

DEBUNKING THE DETERRENCE THEORY

World Day Against the Death Penalty

10 October 2024 - 2025

Security and the Death Penalty

**THE DEATH PENALTY
PROTECTS NO ONE.
ABOLISH IT NOW.**



**10 OCTOBER, 2024-2025
WORLD DAY AGAINST
THE DEATH PENALTY**

www.worldcoalition.org



Every 10th October, the World Coalition Against the Death Penalty and abolitionist actors worldwide celebrate the World Day Against the Death Penalty. It is an occasion to highlight the progress achieved in the global campaign for the abolition of capital punishment. In 2024 and 2025, the World Day will serve as an opportunity to challenge the misconception that the death penalty can make people and communities safer.

The abolition of the death penalty has continued to gain ground around the world. Today, 144¹ States are abolitionist in law or in practice, more than two thirds of the world's countries. But certain countries continue to hand down death sentences and carry out executions, often citing security concerns as justification.

Security is commonly defined as freedom from danger or threat, but its interpretation varies considerably due to the diversity of what constitutes a threat. At its heart, it is a term rooted in political discourse and often used to justify the implementation of repressive policies, including the application of the death penalty. The determination of who are considered threats, and who are to be protected is often influenced by power dynamics, discrimination, and inequality.

Public calls for the death penalty are often expressions of fear and despair, triggered by rising violence and crime rates that States seem unable to address. In such situations, politicians frequently present the death penalty as an easy solution, justifying it with the deterrence theory. **This sheet aims at debunking this theory, in order to transform the security narrative that provides for the death penalty.**

WHAT IS THE DETERRENCE THEORY?

The deterrence theory is based on the idea that the object of punishment is not only to prevent crime to be committed a second time but also to **set an example to other persons** who have criminal tendencies. According to this theory, people would refrain from committing murder, or any other crimes punishable by death, out of **fear of execution**. At its most basic level, deterrence is typically understood as operating within a theory of choice in which would-be offenders balance the benefits and costs of crime.

In this theory, as capital punishment is worse than any other penalties, it must lead to fewer crimes being committed, but what does empirical research tell us?

¹ Amnesty International, Death sentences and executions in 2023 (29 May 2024).

WHY IS IT SO DIFFICULT TO MEASURE THE DETERENT EFFECT OF THE DEATH PENALTY?

Abolitionists often say that there is no evidence that the death penalty deters crime and that claims to the contrary are impossible to prove. Why is that?

THE PROBLEM OF METHODOLOGY IN ACADEMIC STUDIES

- **Psychological studies**

Because it would be morally repugnant to conduct random experiments on human beings in the use of capital punishment, it remains difficult, if not impossible, to find empirical data on the deterrent effects of the threat of capital punishment that would utterly persuade a committed proponent of the death penalty to change his or her mind.

- **Econometric studies**

There is extensive research on the econometric and statistical methods used in the USA to estimate the effect of the death penalty on homicide rates. However, there is **no consensus on the statistical methodology** for studying the deterrent effect of the death penalty and in the end, none of the existing studies has proved one way or another that the death penalty is, or isn't, a deterrent². Why is that?

The very first problem faced by statisticians is **getting reliable data**. In some retentionist countries, information related to the death penalty is considered a state secret (China, Vietnam...) and in many others, it is not made available to the public (Singapore, Malaysia...). Even in retentionist countries where information on the death penalty and on crime is made available, it is often extremely incomplete. For example, it is difficult to know for which crime people were sentenced to death and/or executed, how many people convicted of capital crimes were sentenced to death and had later their sentence commuted on appeal or were granted a pardon. It is even more difficult to track down how many people who committed a capital crime have not been sentenced to death and what their sentence was (life sentence without the possibility of parole, life sentence with the possibility of parole, sentences of less than life...) It is also difficult to find data on the time actually served for convicted criminals who are paroled or who serve less than a life sentence.

Another problem regarding the data is linked to the **very small numbers** used in statistical models. The probability of most people committing a murder is so small that as a practical matter it can be treated as zero. Similarly, the probability of someone being executed is even smaller, with most retentionist countries executing less than one person a year.³ Empirically, capital punishment is too infrequent to have a measurable effect⁴.

