

Sentenced to Death Without Execution

Why capital punishment has not yet been abolished
in the Eastern Caribbean and Barbados

The views of opinion formers

Roger Hood and Florence Seemungal

with the assistance of Amaya Athill

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Roger Hood and Florence Seemungal

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Foreword

Over the past three decades, enormous strides have been made towards the goal, first adopted by the United Nations General Assembly in 1971, of achieving the universal abolition of the death penalty.¹ At present, only 36 (18%) of the 196 member states are regarded as *active* retentionists, having carried out an execution within the past 10 years, although in 2018 only 21 did so. In addition to the 114 countries that have abolished the death penalty in law (106 of them completely in all circumstances and eight for all common crimes in peacetime), another 46 are regarded by the United Nations as abolitionist *de facto*, having carried out no executions for at least 10 years. Twenty-eight of these countries are classified as ‘abolitionist in practice’ by Amnesty International on the grounds that they have made a clear commitment not to resume executions, although it is notable that half of them did impose a death sentence in 2018. According to Amnesty’s report for that year, 55 countries passed at least one death sentence.

It is clear, therefore, that the goal of total abolition throughout the world will be achieved sooner if more countries that have ceased executions, but still retain the death penalty in law – and sometimes impose death sentences – can be convinced to abolish the death penalty completely. Hopefully, the research reported here, which aims to investigate why the six countries of the Eastern Caribbean and Barbados have been so reluctant to move from abolition to complete abolition, will contribute to this development.

Political progress towards abolition has been notably absent in Caribbean countries, but judicial restrictions on the imposition and carrying out of the death penalty have precipitated the gradual decline in the use of capital punishment since the landmark judgment of the Privy Council in *Pratt v Attorney General of Jamaica* in 1993. Today, death sentences are rarely imposed, and death rows remain largely empty. Nine of the 12 Commonwealth Caribbean countries (including all jurisdictions addressed in this study, except for Barbados) have nobody, or only one prisoner, on death row. In Barbados, the 10 prisoners still under sentence of death are currently awaiting resentencing following the 2018 Caribbean Court of Justice ruling, which found the mandatory death penalty to be unconstitutional there.²

Across the Caribbean region, executions are extremely rare. The last execution was carried out in St Kitts and Nevis in 2008, when Charles Laplace was hanged in controversial circumstances before he had exhausted the appellate process and where there were unaddressed mental health concerns. Aside from this isolated case, no executions have been carried out in any of the Eastern Caribbean States for more than 20 years. More than 30 years have elapsed since the last execution was carried out in Barbados, Dominica, Grenada or St Lucia. A regional status quo has emerged, whereby the death penalty remains on the statute books but is hardly ever imposed and executions almost never carried out. There is little evidence of a willingness by governments to question this policy: indeed, until very recently, quite the reverse. However, recent developments at an international level indicate that attitudes may be shifting.

At the United Nations General Assembly in December 2018, Dominica and Antigua and Barbuda lifted their historical opposition to the 7th Resolution calling for a universal moratorium on executions, voting for the first time to support and abstain from the resolution respectively. With the exception of St Kitts and Nevis, all countries included in this study have signed and/or ratified the International Covenant on Civil and Political Rights (ICCPR), and thus have a clear responsibility to move towards the complete

¹ For an updated account and analysis of UN policy see CCPR General Comment No 36 (2018) on article 6 of the International Covenant on Civil and Political Rights on the right to life. (CCPR/C/GC/36/Rev.4) para 50.

² *Nervais and Severin v The Queen*, [2018] CCJ 19 (AJ).

eradication of the death penalty. The ICCPR provides no justification for states merely to pursue a policy aimed at restricting the use of capital punishment, as has been the practice in many Caribbean states. They need to do more than limit the death penalty, and the recent stance of Dominica and Antigua and Barbuda in withdrawing their opposition to the UN Resolution may reflect a change in attitude. The question is no longer whether countries should abolish the death penalty, but rather when and how this should happen.

We are very pleased, therefore, to introduce this study – the first of its kind to be carried out in the Caribbean region – because it offers considerable insight into why the six countries of the Eastern Caribbean and Barbados retain the death penalty, but rarely sentence individuals to death and have not carried out executions for many years. The research investigates, through interviews with selected knowledgeable and influential individuals who can legitimately be characterised as ‘opinion formers’, the reasons why they believe there has been such reluctance to embrace abolition; what they think the consequences of abolition would be; and what approach might be taken to persuade governments to alter their stance.

Ground-breaking research into the complementary issue of public opinion has found public attitudes to be far more nuanced and balanced than they appear initially, and do not support the claim of many retentionist governments that public support is so strong that it acts as a barrier to abolition. Professor Roger Hood’s comparative analysis of eight sophisticated public opinion surveys³ uncovers remarkably similar findings across a range of diverse jurisdictions. While, in all cases, public support for the death penalty exists in the abstract, taken together, the findings reveal that support is not strongly entrenched, and that it is typically based on very limited knowledge about the death penalty in law and practice. Public support is largely contingent on the belief that the death penalty is administered fairly, without the possibility of error leading to the execution of the innocent. When the realities of the death penalty are presented – particularly in relation to miscarriages of justice and mitigating circumstances – support falls dramatically across the board. When asked to rank policies likely to be effective in reducing the incidence of serious violent crime resulting in death, respondents in surveys conducted in Japan, Malaysia, Singapore and Trinidad ranked “greater number of executions” as the least effective policy. The public regarded preventative policies through social action and improved policing as much more likely to be effective. In brief, these studies provide consistent evidence that citizens would most likely come to accept abolition if governments were to embrace reforms and exercise principled leadership.

Likewise, the findings of this study of ‘opinion formers’ reveals that only a minority of them are committed to the death penalty. While the people interviewed were split almost equally between those who said they favoured retention of the death penalty and those who favoured abolition, only 18 of the 100 informants interviewed said they were strongly in favour of retention. In fact, the majority who favoured retention were not strongly opposed to its abolition – so much so, that three-quarters of those who favoured retention of the death penalty endorsed the view that the majority of the public would come to accept reforms once the death penalty had been abolished. Put another way, those who supported the retention of the death penalty did not accept that assumptions about the strength of public opposition to abolition should determine the issue. When asked to rank the effectiveness of policies likely to reduce the incidence of serious violent crime resulting in death, only 10 of the 100 respondents endorsed ‘more executions’ as

³ See Roger Hood, *Is Public Opinion a Justifiable Reason Not to Abolish the Death Penalty? A Comparative Analysis of Surveys of Eight Countries*, *Berkeley Journal of Criminal Law*, Vol 23:2, 2018. The eight studies analysed were undertaken in China, Trinidad, Malaysia, Singapore, Taiwan, Ghana, Japan and Belarus. (Some of these studies were commissioned by The Death Penalty Project and Professor Hood was responsible for the design, analysis and reporting on two of them, and acted as a consultant to the authors of four others.)

likely to be effective, with only two ranking it as the most effective. As with the surveys of public opinion, social policies and effective policing were chosen as the better, more effective policies.

It is our hope that this research will open a new dialogue across the region, and that this report will make a considerable contribution by encouraging policy-makers and societal leaders to exercise leadership and promote informed debate on this critical issue, leading to reform. Should governments take the lead and exercise their judgment, based on an informed and rational appreciation of the case for abolition, the public will not oppose total abolition of capital punishment and will, in time, come to view the death penalty as a cruel and outdated practice.

We would like to express our sincere thanks to Professor Roger Hood for his major contribution in designing the project, constructing the questionnaire, analysing the data and writing the report. Professor Hood is one of the foremost experts on the death penalty worldwide, and his commitment and dedication has been integral to producing this compelling and important work. We would also like to thank Dr David Berry, Dean at the Faculty of Law at the University of the West Indies, for his unwavering support. We are especially grateful to Dr Florence Seemungal for coordinating the fieldwork and collating and coding the data, and to her and Amaya Athill for successfully carrying out the sensitive interviews on which this analysis is based.

Saul Lehrfreund and Parvais Jabbar

Executive directors

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Executive Summary

Purpose of the research

This research is a contribution towards understanding why six small, independent island nations in the Eastern Caribbean – Antigua and Barbuda, Dominica, Grenada, St Kitts and Nevis, St Lucia, and St Vincent and the Grenadines, all members of the OECS – and the neighbouring island of Barbados retain the death penalty in their criminal statutes, and yet have not executed anyone sentenced to death for a very long time. With the exception of St Kitts and Nevis, where an execution took place in 2008, no-one has been judicially executed in any of the other countries for more than 20 years – and in Dominica, Grenada, St Lucia and Barbados for more than 30 years. Furthermore, death sentences have been imposed within the past 10 years only in St Lucia and Barbados, and in four of these seven nations no-one is under sentence of death on ‘death row’ at the time of writing.

The questions posed by this publication are: why do these countries hang on to capital punishment and what are the barriers and hindrances to the complete abolition of capital punishment by these nations?

To gain an insight into the views and attitudes of those who favour retaining the status quo and those who favour abolition, 100 people – regarded by our knowledgeable local collaborators as ‘opinion formers’ – were interviewed. They were selected from four areas of public life: politics and the higher civil service; criminal justice and legal practice; religious leadership; and well-regarded and influential members of civil society. Across these seven small nations, 48 of the informants interviewed favoured retention of the death penalty (18 of them strongly) and 52 were in favour of its abolition (30 of them strongly).

1. Why did retentionists and abolitionists hold different opinions?

- Eighty-four per cent of those who favoured retention chose a **retributive** response as their main reason (**to show that murder is the very worst crime/and some deserve to be executed**) and only **10%** chose **deterrence** (that murders would increase as a result of abolition). **None** favoured it because they believed **public opinion is opposed**.
- **Two-thirds** of those who favoured abolition chose as their main reason that the death penalty had **no extra deterrent effect** or it was an **abuse of human rights** or because of the **possibility of wrongful conviction and execution**. Only 8% chose as their main reason the fact that it was **pointless because no executions were carried out**.

2. Why had their governments failed to support abolition of capital punishment?

- The majority of respondents thought it was either *‘because [their government] believed that the majority of citizens are still in favour of it, [so] there is no pressure to do so’*; and/or that *‘politicians think support for abolition would make them unpopular and/or stir up opposition in the media’*; and/or that their government *‘like [those] of other OECS countries and Barbados, believe it is [an] especially necessary deterrent to control the incidence of murder’*.

There was a large gap between what the informed respondents had stated was their justification for retaining capital punishment and the reasons they attributed to their governments for not abolishing the death penalty.

3. Were those who favoured retention of the death penalty strongly opposed to its abolition?

The findings suggest that only a minority were committed to retaining capital punishment and would vigorously oppose its abolition:

- Only 18 of the 100 respondents favoured any expansion in the use of the death penalty or in the number of executions.
- Only 10 of the 100 respondents (six retentionists and four abolitionists) endorsed *'more executions'* as likely to be effective in reducing the incidence of serious violent crime leading to death; only two ranked it as the most effective and 90% did not choose it as an effective measure at all. In contrast, 76% chose first either *'better moral education of young people against the use of violence'*, *'more effective policing in bringing offenders to justice'*, or *'reducing poverty and improving housing'* as the most effective.
- Only one in five (19), including only a quarter of the retentionists, thought there would be *'demonstrations of strong public dissatisfaction in the media and elsewhere, and repeated calls for its reinstatement'* if the death penalty were to be abolished.
- Three-quarters (including two-thirds of those who favoured retention of the death penalty) endorsed the view that *'there might be some expressions of dissatisfaction leading up to abolition, but the majority of the public would come to accept it once the law was passed' or 'a majority of the public would immediately accept it'.*
- Only 10 [of the 48] who favoured retention said they would *'strongly oppose an Act of Parliament to completely abolish the death by definitely voting against it'* (including only seven of the 22 who had said they were strongly in favour of retention).

4. What did those who favoured abolition think would be the best strategy to persuade government to embrace this reform?

There was no single approach chosen by a majority of the abolitionists, but the strategies most favoured were: *'through creating an influential civil society pressure group 'Citizens Against the Death Penalty'*; by *'mounting a legal challenge to the constitutionality of the death penalty'*; or by *'persuading the government to establish a high-level commission to report on the subject'*.

5. What was the influence of international trends?

The research revealed that international trends towards worldwide abolition had little impact on the debate among those respondents who favoured retaining the death penalty in these Eastern Caribbean states or in Barbados.

- When presented with the fact of how many countries in the world had abolished capital punishment in recent years, **none** of the retentionists said this fact would influence their opinion. Only two respondents said their view would be influenced by the fact that only two countries in South and Central America hang on to capital punishment.

- When asked whether their government should now support the resolution at the UN for a universal moratorium on the death penalty and executions, more than three-quarters of abolitionists – but only a third of the 48 retentionists – were in favour.

