



(Not) Talking about Capital Punishment in the Xi Jinping Era

Tobias Smith

Ohlone College, United States

Matthew Robertson

The Australian National University, Australia

Susan Trevaskes

Griffith University, Australia

Abstract

In this paper, we investigate the death penalty in the People's Republic of China in the Xi Jinping era (2012–). Unlike previous administrations, Xi does not appear to have articulated a signature death penalty policy. Where policy in China is unclear, assessing both the quality and frequency of discourse on the topic can provide evidence regarding an administration's priorities. Therefore, we analyse death penalty discourse during Xi's tenure and compare it with discourse under his predecessors. We base our analysis on three large datasets assembled for this project—the collected works of China's leaders, a complete corpus of *The People's Daily* and a database of academic publications in China. We find no references to the death penalty in Xi Jinping's speeches. We also find a decline in *The People's Daily* coverage of the death penalty beginning in 2015 and a sharp decrease in academic publications on capital punishment beginning in 2011. Our findings indicate that discourse on the death penalty has declined in the Xi era. We argue that the death penalty has been demobilised under Xi as a discursive site of political signalling. Finally, we conclude with some observations about discursive silence.

Keywords: Death penalty; China; Xi Jinping; discourse.

Introduction

The goal of this paper is to shed light on the death penalty in the People's Republic of China (PRC or China) under the Xi Jinping administration (2012–). Historically, China's leaders have played a significant role in framing death penalty practice at a national scale, typically in conjunction with broader social policy. China's former leaders Mao Zedong, Deng Xiaoping and Hu Jintao introduced new death penalty policies that led to the execution or clemency of hundreds of thousands, tens of thousands and thousands of people annually, respectively (Johnson and Zimring 2009; Smith 2020b; Trevaskes 2015; Yang 2008). China is the largest jurisdiction in the world that retains the death penalty and one of the world's most active executioner states (Amnesty International 2022: 7); therefore, a Chinese administration's death penalty policy influences not only the scale of execution in China but also the overall scale of execution globally. Thus, shifts in death penalty policy within China are globally significant death penalty events.

Until recently, scholars writing on the death penalty in China did not have cause to ask: *what* is the PRC's current death penalty policy? This is because, in past political periods, central death penalty policy was clearly identifiable. Successive administrations adopted new criminal justice initiatives framed using policy catchphrases (e.g., 'Strike Hard' under Deng Xiaoping; 'Balancing Leniency and Severity' under Hu Jintao) that centred on or prominently featured the death penalty. State



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media and academic publications touted these initiatives. Therefore, research on the death penalty in China centred not on *what* constituted official death penalty policy but rather on *why* or *how* leaders chose to adopt death penalty policy, as well as what consequences followed from policy.¹

During periods of major political, social or economic change in China, the death penalty has featured as a hallmark of leaders' governance platforms. The last major articulation of a death penalty platform occurred under Hu Jintao, who ushered in major death penalty reform in the early 2000s as part of his broader governance agenda. In the current era, Xi Jinping has made the discourse of 'Governing the Nation in Accordance with the Law' (and accompanying discourse on the need to 'deepen reform') a hallmark of his overall governance plan to effect the China 'Dream of National Rejuvenation' (Creemers and Trevaskes 2020).

It would be reasonable to assume that given the past importance of the death penalty to leaders' overall political narratives, coupled with Xi's stated intent to deepen reform, the Xi administration would feature capital punishment in its political platform. Yet, unlike past administrations, the Xi administration—as considered here after over more than a decade in power—does not appear to have done so. It is not obvious that Xi himself has articulated a strong policy position on the death penalty; nor has he obviously carried forward Hu-era reforms. Instead, the Xi administration seems to have fallen silent on the death penalty. If a central tenet of Xi's governance platform is 'Governing the Nation in Accordance with the Law' (Trevaskes 2018; Creemers and Trevaskes 2020) (and under that banner, the promise to 'deepen reform'), why is it so difficult to identify death penalty legal reform (or policy) under the Xi administration?

This puzzle has prompted us to frame this project around the following questions: how much has the death penalty been discussed in China in the Xi era, and what, if anything, can this discussion tell us about a distinctive death penalty policy—or its absence—under Xi? To answer these questions, we analyse 1) leaders' speeches and officially compiled written works, 2) state media coverage of the death penalty and 3) academic publications on the death penalty. We also compare Xi-era discourse in these sources to that of previous administrations.

The research approach in the empirical sections of this paper differs from previous work on the death penalty in China and, particularly, the authors' previous work (e.g., Trevaskes 2012; Smith and Jiang 2019). The typical approach to research on the death penalty in China begins with a policy or practice that is well-defined and publicised by a particular administration (e.g., Mao's 'Campaign to Suppress Counterrevolutionaries' or Deng's 'Strike Hard Campaign'), develops a research question around that policy (e.g., where did the policy come from? How many people were executed under it?) and then analyses official and semi-official sources to answer the question (see e.g., Lewis 2011; Miao 2016; Tanner 1999; Trevaskes 2008, 2015; Yang 2008).