It is also very difficult to integrate in the statistical model **factors beyond the death penalty**. There are multiple variables and factors influencing crime rates, and the death penalty, if it has any influence, is only one of them. The use of the death penalty, for example, evolves over time as a result, among other things, of a complex interplay of crime trends, social norms, criminal justice budgets, and election results. Because executions are not conducted in the context of a carefully controlled experimental setting, other factors that affect the homicide rate may coincide with the execution event. Because most research so far has failed to integrate these external factors, small changes in the models used often lead to very different estimates of deterrence effects, in some case changing from positive to negative or vice versa.

² For extensive research on methodology, see: D. Nagin and J. Pepper, "Deterrence and the Death Penalty," Committee on Law and Justice at the National Research Council, April 2012.

³ Richard Berk, "New Claims about Executions and General Deterrence: Déjà Vu All Over Again?" Journal of Empirical Legal Studies, Vol. 2, Issue 2 -303-330, July 2005.

⁴ Dr. Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, "What Caused The Crime Decline?" Brennan Center for Justice, 2015, p43-45.

Another basic problem is that little is known about **how those who may commit murder or any other crime punishable by death perceive the death penalty**. As it is impossible to empirically measure offenders' perceptions of the probability of execution (*see point above on psychological studies*), researchers have used data on crimes and executions to construct statistics that purport to measure the objective risk of execution assuming that potential murderers have "rational expectations" and carefully assess the risk of execution. However,

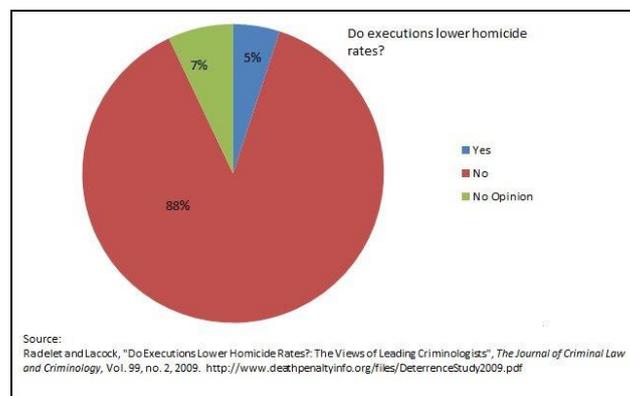
"it is debatable whether an individual even engages in such objective calculations before committing a crime. Much psychological and sociological research suggests that many criminal acts are crimes of passion or committed in a heated moment based only on immediate circumstances, and thus potential offenders may not consider or weigh longer-term possibilities of punishment and capture, including the possibility of capital punishment."⁵

Even if people contemplating murder make objective calculations, there are many complications in calculating the objective risk of execution, including access to data and other external factors.⁶ These many complications make it clear that, even with a concerted effort by careful, conscientious researchers to collect and analyze relevant data on death sentences and executions, assessing the objective risk of execution faced by a person who is likely to commit murder is a "daunting challenge".⁷

It is also clear that the perception of this risk by people contemplating murder must be, at best, highly impressionistic. **When these probabilities are multiplied together, the probability of execution is small, and therefore the possibility of being executed may never influence a criminal decision.**

THE VIEWS OF LEADING CRIMINOLOGISTS

A study conducted by Michael Radelet and Traci Lacock in 2009 asked the opinions of the USA's top criminologists on the deterrence effects of the death penalty. The conclusion is that "the consensus among criminologists is that the death penalty does not add any significant effect above that of long-term imprisonment."⁸



⁵ Dr. Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, "What Caused The Crime Decline?" Brennan Center for Justice, 2015, p43-45.

⁶ Dr. Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, "What Caused The Crime Decline?" Brennan Center for Justice, 2015, p43-45.

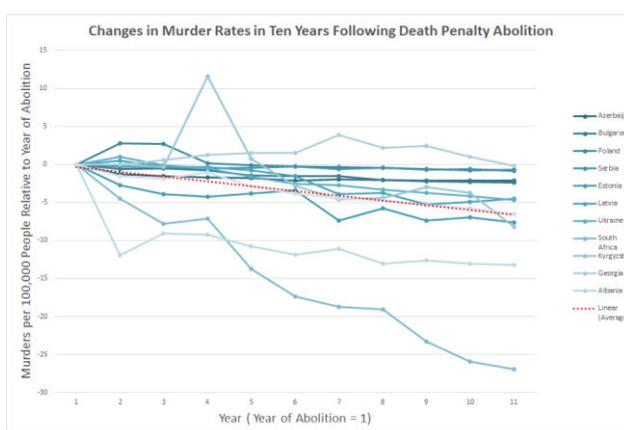
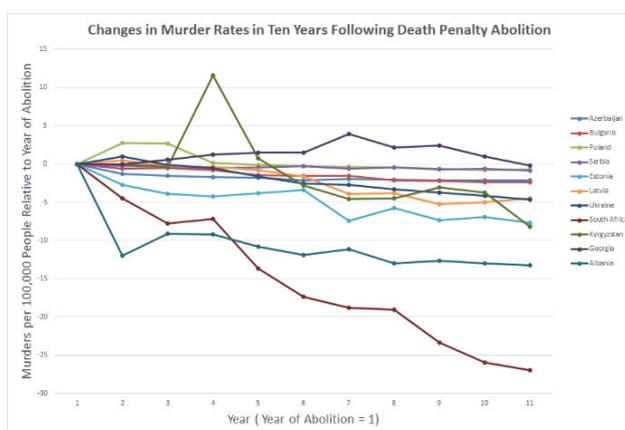
⁷ D. Nagin and J. Pepper, "Deterrence and the Death Penalty," Committee on Law and Justice at the National Research Council, April 2012.

⁸ Michael L. Radelet & Traci L. Lacock "Recent developments, Do executions lower homicide rates?: the views of leading criminologists", *The Journal of Criminal Law and Criminology*, Vol. 99, No. 2, pp. 489-508.

COMPARING MURDER RATES BEFORE AND AFTER ABOLITION

According to the deterrence theory, as capital punishment is worse than other penalties, it must lead to fewer crimes being committed in countries that still have the death penalty. On the other hand, countries that have abolished capital punishment should inevitably experience more murders. However, when we compare the intentional homicide rates of several abolitionist countries⁹ since they have abolished the death penalty¹⁰, findings show quite the opposite: **overall, homicide rates tend to decrease over time.**

- **In Azerbaijan, Bulgaria, Poland, Serbia, Estonia, Latvia, Ukraine, South Africa, Kyrgyzstan, Georgia, and Albania**, countries with a variety of geographical and cultural settings, there was an average of decline in murder rates in the decade following the abolition of the death penalty, as shown in the graphs below. Between these 11 countries, only Georgia witnessed a general rise in murder rates in the following decade.¹¹



However, this does not mean that there is a causal relationship between abolition and the decreasing homicide rate in abolitionist countries. **Multiple factors can explain it**, beyond abolition of the death penalty, such as social-economic, political and geopolitical changes in those countries, regional stability, post-conflict situations and other. For Carolyn Hoyle and Roger Hood, analyzing homicide rates before and after the abolition of the death penalty is “one rather unsophisticated way of considering deterrence”.

Furthermore, as shown in the examples of Taiwan and India, even if the rates of violent crime and of homicide have decreased during the moratorium periods, executions have resumed:

- **Taiwan’s** informal moratorium on executions, which lasted from 2006 to 2010, provided an opportunity to examine whether the withdrawal of the threat of execution led to an increase in violent crimes reported to the police. Analysis by the Taiwan Alliance to End the Death Penalty showed that in fact the violent crime rate fell during these four years from 62.9 for 100,000 habitants in 2005 (when there were three executions) to 53.6 for 100,000 habitants the following year and 29.3 for 100,000 habitants in 2009.¹² Yet executions resumed at the alarming pace of 5 to 6 executions a year from 2010 to 2016, going to one every two years ever since.

⁹ All the statistics on homicide rates are for 100,000 habitants and are from: UNODC *Global Study on Homicide 2023*.

¹⁰ All the dates of abolition are from: Report of the Secretary General, Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, 2015 UN Doc. E/2015/49

¹¹ Abdorrahman Boroumand Center. What Happens to Murder Rates when the Death Penalty is Scrapped? A Look at Eleven Countries Might Surprise You. Report, December 2018. Available at: <https://www.iranrights.org/library/document/3501>

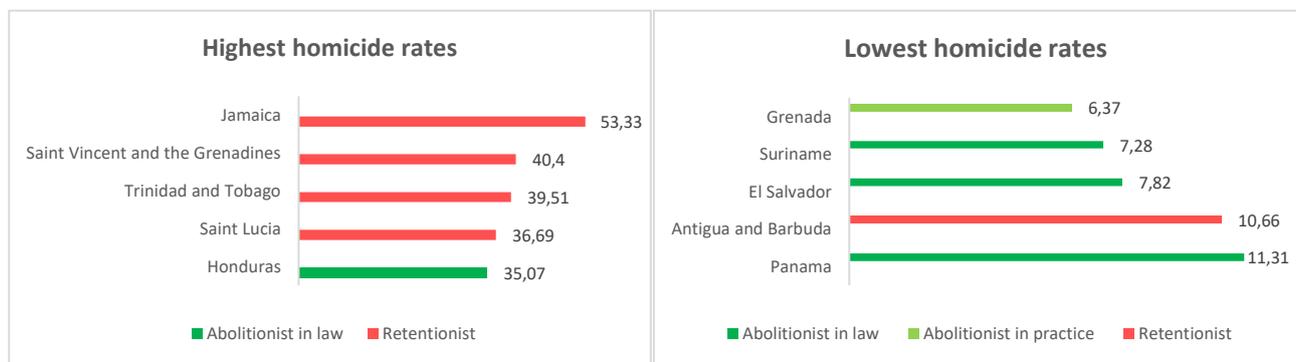
¹² Carolyn Hoyle and Roger Hood, “Deterrence and public opinion” in *Moving Away from the Death Penalty: Arguments, Trends and Perspectives*, OHCHR, 2014.

- **India's** murder rate has also declined during two long periods with no execution, between 1995 and 2004 and again between 2004 and 2012, falling from 4.6 in 1992 to 2.7 per 100,000 in 2013, "raising questions about whether the death penalty has any greater deterrent effect than life imprisonment"¹³. However, at least three people were executed in 2012, 2013 and 2015 for terrorism-related crimes and other four in 2020 for sexual crimes.

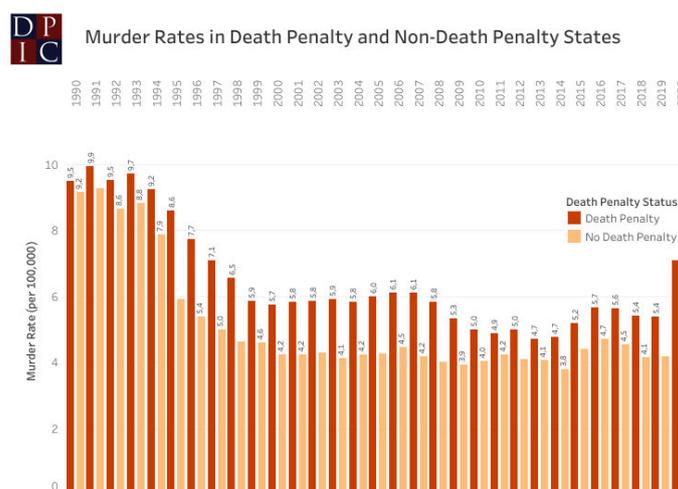
COMPARING MURDER RATES BETWEEN ABOLITIONIST AND RETENTIONIST STATES

Similarly, there is no detectable effect of capital punishment on crime when one compares the similar trends of homicide in abolitionist and retentionist neighboring countries.

