25.4	24.7	23.1	
not very interested	33.2	35.0	38.1	45.0	36.7	} 74.1
not interested at all & don't know	44.9	37.8	33.2	26.5	37.4	
<i>Total</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0</i>	
<i>B) knowledge about DP</i>						
much knowledge	1.0	1.4	.9	2.1	1.3	} 30.8
some knowledge	17.1	28.7	41.0	45.2	29.5	
little knowledge	24.7	29.5	29.5	30.9	28.2	} 69.2
no knowledge at all & don't know	57.3	40.4	28.5	21.8	41.0	
<i>Total</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0</i>	

N=4472 (weighted data), missing values = 2.4% (interest), 1.7% (knowledge)

Kendall's tau-b -.11 (interest), -.25 (knowledge)

Table 3.1.2: General attitude towards the death penalty

Q: In general, do you favour or oppose the use of the death penalty?

	%
I am in favour	57.8
I Oppose	14.0
I am not sure	28.2

N=4472 (weighted data), missing values = 0.1%.

Table 3.1.3: Attitudes towards abolition of the death penalty

Q1: More than half of the countries in the world have abolished the death penalty and more are doing it every year. Do you think that China should follow this practice and abolish the death penalty, or should China not follow?

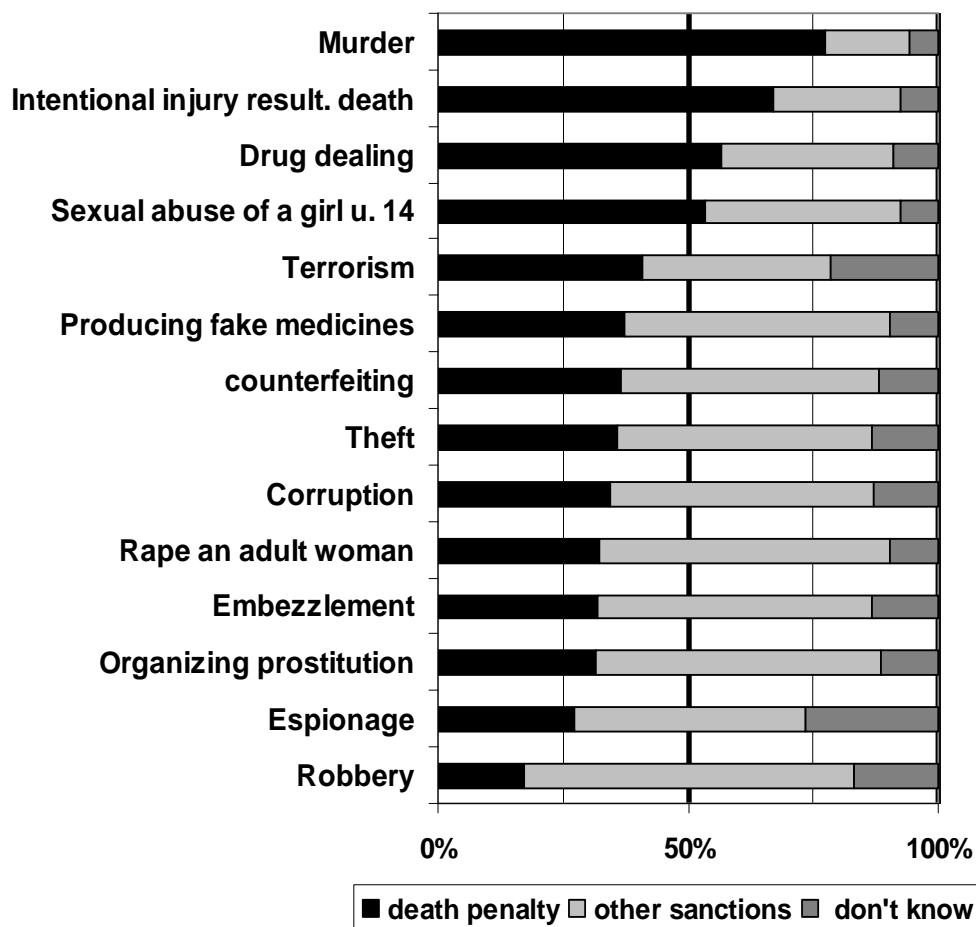
Q2: Do you think that China should speed up to abolish the death penalty, or should China not speed up to abolish the death penalty?

	Q1 (%)	Q2 (%)
support abolition	19.7	14.1
oppose abolition	54.5	52.8
I am not sure	25.9	33.1

N=4472 (weighted data), missing values = 3.0% (Q1), 3.7% (Q2)

Graph 3.1.1:

support for death penalty for specific crimes



N=4472 (Weighted data), missing values = 0.7% to 1.2%.

Finally, we measured the support level of the death penalty by providing vignettes. Vignettes are short hypothetical description of cases which are read to respondents. They are then asked to choose the appropriate punishment in this particular case. The special ‘trick’ with these vignettes is that respondents are randomly assigned to four different versions of the case, representing two dimensions (2 x 2 factorial design: severity of the offence low/high; mitigating/ aggravating circumstances of the offender). Each respondent gets only one of these four versions (table 3.1.4). Because the four different versions are randomly assigned, differences in respondents’ answers are purely attributable to the differences in the vignettes. This technique was used here to investigate the ‘elasticity’ of respondents’ punitiveness: To what extent did respondents adjust the wish for the death penalty to the particular details of a case?