In contrast, the empirical investigation in this paper involves an inductive approach using large-scale computational methods. These methods can uncover patterns and identify trends that previous approaches could not. Such methods are increasingly common in the social sciences (Edelmann et al. 2020; Conway 2013) and the field of China studies (e.g., Liebman et al. 2020; Wu 2014) but have not yet been employed in research on the death penalty in China. While there are high fixed technical costs involved in web scraping, database management and automated text analysis, these methods are likely to become more common in China studies, given restrictions on fieldwork and heightened risk to scholars' safety (Harlan 2019; Agence France-Presse 2021).

Our approach to exploring the research questions in the empirical data sections is discourse-based and rooted in three large datasets. Each dataset has been constructed specifically for the purpose of this study. The three datasets cover official statements by Chinese leaders, media reports in China's paper of record and academic publications on capital punishment in China's largest scholarly database.

Because China's leaders set policy, we began by searching for statements made by Xi himself about the death penalty and then comparing them to previous administrations. This first dataset covers leaders' official speeches and collected works, including statements from the first decade of Xi's tenure.

The PRC is an illiberal regime in which media is closely tied to the state; therefore, central policy on capital punishment is tightly bound to state media reporting. Thus, after examining statements by China's leaders, we examined the news. Our second dataset is a corpus of all articles published in *The People's Daily*, China's paper of record and an official mouthpiece of the central leadership of the Chinese Communist Party (the Party or CCP) (Wu 1994; Wang, Sparks and Huang 2018).

China's academic system is state-run; therefore, scholarly research and publications, especially regarding sensitive questions, also often track state policy. Not only do scholars write about state initiatives, but since the Chinese academy is embedded within the state, scholars in China may be particularly sensitive to policy signals and reflect those signals in their publications. Therefore, our third dataset is a corpus from China's largest academic database: China National Knowledge Infrastructure (中国知网; CNKI). The dataset captures a corpus of all available scholarly papers on the death penalty published in the PRC. To ensure transparency and reproducibility, we have made the key datasets and methods public online.² We conclude this paper with a discussion of the political significance of silence on the death penalty.

Official Statements by Xi

Since Mao, China's leaders' pronouncements on police have served as the clearest signals of broad social governance policy and the narrower criminal justice and capital punishment policies that follow. Xi has amassed the largest collection of a leader's 'thoughts' on governance since Mao, collected in three volumes of work. These thoughts are a repository of policy signals.

What has Xi Jinping himself said about the death penalty, and how do his comments compare with those of past leaders? To answer these questions, we queried volumes of the collected works of PRC leaders, as well as a comprehensive online database of over 680 of Xi's speeches.³ We searched these materials for terms including 'death penalty' (死刑 *sixing*) and 'death penalty with reprieve' (死缓 *sihuan*), in addition to a variety of alternate expressions (处死 *chusi*, 枪毙 *qiangbi*, 处决 *chujue*).

Overall, we found that China's leaders have discussed capital punishment less and less frequently over time. Among all PRC leaders, Mao Zedong discussed capital punishment policy most openly and most often. Mao's collected works contain dozens of positive references to judicial and extrajudicial killing. Deng Xiaoping, widely regarded as the PRC's most important leader after Mao, also spoke directly about death penalty policy, stating, for example, in 1986 that 'the death penalty cannot be abolished; some crimes must simply be punished with death' (Deng 1993: 152). In contrast, Xi Jinping, who has worked to position himself in a league with Mao and Deng (Bing 2018), has been mute on the death penalty.

Xi's collected works contain no references to capital punishment. A compendium of 680 of Xi's speeches also contains no direct references to the death penalty. The collected works also contain non-speech materials related to Xi; capital punishment arises in three instances of news reports about Xi's activities. Two are mentions in amnesty orders issued under Xi on the occasion of the 70th anniversary of the PRC (*The People's Daily* 2019). The final reference is a news report about an occasion where Xi visits a Nanjing Massacre memorial exhibition and exclaims 'how terrifying!' upon seeing photographs of two Japanese war criminals being executed (Xinhua Online 2014). Significantly, none of these references is an articulation of policy.

In short, when compared to his predecessors, Xi's silence on the death penalty is audible.

Coverage of the Death Penalty in *The People's Daily*

In the PRC, death penalty policy sits under broad state governance platforms that are expressed as political watchwords or catchphrases (Trevaskes 2012), known more broadly as *tifa* (提法) (Davis 2020; Trevaskes 2018). As noted above, both death penalty policy and governance platforms are set by state figureheads. For instance, Deng Xiaoping's 'Four Modernisations' platform in the 1980s heralded a new era of economic reform; however, these reforms created what the Party soon identified as widespread social disorder. Therefore, Deng launched a 'Strike Hard Campaign' that resulted in the state killing of tens of thousands of people (Bakken 2004; Johnson and Zimring 2009; Tanner 1999, 2000; Trevaskes 2007).

The Chinese state is an authoritarian regime, and detailed information about the death penalty is not typically publicly available. Even basic data, such as the number of annual executions, are treated as state secrets (Smith 2020a). Therefore, death penalty policy, like other state policies, is transmitted to the public and local officials through official and semi-official channels that are overwhelmingly supportive of the Party platform. This tight relationship between elite policy decisions and media coverage means a correspondingly tight relationship between policy and discourse in these domains. Put simply, reportage and writings in state media showcase official policy and function as part of the political landscape. Therefore, state media coverage of the death penalty is an important proxy for central government dictates that provides facts about capital punishment and also transmits signals about the administration's policy priorities.

