

Public opinion and the death penalty in Japan

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Abstract

Based on the Japanese General Social Survey conducted in 2010 on a representative sample of adults, the present analysis intends to identify the factors more likely to predict variations in death penalty attitudes in Japan. Compared to death penalty proponents, those who oppose capital punishment are less likely to express punitive attitudes in general and to be dissatisfied with government expenditures on crime control. Relative to retentionists, abolitionists tend to have a higher level of social trust, show a higher level of support for public participation in the criminal justice process, are more likely to practice a religion, and are younger. Instrumental factors, such as victimization and fear of crime, symbolic factors, such as institutional trust, trust in the judiciary, and the police, as well as gender do not differentiate death penalty opponents from supporters. The results of the multinomial logistic regression show that residents who did not express agreement or disagreement with the death penalty have more in common with those who oppose capital punishment than with those who favor it. Although the majority of the population (65.2%) expressed support for death penalty, one in four respondents (26.1%) remained ambivalent regarding the use of capital punishment. Additionally, most of those who expressed an opinion (50.5%) said they would hesitate to recommend death, if chosen to serve in the newly instituted citizen judge system. Findings suggest that public support for death penalty is not as strong in the country as the Japanese government claims and that it requires further exploration.

Keywords

capital punishment, death penalty, Japan, public opinion, punitive attitudes

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Introduction

On 4 October 2015, after 46 years on death row, Masaru Okunishi passed away at a medical prison in Japan. He was 89 years old. Okunishi has been sentenced to death in 1969 based on circumstantial evidence and a forced confession he later retracted. He was accused of fatally poisoning 5 women, including his own wife, and of injuring 12 other persons, who, while attending a gathering in Nabari, Mie Prefecture, drank wine contaminated with pesticide. First arrested on suspicion of murder in 1961, Okunishi was acquitted of all charges in 1964, due to lack of evidence. However, the prosecution appealed the District Court ruling and in 1969, a higher court reversed the initial verdict and declared him guilty of multiple murders, despite inconclusive forensic evidence. Okunishi never ceased to claim his innocence, but all his eight retrial requests have been rejected by the court (Amnesty International, 2015).

At the time of this writing, based on data provided by Japan's Innocence and Death Penalty Information Center (JIADEP), there were 122 death row inmates in Japan. Eight of these defendants are women, six were minors when they committed the crime, and at the prosecution's appeal, eleven individuals had their original sentence reversed from life imprisonment to death. Since 1945, only four confirmed death sentences have been overturned in Japan (JIADEP, 2020).

Although centuries ago Japan was the first country in the world to abolish the death penalty and there were no executions between 810 and 1156 (Sato, 2014: 21), the country is now part of a minority of states that retain capital punishment in law and in practice. Within the Group of Seven largest advanced economies in the world, United States and Japan are the only developed democracies that are also death penalty countries. However, 20 US states have abolished capital punishment and 4 states have gubernatorial moratoria on death penalty. Additionally, the majority of states (31 out of 50) plus three jurisdictions (District of Columbia, Federal Government, and Military) did not carry out an execution in at least 10 years (Death Penalty Information Center, 2019). Between 1989 and 1993, Japan had a 40-month moratorium on executions as well (Johnson, 2005; Zimring and Johnson, 2008) and the average annual number of executions in the country is relatively low. However, different from the United States, where death penalty has been a contested issue for several decades, the debate about death penalty in Japan is much more limited and the Japanese public's interest in death penalty issues is low (Bacon et al., 2017; Johnson, 2005, 2016; Sato, 2014). Johnson (2005: 253) argues that this is mostly a result of "the state's deliberative policy to keep the public uniformed about how, when, and why it kills." Moreover, if in United States social scientists examined systematically the potential crime-deterrent effect of capital punishment and documented the arbitrariness and the injustices that occurred in the administration of death penalty (Lambert et al., 2011), similar studies meant to shape public attitudes toward the ultimate punishment have not been conducted in Japan (Sato, 2014).

Japan has had and continues to have one of the lowest murder rates in the world. For instance, in 2011, the intentional homicide rate per 100,000 people was 0.3 in Japan versus 4.7 in United States (United Nations Office on Drugs and Crime, 2014: 126–128). Additionally, since the early 1950s, homicide rates have steadily decreased in Japan (Ellis and Hamai, 2017), suggesting that executions in Japan are less likely to serve any crime control function. As Johnson and Zimring (2009: 81) noted, “Japan has had a symbolic death penalty for more than a century” and the Japanese government continues to retain capital punishment “not so much because it needs it, but because it wants it”. Nonetheless, despite the global trend toward the abolition of the death penalty (Amnesty International, 2018), data show that the Japanese death penalty policy has become more aggressive in the twenty-first century (Sato, 2014: 22). As in 2008, 15 people have been executed in 2018. Since 1993, this has been the highest number of executions recorded in a single year (Osumi, 2018).

Although Japan has been a signatory to the International Covenant on Civil and Political Rights since 1979, the Japanese government argues that capital punishment is not abolished in the country because it enjoys an overwhelming public support (Sato, 2018). For instance, a government survey conducted in 2009 showed that 86% of the respondents who expressed an opinion favored death penalty (Sato, 2014: 23–25). Similarly, the most recent five-yearly Cabinet Office opinion poll conducted in 2014 showed that 80% of the respondents said that death penalty is “unavoidable” (Bacon et al., 2017: 109).

While this argument is relevant in any democratic society because political leaders are expected to represent “the will of the people” (Hood and Hoyle, 2015: 426), recent research conducted in Japan indicates that public support for capital punishment is not as extensive as previously thought (Sato, 2014, 2018; Sato and Bacon, 2015). For instance, the results of a 2015 survey conducted in Japan on a nationally representative sample of adults showed that while, initially, 83% of the respondents said that death penalty was “unavoidable”, when respondents had five response options to choose from, the proportion of committed retentionists was much lower. Specifically, only 27% of the study participants acknowledged that death penalty “should definitely be kept” as a form of criminal penalty. Moreover, 71% of those who considered death penalty unavoidable said that they would accept abolition as government policy, if the Japanese government were to abolish capital punishment (Bacon et al., 2017: 111).

Although death penalty remains a controversial issue in Japan (Sato, 2018: 237), the number of empirical studies trying to determine what factors influence public attitudes toward death penalty is limited (Sato, 2014). Stressing the importance of conducting new empirical analyses on the Japanese public’s opinions about capital punishment to advance knowledge, Sato (2014: 26) also noted the contribution of such studies to Japan’s public policy. Based on a multivariate analysis of data collected from a representative sample of Japan’s adult population, the present study intends to respond to Sato’s (2014) call to attention regarding death penalty issues in Japan. Additionally, while prior research focused for the most part on

respondents that expressed a clear opinion regarding death penalty, our analysis will also consider the characteristics of the *undecided*. For those challenging the government's claims regarding death penalty support in Japan and for anti-death penalty activists, our findings might shed some light regarding persons who may be persuaded to oppose a law that legitimizes an irreversible act of violence by the state.

Explaining variations in death penalty support

As Johnson and Zimring (2009: xii) noted, most knowledge of capital punishment and penal policy is based on research conducted in United States and other developed nations in the West. Over the past five decades, without doubt, the largest number of studies on public attitudes toward death penalty and the correlates of these attitudes have been produced by American social scientists. Research examining the results of public opinion polls, such as Gallup polls, which in United States have been conducted on national representative samples since 1936, frequently referred to the sociodemographic characteristics of death penalty supporters. Nevertheless, an increasing number of research studies tried to identify additional factors that could better explain why some people favor capital punishment, while others do not.

In order to understand differences in support for the death penalty, social scientists advanced two theoretical explanations. It has been argued that differences in capital punishment attitudes are a result of people's differences in basic political and social values (i.e., the symbolic perspective), but also a result of variations in people's crime victimization experiences and crime concerns, in general (i.e., the instrumental perspective; Tyler and Weber, 1982). One instrumental perspective on punitiveness that will inform the present study refers to the *pragmatic theory* (cf. Tyler and Weber, 1982), which hypothesizes that increased victimization and fear of crime would lead to greater support for harsh penalties, such as capital punishment. In sum, according to the instrumental hypothesis, citizens who favor the death penalty do so pragmatically, as they believe it will reduce crime.

Empirical tests of the instrumental theoretical perspective

Research that examined the effect of crime-related experiences and knowledge-based perceptions of crime on support for capital punishment do not provide strong evidence supporting the instrumental theoretical perspective. Maggard et al. (2012), for instance, found that people living in areas with low crime rates were less likely to favor death penalty, but their attitudes toward capital punishment were not significantly different from the opinions expressed by residents living in areas with high-crime rates. On the other hand, Stack et al.'s (2007) multilevel analysis shows that homicide rates significantly and positively predict support for the death penalty.

Regarding the impact of direct victimization on public opinion about death penalty, research generally indicates that crime victims and non-victims do not differ significantly in their support for the death penalty (Bobo and Johnson, 2004; Tyler and Weber, 1982; Unnever et al., 2007; Vito et al., 1999). Keil and Vito (1991), however, found that violent victimization had an indirect effect on support for death penalty via fear of crime. Regarding fear of crime effects, some studies found that fear of crime had a positive and significant effect on punitiveness in general (e.g., Costelloe et al., 2009; Dowler, 2003; Johnson, 2009), or on support for death penalty, in particular (Keil and Vito, 1991; Unnever et al., 2007). Nonetheless, several researchers concluded that fear of crime and support for capital punishment were not significantly related (Fox et al., 1991; Kelley and Braithwaite, 1990; Tyler and Weber, 1982; Unnever and Cullen, 2007; Vito et al., 1999).

While some researchers found a significant positive relationship between crime concerns and punitiveness (Costelloe et al., 2009), the relationship was no longer significant in King and Maruna's (2009) study, when the authors introduced in the equation symbolic factors. On the other hand, a positive and significant relationship between the salience of the crime problem and support for death penalty has been documented by several research studies (Hessing et al., 2003; Hood and Hoyle, 2015; Kelley and Braithwaite, 1990; Unnever, 2010).

Sato (2014: 48) noted that when people tend to overestimate the actual crime level, they tend to underestimate the courts' severity and they are more likely to express support for harsher punishments. Although, as some scholars argued (cf. