

2 Public Attitudes towards the Death Penalty¹⁹

2.1 Introduction

This review focuses on empirical studies which identify the factors that appear to shape – or at least correlate with – public attitudes to the death penalty. Some studies described in the review include public attitudes to punishment in general, where literature on the death penalty is limited or where more advances have been made. “Public attitudes to the death penalty” is treated as a sub-category of “public attitudes to punishment” because the death penalty is the most extreme form of existing punishment (Bobo & Johnson, 2004, pp. 158-159).

Three grouped factors (demographics, instrumental and symbolic) have been identified in the literature which attempt to explain attitudes to the death penalty. The following sections will demonstrate, by visiting each identified factor, the reasons why “knowledge” (within instrumental factors), and “trust” (within symbolic factors), have been selected as the focus in investigating the research problem over other explanatory factors. The book does not attempt to include every variable that previous studies have identified or suggested to explain death penalty attitudes. Instead, the aim is to test specific theories that contribute to the understanding of death penalty attitudes, rather than to create a generic model which best predicts support for the death penalty in Japan.

2.2 Demographics

Demographic variables are often used to show differences in support for the death penalty by varying groups of people. For example, Hood and Hoyle (2008) summarise a mixture of demographics which have been identified by the previous literature that divide supporters and non-supporters of the death penalty in the following way:

¹⁹ This chapter is a revised version of the report published by the Death Penalty Project in March 2013, titled: The Death Penalty in Japan. The full report is available from: <http://content.yudu.com/A22nfv/DPP-Japan-Report/>

In the United States, capital punishment is favoured more by whites, the more wealthy, by males, Republicans, and conservatives, than it is by black people, poorer people, women, Democrats, and liberals (Hood & Hoyle, 2008, p. 359).

This section illustrates these demographic variables in turn. First, sex has been one of the most consistent and strong predictors of death penalty attitudes, with men supporting the death penalty more than women (Applegate, Cullen & Fisher, 2002; Halim & Stiles, 2001; Soss, Langbein & Metelko, 2003; Stack, 2000; O'Neil, Patry & Penrod, 2004). While there is much academic evidence showing significant differences between men and women in their support for the death penalty, attitudinal difference explained by sex is a matter of "degree"; men's and women's attitudes are not "opposite" (Applegate, Cullen & Fisher, 2002, p. 97). This point is further illustrated by the evidence that men and women did not significantly differ in their reasons for supporting the death penalty (Stack, 2000). As for attitudes to punishment in general, gender difference is less consistent, with men and women showing different levels of punitivity for different types of punishment, while other studies found that sex showed no relationship with punitivity (Applegate, Cullen & Fisher, 2002; Halim & Stiles, 2001). For example, both men and women consider the courts in their area are not harsh enough, but women value rehabilitation as a goal for punishment more than men (Ibid.).

Moving on to other demographic variables, age has been identified as a significant predictor, with older people supporting the death penalty more in comparison to younger people (Stack, 2000; Sims & Johnston, 2004; Unnever & Cullen, 2005, 2007b). Lower levels of education have also been found to be a significant predictor of support for the death penalty (Halim & Stiles, 2001; Payne et al., 2004). Variable income – possibly linked with education – has produced conflicting evidence. For example, Soss, Langbein and Metelko (2003) found income to be negatively related to support for the death penalty, arguing that this is because those with low income have greater involvement with the criminal justice system. However, Stack (2003) found that those with low income support the death penalty more. More consensual evidence is available for political outlook. People who hold conservative political views are more likely to support the death penalty (Unnever & Cullen, 2005; Stack, 2003; Young, 2004; Payne et al., 2004; Unnever, Cullen & Roberts, 2005; Unnever, Cullen & Bartkowski, 2006).

Of all demographic variables, religion and ethnicity are the two most hotly debated in predicting death penalty attitudes. For religion, it has been argued that Catholics are less likely to support the death penalty than Protestants (O'Neil, Patry & Penrod, 2004; Miller & Hayward, 2008), and that those who believe in the literal interpretation of the Bible or have fundamentalist beliefs support the death penalty more (Miller & Hayward, 2008). The recent literature on religion has focused not on the difference between various religions in predicting support, but on whether being a Christian fundamentalist predicts support for the death penalty. Stack (2003) used data from the General Social Survey covering 1985 to 1990 and found that people who were a member of a Christian fundamentalist denomination were more likely to support the death penalty. Others have found no relationship between belonging to a Christian fundamentalist denomination (or reporting to belong to one) and support for the death penalty (Soss, Langbein & Metelko, 2003; Baumer, Messner & Rosenfeld, 2003).