In this study we comprehensively examined one media source: *The People's Daily* (人民日报 *renmin ribao*). *The People's Daily* is China's paper of record. It has been in print since before the establishment of the PRC in 1949. Therefore, as a dataset,

it comprehensively covers the entire history of capital punishment in the PRC. *The People's Daily* is a state media outlet and a key conduit of central policy—that is, stories published in the paper are assumed to represent the position of Party leaders. Thus, researchers regularly use *The People's Daily* as a reliable source for state discourse analysis (Wu 1994; Jaros and Pan 2018; Wang, Sparks and Huang 2018: 129).

We assembled an original repository of every article published in *The People's Daily*. We searched the repository for all articles that contained the term death penalty (死刑 *sixing*) or death penalty with reprieve (死缓 *sihuan*) in either the headline or the body. This query yielded 5,691 articles over 75 years between 1946 and 2021. The results are shown in Figure 1.

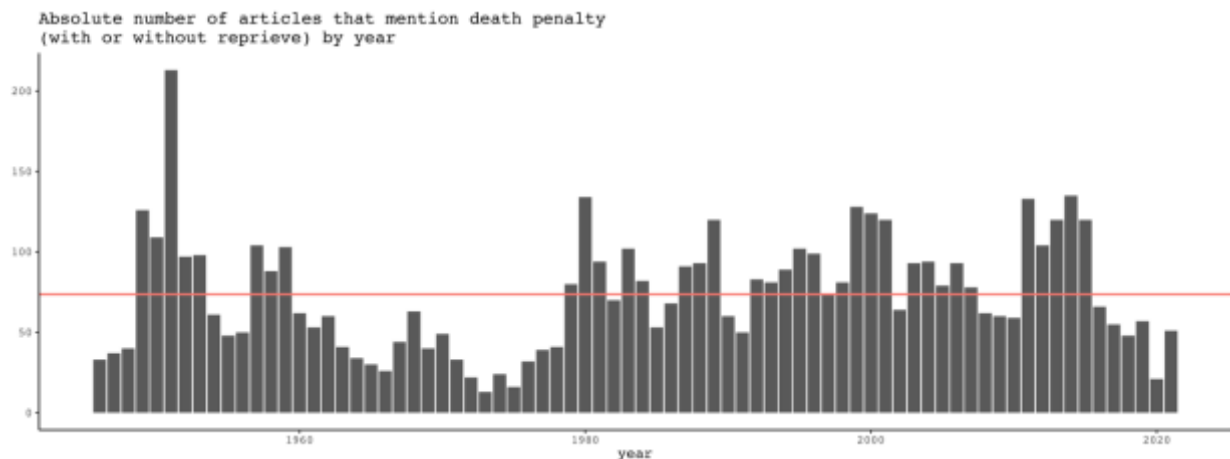


Figure 1. Number of articles in *The People's Daily* that mention the death penalty (with or without reprieve) by year
Source: *The People's Daily*

Although the death penalty is a sensitive topic in China, it is clear from the volume of coverage that state media does provide much coverage of the topic and has done so for decades. On average, *The People's Daily* contains 74 articles per year that reference the death penalty. With the exceptions of revolutionary mobilisations of the early 1950s and the Cultural Revolution (1966–1976) and its immediate aftermath, coverage has been relatively consistent across the lifespan of the newspaper.

We expected that we would observe a decline in coverage of the death penalty in *The People's Daily* during the entirety of the Xi period—however, in the first three years of the Xi era, we observe above average coverage. Specifically, there were 376 reports mentioning the death penalty from 2013–2015 (inclusive). However, after 2015, coverage declined below the annual average and has remained there for five years—the biggest sustained plunge in death penalty coverage since the Cultural Revolution. These data indicate that official media discourse on the death penalty has diminished during the Xi era.

Content Summary of The People's Daily Coverage of the Death Penalty

What kind of articles in *The People's Daily* refer to the death penalty? To answer this question, we used automated topic modelling to identify themes in the corpus. Topic models identify clusters of words that are co-located in a corpus. These computer-generated clusters of words can be used to identify major themes in a body of texts. Our topic models for *The People's Daily* are publicly accessible online.⁴

We ran topic models on *The People's Daily* death penalty stories from four eras of leadership in the PRC: Mao (–1978), the Deng/post-Mao reform era (1978–2003), Hu-Wen (2003–2013) and Xi (2013–). Our topic models did not yield tidy thematic clusters within eras. However, the topic models did show variation in themes across eras. For example, the leading terms in the first topic cluster of death penalty coverage in the Mao era were: bourgeoisie/capitalist class (资产阶级 *zichan jieji*), imperialism (帝国主义 *diguozhuyi*), class (阶级 *jieji*), land (土地 *tudi*) and the Soviet Union (苏联 *sulian*). Only two of these terms (capitalist class and Soviet Union) appear in any topic clusters from the Deng period, and none appear in topic clusters from the Xi era. This finding is consistent with the common historical view that Marxist revolutionary politics and Soviet influence shaped death penalty policy under Mao (Johnson and Zimring 2009: 253–262).

The topic models in the Xi era are more difficult to decipher, perhaps due in part to the smaller sample size. The word clusters in four topic models from the Xi era seem to illustrate very roughly the following major themes: 1) identity (e.g., child 孩子 *haizi*, elderly 老人 *laoren*, Han Chinese ethnicity 汉族 *hanzu*, villager 村民 *cunmin*); 2) Party-state centralisation (e.g., CCP 中国共产党 *zhongguo gongchandang*, State Council 国务院 *guowuyuan*, Central Committee of the Chinese Communist Party 中共中英 *zhonggong zhongyang*, Xi Jinping 习近平); 3) the internet (e.g., website 网站 *wangzhan*); and 4) legality (e.g., human rights 人权 *renquan*, rule of law 法治 *fazhi*, lawsuit 诉讼 *susong*).

Our topic models provide a very general thematic outline of *The People's Daily* coverage during the Xi era; however, the categories lack specificity. Therefore, we also conducted a manual review of articles published during the Xi era. A key finding in the hand review of the Xi era articles is that there is very little noise in the data. In other words, most of the articles that mention the death penalty in the Xi era are, in fact, about the death penalty and discuss it substantively. Our hand review also revealed that articles about the death penalty published in *The People's Daily* in the Xi era fall into several broad categories:

- *High-profile capital cases.* One portion of articles covers the executions of noteworthy individuals. For example, in January 2021, after a multi-year de facto moratorium on capital punishment for the crime of corruption, China resumed executing for the crime, putting to death former chair of Huarong Company Lai Xiaomin. *The People's Daily* contained four articles about his execution that month.
- *Work reports.* The Supreme People's Court and the Supreme People's Procuratorate periodically release work reports. *The People's Daily* covers them, often reprinting them in part or entirely. The reports typically contain some reference to capital punishment, although these references are typically only in passing.
- *Policy explainers.* If there is a policy change or perceived need to re-emphasise existing policy, *The People's Daily* covers it. For instance, the Supreme People's Court felt it necessary to hold a press conference explaining that the policy of "balancing leniency and severity" does not mean those guilty of grave crimes will be able to bribe their way out of the death sentence (People's Daily 2013).
- *Foreign capital cases.* Many articles in *The People's Daily* feature reports about death sentences imposed in other parts of the world. For example, a large portion of death penalty coverage in 2015 featured international death penalty stories, such as 'Egypt Sentences 11 to Death in Port Said Riot Case' (Wang 2015).

The hand review also provides insight into the above-average quantity of coverage of the death penalty in the first three years of the Xi era and the sustained below-average coverage in the following period. There were 376 reports mentioning the death penalty in 2013–2015 (inclusive). Almost half related to either the debate about miscarriages of justice (冤假错案 *yuanjiacuo'an*) or life without parole and anti-corruption. Of those references that were not about those topics, almost 20% were reports about death penalty sentences in foreign countries that are unrelated to domestic PRC policy. Miscarriages of justice were a major reform theme in the Hu administration, and much of the coverage seems to be a carryover from that period.

Anti-corruption is an important component of the Xi administration's overall policy agenda. Notably, the Ninth Amendment to the *Criminal Law of the People's Republic of China* ("Criminal Law") that went into effect in 2015 introduced life without the possibility of parole as an alternative sanction to capital punishment for corruption offences (Miao 2016; Smith and Jiang 2019). Coverage of the amendment is arguably the clearest articulation of a Xi-era death penalty policy reform appearing in *The People's Daily*. However, that coverage is a one-off, as it drops off after 2015.⁵

As noted above, after 2015, coverage of the death penalty in *The People's Daily* declined below the annual average and has remained there for five years, the largest sustained plunge in death penalty coverage since the Cultural Revolution. Editorials about the death penalty grew slowly until 2015, when they abruptly disappeared. There are no obviously distinct patterns in the text surrounding the term 'death penalty' during the entire Xi era (including the first three years considered above), further indicating that—apart from a significantly reduced volume of death penalty-related publications—there were no new themes or contexts within which the death penalty was being framed.⁶ While this manual review added context for the types of coverage of the death penalty that appear in *The People's Daily* under Xi, none of the broad categories we identified pointed to any substantive death penalty policy themes. Rather, the hand review reinforced the absence of a clear central policy agenda on capital punishment during the Xi era.

Death Penalty Scholarship in China National Knowledge Infrastructure (CNKI)

China's state media is certainly the most prominent source of official and semi-official discourse on the death penalty in China; however, it is not the only source. Other sectors of Chinese society that might be identified elsewhere under the framework of 'civil society' have a complex, embedded relationship with the Chinese state. One such sector is the academy. Nominally, Chinese academics enjoy academic freedom. However, Chinese universities, thinktanks and journals are state-run, and Chinese academics experience strong informal and formal incentives to engage in scholarship that falls within the dominant state agenda and to avoid scholarship that does not. Therefore, we hypothesised that the volume of academic publications on the death penalty co-varies along with administration statements and media reports. We also hypothesised that the number of academic publications about the death penalty has declined in the Xi era.

