

Investigating Attitudes to the Death Penalty in Indonesia

Part I

Opinion Formers: An Appetite
for Change

Carolyn Hoyle



We wish to acknowledge the support of and partnerships with LBH Masyarakat and University of Indonesia (Center on Human Rights). In particular, we wish to thank Ricky Gunawan (former Director, LBH Masyarakat) and Dr Patricia Rinwigati Waagstein (Center on Human Rights, University of Indonesia), who did so much to ensure that the project activities can be completed and who provided helpful input throughout. We would also like to thank Dr Claudia Stoicescu for her involvement, not only in the training of the researchers, but for her invaluable advice and insight throughout the research process.

We would also like to express a special thank you to Professor Harkristuti Harkrisnowo, who has not only supported this important piece of academic research, but has generously provided guidance and advice throughout the process, without which this project would not have been possible.

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

This report was made possible by funds awarded to The Death Penalty Project from the United Kingdom Foreign, Commonwealth and Development Office, the University of Oxford, and UK Research and Innovation.

© 2021 The authors

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or any information storage retrieval system, without permission in writing from the authors.

Copies of this report may be obtained from:

The Death Penalty Project
87-91 Newman Street
London
W1T 3EY
www.deathpenaltyproject.org

and

LBH Masyarakat
Tebet Timur Dalam VI E No.3
Jakarta Selatan 12820
Indonesia

ISBN: 978-1-9996417-9-5



Author's acknowledgements

The Death Penalty Project commissioned the University of Oxford to carry out this study as part of a wider programme of research on the death penalty in Indonesia. It has been done in association with their partner organisations in Jakarta: LBH Masyarakat and the University of Indonesia. Their support and expertise have been invaluable from the conception of this work, through the design of the study and the data collection.

In conducting research on opinion leaders, I benefited in particular from the knowledge of death penalty laws and practices, and wider jurisdictional information, provided by Ricky Gunawan, then Director of LBH Masyarakat. Dr Patricia Rinwigati Waagstein, of the Faculty of Law, and Dr Iqram Sulhin, of the Department of Criminology, at the University of Indonesia have provided support and assistance throughout. Dr Claudia Stoicescu gave valuable advice, local knowledge and assistance during my visits to Jakarta. I extend a special thank you to Professor Harkristuti Harkrisnowo, who has provided guidance and wise advice throughout.

I owe a huge debt of appreciation to our three local researchers, Sarah Aprilia, Angga Yudhi and Anton Pradjasto. Their professionalism, dedication and tenacity meant that we managed to reach our target number of interviews in spite of the increasingly difficult conditions imposed by local 'lockdown' during the early stages of the COVID-19 pandemic. The researchers were ably supervised in their collection and transcription of the interview data by Claudia Stoicescu and Ricky Gunawan. Experienced translators were employed through LBH Masyarakat to translate interview transcriptions from Bahasa Indonesia to English.

Analysing rich qualitative interview data is never easy. It can be particularly hard to analyse data gathered from 'elites', given that they have a wide knowledge base to draw on, but also the confidence to take the interview in a direction that they prefer. Their responses and additional comments often require the interviewer to respond by moving around the interview schedule to try to cover the key questions. This means that the transcript almost never follows the interview schedule. To make sense of such responses, to code and then to analyse such data, especially when the interview has been conducted in another language and then translated, can be particularly challenging. I was assisted in this task by two researchers at the University of Oxford Centre for Criminology, Cian O'Concubhair and Lucy Harry. I am grateful to them for their patience during this process. In designing the interview schedule, I adapted a draft survey prepared by the late Professor Roger Hood, of the University of Oxford, for similar work in the Caribbean.

Finally, thanks are due to Parvais Jabbar and Saul Lehrfreund, Co-executive Directors of The Death Penalty Project, for commissioning me to contribute to this programme of research in Indonesia. Parvais Jabbar ran the project, with dedicated support from Annette So. I couldn't have asked for a better team to work with.

Carolyn Hoyle

Oxford, February 2021

Contents

FOREWORD	7
KEY FINDINGS	8
PART ONE: The purpose of the study	11
1.1 The context	12
1.2 The rationale for research on ‘opinion formers’	15
1.3 Research design and methods	16
PART TWO: The findings	19
2.1 Support for abolition of the death penalty	20
2.2 Strength of support for the death penalty	22
2.3 Participants’ knowledge about the death penalty	24
2.4 Participants’ views on the safety and efficacy of the criminal justice system	26
2.5 Participants’ views on the purpose and effectiveness of justice measures	27
2.6 Participants’ views on Indonesian crime and justice within a regional context	29
2.7 Participants’ views on abolition of the death penalty in Indonesia	33
PART THREE: Conclusion	39
APPENDIX: Interview schedule	43
ABOUT THE AUTHOR	63

Foreword

In 1971, the United Nations General Assembly set a goal to achieve universal abolition of the death penalty. Over the past five decades, the number of countries that have abolished the death penalty has gradually increased. Today, 109 of the total 193 member states have abolished in law (111 of them completely in all circumstances and eight for all common crimes in peacetime); and 49 countries are regarded as abolitionist de facto, meaning they have not carried out a single execution within the past 10 years. Indonesia is among the minority of countries that retain the death penalty as a lawful punishment, with the last executions having taken place in 2016. As of October 2020, there were approximately 355 people on death row.

The Death Penalty Project, UK, in partnership with LBH Masyarakat sought to commission a study looking at the views of Indonesia's 'opinion formers' on capital punishment. The University of Indonesia, Center for Human Rights (Sentra HAM UI), is very pleased to partner on this important work and to have someone as eminent as Professor Carolyn Hoyle, University of Oxford, conduct this research. It focuses on the views of those who work across a broad range of key sectors and who, through their work, help shape and influence opinions. It seeks to provide insights on their level of knowledge, and commitment to retention or abolition. It asks, through a process of interviews, important questions that challenge assumptions on public support, deterrence, and the administration of the death penalty.

It is groundbreaking work and found that most of those interviewed are well informed about the death penalty as it operates in Indonesia. It reveals that only a minority actually support capital punishment, with the majority believing that alternative social measures might prove more effective in reducing violent crime and drug offences. This report should be read together with its companion report *Investigating Attitudes to the Death Penalty in Indonesia – Public Opinion: No Barrier to Abolition*, which sought to look beyond the binary question of whether the general public supports the death penalty or not, and to ascertain information around real levels of knowledge and understanding.

Taken together, this comprehensive set of studies provides – for the first time – a detailed analysis of the views and attitudes of Indonesians on capital punishment and rich data for those interested and involved in this subject matter. It is my sincere hope that this research will open a further and more informed dialogue across Indonesia and encourage policymakers and other societal leaders to continue discussing the use of the death penalty in Indonesia.

This report makes clear that, among those interviewed, there is a desire for change. Every country must decide for itself when and how abolition should happen, but for any conversation to be meaningful and useful, it must be well informed. It is for this reason that I am pleased to support any work that focuses on education and information, providing Indonesia and its citizens with the data needed to make such important decisions.

Professor Harkristuti Harkrisnowo
Chief of Board of Professors, University of Indonesia

May 2021

Key findings

This report considers findings from interviews with 40 ‘opinion formers’ across Indonesia – people who have jurisdiction over part of the criminal process or who are considered to be influential in shaping, or in responding to, public opinion: three people from leading NGOs; four representatives of the media; six politicians; six lawyers or criminal justice practitioners; four judges; six legal academics in high-status positions; six senior public servants; and five religious leaders. We sought evidence of their knowledge about the current administration of the criminal justice system, and the death penalty in particular; of their views on capital punishment; and of their rationales for those views, as well as their likely responses to changes in penal policy.

It is a companion report to our study *Public Opinions on the Death Penalty in Indonesia*, and is best read alongside that report. Together, these reports indicate that the opinions of Indonesian citizens on the death penalty do not present a barrier to abolition.¹

We found that **two thirds (67%) of opinion formers supported the abolition of the death penalty**. Most saw it as an **abuse of human rights**.

Most retentionists among our interviewees **supported the death penalty** because they believed it **deterred both murder and drug trafficking**, but they did not want it to be widened in its scope. Both retentionists and abolitionists thought that, **if it is kept, it should be only for ‘extraordinary’ crimes**, though by this they meant those offences for which it is typically imposed: drug trafficking, murder and terrorism. **All wanted ‘vulnerable’ people to be excluded from capital punishment, most obviously children, the elderly and pregnant women, but including those with mental and physical disabilities.**

Most interviewees were **reasonably well informed about the administration of, and research on, the death penalty**, but abolitionists were better informed than retentionists. However, most interviewees thought that **political decision-makers are poorly informed** about research and about how the death penalty is used in practice.

¹ Hoyle C., *Public Opinions on the Death Penalty in Indonesia*, The Death Penalty Project 2021.

Both abolitionists and retentionists **thought that the government retained the death penalty** because it was believed to be necessary to **deter drug trafficking**, but also because it was thought that the **majority of citizens are in favour** of retention.

Respondents overwhelmingly cited **deterrence** as the primary purpose of sentencing. However, all interviewees had much more faith in **'more effective policing'** and in **social measures** (such as **reducing poverty**) than in the death penalty as a means of **reducing violent and drug offences**. When asked about the **best crime-reduction methods**, only two mentioned the death penalty for drugs and **no-one thought the death penalty would be effective in preventing murders**.

While the majority of interviewees felt that drug traffickers were less likely to target countries that retain the death penalty, most **did not think that abolition of the death penalty in Indonesia would lead to higher rates of drug use, drug trafficking, or drug-related deaths**.

The majority of interviewees had **low levels of trust in the Indonesian criminal justice system** to offer adequate safeguards, and **low trust in the police**, with half demonstrating low trust in prosecutors and a third showing **low trust in the courts**. Retentionists were more likely to think that wrongful convictions were rare, and more likely to have trust in prosecutors and the courts than abolitionists.

When offered a series of possible public reactions to abolition, the most frequently cited response was 'there might be SOME demonstrating or expressions of dissatisfaction leading up to abolition, but **the majority of the public would come to accept it once the law was passed**'. Most of those who identified as retentionists stated that, while they would not personally be in favour of abolition, they **would not oppose it**.

A close-up photograph of a hand gripping a metal bar, overlaid with a red tint. The hand is positioned in the lower right quadrant, with fingers wrapped around the bar. The background is blurred, showing vertical lines of light and shadow. The overall color scheme is dominated by red and dark tones.

PART ONE

The purpose of the study

1.1 The context

Since the closing decade of the twentieth century, the driving force for the new wave of abolition of the death penalty has been the development of international human rights law. Arising in the aftermath of the Second World War, and linked to the emergence of countries from totalitarian imperialism and colonialism, international human rights principles created a climate and a set of universal instruments advocating the protection of citizens from the power of the state. Among these instruments, and key to the progressive restriction of the death penalty, has been the International Covenant on Civil and Political Rights (ICCPR), which restricts the death penalty, pending abolition, to only the ‘most serious’ crimes. Indonesia ratified the ICCPR in February 2006.

The Safeguards *Guaranteeing Protection of the Rights of Those Facing the Death Penalty*, adopted by the UN Economic and Social Council in 1984, and revised since, defined the scope of ‘most serious crimes’ to nothing ‘beyond intentional crimes with lethal or other extremely grave consequences’. This rather imprecise definition of ‘most serious’ has not restricted capital punishment to only intentional murder, and certain states continue to impose the death penalty for drug trafficking, political and religious offences, and even sexual behaviours that, elsewhere, would not be criminalised.

Those countries that retain the death penalty for a range of non-lethal offences assert their sovereign right to determine which offences cause most serious harms within *their* communities. That there are such varied interpretations of ‘most serious’, according to national fears or religious and political imperatives, suggests the converse of a *universal* notion of human rights and indicates that treaties cannot realise their full potential without political will. In Indonesia, political will would appear to be against abolition of the death penalty while the public is thought to demand it, and while drug offences remain a key concern within the criminal justice system. However, differences in criminal justice and penal policies across South East Asia suggest that the death penalty is not an inevitable response to the drugs ‘problem’.