- **In the Greater Caribbean**, the highest homicide rates belong to retentionist countries, apart from Honduras, abolitionist since 1956. In the same line, the lowest homicide rates are in abolitionist countries, except for the retentionist Antigua and Barbuda, which has a considerably lower homicide rate than Honduras. The graphs below illustrate it.



- **The comparison between abolitionist Canada and retentionist USA's** 2022 homicide rate further demonstrate it: Canada had a homicide rate of 2.27 and the USA of 6.38.
- Even **within the USA**, the murder rate in non-death penalty states has remained consistently lower than the rate in states with the death penalty, as seen in the graph below.¹⁴



¹³ Law Commission of India, Report No.26: "The Death Penalty", August 2015, p.6.

¹⁴ Death Penalty Information Center. Murder Rate of Death Penalty States Compared to Non-Death Penalty States. Available at: <https://deathpenaltyinfo.org/facts-and-research/murder-rates/murder-rate-of-death-penalty-states-compared-to-non-death-penalty-states>.

- Nevertheless, comparing crime rates does not always lead to the same result. **Hong Kong**, which abolished the death penalty in 1993, had a homicide rate of 0.4 in 2022, while in **Singapore**, which has been executing 0 to 13 people each year since 2005, the homicide rate was 0.11 in 2022.
- The same is true if we compare the rates of retentionist **Botswana** and abolitionist **Namibia**: 10.54 vs 12.44 in 2021.

THE DEATH PENALTY FOR RAPE:

AN EXAMPLE OF THE FLAWED USE OF THE DETERRENCE ARGUMENT

The "deterrence" argument for the death penalty in rape cases is used by some states to create an illusion of protecting women from violence. Globally, 31 countries enforce the death penalty for rape, arguing that capital punishment for rape is essential for the "protection" of women¹⁵.

However, **none of the states implementing such laws have provided data showing the effectiveness and the deterrence effects of the death penalty for rape cases**¹⁶. On the contrary, a report by Eleos Justice, Monash University, Anti Death Penalty Asia Network (ADPAN) and the SAME Network entitled *A Deadly Distraction: Why the Death Penalty is Not the Answer to Rape in South Asia*, reveals that as most rape victims are assaulted by people they know, such laws may discourage victims from reporting the crime, especially if it could result in a family's member's execution. Consequently, the death penalty for rape risks is likely to **further reduce the already low reporting rates of this crime**¹⁷. Moreover, imposing and carrying out the death penalty for people who commit rape **diverts attention from underlying causes of sexual violence** including systemic gender biases that perpetuate violence against women¹⁸ and the identification of solutions.

Furthermore, **executing perpetrators of rape falls far from what victims and survivor of sexual violence need**. Experts like Mickell Branham and Maiko Tagusari point out that victims often require support and recovery rather than harsh punishment of the perpetrator¹⁹. A study by Equality Now and Dignity Alliance International (DAI)²⁰ in 2021 found that rape survivors value justice that includes quick trials, certain convictions, sensitivity, accountability, and societal change, rather than the death penalty. They seek to reclaim their dignity and honor in a society that stigmatizes and further victimizes them²¹.

Finally, it is interesting to analyse that the use of the **death penalty for rape is rooted in the patriarchal belief** that rape is a "fate worse than death"²². This notion originates from ancient rape laws that treated rape as a property crime against men, rather than as an act of violence against women. The underlying logic is that a

¹⁵ Sato, M. and Babcock, S. (eds.), *Silently Silenced: State-Sanctioned Killing of Women*, Eleos Justice, Monash University and Cornell Center on the Death Penalty Worldwide, (2023) p.54, accessible at: https://bridges.monash.edu/articles/report/Silently_Silenced_State-Sanctioned_Killing_of_Women/22357627.

¹⁶ Kowal, S., Walker, S., Ashraf, Z., & Sato, M. *A Deadly Distraction: Why the Death Penalty is not the Answer to Rape in South Asia*. Anti-Death Penalty Asia Network (ADPAN), (2022), p.7, accessible at: <https://research.monash.edu/en/publications/a-deadly-distraction-why-the-death-penalty-is-not-the-answer-to-r>.