6. Conclusion

According to the ‘opinion formers’ interviewed for this survey, the reasons why these governments have failed to bring forward legislation to abolish capital punishment completely is their unwillingness to follow international trends, on the grounds of national sovereignty, cultural exceptionalism, assumptions about the deterrent effect of having the death penalty on the statute book, the strength of public sentiments and concern for maintaining electoral popularity.

Yet the findings of this survey suggest that those ‘opinion formers’ who supported the retention of the death penalty and their government’s resistance to the international moratorium did not personally accept that assumptions about the strength of public opposition to abolition should determine the issue. When questioned more closely, most of these knowledgeable and influential citizens did not predict that there would be grave consequences if the death penalty were to be abolished completely and — with only a few exceptions — they would not oppose or reject total abolition of capital punishment if their government were to take the lead.



PART ONE
Introduction

Six small, independent island nations in the Eastern Caribbean – Antigua and Barbuda, Dominica, Grenada, St Kitts and Nevis, St Lucia, and St Vincent and the Grenadines, all members of the Organisation of Eastern Caribbean States (OECS) – and the neighbouring, non-member, larger island of Barbados, retain the death penalty for murder.⁴ Yet, with the exception of St Kitts and Nevis, where an execution took place in 2008 (after a gap of 10 years)⁵, no-one has been judicially executed in any of the other countries for more than 20 years; and in Dominica, Grenada, St Lucia, and Barbados for more than 30 years. Furthermore, death sentences have been imposed within the past 10 years only in St Lucia and Barbados, and in four of these seven nations no-one is under sentence of death on ‘death row’. Recorded homicide rates vary substantially between these countries, being relatively low in Antigua and Barbuda, Grenada and Barbados, but high in St Kitts and Nevis, and St Vincent and the Grenadines (see Table 1).

It has been the practice of the United Nations to classify countries that have not carried out an execution for at least 10 years as ‘abolitionist *de facto*’. This definition would obviously apply to all of these OECS countries and Barbados, but Amnesty International adds a more stringent criterion to the 10-year test – namely, that the country is ‘believed to have a policy or established practice of not carrying out executions’. According to Amnesty, only Grenada satisfies this definition. All the other countries – including Dominica, which voted in favour of the resolution for a universal moratorium on death sentences and execution at the UN General Assembly in December 2018, and Antigua and Barbuda, which abstained – are classified as ‘retentionist’ in Amnesty’s *Death Sentences and Executions in 2018* report. This, presumably, reflects Amnesty’s view that there has been no, or very little, progress in this region in moving from an apparent reluctance to execute – or failure to overcome legal impediments to carrying out executions – and, instead, to embrace complete abolition of capital punishment to exclude any possibility of it being carried out in the future.

⁴ Current UN estimates of their populations, in order of magnitude, are: St Kitts & Nevis, 53,000; Dominica, 72,000; Antigua & Barbuda, 97,000; St Vincent & Grenadines 111,000; Grenada, 112,000; and Barbados, 287,000. See www.worlometers.info

⁵The previous execution was in 1998, also after a gap of 10 years.

Table 1: Use of capital punishment in the OECS and Barbados

	Year of last execution	Year last death sentence imposed	Number on death row in December 2018	Murder rate per 100,000 (2016)
Antigua & Barbuda	1991	2000	0	9
Dominica	1986	2000	0	14
Grenada	1978	2002	1	9
St Kitts & Nevis	2008	2008	0	56
St Lucia	1995	2011	0	16
St Vincent & the Grenadines	1995	2008	1	36
Barbados	1984	2016	10*	8

* All 10 are due to be resented now that Barbados has renounced the mandatory death penalty for murder and it looks likely that, after the facts in these cases have been reconsidered and a discretionary penalty applied, the number remaining on death row will be much reduced.

This independent empirical study, which presents the views of 100 ‘opinion formers’, drawn from the seven jurisdictions, aims to shed light on this issue. The respondents were asked about their knowledge of the use of capital punishment in their country and the extent to which, and why, they supported the policy of retaining the death penalty or were in favour of its abolition, as well as the factors, beliefs, and assumptions that appeared to account for their government’s unwillingness to embrace complete abolition. It is hoped that the evidence produced in this report may help to clarify the debate on the future of the death penalty in the Eastern Caribbean and Barbados.



PART TWO
Methodology

1. The informants

Obviously, there are no lists of influential ‘opinion formers’ from which we could have drawn a representative sample. It was necessary, therefore, to draw on the knowledge and advice of colleagues from our ‘partner’ organisations (named in the Acknowledgements) about which people to approach in the hope of obtaining a personal interview. The 100 people who agreed to be interviewed among those identified locally as ‘opinion formers’ in these seven jurisdictions were drawn from four broad categories of citizen: from politics, criminal justice and the law, the clergy, and civil society – including the media (see Table 2). These people included: leaders in government/opposition parties and senior civil servants; prison chiefs, senior police officers, practising lawyers and a few judges; senior clergy from several denominations; workers in voluntary organisations, well-known businessmen, media personalities and other prominent and respected representatives of civil society.⁶

Table 2: Category of informant

	Total
Politician/government official	27
Criminal justice/lawyer	34
Religious leader	10
Civil society	29
Total	100

As might be expected, the guarantee of confidentiality that we gave has placed limitations on how the findings can be reported. Not only was the number of informants small and well known in each country, but these small island communities are also closely connected. It might be easy for the responses of a particular individual to be recognised if the ‘sample’ of informants were to be analysed and reported on according to their country and category of activity. So we have reported for the six OECS countries and Barbados as a ‘block’, and believe this is justified by the fact that all the states involved have, with a few exceptions, followed a similar – and perhaps united – policy on the subject of capital punishment.

2. The questionnaire

Given the need to keep the interviews relatively short, a structured questionnaire was devised. It is reproduced in Appendix 1. As will be seen, the questions mainly asked the respondent to choose which of a number of optional statements or reasons best reflected their opinion, and to rank the main reason ‘1’. If they wished to choose other reasons as well, these were to be ranked 2 or 3, and so on. They were under no obligation to rank any other reason if they did not regard it as relevant. This method of choosing ‘no rank’ had the advantage of highlighting how many informants regarded a possible reason as being of no significance or relevance (see Figure 4, page 28).

⁶ Of the 100 interviewees, 70 were male and 30 female, and 58 were aged between 30 and 60. Thirty-nine said they were Roman Catholic or Anglican, and 44 were non-conformist or belonged to a Christian sect. Only 17 identified themselves as non-religious. Among the 27 ‘politicians’, 11 supported the party in power and nine supported the opposition; seven were independent. Taking into account all respondents, 22 said that they supported the government and 19 supported the opposition.

After obtaining their written consent to be interviewed, the interviewees were handed a list of facts that provided a summary of the situation regarding the scope and use of the death penalty in their own country (see Appendix 1). For each fact, they were asked whether or not they had been aware of it. This provided a basis to assess which elements of policy and practice were least well known among those interviewed – in particular, the length of time since executions had ceased and their country’s response to international attempts to restrict the implementation of capital punishment as a prelude to its abolition. This method also made sure that all interviewees were equally well informed about all these facts before other questions were posed.

PART THREE

The Findings



1. In favour of retention or in favour of abolition?

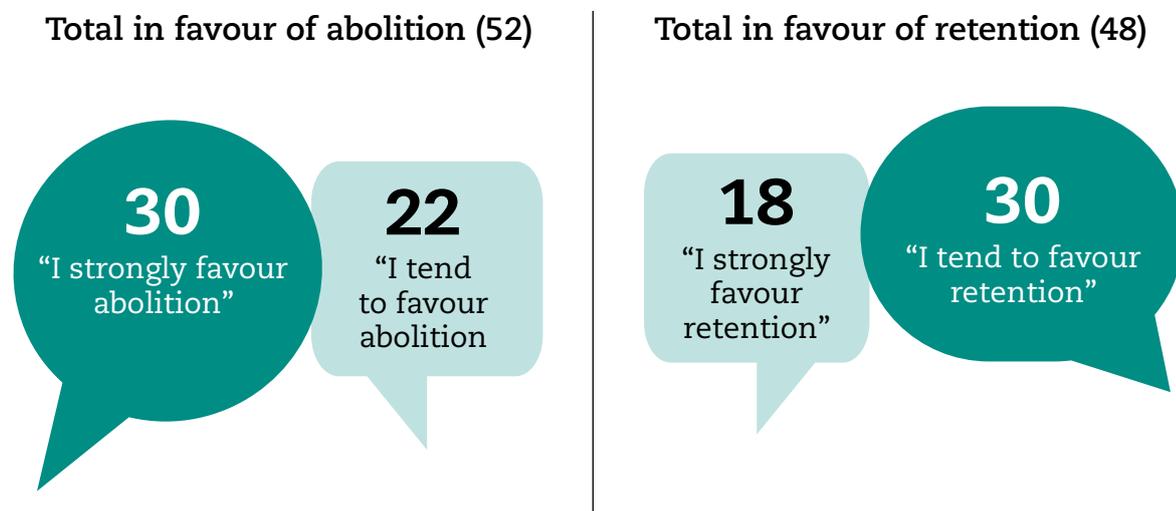
Respondents were asked whether they were *strongly/firmly in favour of retaining the death penalty; tended to favour retaining it; tended to favour abolishing it; or were strongly/firmly in favour of abolishing it.*

The 100 people who accepted the invitation to take part in this research included roughly equal proportions in favour of retaining the death penalty and in favour of its abolition (see Figure 1). Also, 48 of the 100 respondents held their opinion *strongly or firmly*, while 52 were less committed to their opinion, *tending* to favour either retention or abolition.⁷ However, it is significant that a higher proportion (30/52) of those in favour of abolition were strongly/firmly in favour of it (58%) than were those (18/48) who supported retention of the death penalty (38%).

Those from the world of politics were more frequently retentionist (56%) than abolitionists (44%), while a much higher proportion of criminal justice practitioners and lawyers favoured abolition (65%), as did six of the 10 religious leaders. In contrast, those chosen from a civil society background were more likely to favour retention (59%) (see Figure 2).⁸

Figure 1: Attitudes towards capital punishment: in favour of retention OR in favour of abolition?

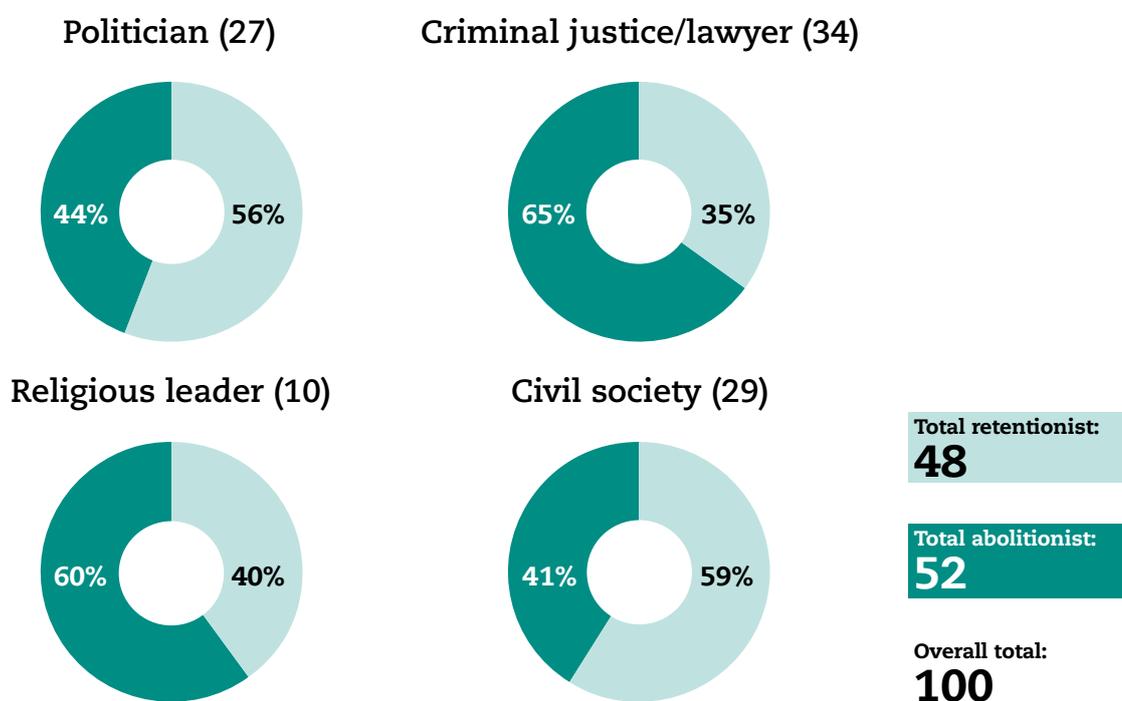
N = 100



⁷ Occasionally, this may have included a degree of uncertainty. For example, a senior lawyer who endorsed 'tending to favour abolition' added 'but when there is a horrible murder, I question that'. Nevertheless, he later said he would support a bill to abolish the death penalty.