Four cases with variations in seriousness of crimes and mitigating factors were provided to the respondents: robbery with firearm, drug trafficking, domestic homicide, and rape of a minor girl. The details are reported in table 3.1.4. We found, on the whole, respondents were rather reluctant to demand the death penalty with immediate execution (graph 3.1.2). Even in the most severe version of a robbery with killing or in the most severe version of rape a minor girl causing victim’s suicide, less than half of respondents opted for the death penalty. When confronted with concrete cases, respondents were very careful and even reluctant to call for the DP. This mirrors research from the U.S., as we already discussed in the introduction.

Table 3.1.4: Description of randomized scenarios (Four cases with different levels of severity and mitigating factors)

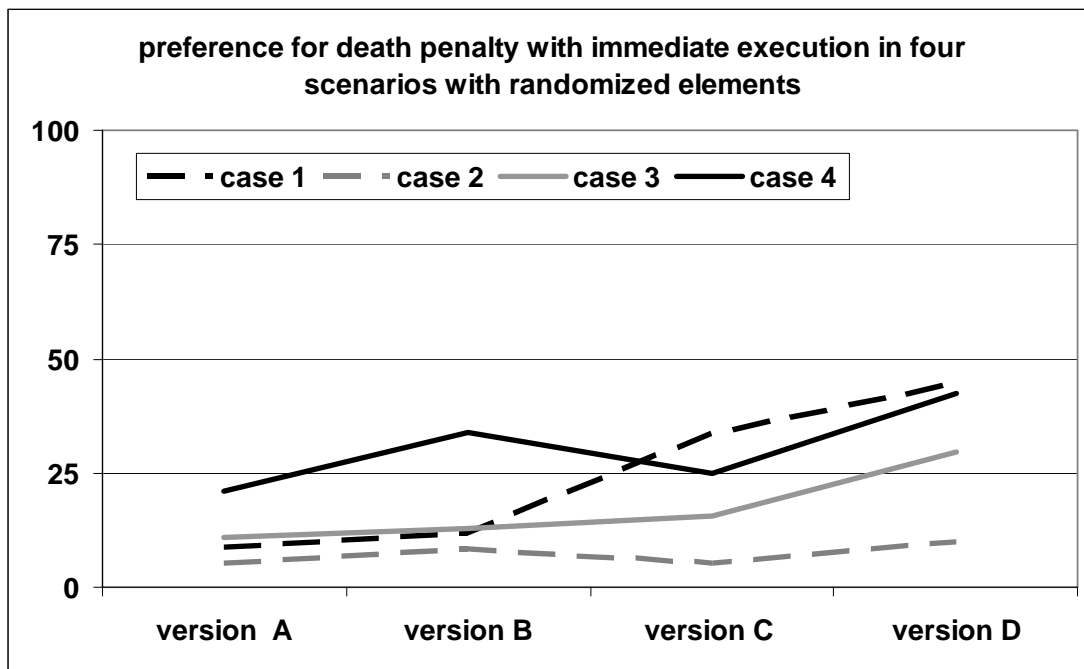
Case 1	Shop Robbery with a Gun
<i>Version A</i> (<i>less serious + mitigating</i>)	A man robbed a convenience shop with a gun and injured the shop owner by shooting his left leg. He took away with him 2000 Yuan cash. He had not previously been convicted.
<i>Version B</i> (<i>less serious + not mitigating</i>)	A man robbed a convenience shop with a gun and injured the shop owner by shooting his left leg. He took away with him 2000 Yuan cash. He had been in prison twice for robbery.
<i>Version C</i> (<i>serious + mitigating</i>)	A man robbed a convenience shop with a gun and killed him by shooting in the head. He took away with him 2000 Yuan cash. He had not previously been convicted.
<i>Version D</i> (<i>serious + not mitigating</i>)	A man robbed a convenience shop with a gun and killed him by shooting in the head. He took away with him 2000 Yuan cash. He had been in prison twice for robbery.

Case 2	Drug trafficking
<i>Version A</i>	A 35-year-old woman who has an 8-year old son was caught at a railway station and found guilty of smuggling 100g heroin. The woman did this because a criminal organisation had threatened to seriously harm her son
<i>Version B</i>	A 35-year-old woman who has an 8-year old son was caught at a railway station and found guilty of smuggling 100g heroin
<i>Version C</i>	A 35-year-old woman who has an 8-year old son was caught at a railway station and found guilty of smuggling 1kg heroin. The woman did this because a criminal organisation had threatened to seriously harm her son
<i>Version D</i>	A 35-year-old woman who has an 8-year old son was caught at a railway station and found guilty of smuggling 1kg heroin
Case 3	Domestic homicide
<i>Version A</i>	A woman poisoned her husband after long-term ill-treatment. After the death of her husband she reported the crime to the police voluntarily
<i>Version B</i>	A woman poisoned her husband after long-term ill-treatment. A neighbour discovered the death of the husband and reported it to the police.
<i>Version C</i>	A woman poisoned her husband so that she could be free to live with her lover. After the death of her husband she reported the crime to the police voluntarily.
<i>Version D</i>	A woman poisoned her husband so that she could be free to live with her lover. A neighbour discovered the death of the husband and reported it to the police.
Case 4	Rape of a minor school girl by a teacher
<i>Version A</i>	A rural elementary school teacher raped an 11-year-old girl from his class. He apologized to the girl's family and gave them 20,000 Yuan voluntarily
<i>Version B</i>	A rural elementary school teacher raped an 11-year-old girl from his class. He never apologized to the girl's family and did not

	give any compensation
<i>Version C</i>	A rural elementary school teacher raped an 11-year-old girl from his class. The girl felt shame and committed suicide by jumping into a water-hole. The teacher apologized to the girl's family and gave them 20,000 Yuan voluntarily
<i>Version D</i>	A rural elementary school teacher raped an 11-year-old girl from his class. The girl felt shame and committed suicide by jumping into a water-hole. He never apologized to the girl's family and did not give any compensation

Graph 3.1.2: Support for the death penalty in four case scenarios

% of respondents who prefer death penalty with immediate execution over other sanctions, including unspecified other sanctions and don't know



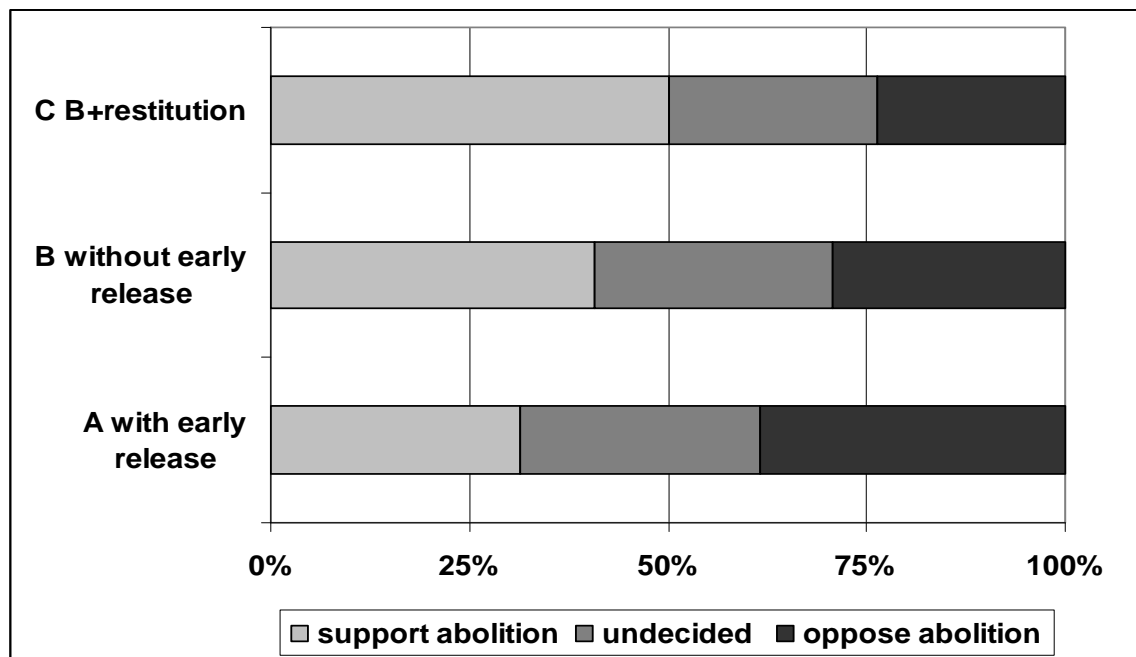
N=4472 (weighed data), missing values: 1.1% to 1.7%.

Elasticity of the attitudes towards the death penalty

Graph 3.1.3 analyses the effects of randomly offering different alternatives of life imprisonment. As has been shown in previous research, the effect of offering a 'tougher' form of life imprisonment leads to a strong increase of respondents supporting abolition. 50% of respondents would support abolition if the alternative were life imprisonment without parole plus restitution.

To what extent would respondents be ready to change their minds about the death penalty if scientific evidence would suggest its dysfunctions? Two questions have been asked only to respondents who were pro death penalty or undecided in the general question on the death penalty. The results show that scientific evidence on the execution of innocent people might have a much stronger effect than scientific evidence showing the lack of a deterrent effect of the death penalty. Tab. 3.1.5 shows that 43.7% of undecided and pro-death penalty respondents would oppose the death penalty if it were proven that innocent people had been executed. Broken down by educational levels, 42% of respondents with a middle school degree or lower and 48% of the higher-educated respondents would change from a pro-death penalty or undecided standpoint to an opposing stance. Only 25% of respondents say that they would still favour the death penalty when informed about miscarriages of justice.

Graph 3.1.3: Support for the abolition of the death penalty and its replacement by life imprisonment



N=4472 (weighted data), missing values = 2.7%

On the other hand, only 17.5% of undecided and pro-death penalty respondents would oppose the death penalty on the ground of a lack of deterrence, which supports the results of previous studies that the correct knowledge on the deterrence of death penalty did *not* strongly influence attitudes.