To investigate our hypotheses, we comprehensively examined China's largest database of academic publications, CNKI (中国知网 *zhongguo zhiwang*), a database that is roughly similar to the English-language database JSTOR. CNKI is run through Tsinghua University and supported by government ministries; thus, it is a state institution rather than an independent or private one.

For this project, we searched the CNKI database for articles including the terms 'death penalty' or 'death penalty with reprieve' in the title, abstract or keywords. There were 1,752 articles that met our criteria. We have made our data available online.⁷

We found a steady increase in publications on the death penalty in the 2000s, with a peak in 2008—immediately following major death penalty reforms in the Hu era. The annual number of academic publications concerning the death penalty declined steadily since 2011, immediately before Xi came to power. By 2021, the number of academic publications about the death penalty had fallen to roughly the same level as in 2000. The results are shown in Figure 2.

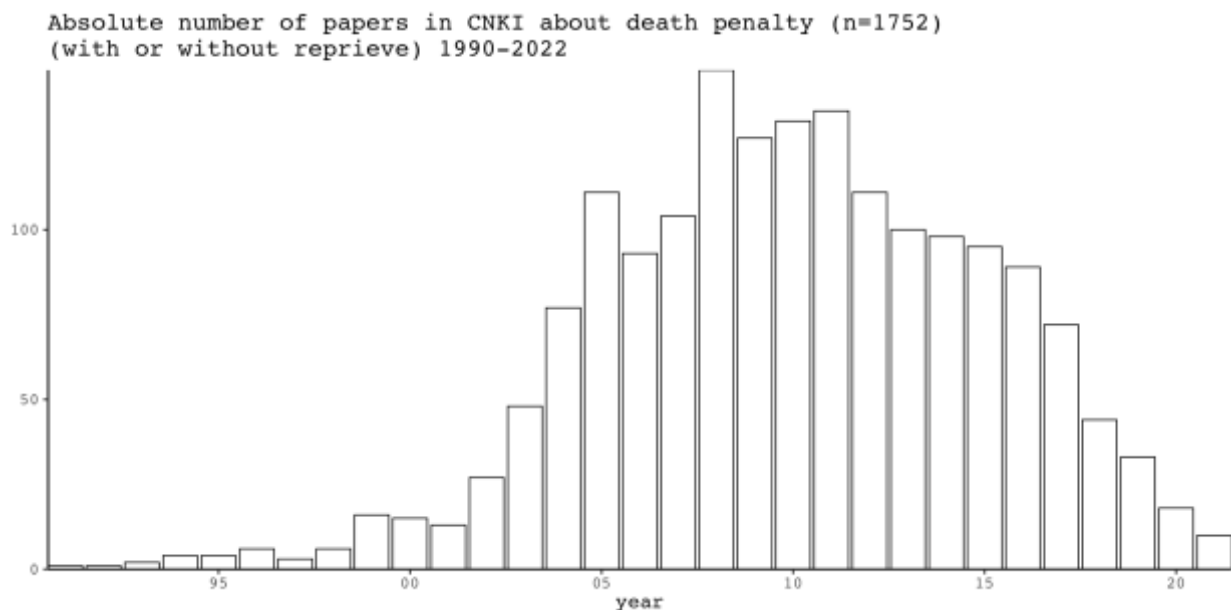


Figure 2: Number of scholarly papers on the death penalty (with or without reprieve) by year.
Source: China National Knowledge Infrastructure (CNKI)

What should we make of this rise and fall in the volume of Chinese scholarship on the death penalty?

For at least two reasons, the increase in scholarship on the death penalty in the 2000s is unsurprising. First, academic publishing in China increased overall during this period as the Chinese academy grew and publication pressures grew with it. Second, the early 2000s was a period of mammoth state-endorsed death penalty reform that offered fertile ground for research. By contrast, the decline in academic work on the death penalty in the Xi era is surprising.

We believe that the volume of academic publishing overall continued to grow in China in the Xi era. However, we were unable to locate any annual public data on the size of CNKI. As a proxy, we ran a search for articles containing the term ‘criminal justice’ (刑事司法 *xingshi sifa*).⁸ The number of annual publications concerning criminal justice serves as a rough heuristic for the volume of publishing in criminal justice more generally. All things being equal, we would expect the volume of academic writing on the death penalty to vary in line with criminal justice writing more generally. Figure 3 shows the number of articles in CNKI containing the term ‘criminal justice’ arranged by year.