⁸ It should be noted that this does not show what proportions would have taken one view or the other if it had been possible to collect a truly representative sample of all so-called 'opinion formers' in the population of these countries. Nevertheless, the differences are notable.

Figure 2: Proportion retentionist and abolitionist by category N = 100; percentages rounded



2. Extent of knowledge

2.1 The situation in their own country

When asked whether they were aware of 10 facts about the situation regarding the death penalty in their own country, a high proportion of respondents were well-informed about most of them, with few differences between those who favoured retention or favoured abolition (see Appendix 1). This gave us confidence that they were indeed people whose views would be relevant to the aim of our inquiry.

- Almost everyone understood the scope of capital punishment for murder.
- Eight out of 10 were aware that the Eastern Caribbean Court of Appeal had laid down that it could only be inflicted for the ‘worst of the worst cases’ where there is ‘absolutely no prospect of the reformation of the defendant’.⁹
- Nine out of 10 said they were aware of the year since which there had been no executions in their country – and 70 said they knew the last time anyone had been sentenced to death.
- Eighty-eight said they knew about the decision of the Privy Council in 1993, which had laid down that any prisoner who had been on death row for longer than five years must have their sentence commuted to life imprisonment.
- Only 13 of the 100 respondents said they had been aware of fewer than five of these 10 facts [nine facts in Barbados] and 71 said they knew between five and eight of them, all regarding the situation in their own country.

⁹ *In Trimmingham v The Queen* (St Vincent and the Grenadines) [2009] UKPC 25

However, a much smaller proportion of the informants were aware of their country's response to attempts at the United Nations to increase the number of nations in favour of bringing about universal abolition of the death penalty.

- As many as 61% (43/71) of respondents from five countries (Barbados, Grenada, St Lucia, St Kitts and Nevis, St Vincent and the Grenadines) had been unaware that, since December 2007 – and up to December 2018 – their government had consistently voted against the resolution brought forward biannually at the UN General Assembly by a majority of nations in favour of instituting a universal moratorium on death sentences and executions.
- Antigua and Barbuda had, for the first time in December 2018, voted to abstain, and Dominica – also for the first time – had voted in favour of the moratorium resolution. Yet 11 of the 14 Antiguan respondents had not known this, nor had 11 of the 15 Dominican respondents.
- Only 20 of the 100 interviewed had not known that six of the seven countries (all but Dominica) had, in 2017, signed the *Note Verbale* sent to the UN Secretary General protesting against such a resolution and dissociating themselves from it.¹⁰ In fact, none of the 15 respondents from Dominica knew that their government, for the first time, had not signed the *Note Verbale* in 2017.

It was notable that the 27 'politicians' and the 34 who worked in the criminal justice and legal sector were no better informed, in general, about these international developments: 63% of the politicians were ignorant of their country's voting record on the moratorium and 78% did not know about the Note Verbale. Among the lawyers and criminal justice respondents, the proportions were 65% and 74% respectively.

These facts strongly suggest that, although most of these prominent and influential opinion formers were quite knowledgeable about the situation within their own country, the majority – including some politicians who had served in government – were unaware of international trends towards universal abolition. They were also unaware of their country's decision to reject the wider world movement by opposing, since 2007, resolutions at the UN General Assembly seeking to establish a universal moratorium on death sentences and executions (see the discussion on pages 37-39).

2.2 Knowledge of research

Later in the interview, the respondents were also asked how well informed they were about the research evidence from the USA and other countries concerning *the lack of any extra deterrent effect of the death penalty on the murder rate*. Only three of the 100 respondents said they knew 'nothing about it'; 46 'knew something about it'; but only 31 said they were 'very well informed'. The response was virtually identical when they were asked about their knowledge of the research evidence concerning 'the inevitability of error' and the 'conviction of the innocent'.¹¹

¹⁰ For the latest *Note Verbale*, see Promotion and Protection of Human Rights: Human Rights Questions, Including Alternative Approaches for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms, in Note Verbale dated 7 Sept 2017 from the Permanent Mission of Egypt to the United Nations, addressed to the Secretary-General, UN Doc. A/71/1047 (13 Sept 2017), 3-4. It should be noted that 58 countries signed the *Note Verbale* after the initial vote on the moratorium resolution in December 2007, but only 32 did so after the vote on the resolution in December 2016. See Roger Hood, 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*, Vol 23:2, 2018. For information on whether a country that retains the death penalty has signed the Note Verbale see www.deathpenaltyworldwide.org

¹¹ Six of the 100 respondents said they knew 'nothing about it', 47 'knew something about it', and 34 said they were 'very well informed'.

On the other hand, when the 100 respondents were asked the same questions about ‘political decision-makers’, only four thought that those who made political decisions regarding the death penalty were, as far as they were able to judge, ‘very well informed’ about the evidence on deterrence; and only eight thought this about the evidence regarding the inevitability of error.

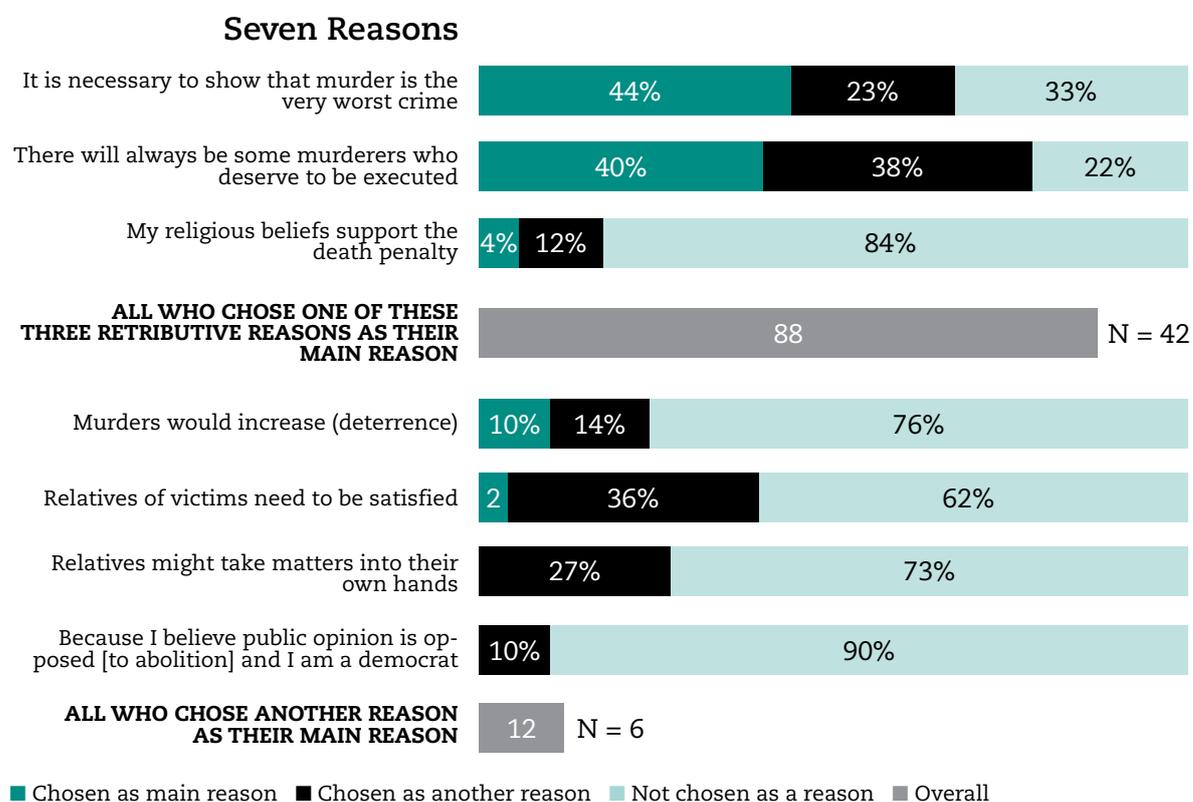
Their perception of political decision-makers is that they need to be much better informed on both issues.

3. Reasons for favouring retention

The 48 respondents who said they favoured retention were asked to give the main reason why they personally held this view (see Figure 3). Their responses clearly show that they were motivated strongly by two related retributive arguments. *‘It is necessary to show that murder is the very worst crime’* was chosen as the main reason by 44% and as a further reason by another 23% (two-thirds in all); and *‘there will always be some murderers who deserve to be executed’* was chosen as their main reason by 40% and as a reason by three-quarters (78%).

In contrast, nobody ranked public opinion as their main reason: indeed, nine out of 10 did not regard this as a reason at all. Similarly, 76% did not endorse the deterrent argument that murders would increase if the death penalty were to be abolished, and only 10% chose it as their main reason.

Figure 3: Reasons for favouring retention N = 48; percentages rounded



The irrelevance of public opinion expressed by retentionist respondents was confirmed when they were subsequently asked whether they would change their mind if a public opinion survey revealed that only a minority of respondents strongly or firmly opposed the death penalty: 85% said it would not influence them at all.

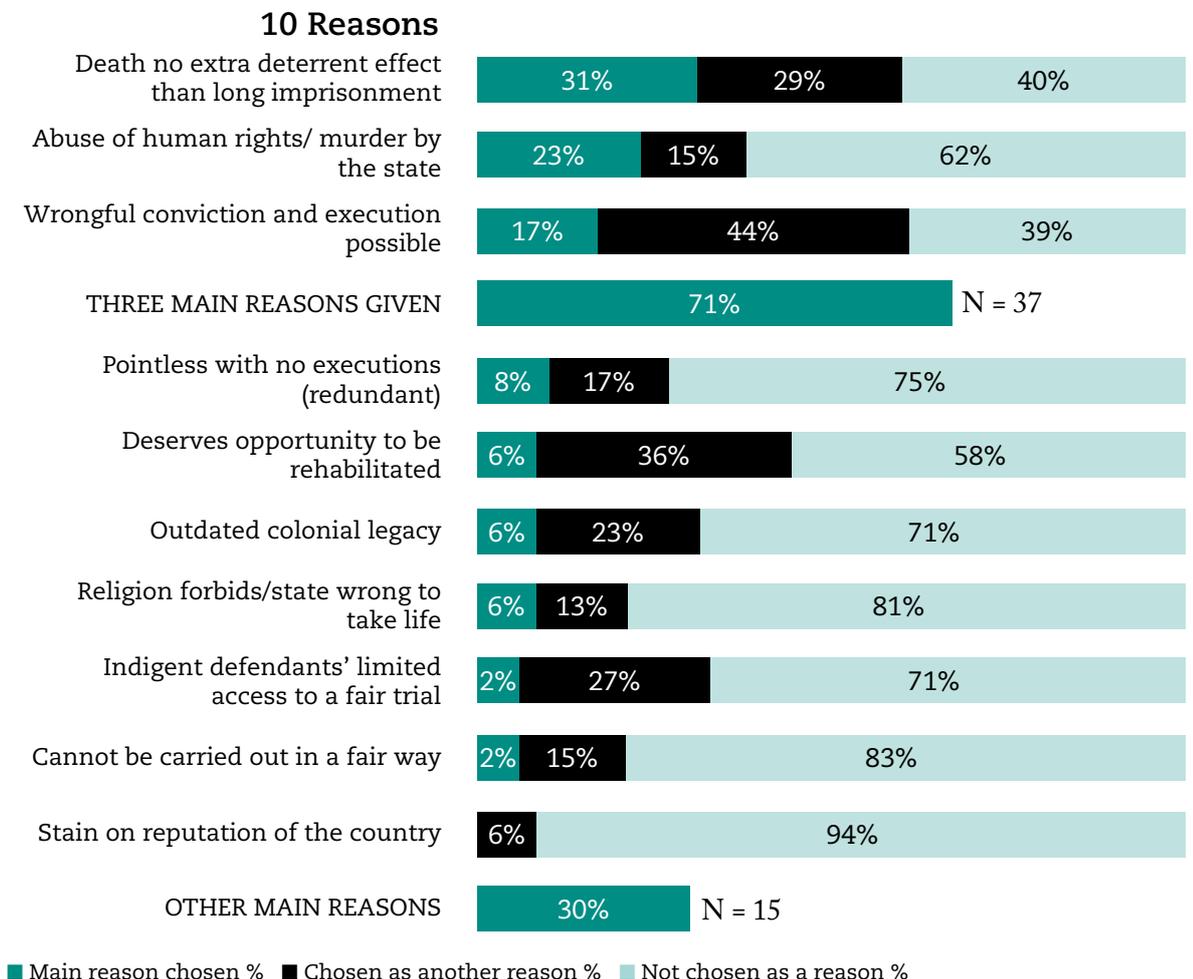
4. Reasons for favouring abolition

Among the 52 abolitionists, it was not surprising to find that the main reasons given for their stance were: *'It has no special or extra deterrent effect than long-term imprisonment'* (31%); *'it is an abuse of human rights'* (19%); and *'a wrongful conviction or execution is always possible'* (17%) (see Figure 4).

