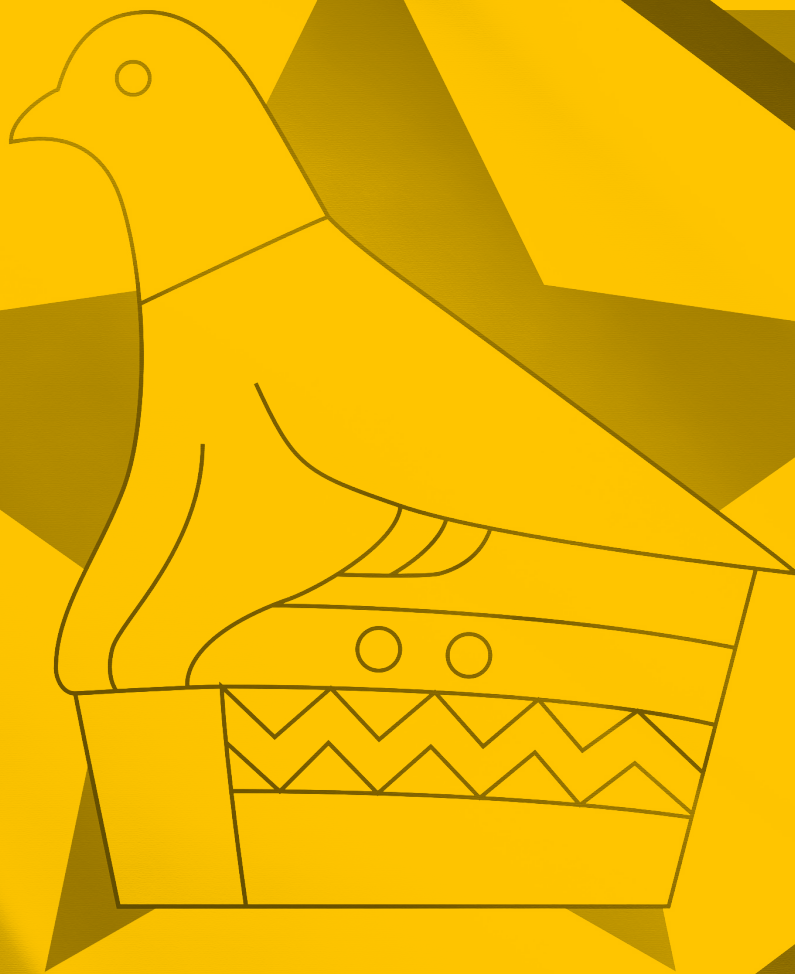


Time to Abolish the Death Penalty in Zimbabwe: Exploring the Views of its Opinion Leaders

Carolyn Hoyle



THE
DEATH
PENALTY
PROJECT

This report was made possible by a grant to The Death Penalty Project from the Magna Carta Fund of the United Kingdom Foreign and Commonwealth Office.

We would like to thank Val Ingham-Thope and Brian Crozier of Veritas, for their continued partnership, invaluable advice and insight throughout the research process.

Thank you also to Eldred Masunungure and Stephen Ndoma, and the team at the Mass Public Opinion Institute for conducting the fieldwork.

Finally, we are particularly grateful to Professor Carolyn Hoyle, of the University of Oxford, who we commissioned to carry out this important study.

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ISBN: 978-1-9996417-6-4

Author's acknowledgements

This research was carried out by the University of Oxford with the assistance of the Mass Public Opinion Institute (MPOI), a non-profit, non-governmental research organisation, which conducted the interviews. Staff at MPOI acted with professionalism and enthusiasm, and produced rigorous data in a timely fashion. Particular thanks are due to Eldred Masunungure and Stephen Ndoma – Director and Principal Researcher at MPOI, respectively.

This work builds on and contributes to an important conversation on opinions on the death penalty in Zimbabwe that my colleague Dr Mai Sato started with the public opinion report, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?*, which The Death Penalty Project commissioned and published in 2018. We drew on some of her findings in designing the survey instrument and refer to them where applicable in this report.

In designing the survey instrument, I adapted a draft survey prepared by Professor Roger Hood, of the University of Oxford, for similar work recently carried out in the Caribbean. I am grateful to him for his initial ideas and for his guidance throughout all the research I have done on the death penalty over the past decade or so.

Thanks are due to Parvais Jabbar and Saul Lehrfreund, Co-executive Directors of The Death Penalty Project, for inviting me to contribute to this and other vital research projects in different countries, and for supporting research on the death penalty for many years. The Death Penalty Project commissioned this research and Parvais Jabbar guided its progress, with dedicated support from Annette So and Oskar Butcher. Sincere thanks are also due to Val Ingham-Thorpe and Brian Crozier, of Veritas, for their sound advice and assistance at all stages of the research.

Finally, I am indebted to Dr Diana Batchelor, of the University of Oxford, for her research assistance; in particular, for lending her expertise to the analysis of the quantitative data.

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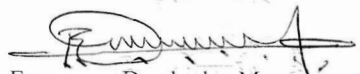
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Foreword

Most Zimbabweans know that the death penalty is a subject on which I feel deeply. As I have said in the past, I believe it to be a flagrant violation of the right to life and dignity.

I welcome this report, which shows that almost all Zimbabwean opinion formers are of the same mind, in that they wish to see the death penalty abolished. This report, and the research on which it is based, follows upon a wider survey, conducted in 2017, which revealed that only a small majority of our citizens are in favour of keeping the death penalty, and that out of those who favour it, 80 per cent will be prepared to go along with abolition if the government so decides.

There has not been an execution in Zimbabwe since 2005. For nearly 15 years, therefore, we have had a *de facto* moratorium on the death penalty. It is my sincere hope that, in the near future, Zimbabwe will formally abolish the penalty by removing it from our statute books.



Emmerson Dambudzo Mnangagwa

PRESIDENT OF THE REPUBLIC OF ZIMBABWE

21 May 2020

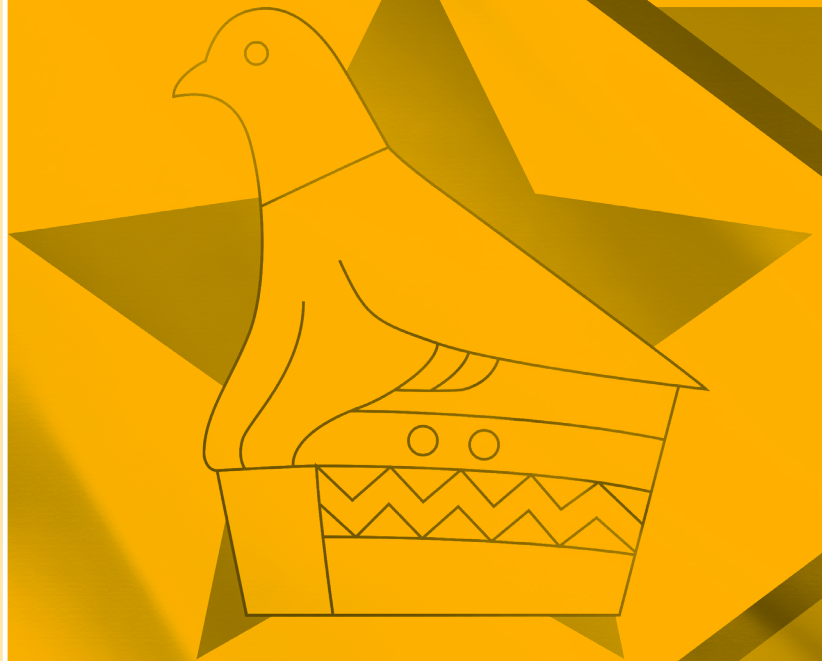
Summary of key findings

Purpose of the research

This report considers the views of opinion leaders in Zimbabwe on the subject of the death penalty. It draws on in-depth interviews with 42 Zimbabweans who could be considered opinion formers or key influencers, including those who work in positions of responsibility within the criminal justice process. Interviewees include politicians, legal practitioners, religious leaders, leading members of civil society or academia, senior public servants, leading members of trades unions, those with a background in defence, including war veterans, and influential members of the media. People, in other words, who could be expected to be well informed about the administration of criminal justice and to understand political discourse on justice and on the death penalty in particular.

Interviewees were asked about their views on: the retention and administration of the death penalty; the likelihood of abolition and how that could be achieved; the possible benefits and demerits of the death penalty; the implications of retention or abolition in respect to Zimbabwe's place in the wider Southern African region, as well as the international community; and other, more effective, measures to tackle violent crime.

Most felt that there would be no negative repercussions if the government chose to abolish the death penalty.



The vast majority of opinion leaders (38 of 42) were well informed about how the death penalty is applied in Zimbabwe.

Almost two-thirds of interviewees assumed that the death penalty harms Zimbabwe's international reputation, and most of those in our sample thought that Zimbabwe should support the worldwide moratorium on the death penalty.

90% of interviewees (38 of 42) supported **abolition of the death penalty**, seeing it as an abuse of human rights or against their religious beliefs, though they were also of the view that it did not deter murder and were concerned about wrongful convictions.

Many of our interviewees **did not trust the criminal justice system** to be fair and safe in all cases, with most of those in our sample of 42 opinion leaders **recognising that wrongful convictions occur often or sometimes, even in death penalty cases.**

There was **little faith in the death penalty to reduce violent crime**, with most believing that measures to reduce poverty or better educate young people were more likely to be effective.

Respondents expressed **strong support** for an **Act of Parliament to bring about abolition.**

However, they thought that there was currently insufficient political leadership to bring about abolition, influenced mainly by perceptions of public support for the death penalty.

PART ONE

The Purpose of the Study



1.1 The context

Zimbabwe is considered to be *de facto* abolitionist by the United Nations, having not executed anyone since July 2005. While a new Constitution in 2013 failed to abolish the death penalty, it narrowed its scope and imposed restrictions on its use. For example, Article 48 abolished the *mandatory* death penalty and the new discretionary death sentence can be imposed only for murder where there are aggravating circumstances. The new Constitution also abolished the death penalty for young people up to and including the age of 21 (at the time of the crime),¹ for people aged 70 and over, and for all women.² In imposing these restrictions, Zimbabwe has not only put in place greater protections than can be found in the United States of America, but also than are provided by the International Covenant on Civil and Political Rights (ICCPR), which it ratified in 1991.³

The new Constitution reflects various contributions from interested parties and a range of opinions on the death penalty in this jurisdiction, including the clear abolitionist position of the Law Society of Zimbabwe and the opposition party. The final version, signed into law by the late President Robert Mugabe in May 2013, represents a compromise. As such, it failed to resolve disagreements on the retention of the death penalty. It also failed to provide clarity on the discretionary death penalty, as it did not define ‘aggravating circumstances’ in murder cases, an omission that the High Court has interpreted to suggest that “in keeping with its international obligations and international best practices Zimbabwe intends to move away from the death penalty”.⁴ In light of this ambiguity, the courts have attempted to define aggravating circumstances and a series of constitutional challenges were brought before the Court on behalf of people sentenced to death.⁵ This has contributed to an active discourse on the death penalty, with the question of abolition remaining unsettled.

Strong abolitionist voices can be heard across the media, civil society and government. For example, in October 2013, the then Minister of Justice – now President of Zimbabwe – condemned the death penalty and set out his commitment to abolition,⁶ and the Anti-Death Penalty Coalition was established with a public awareness campaign.⁷ Since then, President Emmerson Mnangagwa has made his opposition to the death penalty clear at regular intervals, agreeing in 2018 that it was ‘an affront to human dignity’.⁸ Commutations continue to remove people from death row: in 2018, the President commuted the death sentences of all prisoners who had been on death row for more than 10 years.⁹ In 2012, Zimbabwe declared its intention to ratify the Second Optional Protocol to the ICCPR, though it has yet to do so.¹⁰

¹ Previously, those under the age of 18 could not be subject to the death penalty.

² For a thorough discussion of the abolition of the mandatory death penalty in Zimbabwe, see Andrew Novak, *The African Challenge to Global Death Penalty Abolition* (Intersentia, 2016), ch 6.

³ Zimbabwe has still not ratified the Second Optional Protocol, which prohibits the death penalty for ordinary crimes.

⁴ *State v Mutsinze*, HH 645-14 (October 14, 2014), www.veritaszim.net/node/1164; cited in Novak, 2016: 136, fn 1.

⁵ These challenges were instigated by Veritas and argued by Tendai Biti, with legal support from The Death Penalty Project.

⁶ Amnesty International (2014) *Death Sentences and Executions 2013*, p48.

⁷ Office of the United Nations High Commissioner for Human Rights, *Moving Away from the Death Penalty: Lessons from National Experiences* (October 2012) 15. At https://www.ohchr.org/Lists/MeetingsNY/Attachments/27/moving_away_from_death_penalty_web.pdf

⁸ Zimbabwe president ‘wholeheartedly’ against death penalty, AfricaNews, 11 October 2019, <https://www.africanews.com/2018/10/11/zimbabwe-president-wholeheartedly-against-death-penalty/>

⁹ Mnangagwa commutes death sentences for 16 prisoners, News24, 28 March 2018, www.news24.com/Africa/Zimbabwe/mnangagwacommutates-death-sentences-for-16-prisoners-20180328

¹⁰ Office of the United Nations High Commissioner for Human Rights, Ratification Status for Zimbabwe, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=195&Lang=EN

Notwithstanding, death sentences continue to be imposed – at least 11 in 2017 and five in 2018 – so that approximately 81 people remain under sentence of death.¹¹

In 2018, Zimbabwe changed its vote on the United Nations General Assembly's seventh resolution calling on states that still retain the death penalty to establish a worldwide moratorium on executions, from abstention to opposition to the moratorium. This suggested something of a regressive step, but The Death Penalty Project and Veritas have been reliably informed that it was, in fact, an administrative error; Zimbabwe had intended to abstain (see further, s. 2.6, below).

In many African jurisdictions that suffered under colonial oppression, the death penalty had been used to suppress opposition to political power. Abolition became, for some, a touchstone of commitment to a new social order, as more and more countries emerged from totalitarian and colonial repression to embrace values and justice processes that seek to protect citizens from the power of the state.¹² President Mnangagwa's personal opposition to the death penalty must have been influenced by his own experience of being sentenced to death for 'terrorism' as a young man engaged in the liberation struggle in 1962.¹³ Indeed, he has been explicit about this connection:

*"As someone who has been on death row myself and only saved by an 'age technicality', I believe that our justice delivery system must rid itself of this odious and obnoxious provision."*¹⁴

In its administration of the death penalty, Zimbabwe has revealed a desire to move away from its colonial past, when there was a heavy reliance on executions for a range of offences. While there were about 30–40 death sentences and executions a year during the last 15 years of white minority rule, this had dropped significantly by the mid-1980s – and by the early 1990s, the range of offences subject to capital punishment had been restricted to just murder and treason. Furthermore, unlike neighbouring Botswana – the only country in Southern Africa to continue to execute prisoners – Zimbabwe's prisoners who are sentenced to death are not likely to be executed currently, though the status quo could end suddenly with policy change, as has happened in other jurisdictions.