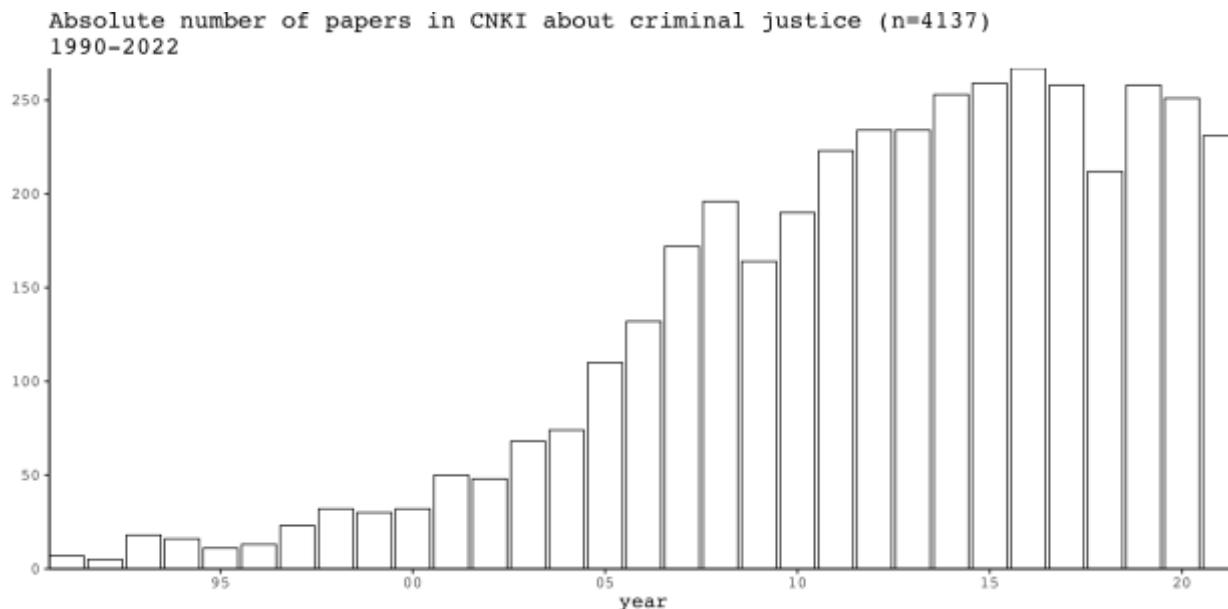


Figure 3: Number of scholarly papers containing the term criminal justice (1990–2022)
Source: China National Knowledge Infrastructure (CNKI)

The data show that the volume of publications about criminal justice remained relatively steady throughout the first decade of Xi’s tenure, even as publications concerning the death penalty declined precipitously. This finding demonstrates that in academic publications discourse on the death penalty has, indeed, diminished during the Xi era relative to other topics.

Content Summary of Leading Death Penalty Papers in the Xi Era

What are the articles on the death penalty published in CNKI in the Xi era about? Table 1 provides the 10 most cited academic articles about the death penalty published in the Xi era. It should be noted at the outset that any measure of total citations or downloads over a specific period will more heavily weight work published early in the period—because the longer an article has been in print, the more time other scholars have to read and cite it. Therefore, a latency bias exists in the data.

Table 1: Most cited Xi-era articles in China National Knowledge Infrastructure (CNKI)

Title	Author	Journal	Publication date	Citations	Downloads
Research on Life Imprisonment in ‘Criminal Law Amendment (IX)’	Huang Yongwei; Yuan Dengming	<i>Applied Law</i>	2016-03-01	216	5908
Judicial Control of the Application of Death Penalty—From the Perspective of the First Criminal Guiding Cases	Chen Xingliang	<i>Law</i>	2013-02-20	139	6951
On the Legislative Control and Abolition of the Death Penalty for Corruption and Bribery Crimes in China—From the Perspective of ‘Criminal Law Amendment (IX)’	Zhao Bingzhi	<i>Modern Jurisprudence</i>	2016-01-15	138	5960
On the Life Imprisonment System from the Perspective of Death Penalty Reform	Zhao Bingzhi; Shang Haowen	<i>Journal of East China University of Political Science and Law</i>	2017-01-20	130	3978
New Thoughts on the Reform of China’s Death Penalty Legislation—Take the ‘Criminal Law Amendment (IX) (Draft)’ as the Main Perspective	Zhao Bingzhi	<i>Journal of Social Sciences of Jilin University</i>	2015-01-05	127	10071
Alternatives to the Death Penalty: A Criminal Law Concept Needing Vigilance	Wang Zhixiang	<i>Chinese Law</i>	2015-02-09	107	8177
On Controversial Issues in Contemporary China’s Death Penalty Reform	Zhao Bingzhi	<i>Legal Science (Journal of Northwest University of Political Science and Law)</i>	2014-01-10	93	8927
Reflections and Countermeasures of Corruption Crimes Overseas Pursuit of Fleeing and Assets	Zhang Lei	<i>Contemporary Jurisprudence</i>	2015-05-10	85	2671
The Systematic Structure of Applicable Standards of Death Penalty	Lao Dongyan	<i>Legal Research</i>	2015-01-23	84	4406
The Changing Penal Structure—Thoughts Triggered by the ‘Criminal Law Amendment (IX)’	Su Yongsheng	<i>Legal Forum</i>	2015-09-10	79	2584

Of these 10 most cited articles, half focus on the Ninth Amendment (2015) to the Criminal Law, as discussed above. The Ninth Amendment to the Criminal Law is arguably the most important legislative development that affected the death penalty in the first decade of the Xi administration. Among other things, the Ninth Amendment introduced a new punishment, life without parole (LWOP), as an alternative to the death penalty for the crime of corruption (Smith and Jiang 2019). Two of the most cited articles make a note of this subject in the titles. Another article focuses on repatriating assets lost through corruption.