No more than 10% chose a different justification as their main reason. Moreover, more than eight out of 10 did not rank any of the following as a reason for favouring abolition: *'Cannot be carried out in a fair way'*; *'my religious beliefs forbid capital punishment'*; and *'it is a stain on the reputation of this country'*.

Also notable was the fact that only four of the 52 (8%) who favoured abolition gave *'pointless to impose punishment never carried out by execution'* as their main reason, and 75% did not give it as a reason at all. The majority of abolitionists, therefore, cited positive reasons rather than simply a reaction to the failure to enforce capital punishment.

Figure 4: Reasons for favouring abolition N = 52; percentages rounded



5. Strength of feelings on the issue: how strong a barrier to abolition?

As noted above (Figure 1), those who favoured retention were less likely than those who favoured abolition to say that they were strongly of that opinion. So, what did ‘being in favour’ of retention (either strongly or tending to be) indicate about strength of resistance to abolition and a preference instead for extending the scope and infliction of capital punishment? Several aspects of this were examined.

5.1 Support for greater scope and use of the death penalty

Did the responses suggest that the majority of the 48 retentionists wished the current policy of non-enforcement to change? They were asked which of three options they would prefer, instead of complete abolition:

- The status quo: to be imposed only in the ‘worst of the worst cases’ where there is absolutely no prospect of reformation of the offender
- Restricting the power to enforce capital punishment still further
- Making the scope of it less restrictive so it could be implemented more effectively.

Half (24) expressed themselves happy *‘to leave the law and practice as it is’*, expressing themselves content that it was now restricted to ‘the *‘worst of the worst’ murders ... in circumstances that warrant the death penalty*’... [and] *‘is not being used frivolously or recklessly’ ... and only ‘in extremely rare cases’*. Another six of the 48 endorsed the view that it should be ‘restricted in use still further if possible’, by which they meant:

‘I don’t want to see anyone sentenced to death, but I want the law to remain on the books as a deterrent’

‘Only to use it as a last resort, for extremely egregious offences such as mass killings – the option must remain on the table as a last resort’

‘It should be restricted to the killing of police officers or judicial officers.’

So, 63% [30/48] of these who favoured retention did not wish to see any expansion in use of the death penalty or in the number of executions.

The remaining retentionists, accounting for only 18 of all 100 respondents, endorsed the statement *‘the death penalty should be retained but made less restrictive, so that it could be implemented more effectively’*. Some of them mentioned the need for more certainty of punishment – including more effective policing and not allowing the length of the appeal process to restrict the carrying out of the sentence – but most wanted the notion of the ‘worst of the worst’ to be extended to include certain specific types of murder, such as:

'death penalty for malicious murders, killing of law-enforcement officials, domestic murders, death penalty for crimes of passion'; 'for malicious murders, family annihilations, cold-hearted killers'; or 'when people show no remorse and glorify a crime, then [the death penalty] should be used'.

Most of these kinds of killings would be very difficult, if not impossible, to define in statute law or within judicial guidelines without leading to considerable arbitrariness in the decision whether or not to inflict the death penalty.

5.2 The effectiveness of executions in reducing violent crime

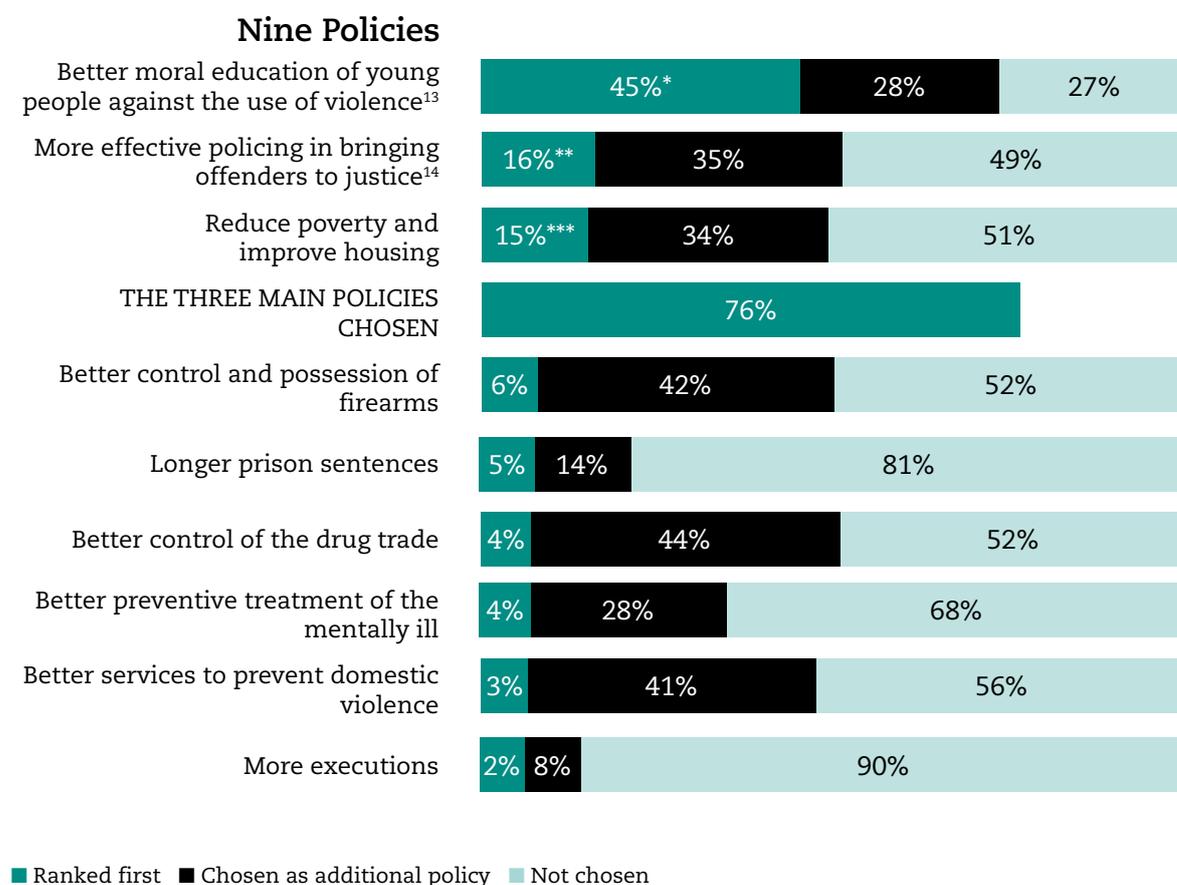
Several surveys of public opinion on the subject of the death penalty in other countries have asked respondents: *How would you rank the likely effectiveness of more executions as a way of controlling violent crime leading to death, when compared with other social and criminal justice policies?*¹²

As Figure 5 shows, the policy most frequently chosen (and least frequently not chosen) was: *'better moral education of young people against the use of violence'*. This was true of both retentionists and abolitionists. By contrast, only 10 of the 100 respondents (six retentionists and four abolitionists) endorsed *'more executions'* as an effective policy to reduce the incidence of serious violent crime leading to death, and only two (both retentionists) placed it first. The proportions of retentionists and abolitionists who rejected the policy of more executions was very similar: 79% and 83% respectively. This was also the case when ranking *'longer prison sentences'*, which 88% of retentionists and 92% of abolitionists declined to endorse. In fact, not only did 40 of the 48 retentionists reject more executions as a remedy, but 81% of retentionists also did not endorse *'longer prison sentences'*.

A large majority of respondents did not favour severe sentences as the solution to serious violent offending, retentionists and abolitionists both being more likely to prefer, instead, measures of moral education against the use of violence. A higher proportion of abolitionists chose measures of social amelioration, such as reducing poverty and improving housing. Retentionists more often than abolitionists chose *'more effective policing in bringing offenders to justice'*.

¹² See Roger Hood, *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*, Vol 23:2, 2018.

Figure 5: More executions ranked against alternative policies N = 100



NOTE: *50% of retentionists and 40% of abolitionists ** 21% of retentionists and 12% of abolitionists; *** 8% of retentionists and 21% of abolitionists

5.3 Likely public response to abolition

All informants were also asked what they thought the response would be to abolition if the government were to bring it about (see Figure 6). This revealed that only 19 of the 100 – seven of the 52 abolitionists and 12 of the 48 retentionists – said they thought *‘there would be demonstrations of strong public dissatisfaction in the media and elsewhere, and repeated calls for its reinstatement’*. Even though only eight of the 100 respondents endorsed the view that the majority of the public would accept abolition immediately, a large majority (68) agreed with the opinion that there *‘might be some expressions of dissatisfaction leading up to abolition, but the majority of the public would come to accept it once the law was passed’* or *‘a majority of the public would immediately accept it’*. For example, two respondents stated that:

¹³ One abolitionist (a lecturer) said: ‘It is not about moral education; we have an educational system that is not sufficient, which allows people to funnel into criminal activities. We don’t need more ‘Jesus’, we need a better educational system.’

¹⁴ A senior criminal justice administrator noted: ‘The justice system is very important, and we need to improve it and restore the faith of citizens in the justice system.’

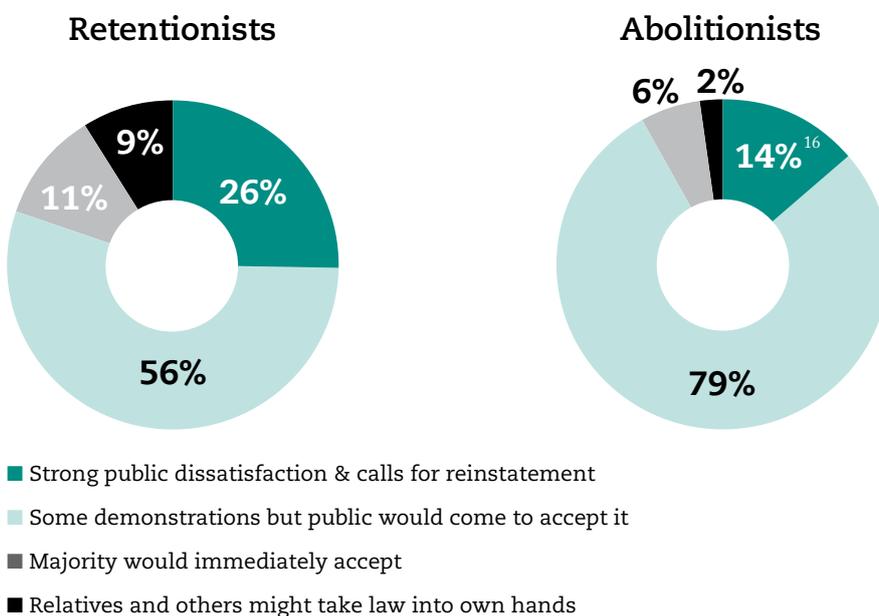
‘There would be objection to abolishing it but not at the level of demonstrations. There is no push back [my country] will eventually accept it’.

‘If we were to have demonstrations it would have been done already, because it has already been de facto abolished’.

Altogether, this amounted to 76 of the 100 informants, including two-thirds (66%) of those who said they were in favour of retaining the death penalty.¹⁵

Figure 6: Estimated public reaction if the death penalty were to be abolished

N = 100 percentages rounded



It is clear that supporting retention of capital punishment did not imply that the majority of our informants believed abolition would be unacceptable to the majority of the population of their country once it had passed into legislation.

5.4 Support for abolitionist legislation

All informants were asked ‘would you personally be willing to either support or not oppose an act of parliament to abolish capital punishment completely in your country?’ Table 3 reveals that only 12 of the 100 informants, all of them retentionists, said they would *strongly oppose such legislation by definitely voting against it*. This included only seven of the 18 who had said they were *strongly and vigorously in favour of retention*. In fact, 70 of the 100 informants said they would either support the legislation (51), or at least not oppose it (19).

¹⁵ A small number, five respondents, added: ‘Victims or others might take the law into their own hands.’

¹⁶ It is interesting to note that one criminal justice professional who favoured abolition believed that people had been calling for the death penalty because of an increase in crime and therefore suggested that it ‘would make sense to take into consideration victims’ rights... a balance between thinking about defendants’ rights and victims’ rights, including the provision of victim support, whether in terms of access of information, physical and emotional support, or financial assistance’ activities. We don’t need more ‘Jesus’, we need a better educational system.’

The supporters were fairly evenly balanced between those who said they would give vigorous support (27) and those who would support but ‘not take the lead’ (24).