In Indonesia, as elsewhere, drugs can cause considerable harm to those who use them and who distribute illicit substances – not least, health problems, crime and poverty. Indonesia has responded primarily through criminal justice policy, with the enactment in 1997 of most of its harsh contemporary drug laws, further amended in 2009.² Indeed, most funding has been directed towards drug-control activities in a ‘war on drugs’, rather than public-health-oriented programmes, in spite of evidence that harsh penalties have had little impact.³

Rising levels of production and trafficking of drugs within South East Asia, with the ensuing increasing affordability of proscribed substances, have led the authorities in Indonesia to claim they are in a state of emergency.⁴ If that is so, it is an emergency shared by her neighbours. But notwithstanding common experiences, the search for solutions has taken countries in somewhat different directions in relation to the death penalty.

Drugs are trafficked across Cambodia’s borders with Thailand and Vietnam, though the state has had no recourse to the death penalty since abolition in 1989. The only other South East Asian state to have abolished the death penalty is the Philippines, and, yet there, President Rodrigo Duterte is trying to

² Stoicescu C. and Palmer W., Drugs and Drug Policy, *Inside Indonesia* 173 2019.

³ Rowe E., From Drug Control to Harm Reduction, *Inside Indonesia* 137 2019.

⁴ Bayuni E., Commentary: Capital Punishment and Public Opinion, *The Jakarta Post*, 23 January 2015.

reintroduce the death penalty specifically for drug-related crimes. This would clearly be in contravention of international law, given that the Philippines is a state party to the Second Optional Protocol to the ICCPR, but Duterte's populist politics have considerable support within his country, as well as among other leaders in the region.⁵

Myanmar, abolitionist in practice, imposed just four death sentences in 2019, none for drug offences, though it produces – and sells to its neighbours – significant quantities of illegal drugs. Sri Lanka, also abolitionist in practice for some 44 years, has nonetheless made clear its intention to resume executions, and almost half of its new death sentences in 2019 were for drug-related offences. While Thailand retains the death penalty for drug trafficking, there have been no executions for drug offences for a decade. Malaysia imposed 26 new death sentences in 2019, more than three quarters of which were for drug trafficking. This increased further the population of more than 1,200 people on death row, 70% of whom are convicted for drug trafficking. However, Malaysia is in the second year of a moratorium on executions, and has suggested it may review abolition of the mandatory death penalty for drug trafficking, following a report by a special committee set up by the government to review alternative sentences to the mandatory death penalty, and submitted to the government in July 2020.

As the death penalty is a state secret in Vietnam, data are not reliable. However, Amnesty International estimates that at least 76 death sentences were imposed in 2019, the majority of which were for drug offences.⁶ Singapore continues to impose harsh penalties for drug offences, including long terms of imprisonment and whipping.⁷ Twelve new death sentences, and two of Singapore's four executions carried out in 2019, were for drug trafficking.

Within these diverse responses to drug offending, Indonesia would appear to sit somewhere between Singapore and Vietnam on the one side, and the remaining neighbouring countries on the other – though, for this purpose, the Philippines is rather hard to categorise, given its current proclivity for extrajudicial executions for drug-related offences.

For decades, Indonesia's commitment to the death penalty for drug traffickers has been visible in the steady pace of death sentences. Over the past 20 years, this has put almost 300 people on death row, about 186 of whom are convicted for drug offences, and produced 44 executions, 24 for drug trafficking. Meanwhile, in 2019, Indonesia imposed 60 new death sentences for drug trafficking, three quarters of all death sentences imposed (80), eight of which were imposed on foreign nationals.

Furthermore, its current President, Joko Widodo, made apparent his pro-death penalty stance for serious drug offences soon after taking office, as part of his efforts to cultivate an image of being tough on law and order. By way of example, in December 2014 he declared that he would refuse clemency to all drug offenders on death row as a necessary measure to counter the 'drugs emergency', and, since then, politicians have promoted the merits of a zero-tolerance approach to drugs.⁸ Hence, the government justified the 18 executions for drug offences in 2015 and 2016 in terms of a state of emergency caused by drugs.⁹

⁵ Kenny P., Populism and the War on Drugs in Southeast Asia, *The Brown Journal of World Affairs* 25(2) 2019, pp.121-136.

⁶ *Death Sentences and Executions 2019*, Amnesty International 2020.

⁷ Clift-Matthews A. and Jabbar P., Singapore Should be Ashamed of Lashings, *The Times*, 3 September 2020.

⁸ Gunawan R. and Pamintori R.T., Populism Versus Justice, *Inside Indonesia* 137.

⁹ Maulana A., *Indonesia: Indonesian Death Row and Problems of Unfair Trial*, Asian Human Rights Commission 2018.

Claims about drug fatalities sustain the belief that only the harshest punishment – death – is appropriate for drug traffickers. Political rhetoric, and, most likely, judicial sentencing, relies on official statistics on drug-related deaths that suggest drug misuse has devastating consequences for the health of the nation. In January 2015, following executions, the government claimed that between 55 and 85 people died each day from drugs. These figures were revised to approximately 20-25 in 2018, suggesting a strong downward trend in recent years.¹⁰ That said, there is little transparency around any of these numbers. The figures on drug deaths cited by the President to justify the executions in 2015 are recognised by social scientists to be based on questionable methods and vague measures.¹¹ Indeed, there seems to be no workable or precise definition of ‘drug-related deaths’. Either way, it would now be hard to find a clear relationship between declining deaths and executions, given that there has been none over the past few years.

Notwithstanding these shaky premises, proponents of capital punishment claim, without rigorous evidence, that Indonesian society, including its opinion leaders, are committed to the death penalty – and, further, that it must be retained for its deterrent effect.¹² The beliefs in deterrence and in the destructive power of drugs are reciprocal, with each reinforcing the other in a discourse that closes off thoughtful consideration of the facts. While more than five decades of robust research on the deterrent effects of the death penalty, especially in the United States, have established no deterrent effect from either death sentences or executions, we have, as yet, no reliable data on the possible deterrent effect of the death penalty in relation to drug offending in this region.¹³

Alongside an unfaltering belief in the deterrent effect of the death penalty, the Indonesian government cites public support as a key reason for retaining the death penalty for what it deems to be serious offences. In early 2019, we conducted a scoping study in Indonesia, including a series of interviews with criminal justice and human rights experts, to explore the apparent appetite for capital punishment.

It soon became apparent that there is, in Indonesia, a growing abolitionist movement, with various human rights charities actively gathering data on, and supporting, vulnerable defendants sentenced to death and executed without adequate due process of law, and without access to many of the safeguards that should be in place in any country that retains the death penalty. However, it was apparent that, in their activism, they experienced entrenched and uncompromising views on capital punishment, as did we.

We identified three key assumptions behind the commitment to capital punishment, not only within government, but also across criminal justice institutions and parts of the media:

1. That the public is strongly in support of the death penalty, particularly for drug offences
2. That the death penalty is an effective deterrent against such crimes
3. That those under sentence of death are the ‘worst of the worst’ offenders – the drug ‘kingpins’ and not the foot soldiers.

Though these as common rationales for retention, our interviews and meetings suggested insufficient knowledge, and some misunderstanding, among those political and criminal justice ‘elites’ to whom we spoke, about the use and administration of the death penalty. It became clear that current debate was characterised by a populist agenda and some misinformation, particularly on the ‘drugs emergency’.

¹⁰ Interviews with senior officers at the BNN (National Narcotics Board of Indonesia), January 2019.

¹¹ Stoicescu C., Indonesia Uses Faulty Stats on ‘Drug Crisis’ to Justify Death Penalty, *The Conversation*, 5 February 2015.

¹² McRae D., *A Key Domino?: Indonesia’s Death Penalty Politics*, Lowy Institute for International Politics 2012.

¹³ Fagan J., *The Feasibility of Systematic Research on the Deterrent Effects of the Death Penalty in Indonesia*, The Death Penalty Project 2019.

Furthermore, we could identify no rigorous empirical data to support – or, indeed, to refute – any of these widely held assumptions. So, we embarked on a programme of research, conducting a public opinion study of 1,515 respondents across Indonesia and research on the views of Indonesia’s ‘opinion formers’ during 2019-20. We are currently conducting preliminary research on deterrence for drug offences in Indonesia.

1.2 The rationale for research on ‘opinion formers’

Around the world, where abolition has come about, it has not been as a result of the majority of the general public demanding it. It has been driven by the ‘elites’. Yet, when faced with critics of the death penalty, governments in retentionist countries typically fall back on the argument that the public are not ready for abolition, and that political leaders should represent ‘the will of the people’ if they are to remain in power.¹⁴ But who can shift the will of the people, especially if it is based on fallacious information and fears stoked by those institutions whose remit is to protect citizens?

Politicians, religious leaders, influential people in civil society and the criminal justice system, as well as key members of the media, can all be considered elites, ‘opinion formers’ whose views influence government, but also, importantly, who can sway public opinion. They hold, or have held, privileged positions in society and, as such, can have more influence on political outcomes than others. And yet, before The Death Penalty Project began to commission a series of ‘elite’ opinion studies, there was little research to establish what ‘opinion formers’ think about the death penalty in various jurisdictions, what shapes those opinions, and whether or not such people could be relied on to support government initiatives towards abolition. Without this knowledge, efforts to educate the public on crime and justice, and to influence governments in retentionist countries, will likely be thwarted.

Knowing what opinion formers understand about crime and justice, and what they believe the death penalty provides that other non-irrevocable and more humane punishments cannot, is crucial to shaping discourse and, ultimately, penal policy. Interviews with opinion formers offer insights into the mindset of those who play a key role in informing and influencing society.¹⁵

Hence, we developed research on the knowledge and opinions of *both* the public and key opinion formers, to identify rationales for the retention and administration of the death penalty and beliefs about its utility. Both of these projects were aimed at increasing awareness and knowledge by the executives, parliamentarians, those working within the criminal justice system, the media, and the wider public, with the broader goal of strengthening democratic governance and promoting informed and constructive dialogue on the death penalty in Indonesia.

Most of the questions we asked of the 40 opinion formers were also asked of the public in the wider survey. Hence, we understand support for abolition or for retention across the public and ‘elites’, as well as their rationales for these views. We have robust data on their understanding of the safety or efficacy of the criminal justice system in Indonesia – in particular, the administration of the death penalty, and whether support for the death penalty is sustained when people are given information about its use in relation to particular offenders or offences, or its failure to prevent serious offending. We also sought information

¹⁴ Hood R. and Hoyle C., Towards the Global Elimination of the Death Penalty: A Cruel, Inhuman and Degrading Punishment, in Carlen P. and Franca L. (eds.) *Alternative Criminologies* (Routledge 2018) ch.24.

¹⁵ Richards D., Elite Interviewing: Approaches and Pitfalls, *Politics* 16(3) 1996, pp.199-200.

in both studies on what factors beyond the borders of Indonesia might influence views on penal policy. As such, these two studies, when read in conjunction, have the potential to inform discourse, as well as policy and practice.

These reports are offered for deliberation by all stakeholders in the criminal justice system, as well as those organisations in civil society that support the human rights of all, including those affected by crime. It is hoped that they will contribute to high-level discussions, as well as debates in the media, and be considered by those involved in the process of revising the Criminal Code, thereby informing any future programme to promote legislative reform in Indonesia.

The data presented below demonstrate that any support for capital punishment among opinion formers must be considered within the context of their lack of trust in the criminal justice system of Indonesia to produce fair and reliable decisions on guilt, and their somewhat ambivalent rationales for sentencing people to death. The report might encourage consideration of policies and practices that could reduce reliance on capital punishment, progressively restrict its use, and, ultimately, could bring about abolition. In particular, our findings provide evidence of the need for viable alternative responses to drug offending for Indonesia and neighbouring South East Asian countries with similar problems.

1.3 Research design and methods

In early 2019, we conducted a scoping study to identify the key issues for investigation and to establish the best methods to collect data. This included interviews with criminal justice personnel, academics and civil society representatives, as well as a comprehensive study of reports and other outputs on the death penalty, and on drug offences, in Indonesia. Working with the Departments of Law and Criminology at the University of Indonesia, we launched a pilot study for our qualitative research on the views of opinion formers, to test our instruments and methods, and the feasibility of conducting this research. Drawing on the findings of our feasibility study,¹⁶ we held a series of meetings, including a roundtable session with our partners and key stakeholders in government and the criminal justice system, to plan the full study.