This tension was reconciled by Unnever, Cullen and Applegate (2005), who argued that focusing on Christian fundamentalism has not allowed researchers to identify the more "compassionate" and "forgiving" aspects of religious beliefs which predict opposition to the death penalty. Unnever & Cullen (2006) further argued, after analysing those who are members of a Christian fundamentalist denomination, that they have conflicting religious beliefs: those who have a harsher image of god are more likely to support the death penalty, but those who see god as forgiving and compassionate were less likely to support it. Therefore, the evidence suggests that "religious people", using the example of Christian fundamentalists, is not a "monolithic group" (Unnever & Cullen, 2006, p. 191) but is "multifaceted" (Unnever, Cullen & Applegate, 2005, p. 336), and can be "a source of punitive or more progressive views" (Unnever, Cullen & Applegate, 2005, p. 333), depending on how religion is interpreted by the individual.

Religious affiliation and, more importantly, beliefs that individuals draw from religion, are strong predictors of death penalty attitudes. However, this variable was not included in the empirical work I carried out for this book. For Americans, religion plays a large part in their life, with 96% expressing a belief in God, 61% saying religion is "very important" in their lives, and two in three being members of a congregation (Unnever, Cullen & Bartkowski, 2006, p. 836). Conversely, for Japanese people, religion does not carry the same weight (Schmidt, 2002; Jiang, Pilot & Saito, 2010). While the majority of the Japanese

public may visit a temple or shrine in the New Year or attend a Buddhist memorial service for the deceased, according to the 2000/2001 Japanese General Social Survey, only 10% of respondents answered that they “follow a particular religion” (Kimura, 2003, p. 148). In addition, distrust of religious institutions is high (68%), making religion the most distrusted institution in comparison to 15 others such as the police, government, hospitals, and newspapers (Ibid.).

Ethnicity is another variable which has been excluded from my empirical work (consistent with all previous studies conducted on Japan), although it has been found to be one of the consistent predictors used in almost all surveys conducted in the US (Bobo & Johnson, 2004; Cochran & Chamlin, 2006). Whites have been identified as supporting the death penalty much more than black people (Soss, Langbein & Metelko, 2003; Barkan & Cohn, 2005; Cochran & Chamlin, 2006; Unnever & Cullen, 2007a, 2007b). For example, it has been reported that the odds of African-Americans supporting the death penalty are nearly one-third the predicted odds of whites doing so (Unnever, Cullen & Bartkowski, 2006, p. 856). Scholars have argued that white people’s preference for the death penalty is not simply a matter of preference by ethnicity, but that racial prejudice explains why white people support the death penalty (Soss, Langbein & Metelko, 2003; Unnever & Cullen, 2007; Bobo & Johnson, 2004). For example, using 2002 General Social Survey data, it has been demonstrated that when “prejudiced whites” were excluded, overall support for the death penalty fell by ten percentage points (Barkan & Cohn, 2005, pp. 41-42). This has led some to question the argument that the retention of the death penalty demonstrates that democracy reflects majority views, by highlighting that the retention of the death penalty is not a “race-neutral policy” (Unnever & Cullen, 2007a, p. 1293). Barkan and Cohn (2005, p. 43) add that “if much white support for the death penalty stems from racial prejudice...then opinion polls exaggerate ‘legitimate’ support for capital punishment”.

Almost all surveys include demographic variables in predicting death penalty attitudes, and they produce significant results, but not many studies specifically focus solely on demographic variables – with the exception of religion and ethnicity – in understanding death penalty attitudes (Applegate, Cullen & Fisher, 2002). This is because demographic variables have less explanatory value than symbolic or instrumental factors, not in terms of producing a high level of statistical significance, but in explaining why some support the death penalty and

others do not. Demographic variables such as ethnicity and religion have been extensively researched, not because they directly explain death penalty attitudes, but because they are connected to the core values and beliefs that lie behind these demographic variables – for example, religious orientation or racial bias. Barkan and Cohn (2005, p. 50) state this point clearly:

Death penalty opinion has multiple correlates. Several correlates are demographics, including gender, age, race, and education, but demographic factors affect death penalty opinion only because they are associated with more proximate attitudes identified in the death penalty literature. Thus, these attitudes are of special interest.

This book takes the same approach by focusing on attitudinal variables, which are examined in the sections to follow under symbolic factors and instrumental factors. That said, some demographic variables have been included in my surveys. Age and sex were included for practical reasons – for example, for weighting, in order to assure the quality of the data.

2.3 Symbolic Factors

Before summarising the literature on “symbolic” explanations of death penalty attitudes, it would be useful to clarify what is meant by “symbolic” and “instrumental” factors, and to make sense of the conceptual distinction. Putting demographic variables aside, studies which have attempted to determine factors that predict death penalty attitudes, or punitivity in general, have mainly used variables that can be grouped under these two concepts – though different scholars have used different terms.

Tyler and Weber (1982) were the first to make a distinction between “symbolic” and “instrumental” factors amongst the predictors of death penalty attitudes. They argued that “instrumental” factors are mainly associated with the desire to lower crime rates. The underlying hypothesis is that people who fear crime or perceive crime as increasing believe that it would be lessened by harsher punishments, and therefore support such punishments (Tyler & Weber, 1982, p. 22). It can also be described as a “pragmatic” (p. 24) or a “utilitarian” (p. 26) approach to explaining support for the death penalty. Examples include concern about victimisation and belief in deterrence (Tyler & Weber, 1982). In other

words, they are factors related to experience and cognition that attempt to justify harsh punishment.

On the other hand, “symbolic” factors that underpin people’s attitudes to the death penalty are “basic political and social values” (Tyler & Weber, 1982, p. 21), such as authoritarianism and liberalism, or belief in retribution.²⁰ Symbolic factors have also been referred to as “value-expressive” (Vollum, Longmire & Buffington-Vollum, 2004; Vollum & Buffington-Vollum, 2009), simply “expressive” (King & Maruna, 2009), or “core-values” (Unnever, Cullen, & Roberts, 2005; Buckler, Davila & Salinas, 2008). They have been defined to represent “deeply held beliefs and values” (Vollum & Buffington-Vollum, 2009, p. 20), as opposed to instrumental factors which are “logical, rational purposes often serving a more utilitarian function” (Ibid.). This book also follows the distinction made by Tyler and Weber (1982) and subsequently developed by others in understanding attitudes to the death penalty.

There has been a great deal of research on racial resentment as a symbolic factor that predicts retentionism. As discussed above, a series of US studies showed that it is not just ethnicity itself but racial bias which has been one of the most consistent predictors of support for the death penalty (Barkan & Cohn, 2005; Bobo & Johnson, 2004; Soss, Langbein, & Metelko, 2003). Racial resentment consistently predicts death penalty support, but despite this, past Gallup polls have never showed Americans acknowledging that their reason for supporting or opposing the death penalty is racialised (Unnever, Cullen & Roberts, 2005, p. 209).

Another well-established symbolic factor is authoritarianism – a tendency to value order, rules and social convention – which has been found to be a strong predictor of death penalty support (Stack, 2003; Unnever & Cullen, 2007a; Buckler, Davila & Salinas, 2008). Stack (2003) suggests that those with an authoritarian outlook have an absolutist mentality in terms of rule violation, and thus are likely to be retentionists. Buckler, Davila and Salinas (2008) found an interaction between authoritarianism and ethnicity in predicting death penalty attitudes. They found that overall, African-Americans were less authoritarian

²⁰ In their study they concluded that both instrumental and symbolic factors explained death penalty support, but when relative influence of the two factors was assessed, symbolic factors were more influential (Tyler & Weber, 1982).

than whites, but African-Americans with high levels of authoritarianism were no more likely than others to support the death penalty. They explained this by reference to differences between blacks and whites in forms of authoritarianism: if authoritarian, African-Americans tended to display informal family-oriented authoritarianism, whereas whites were more likely to display the formal authoritarianism that was most strongly associated with support for punitive measures (Buckler, Davila & Salinas, 2008, p. 164).