Table 3: Response to an act to abolish capital punishment N = 100

Would you be willing either to support or not oppose an act of parliament to abolish the death penalty completely?	Strongly in favour of abolishing	In favour of abolishing	In favour of retaining	Strongly in favour of retaining	Total N	Percentage
Yes: strongly and vigorously support	20	6	1	0	27	27
Yes: support but not take the lead	8	15	1	0	24	24
Yes: although still not in favour, would not oppose it	0	0	13	6	19	19
Total Yes	28	21	15	6	70	70
No: would oppose it by raising objections	0	0	6	4	10	10
No: would definitely vote against it	0	0	5	7	12	12
Total No	0	0	11	11	22	22
Declined to give an opinion ¹⁷	2	1	4	1	8	8
Total	30	22	30	18	100	100

It appeared, therefore, that the majority of ‘opinion formers’ interviewed who favoured retention of the death penalty:

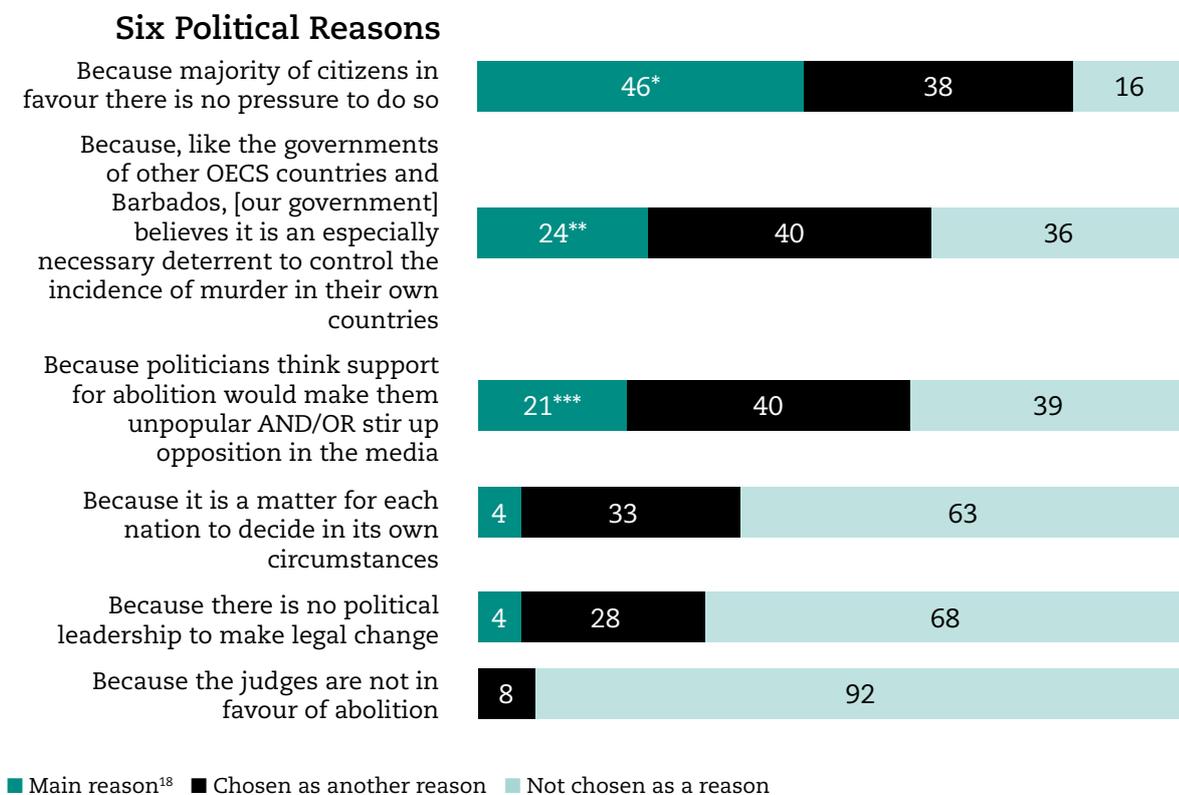
- Were not in favour of increasing its scope and enforcement.
- Did not believe that more executions were an effective policy to combat violent crime.
- Did not fear that abolition would be unacceptable to the majority of citizens.
- Would not themselves vote against it if a bill were to be introduced to abolish the death penalty completely.

¹⁷These were respondents who said they did not feel it appropriate to answer this question because they believed it was incompatible with their official position, or who felt they should represent their organisation, or who were uncertain about how they would respond if asked to vote on the issue. For example: ‘I am not in a position to state as I am a servant of the government’; ‘I cannot be seen to be involved’; ‘I cannot say. I would do what my constituents want’; ‘I do not have a view at this time. It depends on the evidence we have when the vote is [taken]’.

6. Opinions on why the death penalty has not been abolished

All informants, whether or not they personally favoured retention or abolition, were asked to rank in terms of their importance, six reasons why they thought that their own country had not abolished the death penalty completely ‘*in law*’. This question was asked at two stages of the interview: at the beginning and closer to the conclusion. On the first occasion, the reasons probed related to political factors. On the second, they related more closely to the personal reasons the retentionist respondents had given for supporting capital punishment.

Figure 7: Political reasons why the death penalty has not been abolished N = 100



NOTE: *56% of retentionists and 37% of abolitionists; **23% of retentionists and 25% of abolitionists; ***13% of retentionists and 29% of abolitionists

Figure 7 shows clearly that the main political reason perceived by respondents was ‘*because the majority of citizens are still in favour of it there is no pressure to do so*’, which was endorsed as their main choice by 46 and as another reason by 38 of the informants: accounting for 84 of the 100. The main reason given by 21 was that ‘*politicians think support for abolition would make them unpopular and/or stir up opposition in the media*’ and 40 also endorsed this as one of their reasons: accounting for 61 of the 100.¹⁹ A quarter (24) thought that the main reason was that their government ‘*like [those] of other OECS countries and Barbados believe it is [an] especially necessary deterrent to control the incidence of murder*’. In addition, 40 others chose

¹⁸The total giving one of these as their main reason is 99, because one person (in favour of abolition) declined to answer this question, so is not coded as giving a main or other reason but is coded as not choosing any of the six reasons.

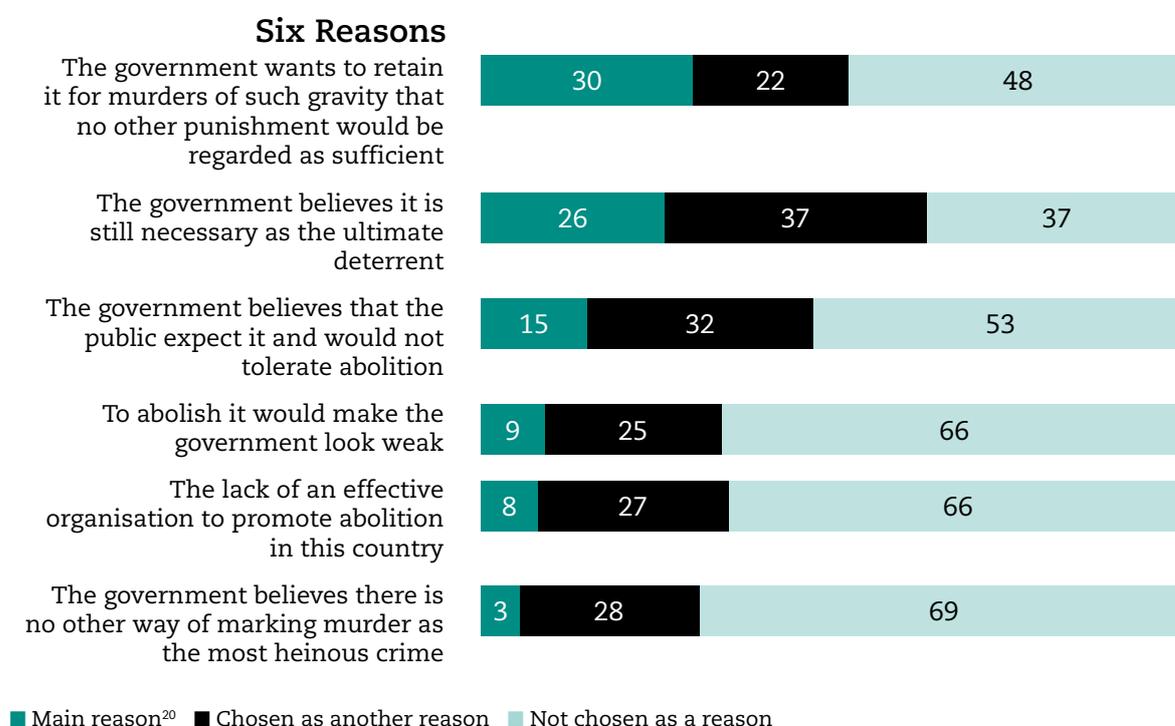
¹⁹These figures relate to the average for all seven jurisdictions.

this as a subsidiary reason, accounting for 64 respondents overall, with no difference between the retentionists and abolitionists. Altogether 97 informants chose one or other of these three main reasons why the death penalty remained on the statute book in their country.

When they were asked to rank a different set of reasons – but again including the deterrent justification – the same substantial proportion of the 100 respondents (63) agreed that at least one reason was that *‘the government still believed that the death penalty was necessary as the ultimate deterrent’* (see Figure 8). Another 30 informants chose as the main reason – and 22 as a subsidiary reason – the retributive justification *‘the government want to retain it for murders of such gravity that no other punishment would be regarded as sufficient’*. But this was because (as the note to Figure 8 shows) 46% of retentionists chose this as their first reason, compared with only 15% of the abolitionists – which mirrored the personal justification given by retentionists for opposing abolition of the death penalty (see Figure 3 above).

It should be noted that there is a remarkable divergence between this view of almost two-thirds of retentionist ‘opinion formers’ regarding the influence of the deterrent argument on governmental thinking, and the views the 48 retentionists expressed when they had been asked to say what their own reasons were for supporting capital punishment. Then, only 10% of them gave ‘murders would increase’ as their main reason, and 75% did not regard it as a reason at all (see Figure 3 above).

Figure 8: Other reasons why the death penalty has not been abolished N = 100



NOTE: * 46% of retentionists and 15% of abolitionists; ** 21% of retentionists and 31% of abolitionists; ***13% of retentionists and 17% of abolitionists.

²⁰ Nine people declined to answer this question, so the total giving a main reason is 91. Mostly, it seems that they did not think that any of these options added to the opinions they had endorsed in Figure 7 and therefore had no currency. Only one of them refused to answer the questions in both Figure 7 and 8, stating that there were ‘other issues to deal with at the present time’. All nine were coded as not choosing one of the six reasons.

It is notable that only 15 of the 100 respondents selected as the main reason: *'because the government believes that the public expect [capital punishment] and would not tolerate abolition'*. This was consistent with the optimistic views of the retentionists when they had been asked what the public reaction might be were the death penalty to be abolished (see Figure 6).

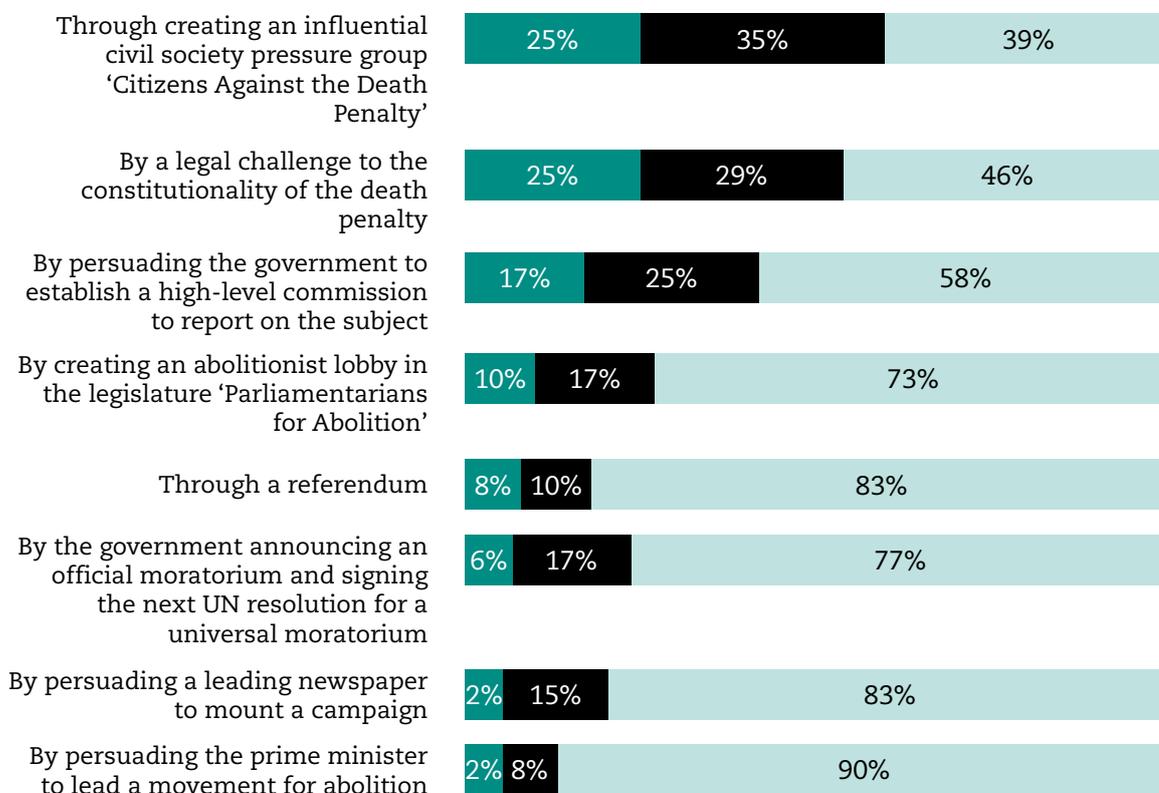
7. How could progress towards abolition be achieved?