On the other hand, Zimbabwe did not follow her neighbour's example when the Constitutional Court of South Africa abolished the death penalty in 1995¹⁵ following the end of white rule and a long period of heavy reliance on capital punishment. While both countries have experienced, and indeed continue to experience, unsettled politics, Zimbabwe did not take this opportunity to break with its colonial past and reject cruel, degrading and oftentimes politically motivated punishments.¹⁶ Nor did it follow Mozambique in abolishing the death penalty 15 years after the end of Portuguese colonial rule.¹⁷

Like many retentionist countries, Zimbabwe has occasionally expressed concern that the public will not tolerate abolition. When he was Vice-President, Emmerson Mnangagwa claimed that Zimbabwe was

¹¹ Amnesty International (2019) Death Sentences and Executions 2018.

¹² R Hood and C Hoyle (2009), Abolishing the Death Penalty Worldwide: The Impact of a 'New Dynamic', *Crime and Justice*, 38:1, 1–63:17.

¹³ Mnangagwa was under age, and therefore could not be executed; see Mnangagwa stance on death penalty influenced by experiences, *Newsday*, 8 February 2016, www.newsday.co.zw/2016/02/mnangagwa-stance-on-death-penalty-influenced-by-experiences/

¹⁴ Cited in Amnesty International (2014) Death Sentences and Executions 2013, p48.

¹⁵ *State v T Makwanyane and M Mchunu* [1995] CCT/3/94, ZACC3.

¹⁶ R Hood and C Hoyle (2009), Abolishing the Death Penalty Worldwide: The Impact of a 'New Dynamic', *Crime and Justice*, 38:1, 1–63:44.

¹⁷ The FRELIMO Government, which took power in mid-1975, followed Portuguese practice and adopted an abolitionist position: Amnesty International (1979) *The Death Penalty: Amnesty International Report*: 34.

not yet ready for abolition, as its citizens were in favour of the death penalty. Retentionist countries often fall back on this argument, asserting that political leaders should represent ‘the will of the people’ if they are to remain in power.¹⁸ However, the will of the people cannot easily be measured by superficial national opinion polls. Instead, research must be more sophisticated and nuanced; for example, it should measure the strength of opinion, knowledge about the topic, concerns about how the death penalty is used, and how the public might feel about whether particular types of offences or offenders should be subject to capital punishment.

Professor Roger Hood’s comparative analysis of a series of such sophisticated public opinion surveys from eight countries¹⁹ challenges the assumption that it is necessary for governments to retain the death penalty on the grounds that public opinion reflects a high level of interest in, and concern about, the issue. Most respondents to these surveys knew little about the administration of the death penalty and had little interest in it; only a few were well informed.²⁰ While a majority of citizens in all countries expressed support for capital punishment, this support was rarely strong, and tended to decline when respondents were presented with a series of scenarios of murder cases of varying severity and with different aggravating or mitigating circumstances. This methodological approach produces convincing evidence across jurisdictions that the public reacts less punitively when faced with a realistic depiction of what murder cases can look like – and what it means to decide between life and death – than when asked for their views on the death penalty in the abstract.

These surveys also indicate that support for capital punishment is largely dependent on assumptions and misconceptions about the administration of the death penalty; when faced with knowledge of flawed justice processes and innocent people being prosecuted, the level of support declines considerably. For example, when respondents in China, Malaysia, Taiwan and Trinidad & Tobago were asked whether they would still favour the death penalty if it were proven to their satisfaction that an innocent person had been executed, support for the death penalty declined significantly.²¹

The Death Penalty Project commissioned Dr Mai Sato to carry out public opinion research in Zimbabwe in 2017, and this produced similar results.²² This nationally representative sample of 1,200 Zimbabweans found that public knowledge about the death penalty is limited. Indeed, most (83%) of those who were surveyed were unaware that the country had not carried out any executions in the past decade and almost half did not know the method of execution. Six out of 10 supported retention, but less than half were certain that the death penalty should ‘definitely’ be kept. When presented with a range of typical death penalty cases, by way of a series of scenarios, the majority of respondents were against the imposition of the death penalty in five out of the six cases. Perhaps most importantly, 80% of those who were supportive of the death penalty made clear that they would be willing to accept abolition if it were to become government policy. These data show that support for the ultimate penalty in Zimbabwe is equivocal; the public would easily be persuaded by a government that demonstrates a firm and principled commitment

¹⁸ R Hood and C Hoyle, *Towards the Global Elimination of the Death Penalty: A Cruel, Inhuman and Degrading Punishment*, in P Carlin and L Franca (eds) *Alternative Criminologies* (Routledge, 2017), ch 24.

¹⁹ China, Trinidad, Malaysia, Singapore, Taiwan, Ghana, Japan and Belarus (most of these studies were conducted for The Death Penalty Project and Professor Hood was either the lead researcher or a consultant to all).

²⁰ R Hood, (2018) *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* 23:3, 218–242:226.

²¹ R Hood, (2018) *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* 23:3, 218–242:226, note 20.

²² M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018).

to abolition. But what of those in a position to influence or even bring about abolition – the political, legal and other ‘opinion leaders’?

1.2 The need for research on opinion leaders

Abolition has never come about as a result of the majority of the general public demanding it. Indeed, across most countries, it has been led by political, religious and other opinion leaders, in spite of a lack of enthusiasm among the public. Opinion leaders have led the way for a range of reasons, not least because of increasing ideological commitment to human rights, and have used a range of methods. These include parliamentary campaigning in countries such as the UK, when individual members of Parliament took a political and moral lead, and by constitutional reforms driven by new administrations and legislators elsewhere – including, of course, in South Africa.²³

Rather than be dissuaded by opinion surveys suggesting majority support for capital punishment, abolitionists in such countries have understood that the goal of educating the public and changing their views on capital punishment is hindered by the retention of the death penalty. From this perspective, ‘top-down’ abolition driven by political decision-makers is not only acceptable, but necessary to shape public expectations of the most severe punishment that a state can legitimately inflict.

To date, however, there has been little research to establish what those who could be termed ‘opinion leaders’ think about the death penalty in various jurisdictions, what shapes those opinions, and whether such people could be relied on to support a government initiative towards abolition. The Death Penalty Project has begun a series of studies across various countries in Africa, Asia and the Caribbean to establish what those who are well informed about justice processes – those whose views can influence policy and practice – think about the death penalty and whether they are inclined towards supporting abolitionist efforts.

Interviews with opinion leaders offer “an insight into the mindset of [those] who have played a role in shaping the society in which we live”.²⁴ These are “individuals who hold, or have held, a privileged position in society”.²⁵ As such, they are likely to have more influence on political outcomes than general members of the public. Interviews can elicit opinion leaders’ understanding of motivations, concepts, laws, public opinion; their opinions about all of these; and insight into what has influenced those opinions. Interviews with opinion leaders do not reveal ‘the truth’; accounts are inevitably subjective, reflecting an active process of creation of meanings.²⁶ That said, in most countries, including Zimbabwe, these are the voices that will be heard and that can shape policy, practice and discourse.

While, in the past, the Zimbabwean public’s views on the death penalty have been elicited within general surveys covering a range of other subjects, the public opinion survey commissioned by The Death Penalty Project in 2017 was the first dedicated survey on capital punishment. The research presented in this report, on the views of opinion leaders, was also the first such project in Zimbabwe.

²³ R Hood and C Hoyle (2009), Abolishing the Death Penalty Worldwide: The Impact of a ‘New Dynamic’, *Crime and Justice*, 38:1, 1–63. See also, Julian B Knowles, *The Abolition of the Death Penalty in the United Kingdom*, 2015 at <https://www.deathpenaltyproject.org/knowledge/the-abolition-of-the-death-penalty-in-the-united-kingdom/>

²⁴ D Richards (1996), Elite Interviewing: Approaches and Pitfalls, *Politics* 16(3), 199–200.

²⁵ D Richards (1996), Elite Interviewing: Approaches and Pitfalls, *Politics* 16(3), 199.

²⁶ A Portelli (2006), What Makes Oral History Different, in R Perks and A Thomson (eds) *The Oral History Reader* (Routledge, London, 2006).

1.3 Research design and methods

The opinion survey for this study drew on a draft survey instrument designed by Professor Roger Hood for research on opinion leaders that The Death Penalty Project has commissioned simultaneously in the Caribbean, and a similar instrument developed for use in Indonesia.²⁷ It also benefited from advice from Veritas, a Harare-based legal NGO²⁸, and staff at the Mass Public Opinion Institute (MPOI) – a non-profit, non-governmental research organisation that carried out the interviews for the University of Oxford and The Death Penalty Project.²⁹

Forty-two interviews were carried out by a team of researchers employed by MPOI in the summer of 2019. These followed discussions between the teams at Oxford, The Death Penalty Project, Veritas and MPOI – in face-to-face meetings in Harare and by Skype conference calls – to select categories of opinion leaders appropriate for interviews. These discussions established the following categories: politicians; legal practitioners; religious leaders; prominent members of civil society or academia; senior public servants; leading members of trades unions; people with a background in defence or war veterans; and influential members of the media.

For each category, the most senior leaders were identified within each ‘profession’, ‘standing’ or ‘background’, chosen for their distinguished status among their peers. Interviewers proceeded to try to contact each of them to secure an interview. While some categories produced high ‘hit rates’, such as ‘religious leaders’, other groups proved rather harder to pin down; for example, ‘senior public servants’. Notwithstanding, MPOI secured interviews with more than one person in each category. Those we interviewed were in positions of knowledge and influence, with experience of politics or justice.

There are two categories of opinion leaders that we chose not to interview: judges and the army. Our local partners persuaded us that there would be no clear benefits from doing so. Sitting judges are highly unlikely to agree to be interviewed and would, in any event, speak as judges, who are required to apply the law as it stands – which includes imposing the death penalty in all relevant cases. Similarly, senior ranks of the army are unlikely to agree to an interview and would speak as a representative of an institution that is also required to uphold the law.

To secure interviews, a letter from The Death Penalty Project and Veritas was sent to each prospective interviewee, explaining the research, who was involved, and its aims and methods. We attached participant information sheets, explaining why they had been invited to participate, any potential risks of participation, and what would happen to the data they provided. All participants were asked to complete and sign a participant consent form before the interview took place, and to state whether or not they agreed to be audio recorded alongside the digital recording of their answers onto a tablet, by way of a CAPI programme (20 of the 42 interviewees agreed to an audio recording, providing further, richer qualitative data for these interviews than could reasonably be recorded by a researcher using a tablet during a face-to-face interview). Once they consented to be interviewed, the researchers contacted them directly to arrange a mutually convenient time and location for the interview.

²⁷ C Hoyle, *The Feasibility of Conducting Research on Attitudes Towards the Death Penalty in Indonesia: Elite and Public Opinions*, The Death Penalty Project, 2019, at <https://www.deathpenaltyproject.org/knowledge/the-feasibility-of-conducting-research-on-attitudes-towards-the-death-penalty-in-indonesia/>

²⁸ Veritas disseminates information on the Parliament and laws of Zimbabwe, and works to support constitutionalism, the rule of law, and human rights.

²⁹ The survey and methodological approach were reviewed and approved by the University of Oxford Social Sciences and Humanities Interdivisional Research Ethics Committee (IDREC) in accordance with the procedures laid down by the university for ethical approval of all research involving human participants (Research Ethics Approval Ref. No: R64635/RE001).

Four pilot interviews were carried out to test the questionnaire and, after minor amendments to give greater clarity on three of the questions, the full study began. Interviewers completed their work relatively quickly, finding that most of those they contacted were keen to share their views. In addition to the 42 people who were interviewed, 14 others were contacted, but declined to be interviewed. Only three of these 14 refused to be interviewed; the others said they would have been happy in principle to be interviewed, but were too busy or out of the country at the time. Since we completed the interviews, we discussed these 14 ‘non-respondents’ with our research partners, who were able to identify at least 10 as ‘abolitionists’. This suggests to us that our sample is not biased in favour of abolitionists; rather that, as we have been told repeatedly during our conversations in Harare, most opinion leaders are opposed to the death penalty. Our researchers at MPOI felt that by the time they had completed 35 interviews, they had reached ‘saturation’ point; each new interview provided little in the way of new information. So, we stopped at 42, persuaded that the overwhelming support for abolition among opinion leaders would not change with further interviews, given that we had targeted those at the top of their particular hierarchies.

Our commitment to preserve the anonymity of our interviewees means we do not reveal the occupations or the positions of our interviewees beyond their ‘professional categories’, as described above. Nor do we make clear the category of respondent when quoting from our interviews, given that, in some categories, there were only two interviewees. Suffice to say that those we interviewed were in the top echelons of their profession. Many would be well known not only among their peers, but among the wider population of Zimbabwe. They are, it is fair to say, people with power and influence; people who could, were they minded, inform the opinions of the public and the government.

PART TWO

The Findings

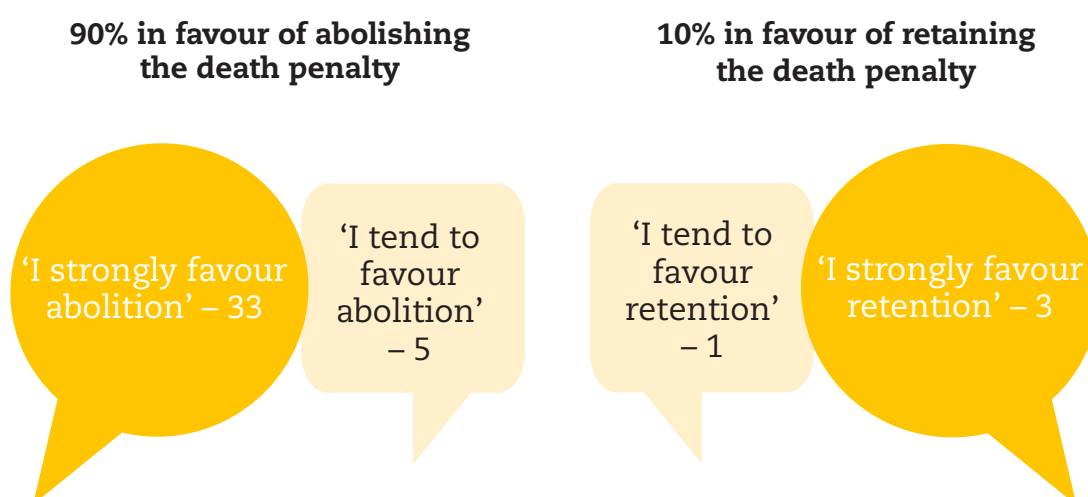


2.1 Abolish or retain?

The Death Penalty Project's public opinion survey of 1,200 Zimbabweans, conducted in the summer of 2017 and published in 2018³⁰, found a small majority of the public (61%) to be in support of retaining the death penalty.³¹ In contrast, the findings from the current research on opinion leaders suggest that those who are in a position to influence the government's decision on this matter are overwhelmingly in favour of abolition.