The remaining five most cited articles concern death penalty ‘reform’, broadly construed. In the above-listed 2014 paper (‘On Controversial Issues in Contemporary China’s Death Penalty Reform’), Zhao Bingzhi, China’s most well-known death penalty scholar, argued that abolition must be the ultimate goal in criminal justice policymaking around capital punishment. Chen Xingliang (see the 2013 paper listed above), a legal scholar at Peking University, examined two of the Supreme People’s Court’s guiding cases on the death penalty, highlighting the difference between crimes deserving immediate application of capital punishment and those that may be met with reprieve. Both of those guiding cases were promulgated in 2012 and relate

to crimes committed several years earlier. Lao Dongyan (2015) of Tsinghua University argued that death penalty with reprieve should be the norm and execution the exception; Wang Zhixiang's above-listed 2015 paper made a similar, although more explicitly abolitionist, argument. A final paper in the table above, concerning fugitives to corruption charges (Zhang 2015), only touched on the death penalty in passing, arguing that economic criminals should not face death—a reform expressed in the provision for LWOP in corruption cases (as discussed above).

The 'Anti-Corruption Campaign' is one of Xi's signature initiatives (Carothers 2021; Li 2019, 2020). The fact that half of the most cited articles in the Xi era feature corruption (either directly or indirectly, as related to LWOP) indicates a connection between Xi's policy goals and academic discourse on the death penalty during his early years in office. This finding, combined with evidence of coverage from *The People's Daily*, indicates that the introduction of LWOP for corruption is the most discursively important death penalty event of the Xi era. However, evidence for that event as part of a larger Xi platform on the death penalty is weaker. Notably, none of these articles frames the anti-corruption campaign as part of a policy shift in the death penalty generally; nor do any of these articles mention Xi Jinping by name. Finally, most importantly, these articles are clustered in the first years of the Xi administration. Regardless of whether this clustering indicates that Chinese scholars do not identify a distinctive new policy formulation or instead have reasons not to articulate it in print, the Chinese academic literature on the death penalty does not reveal a new policy during the Xi era.

Listening to the Silence on the Death Penalty in the Xi Jinping Era

The data in the sections above show that media coverage of the death penalty has declined significantly since 2015 and academic discussion of the death penalty has declined monumentally since 2011. Our review of the academic and journalistic material above also indicates that, contrary to previous administrations, there is no overarching theme or policy on the topic that is driving reportage or analysis of the death penalty. Instead, there is a thundering discursive silence. This quietude is noteworthy because it is such a departure from past politics.

One important way to interpret the significance of this silence in the Xi era is to note the political significance of death penalty discourse when it has not been silent—that is, when the Party has loudly declared death penalty policy and reform as being instrumental to economic modernisation by guaranteeing social stability. Understanding connections between watchwords that relate to the death penalty—such as 'reform' (改革 *gaige*) and 'social stability' (社会稳定 *shehui wending*)—at times when death penalty discourse is loud can help us to interpret this silence in the Xi era.

Since 1949, China's leaders have been personally synonymous with both broad governance policy and the narrower criminal justice and capital punishment policies that follow. By promoting watchwords that capture their signature policy, Party authorities go about branding a reform narrative around it in all areas of social policy. For example, Deng Xiaoping personally endorsed the Strike Hard campaigns of the 1980s and 1990s, partly as a response to the perception that his larger market-driven platform—the Open Door Policy—was contributing to lawlessness and social breakdown (Bakken 2004; Johnson and Zimring 2009; Smith 2020b; Tanner 2000; Trevaskes 2007; Trevaskes 2012).

According to Party discourse from the Deng era to the present, the Party can only deliver China its economic modernisation miracle if society is stable (Trevaskes et al. 2014). Therefore, for decades, social stability has been a precondition for modernisation and a rhetorical touchstone for criminal justice policy and reform (Biddulph, Nesossi and Trevaskes 2017). During the mid-2000s, reformers in the Party and the Supreme People's Court sought to reduce the use of the death penalty to bring about a more 'harmonious society'. They argued that this could be achieved by limiting the death penalty to an extremely small minority of society's most heinous criminals while sparing the lives of the vast majority of those who commit serious crimes but do not deserve to be killed. The idea was to avert further social disharmony by preventing the escalation of violence by criminals or the families of offenders isolated from society through the stigma of harsh punishment (Trevaskes 2014). In the Xi era, no such rhetorical proclamations have been made.

Xi, like his predecessors, has articulated major policy platforms on law and reform under an overall vision for modernisation—in his case, the 'China Dream of National Rejuvenation'. However, unlike his predecessors, Xi seems to have found a way to take key watchwords such as 'law' ('Governing the Nation in Accordance with the Law' 依法治国 *yifazhiguo*) and 'reform' (Deepening Reform 深化改革 *shenhua gaige*) and decouple them from capital punishment. To be sure, it would not have been unreasonable in 2013 to expect that, in the name of Xi's own 'Governing the Nation in Accordance with the Law' and 'Deepening Reform' agendas, the Xi leadership might have made legislative reforms to the death penalty a symbol of the Xi era reform agenda. However, in contrast to this expectation, the Xi leadership forged a new frame of thinking about reform that connects with its ambition to create a strong Party presence within the state, placing the spotlight on containing social and

political stability by better controlling the ‘illegitimate influence’ (He 2021: 61) of local actors rather than on finessing legislative reform.