Table 3.1.5: Elasticity of support for the death penalty in the face of detrimental scientific evidence by educational level

(only respondents who supported the death penalty or were undecided in the general attitude question)

<i>By educational level</i>	undecided,		
	oppose DP	no answer	favour DP
<i>a) if evidence against deterrent effect</i>			
Up to middle school	15.1%	40.8%	44.1%
high school and more	23.4%	23.1%	53.5%
Total	17.5%	35.6%	46.9%
<i>b) if evidence of executions of innocent person</i>			
Up to middle school	41.8%	34.7%	23.5%
high school and more	48.2%	22.3%	29.6%
Total	43.7%	31.0%	25.3%

N=3863 (weighted data), missing values (> 5, 0%) included as “undecided, no answer”
Cramer’s V= .17 (a) / .13 (b)

3.2 Death penalty and the aims of punishments

Previous research has shown that the attitude on the death penalty is linked to more fundamental attitudes on the aims of punishment, and that the preponderance of different punishment goals may affect the support for the death penalty and its susceptibility to change.²⁹

In our survey, a number of attitudinal questions tap into the underlying beliefs about the aims of punishment and the degree to which the respondents think the death penalty effectively works to meet these aims. In table 3.2.1, these questions are ordered according to different dimensions as ‘retribution’ and ‘deterrence’.

²⁹ Margit E. Oswald, J. Hupfeld, S. C. Klug & U. Gabriel, Lay-Perspectives on Criminal Deviance, Goals of Punishment, and Punitivity, *Social Justice Research* 15(2002), pp. 85-98.

As is obvious by the very high support for the item “*People who take a life deserve to be punished by having their own life taken*” (78% agree), and “*Execution provides some comfort and consolation for the victim and his/her loved ones*” (66.5% agree) retribution is a forceful belief steering people into support for the death penalty. There is relatively less support for the aims of deterrence and, in particular, incapacitation. It is also noticeable that a majority of respondents has doubts about a fair application of the death penalty in China which however do not translate in a strong opposition against this punishment (see also below).

A first result to relate these attitudes to the general support for the death penalty is displayed in graph 3.2.1. A combined scale of the reported items measures the level of belief that the death penalty is able to fulfill the aims of deterrence and retribution and therefore is an effective sanction against serious crimes.

Respondents who believe that the death penalty can be effective in achieving the goals of retribution and deterrence are much more likely to favor the death penalty (80%) compared to those respondents who do not hold these beliefs (40%). However, even among the lowest quartile of respondents with respect to their belief in the effectiveness of the death penalty, still more (40%) support the death penalty than oppose it (30%).

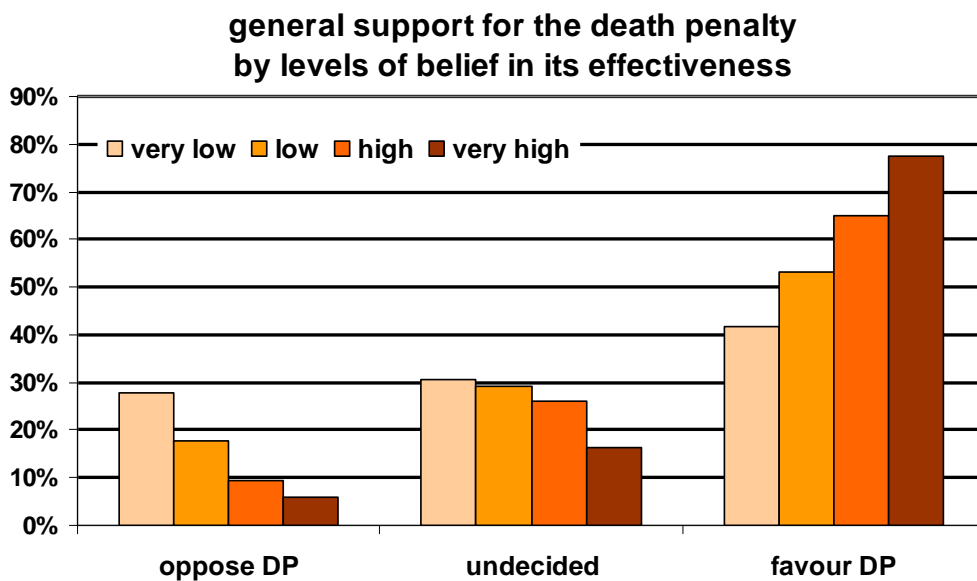
Table 3.2.1: Attitudes towards the death penalty and the aims of punishment

(%)	agree	unde-cided	disagree	
<i>Retribution</i>				
People who take a life deserve to be punished by having their own life taken.	78.1	9.4	12.4	100.0
The death penalty restores feelings of right and wrong in our society.	48.4	28.4	23.2	100.0
Execution provides some comfort and consolation for the victim and his/her loved ones.	66.5	15.5	18.1	100.0
<i>deterrence</i>				
The abolition of the death penalty would immediately cause an increase of crime in China.	63.6	19.0	17.4	100.0
Among all the available punishments, the death penalty deters crimes most.	58.6	19.0	22.4	100.0

<i>incapacitation / rehabilitation</i>				
Only execution can guarantee that a serious offender will not commit further crime.	46.5	17.9	35.6	100.0
Criminals can all be rehabilitated so execution is unnecessary.	42.5	20.3	37.2	100.0
<i>concerns about rule of law</i>				
Even the state has no right to deprive a person of his life, the death penalty should therefore not exist.	33.0	24.8	42.2	100.0
Innocent people may be wrongly executed.	59.6	14.0	26.4	100.0
The current judicial system cannot make sure that the death penalty is applied fairly to different social classes or geographical regions.	58.9	24.3	16.8	100.0

N=4472 (weighted data), missing values 1.1 to 2.3%.