While this survey instrument was designed to take account of jurisdictional particularities and knowledge gained from our scoping study, it also built on our experience of conducting elite opinion work in Bangladesh, India,¹⁷ the Eastern Caribbean and Barbados,¹⁸ and Zimbabwe¹⁹, to allow for comparative work (in the ‘Findings’, below, where instructive, we compare our data with the findings from these similar studies). We added questions that focused on the use of the death penalty for drug offenders, given the weight of that issue in Indonesia, and a set of questions about penalties alternative to death.

To assess whether drug crime policy may be influenced by an understanding of wider regional policies and practices, and a fear of the adverse effects of having less serious punishments than other countries nearby, we asked a set of questions about Indonesia’s policies and practices in relation to other South East Asian countries. These additional questions were aimed at testing a theory of jurisdictional competition,

¹⁶ Hoyle C., *The Feasibility of Conducting Research on Attitudes Towards the Death Penalty in Indonesia: Elite and Public Opinions*, The Death Penalty Project 2019.

¹⁷ Hoyle C. and Lehrfreund S., Contradictions in Judicial Support for Capital Punishment in India and Bangladesh: Utilitarian Rationales, *Asian Journal of Criminology* 1 2019, pp.1-21; see also Matters of Judgment: A Judges’ Opinion Study on the Death Penalty and the Criminal Justice System, *National Law University of Delhi* 2018.

¹⁸ Hood R. and Seemungal F., *Sentenced to Death Without Execution: Why Capital Punishment has Not Yet Been Abolished in the Eastern Caribbean and Barbados*, The Death Penalty Project 2020.

¹⁹ Hoyle C., *Time to Abolish the Death Penalty in Zimbabwe: Exploring the Views of its Opinion Leaders*, The Death Penalty Project 2020.

which suggests that a state that adopts policies harsher than its neighbours will encourage displacement of criminal activity to neighbouring states, as criminals may seek to lower their punishment risks (arrest) and costs (prison or death) (see Appendix A for the interview schedule).

Given that minor changes were made to the interview schedule following our pilot study, we do not include the findings from the pilot interviews in this report, but the reader can find that analysis in our feasibility study.²⁰ For the main study, we aimed to interview approximately 40 ‘opinion formers’ across Indonesia – people who have jurisdiction over part of the criminal process or who are considered to be influential in shaping, or responding to, public opinion. We hoped to interview judges, prosecutors, defence lawyers, politicians (both government and opposition), community elders, religious leaders, journalists, and others who may influence policy in the smaller islands.

Having consulted with our partner organisations and with other key stakeholders, and drawn up a representative list of potential ‘opinion formers’ to interview, in November 2019 we recruited three researchers to conduct face-to-face interviews in Bahasa Indonesia and to transcribe those interviews. We conducted methods training for the researchers over two days and, following practice interviews with the team, made minor adjustments to the research tool, including developing a series of ‘interview showcards’ to help the interviewer share with the interviewee possible responses to certain questions. These were aimed at reducing the time spent during an interview, but also at helping the researcher to administer the interview tool, and to reduce error and non-compliance.

With the support of a local human rights NGO, LBH Masyarakat, and a locally based research associate from the University of Oxford, we established a supervisory team based in Jakarta to continue to work closely with the three researchers and collate the interview data. A team of translators at LBH Masyarakat translated the interview transcripts to English before transferring the data to the University of Oxford.

All those who were invited to be interviewed were provided with participant information sheets that explained: the purpose of the research; that it was being conducted by an independent academic institution; that all interview data would be confidential; that any quotations would be fully anonymised before publication; and that they could withdraw their cooperation with the project at any stage. All those who agreed to be interviewed signed informed consent sheets. Two people refused to be interviewed, another three did not respond to repeated requests for an interview, and two initially agreed to an interview, but then did not respond to invitations to settle on a date. By the end of the fieldwork period, we had completed our target of 40 interviews; all except one were digitally recorded and transcribed, with detailed notes taken for the interview that was not recorded because of a malfunctioning of the recording device. All but the last four interviews were conducted face to face (the final interviews were done via a videoconferencing platform under ‘lockdown’ conditions during the early days of the COVID-19 pandemic).

The interviewees came from diverse backgrounds and were broadly representative of the statutory, parliamentary and civil society institutions, with expertise in the criminal justice system. They comprise three people from leading NGOs; four representatives of the media; six politicians; six lawyers or criminal justice practitioners; four judges; six legal academics in high-status positions; six senior public servants; and five religious leaders.

²⁰ Hoyle C., *The Feasibility of Conducting Research on Attitudes Towards the Death Penalty in Indonesia*.

Notwithstanding considerable efforts, and our clear commitment to anonymising all interview data, we were unable to persuade police officers and prosecutors to take part in the research. The experience of the team suggests that it is rarely possible in Indonesia to elicit the views of these opinion formers on the death penalty, given that they see their mission as speaking and acting on behalf of an institution that is required to uphold the law as established by parliament. Hence, it is unlikely that we would have elicited views different from current policy. While our interviews were long and covered considerable ground, not all interviewees were fully responsive to the range of questions – and, sometimes, the interviewers struggled to keep the discussion fully focused on the questions and the main issues raised by those questions. In some cases, certain questions were not answered by the interviewee, so our data are not complete for all questions. Where the data are incomplete, we alert the reader to this with the expression ‘of those who answered...’. The question number is recorded for all relevant data in the findings, with the survey instrument reproduced at Appendix 1.

A close-up photograph of a hand gripping a metal bar, overlaid with a red tint. The hand is positioned in the lower right quadrant, with fingers wrapped around the bar. The background is blurred, showing vertical lines of light and shadow. The overall color scheme is dominated by red and dark tones.

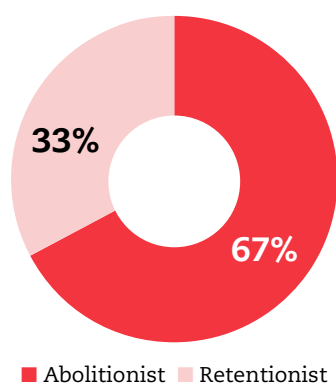
PART TWO

The findings

2.1 Support for abolition of the death penalty

The majority (67%) of those opinion formers we interviewed were in favour of abolition of the death penalty, with only one third (33%) in support of retention (see Figure 1) [see Q3 of the survey reproduced in the Appendix]. Most of those in favour of abolition were ‘strongly/firmly’ in favour, with only three interviewees indicating that they ‘tended’ to favour abolition. Whereas half of those who favoured retention were strongly in favour, the other half only tended to favour retention. Hence, only 15% of the 40 opinion formers were strongly in favour of the death penalty.²¹

Figure 1: Participants’ views on abolition or retention



Those we interviewed who identified as abolitionists were asked to rank their main reasons for supporting complete abolition and, as Table 1 shows, the most highly ranked answer was ‘it is an abuse of human rights’, followed by ‘it has no special or extra deterrent effect than a long term of imprisonment’ and ‘people may be wrongfully convicted and executed’ [Q6]. In this regard, participants ranked the possible answers in a very similar order to those abolitionist opinion formers who were interviewed in Zimbabwe and the Eastern Caribbean. In expanding upon their answers to this question, they made the following assertions relating to deterrence, human rights and the risk of wrongful convictions:

There is no quantitative or objective evidence that the death penalty deters.

The right to life is non-derogable. The government has no legitimacy to take away the right to life in the name of the law.

There is a grave possibility that the judge is wrong.

In addition to such statements, others emphasised that the death penalty is a vengeful practice that contravenes religious teachings; indeed, many claimed that ‘death is God’s authority’. Others placed emphasis upon the importance of rehabilitation. It was also highlighted that the death penalty is in violation of the right to life as guaranteed by the Indonesian Constitution, and goes against Pancasila (traditional Indonesian philosophical teachings) on just and civilised humanity.²²

²¹ While this is fewer in favour of abolition than we found in Zimbabwe, the proportion is greater than across the Eastern Caribbean. See notes 18 and 19.

²² Pancasila represents the foundational principles and philosophy of the newly independent Indonesian state as promulgated by President Soekarno in 1945. The five principles are Indonesian nationalism, internationalism or humanism, consent or democracy, social prosperity, and belief in one God.

Table 1: The reasons why abolitionists wish to abolish the death penalty

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

* responses are ranked from the most (1) to the least (11) frequently cited reason

Retentionists were asked why they are in favour of retaining the death penalty [Q5]. As Table 2 (on page 22) illustrates, most thought ‘it is necessary to deter people from murder’, with many others arguing ‘it is necessary to deter people from drug trafficking’. Participants’ comments throughout our interviews similarly emphasised deterrence.²³ For example, one interviewee explained:

I have observed the situation in Indonesia... the threats of extraordinary crime, especially drugs and terrorism, are still massive. This is why we need stricter regulations [and] more rigid ones, so that people will reconsider their intention to commit a crime.

²³ In this regard, our interviewees differed from those in Roger Hood’s study of the Eastern Caribbean, where the majority of retentionists supported the death penalty for retributive reasons, and not because they thought it would deter serious crime (see Hood and Seemungal, *Sentenced to Death Without Execution*).

Table 2: The reasons why retentionists wish to retain the death penalty

Ranking	Reason
1	It is necessary to deter people from murder
2	It is necessary to deter people from drug trafficking
3	My religious beliefs support the death penalty
4	There will always be some criminals who deserve to be executed
5	Relatives and others might take matters into their own hands without the death penalty
6	Because I believe public opinion is in favour of the death penalty for serious crimes
7	Relatives of victims need to be satisfied
8	Other reason

* responses are ranked from the most (1) to the least (8) frequently cited reason

2.2 Strength of support for the death penalty

Superficial surveys that fail to measure the strength or malleability of support for capital punishment tell us little about any disquiet among those who initially purport to be retentionists. Such knowledge is helpful in any campaign to move discourse beyond the rather crude analysis that the death penalty is necessary to prevent serious crime and because the public demand it, given the complexity and the fallibility of those assumptions. We return to this issue in our final section, but, for now, we probe further the views of those who told us they favoured retention of the death penalty to see how entrenched support for capital punishment is among some opinion leaders.

Retentionists were asked if they would change their mind about support for the death penalty if an independent and rigorous public opinion survey found that only a minority of respondents supported it [Q8]. Of those who answered, 71% stated that, notwithstanding such research, they would definitely still be opposed to abolition, but more than a quarter (29%) claimed they would probably support abolition in that case. Furthermore, of those respondents who said that such a survey would not diminish their support, many mentioned that this was because they had methodological concerns about a survey, specifying that it would be extremely challenging to reach the entire population of 260 million people. This suggests that they were swayed by their perceptions about the impracticality of a 'rigorous' survey, rather than the results themselves. It is not surprising that they did not understand that a survey of a large population does not have to reach the total population to be robust; that as long as a sample of the population is selected on a random basis, according to defensible stratification criteria, it can represent the whole population. But it is interesting that their responses suggest more than 29% could, in fact, be persuaded towards an abolitionist position by survey data showing that only a minority of the population supported retention.

Retentionist participants were presented with actual and hypothetical international and regional abolition trends, and asked about what influence this information might have on their feelings about retaining the death penalty in Indonesia. They were told that 'since 1989, the number of countries worldwide that have completely abolished the death penalty has risen from 35 to 105' and asked if this affected their views on abolition [Q16]. All of those who answered stated that this made no difference to their views; they would

still oppose abolition. The justifications they provided spoke to their belief in the uniqueness of Indonesia in terms of geography and politics:

Our country is large, there are hundreds of ethnic groups, there is diversity. On top of that, we are facing real threats, such as drug trafficking, terrorism, and so on. I think that we must construct our own mindset instead of letting us get affected by the situation in other countries. It is all about necessity; how the law regulates is derived from the people's necessity.

To test whether geographical proximity and shared experience of crime and politics shifted their position, retentionists were asked, 'if a country in South East Asia abolished the death penalty, would that affect your views on whether Indonesia should abolish?' [Q17]. Again, all of those who answered stated that this would make no difference to their views; they would still oppose abolition. Notwithstanding similarities with jurisdictions close by, they invoked the same arguments about the particularities of the Indonesian context, in terms of the vast population and different law enforcement challenges they face.