Only four participants in this survey of 42 people wished to retain the death penalty; one of these said they 'tended to' favour it, while the other three were strongly in favour (see Graphic 1). The rest of the participants (38), an overwhelming 90%, were in favour of abolishing the death penalty. While five of these 'tended to' favour abolition, more than three quarters (33) of all respondents were 'strongly' in favour of abolishing the death penalty [Q3].³²

Graphic 1: Participants' views on retaining or abolishing the death penalty



The 2017 public opinion survey was sufficiently large to make population inferences and, therefore, likely reflects the opinions of the Zimbabwean public as a whole. A relatively small sample of opinion leaders, however, cannot claim with confidence to represent all those who can be considered to hold such status within the country – not least because no comprehensive list of opinion leaders exists; nor could it, as this is not an easily definable term. So, we need to be cautious of assuming that our data mean the vast majority of those in positions of influence or power are in favour of abolition. However, in preliminary discussions with our partner NGO Veritas, and with MPOI before the interviews were conducted, we

³⁰ M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018).

³¹ While the majority of the public support retention, 61% is not a large majority. At less than two-thirds, it represents fewer people than were in support of retaining the death penalty in Germany at the time of abolition (74%). Indeed, all countries that have abolished the death penalty, including South Africa and the United Kingdom, have done so with a majority of the population opposed to this change; see further, R Hood and C Hoyle, *The Death Penalty: A Worldwide Perspective* (Oxford University Press, 2015) ch 10. Zimbabwe's 61% is also a much smaller proportion in support of the death penalty than has been found in surveys of Trinidad and Singapore, where support was at 89% and 92% respectively; see R Hood, (2018) 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* 23:3, 218–242:226, note 20.

³² Throughout this report, the question numbers can be found in square brackets, and relate to the questionnaire that can be found in the Appendix.

were persuaded that our research was likely to produce data showing strong support for abolition, as such views had been apparent in the past few years in the media and in public discourse. Furthermore, the public opinion survey was conducted while the late President Mugabe was still in power – and, indeed, at a time when he was expressing support for lifting the moratorium on the death penalty and resuming executions.³³ As discussed above, his successor, President Mnangagwa, has been far more outspoken on the death penalty, making clear his opposition, and that is likely to have influenced opinion leaders. It could be that this message has trickled down to the public too, and that a public opinion survey today may well produce higher levels of support for abolition than was found in The Death Penalty Project’s 2017 study.³⁴

When a vast majority of interviewees have similar opinions on such an important and, oftentimes, divisive subject as the death penalty, it makes sense to pause to reflect on what informs the opinions of those with apparently contrary views. The following section explores the source and salience of the four retentionist participants’ beliefs that the death penalty should be retained (2.2). The subsequent sections investigate the knowledge and opinions about the death penalty held by the full sample of participants (2.3) and their views on: crime and the criminal justice system in Zimbabwe (2.4); crime and law in other countries in the region (2.5); a universal moratorium (2.6); and the abolition of the death penalty in Zimbabwe (2.7).

2.2 Views of the retentionist participants

Those who preferred to retain the death penalty were shown a card with various reasons for retention and asked to rank their reasons for favouring retention (see Appendix for a copy of the questionnaire). Two selected, as their primary reason, that ‘It is necessary to deter people from murder’; one selected ‘I believe the public want the death penalty for serious crimes’; and the fourth selected ‘There will always be some criminals who deserve to be executed’. These same reasons were provided as second, third or fourth choices by those respondents who had not chosen a particular reason as their first choice. In other words, one of these options was a first, second, third or fourth choice for each of the respondents who favoured retention, with one saying that ‘Relatives and others might take matters into their own hands without the death penalty’ [Q5].

The four participants who thought the death penalty should be retained were asked whether they thought it should: 1) Be left as it is; 2) Be restricted; or 3) Be made less restrictive. Two thought the death penalty should be left as it is because the “law still works” and because it serves as “a deterrent to would-be offenders”. One respondent wanted to see it further restricted by more rigorous due process measures, saying that, in death penalty cases, there is an additional imperative for “thoroughness when evaluating the weight of the case” – for example, ascertaining whether a murder was accidental or intentional. However, this participant also argued for expansion of the death penalty in cases of death by drink-driving and some forms of corruption. A final participant answered that the use of the death penalty should be made less restrictive [Q3 & 4].

³³ *The Guardian*, Let’s restore death penalty, says Zimbabwe’s Robert Mugabe, 1 November 2017 at www.theguardian.com/world/2017/nov/01/lets-restore-death-penalty-says-zimbabwes-robert-mugabe

³⁴ M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018).

All four retentionists thought there were crimes for which the death penalty should never be imposed, including any crime that does not involve murder, any crime that is not committed ‘under aggravating circumstances’, and rape. Three retentionists said that there were some people who should never be sentenced to death, including those aged over 65 or 80, children under the age of 21 or 18, women, or people with a disability [Q19 & 20].

Retentionists were presented with the following facts about the use of the death penalty worldwide, and asked whether it affected their views on retention of the death penalty in Zimbabwe:

- Since 1989, the number of countries worldwide that have completely abolished the death penalty has risen from 35 to 105 [Q12].
- Seventeen countries in Sub-Saharan Africa, including two neighbouring countries – Mozambique and South Africa – have abolished the death penalty for all crimes [Q13].

One of the four said that, in the face of such worldwide trends, they would ‘probably’ support abolition, and when asked why this was the case, responded that “things have changed from a human rights point of view” and “times change, and people are becoming more and more educated about [the death penalty].” Three respondents said they would continue to oppose abolition of the death penalty despite worldwide trends. One gave the example of legalisation elsewhere to allow gay marriage, explaining “we cannot copy everything”. Another said that, although other countries claim to have abolished the death penalty, this is in fact a “smokescreen”, as many countries continue to ‘execute’ their enemies without trial in the context of war, giving, by way of example, the death of Saddam Hussein; or the police not responding appropriately to murders of marginalised groups (for example, black people in Britain); or when the police themselves sometimes kill citizens (for example, the deaths of black citizens in the USA).

When retentionist participants were asked whether they would change their views if a public opinion survey found that only a minority of respondents were strongly or firmly opposed to abolition, one retentionist said they would ‘definitely’ still be opposed to abolition; two said they would ‘probably’ still be opposed, and one said, in that case, they would favour abolition [Q8]. Later in the interview, the following facts from a public opinion survey were presented to interviewees and, as Table 1 shows, one of the four retentionist respondents said he was persuaded by public opinion to change his mind, favouring abolition.

Table 1			
<i>Retentionist participants' responses to information from a public opinion survey</i>			
	Much more likely to favour abolition	No difference	Much more likely to oppose abolition
A public opinion survey carried out by The Death Penalty Project in 2018 found that, while 61% of Zimbabweans supported retention of the death penalty, less than half (41%) thought it should 'definitely' be kept and 20% that it should 'probably' be kept [Q22].	1	2	1
The same public opinion survey found that, when confronted with a range of typical death penalty case scenarios, a majority of Zimbabweans rejected imposing the death penalty in five out of six cases [Q23].	1	2	1
The same public opinion survey found that 92% of Zimbabweans considered policies other than 'more executions' to be the most effective at reducing violent crime [Q24].	1	2	1
The same public opinion survey found that 80% of Zimbabweans who expressed support for the death penalty would be willing to accept abolition if it were to become government policy [Q25].	1	2	1

Having sought to understand the motivation and rationales for retention among this small group of four interviewees, we turn now to the full data set to explore knowledge and opinion on the death penalty among all our respondents.

2.3 Participants' knowledge and opinions on the death penalty

To understand the knowledge base that is likely to have influenced our respondents' opinions on the death penalty, we provided them with a series of facts, displayed on a card, about the use of the death penalty, and asked them if they were 'not aware of any of these facts' [Q1]. All 38 abolitionists appeared to be knowledgeable, aware that Zimbabwe retains the death penalty and that the method of execution is hanging. All except one were also aware that, in 2018, President Mnangagwa commuted the sentences of all the people who had been on death row for more than a decade, and that no executions have been carried out since 2005 [Q1]. These data suggest that opinion leaders are far more knowledgeable about the death penalty than the general public: in the 2017 public opinion survey, for example, only 17% of respondents knew that there had been no executions since 2005 and little more than half (54%) knew that hanging was the method of execution. Indeed, only four per cent of the public who participated in the survey were able to answer all seven questions about the death penalty correctly.³⁵

That study was certainly not atypical. As mentioned above, Professor Roger Hood's comparative analysis of public opinion surveys from eight countries suggests that most members of the public know little about the administration of the death penalty and have little interest in it.³⁶ That said, the method of data collection was different in the public opinion studies; while this study asked opinion leaders to say if they had known the facts presented to them, the public were asked questions to elicit their knowledge, so could not have pretended to know things they didn't. As a result, we should be a little cautious about comparing the data.

While opinion leaders in Zimbabwe would seem to be much better informed than the public, not all knew everything. Around a third of the abolitionist respondents were unaware of certain facts: that 79 people have been executed since 1980 (12 people unaware); that five death sentences were imposed in 2018 (11 unaware); that there were 81 people under sentence of death at the end of 2018 (15 unaware); and that Zimbabwe voted against a universal moratorium on death sentences in 2018 (17 unaware).

The knowledge of the four retentionist participants seemed similar to the 38 abolitionists, though – with such unequal group sizes – it is not possible to determine whether there were any significant differences. Like the abolitionists, all four retentionists were aware that Zimbabwe retains the death penalty, that the method of execution is hanging, and that, in 2018, President Mnangagwa commuted the sentences of all the people who had been on death row for more than a decade. One retentionist participant was aware of all the given facts about the death penalty, while the other three were each unaware of some of the other facts; for example, two participants said they were unaware that 79 people had been executed since 1980, two were unaware that no executions have been carried out since 2005, and three were unaware that five death sentences were imposed in 2018 [Q1].

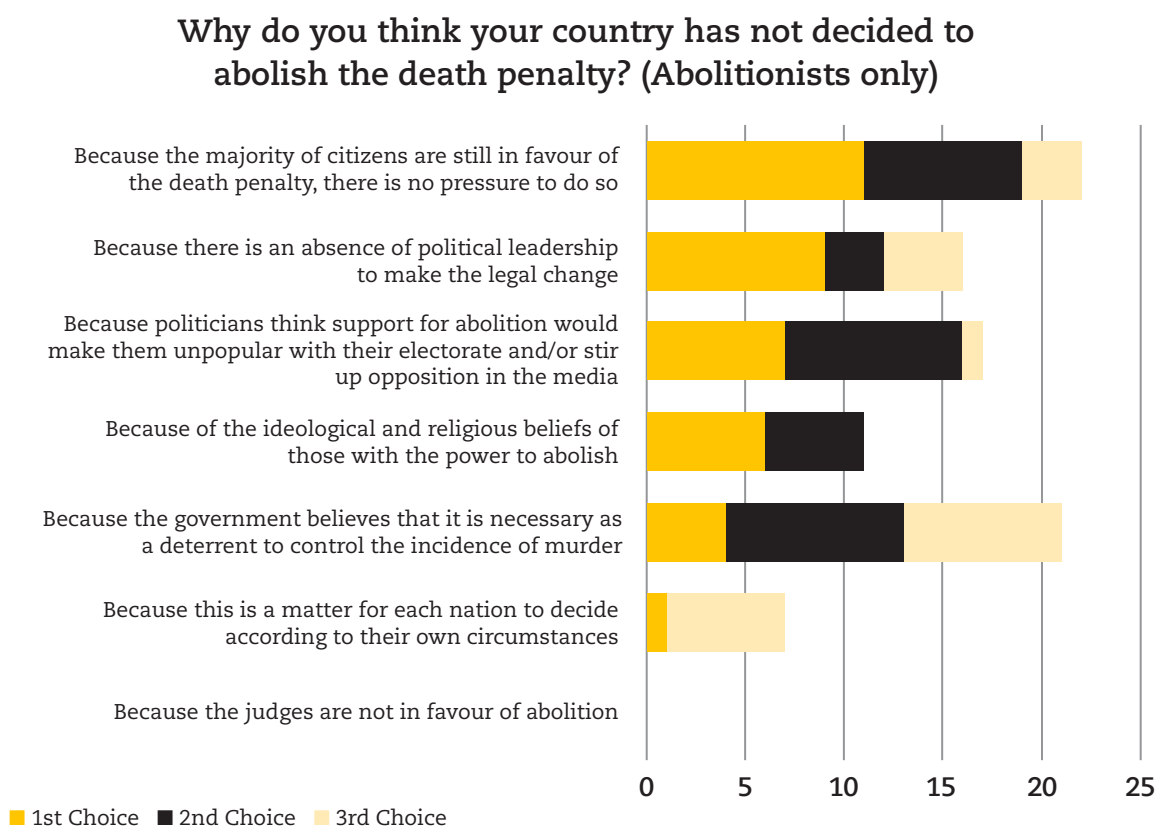
When asked to put aside their personal views on the death penalty, and rank the reasons that Zimbabwe has retained the death penalty, the answers given by the abolitionists and the retentionists were similar, and spoke to a lack of political commitment from government and the influence of public opinion [Q2].

³⁵ M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018).

³⁶ R Hood (2018), 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* 23:3, 218-242:226.