Egalitarianism contrasted with individualism has also been identified as one of the symbolic factors which could explain death penalty attitudes. Individualism, which focuses on the individual's merit rather than valuing equality for all, has been found to be positively associated with support. Egalitarianism, on the other hand, has been found to have a negative association (Soss, Langbein & Metelko, 2003; Unnever & Cullen, 2007a). As with authoritarianism, there were interaction effects between individualism, race and support for the death penalty (Buckler, Davila & Salinas, 2008; Unnever & Cullen, 2007a). Whites with a strong individualistic outlook tended to be more supportive of the death penalty than blacks (Unnever & Cullen, 2007a).

In addition, Unnever, Cullen and Roberts (2005) make an interesting argument concerning the relationships between various symbolic factors in an attempt to explain "weakly-held" attitudes towards the death penalty. In their analysis, they use four core-values – retribution, sanctity of human life, fairness,²¹ and racial resentment – as predictors, and argue that people who express weakly-held attitudes about the death penalty hold some but not all of the core values that are predictive of support. The logic behind this is that people who, for example, believe in retribution (which predicts support), but are not racially biased (which does not predict support), are more likely to be mild than strong retentionists (Unnever, Cullen & Roberts, 2005, p. 213).

Retribution is a much-researched symbolic factor which has been hypothesised to explain death penalty attitudes. This book also examines whether highly retributive attitudes predict death penalty support. Retribution is particularly relevant to the examination of the Marshall Hypothesis. Discussion of the litera-

²¹ "Fairness" is used to refer to the application of the death penalty, including wrongful execution and disproportionate application of the death penalty to African-Americans, which is treated in this book as an instrumental factor.

ture in a later section, together with an examination of the Marshall Hypothesis, will take account of this.

Trust is another symbolic factor which has been hypothesised to explain punitivity; however, few empirical studies have tested this relationship. Scholars have put forward the theoretical argument that political distrust is helpful in understanding public support for punitivity (Tonry, 1999; Garland, 2001). It has been suggested that the rise of harsh policies in the US and UK can be attributed to the government's efforts to regain public trust by resorting to punitive penal policies (Garland, 2001). In addition, procedural justice theory has also made contributions in explaining why people trust institutions (see works by Tyler and colleagues: Tyler, 2006a; Tyler, 2007; Tyler & Huo, 2002; Tyler & Wakslak, 2004). However procedural justice theory does not fully explain how trust in institutions is related to punitivity.

Lappi-Seppälä (2008a, 2008b) developed a fuller conception – incorporating procedural justice theory as well as theories concerning late modernity – in explaining differences between punitivity by country.²² He relies on the Durkheimian and Weberian conceptions of trust to explain punitivity. The Durkheimian tradition links levels of repression to feelings of social solidarity, social cohesion and social capital, measured by trust in people, which he calls “horizontal, personalised trust” (Lappi-Seppälä, 2008b, p. 105). The Weberian tradition links levels of penal repression with power concentration – the need to defend political authority – measured by trust in institutions, which he refers to as “vertical, institutional trust” (Lappi-Seppälä, 2008b, p. 105). He argues that both forms of trust are essential in measuring punitivity. The lack of institutional trust creates political pressures towards more repressive means to maintain state authority, and the lack of personal trust associated with fears results in calls for punitive demands. On the other hand, the combination of increased personal trust strengthens informal social control, and institutional trust promotes norm compliance, and decreases the need to resort to punitive penal measures (*ibid.*)

In testing his theory on trust, he uses imprisonment rates as an indicator of punitivity to conduct country-level comparisons because it is the most severe form of punishment in European and industrialised Western countries, though he

²² It should be noted that Lappi-Seppälä also uses welfare and political culture to explain punitivity. In this book, his analysis of “trust” is the main focus.