To assess the role that religion might play in retentionists' views on the death penalty, they were asked 'if another Muslim-majority country abolished the death penalty, would that affect your views on whether Indonesia should abolish?' [Q18]. Here, we found some small movement in opinion, though the majority stated that they would still be opposed to abolition. By way of explanation, some suggested that the cultural context can be different despite the shared faith. As one interviewee stated, 'Definitely no! Saudi Arabia is not Indonesia, right? [*Laughing*]. Even Brunei is different from Indonesia'. It would seem that those opinion formers in Indonesia who support the death penalty will not easily be swayed by changing penal policies elsewhere. Of course, this finding might simply reflect the occupations of many of our interviewees, who were primarily focused on Indonesia. We must assume that, had we interviewed some of those government officials whose role is more outward-looking, such as ministers for foreign affairs, we would likely have found that criminal policies in the wider region would be more influential.

However, being in favour of retention does not inevitably mean being in favour of the current administration of the death penalty. So, we asked those who had identified as retentionists if they were in favour of the status quo (retention of the death penalty in its current form), or if they would prefer that the death penalty be restricted in its scope and application, or less restricted (that is, with widening of its scope, which would result in more death sentences and executions) [Q4]. The majority of those retentionists who answered asserted that the death penalty should be retained and left as it is (a preference for the status quo).²⁴ Participants qualified this by stating that 'the requirements for a person to be sentenced to death are sufficient'; arguing that it is the only suitable punishment for heinous crimes and invoking religious justifications (as well as its deterrent purpose, as mentioned above). However, some voiced concerns over the 'certainty of its implementation'. In particular, they were worried that deterrent and other positive effects could be compromised by the length of time between the sentence and execution. They pointed out that this is variable and can be extensive, and it is often uncertain whether the sentence will be overturned on appeal.

Normative questions about limits to the scope of capital punishment, put to both groups of respondents, suggested that none of them wished to widen the scope of capital punishment in Indonesia. We encouraged them to consider if there are any types of crimes for which a death penalty should *never* be

²⁴ As explained above, not all interviewees answered every question. Sometimes, they deviated from the question asked and the interviewer did not return to it at a later stage.

imposed [Q23]. Significantly, 100% of both retentionists and abolitionists who answered agreed that there should be crimes for which the death penalty should never be imposed. Retentionists thought that the death penalty should only be retained for ‘extraordinary crimes’, such as murder, terrorism, and drug-related crimes (and one participant mentioned robbery with violence). They argued that the death penalty is not a fitting punishment for crimes such as rape, theft, fraud, embezzlement and political crimes. Meanwhile, not surprisingly, the majority (56%) of abolitionists believed that the death penalty should be abolished for all crimes, though a few conceded that if the death penalty were to be retained, it should only be for ‘extraordinary crimes’.

In a similar vein, interviewees were asked whether there are any groups of people who should, on principle, be excluded from capital punishment [Q24]. Of those who responded, 75% of retentionists and 100% of abolitionists answered in the affirmative. The retentionists were of the view that children, pregnant women, the elderly, and those with mental or physical disabilities should never be subjected to capital punishment. The majority (52%) of those who had identified as abolitionists insisted that all people should be exempt from capital punishment, but the rest specified that children, women, the elderly, and people with mental disabilities should always be exempt. These answers are largely in keeping with international norms.

2.3 Participants’ knowledge about the death penalty

At the start of the interview, participants were presented with a series of ‘Main Facts’ about the death penalty in Indonesia, to ascertain on what knowledge of its administration their opinions were based [Q1]. They were asked which, if any, of this series of facts they had not been aware of. While more than half of the respondents (both retentionists and abolitionists) knew *all* the facts, and only one interviewee knew none of the facts, most said they were familiar with the majority of the facts presented. In this regard, opinion formers in Indonesia were well informed, like those in Zimbabwe and the Eastern Caribbean.

The fact least well known among participants (not known by 18%) was that ‘there were more than 260 prisoners under sentence of death at the end of 2017’, and 13% did not know that Indonesia had abstained at the last UN resolution on a moratorium against the death penalty. However, only two interviewees were unaware that between two thirds and three quarters of those sentenced to death are convicted of drug-related offences, suggesting they are particularly cognisant of its regular application for drug crimes.

A further comparison of retentionists’ and abolitionists’ knowledge can be made by drawing on data from a series of questions designed to ascertain their personal knowledge of research and policy developments concerning the death penalty, as well as their perceptions of political decision-makers’ knowledge on these matters [Q9-Q12]. We asked them about their knowledge of robust evidence from other countries about deterrence and wrongful convictions, and we asked about a report that had been published in Indonesia on inadequate fair trial and pre-trial processes. Their responses to these questions about their knowledge of relevant research and policy showed that, on average, they ‘know something about’ these bodies of research, and that those who supported abolition were better informed on these matters than those who identified as retentionists. However, they believed that political decision-makers were uninformed about this research, including research published about the Indonesian criminal justice system. The exception to their lack of confidence in knowledge and understanding among political decision-makers was found in our question about the new Draft Bill on the Criminal Code of Indonesia. They believed that political

decision-makers were ‘very well informed’ about the Bill, given that the planned changes are being implemented by government. (see Table 3).

Table 3: Participants’ knowledge, and their perceptions of political decision-makers’ knowledge, of research and policy on the death penalty

There is robust evidence from America and Singapore to show that the death penalty has no extra deterrent effect on the murder rate beyond the deterrent effect of long-term imprisonment.
On average, participants answered that they ‘know something about it’.
Abolitionists tended to be better informed than retentionists.
When asked about political decision-makers’ knowledge of this fact, respondents most frequently answered that they are ‘uninformed’ about this – albeit, some participants argued that politicians are simply unwilling to accept or acknowledge this fact.
There is robust evidence from other countries regarding the inevitability of error and conviction of the innocent in countries that retain the death penalty.
On average, participants answered that they ‘know something about it’.
Abolitionists tended to be better informed than retentionists.
When asked about political decision-makers’ knowledge of this fact, respondents most frequently answered that they are ‘uninformed’ about this. However, a few mentioned that the Sengkon and Karta case had drawn the public’s attention to this matter. ²⁵
In 2015, the Institute for Criminal Justice Reform published a report on unfair trial and pre-trial processes for those charged with capital offences in Indonesia (Overview on Death Penalty in Indonesia).
On average, participants answered that they ‘know something about it’.
Abolitionists tended to be better informed than retentionists.
When asked about political decision-makers’ knowledge of this report, respondents most frequently answered that they are ‘uninformed’ about this. Participants cited the difficulty of translating NGO’s research findings into widely disseminated public knowledge.
There are plans to change the approach to the implementation of the death penalty in the new Draft Bill on the Criminal Code of Indonesia.
On average, participants answered that they ‘know something about it’.
Abolitionists tended to be better informed than retentionists.
When asked about political decision-makers’ knowledge of this report, respondents most frequently answered that they are ‘very well informed’ and stated that this is because these planned changes are being implemented by the government.

From the above, we can conclude that, on the whole: opinion formers are reasonably knowledgeable about research and policy on the death penalty; abolitionists are better informed than retentionists; and, with the exception of the plans to revise the Draft Bill on the Criminal Code of Indonesia, the perception among opinion formers was that political decision-makers are poorly informed. In all respects, our findings are similar to those in Zimbabwe and the Eastern Caribbean.

²⁵ Supreme Court Decision No.6 PKK/Kr/1980, 31 January 1981. Sengkon and Karta were wrongfully convicted of murder. Six years into their sentence, another man confessed to the crime, however, because the time periods for appeal by the two men had expired, there seemed to be no available remedy to them. Sengkon and Karta’s case became widely publicised, and the case revived reconsideration by the Supreme Court of judicial decisions that had acquired binding legal force, resulting in the exoneration and release of Sengkon and Karta in 1981.

2.4. Participants' views on the safety and efficacy of the criminal justice system

Opinion surveys consistently demonstrate that support for capital punishment is generally contingent on a belief in fair and equitable pre-trial and trial processes.²⁶ Support typically falters with awareness that the criminal process, in all countries, is fallible and can produce wrongful convictions – and, in the case of capital punishment, some executions of innocent people. It is crucial, therefore, to seek empirical evidence on trust in the safety and efficacy of the criminal process among those whose opinions can shape discourse and have an impact on criminal and penal policy. While low trust in the criminal process is not inevitably correlated with low support for capital punishment,²⁷ it can be harnessed by those who wish to challenge the death penalty.

Interviewees were asked their views on how often wrongful convictions occur in Indonesia [Q25]. Retentionists most frequently answered that wrongful convictions ‘rarely’ occur (70% of those who answered), whereas abolitionists most frequently answered ‘sometimes’ (36% of those who answered). This suggests that retentionists have greater faith in the safety of convictions. In explaining their answers, several of the abolitionist participants made a point of differentiating between two different types of wrongful conviction: on the one hand, errors in criminal proceedings (actual innocence), and, on the other hand, sentencing errors (where the sentence is disproportionately harsh), and stated that the latter error occurs most commonly.

Next, interviewees were asked how often they think the Indonesian criminal justice system offers adequate safeguards to *prevent* miscarriages of justice [Q26]. Overall, participants (across both retentionists and abolitionists) most frequently answered that the system only ‘sometimes’ offers adequate safeguards (38% of those who answered). But almost two thirds of respondents (63%) chose answers that suggest low trust in the system: ‘never’, ‘rarely’ or ‘sometimes’. Respondents explained that there is a gap between the legal rights of the defendant, protected in the Criminal Procedure Code and the Constitution, and the actual implementation of safeguards; in other words, a gap between the law in books and the law in practice. To offer a specific example, one interviewee stated that narcotics cases usually involve foreigners, and that this poses significant due process challenges, as, often, defendants do not have the assistance of an interpreter at the various stages of the criminal justice system, despite laws being in place to provide interpretation during police questioning and trials, and despite international treaties requiring states to provide such assistance.²⁸

Respondents were asked if they think that the police can be trusted to ensure that suspects are treated fairly, and, overall, the most frequent answer was ‘sometimes’ (38% of those who answered) [Q27]. However, half of the respondents answered either that the police could ‘never’ be trusted or only ‘rarely’ or ‘sometimes’. In other words, there was low trust in the police among half of our interviewees. Several mentioned that we cannot generalise, as there may be issues with individual officers but not with the police force as a whole. It was mentioned that the police are regulated by legal provisions such as the Law on Public Services and the Code of Criminal Procedure, though not all had faith that these provisions

²⁶ Hood R., Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys in Eight Countries, *Berkeley Journal of Criminal Law* 23 2018, pp.218-242.

²⁷ Hoyle C. and Lehrfreund S., Contradictions in Judicial Support for Capital Punishment in India and Bangladesh

²⁸ Vienna Convention on Consular Relations 1963, Article 36.

protected all suspects and defendants in practice. Some of our interviewees gave particularly adverse responses to this question, including the following:

The police can't be trusted. Despite some improvements (that came about because they've added human rights into their curriculum), the culture of the police hasn't changed much. That's a big problem in Indonesia. The police are corrupt. The suspects need to pay them – to bribe them – if they want to be treated well. Victims also need to bribe the police to make sure their reports of crime are dealt with.

On the question of whether respondents thought that prosecutors can be trusted to ensure that suspects are treated fairly, there was divergence between the answers of abolitionists and retentionists [Q28]. Abolitionists most frequently answered that prosecutors can only 'sometimes' be trusted (44% of those who answered), whereas retentionists most frequently responded with 'usually' (60% of those who answered), suggesting the latter have more confidence in the prosecutorial service. Overall, half of the interviewees demonstrated low trust in prosecutors. Again, participants emphasised that it depends upon the individual prosecutor. Notwithstanding that caveat, there were calls for greater transparency when it comes to decision-making, in order to combat corruption. This is in spite of the fact that an Anti-Corruption Committee was established in 2003 to oversee the police and prosecutorial service.