As Figure 1 shows,³⁷ two of the most common reasons selected by both groups were that ‘There is an absence of political leadership to make the legal change’ and ‘The majority of citizens are still in favour of the death penalty, so there is no pressure to do so’. Abolitionists were also commonly of the view that ‘Politicians think support for abolition would make them unpopular with their electorate and/or stir up opposition in the media’, a response that was not selected by any of the four retentionists. Among the retentionists, three thought that Zimbabwe retained the death penalty because ‘The government believes that it is necessary as a deterrent to control the incidence of murder’, and one said that ‘This is a matter for each nation to decide according to their own circumstances’.

Figure 1: Participants’ explanations for the continued use of the death penalty in Zimbabwe



When given the opportunity to comment further on this question, some participants suggested that neither the executive nor the judiciary were committed to the death penalty. A few suggested that politicians tend to “pander to the prejudices of the electors” or that “our politicians are doing it just for the gallery. I don’t think they care whether there is a death sentence or not”. Others stressed that judges are generally in favour of abolition, as evidenced by those they had seen agonise over sentencing a defendant to death, and their frequent attempts to “find extenuating circumstances in order not to apply [the death penalty]”.

Some participants pointed to Zimbabwe’s colonial legacy as the reason it has retained the death penalty, citing either the introduction of the sentence during the colonial era, the post-colonial influence of British education and culture on Zimbabwe’s opinion leaders (especially on the late President Mugabe),

³⁷ Figure 1 reflects opinions on the reasons that Zimbabwe has retained the death penalty, ranked first, second and third by the abolitionist respondents. The bars are ordered according to the number of people who gave each reason as their first choice.

or the violent nature of the liberation struggle, which entrenched killing as a means of addressing wrongs in society.

While there had been no empirical research focused specifically on opinions about the death penalty in Zimbabwe before The Death Penalty Project study on public opinion, a great many research studies have been published elsewhere, particularly in the United States of America. Such research suggests that opinions about retention or abolition are often related to perceived problems with the administration of the death penalty (failures to administer it carefully and fairly with regard to due process of law) and its inefficacy in reducing rates of serious crime. While general members of the public could not reasonably be expected to be familiar with this research, we were keen to establish if opinion leaders knew about it, and if they thought it shaped the opinions of their political leaders. So, participants were asked how well informed they were personally, and how well informed political decision-makers were about research evidence from other countries about the death penalty.

We should exercise some caution in considering their reflections on their own knowledge. While members of the public were asked a series of questions to establish their understanding, opinion leaders were simply asked if they thought they were well informed on different issues. It is possible that they were less informed than they stated and were embarrassed to admit that. In other words, there are methodological limitations to self-reporting on this matter. That said, the further information provided by some interviewees suggests that the data are likely to be reliable.

First, they were asked about research demonstrating the lack of any extra deterrent effect of the death penalty on the murder rate compared with the deterrent effect of long-term imprisonment [Q9]. Here, we found a difference across our two groups: three of the four retentionists considered themselves to be not very well informed, while most of the abolitionists thought they were either very well informed (15) or knew something about it (12).³⁸ While the numbers of retentionists are low, this may suggest that the dissemination of accurate information on deterrence could persuade more people to adopt abolitionist positions.

The data across both groups on the views of political decision-makers was similar [Q9b]. All four retentionists thought that political decision-makers were not well informed and 24 of the 38 abolitionists shared this view, with a further seven believing that political decision-makers knew nothing about the international research on deterrence. Only seven participants considered that political decision-makers 'knew something' about the research on the deterrent effect of the death penalty.

Participants were then asked how well informed they were about the research evidence from other countries regarding the inevitability of errors in the investigation, prosecution and trial in death penalty cases, which can quite easily lead to the conviction of innocent people [Q10]. Again, we found differences between our two groups: three of the four retentionists felt that they were not very well informed, whereas most of the abolitionists said they were either very well informed (14) or knew something about it (18).³⁹

Most respondents (3 retentionists and 21 abolitionists) felt that political decision-makers were not very well informed about research on error and innocence [Q10b] and six considered they knew

³⁸ The remaining 11 abolitionists said they were not very well informed (9) or knew nothing about it (2).

³⁹ The remaining 6 abolitionists said they were not very well informed (5) or knew nothing about it (1).

nothing about it. Less than a third thought that political decision-makers knew something or were well informed (11).

Most of those interviewed thought of themselves as better informed on the issue than political decision-makers as a whole. As discussed above, it is possible that this view is accurate, and that this particular sample of respondents are better informed than decision-makers as a whole – especially given that this sample included other opinion leaders who may not be considered political decision-makers, such as religious leaders or members of civil society or academia. It is also possible, however, that political decision-makers underestimate the knowledge their peers have, and, perhaps, the extent to which other political decision-makers would seek to abolish the death penalty if the opportunity arose. One potential benefit of the current research, therefore, is the opportunity it provides for opinion leaders to learn about the views of their peers – and many may discover that they are not as isolated as they believe themselves to be. The findings suggest that if those who are passionate about abolition approached their colleagues and peers, they would find them to be better informed and more responsive than many might expect.

Participants were asked, in an open-ended question, what they believed to be the purpose of sentencing an offender to death [Q18]. Most of the abolitionists gave answers suggesting that they thought the main purpose was deterrence (14 people), retribution (10) or some combination of deterrence and retribution (5). Several others thought that the main purpose was to incapacitate the offender, and three people mentioned that it was imposed only because it is the law in Zimbabwe. One, for example, said:

“It is because that’s the law. There are purported reasons that courts give, for example the heinousness of the crime committed or deterrence, but it doesn’t deter. The main reason is because that’s what the law is saying... the courts are left with no option.”

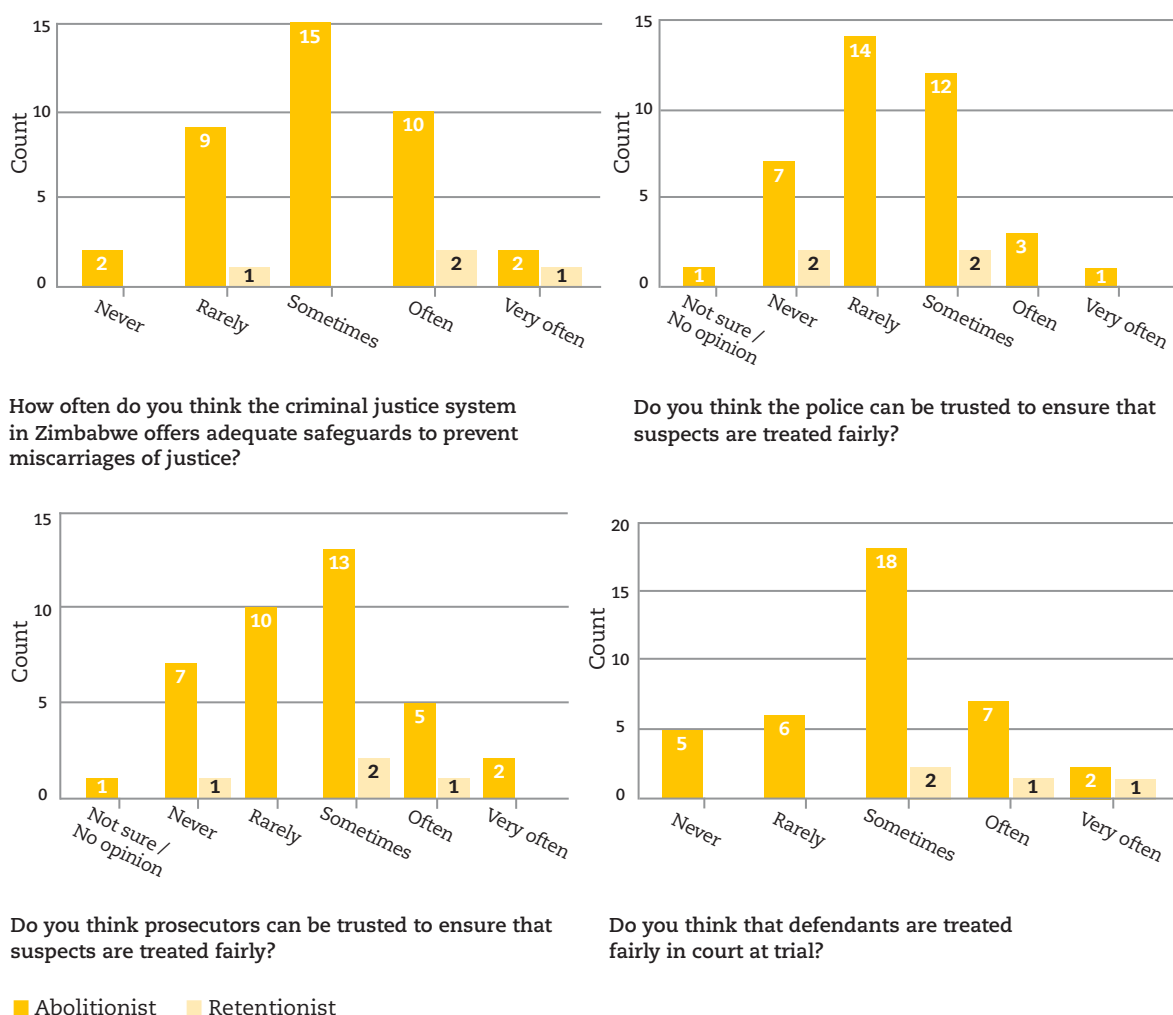
Three of the retentionists said that the main purpose of imposing the death penalty is retribution, and one said the main purpose is deterrence.

2.4 Participants’ views on the safety and efficacy of the criminal justice system in Zimbabwe

Public opinion surveys have consistently demonstrated that support for the death penalty is dependent on a belief that it is administered fairly, without the risk of innocent people being executed. It was important, therefore, to establish levels of trust among our interviewees in the fairness and safety of the Zimbabwean criminal justice system. They were asked four questions about their trust in: safeguards to prevent miscarriage of justice; police fairness; prosecutor fairness; and fair treatment of defendants in court [Q27-30]. As Figure 2 shows, only two participants believed that the criminal justice system adequately safeguarded people from miscarriages of justice ‘very often’, with the majority believing that it provided this protection only some of the time, rarely or never. Only a handful thought that the police ‘often’ or ‘very often’ could be trusted to treat suspects fairly; more than half felt that the police could only rarely – or never – be trusted. A few more trusted prosecutors to treat suspects fairly, but only a small minority thought they would do this ‘often’ or ‘very often’, and less than a quarter trusted the courts to ‘often’ or ‘very often’ treat defendants fairly. Furthermore, while many of the abolitionists made clear that the various parts of the criminal process were flawed and could not be trusted to ensure that suspects and

defendants were treated fairly – producing a significant risk of miscarriages of justice – the four retentionists did not have overwhelming confidence in the Zimbabwean criminal justice system.

Figure 2: Participants’ views of the criminal justice system in Zimbabwe



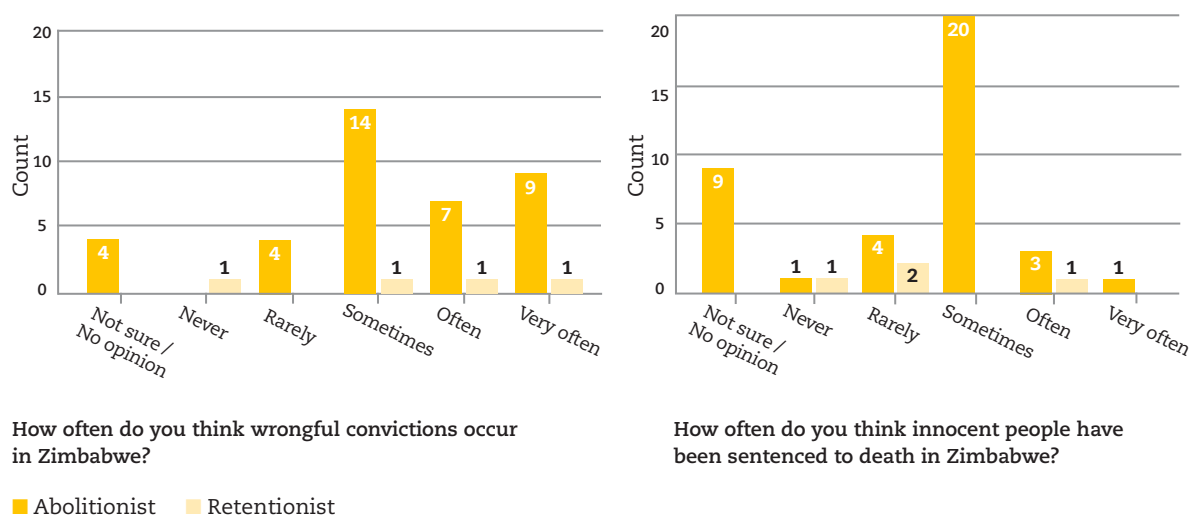
In comments in response to these questions [Q27–30], respondents frequently referred to inequalities before the law in relation to defendants’ personal wealth, because of the structure of the official legal system (for example, being assigned a junior state lawyer if a defendant cannot afford a private lawyer) and the potential for its abuse (corruption). In addition, one respondent noted the inherent injustice of being tried in a (colonial) language that many defendants do not speak well or at all:

“We must stop this habit of trying our own people in a foreign language. Can you imagine yourself just sitting there... you don’t follow, you are not able to say No, what he is saying is not quite correct’. Even your own lawyer is speaking in English, and if you are a person who does not speak English, you can’t even correct your lawyer.”⁴⁰

⁴⁰ Translators are always used in court proceedings, but the experience of defendants may still be that they hear proceedings in a foreign language.

More than three-quarters of our interviewees thought that wrongful convictions (in general) occurred sometimes, often or very often, and only a handful thought that innocent people were rarely or never sentenced to death in Zimbabwe [Q26 & 31: see Figure 3].

Figure 3: Participants' beliefs about the frequency of wrongful convictions in Zimbabwe



Clearly, opinion leaders in Zimbabwe have little faith in their criminal justice system, even those few who are happy for the courts to hand down death sentences. They don't trust the system to be fair and, by and large, they don't believe that the death sentence deters serious crime – which raises the question of what they may put their faith in.

Given low support for the death penalty among opinion leaders, it is interesting to consider what other policies they thought would be more effective at reducing crime. As criminal justice and punishments are not the only means of tackling harmful behaviours, we asked about a range of policies. Surveys in other countries have found that policies that promote crime prevention through social action and police effectiveness are much more likely to be regarded by the public as effective than increased death sentences or executions.⁴¹

The views of the abolitionists and retentionists were similar regarding the best way to reduce violent crime in Zimbabwe, so their choices are presented together in Figure 4 [Q11]. Only one person ranked more executions as one of the top three best ways to reduce violent crime, and one person ranked more death sentences as one of the best three ways of achieving this.⁴² The data are in line with other research, with the majority of respondents choosing social or educational policies to reduce violent crime, with others focusing on effective policing. For example, 34% of those who responded to the 2017 public opinion survey in Zimbabwe thought that better moral education of young people was the best way to reduce violent crime, and 16% felt that reducing poverty was the best means, with another 19% choosing either 'more effective policing' or 'a reduction in police corruption'.⁴³

⁴¹ R Hood (2018), 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* 23:3.