Graph 3.2.1:



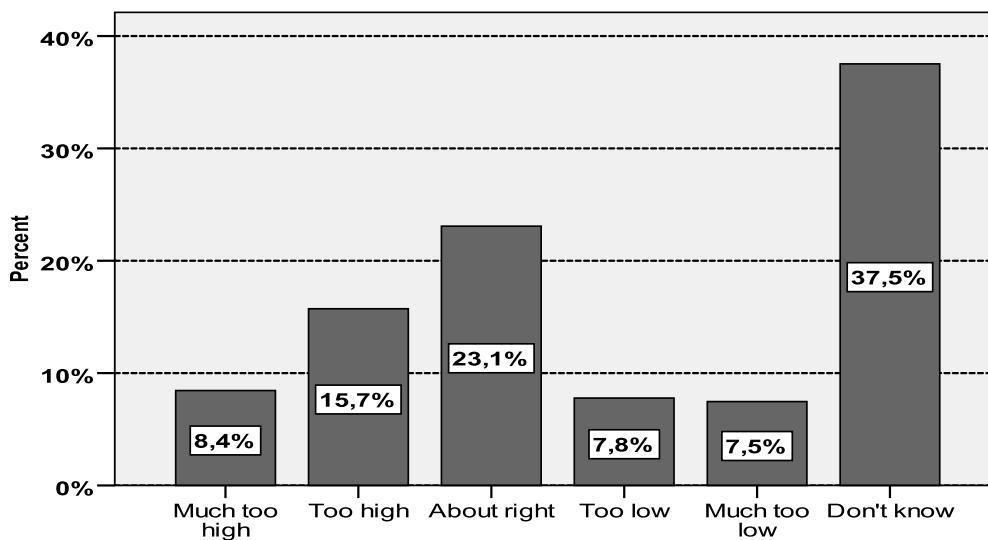
N=4472 (weighted data), missing values 13.3%.

3.3 Administration of the death penalty and the role of international norms

Beyond the important question of the general and specific support for or opposition to the death penalty, a number of questions deal with the public opinion on the application of the death penalty in present-day China.

One important aspect of the practice of the death penalty is the frequency of its application, another is the relevance of the rule of law, and this in particular relates to the issue of international norms and their relevance for China. Both aspects shall be discussed in the following paragraphs.

Graph 3.3.1: “What do you think of the number of capital crimes in China?”

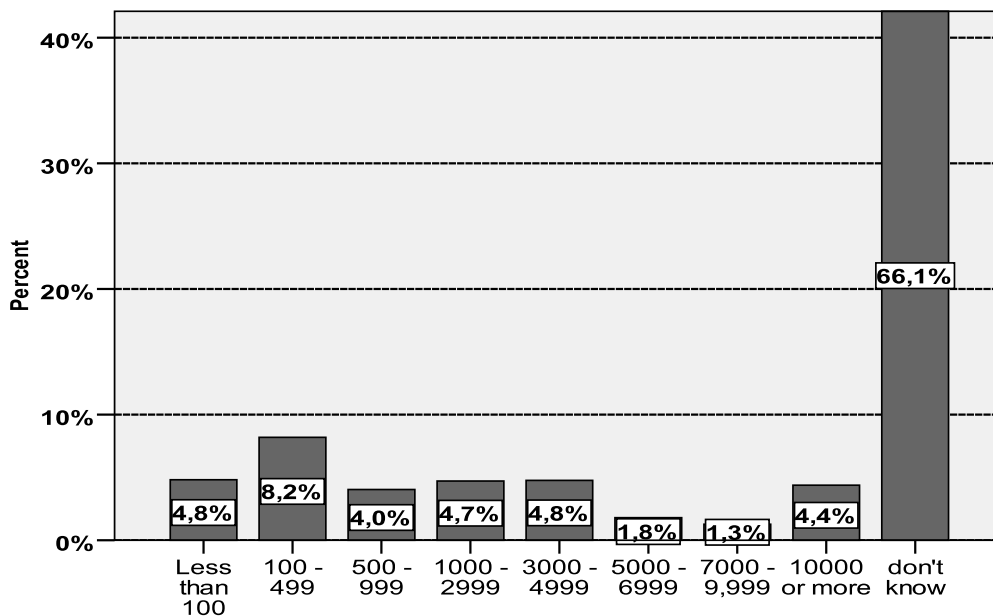


N=4472 (weighted data), missing values 1.9%

Graphs 3.3.1 to 3.3.4 report the results of questions aiming at the public opinion on the frequency of the death penalty in China. What becomes instantly apparent is that given the complete absence of publicly available information on this important topic, most people correctly state that they do not know the number of executions, and consequently also do not have a clear-cut idea whether the number of crimes eligible for the death penalty, and the number of actual executions, is too high. A substantial majority (64%) agreed with the proposition that the government should publish the number of yearly executions. It is fair to assume that a publication would instantly trigger discussions on the death penalty and would help to shape and accentuate public opinions. It is interesting to note that among those respondents who do have an opinion on the frequency of executions, a considerable number thinks the number is too low.

A list of questions asks respondents about their opinion about the rule of law in the application of the death penalty (Tab. 3.3.1). While on the whole there is a clear majority favoring the principles of the rule of law, in particular the importance of clear evidence and the role of the supreme court in reviewing capital cases, other questions show that many respondents have a limited understanding of the rule of law. Nearly half of the respondents agreed to a statement which in effect condones torture as an acceptable means of criminal investigation. Also, underlining their belief in deterrence, half of the respondents agree that an increase of executions is an effective instrument in anti-crime campaigns.