On the question of whether defendants are treated fairly in court at trial, retentionists most frequently answered with 'usually' (75% of those who answered), while abolitionists were split between 'sometimes' (35% of those who answered) and 'usually' (35% of those who answered) [Q29]. That said, overall, a third had low trust in the courts. For those who answered positively, there was acknowledgement that the situation has improved now that courts are open for the public to monitor. Conversely, one interviewee provided a critique of the court system's under-capacity:

There are a lot of cases that are going into our courts, and how many judges can really read the case files? The clerk is the one reading them. Some cases that we've assisted showed that it's just a copy-paste decision... Different [cases], but they just copy and paste the verdict; there's even typos. What does this all mean? There are too many files, so they don't have the time to read the files. This is even worse at appeal and cassation levels.

Clearly, our respondents did not demonstrate overwhelming faith in the criminal process, and on certain matters, such as concern about wrongful convictions and trust in prosecutors and the courts, abolitionist interviewees showed much less trust in the justice process than retentionists. Still, the relationship between low trust in the justice system and support for abolition is not straightforward. Exposing flaws in the criminal process can influence opinions on punishment but might not sway those who want harsh penal policies in the belief that they will deter those considering committing serious offences. We wanted to understand participants' views on both the purpose and the efficacy of sentencing, as well as their judgements on other measures that might better reduce crime, to put their views on abolition in a wider penal and social context.

2.5. Participants' views on the purpose and effectiveness of justice measures

Retentionists and abolitionists overwhelmingly cited deterrence as the primary purpose of sentencing an offender to death, though many others mentioned incapacitation [Q22]. In addition, they referred to the death penalty as serving retributive goals, with fairly frequent references to 'punishment', 'justice'

or ‘revenge’ for a heinous crime where the defendant cannot be rehabilitated. Some talked about the death penalty as a legacy of colonialism that has continued to be used as ‘a political tool for national consolidation’, to ‘create an illusion of a strong country’. Furthermore, as was discussed in section 2.1, those participants who supported the death penalty did so primarily because they consider it to be a deterrent to violent crime and drug offending (see Table 2, page 24).

Nevertheless, other similar opinion studies have shown that, while retentionists will explain their support for the death penalty by reference to deterrence – and though abolitionists, too, think this is the main reason why governments retain the death penalty – when asked more general questions about what measures, social or criminal justice, are most likely to reduce crime, they overwhelmingly refer to measures to reduce poverty and improve the moral education of young people, as well as improvements in policing. Few mention more death sentences or more executions.²⁹

Our interviewees were similarly asked to rank measures to reduce *violent* crimes in Indonesia, in order of perceived efficacy [Q13]. Of the retentionists who answered this question, ‘more effective policing in bringing offenders to justice’ and ‘reduce poverty’ were highest ranked. Of the abolitionists who answered, ‘reduce poverty’ was also highest ranked. As one participant explained:

Reduce poverty, because crimes that occur in Indonesia tend to be triggered by economic problems. There are indeed other factors that could make people commit a crime, but the effect is not as significant as economic factors.

While one respondent said that all the measures could be successful, no one chose ‘more death sentences’ or ‘more executions’.

Next, respondents were asked to rank measures to reduce *drug* crimes in Indonesia, in order of efficacy [Q14]. Of the retentionists who answered, ‘more effective policing in bringing offenders to justice’ was the highest-ranked response, with one interviewee remarking, ‘[responding to drug crimes] requires the professionalism of law enforcement officers and networking or synergy with other fields ... because it includes organised crime’. Whereas, of the abolitionists who answered, ‘better control of the drug trade’ was the highest ranked. Some suggested that the drugs trade should be regulated in much the same way that the alcohol and tobacco industries are regulated in Indonesia. Only two respondents suggested that more death sentences and executions would help. Clearly, when asked what works in reducing serious crimes in Indonesia, those with considerable knowledge of the criminal justice system do not reach for the death penalty.

Bearing in mind that almost all of the retentionists we interviewed did not suggest that more death sentences and executions could reduce drug crimes, we asked them if their support for capital punishment would diminish if there was doubt over its ability to deter drug offending [Q15]. The following fact was presented to retentionist participants:

Following the last 18 executions for drug offences (from 2015–16), there was an increase in recorded drug crimes, suggesting that executions had not deterred people from involvement in the drugs trade.

²⁹ See, for example, Hood and Seemungal, *Sentenced to Death without Execution*, and Hoyle, *Time to Abolish the Death Penalty in Zimbabwe*.

When asked if this changed their views on retention of the death penalty for drug offences, all stated 'no', this would not change their views on the death penalty. These are interesting findings. Retentionists justify the death penalty for drugs by reference to its deterrent effect. They then rarely mention the death penalty when asked what might reduce drug crimes and, when provided with information that might challenge deterrence theory, they say this has no impact on their support for capital punishment for drugs. In justifying why it does not change their views, they provided the following justifications, which fail to account for this rather contradictory set of findings:

We cannot arbitrarily conclude that an ineffective death sentence causes the increasing number of drug-trafficking cases ... the reason could be because there are more drug producers.

If there were no death penalty at all, the rate of illicit drug trafficking of narcotics in Indonesia would be far more.

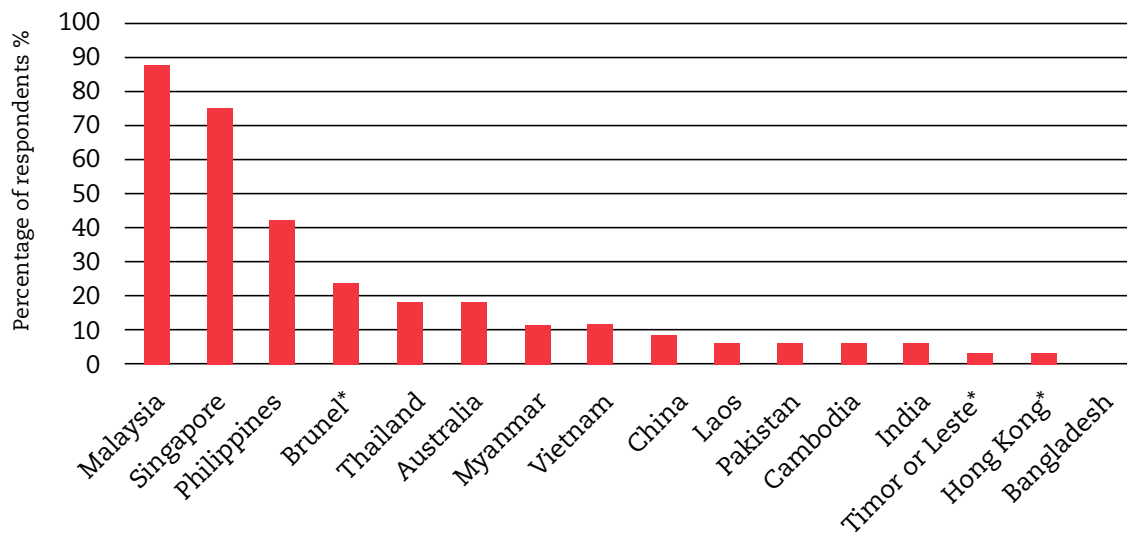
Illegal drug trafficking in Indonesia is supported by its geographic location ... the geography of Indonesia is an archipelago, consisting of approximately 17,000 islands, so that it becomes the right target and excellent opportunity for international trade. The official ports can be counted 1, 2, 3, just a few tens, but there are thousands of illegal ports in Indonesia ... Meanwhile, there are only 460,000 members of the National Police. How do 460,000 policemen control 17,000 islands?

This final comment speaks to concerns among Indonesian opinion formers, as well as among citizens more generally, that Indonesia is vulnerable to the regional drugs trade, and that she must protect her many borders from trafficking in illicit substances produced in neighbouring countries. We sought to explore these views in some depth, in anticipation of finding support for a theory of jurisdictional competition.

2.6. Participants' views on Indonesian crime and justice within a regional context

Indonesians, as with other citizens in the wider region of South East Asia, may fear the potential for adverse effects if they were to have less serious punishments than neighbouring countries. They could worry that drug traffickers in the region would choose to trade in countries where the risks of detection – and, importantly, the costs – are lower. In other words, where they do not risk death if caught. Such concerns could militate against abolition if it was thought that a change in penal policy could increase the attractiveness of Indonesia as a destination country for the sale of drugs. To test our participants' views on this, we asked a set of questions about Indonesia's policies and practices in relation to other South East Asian countries. Before doing so, it was necessary to ascertain which countries our participants considered to be Indonesia's *neighbours* (for example, countries with similar cultures, crime problems, policies, business links or reciprocal relations) [Q30]. Figure 2 displays the percentage of participants (of those who answered) who considered each country in the wider region to be a close neighbour.

Figure 2: Countries that participants considered to be a close neighbour of Indonesia

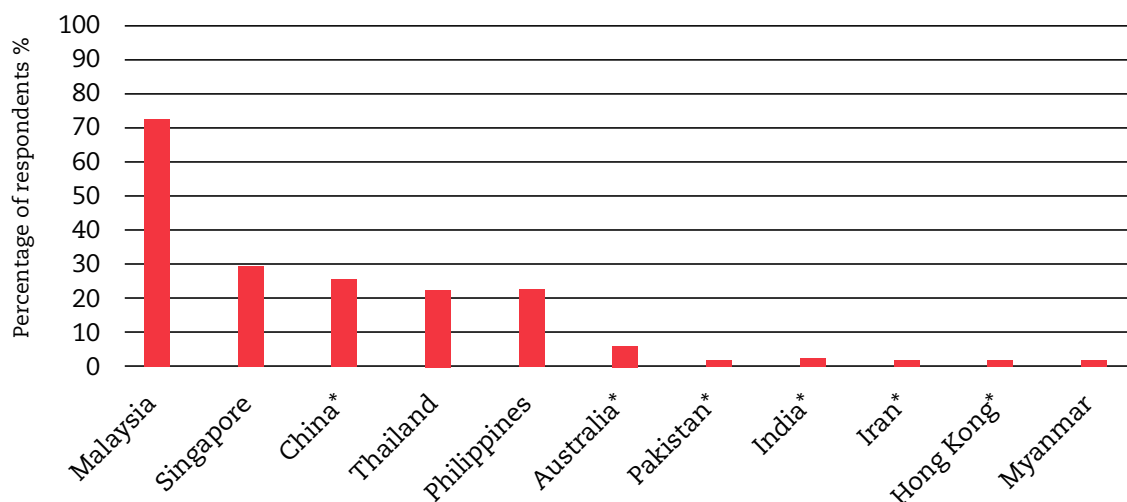


*These countries were not listed in the interview guide, but were mentioned and recorded under the ‘other’ option.

Not surprisingly, the most frequently mentioned countries were the geographically close neighbours, Malaysia, Singapore and the Philippines. Furthermore, in the case of the first two, these are countries with somewhat similar laws and policies on drug offending.

Having established which countries were considered to be Indonesia’s closest neighbours, we asked participants which of those countries’ laws and drug problems most influence crime and drug problems in Indonesia [Q31]. Figure 3 shows that Malaysia is most influential, with Singapore, China, Thailand and the Philippines also having some influence.

Figure 3: Countries that participants considered to influence Indonesia’s drug and crime problems



*These countries were not listed in the interview guide, but were mentioned and recorded under the ‘other’ option.

The participants’ explanations for these choices are instructive. When asked to clarify in what ways crime and drug problems in these countries affect Indonesia, many talked of the impact of regional drug flows

and markets, particularly in relation to the ‘Golden Triangle’ [Q32]. Some reflected on Indonesia’s porous borders, and how The Association of South East Asian Nations (ASEAN) integration and freedom of movement facilitates transnational crime. Rather worryingly, there was also mention that Indonesia has been influenced by (and begun to emulate) President Duterte’s informal policy of extrajudicial killings of drug users and dealers in the Philippines.