⁴² In addition, only two other people mentioned more death sentences or more executions in the 4th to 10th-ranked best ways to reduce violent crimes in Zimbabwe (not shown in Figure 4).

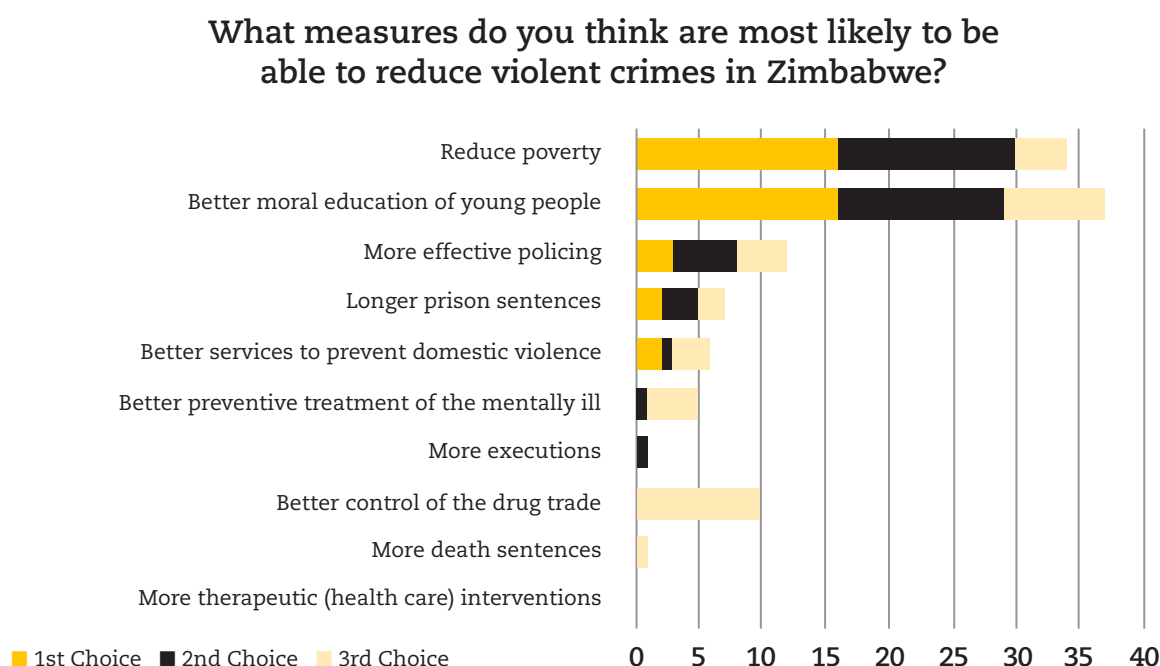
⁴³ M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018: 33).

As Figure 4 shows, almost all of the opinion leaders in the current study selected ‘better moral education of young people’ among their top three choices. One participant elaborated on this response, adding that eliminating the use of physical violence as punishment needs to occur throughout the system, starting with:

“the abolition of corporal punishment in schools. There is too much use of violence, from the home, the school and so on. So, really, we need the moral education to say there is another way – actually engage people and talk to them; you don’t just beat them.”

The other most frequently mentioned antidote to violence was the reduction of poverty. Many participants emphasised that this should be the priority beyond all the other suggested measures, giving examples of how poverty and crime were inextricably linked.

Figure 4: Participants’ beliefs about the best way to reduce violent crime



As well as selecting from the measures presented within the questionnaire, several others were mentioned by respondents. For example, one participant noted that, in addition to better control of the drug trade, it would be important to address the issue of alcohol consumption. Numerous respondents added that it was important to improve accountability for political violence:

“I would say political leadership must be held accountable for any political violence that occurs in the course of any political case. Because people have died of that. And effective policing will help in this area – without cover-up.”

In response to many of the questions asked throughout the interviews, respondents noted that the current criminal justice system was introduced by British colonialists and that, in many ways, it is incompatible with Zimbabwean traditional views of justice. Several interviewees thought that there had been no capital

punishment in Zimbabwe's pre-colonial history, although others thought it existed only for treason.⁴⁴ Many pointed out that a retributive justice system tends to exclude victims or families of the victims, and that imprisoning people for longer as an alternative to the death penalty may have the same deterrence effect, but it does not necessarily meet the justice needs of the society. Several respondents therefore suggested that the traditional mechanisms of compensation should be incorporated into the justice system when the death penalty is abolished. One quoted a saying in Shona (*"mushonga wengozi kuripa"*) which means that the 'remedy against a vengeful spirit is compensation', and that this should be the alternative to *"kudimbura musoro wemunhu"* (cutting off one's head). Other participants made similar points; for example:

"If it is pure punishment, it might result in people feeling that justice has not been done. Relatives or dependants of the victim must be compensated. And that is our traditional approach to these kinds of crimes."

Those making these suggestions were not naïve to the problems associated with some forms of traditional justice. Some stated that certain forms of compensation may breach human rights (for example, offering a young girl in marriage to the victim's family), so there is a need to "correct those aspects of our tradition that are outdated, and keep those that are relevant and applicable to our own situation today." Clearly, our interviewees were not enamoured with the criminal justice system they had inherited and were open to other means of reducing and responding to crime.

2.5 Participants' views on crime and law in other countries in the region

Zimbabwe is land-locked by countries with varying crime rates and different approaches to punishment. At between 5 and 6 murders per 100,000, Zimbabwe has a higher rate of violent crime than Mozambique (3) and a similar rate to Zambia (5), but a lower one than Botswana (15), Namibia (17) and, in particular, South Africa (34).⁴⁵ A series of questions sought participants' views about crime and punishment policies in other countries in the region, and how respondents believe these compare to, or indeed influence, the laws and policies in Zimbabwe. Participants were asked 'Among Zimbabwe's neighbouring countries, which country's laws and problems with crime most affect Zimbabwe?' [Q32]. All 42 respondents gave South Africa as their answer. In addition, the other countries mentioned were Botswana (3 people), Mozambique (6), Namibia (1) and Zambia (2).



⁴⁴ While most precolonial communities, such as the Shona people, did not use the death penalty as a response to murder, among the more centralised Ndebele people, it was sometimes imposed for deliberate homicide: Andrew Novak, *The African Challenge to Global Death Penalty Abolition: International Human Rights Norms in Local Perspective* (Intersentia, 2016), pp120–21.

⁴⁵ United Nations Office on Drugs and Crime, Global Study on Homicide at https://dataunodc.un.org/GSH_app

When asked how crime in those countries affects Zimbabwe, there was a great deal of consensus among the respondents [Q33]. Almost all mentioned the “porous” border with South Africa, and high rates of migration between the two countries; in particular, many Zimbabwean citizens have travelled to South African cities seeking employment to escape the economic crisis back home. Some respondents considered that this explained the high incidence of victimisation of Zimbabwean citizens in South Africa. Media reports over the past years have borne this out, with high rates of violence committed against migrants in South Africa. Indeed, very recently, the President of South Africa, Cyril Ramaphosa, has condemned the violence against foreigners in major cities that has claimed lives, ruined businesses and brought condemnation from other African countries.⁴⁶ However, many more of the interviewees described how Zimbabweans who go to South Africa become ‘trained’ or more ‘specialised’ criminals, then continue their criminal careers in Zimbabwe. One respondent summed up the views of many:

“Because of the poverty in Zimbabwe, a lot of these guys are going to South Africa for crime, and then... things like xenophobia start coming up, and then relations between South Africa and Zimbabwe will be affected... The border is porous, so then it means that these guys are coming back with their sophisticated ways of committing crimes.”

When asked how the laws and criminal justice policies in those countries affect Zimbabwe, respondents’ views were more varied [Q34]. A few people thought that neighbouring countries’ laws had no effect on Zimbabwe; others that South African laws and cases tend to influence the criminal justice system in Zimbabwe. Some participants felt strongly that Zimbabweans in South Africa were treated unfairly, both as victims and offenders. Several mentioned the abolition of the death penalty in South Africa, suggesting that this has had two main consequences for Zimbabwe. One consequence is that South Africa cannot extradite those charged with serious offences to Zimbabwe, because it retains the death penalty and extradition to retentionist countries is prohibited by South African law to avoid assisting another jurisdiction with the imposition of the death penalty. On the other hand, one respondent felt that the *Makwanyane* judgment, which constitutionally abolished the death penalty in South Africa in 1995, had prompted the current movement for abolition in Zimbabwe.

Not unrelated to the point about abolition, several respondents pointed out that the justice system in South Africa was much more lenient than in Zimbabwe. This was corroborated by participants’ responses to other questions in which they were asked specifically whether the criminal laws in Zimbabwe were harsher or more lenient than those of the neighbouring countries they had identified (see above) [Q35 & 36]. Almost half of the respondents said that the criminal laws in Zimbabwe were ‘harsher’ than those of their neighbours (18 people) and that the risk of arrest and conviction was greater in Zimbabwe (18). A similar number thought that Zimbabwe’s laws were approximately the same as those of their neighbours (16) and that the risk of arrest and conviction was the same (18). A small number of people said they didn’t know or weren’t sure,⁴⁷ and only two people said they thought the risk of arrest and conviction was smaller in Zimbabwe.

⁴⁶ See, for example, *The Guardian*, South African president condemns anti-foreigner violence, 3 September 2019 at www.theguardian.com/world/2019/sep/03/south-african-president-condemns-anti-foreigner-violence

⁴⁷ Eight people said they didn’t know about the relative leniency of the law; four people said they didn’t know about the relative risk of arrest and conviction.

Given that almost all the respondents thought that the risk of arrest and conviction was either the same or greater in Zimbabwe, with just less than half thinking the laws were harsher in Zimbabwe, it is important to consider their response to our question ‘Do you think murders will increase in Zimbabwe if the death penalty is replaced with sentences of life in prison?’ [Q37]. This question tests a theory of jurisdictional competition for which our prior questions sought to establish the groundwork.

The theory of jurisdictional competition holds that, recognising criminals will make rational choices about where to commit serious offences, states may seek to discourage the influx of criminals by adopting harsher policies than neighbouring jurisdictions, or by resisting moves to lower sentences, below those of their neighbours. It was this second point, in relation to calls for abolition, that we wished to consider. Of course, this theory makes sense in terms of drug trafficking, which typically involves people deciding which border to cross and where to sell illicit substances. But we thought it was possible that opinion leaders may consider how ineffective or lenient they may appear to potential criminals compared with more punitive neighbours, and whether this might militate against abolition of the death penalty.

In fact, most of the respondents thought that murders would not increase in Zimbabwe if the death penalty were to be replaced by sentences of life in prison (see Table 2). This is, undoubtedly, partly explained by the laws on capital punishment in neighbouring countries. Only one of its neighbours – Botswana – continues to execute prisoners, with Zambia (like Zimbabwe) being abolitionist *de facto*, and South Africa and Mozambique abolitionist *de jure*. So, Zimbabwe would not be likely to be seen as lenient in the region, even without a death penalty. Given that most respondents saw South Africa as their most significant neighbour, and all would have been aware that the death penalty was abolished there in 1995, it is unsurprising that they were not afraid of being vulnerable to increased crime levels if they chose to abolish it too. While many are concerned about the very recent rise in the rate of violent crime in South Africa, the homicide rate has declined fairly consistently since its peak at the time of abolition, from 63 murders per 100,000 in 1995 to 35 today. By and large, the rate declined steadily each year until 2011, when it hit a low of 29, after which it has gradually risen to its current level.⁴⁸

Table 2

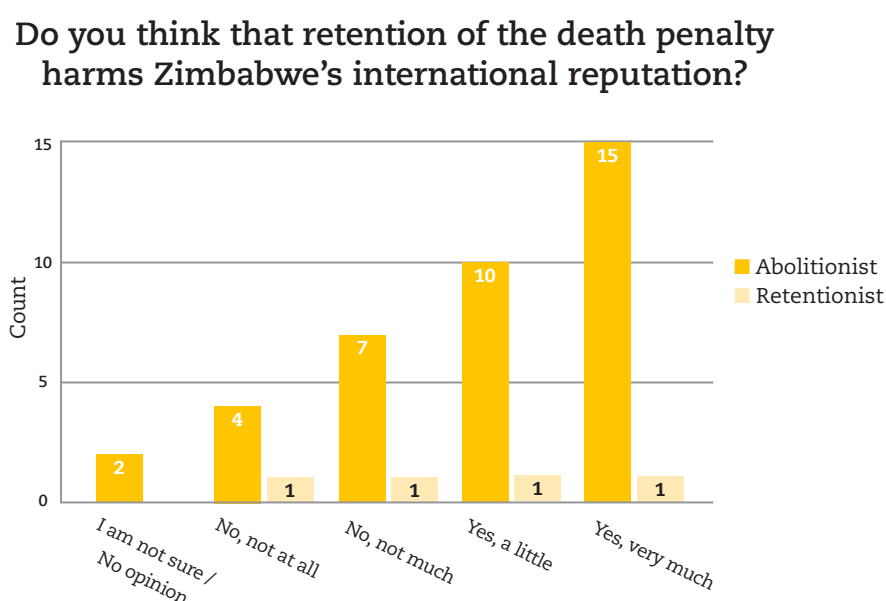
Do you think murders will increase in Zimbabwe if the death penalty is replaced with sentences of life in prison? [Q37]

I am not sure/ no opinion	2
No, not at all	18
No, not much	16
Yes, a little	2
Yes, very much	4
Total	42

⁴⁸ See United Nations Office on Drugs and Crime, Global Study on Homicide at https://dataunodc.un.org/GSH_app

Against the risk of being seen as weak or vulnerable, when compared to neighbours in the region, countries may balance the risk of being seen as pariahs if other countries nearby have abolished the death penalty, or if they feel that the international community – on which they may rely for trade or tourism – disapproves of their criminal justice policies. Perhaps not surprisingly among opinion leaders, around two-thirds (64%) of the participants (27 people, including two retentionists) thought that the retention of the death penalty harms Zimbabwe's international reputation [Q38]. Figure 5 shows the participants' full responses.