The respondents who favoured abolition were asked specifically to rank, in order of importance, a number of ways through which it could begin to be achieved in their country. There was no really outstanding approach that respondents chose as the best strategy: none of the alternatives put to them were ranked first by more than a quarter of them (see Figure 9). However, the strongest support – being ranked first by 25% and, perhaps more significantly, supported by 60% altogether – was: *'through creating an influential civil society pressure group 'Citizens Against the Death Penalty'*. Also, more than half (54%) supported: *'by a legal challenge to the constitutionality of the death penalty'*. However, more than half (58%) did not favour: *'persuading the government to establish a high-level commission to report on the subject'*.

Also, there was hardly any support for: trying to persuade the prime minister to take the lead; mounting a referendum; trying to persuade a leading newspaper to mount a campaign for abolition; or *'announcing an official moratorium and signing the next UN resolution in favour of a universal moratorium'*.

Figure 9: How to achieve abolition

N = 52 percentages rounded

Eight routes to abolition

■ First choice %²¹ ■ Chosen as another route % ■ Not chosen at all %

One respondent added perceptively: 'These are general guesses, as there is no direct information or survey from the population. There is a need for a campaign to promote abolition.'

8. Why not follow the international trend?

It will be recalled (see page 26) that a substantial majority of the respondents had stated that they were unaware of the voting record of their country since 2007 regarding the resolution, brought forward by a majority of nations at the UN General Assembly, to institute a worldwide moratorium on the death penalty and executions. An even larger proportion had also been unaware that their country had (with the exception of Dominica in 2017) signed a *Note Verbale* to the UN General Assembly protesting against and dissociating itself from the bringing forward and adoption of the moratorium resolution and its claim that the use of capital punishment was a 'human rights issue', rather than simply an issue to be decided – as a matter of national sovereignty – by each nation according to its circumstances and culture.

²¹The number of respondents giving a first choice was 49: three decided not to answer this question. They have been coded as not choosing any of the eight routes to abolition.

As a way of assessing whether those who were in favour of retention of capital punishment shared their government's view that the question of abolition should not be influenced by, or follow the policy adopted by, the majority of nations, the 48 retentionist informants were asked:

Does the fact that, in recent years, since 1989, the number of countries worldwide that have completely abolished [the death penalty] has now risen from 35 to 106 – AND that eight states of the USA have abolished capital punishment [New York, Illinois, New Mexico, Connecticut, Maryland, New Jersey, Delaware and Washington] – alter your view on whether your country should follow the international trend?²²

Forty-four of the 48 (92%) answered **no**: *it makes no difference; I would still support the death penalty*; four said they were 'not sure' or expressed no opinion; but none said **yes**.

Their reasons for rejecting these facts as a guide to policy were all concerned with their views that:

- *'Each country must consider its own, even unique, circumstances'*
- *'We have our own internal dynamics'*
- *'Do not follow the multitude; take a society position on the matter, consider the values of a society; because [our country] is independent and capable of making its own decisions'*
- *'Doesn't mean what they are doing is the right thing. Other countries have different social issues and lobby groups who pressure for change. We don't have that here'*
- *'Each country should set its own standards and path, and not blindly follow international trends'*
- *'I don't believe that the morality and perspective that influence the views of other countries is correct and relevant to [my country]. I don't think they are more enlightened'*
- *'We are a sovereign state'*.

Similarly, when retentionists were told that *only two countries in South and Central America (Guyana and Belize) retained the death penalty but had not enforced it for many years*, and were asked whether this affected their view on whether their country should join the majority of abolitionist nations in its region, only two of the 48 said this would change their mind. So, 94% said definitely **no**: *I would still be opposed*.²³

One interviewee stated that: *'This country needs to keep the death penalty on the table, as crime is out of control.'*

However, when informants who lived in the five countries²⁴ that had always voted against the resolution at the UN calling for a worldwide moratorium on the death penalty and executions were asked whether they thought their government's policy should be reconsidered and reversed, more than half (56%) thought that it should. In fact, more than three-quarters (78%) of the supporters of abolition did so, compared with only a third (32%) of those who supported retention. Almost the same overall proportion (52%) responded positively to the proposal that the policy of always signing the *Note Verbale* of dissent to the moratorium should be reconsidered and reversed, as it had been in Dominica.²⁵ Although 72% of abolitionists supported it, only 28% of retentionists did so.

²² See Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective*. Oxford: Oxford University Press, 5th edition, 2015, 10–48; also, Roger Hood and Carolyn Hoyle, Towards the Global Elimination of the Death Penalty: A Cruel, Inhuman and Degrading Punishment, in Pat Carlen and Leandro Ayres França (eds), *Alternative Criminologies*, Abingdon, Oxon: Routledge, 2018, 400–422.

²³ One respondent did not express an opinion.

²⁴ Barbados, Grenada, St Kitts and Nevis, St Lucia, and St Vincent and the Grenadines (but not Antigua and Barbuda or Dominica).

²⁵ The informants in Dominica were not asked this question.

This is very strong evidence that most of these retentionist informants, drawn from the ‘opinion formers’ in these countries, gave no weight to the international or regional movement to embrace abolition. Furthermore, they were the most resistant to their country moving forward to associate itself with the universal trend towards complete elimination of capital punishment.

The overwhelming reason which emerged from these questions of why abolitionist and retentionist informants thought their government was opposed to joining the international movement for abolition is clear from the following opinions:

- *‘Because it would be unpopular among citizens. Easy way out’ (abolitionist)*
- *‘The government is afraid to lose political capital because the people think it is a deterrent to crime’ (abolitionist)*
- *‘Because the law has a view that is in keeping with the views of the people and they don’t want to emulate the international community’ (retentionist)*
- *‘Because our politicians are driven solely by the desire to do or not to do what is politically expedient. Politicians believe that the public would be against the abolition of the death penalty because our people believe in revenge and punishment’ (abolitionist)*
- *‘... you want to have credibility with your population. This is a hard stance and makes them look strong. We probably don’t want to be told what to do in our own jurisdiction. Accountability is to the people and not to the international community’ (retentionist)*
- *‘It is easier to take this position than a position of abolition. It will be a political tool for the opposition’ (abolitionist)*
- *‘They are led by the opinions of the people – that is democracy’ (retentionist)*
- *‘Because the government is hiding behind a collective CARICOM [Caribbean Community] approach... It is a deep sense of culture that still rules how we deal with violence and crime. They [the government] do not have the political will to stand up for human rights’ (abolitionist).*

Although none of the ‘opinion formers’ who favoured retention of the death penalty had chosen ‘public opinion is opposed to abolition’ as the main reason for being in favour (and 90% had not chosen it as a reason at all) (see Figure 3), the majority of them believed that the government’s position was that the majority of citizens were in favour of retention and not ready to embrace abolition.



PART FOUR

Conclusions and Implications of The Findings

This survey has reported on the views of 100 people, drawn from the world of politics, criminal justice, the church, and civil society, who can be described as ‘opinion formers’ on the subject of the death penalty in the retentionist countries of the Eastern Caribbean and Barbados. The main findings and conclusions are that:

- Although the people selected turned out to be almost equally divided between those who favoured retention of the death penalty (48) and those who favoured its abolition (52), the respondents who said they were strongly or firmly in favour of retention amounted to only 18 of the 100 informants, whereas 30 strongly favoured abolition.
- More than half of those from the field of politics, civil society and the clergy favoured retention, but only just over a third of those drawn from the field of criminal justice and the law supported the death penalty.
- In general, the majority of respondents, both retentionists and abolitionists, were similarly well informed about the status and use of capital punishment in their own country. However, only a minority knew that – with the recent exception of Dominica and Antigua – their country had, since 2007, voted with a minority of governments against a resolution brought forward at the UN General Assembly on seven occasions to institute a universal moratorium on death sentences and executions. Only one in five respondents had been aware that their country (with the exception of Dominica) had in 2017 signed a *Note Verbale* protesting against the resolution and dissociating itself from it.
- Only one in three of the respondents said they were personally ‘very well informed’ about empirical research on the lack of deterrent effect of the death penalty or research on the inevitability of error and the conviction of the innocent in capital cases. Nevertheless, they thought that ‘political decision-makers’ were much less well informed than they were.
- The reasons why the retentionists favoured the death penalty were based mainly on retributive principles of denunciation and desert: three-quarters endorsed, as their main reason or a subsidiary reason, either ‘*it is necessary to show that murder is the very worst crime*’ or ‘*there will always be some murderers who deserve to be executed*’. In contrast, nobody ranked public opinion as their main reason: indeed, nine out of 10 did not regard this as a reason at all. Similarly, three-quarters did not personally endorse the deterrent argument that murders would increase if the death penalty were to be abolished.
- Only four (8%) of the 52 who favoured abolition endorsed the statement ‘*it is pointless to impose a punishment that will never be carried out by execution*’. Instead, two thirds endorsed as their main reason either: the death penalty has ‘*no special deterrent effect*’, ‘*is an abuse of human rights*’ or ‘*a wrongful conviction or execution is always possible*’.
- Only a small proportion of those who personally favoured retention of the death penalty wished to see its use expanded, or indicated that they would be strongly opposed to its abolition if the government should decide to introduce legislation to bring it about. The evidence to support this was:
 - Thirty (63%) of the 48 retentionists did not wish to see any expansion in the use of the death penalty or in the number of executions. So, only 18 of the 100 respondents

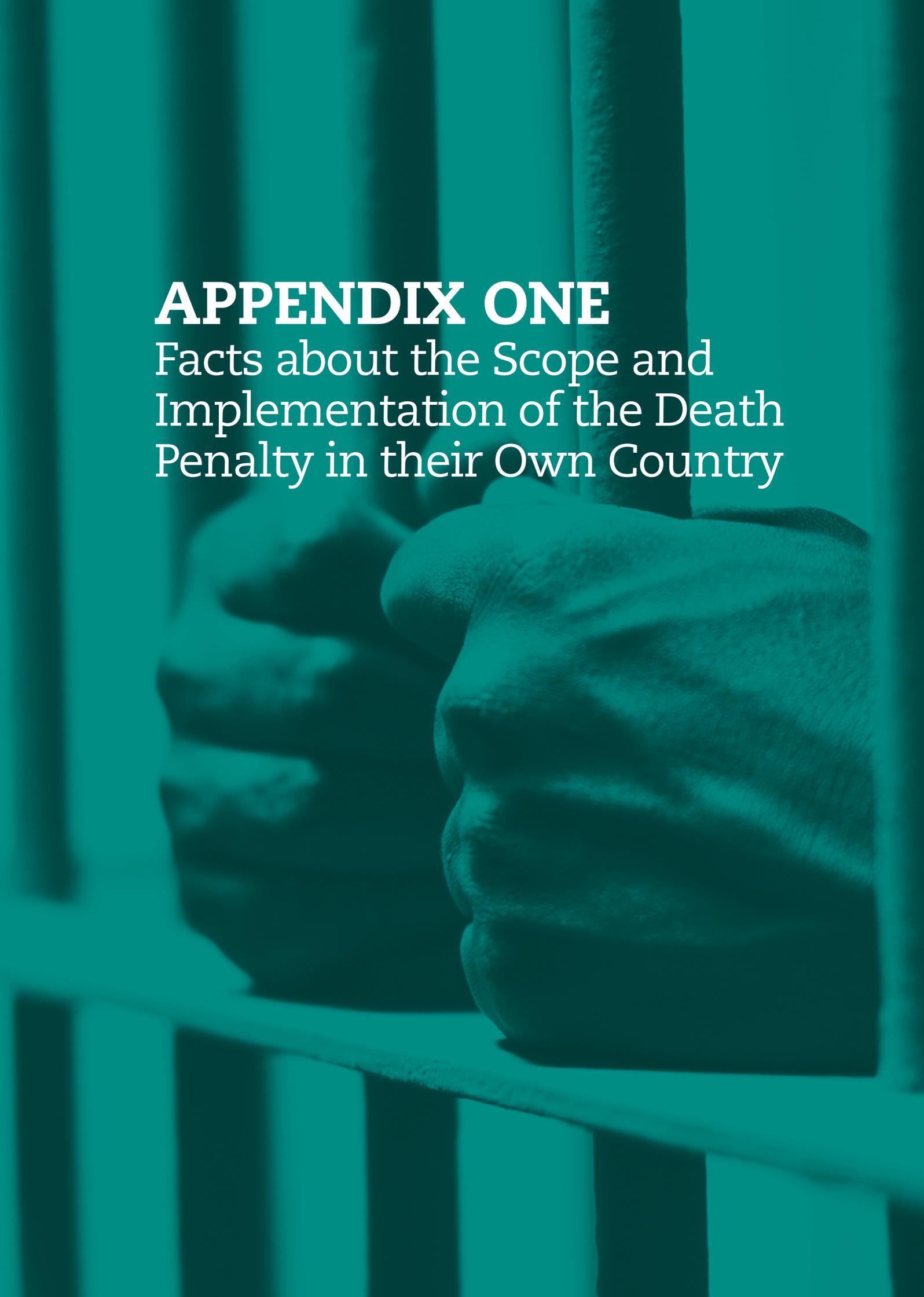
favoured making the death penalty less restrictive so it could be implemented more effectively.