Nevertheless, when it came to asking participants how criminal justice policies in these influential countries might impact on Indonesia, many interviewees emphasised that they did not; indeed, there was repeated mention of Indonesia’s ‘sovereignty’ [Q33]. Others stated that Indonesian legal policy is mainly guided by their Constitution. Interviewees explained that policy transfer was somewhat hindered by the differences between countries’ legal systems, in large part because of their divergent colonial histories. So, for example, we were told that it is not possible to directly compare the situation in Malaysia because, unlike Indonesia, they have inherited an Anglo-Saxon Common Law system. Overall, participants considered that Indonesia is ‘unique’ and cannot be readily compared to other countries, even those in the region. For example, when asked about the potential for change if Malaysia were to abolish the death penalty, they thought the government’s retort would probably be ‘well, that’s Malaysia. They have a small population; a small area’. Clearly, the assumption here is that justice policies need to reflect the size and diversity of the fourth-largest population in the world, spread across a huge archipelago.

Nonetheless, some conceded that the ASEAN has had some influence, particularly through its ‘narcotics free’ slogan, bilateral meetings of law enforcement and the creation of regional policies. Indeed, it was felt strongly that Indonesia is influenced by the regional ‘war on drugs’ rhetoric and approach to criminal justice policy. Although there was acknowledgment that Muslim politicians may look towards other Islamic nations in the region, such as Malaysia and Brunei, for guidance, one interviewee provided a more nuanced analysis of influence. He asserted that Indonesia is more likely to lead the way in terms of penal policy on drugs, but he claimed that, while policy and practice would not likely respond to diplomacy, it could be influenced by threats to lucrative economic projects:

I mostly see Indonesia as a leader. They’re not really a follower in the narcotics policy field ... Except for the economy, ASEAN has never made any influence (on us). It never influences us in law and policies. Australia expressed their anger after some of their citizens, including Andrew Chan, were executed. But we were just fine... were we influenced by reprisal from Brazil about Rodrigo (Gularte)? Brazil actually issued a statement. Also, there were French people who were on death row, but their sentences were cancelled. Do those facts show that we were influenced diplomatically? Not really. But if it were China who gave reproof, maybe it is going to be taken into account because we have so many infrastructure projects together with China, and with Japan. So, I think for influence, I’m not sure if our law policy can be influenced by another country. But the main key influence is the economy. ‘If you execute my citizen, I will pull out of the project’. That’s going to be more effective.

To explore this issue in more depth, participants were asked to select one neighbouring country whose policies and practices towards drug traffickers have the strongest influence on drug trafficking in Indonesia. Malaysia was most commonly selected (by 55% of respondents). Following this, respondents were asked a series of three questions to reveal their perceptions of both risk of apprehension and risk of harsh punishments in that country compared with Indonesia [Q34-Q36]. The data presented in Figures 4, 5 and 6 show that the majority of interviewees were of the opinion that the laws, the risks and the costs were the same, though a fifth thought that the risks and the costs were higher in Indonesia.

Figure 4: Are the criminal laws toward drug traffickers in Indonesia different from the practices in Malaysia/other country?

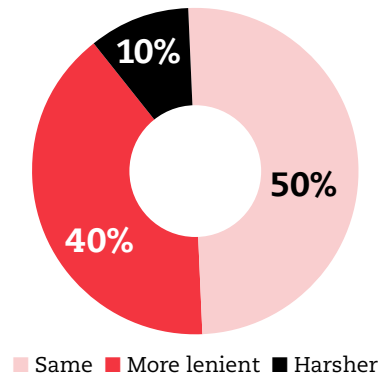


Figure 5: Do drug traffickers in Indonesia face the same risk of arrest and conviction as in Malaysia/other country?

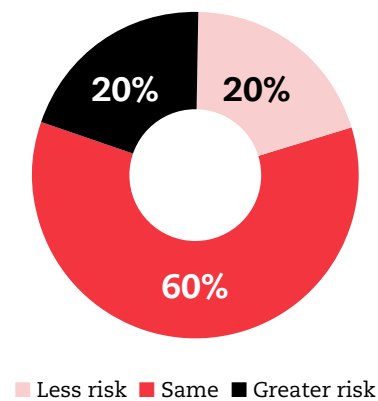
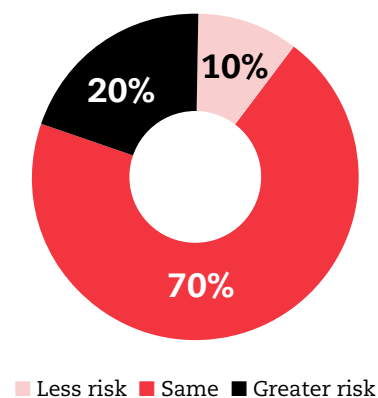


Figure 6: Do drug traffickers in Indonesia face the same risk of being sentenced to death as in Malaysia/other country?



Following these questions, participants were presented with a series of more pointed statements, to ascertain the extent to which their thoughts about policies relating to drug trafficking and the death penalty were based on concerns about drug traffickers being attracted to countries that have more lenient criminal policies and sentencing practice [Q37-38]. Table 5, showing the extent to which participants agreed or disagreed with these assertions, suggests that, while there is recognition by most participants

that drug traffickers might well target less risky countries – and abolitionist countries in particular – the majority do not assume that this translates to greater harms, in relation to drug use, trafficking and drug-related deaths, at the aggregate level for countries that do not have, or do not use, the death penalty. They did not think that abolition of the death penalty in Indonesia would lead to greater harms. In other words, as is hinted in their responses to other questions, our interviewees were sophisticated in their analysis of the extent to which the death penalty will deter drug crimes.

Table 5: Jurisdictional competition

Statement	Result*
Drug traffickers will choose a location to sell drugs where they are less likely to be arrested and convicted.	75% of participants 'AGREED'
Drug traffickers will choose a location to sell drugs where they are less likely to receive the death penalty.	54% of participants 'AGREED'
Drug use is lower in countries that apply the death penalty to drug traffickers.	69% of participants 'DISAGREED'
Drug-related deaths are lower in countries that apply the death penalty to drug traffickers.	56% of participants 'DISAGREED'
Drug traffickers will shift their business to Indonesia if Indonesia reduces the risks of capital punishment for drug traffickers.	60% of participants 'DISAGREED'
Drug-related deaths will increase in Indonesia if it reduces the risk of capital punishment for drug traffickers while Indonesia's close neighbours retain the death penalty.	56% of participants 'DISAGREED'
Drug trafficking will increase if Indonesia replaces the death penalty with sentences of life in prison for drug traffickers.	63% of participants 'DISAGREED'
Drug-related deaths will increase if Indonesia replaces the death penalty with sentences of life in prison for drug traffickers.	61% of participants 'DISAGREED'

*The percentage is of the participants who answered this question.

2.7. Participants' views on abolition of the death penalty in Indonesia

Our participants were asked why they think Indonesia has not decided to abolish the death penalty [Q2]. As presented in Table 6 (on page 36), the most highly ranked reason was 'because the government believes it is necessary as a deterrent to control drug trafficking', and the fourth most common explanation was that the government believes it is necessary to deter murder. The second most cited reason was rooted in the belief that the majority of the public are in favour of capital punishment. In these main reasons, Indonesian opinion formers were in line with those interviewed for a similar study conducted in the

Eastern Caribbean.³⁰ They show that, in many countries, governments believe in both deterrence theory and the importance of appearing to be responsive to the will of the people. The influence of Islam could not be ignored, with ideological and religious beliefs of those in power being the third most popular explanation. Indeed, a few participants observed that, for many, the death penalty is a ‘moral imperative’.

Sovereignty was the least popular justification, chosen as one among other explanations by just five of our interviewees. But other reasons spoke to a certain degree of political expediency. As one interviewee put it, ‘[the death penalty] is a tool of calculated political support’. Another explained, ‘Indonesia is still in the state of turbulence. It needs to create its image as a strong country’. There was also some recognition that executions tend to occur at crucial points in the political cycle, as a way of garnering support for the government.

Table 6: Why the government has not abolished the death penalty

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

* responses are ranked from (1) to (8) in order of the importance of reasons

At the start of the interview, one of the ‘Main Facts’ on the death penalty in Indonesia that participants had been told, to assess their knowledge base, referred to Indonesia’s history of voting behaviour at the UN resolution on a universal moratorium:

At the UN in December 2018, the government of Indonesia abstained in the resolution brought before the General Assembly to institute a universal moratorium on death sentences and executions leading to a universal abolition of capital punishment (as it had in 2012, 2014 and 2016; it had voted against the moratorium in 2007, 2008 and 2010).

Later in the survey, interviewees were reminded of the universal moratorium on the death penalty and asked if they thought Indonesia *should* support it [Q19]. All retentionists said ‘no’, whereas 91% of abolitionists answered ‘yes’. Clearly opinions on a moratorium mirror views on abolition. When asked, why they think the Indonesian government does not support a universal moratorium, both abolitionists and retentionists

³⁰ Hood and Seemungal, *Sentenced to Death without Execution*.

drew on similar and recurring rationales: that there is a belief within political leadership that the public supports the death penalty and that it is a necessary deterrent to crime. Notwithstanding divergence on supporting a moratorium according to personal principles on abolition, there was consensus about the government's current practice of abstention; it was recognised that there was 'safety' in abstaining. As one interviewee put it, 'abstention is neutral. We are still trying to find the best alternatives, and we will adjust to the actual conditions in Indonesia'.

Supporting a universal moratorium on the death penalty would be but one way to start the process of bringing about abolition in Indonesia, but we were keen to discover how our participants who had identified as abolitionists thought abolition could best be achieved [Q20]. We showed them a card with a range of possible approaches and asked them to rank the main approaches they favoured in order of likely success. As Table 7 shows, the most highly ranked strategy was 'by amending the Criminal Code (or other laws) to abolish the death penalty'. This is hardly surprising, as the government is currently working on amendments to the Criminal Code, though this has been under way for some time. As one participant explained:

It's possible to improve things through the Criminal Code, which in the last draft has the death penalty as optional (not the main punishment). The punishment would be 10 years in jail, after which, if the prisoner is rehabilitated or reformed, the punishment will change from death to imprisonment for a fixed period.

Other strategies that ranked highly were the creation of a civil society pressure group to campaign against the death penalty and persuading community or religious leaders to lead a movement for abolition, with the fourth most popular strategy being to persuade government to establish a high-level commission to report on the subject. Clearly, abolitionists felt that the best tactics involved government, communities, and civil society more generally creating awareness and momentum for change. Here there are parallels with movements for abolition across Europe, which were led by elites, notwithstanding support for retention among the people at the time. Perhaps, therefore, it is not surprising that abolitionists in Indonesia consider a public referendum to be one of the least favourable strategies for change.

Table 7: Ranking, in order of efficacy, of the strategies that could be used to achieve abolition in Indonesia

Ranking	Reason
1	By amending the criminal code (or other laws) to abolish the death penalty
2	Through creating an influential civil society pressure group: 'Citizens Against the Death Penalty'
3	By persuading community or religious leaders to lead a movement for abolition
4	By persuading government to establish a high-level commission to report on the subject
5	By the government announcing an official moratorium and signing the next UN resolution for a universal moratorium in 2020
6	By creating an abolitionist lobby in the legislature: 'Parliamentarians for Abolition'
7	By persuading the President to lead a movement for abolition
8	By the President granting a pardon to all prisoners facing death and converting their sentences to life imprisonment
9	Through a public referendum
10	By persuading a leading newspaper to mount a campaign
11	By a legal challenge to the constitutionality of the death penalty

Furthermore, some participants emphasised the need for 'many simultaneous steps to be taken'. These steps include establishing political will and the support of religious leaders. Others stated it is necessary to educate the public on human rights, and the ineffectiveness of the death penalty as a deterrent. Finally, there was a strong consensus among participants that research on the death penalty is necessary to inform future policy.

Both abolitionists and retentionists were asked whether they would personally be willing to either support or not oppose an act of parliament to abolish capital punishment completely in Indonesia [Q21]. Of those who answered, abolitionists most frequently said they would strongly and vigorously support such an approach (71%). This is not surprising. More interesting is the data from retentionists: almost half (43%) of the retentionists said that, while they would not be in favour of an act of parliament to abolish capital punishment, they would not oppose that or other efforts to abolish the death penalty.