Figure 5: Participants' views on the death penalty and Zimbabwe's international reputation



Clearly, concern about the opinions of those within the international community may well influence positions on the death penalty. This is explicable, at least in part, by who we interviewed. The general public – perhaps with the exception of those in the tourist industry – may care little what other nations think of their country. However, those who hold positions in government, in the high echelons of civil society, or who could be considered to be ‘dignitaries’ of some sort, are more likely to be mindful of the views of the international community, as – on occasion – they will find themselves at events or meetings with those who may judge them or their country. We were therefore keen to make sense of their views about the recent change in Zimbabwe with regards to the universal moratorium on the death penalty.

2.6 Participants' views on a universal moratorium

International reputation within a developing climate of human rights has, undoubtedly, persuaded some countries to speak out in favour of a worldwide moratorium against the death penalty. In 2007, Italy led a group of other co-sponsors to bring before the United Nations General Assembly (GA) a resolution calling for a moratorium, with a view to abolition. The majority in favour of the resolution has increased on each of the subsequent occasions that it has come before the GA, and it is now established as a biennial event. That said, a significant minority continues to object to the moratorium, dissenting from the resolution, while others abstain. In 2016 Zimbabwe abstained, but, in 2018 it voted against the moratorium. While we now know that this was an administrative error, and that Zimbabwe did not

intend to backslide, at the time of our interviews we assumed the political mood had changed on this issue, so we chose to ask our respondents for their views on the matter.

Many of the respondents said they were surprised to be told during the interview that Zimbabwe had voted against a universal moratorium in 2018 (15 people, [Q1b]). We also find it surprising; it would seem to contradict the current discourse. When asked why they thought the government abstained or voted against it in recent years, participants expressed a variety of views [Q14]. Many offered similar explanations to those given for Zimbabwe's decision not to abolish the death penalty [Q2]; for example, that political decision-makers believe in the deterrent effect, that they feel restricted by the views of the public, and that they may have certain cultural or religious beliefs that lead them to wish to retain it. In addition, for some, views on the moratorium became entangled with views on the right time to abolish. As a result, a sizeable minority suggested that the government may not vote for a moratorium if it actually wishes to retain the death penalty in Zimbabwe to manage current conflicts with political opponents. By way of example, one explained:

“[The government] wants to maintain executions not as a threat against ordinary offenders, but against political opponents. They want to use it as a political tool.”

Several also suggested that the moratorium stance may be related to contemporary efforts to deal with political and historical events, with one abolitionist suggesting that the National Peace and Reconciliation Commission (NPRC) should be allowed to complete its work before Zimbabwe abolished the death penalty. Another said that it would “tend not to give a good picture of the government if, suddenly, we were to outlaw the death penalty at this stage” because the “culprits of Gukurahundi”⁴⁹ are “walking scot-free”.

More specifically, several respondents thought that the vote against the universal moratorium at the United Nations may have occurred by chance; rather than reflecting a policy that had been carefully considered, one thought it could have been ‘a spur of the moment’ decision by an individual. Another said: “I don’t think the cabinet ever sat down and said, ‘this is our policy’”. Some thought that the decision would simply have been influenced by the fact that Zimbabwe has not yet abolished the death penalty, so a vote for a universal moratorium would be inconsistent with national policy. Meanwhile, one respondent wondered if China may have influenced Zimbabwe’s vote.

Most of our participants clearly thought that the policy of voting against or abstaining from the moratorium resolution ought to be reconsidered and reversed [Q15]. Only five people (three retentionists and two abolitionists) thought that the policy should not be reconsidered and reversed, and a further five people were not sure or gave no opinion (all five were abolitionists). When asked why they thought it should be reconsidered [Q15a], respondents gave similar answers to those they had given for why the death penalty should be abolished in Zimbabwe.⁵⁰ Most people tended to forefront the sanctity of human life, followed by the potential for the conviction of innocent people, or the country’s international reputation. The retentionists who said the policy should not be reconsidered offered similar reasons to their justification for retaining the death penalty – in particular, that Zimbabwe has the right to create its own laws and should not be influenced by other nations [Q15b].

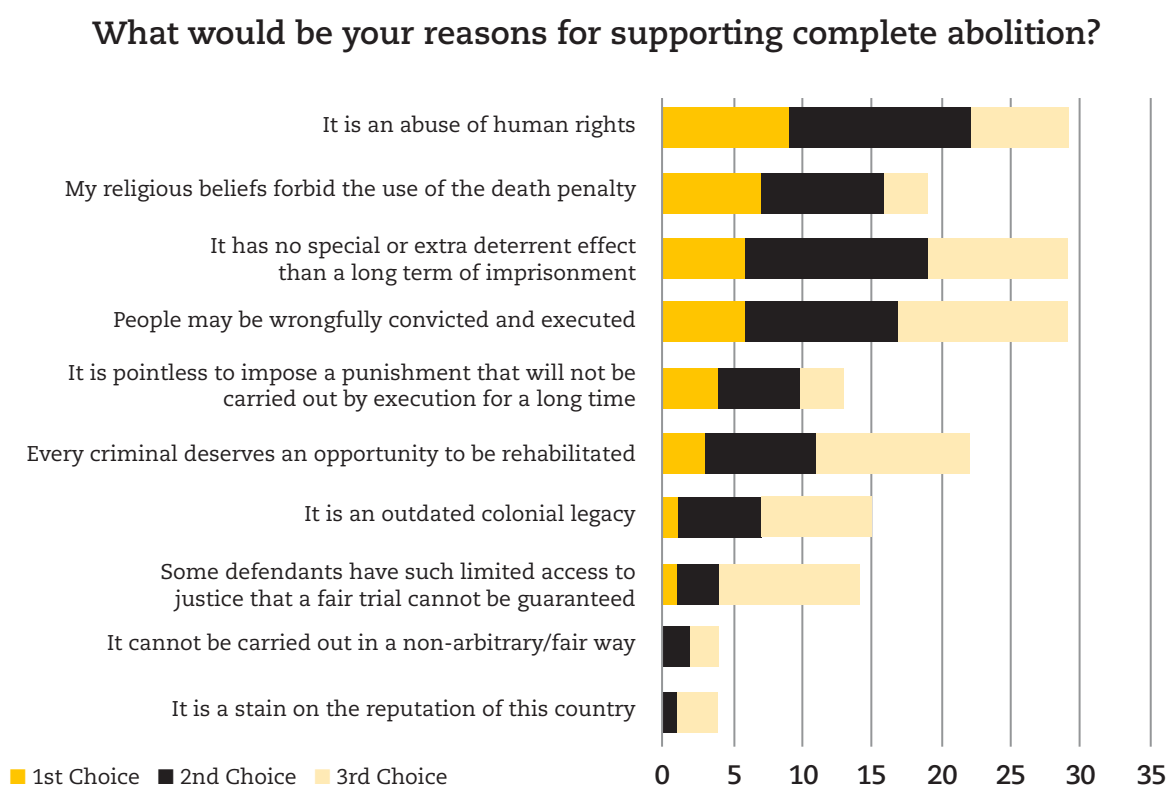
⁴⁹ From 1983 to 1987, government forces killed about 20,000 people in predominantly ethnic Ndebele areas in what are known as the Gukurahundi massacres.

⁵⁰ Described in detail in the next section.

2.7 Participants' views on abolition of the death penalty

The four retentionist interviewees favoured the death penalty for its apparent deterrent effect and for reasons of retribution, a finding that replicates the rationale for support among respondents to the 2017 public opinion survey. The most common rationale given for abolition among other interviewees was that the death penalty is 'an abuse of human rights', with many others claiming it conflicted with their religious beliefs [Q6], as shown in Figure 6.⁵¹ These findings also replicate rationales for abolition in the 2017 public opinion survey.⁵²

Figure 6: Participants' reasons for supporting abolition



Expanding on the reasons presented, several respondents gave examples of the ways in which the justice system disadvantages poorer defendants in particular, and so increases the chances of a wrongful conviction. One participant mentioned the abuse of the human rights of all those involved in the administration of the death penalty (executioner, judge, prosecutors, and so on) as well as the inherent injustice of potentially receiving two sentences: a long time incarcerated on death row, followed by execution of the death penalty. Another said that he had previously been in favour of the death penalty, until he met people who had been wrongfully convicted and sentenced to death:

⁵¹ Figure 6 shows reasons for abolishing the death penalty ranked first, second and third by the abolitionist respondents. The bars are ordered according to the number of people who gave each reason as their *first* choice.

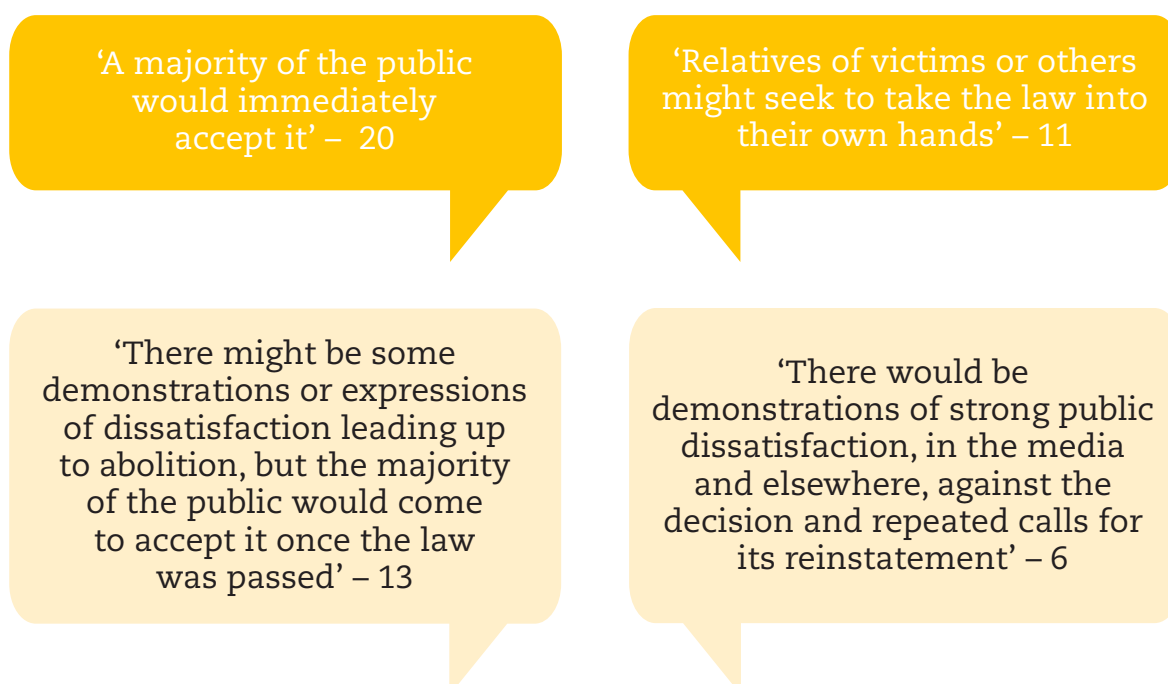
⁵² 28% of respondents thought that 'killing another human being is inhumane' and 23% asserted that their religion does not support the death penalty: M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018: 30-31).

“For me, it was a Damascene moment... I spent days with the so-called hard-core criminals, people who had spent years on death row. Some of them were so old that I did not think they had a reason to mislead me or lie to me. They were saying ‘Can you imagine if I had been hanged, and I did not do that?’ And so, for me, it required me to change my mind.”

While many of the respondents, when asked their reason for opposing the death penalty and being shown a card of various options [Q6], chose the response ‘It is an abuse of human rights’, their further comments expressed similar sentiments, though they adopted different language. They frequently explained that life is ‘sacred’ or ‘sacrosanct’, that we need to ‘value’ and ‘respect’ life itself, and for some respondents (not just the religious leaders) this followed from a religious imperative not to kill under any circumstances. Three respondents also described the death penalty as ‘un-African’. The role of traditional and religious beliefs was far from clear cut, with some respondents saying that people may be pro-death penalty because of the need to appease avenging spirits, and one retentionist saying that the death penalty was ordained by the bible. For the most part, however, participants thought that Zimbabwean Christian beliefs⁵³ and their beliefs regarding the appeasement of avenging spirits established convincing justifications for rehabilitation and compensation, rather than retribution and the death penalty.

While the majority of our interviewees were in favour of abolition, they may still have been worried about the consequences of such if they thought that the public were opposed, and abolition could damage trust in the legitimacy of the criminal justice system. Hence, participants were asked what they thought would happen if the government were to abolish the death penalty and were able to select more than one response [Q7] (see Graphic 2). Most participants thought that the majority of the public would accept the decision.

Graphic 2: Participants’ views on what would happen if the government abolished the death penalty



⁵³ About 80% of the population are Christian.

These responses are not dissimilar to those of the public in the 2017 survey. While the majority of those respondents supported the death penalty, 80% of supporters said they would accept abolition if that was government policy and, furthermore, they believed that the vast majority (74%) of other people would accept it too.⁵⁴ These findings have been replicated elsewhere, demonstrating that the proportion supporting the status quo does not reflect the proportion who would be resistant to abolition.⁵⁵

In addition, several of our interviewees noted that the response of the public would depend on how the change was made. They recommended some form of participatory process in which there would be a dialogue among lawmakers and some form of national public discourse; one participant noted the importance of such a dialogue taking place in local languages, not only in English. Another respondent suggested that the process should resemble the implementation of the Constitution:

“People understood why we needed to have a new Constitution and how we were going to do it. So, they need to participate fully. People need to understand all the different perspectives, and why it is good for the nation to take this decision, rather than that decision. Steps should be taken to involve everyone in that decision and, in that case, no one will rise up against it. But if the government were simply to impose – to say ‘now we are abolishing’ – that’s when there would be demonstrations.”

Participants also noted that the reaction of the public would depend on what sentences replace the death penalty. Some re-emphasised that the public would be satisfied with the abolition of the death penalty as long as it is replaced by long prison sentences. Yet a few others highlighted that there was a need for “traditional mechanisms of bringing people together” to discuss “how much will you pay in terms of appeasing the family of the victim”, language which suggests the use of indigenous remedies such as *‘chenura’* (cleansing ceremonies), *‘ngozi’* (avenging spirits), reparations, or other traditional justice mechanisms or customs.⁵⁶

Two people pointed to the past as evidence that demonstrations against abolition of the death penalty would be unlikely; for example:

“We have evidence for this. The government has taken steps to commute the death sentences that were given to life imprisonment – did we ever hear anything from anyone? It was made public that those who were supposed to hang are not going to hang, and there was no public outcry. If anything, in my view, people embraced that.”