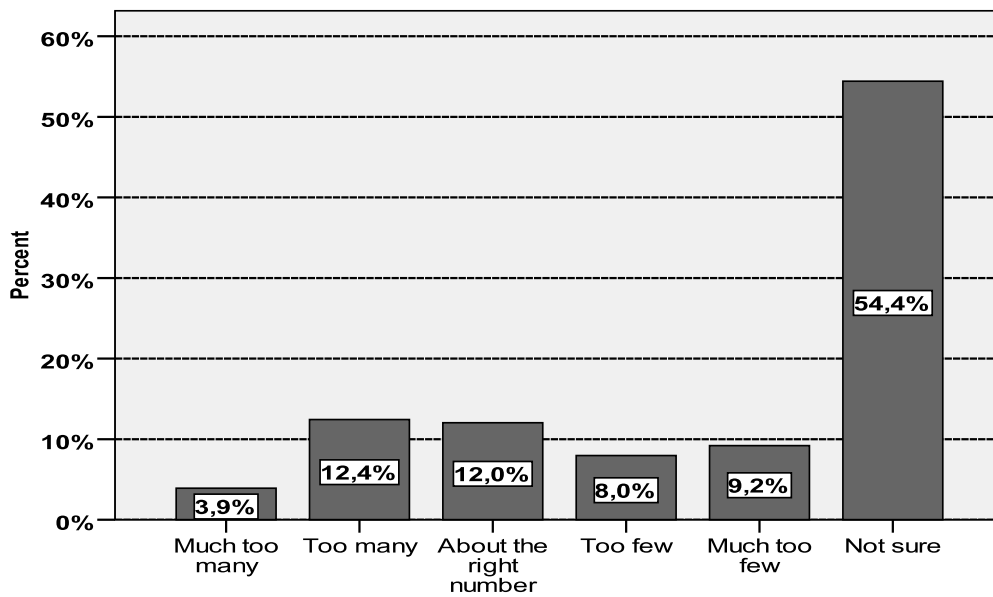
Graph 3.3.2: “How many people do you estimate are executed each year in China?”
(scale truncated at 40%)



N=4472 (weighted data), missing values 6.0%

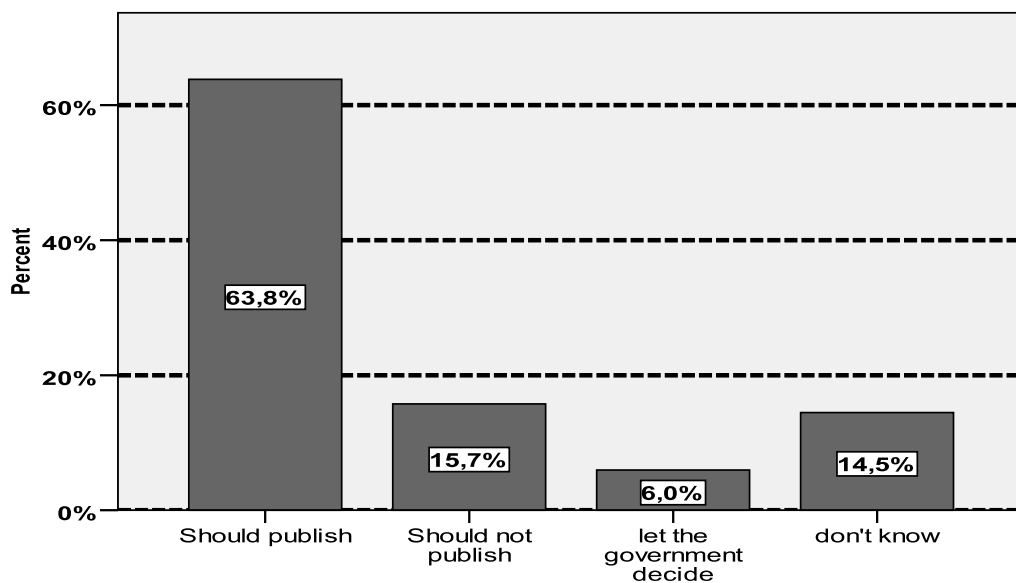
At the same time, there is no doubt among most of the respondents that the death penalty is being applied unfairly in present-day China. 70% of the respondents think that given the same serious crime, a rich person or a state official will be less likely to receive the death penalty than a poor or ordinary person (graph 3.3.5). These answers reveal a certain degree of resignation or legal cynicism which may be typical for the perceived powerlessness of ‘ordinary people’ versus the state and the ruling classes, not only in China but in many countries.

Graph 3.3.3: “According to your feeling, are too many criminals in China executed, about the right amount, or too few?”