- When the 100 respondents were asked to rank *'the likely effectiveness of more executions as a way of controlling violent crime leading to death, when compared with eight other social and criminal justice policies'* 72 chose, as either their main or a subsidiary policy, *'better education of young people against the use of violence'*. In contrast, only two ranked *'more executions'* first, and only 10 chose it at all. Even *'longer prison sentences'* was only ranked first by five respondents.
- When asked what they thought the response would be if the government were to bring in legislation to abolish the death penalty completely, only 19 respondents (seven abolitionists and 12 retentionists) thought there *'would be demonstrations of strong public dissatisfaction in the media and elsewhere, and repeated calls for its reinstatement'*. Two-thirds (68) agreed with the opinion that there *'might be some expressions of dissatisfaction leading up to abolition, but the majority of the public would come to accept it once the law was passed' or 'a majority of the public would immediately accept it'*. So, together with a small number who thought it would be welcomed immediately, 76 of the 100 informants – including two-thirds (66%) of those who said they were in favour of retaining the death penalty – did not believe that there would be long-lasting or disruptive opposition to abolition.
- When all 100 informants were asked *'whether they would personally be willing to either support or not to oppose an act of parliament to abolish capital punishment completely in your country'*, only 12 of the 48 retentionists said they would strongly oppose such legislation by *definitely voting against it*. Altogether, 70 of the 100 informants said they would either support the legislation (51) or at least not oppose it (19).
- When all 100 informants were asked why they thought their own country had not abolished the death penalty in law, given the circumstances of its use, 84 of them endorsed – as their main or a subsidiary reason – the statement *'because the majority of citizens are still in favour of it there is no pressure to do so'*. Sixty-three thought that the main reason or subsidiary reason was their government *'like [those] of other OECS countries and Barbados believe it is [an] especially necessary deterrent to control the incidence of murder'*, with no difference between the proportion of retentionists and abolitionists choosing this as their main reason. This is remarkably different from the personal reasons selected by retentionists, only 10% of whom had chosen *'murders would increase (deterrence)'* as their main reason for supporting the death penalty, and 75% of whom had not regarded it as a reason at all.
- When the 52 who favoured abolition were asked which of eight possible routes might be taken to achieve abolition, there was little consensus on the best strategy: none of the alternatives put to them were ranked first by much more than a quarter of the respondents. However, taking their main and subsidiary choices together, 60% thought that it might be *'through creating an influential civil society pressure group, "Citizens Against the Death Penalty"*, and 54% chose *'in a legal challenge to the constitutionality of the death penalty'*.

- As mentioned above, a substantial majority of the 100 ‘opinion formers’ had not been aware of the fact that their country had opposed the resolution, supported by the majority of nations at the UN General Assembly, to institute a worldwide moratorium on the death penalty and executions. When the 48 retentionists were asked whether the fact that the number of countries (in addition to eight states of the USA) that had completely abolished the death penalty since 1989 had risen from 35 to 106 would alter their view on whether their country should follow the international trend, not one answered yes. They asserted, for example, that *‘each country must consider its own, even unique, circumstances’*.
- However, when asked whether their country should reconsider its policy of voting against the UN Resolution in favour of a moratorium, more than half (56) supported this idea, but it was mainly abolitionists (78%) that did so, compared with only 32% of retentionists. When asked why they thought their country had chosen not to support the resolution, and decided to sign the *Note Verbale* of dissent instead, they suggested it was because the government considered that their citizens are strongly in favour of its retention. As one respondent put it: *‘You want to have credibility with your population. This is a hard stance and makes them look strong. We probably don’t want to be told what to do in our own jurisdiction. Accountability is to the people and not to the international community.’*

It is important to recognise that, according to the ‘opinion formers’ interviewed for this survey, the reasons why these governments have failed to bring forward legislation to abolish capital punishment completely is their unwillingness to follow international trends, on the grounds of national sovereignty, cultural exceptionalism, assumptions about the deterrent effect of having the death penalty on the statute book, the strength of public sentiments and concern for maintaining electoral popularity.

Yet the findings of this survey suggest that those ‘opinion formers’ who supported the retention of the death penalty and their government’s resistance to the international moratorium, did not personally accept that assumptions about the strength of public opposition to abolition should determine the issue. When questioned more closely, most of these knowledgeable and influential citizens did not predict that there would be grave consequences if the death penalty were to be abolished completely and — with only a few exceptions, they would not oppose or reject total abolition of capital punishment if their government were to take the lead.



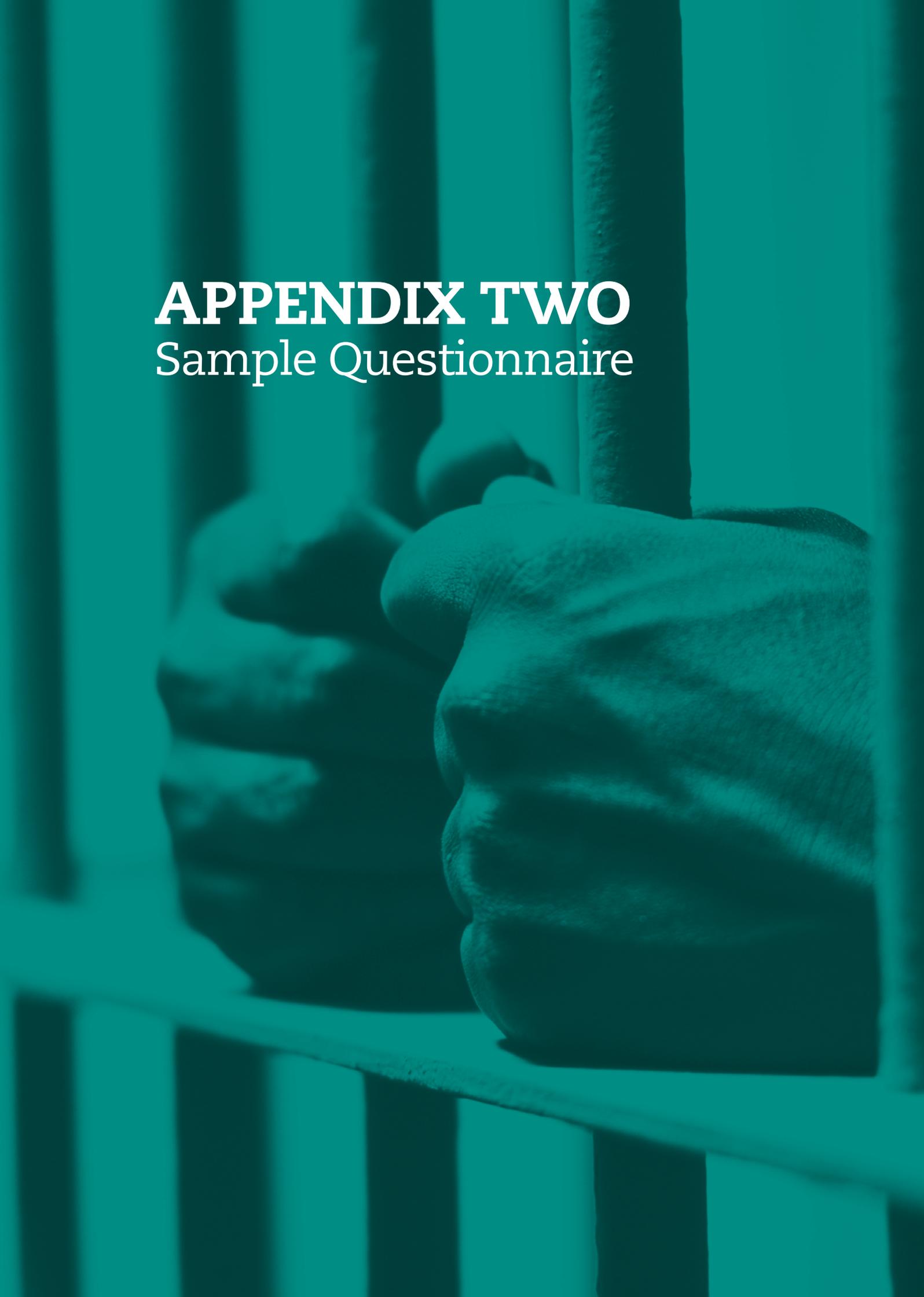
APPENDIX ONE

Facts about the Scope and
Implementation of the Death
Penalty in their Own Country

N = 100 (retentionist = 48, abolitionist = 52) percentages rounded

TEN FACTS	Informant Knew N = 100	Retentionist %	Abolitionist %
1. Your country retains the death penalty by hanging as a discretionary punishment for murder.	97	98	96
2. The Eastern Caribbean Court of Appeal laid down in 2009 that the death penalty can only be imposed for the 'worst of the worst' cases where there is absolutely no prospect of the reformation of the defendant.	82	85	79
3. No person has been executed since DATE.	89	90	89
4. No one has been sentenced to death since DATE.	71	65	77
5. The number of prisoner(s) under sentence of death at the end of 2018.	55	65	46
6. That, in 1993, the Privy Council ruled that to retain a person under a death sentence for longer than five years on death row is unconstitutional, being a cruel and inhuman punishment. After five years, if the person has not been executed, the death sentences should be commuted to life or other terms of imprisonment.	[N = 82] * 72 =88%	79	95
7. The number of murders recorded by the police in the five years 2012 and 2016, and its equivalent rate per 100,000 population.	60	65	56
8. No action has been taken by the government to institute an official moratorium on use of the death penalty.	83	75	90
9. At the UN in December 2018, the government [of Barbados, Grenada, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines] voted (for the seventh time since 2007) against a resolution brought before the General Assembly to institute a universal moratorium on death sentences and executions leading to universal abolition of capital punishment. In December 2018, for the first time since 2007, Antigua and Barbuda abstained, and Dominica voted in favour of the resolution.**	35	40	31
10. All the Eastern Caribbean countries, with the exception of Dominica, previously signed a 2017 <i>Note Verbale</i> to the UN Secretary-General protesting against such a resolution being brought before the General Assembly and dissociating themselves from it. Barbados was also a signatory to the <i>Note Verbale</i> .	20	23	17

NOTE: * Fact 6 was not asked of respondents in Barbados, where this procedure is not relevant. ** These facts were brought up to date to include the voting record of each of the countries in the UN General Assembly in December 2018. However, because of a misunderstanding, two of the 14 informants in Antigua had been asked if they had been aware of their country's vote against the resolution in December 2016. Neither had known this.



APPENDIX TWO
Sample Questionnaire

**THE DEATH PENALTY PROJECT IN ASSOCIATION WITH THE LAW FACULTY OF
THE UNIVERSITY OF THE WEST INDIES AT CAVE HILL**

**STUDY OF OPINION IN THE EASTERN CARIBBEAN ON THE RETENTION OR
ABOLITION OF CAPITAL PUNISHMENT**

(GRENADA QUESTIONNAIRE)

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

As mentioned in the letter from Dr Berry, of UWI Law School, the purpose of this interview is to ask you whether, in light of the development of death penalty law and practice in your country, you think:

EITHER that the death penalty should be retained OR should be now 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.

The reason why this project has been launched is explained by the current situation, under which the death penalty remains on the statute book but has not been enforced for many years.

Let me assure you again that 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. Indeed, the responses from the eight jurisdictions will not be presented separately. If differences are found to exist between jurisdictions in the opinions expressed, this will of course be noted but not in a way that will identify those specific countries. Thus, you will be assured that your anonymity will be preserved.