Significantly, for our purposes, in severing the relation between broader policy agendas and the death penalty, Xi has also reduced the need for the death penalty to speak on behalf of other governance goals. This does not mean that Chinese leaders have abandoned the death penalty as a tool for controlling social stability. However, it does mean that—moving forward—death penalty reform discourse may no longer be freighted with a larger political agenda.

Conclusion

In this paper, we assessed how and how much the death penalty has been discussed in China in the Xi era to determine what (if anything) we could learn about distinctive death penalty policy—or its absence—under Xi Jinping. We focused on three official and semi-official sources of discourse: speeches made by China’s leaders, publications in China’s paper of record and scholarly articles in China’s largest academic database. Discourse on the death penalty in China is important because the volume and substance of discourse—death penalty rhetoric—has traditionally been connected closely to substantive changes in practice: death penalty policy. We hypothesised that discourse on the death penalty has diminished in the Xi era and that if this were the case, it would signal a lack of significant policy about the death penalty.

Our findings support the hypothesis that discourse on the death penalty has declined under Xi. First, in contrast to his predecessors, Xi has not spoken directly of the death penalty in any of his 680 speeches. Second, state media coverage of the death penalty has declined. This decline did not begin until 2015—years after Xi’s ascension. However, much of the death penalty coverage in his first three years concerned the previous administration. Finally, we identified that scholarship on the death penalty has declined considerably, even as academic work on criminal justice remains steady. While many of the most cited death penalty articles in the Xi era do touch on a signature issue for the administration—corruption—these articles do not name Xi or articulate a sea change in death penalty policy under his watch. Overall, these findings confirm a decline in discourse on the death penalty under Xi and do not indicate an identifiable policy shift.

Why has discourse on the death penalty dropped off? We conclude that in a departure from previous administrations, Xi has managed to discursively decouple the death penalty from broader law, reform and social stability imperatives. The political currency possessed by the death penalty in previous decades is no longer necessary—its value as a signal of system-wide criminal justice change has been spent.

Post-2012, ‘Governing the Nation in Accordance with the Law’ initiatives—such as the anti-corruption campaign, the move to give judges and prosecutors lifelong responsibility for miscarriages of justice, the drive to prevent miscarriages of justice and the establishment of the National Supervision Commission—all point to a pattern of ‘reform’ that falls short of substantial change to make the Criminal Law less arbitrary in application. Instead, this pattern of law reform aims to discipline criminal justice decision-makers through strong and centralised Party control, making decision-makers more accountable to the Party (and its social and political stability agendas). This focus on control of decision-makers rather than control of the discretionary space of death penalty decision-making in the law neutralises the political need for substantial legislative change that otherwise would have been anticipated as the logical next step in the post–Hu Jintao era.

Changes in death penalty practice are surely still occurring. However, in so far as these changes are occurring, they are subsumed within institutional practice and Party-state policy rather than its leading point. As we have demonstrated, Xi Jinping’s ‘Governance in Accordance with the Law’ initiative may be sufficiently capacious in its policy sweep that any minor changes in the death penalty are contained within its rhetoric, rather than squeezed for their own narrative juice. In conclusion, the Xi administration’s most distinctive death penalty innovation has been its ability to decouple the political power of capital punishment discourse from the engine of legislative reform rhetoric.

Correspondence: Tobias Smith, Assistant Professor of Administration of Justice, Ohlone College, United States.
tjsmith@ohlone.edu

- ¹ See for example, Yang (2008) on the Campaign to Suppress Counterrevolutionaries; Tanner (1999) on the Strike Hard Campaign and Lewis (2011) on death penalty policy under Hu. More generally, see the periodisation of Chinese death penalty policy by leadership era in Johnson and Zimring (2009).
- ² Visit https://github.com/mpr1255/death_penalty_xi_era_replication
- ³ For Mao and Xi, these were *Mao Zedong's Manuscripts since the Founding of the People's Republic of China* (建国以来毛泽东文稿) and *The Governance of China* (习近平谈治国理政), respectively. The other leaders' works are assembled in the multi-volume *Collected Works* (文选). We digitised these records using commercial and open source optical character recognition software.
- ⁴ See https://github.com/mpr1255/death_penalty_xi_era_replication/tree/master/out/peoples_daily
- ⁵ The graph showing this drop-off can be found in the GitHub repo at `./out/peoples_daily/lwop.png`, and the code used to generate it at the end of the file: `./code/peoples_daily_viz.R`. Also note that the phrase in question was ‘无期徒刑’, long in use, while ‘无期徒刑不得假释’ does not appear in the *People's Daily* database at all.
- ⁶ The replication files for this analysis are in the GitHub repo, at `./code/follow_up_analysis_peoples_daily_2013-2015.R`
- ⁷ See https://github.com/mpr1255/death_penalty_xi_era_replication/tree/master/out/cnki
- ⁸ An explanation of the methodology with code and data is available on the repository: https://github.com/mpr1255/death_penalty_xi_era_replication/tree/master/out/cnki

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