¹⁷ *Ibid*, p.8

¹⁸ Eleos Justice, Monash University, *Why capital punishment for rape is a regressive step for women's rights*, (March 2023), accessible at: <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/why-capital-punishment-for-rape-is-a-regressive-step-for-womens-rights>

¹⁹ United Nations Human Rights, Office of the High Commissioner, *Death Penalty and the Victims*, (2016), accessible at: <https://www.ohchr.org/sites/default/files/newyork/Documents/Death-Penalty-and-the-Victims-WEB.PDF>

²⁰ Equality Now : a just world for women and girls, *Sexual Violence in South Asia: Legal and Other Barriers to justice for survivors*, (April 2021), accessible at: https://equalitynow.storage.googleapis.com/wp-content/uploads/2021/04/20043321/Sexual_Violence_in_South_Asia_Legal_and_other_Barriers_to_Justice_for_Survivors_-_Equality_Now_-_2021_1.pdf

²¹ *Ibid*.

²² Eleos Justice, Monash University *Why capital punishment for rape is a regressive step for women's rights* (March 2023).

raped woman is "destroyed,"²³ and thus the crime of rape, which "takes a woman's life," should be punishable by death.

A victim-centered approach, including enhanced legislative protections, access to victim advocates, and public education on sexual violence, is essential. Moving away from the death penalty involves acknowledging that criminal trials may not always provide the desired outcomes for victims and focusing on holistic justice solutions.

TOWARDS SAFER SOCIETIES

The problem of methodology in academic studies has made it impossible to prove scientifically that the death penalty is, or isn't, a deterrent. Figures available show that there seems to be no direct relationship between homicide rates and the use of the death penalty. Similarly, countries with the highest crime rates are no more or less likely to have the death penalty.

The theory of deterrence is predicated on the idea that if state-imposed sanctions are sufficiently severe, certain, and swift, then those sanctions will discourage criminal activity. Concerning the severity dimension, capital punishment is deemed an even worse fate than the possibility of a lifetime of imprisonment. Severity alone, however, cannot deter. There must also be certainty of punishment: the offender must be apprehended, charged, successfully prosecuted, sentenced by the judiciary and executed. Finally, the less studied dimension of the classical formulation of deterrence is the concept of celerity – the speed with which a sanction is imposed. In the case of the death penalty, celerity is problematic as executions can take a long time to be done. As the current application of the death penalty is inconsistent and haphazard, it fails to achieve its intended deterrent effects.

In order to create safer societies, we need to move from methods that focus on deterrence to approaches that address the root causes of violence and crime. Today's crises (climate change, armed conflicts, poverty, socio-economic inequalities, pandemics...) are linked to overlapping insecurities, with factors that are interrelated and mutually reinforcing. Insecurities must therefore be tackled together in order to guarantee security in all aspects of human life.

Looking through the lens of the human security framework²⁴ - which emphasizes the links between violent conflict and inequalities, marginalization, exclusion and oppression - the death penalty can actually increase insecurity by threatening human rights, exposing social and economic inequalities by disproportionately affecting marginalized groups, and failing to promote a safer environment.

Human security addresses the root causes of problems and promotes peaceful measures to protect people, such as disarmament and preventive policies. In the same vein, other security theories and practices advocate a broader understanding of security that exposes systemic violence that perpetuates cycles of harm. They tend to humanize individuals and redefine the providers of security, strengthening community accountability, preventive strategies and mechanisms of restorative and transformative justice. By addressing root causes and implementing comprehensive, community-centered solutions, we can promote a more just and secure world for all.

Acknowledgements:

This sheet is an updated version of the "No Deterrence" sheet prepared by the World Coalition Against the Death Penalty for World Day Against the Death Penalty in 2015.

More information about the World Day, including other campaign tools, can be found at: www.worldcoalition.org/worldday

²³ *Ibid.*

²⁴ More information on human security is available at: <https://www.un.org/humansecurity/what-is-human-security/>.