N=4472 (weighted data), missing values 2.5%

Graph 3.3.4: „Do you think that Chinese government should publish the annual number of executions?“



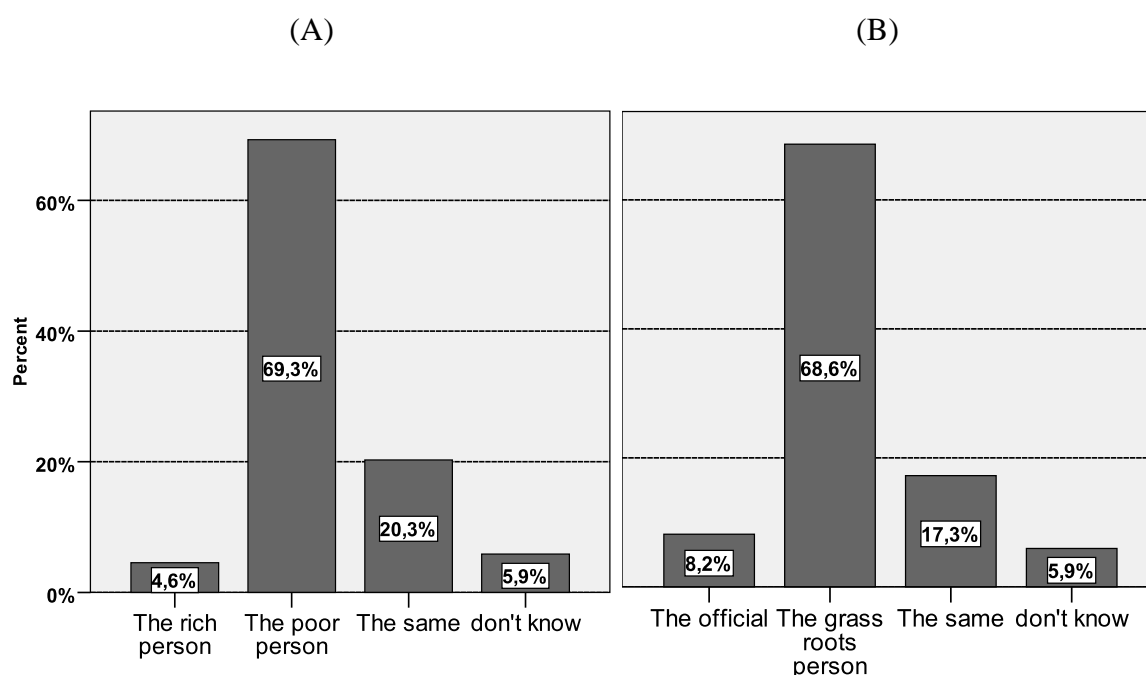
N=4472 (weighted data), missing values 3.2%

The respondents showed – not surprisingly and in line with the self-assessment of most respondents to have little knowledge on the death penalty – a great ignorance of international treaties. A very small proportion of them have heard about the two most important international covenants on basic human rights: International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR). The non-existing ‘International Covenant on the Abolition of the Death Penalty’ was used as trick question to test whether the respondents really have knowledge on the international treaties (graph 3.3.6)

Graph 3.3.5:

(A) In your opinion, if a poor person and a rich person in China committed the same serious crime for which the death sentence could be imposed, is one more likely to be sentenced to death than the other in the real life?

(B) In your opinion, if an officials (or his relatives) and a ‘grass roots’ person committed the same serious crime for which the death sentence could be imposed, is one more likely to be sentenced to death than the other in the real life?



N=4472 (weighted data), missing values 2.2 to 2.5%

There is a clear readiness to accept the U.N. proposal to restrict the death penalty to the so-called ‘most serious crimes’ (table 3.3.2). Many more respondents are in favor of this proposal (49%) than are against it (24.8%). This shifts the attention to

the question which crimes belong to the category of the ‘most serious crimes’. A possible answer is given in the question of support for the death penalty for specific crimes which we have discussed above: Respondents choose the death penalty for serious violent crimes, but not for economic crimes with the exception of drug dealing.

Table 3.3.1: Attitudes towards the application of the death penalty and the rule of law in capital cases

(%)	agree	undecided	disagree
Criminals in China are entitled to too many procedural rights	34.3	38.3	27.4
All death penalty cases should be finally decided by the supreme people's court	67.5	20.5	12.1
During the "Strike Hard" campaign more criminals should be executed	50.9	25.6	23.5
If there is any doubt about the evidence against the defendant he should not be sentenced to death however serious the crime is	69.2	18.9	11.9
Lethal injection is too lenient a way to execute some heinous criminals	41.4	27.5	31.0
Sometimes use of force is necessary to get a confession so as to make sure that the guilty people are punished	48.1	18.6	33.4
The guilty people must be punished even if it means the sacrifice of innocent people who will be wrongly convicted	27.0	15.1	57.8

N=4472 (weighted data), missing values < 1%

Table 3.3.2: Restriction of the application of the death penalty for the ‘most serious crimes’

Q: The United Nations holds the position that in countries which have not abolished the death penalty, the sentence of death may only be imposed for the most serious crimes. Do you think that China should follow the proposal of the U.N., or should China not follow it?

	%
Should follow U.N. proposal	49.0
Should not follow U.N.	24.8
undecided	26.2

N=4472 (weighted data), missing values = 3.2%.

The question of exemptions of certain types of offenders from the death penalty, on the other hand, reveals a lack of knowledge and understanding of important legal rules, both national as well as international (Tab. 3.3.3). Even for persons below 18 years of age at the time of commission of the crime, for whom the Chinese Criminal Law forbids the imposition of death penalty, only 33% of the respondents thought that they should be excluded from this punishment in every case.