If you are happy with this assurance please sign and date this CONSENT FORM

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

BEGIN INTERVIEW

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

MAIN FACTS: GRENADA	CODE
Retains the death penalty by hanging as a discretionary punishment for murder	1
The Eastern Caribbean Court of Appeal laid down in 2009 that the death penalty can only be imposed for the 'worst of the worst' cases where there is absolutely no prospect of the reformation of the defendant	2
No person has been executed since 1978	3
No one has been sentenced to death since 2002	4
There was only one prisoner under sentence of death at the end of 2018	5
In 1993, the Privy Council ruled that to retain a person under a death sentence for longer than five years on death row is unconstitutional, being a cruel and inhuman punishment. After five years, if the person has not been executed, the death sentences should be commuted to life or other terms of imprisonment	6
In the five years from 2012 to 2016, 44 murders were recorded by the police, equivalent to a rate of nine per 100,000 population in 2016	7
No action has been taken by the government to institute an official moratorium on use of the death penalty	8
At the UN in December 2018, the government of Grenada voted (for the seventh time since 2007) <u>against</u> a resolution brought before the General Assembly to institute a universal moratorium on death sentences and executions leading to universal abolition of capital punishment	9
All the Eastern Caribbean countries, with the exception of Dominica, previously signed a 2017 Note Verbale to the UN Secretary-General protesting against such a resolution being brought before the General Assembly and dissociating themselves from it. Barbados was also a signatory to the Note Verbale.	10

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)

2. Given these circumstances of its use, why do you think your country has not abolished the death penalty in law completely?

Please RANK the MAIN reason with 1, and ANY others you think might be a reason in order of importance (from 2-5)

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.

SHOW CARD

MAIN REASONS	RANK
Because the majority of citizens are still in favour of it 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, like the governments of other East Caribbean nations, as well as Barbados, all still share the belief that it is <u>especially</u> necessary as a deterrent to control the incidence of murder in their own countries	
Because this is a matter for each nation to decide in their own circumstances	

3. In view of these circumstances: are you personally in favour of your country retaining the death penalty in its legislation or abolishing it altogether?

OPINION	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

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 restricted as at present: the status quo	1
I would like to see it restricted in use still further if possible	2
The death penalty should be retained but made less restrictive , so that it could be implemented more effectively	3

4a. IF THE STATUS QUO ASK: Why are you content to leave the law and practice as it is?

4b. IF IN FAVOUR OF FURTHER RESTRICTION ASK: Given the current restrictions that we referred to above, on the infliction of the death penalty to the 'worst of the worst cases' and those for whom there is no hope of rehabilitation, what further restrictions do you have in mind?

4c. IF IN FAVOUR OF LESS RESTRICTION ASK: What kind of reforms would you favour that you think would make it more effective?

ASK RETENTIONISTS ONLY

5. Why are you personally in favour of retaining the death penalty? Please RANK the MAIN reason with 1, and any others you think might be a reason in order of importance (from 2-7)

SHOW CARD:

REASONS	RANK
It's necessary to show that murder is the very worst crime	
Murders would increase	
Because I believe public opinion is opposed and I am a democrat	
There will always be some murderers who deserve to be executed	
Relatives of victims need to be satisfied	
Relatives and others might take matters into their own hands	
My religious beliefs support the death penalty	

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

6. What would be your reasons for supporting complete abolition? Please RANK the MAIN reason with 1, and any others you think might be a reason in order of importance (from 2-9)

REASONS	RANK
It is pointless to impose a punishment that will never be carried out by execution	
It has no special or extra deterrent effect than long imprisonment	
A wrongful conviction and execution is always possible	
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	

ASK ALL: RETENTIONISTS AND ABOLITIONISTS

7. What do you think would happen if the government were to abolish the death penalty? CHOOSE 1, 2, 3 OR 4 OR mention any different response you think there might be

RESPONSES	CODE
There would be demonstrations of STRONG public dissatisfaction, in the media and elsewhere, against the decision and REPEATED calls for its reinstatement	
There might be SOME demonstrations or expressions of dissatisfaction leading up to abolition, but the majority of the public would come to ACCEPT IT once the law was passed	
A majority of the public would IMMEDIATELY ACCEPT IT	
Relatives of victims or others might seek to take the law INTO THEIR OWN HANDS	
ANY OTHER RESPONSE? Please specify ----- ----- ----- -----	

ASK RETENTIONISTS ONLY

8. If a public opinion survey found that only a minority of respondents were strongly/firmly opposed to abolition, would that change your mind?

REASONS	CODE
YES: I would favour abolition in that case	
NO: I would still be opposed	

ASK RETENTIONISTS AND ABOLITIONISTS

9. How well informed do you think that

9a First: YOU PERSONALLY AND

9b Second: POLITICAL DECISION-MAKERS AS A WHOLE

are about the research evidence from the USA and other countries regarding the lack of any extra deterrent effect of the death penalty on the murder rate?

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

10. How well informed do you think that

10a. First: YOU PERSONALLY AND

10b. Second: POLITICAL DECISION-MAKERS AS A WHOLE

are about the research evidence from the USA and other countries regarding the inevitability of error and conviction of the innocent in countries that retain the death penalty?

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

ASK RETENTIONISTS AND ABOLITIONISTS

11. Given the circumstances of its use, what do you think are the reasons why your country has not abolished the death penalty? Please **RANK** the **MAIN** reason with 1, and **ANY** others you think might be a reason in order of importance (from 2-6)

HAND CARD

REASONS	RANK
The government wants to retain it for murders of such gravity that no other punishment would be regarded as sufficient	
The government believes it is still necessary as the ultimate deterrent	
The government believes there is no other way of marking murder as the most heinous crime	
To abolish it would make the government look weak	
Because the government believes that the public expect it and would not tolerate abolition	
The lack of an effective organisation to promote abolition in this country	

ASK RETENTIONISTS AND ABOLITIONISTS

12. How would you rank the likely effectiveness of more executions as a way of controlling violent crime leading to death, when compared with other social and criminal justice policies?

PLEASE RANK THE **MOST LIKELY** WITH 1, and **ANY** others you think might be relevant in order of likelihood (from 2-9)

HAND CARD

REASONS	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	
Better control of the possession of firearms	
Better services to prevent domestic violence	
Reduce poverty and improve housing	
Longer prison sentences	
More executions	

ASK RETENTIONISTS ONLY

13. Does the fact that, in recent years, since 1989, the number of countries worldwide that have completely abolished the death penalty has now risen from 35 to 106 – AND eight states of the USA have abolished capital punishment [New York, Illinois, New Mexico, Connecticut, Maryland, New Jersey, Delaware, and Washington] – alter your view on whether your country should follow this international trend?

REASONS	CODE
YES: I would favour abolition in that case	1
NO: It makes no difference; I would still support the death penalty	2
I am not sure/no opinion	3

13a. IF YES: Why?

13b. IF NO: Why not?

ASK RETENTIONISTS ONLY

14. Only two countries in South and Central America – Guyana and Belize – still retain the death penalty in law, but neither has enforced it for many years. Does this affect your views on whether your country should now move to join the majority of abolitionist nations in your region?

REASONS	CODE
YES: I would favour abolition in that case	
NO: I would still be opposed	
I am not sure/no opinion	

14a. IF YES: Why?

14b. IF NO: Why not?

ASK ABOLITIONISTS AND RETENTIONISTS:

In the summary, we mentioned that your country has not only voted against the resolution, brought forward since 2007 on seven occasions at the UN General Assembly, to institute a universal moratorium on death sentences and executions, but has also joined a small group of nations, including Singapore, that signed a 2017 Note Verbale to the UN Secretary-General objecting in principle to the resolution being brought forward and dissociating themselves from it.

15a. Why has/do you think/ your government has consistently voted against the resolution for a moratorium rather than voting in favour of it or abstaining?

15b. Why has/do you think/ your government has consistently signed the Note Verbale protesting against and dissociating itself from the moratorium resolution?

16a. Do you think that the policy of always voting against the moratorium resolution, instead of abstaining or voting in favour of it, ought to be reconsidered and reversed?

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

16b. Do you think the policy of always signing the Note Verbale ought to be reconsidered and reversed, as Dominica has done, having signed it last in 2010 but not since then?

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

ASK ABOLITIONISTS ONLY

17. 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 2-8).

REASONS	RANK
Through creating an influential civil society pressure group: 'Citizens Against 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 supporting the next UN resolution for a universal moratorium in 2020?	
By a legal challenge to the constitutionality of the death penalty?	
By persuading the president to lead a movement for abolition?	
By persuading the leading newspaper to mount a campaign?	
Through a referendum?	

ASK RETENTIONISTS AND ABOLITIONISTS

18. Would you personally be willing to either support or not to oppose an act of parliament to abolish capital punishment completely in your country? Which of the following best reflects your opinion?

OPINION	CODE
Yes: strongly and vigorously support it	1
Yes, would be willing to support but not to take the lead	2
Yes; I would still not be in favour but would not oppose it	3
No: would oppose by raising objections	4
Would strongly oppose by <u>definitely</u> voting against it	5

END BY ASKING:

Would you please tell me your age?

How long have you been in your present post?

What is your political affiliation?

Do you have a religious affiliation?

How would you describe your ethnicity?

About the Authors



Roger Hood

Roger Hood is professor emeritus of criminology at the University of Oxford and an emeritus fellow of All Souls College. Among his many publications, he is co-author, with Professor Carolyn Hoyle, of *The Death Penalty: a Worldwide Perspective* (5th edition 2015) and co-editor, with Professor Surya Deva, of *Confronting Capital Punishment in Asia* (2013). Professor Hood has carried out surveys of public opinion on the mandatory death penalty in Trinidad and Malaysia, both published by The Death Penalty Project. He has delivered public lectures in China, India, Japan, Malaysia, Pakistan, the Philippines, Vietnam, Singapore and Taiwan. Recently, he served as consultant to the review of the mandatory death penalty in Malaysia by the Attorney General's Chambers. Professor Hood is an honorary Queen's Counsel, a Fellow of the British Academy, and consultant to The Death Penalty Project.



Florence Seemungal

Florence Seemungal is a cognitive psychologist and former research officer at the Centre for Criminology, University of Oxford. She is currently an adjunct staff member of the University of the West Indies Open Campus and a visiting academic at the Centre for Socio-Legal Studies, University of Oxford. She is co-author, with Professor Roger Hood, of three reports: *A Rare and Arbitrary Fate: Conviction for Murder, the Mandatory Death Penalty and the Reality of Homicide in Trinidad and Tobago* (2006); Experiences and Perceptions of the Mandatory Death Sentence for Murder in Trinidad and Tobago: Judges, Prosecutors and Counsel, in *A Penalty without Legitimacy: The Mandatory Death Penalty in Trinidad and Tobago* (2009); and *Public Opinion on the Mandatory Death Penalty in Trinidad* (2011). She also co-authored two book chapters with Dr Lizzie Seal: Impact of the Imposition of the Death Penalty on Families of the Convicted in the Caribbean (2016) and Death Penalty and its Impact on the Professionals Involved in the Execution Process (2016) in *Death Penalty and the Victims* (UN, OHCHR).

The Death Penalty Project

The Death Penalty Project is a legal action charity, based in the UK, working to promote and protect the human rights of those facing the death penalty. We provide free legal representation to death row prisoners around the world to highlight miscarriages of justice and breaches of human rights. We also assist other vulnerable prisoners, including juveniles, those who suffer from mental health issues, and prisoners who are serving long-term sentences.

For more than three decades, our work has played a critical role in identifying miscarriages of justice, promoting minimum fair-trial guarantees in capital cases, and establishing violations of domestic and international law. Through our legal work, the application of the death penalty has been restricted in many countries, in line with international human rights standards. To complement our legal activities, we conduct capacity-building activities for members of the judiciary, defence lawyers and prosecutors, as well as mental health professionals, and commission studies on criminal justice and human rights issues relating to the death penalty.

We have been commissioning, supporting and publishing independent academic research on attitudes towards the death penalty for almost a decade. We use 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. Our previous publications on attitudes towards the death penalty include:

- *Public Opinion Survey on the Mandatory Death Penalty in Trinidad (2011)*, by Roger Hood and Florence Seemungal
- *The Death Penalty in Malaysia: Public Opinion on the Mandatory Death Penalty for Drug Trafficking, Murder and Firearms Offences (2013)*, by Roger Hood
- *The Public Opinion Myth: Why Japan Retains the Death Penalty (2015)*, by Mai Sato
- *12 Years Without an Execution: Is Zimbabwe Ready for Abolition? (2018)*, by Mai Sato
- *For or Against Abolition of the Death Penalty: Evidence from Taiwan (2019)*, by Chiu Hei-Yuan and edited by Roger Hood

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



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