acknowledges the death penalty as the most punitive sanction of all (Lappi-Seppälä, 2008a, 2008b). He reaches the conclusion that levels of trust are indeed negatively associated with punitivity: trusting societies tend not to be punitive. According to my review of the literature, only three empirical studies have tested the relationship between trust and punitivity. King and Maruna (2009) included, among other variables, trust in people as a proxy for social capital in predicting punitivity in general. They found that it had a direct negative relationship to one's willingness to endorse harsh sanctions for criminals (King & Maruna, 2009, p. 160), which confirms Lappi-Seppälä's (2008a, 2008b) theory. Unnever, Cullen and Roberts (2005) included a variable on trust in the government to predict "weakly-held" views on the death penalty, and found it not to be a significant predictor. Unnever and Cullen (2005) found that having high trust in the federal government was a significant predictor of support for the death penalty, rejecting Lappi-Seppälä's (2008a, 2008b) theory. However, this may have been an artefact of question wording. Trust in the federal government was measured by a single question: "Do you approve or disapprove of the way George W. Bush is handling his job as President?" This question may simply have measured political conservatism, rather than political trust and perceptions of political legitimacy.

The review of literature showed that empirical studies which tested hypotheses about the relationships between trust and punitivity are still limited. This book aims to add to Lappi-Seppälä's work by testing his theory on support for the death penalty, covering both vertical and horizontal trusts. Testing this theory is important for extending its findings to the most punitive sanction currently available, and also for applying it in the Japanese context. Trust is particularly relevant to Japan for several reasons. Firstly, Schmidt (2002) argues that Japan is "one culture and one language" (p. 158), and describes the Japanese group mentality as closely related to a lack of individualism. He also states that crime in Japan is seen as a sin against the "community" (p. 159), thus categorising the Japanese people as having high levels of "horizontal trust", to use Lappi-Seppälä's terminology. Other scholars have also described Japan as "a collectivist society" (Jiang, Pilot & Saito, 2010, p. 312) with high levels of trust in the government (Jiang, Pilot & Saito, 2010, p. 312; Foote, 1992) and the criminal justice system (Foote, 1992). Therefore, it would be interesting to examine how a seemingly trusting country can offer apparently overwhelming support for the

most severe punishment, in a way that is very much at odds with what Lappi-Seppälä and others have proposed. Secondly, Lappi-Seppälä's theory on trust is very relevant to the Japanese government's argument for retaining the death penalty. The government's position assumes that abolition would damage trust – a view that is inconsistent with the research evidence in other countries. There is a clear need to examine in more detail the relationships between trust and punitivity in the Japanese context.

Lastly, before moving to the review of instrumental factors, it is worth stressing that the symbolic factors discussed in this section share a characteristic that distinguishes them from instrumental factors. Symbolic factors are core-attitudes which are thought to develop during the socialisation process, prior to adulthood – and thus are considered to be stable and unlikely to change (Tyler & Weber, 1982; Unnever, Cullen & Bartkowski, 2006). Instrumental factors, on the other hand, are mainly based on perception and knowledge, and are thus considered to be responsive to exposure to information (and to experience, as with victimisation).²³ This distinction leads to debates over whether punitivity is something inherent and fixed or whether it is susceptible to change.

This tension between symbolic and instrumental factors has also been debated in studies examining broader attitudes to punishment. A survey conducted by Hough, Lewis and Walker (1988) in England and Wales explored the determinants of punitivity. The variable which was most strongly correlated with punitivity was general disciplinarian outlook (i.e. symbolic), implying that attitudes to punishment will be resistant to change (Hough, Lewis & Walker, 1988, p. 215). A Canadian survey reported by Brillion (1988, p. 109) offered a similar view:

It would seem that punitiveness is a basic attitude...which is inherent in people's personality. As such, it cannot be explained by how people perceive the phenomenon of crime or by the image people have of the system of criminal justice.

In Hough, Lewis and Walker's (1988) survey, however, the second-strongest predictor of punitivity was a measure of knowledge about crime – with the least

²³ It should be noted, however, that the flexibility of symbolic factors is still debated, with some scholars arguing that they are "slow to change" but are "not immutable" (Unnever, Cullen & Roberts 2005, p. 211).

The Death Penalty in Japan

Will the Public Tolerate Abolition?

Sato, M.

2014, XX, 235 p. 25 illus., Softcover

ISBN: 978-3-658-00677-8