Interviewees were asked what would likely happen in the event that the government were to abolish the death penalty [Q7]. While a quarter of participants mentioned either that there could be strong demonstrations of public dissatisfaction or that relatives of victims, or others, might seek to take the law into their own hands, the most frequently cited reaction was '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'. Indeed. This, of course, is what has happened elsewhere: the public might not want their governments to abolish a penalty that many think protects them from crime, but once that penalty is off the books, and alternative measures are in place for incapacitating dangerous offenders and rehabilitating others, the public comes to accept abolition.

Evidence from opinion formers and the public

As mentioned at the start of this report, we conducted this research on opinion formers alongside a public opinion study of more than 1,500 residents across Indonesia. We strongly advise readers to consider the

findings from both of these reports together. However, in this penultimate section, we pause to reflect on some of the findings from both studies and what we can learn from asking similar questions of different populations.

On the face of it, our two reports suggest considerable differences in public and ‘elite’ support for abolition of the death penalty. A majority (two thirds) of opinion formers support abolition compared with just under a third of the public. However, support for capital punishment among the public dropped when an alternative of life imprisonment without parole was suggested and declined further still when considering certain more vulnerable offenders or particular types of crimes, especially when presented with realistic mitigating factors. Furthermore, support for capital punishment among the public rests on a lack of knowledge and understanding about the administration of the death penalty, whereas most opinion formers were, not surprisingly, reasonably well informed. These data suggest that more information about the retention and use of the death penalty in Indonesia would likely shift opinion towards abolition.

While our public opinion data showed no difference in public opinion across rural and urban areas, it did show a stronger appetite for the death penalty in two regions, including Bali. This is likely to reflect particular concern about drug trafficking in this area, given that it is something of an international gateway and destination for travel, and that drugs have been trafficked into this area from overseas by both Indonesian and foreign nationals. This speaks to the entrenched narratives about the need for harsh penal policies to counteract the harms caused by drugs that the retentionists among our opinion formers referred to. Such discourse could be challenged by evidence that the death penalty does not deter drug offenders – evidence we will collect in due course – and by wider discussions about the potential for therapeutic regimes to reduce the harms caused by drug use.

Though the majority of retentionists, among both opinion formers and the public, believed that the death penalty deterred murder and drug offences – albeit there is no research evidence to support this view – when asked which measures are most likely to reduce such crimes the overwhelming majority did not mention the death penalty or executions. Instead, they turned to social and therapeutic policies and practices that reduced poverty and other causes of offending, and to more effective policing. These findings suggest that belief in the deterrent effects of capital punishment is tenuous, resting on repeated assertions from governments over time who seek to present utilitarian justifications for inhuman and degrading punishments that do not chime with people’s instinctive beliefs in the relationship between crime, social policy and criminal behaviours.

Both reports spoke to the importance of perceptions of fairness in the criminal process and their relationship to support for harsh penalties. Our public opinion data show that nearly half of all retentionists would support abolition if it was demonstrated to them that the death penalty is administered unfairly (46%), or if they found that innocent people had been executed (47%). Indeed, fairness in the criminal process was very important to both abolitionists and retentionists. At the same time, we found that the public in Indonesia, whether of an abolitionist or retentionist persuasion, does not have much trust that its criminal justice system is fair. Our interviews with opinion formers produced similar findings; they expressed low levels of trust in the justice system to provide adequate safeguards. Politicians and policy-makers who are inclined to encourage acceptance of abolition among the public would be wise to remind people, through discussion in the media of research and individual cases, that the administration of the death penalty in all countries, not only in Indonesia, is characterised by unfairness, unsafety and arbitrariness.

More than a third of retentionist respondents (37%) to our public opinion survey said that they would be persuaded to change their views about the death penalty if leaders from all of Indonesia's religions supported abolition. This suggests that a clear abolitionist stance among respected opinion formers in Indonesia could shift opinion on the death penalty among the public. Our interviews, showing 67% support for abolition among opinion formers, can therefore be used to challenge retentionist views within the general public. Though politicians may wish to govern by consent, data from both of our opinion studies show plainly that, if the government of Indonesia leads on abolition, the people will follow; they will accept this significant change in penal policy even if they are not initially happy about it.

A close-up photograph of a hand gripping a metal bar, overlaid with a red tint. The hand is positioned in the lower right quadrant, with fingers wrapped around the bar. The background consists of vertical metal bars, creating a grid-like pattern. The overall image has a strong red color cast.

PART THREE

Conclusion

The government of Indonesia, as with most other countries across South East Asia, justifies retention of the death penalty by reference to what is assumed to be overwhelming support from the public and its presumed ability to deter serious crimes, especially drug crimes. Both the public and government are aware that Indonesia has what many consider to be a ‘drug problem’. There are active drug markets across this region and various indices suggest increased quantities of illicit substances within Indonesia’s borders.³¹ While, in recent years, Indonesia has introduced therapeutic health care responses to low-level drug use – and while academics, practitioners and community groups have made clear that health policies are much better placed than criminal justice to tackle the harms caused by drug misuse³² – the ‘war on drugs’ discourse continues unabated, and the death penalty is seen as an essential weapon in the state’s armoury.

More than half the nations around the world have abolished the death penalty, and while not all have the same rates of drug use as those countries in South East Asia, or the same levels of production and trafficking in drugs, few can say they are unaffected by the illicit trade in drugs. Indeed, some have much higher levels of drug-related deaths. Certain countries in South America come to mind. In other words, it is not inevitable that a country within which it is perceived that there is a ‘drugs problem’ will need to find a solution in death sentences and executions, even where it might seem politically expedient to do so.

Countries that have abolished capital punishment have done so despite it being popular and, therefore, politically convenient to retain it. Abolition has been driven by the ‘elites’ in society; not only by parliamentarians, but by religious and community leaders, human rights activists, influential people in the media, and others who are in positions of authority and influence. Importantly, it has been done in spite of majority support for the death penalty among the public. Abolition has followed different paths and over varied periods of time, but it has occurred because those who could be called ‘opinion formers’ have found ways to make it happen.

We wanted to find out if opinion formers in Indonesia had a similar appetite for change in penal policy and, if so, what might be the most effective means of securing abolition, and what could be the barriers to reform. With these questions in mind, we conducted a series of informal ‘scoping’ interviews with key stakeholders in criminal justice, law and academia to develop a programme of research on both public and ‘elite’ opinions on the death penalty, and tested research methods and tools by way of a feasibility study. We have produced a report on a public opinion survey, but, here, we have focused on data gathered from our study of 40 ‘opinion formers’.

The data show strong support for abolition, primarily because the death penalty is seen to be an abuse of people’s human rights, though some interviewees were also worried about the irrevocable nature of capital punishment. This secondary concern was reflected in our findings of low trust in the criminal justice process in Indonesia. Indeed, few interviewees demonstrated faith in the system to be fair and produce safe convictions. Importantly, support for abolition was based on reliable information about the retention and administration of the death penalty within Indonesia, but also awareness of the limits to its efficacy to bring about reductions in crime.

³¹ *Synthetic Drugs in East and Southeast Asia: Latest Developments and Challenges*, United Nations Office on Drugs and Crime 2020.

³² Stoicescu C. and Palmer W., *Drugs and Drug Policy*.

While just less than a third of our interviewees supported retention of capital punishment, they did so with a less clear understanding of its use. Nonetheless, they were keen that its scope was not widened to include ‘ordinary’ offences or vulnerable offenders, showing that even retentionists were fairly moderate in their penal appetite.

Our data show considerable equivocation on the matter of deterrence. Interviewees believed that the government retained the death penalty on the premise that it is necessary to deter drug trafficking, and this is the main reason that retentionist participants gave for their personal support. Most participants also saw deterrence as the main justification for sentencing in serious cases. Notwithstanding, when asked what measures are most likely to reduce both drug and violent offences, retentionists and abolitionists alike focused on more effective policing and on social measures such as reducing poverty. In this, they understood what criminologists have long known; that crime tends to be caused by socio-economic factors, such as poverty, poor education, and other variables that affect people’s life chances and means of succeeding through legitimate channels. They, too, were clearly aware that, in so far as people can be deterred from committing crimes, it is the risk of apprehension – of getting caught by the police – that can deter, not typically the risk of harsh punishment.

Our interviews suggest that, to some extent, Indonesia is influenced by the regional ‘war on drugs’ rhetoric and approach to criminal justice policy. While interviewees were keen to assert Indonesia’s sovereign right to determine its own penal policies in response to its own crime and other social problems, and not to be unduly influenced by abolition further afield, some were clear that the ‘zero tolerance’ approach to drug crimes across ASEAN has had an impact. This illustrates something of a paradox that we suspect would be seen within neighbouring jurisdictions: a desire to present as independent in policy decisions, alongside a reluctance to step out of line with regional ‘strongman’ politics on drugs, as demonstrated most clearly in the Philippines, but elsewhere, too.

Though our interviewees were concerned about drug production and trafficking in the Golden Triangle, and the impact that had on Indonesia’s numerous, weak borders, they did not worry that abolition in Indonesia would lead to higher rates of drug use, drug trafficking, or drug-related deaths. In other words, they did not consider that abolition would expose them to further harm. Moreover, while a few conceded that abolition might anger some citizens, and generate limited opposition in the short term, it was thought that the public would come to accept it once a law was passed to abolish the death penalty. And on the question of such a law, respondents had an easy response: the draft Criminal Code.

The draft, more than two decades in the making, was produced by a parliamentary taskforce and finally submitted to government in September 2019. Currently further delayed following public demonstrations against restrictions on liberties, it has not been amended or approved by government. Indonesia’s draft Criminal Code proposes comprehensive changes to the existing penal code, which was inherited from Dutch colonial rule. It has the potential to bring about widespread changes to criminal laws and penal policy. Much media coverage of the draft Code – particularly in the West – has focused on the regulation of private life and its potential threats to civil liberties. It is seen by organisations such as Human Rights Watch to be disastrous for the rights of women and minorities, but also, more generally, for the right to free speech.

There was hope among some abolitionists in Indonesia that the new Criminal Code could provide the opportunity to abolish the death penalty. In its current form, the death penalty remains, but is commutable

if an inmate demonstrates remorse and good behaviour for 10 years on death row. Of course, in some other countries it would be unconstitutional to execute anyone after 10 years on death row – indeed, after five years in some Caribbean countries – because of the severe mental torture caused by prolonged time on death row, giving rise to the claim that this constitutes cruel and inhuman punishment. Notwithstanding that fact, this section of the very long draft Code is seen as a compromise between the strong views on either side of the death penalty debate. However, it will not satisfy those abolitionists who hoped that the draft Code would go even further. They may have imagined that a government keen to break with its colonial past by instituting its own (national) Code might wish to abolish a penalty that is itself a colonial relic, but that is currently looking unlikely. However, some of our interviewees clearly believed that further revisions to the Code are possible and, if so, this could present a good opportunity to do away with this cruel and inhuman punishment for good.

It is not our purpose here to advise the government of Indonesia to abolish the death penalty. It is also not our role to suggest viable legislative or policy routes to abolition. There are many people and organisations within Indonesia much better placed to provide such options. We simply offer reliable data on the opinions of those best placed to advise government and to shape the future views and aspirations of the public. These data are clear. Opinion formers in Indonesia want the death penalty to be abolished and our interviews with them reveal no significant barriers to realising that goal.



APPENDIX

Interview schedule

THE DEATH PENALTY PROJECT

STUDY OF OPINION IN INDONESIA 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 Indonesia.

[Interviewer: Show card]

MAIN FACTS: INDONESIA	CODE
Retains the death penalty by firing squad as a discretionary punishment for murder, aggravated gang-robbery, terrorism-related offences, robbery, drug trafficking, some drug possession offences, some economic crimes, and a selection of other crimes against the state (Source: Criminal Code, Narcotics Law, Terrorism Law, Reports from ICJR, Imparsial and LBH Masyarakat)	1
Between two thirds and three quarters of those sentenced to death are convicted of drug-related offences. (Source: Reports from ICJR and LBH Masyarakat)	2
After a halt in executions between 2009 and 2012, there were executions in 2013, 2015 and 2016, though none since.	3
People are sentenced to death each year, with more than 47 sentenced in 2017 (about 33 of which were for drug-related offences; the others for murder). (Source: Reprieve)	4
There were more than 260 prisoners under sentence of death at the end of 2017. (Source: Reprieve)	5
No action has been taken by the government to institute an official moratorium on use of the death penalty.	6
At the UN in December 2018, the government of Indonesia abstained in the resolution brought before the General Assembly to institute a universal moratorium on death sentences and executions leading to universal abolition of capital punishment (as it had in 2012, 2014 and 2016; it had voted against the moratorium in 2007, 2008 and 2010).	7

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 Indonesia 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 2-8)

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

[Interviewer: 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 the government believes that it is necessary as a deterrent to control drug trafficking	
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 Indonesia retaining the death penalty in its legislation or abolishing it altogether?