⁵⁴ M Sato, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* (London, The Death Penalty Project 2018: 34–35).

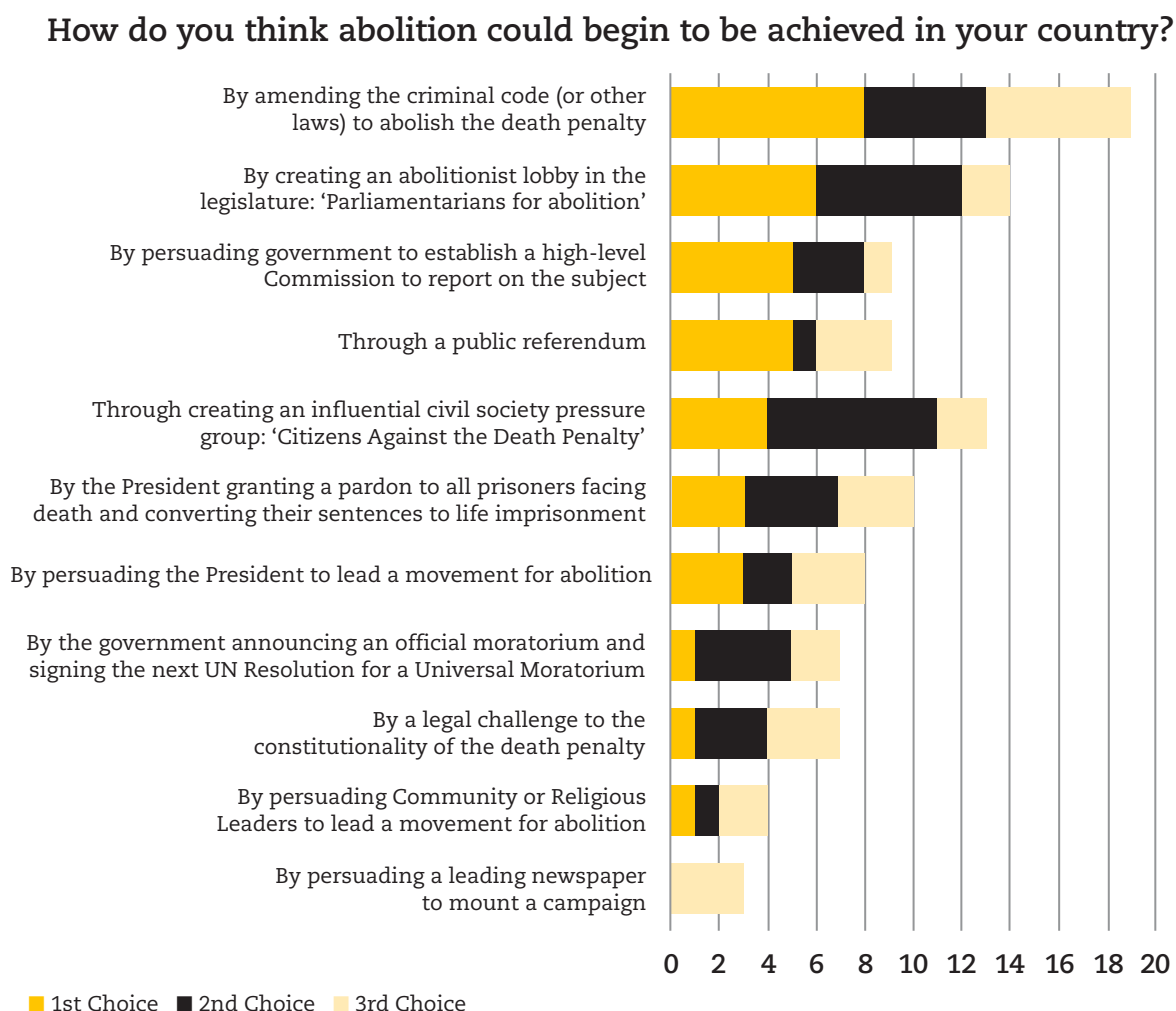
⁵⁵ R Hood (2018), Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys in Eight Countries, *Berkeley Journal of Criminal Law* 23:3: 111–112.

⁵⁶ Heal Zimbabwe Trust & Zimbabwe Civic Education Trust, *Exploring Indigenous Transitional Justice Mechanisms in Zimbabwe* February 2016, Transitional Justice Policy Brief Series 1, at www.veritaszim.net/sites/veritas_d/files/Policy%20Brief%20on%20Transitional%20Justice%20and%20Peace%20Building%20Mechanisms.pdf.

Taking this further, another participant suggested the public would be more likely to demonstrate if executions were resumed. He suggested that “if you will say ‘OK, tomorrow I am killing 10 [of the people on death row]’ then, in that case, the backlash would be a clear indication that people don’t accept [the death penalty].”

Given that we were interviewing people of influence, experience and power, it was important to establish how they thought abolition could be achieved in practice. All agreed that amending the law would be the only way to accomplish change, but, for some people, that was the primary step, whereas others focused on other means of achieving that end [Q16]. For example, some suggested creating an abolitionist lobby in the legislature, or persuading government to establish a high-level commission to report on the subject. Figure 7 shows how the participants ranked different ways of securing abolition.⁵⁷

Figure 7: Participants’ views on the best way to achieve abolition in Zimbabwe



⁵⁷ Figure 7 shows the choices ranked first, second and third by the abolitionist respondents. The bars are ordered according to the number of people who gave each reason as their first choice.

While some respondents were unsure how abolition could be achieved, and did not suggest possible routes, others gave details of features they thought were key to an abolitionist movement. Several mentioned that it would not be possible to create a legal challenge to the constitutionality of the death penalty because the Constitution explicitly permits it. So, some people thought that the Constitution should be changed, although others thought that, as it is only permissive (not prescriptive), it would be possible to abolish the death penalty without amending the Constitution. Several participants highlighted the importance of making the process of abolition both ‘educative’ and ‘participatory’ (as described above).

Finally, a few mentioned the importance of getting all the political parties on board; for example, one respondent said:

“It has to be non-partisan, because once it is a move by one party, no other party wants to lose credit. So, they will oppose it, because they want to be seen to be the implementers. I think creating an abolitionist lobby could help, but it must be completely non-partisan.”

When asked whether they would personally be willing to support an Act of Parliament to abolish capital punishment in Zimbabwe, 30 people said they would strongly and vigorously support abolition [Q17]. A further eight said they would be willing to support abolition, but not to take the lead. Of course, the four retentionists made clear that they would either strongly oppose such an Act of Parliament (3) or tend to oppose it (1).

Perhaps the most important question to be asked of opinion leaders who, in the main, support abolition is who should influence the decision about whether to retain the death penalty [Q21]. Our interviewees are, after all, in a position to influence government and the public, either directly or indirectly. Notwithstanding their ‘soft’ or even ‘hard’ power, only just over half (23) thought that the movement should be led by opinion leaders: by Parliament (11), the government (7), academic experts in criminal law and criminology (3), or the ministry of justice (1). Only one thought the process should be led by the President, although several commented that the President’s support for abolition presents an ideal opportunity for its implementation. However, almost half (19) of our interviewees believed that the public should influence this decision.⁵⁸

These particular responses raise the important question about how opinion leaders can lead, not in spite of public opinion, but by bringing the public with them – by educating the public to the realities of the death penalty: to its inefficacy in bringing about reductions in serious crime, its fallibility, and the inadequate due process protections within the criminal justice system for a potentially irreversible punishment. Research such as this can help with that process, but the key influences must come from within Zimbabwe, from those whose voices can guide the people.

⁵⁸ The four retentionists’ answers were similar to the group as a whole (the public 2, the government 1, and Parliament 1).

Conclusion: Is Zimbabwe ready for government-led abolition?

In 2017, The Death Penalty Project, in partnership with Veritas, commissioned a survey of public opinions on the death penalty in Zimbabwe. Dr Mai Sato's report on that survey showed that while a small majority (61%) of the 1,200 Zimbabweans who were interviewed supported the retention of the death penalty, 80% of those were clear that – should the government decide to abolish – they would accept government policy and, by and large, were not worried about negative repercussions from abolition. That study showed that those who had strong opinions on the death penalty were not well informed on its administration in practice; they knew little about how and when it was used, and they based their support primarily on an erroneous belief in its deterrent effect. Notwithstanding their support, most considered social and educational measures to be better able to reduce violent crime, with very few suggesting that the death penalty and executions would be more effective.

Zimbabwe now has a new President – Emmerson Mnangagwa – who has made clear his opposition to the death penalty. While the country is still dealing with social and economic problems, and conflict arising from those difficulties, Zimbabwe has chosen not to respond to these difficulties by way of executions. Indeed, within months of assuming power, the President commuted the death sentences of those who had already served more than 10 years in prison, portending a new political order. He has made efforts to distinguish himself from his ZANU-PF predecessor, the late President Robert Mugabe, who, at the end of his political career, expressed his intention to resume executions.

While the death penalty remains in place, and observers over the past months could be forgiven for thinking too little has changed since the late President Mugabe left the stage, many in the country are in the mood for change, and for bringing to an end a long period of isolation. Very recently, for example, the Chair of the Southern African Development Community urged the international community to lift sanctions imposed on Zimbabwe, noting that the new government had started to move away from its difficult past and was ready to engage with the rest of the world.⁵⁹ Recent statements put out by the President argue not only against corruption, which has been endemic within Zimbabwe for some time, but also against torture, arbitrary punishment and degrading treatment of citizens.⁶⁰ Abolitionists are firmly of the view that systems of capital punishment inevitably produce arbitrary punishments and degrading treatment, and so the President's statement is incompatible with the current criminal justice system in Zimbabwe.

⁵⁹ Tweet dated 17/08/2019 by @SADC_News

⁶⁰ See various tweets published in August 2019 by the President and the government's ministry of information, publicity and broadcasting (@edmnangagwa & @InfoMinZW)

Douglas Togaraseyi Mwonzora, a Senator who was the co-chairperson of the Constitutional Parliamentary Committee that drafted the 2013 Constitution, which retained – though restricted – the death penalty, argued that:

“With the coming to power of Mnangagwa and the evolution of the position in relation to the death penalty in opposition camps, the tide towards the abolition of the death penalty appears to be at its height.”⁶¹

He believes that the support from church leaders, traditional authorities and civil society organisations provides timely momentum to build cross-party coalition to bring about an amendment to the Constitution to remove the death penalty.

The data in this report are derived from interviews with 42 people whose professions and positions in Zimbabwean social, political and economic society mark them as opinion leaders; people who can help to bring about change and, importantly, shape public discourse and opinion. The findings of our interviews are unequivocal. They show strong support for abolition among opinion leaders and, importantly, that this support is based on a good understanding of how the death penalty is applied in this jurisdiction, and of its limitations in bringing about reductions in violent crime. They make clear that those with influence feel that the government has not yet led effectively on this issue – that political leadership has not been sufficiently strong because the government is concerned that support for abolition would make it unpopular with the electorate, given that the majority of citizens appear to remain committed to the death penalty.

Our interviewees were clear that abolition could be achieved if the government amended the criminal code and suggested various ways to bring this about. These included strong support from within Parliament, as was seen in the UK’s move towards abolition; campaigning by civil society, which was common across Europe; and persuading the President to lead a movement for abolition.⁶² It is hard to change the Constitution to remove the state’s ability to impose the death penalty, as the Zimbabwean Constitution can only be changed following a public referendum. So, most respondents felt that an Act of Parliament would be the best way forward.

Our interviewees’ reasons for opposing the death penalty were that it was an abuse of human rights, against their religious beliefs, dangerous in a system that cannot guarantee due process protections against wrongful conviction, and that it had no extra deterrent effect over a long term of imprisonment. But they were concerned that government-led abolition could be unpopular if the public were not persuaded of its merits.

⁶¹ Douglas Togaraseyi Mwonzora, Why Zimbabwe should amend the constitution to abolish the death penalty, ConstitutionNet, 7 August 2019, at <http://constitutionnet.org/news/why-zimbabwe-should-amend-constitution-abolish-death-penalty>

⁶² See also, Julian B Knowles, *The Abolition of the Death Penalty in the United Kingdom*, 2015 at <https://www.deathpenaltyproject.org/knowledge/the-abolition-of-the-death-penalty-in-the-united-kingdom/>

It is for the politicians in Zimbabwe to decide when they will change the law so that the death penalty is abolished. However, this report shows that those in positions of power, influence and responsibility feel that the time is right. Furthermore, the majority declared that they would vigorously support an Act of Parliament to abolish, with most others willing to support, but not take the lead. There is no reason why these prominent people cannot start this process right now. While it is under way, political discourse and an active media campaign can seek to educate the public about the flaws in the administration of justice – about the risks of wrongful conviction and the ineffectiveness of the death penalty – and, in so doing, take the public with them on this critical journey. If this seems to be a daunting task, they can remind themselves that support for the death penalty in Zimbabwe is not overwhelming and that most people will accept abolition when it comes, with little or no protest, as they have done in other parts of Africa, across Europe, and in many other countries within South America, as well as in many states of North America. In time, as has been shown elsewhere, not only will people accept it, but they will support it, turning away from the death penalty, as we have from other criminal justice practices that have now been consigned to history.



APPENDIX

The Questionnaire

THE DEATH PENALTY PROJECT

STUDY OF OPINION IN ZIMBABWE ON THE RETENTION OR ABOLITION OF CAPITAL PUNISHMENT

(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

TYPE OF ELITE (occupation/position?)

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

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 are happy with this assurance, please sign and date the separate CONSENT FORM

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

To avoid any misunderstanding, please read the following SUMMARY of the situation as regards the current scope and use of the death penalty in Zimbabwe.

[Interviewer: Show card]

MAIN FACTS: ZIMBABWE	CODE
Zimbabwe retains the death penalty as a discretionary punishment for murder committed in aggravating circumstances (Article 48 of the 2013 Constitution of Zimbabwe)	1
The method of execution in Zimbabwe is hanging	2
Since independence from Britain in 1980, 79 people have been executed in Zimbabwe.	3
No executions have been carried out since 2005.	4
In March 2018, President Mnangagwa commuted the sentences of all people who had been on death row for more than a decade.	5
In 2018, five death sentences were imposed.	6
At the end of 2018, there were 81 people under sentence of death.	7
At the UN in December 2018, the government of Zimbabwe voted against the resolution brought before the General Assembly to institute a universal moratorium on death sentences and executions leading to universal abolition of capital punishment (having abstained in 2016).	8

ASK ALL

1. May I ask you whether you were NOT aware of any of these facts?

If SO, which ones?

[Interviewer: Please CIRCLE those mentioned]

1b. Do any of these facts surprise you

If SO, which ones?

[Interviewer: Please TICK those mentioned]

2. Why do you think your country has not decided to abolish the death penalty?

Please RANK the MAIN reason with 1, and ANY others you think might be a reason in order of importance (from 2-7)

[Interviewer: Please make it clear here – and in similarly worded ranking questions – that there is no need to rank all the statements, only those they think are relevant.]

[Show card]

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

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

	CODE
I am strongly/firmly in favour of retaining it	1
I tend to favour retaining it	2
I tend to favour abolishing it	3
I am strongly/firmly in favour of abolishing it	4

[Note to 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].

ASK RETENTIONISTS (i.e. THOSE WHO CHOSE 1 OR 2) ONLY

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

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

4b. [If STATUS QUO, ask] : Why are you content to leave the law and practice as it is?

4c. *[If in favour of FURTHER RESTRICTION, ask]:* What changes would you like to see introduced to further restrict the use of the death penalty?

4d. *[If in favour of LESS RESTRICTION, ask]:* What changes would you like to see introduced to make the death penalty more effective?

ASK RETENTIONISTS ONLY

5. **Why are you personally in favour of retaining the death penalty?** Please RANK the MAIN reason with 1, and any others you think might be a reason in order of importance.

[Show card]

	RANK
It's necessary to deter people from murder	
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 religious beliefs support the death penalty	
Other reason (please specify) <div></div> <div></div> <div></div> <div></div> <div></div>	

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

6. What would be your reasons for supporting complete abolition? Please RANK the MAIN reason with 1, and any others you think might be a reason in order of importance (from 2-10)

[Show card]

	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	
Some 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 an outdated colonial legacy	
It is a stain on the reputation of this country	
My religious beliefs forbid the use of the death penalty	
Other reason (please specify) ----- ----- ----- ----- -----	

ASK ALL: RETENTIONISTS AND ABOLITIONISTS

7. What do you think would happen if the government were to abolish the death penalty? CHOOSE one or more of the options on the card, and/or mention any different response you think there might be.

[Show card]

	CODE
There would be demonstrations of STRONG public dissatisfaction, in the media and elsewhere, against the decision and REPEATED calls for its reinstatement.	1
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.	2
A majority of the public would IMMEDIATELY ACCEPT IT	3
Relatives of victims or others might seek to take the law INTO THEIR OWN HANDS	4
ANY OTHER RESPONSE? (please specify) ----- ----- ----- ----- -----	5

ASK RETENTIONISTS ONLY

8. If a public opinion survey found that only a minority of respondents were strongly/firmly opposed to abolition, would that affect your support for the death penalty?

	CODE
YES: I would definitely favour abolition in that case	1
YES: I would probably favour abolition	2
NO: I would probably still be opposed	3
NO: I would definitely still be opposed	4

ASK ALL: RETENTIONISTS AND ABOLITIONISTS

9. 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 to the deterrent effect of long-term imprisonment?

	Me personally (Code 9a)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

9b. How well informed do you think POLITICAL DECISION-MAKERS (SUCH AS LEGISLATORS AND MPS) AS A WHOLE are about research evidence from other countries regarding the lack of any extra deterrent effect of the death penalty on the murder rate, compared to the deterrent effect of long-term imprisonment?

	Political decision-makers (Code 9b)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

10. 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 10a)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

10b. How well informed do you think POLITICAL DECISION-MAKERS (SUCH AS LEGISLATORS AND MPS) AS A WHOLE 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?

	Political decision-makers (Code 10b)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: I know nothing about it	4

ASK ALL: RETENTIONISTS AND ABOLITIONISTS

11. In your opinion, what measures do you think are most likely to be able to reduce violent *crimes* in Zimbabwe? PLEASE RANK THE MOST LIKELY WITH 1, and ANY others you think might be relevant in order of likelihood (from 2-10)

[Show card]

	RANK
Better moral education of young people against the use of violence	
Reduce poverty	
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	
Longer prison sentences	
More death sentences	
More executions	
Other (please specify) ----- ----- ----- ----- -----	

ASK RETENTIONISTS ONLY

12. 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 your country 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

12a. [If YES, ask]: Why?

12b. [If NO, ask]: Why not?

ASK RETENTIONISTS ONLY

13. Seventeen countries in Sub-Saharan Africa, including two neighbouring countries – Mozambique and South Africa – have abolished the death penalty for all crimes. Does this information affect your views on whether your country should now move to join the majority of abolitionist nations in the world?

	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

[Note: the total list may be given to interviewees if asked. Angola, Burundi, Cape Verde, Côte d'Ivoire, Djibouti, Gabon, Guinea-Bissau, Mauritius, Madagascar, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, and Togo.]

13a. *[If YES, ask]: Why?*

13b. *[If NO, ask]: Why not?*

ASK ALL: ABOLITIONISTS AND RETENTIONISTS

In the summary, we mentioned that Zimbabwe has voted against, or abstained from, the resolution brought forward since 2007 at the UN General Assembly to institute a universal moratorium on death sentences and executions.

14. Why do you think the Zimbabwe government does not support a universal moratorium?

15 Do you think that the policy of voting against or abstaining from the moratorium resolution ought to be reconsidered and reversed?

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

15.a *[If YES, ask]: Why?*

15.b [If NO, ask]: Why not?

ASK ABOLITIONISTS ONLY

16. How do you think abolition could begin to be achieved in your country? Please RANK the MAIN approach you favour with 1, and ANY others you favour in order of likely success (from 2-11).

[Show card]

	RANK
Through creating an influential civil society pressure group: 'Citizens Against the Death Penalty'	
By amending the criminal code (or other laws) to abolish the death penalty	
By creating an abolitionist lobby in the legislature: 'Parliamentarians for Abolition'	
By persuading government to establish a high-level commission to report on the subject	
By the government announcing an official moratorium and signing the next UN Resolution for a Universal Moratorium in 2020	
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 or religious leaders to lead a movement for abolition	
Through a public referendum	
Other (please specify) ----- ----- ----- ----- -----	

ASK ALL: RETENTIONISTS AND ABOLITIONISTS

17. Would you personally be willing to either support or not to oppose an Act of Parliament to abolish capital punishment completely in Zimbabwe? Which of the following statements best reflects your opinion?

[Show card]

	CODE
I would strongly and vigorously support abolition	1
I would be willing to support abolition but not to take the lead	2
I would not be in favour but would I would not oppose abolition	3
I would tend to oppose abolition – for example, I might raise objections	4
I would strongly oppose abolition – for example, I would definitely vote against it	5

ASK ALL: RETENTIONISTS AND ABOLITIONISTS

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

19. 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

19b. *[If YES, ask]* Which crimes?

20. 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

20b. *[If YES, ask]* Which groups of people?

21. When making decisions about the future of the death penalty in Zimbabwe, who should have the most influence over whether it is kept or abolished? *[Read out options]*

	CODE
The Government	1
The Parliament	2
The President	3
The Ministry of Justice	4
Modern courts	5
Traditional courts	6
Academic experts in criminal law and criminology	7
The public	8
Don't know <i>[Do not read]</i>	99

22. A public opinion survey carried out by The Death Penalty Project in 2018 found that while 61% of Zimbabweans supported retention of the death penalty, less than half (41%) thought it should 'definitely' be kept and 20% that it should 'probably' be kept. Does this information in any way affect your support for the death penalty?

	CODE
YES: I would be much more likely to favour abolition	1
YES: I would be a little more likely to favour abolition	2
NO: It does not make a difference (i.e. my answer to Question 3 remains the same)	3
YES: I would be a little more likely to oppose abolition	4
YES: I would be much more likely to oppose abolition	5

23. The same public opinion survey found that when confronted with a range of typical death penalty case scenarios, a majority of Zimbabweans rejected imposing the death penalty in five out of six cases. Does this information in any way affect your support for the death penalty?

	CODE
YES: I would be much more likely to favour abolition	1
YES: I would be a little more likely to favour abolition	2
NO: It does not make a difference (i.e. my answer to Question 3 remains the same).	3
YES: I would be a little more likely to oppose abolition	4
YES: I would be much more likely to oppose abolition	5

24. The same public opinion survey found that 92% of Zimbabweans considered policies other than 'more executions' to be the most effective at reducing violent crime. Does this information in any way affect your support for the death penalty?

	CODE
YES: I would be much more likely to favour abolition	1
YES: I would be a little more likely to favour abolition	2
NO: It does not make a difference (i.e. my answer to Question 3 remains the same).	3
YES: I would be a little more likely to oppose abolition	4
YES: I would be much more likely to oppose abolition	5

25. The same public opinion survey found that 80% of Zimbabweans who expressed support for the death penalty would be willing to accept abolition if it were to become government policy. Does this information in any way affect your support for the death penalty?

	CODE
YES: I would be much more likely to favour abolition	1
YES: I would be a little more likely to favour abolition	2
NO: It does not make a difference (i.e. my answer to Question 3 remains the same).	3
YES: I would be a little more likely to oppose abolition	4
YES: I would be much more likely to oppose abolition	5

I would now like to ask you a few questions about whether you trust the criminal process in Zimbabwe.

26. How often do you think wrongful convictions occur in Zimbabwe?

	Never	Rarely	Sometimes	Often	Very often	Not sure/ No opinion <i>[Do not read out]</i>
Code:	1	2	3	4	5	6

27. How often do you think the criminal justice system in Zimbabwe offers adequate safeguards to prevent miscarriages of justice?

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion <i>[Do not read out]</i>
Code:	1	2	3	4	5	6

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

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion <i>[Do not read out]</i>
Code:	1	2	3	4	5	6

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

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion <i>[Do not read out]</i>
Code:	1	2	3	4	5	6

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

	Never	Rarely	Sometimes	Usually	Always	Not sure/ No opinion <i>[Do not read out]</i>
<i>Code:</i>	1	2	3	4	5	6

31. How often do you think innocent people have been sentenced to death in Zimbabwe?

	Never	Rarely	Sometimes	Often	Very often	Not sure/ No opinion <i>[Do not read out]</i>
<i>Code:</i>	1	2	3	4	5	6

We are interested in your views about crime and the law in other countries in the region.

32. Among Zimbabwe's neighbouring countries, which country's laws and problems with crime most affect Zimbabwe? *[Do not read out list of countries]*

_____ Botswana

_____ Zambia

_____ Mozambique

_____ Others

_____ Namibia

Please specify: _____

_____ South Africa

33. In what ways does crime in those countries affect Zimbabwe?

34. In what ways do laws and criminal justice policies in those countries affect Zimbabwe?

35. Are criminal laws for murder in Zimbabwe different from those countries?

	Code
Yes	1
No	2
Don't know <i>[Do not read out]</i>	3

35.b *[If YES, ask]* Are the criminal laws in Zimbabwe...

	Code
... more lenient?	1
... about the same?	2
... harsher?	3
Don't know <i>[Do not read out]</i>	4

36. Do murderers in Zimbabwe face the same risk of arrest and conviction as in those countries?

	Code
Yes	1
No	2
Don't know <i>[Do not read out]</i>	3

36.b *[If YES, ask]* In Zimbabwe, is there...

	Code
... smaller risk?	1
... about the same risk?	2
... greater risk?	3
Don't know <i>[Do not read out]</i>	4

37. Do you think murders will increase in Zimbabwe if the death penalty is replaced with sentences of life in prison?

	Code
YES, very much	1
YES, a little	2
NO, not much	3
NO, not at all	4
I am not sure/ No opinion	5

38. Do you think that the retention of the death penalty harms Zimbabwe's international reputation?

	Code
YES, very much	1
YES, a little	2
NO, not much	3
NO, not at all	4
I am not sure/ No opinion	5

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

About the Author



Carolyn Hoyle

Professor Carolyn Hoyle has been at the University of Oxford Centre for Criminology since 1991 and is the Director of the Death Penalty Research Unit. In this role, she works closely with academics, practitioners and civil society organisations from around the world to develop empirical, theoretical and policy-relevant research on the death penalty. She has published research on a wide range of criminological topics, including the death penalty and wrongful convictions, as well as issues of policing, domestic violence, and restorative justice. She lectures extensively on topics including the death penalty, victims and restorative justice, and supervises DPhil and MPhil students on these and other criminological topics.

Professor Hoyle has collaborated with The Death Penalty Project, the National Law University, Delhi and the University of Dhaka on studies of elite opinion on the death penalty in India and Bangladesh. More recently, she has begun work on elite and public opinions on the death penalty in Indonesia, and is working on a study of foreign nationals at risk of the death penalty in Malaysia, Indonesia and Singapore. In addition to her work on capital punishment, Professor Hoyle has been researching wrongful convictions in the UK for the past decade. Her book, *Reasons to Doubt: Wrongful Convictions and the Criminal Cases Review Commission*, was published in January 2019.

The Death Penalty Project

The Death Penalty Project (DPP) is a legal action charity, based in the UK, working to promote and protect the human rights of those facing the death penalty. It provides 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 DPP 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. See also *12 Years without an Execution: Is Zimbabwe Ready for Abolition?* (2018), by Mai Sato

Publications by The Death Penalty Project are available to view and download at www.deathpenaltyproject.org

Veritas

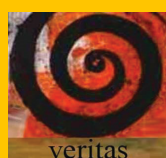
Veritas is a Zimbabwean NGO, based in Harare, which acts as a watchdog for democracy, constitutionalism and the rule of law, human rights and justice. Veritas monitors and analyses the work of government and the Parliament of Zimbabwe, providing civil society organisations and citizens with information and alerting them to opportunities for advocacy. Veritas is also actively engaged in law reform, in particular laws governing elections and human rights.

Veritas had considerable input into the new Constitution and has worked since for its implementation, in particular by drafting model laws and taking public interest court cases – including cases to end child marriage, against the death penalty and to allow life prisoners to be granted parole.

Veritas has MOUs with the Parliament of Zimbabwe and with the Zimbabwe Human Rights Commission. All Veritas' work is impelled by its support for human rights. In particular Veritas has advocated abolition of the death penalty, ratification of the Convention against Torture, for the rights of women and for gender equality.

For more information on Veritas's work visit www.veritaszim.net and www.veritaswomen.net

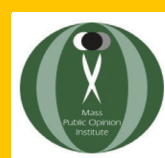
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