Tab 3.3.3: Exemption from the death penalty of categories of persons convicted for most serious murder

(%)	never DP	it depends	always DP	undecided
Persons older than 70 years of age	21.1	48.0	20.5	10.3
Persons below 18 years of age at the time of commission of the crime	32.7	47.5	9.9	9.9
New Mothers	26.4	45.2	15.0	13.3
Insane persons	40.4	34.5	9.8	15.2
Physical serious disabled	21.9	41.4	21.8	14.8
Pregnant women	36.6	43.3	7.7	12.4
Mentally retarded persons	35.3	39.3	9.6	15.7
Persons who have contributed greatly to the society	17.4	42.0	26.6	14.0

N=4472 (weighted data), missing values <0.5%

Graph 3.3.6



N=4472 (weighted data), missing values 0.9 to 1.0%

4. Summary and Implications

As part of an EU-funded project aiming at moving the Chinese criminal policy towards a reduction and abolition of the death penalty, the Max Planck Institute conducted the first large-scale representative population survey on public attitudes towards the death penalty in China, comprising ca. 4.500 respondents in three provinces. We summarize the main findings in the following paragraphs.

1. The attitudes of general population towards death penalty in China reflect a good deal of indifference and ignorance.

Only ca. 25% of all respondents are interested in the issue of DP, and only slightly more claim some or much knowledge. In many of the general questions on the death penalty, a large proportion of respondents answer that they are undecided. The higher the educational level, the clearer and more pronounced are the personal attitudes. However, more knowledge and interest is not necessarily associated with a more critical or opposing view on the topic.

2. Attitudes towards the death penalty are complex and cannot be measured with a single question.

When asked about their general position on the death penalty, without any qualifications as to the type and circumstances of the crime or the characteristics of the offender, a moderate majority (58%) of all respondents is definitely in favour of the death penalty. Consistent with this finding, still a moderate majority supports the death penalty when asked about their attitude toward abolition.

A considerable share of respondents (28%) answers undecided on the general question. While this seems to indicate a lack of knowledge and information, almost the same result (24%) was found in a German poll indicating more generally that if a topic is not high on the public agenda public opinion may be weak and unpronounced.

If we asked more concretely about their support level of the death penalty for specific crimes, 78% of the respondents support the death penalty for murder which is higher than for the death penalty generally.

But when presented with concrete cases, the general population becomes cautious to choose the immediate execution as the preferred sentence even in the most aggravated instance of a deliberate murder. This finding which again supports studies from Western countries indicates that the support for the death penalty among the Chinese population is indeed more likely to be expressive or symbolic.

3. The attitudes towards the death penalty are changeable, if expectations on punishment are fulfilled or information about the dysfunctions of the death penalty is provided.

If “life imprisonment with early release” is the alternative offered in exchange to an abolition of the death penalty, the support level for death penalty is 38%, while

“life imprisonment without parole” (LWOP, which fulfilled the expectation of incapacitation) reduces support for the death penalty to 29%. When the alternative is LWOP plus restitution (fulfilling expectations of: incapacitation and compensation for victims), support is reduced even more dramatically to 24%, and half of the respondents then opt for the abolition of the death penalty.

Respondents are impressed by the possibility of wrongful convictions, and if asked what their opinion would be if it were proven that innocent persons have been executed, 44% of those who were initially not opposing the death penalty are ready to change their opinion. A lack of deterrence, on the other hand, is less of a concern for them, as only one fifth (18%) change to the abolition side if convincing evidence against the deterrent effect were available.

4. Retribution is the most strongly supported aim of punishment. Nearly 80% of respondents agree to the basic statement of retributive punishment, “people who take a life deserve to be punished by having their own life taken”. However, retribution does not preclude an elasticity of death penalty attitudes. Furthermore, as Roger Hood has reminded, the similar views as “a life for a life” were often strongly held in European culture before the death penalty was abolished.³⁰

5. Almost the half of the general population agreed that the scope of the death penalty should be limited to the most serious crimes, while only a quarter expresses their disagreement to such a limitation. Only for murder, intentional injuring resulting in death, drug dealing, and rape of a female child, the support level for death penalty reaches a majority. The majority of respondents does not support the death penalty for most of non-violent crimes such as counterfeiting, producing fake medicine, theft, corruption, embezzlement, organizing prostitution, or espionage.

6. The majority (64%) of the general population support the demand that the government should publish the annual number of executions. This seems to us to be an important vehicle to enhance public knowledge and stimulate public interest in this issue.

7. About seventy percent of the public think that the death penalty in China is unequally and unfairly applied. In order to improve the public confidence in criminal justice, the judiciary should make more effort to ensure that criminal proceedings are more transparent and follow due process principles.

8. Great caution is warranted when using public opinion as a reference point for the development of criminal justice policies.

As to the exemption of certain categories of person from facing the threat of the death penalty, the general population showed that there was a great distance between the views of Chinese citizens and the international norms on the imposition of the death penalty. Even for the persons below 18 years of age at the time of commission

³⁰ Roger Hood and Carolyn Hoyle, p.352.

of the crime, for whom the Chinese Criminal Law forbids the imposition of death penalty, only 33% of the respondents supported such a limitation.

While there is a general support for the principles of the rule of law in death penalty cases, some inconsistencies between answers remain, indicating both a degree of ignorance and lack of rationality on the subject of capital punishment.

Therefore, the government should be very cautious when trying to use public opinion as the reference point for criminal policymaking. Moreover, the irrational appeals drawn from public opinion should never be used as a reason or excuse to delay or prevent the reforms of death penalty in China.

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