OPTION	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].

[Interviewer: 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 in its scope and application , with, for example, additional limits on the types of offenders who can be sentenced to death or the crimes for which it can be imposed	2
The death penalty should be retained but made less restrictive , with fewer limits on the types of offenders who can be sentenced to death or the crimes for which it can be imposed.	3

4b. IF THE 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?

[Interviewer: 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 (from 2-8)

[Show card]

REASON	CODE
It's necessary to deter people from murder	
It's necessary to deter people from drug trafficking	
Because I believe public opinion wants 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) ----- ----- ----- -----	

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

6. What are your reasons for supporting complete abolition? Please RANK the MAIN reason with 1, and any other reasons in order of importance (from 2-11)

[Interviewer: Show card]

REASON	CODE
It is pointless to impose a punishment that will not be carried out by execution for a long time, and maybe never	
It has no special or extra deterrent effect than a long term of imprisonment	
People may be wrongfully convicted and executed	
It cannot be carried out in a non-arbitrary/fair way	
Indigent defendants have such limited access to justice that a fair trial cannot be guaranteed	
Every criminal deserves an opportunity to be rehabilitated	
It is an abuse of human rights	
It is 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) ----- ----- ----- -----	

[Interviewer: 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.

[Interviewer: 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
Other reason (please specify) ----- ----- ----- -----	5

[Interviewer: ASK RETENTIONISTS ONLY]

8. If an independent and rigorous public opinion survey found that only a minority of the respondents supported the death penalty, would that change your mind?

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

[Interviewer: ASK ALL, RETENTIONISTS AND ABOLITIONISTS]

9. There is robust evidence from America and Singapore to show that the death penalty has no extra deterrent effect on the murder rate beyond the deterrent effect of long-term imprisonment.

How well informed are YOU PERSONALLY about this research evidence?

	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 are POLITICAL DECISION-MAKERS (such as legislators and MPs) about this research evidence?

	POLITICAL DECISION-MAKERS (CODE 9B)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: know nothing about it	4

10. There is robust research evidence from other countries regarding the inevitability of error and conviction of the innocent in countries that retain the death penalty.

How well informed are YOU PERSONALLY about this research evidence?

	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 are POLITICAL DECISION-MAKERS (such as legislators and MPs) AS A WHOLE about this research evidence?

	POLITICAL DECISION-MAKERS (CODE 10B)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: know nothing about it	4

11. In 2015, the Institute for Criminal Justice Reform published a report on unfair trial and pre-trial processes for those charged with capital offences in Indonesia (*Overview on Death Penalty in Indonesia*). How well informed were YOU PERSONALLY about this research before today?

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

11b. How well informed are POLITICAL DECISION-MAKERS AS A WHOLE about the 2015 research report described above?

	POLITICAL DECISION-MAKERS (CODE 11B)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: know nothing about it	4

12. How well informed are YOU PERSONALLY about plans to change the approach to the implementation of the death penalty in the new Draft Bill on the Criminal Code of Indonesia?

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

12b. How well-informed are POLITICAL DECISION-MAKERS AS A WHOLE about plans to change the approach to the implementation of the death penalty in the new Draft Bill on the Criminal Code of Indonesia?

	POLITICAL DECISION-MAKERS (CODE 12B)
Very well informed	1
Know something about it	2
Not very well informed	3
Uninformed: know nothing about it	4

[Interviewer: ASK ALL, RETENTIONISTS AND ABOLITIONISTS]

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

[Interviewer: Show card]

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

[Interviewer: ASK ALL, RETENTIONISTS AND ABOLITIONISTS]

14. What measures do YOU think are most likely to be able to reduce drug-related crimes in Indonesia?

PLEASE RANK THE MOST LIKELY WITH 1, and ANY others you think might be relevant in order of likelihood (from 2-8)

[Interviewer: Show card]

REASON	CODE
Better moral education of young people against the misuse of drugs	
More effective policing in bringing offenders to justice	
Better preventive treatment of those addicted to drugs	
Better control of the drug trade	
Reduce poverty and improve housing	
Longer prison sentences	
More death sentences	
More executions	

[Interviewer: ASK RETENTIONISTS ONLY]

15. Following the last 18 executions for drug offences (from 2015-16), there was an increase in recorded drug crimes, suggesting that executions had not deterred people from involvement in the drugs trade. Does this information change your views on the retention of the death penalty for drugs?

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

15a. IF YES: Why?

15b. IF NO: Why not?

[Interviewer: ASK RETENTIONISTS ONLY]

16. 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 Indonesia 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

16a. IF YES: Why?

16b. IF NO: Why not?

[Interviewer: ASK RETENTIONISTS ONLY]

17. If a country within South East Asia abolished the death penalty, would that affect your views on whether Indonesia should abolish?

REASON	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

17a. IF YES: Why?

17b. IF NO: Why not?

[Interviewer: ASK RETENTIONISTS ONLY]

18. If another Muslim-majority country abolished the death penalty, would that affect your views on whether Indonesia should abolish?

REASON	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

18a. IF YES: Why?

18b. IF NO: Why not?

[Interviewer: ASK ABOLITIONISTS AND RETENTIONISTS]

19. At the start of the interview, we mentioned the UN resolution to institute a universal moratorium on death sentences and executions, making clear that Indonesia has voted against or abstained from it, but has never supported it.

Why do you think the Indonesian government does not support a universal moratorium?

19b. Do you think that Indonesia SHOULD support a universal moratorium?

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

[Interviewer: ASK RETENTIONISTS ONLY]

20. 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).

[Interviewer: Show card]

REASONS	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	

ANY ADDITIONAL IDEAS:

[Interviewer: ASK RETENTIONISTS AND ABOLITIONISTS]

21. Would you **PERSONALLY** be willing to either support or not oppose an act of parliament to abolish capital punishment completely in Indonesia? Which of the following statements best reflects your opinion?

[Interviewer: Show card]

OPTION	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 only support abolition for certain crimes (please explain which crimes below)	3
I would not be in favour, but I would not oppose abolition	4
I would tend to oppose abolition ; for example, I might raise objections	5
I would strongly and vigorously oppose abolition; for example, I would definitely vote against it	6

[Interviewer: ASK RETENTIONISTS AND ABOLITIONISTS]

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

23. 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

23a. If YES, which crimes?

24. 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

24a. If YES, which groups of people?

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

25. How often do you think wrongful convictions occur in Indonesia?

	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

26. How often do you think the Indonesian criminal justice system offers adequate safeguards to prevent miscarriages of justice?

	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

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

	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

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

	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

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

	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 drug issues in other countries in the region, and how they compare to the laws and policies on the death penalty in Indonesia.

30. Which nations in the region do you consider to be neighbours of Indonesia (e.g. countries with similar cultures, crime problems, policies, business links or reciprocal relations)?

[Interviewer: Don't read the list, ask respondent to name them, check off their responses]

- | | |
|--------------------------------------|--|
| <input type="checkbox"/> Singapore | <input type="checkbox"/> Malaysia |
| <input type="checkbox"/> Thailand | <input type="checkbox"/> Myanmar |
| <input type="checkbox"/> Laos | <input type="checkbox"/> Pakistan |
| <input type="checkbox"/> Philippines | <input type="checkbox"/> Australia |
| <input type="checkbox"/> China | <input type="checkbox"/> Cambodia |
| <input type="checkbox"/> Vietnam | <input type="checkbox"/> Bangladesh |
| <input type="checkbox"/> India | <input type="checkbox"/> Others (specify): _____ |
| | _____ |

31. Among Indonesia's closest neighbours, which country's laws and crime and drug problems most influence crime and drug problems in Indonesia?

[Interviewer: Don't read the list, ask respondent to name them, check off their responses]

- Singapore Malaysia
 Thailand Myanmar
 Philippines Others (specify): _____

32. In what ways do crime and drug problems in those countries affect Indonesia?

33. In what ways might criminal justice policies in those countries affect Indonesia?

The next set of questions ask you to compare the laws and policies toward drug traffickers in Indonesia with the same laws and policies in the *close* neighbour countries that you mentioned.

Earlier, you mentioned [COUNTRY1, COUNTRY2, COUNTRY3, ETC.] as Indonesia's **closest neighbours**. Now, please think about the country among the close neighbours whose policies and practices toward drug traffickers has **the strongest influence** on drug trafficking in Indonesia.

What country is that? _____

34. Are criminal laws toward drug traffickers in Indonesia different from the practices in that country?

	Code
No	1
Yes	2

If yes: Are they:

	Code
more lenient	1
bout the same	2
harsher	3

35. Do drug traffickers in Indonesia face the same risk of arrest and conviction as in that country?

[Interviewer: Remind respondent about the country that she or he named]

	Code
No	1
Yes	2

If no: Is there:

	Code
Less risk	1
About the same risk	2
Greater risk	3

36. Do drug traffickers in Indonesia face the same risk of being sentenced to death as in that country?

	Code
No	1
Yes	2

If no: Is there:

	Code
Less risk	1
About the same risk	2
Greater risk	3

37. Do you agree with the following statements? Please use a scale from one to five, with 1= strongly agree to 5 = strongly disagree:

	CODE
Drug traffickers will choose a location to sell drugs where they are less likely to be arrested and convicted	1
Drug traffickers will choose a location to sell drugs where they are less likely to receive the death penalty	2
Drug use is lower in countries that apply the death penalty to drug traffickers	3
Drug-related deaths are lower in countries that apply the death penalty to drug traffickers	4
Drug traffickers will shift their business to Indonesia if Indonesia reduces the risks of capital punishment for drug traffickers	5
Drug-related deaths will increase in Indonesia if it reduces the risks of capital punishment for drug traffickers while Indonesia's <i>close neighbours</i> retain the death penalty	6

38. The final two questions ask about the death penalty in Indonesia in comparison to other punishments for drug traffickers. Please answer the next two questions using a scale from one to five, with 1= strongly agree to 5 = strongly disagree.

	CODE
Drug trafficking will increase if Indonesia replaces the death penalty with sentences of life in prison for drug traffickers	1
Drug-related deaths will increase if Indonesia replaces the death penalty with sentences of life in prison for drug traffickers	2

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 was Centre Director from 2012-17. She is Director of the Oxford Death Penalty Research Unit, and co-author of the leading international study on the death penalty, *The Death Penalty: A Worldwide Perspective*, the last edition of which was published in 2015, by Oxford University Press.

She has published empirical and theoretical research on a wide range of criminological topics in addition to the death penalty: wrongful convictions, policing, domestic violence, and restorative justice. She lectures extensively and supervises research students on these and other criminological topics.

She has collaborated with The Death Penalty Project on studies of opinion formers' views on the death penalty in India, Bangladesh and Zimbabwe, and is currently conducting a similar study in Taiwan. She is also working closely with The Death Penalty Project and other leading international and national NGOs on a study of foreign nationals at risk of the death penalty in Asia and the Middle East.

The Death Penalty Project

The Death Penalty Project (DPP) is a legal action non-profit organisation 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.

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

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

Lembaga Bantuan Hukum Masyarakat

Lembaga Bantuan Hukum Masyarakat (LBHM) is a frontline not-for-profit, non-governmental organisation that provides free legal services for the poor and victims of human rights abuses. It also undertakes community legal empowerment for marginalised groups, and advocates for law reform and human rights protection through campaigns, strategic litigation, policy advocacy, research and analysis.

LBHM focuses its works in the following areas: abolition of the death penalty, drug policy, HIV and human rights, mental health, and the protection of LGBT rights.

For further information, please visit lbhmasyarakat.org



In partnership with:



Author's affiliation:



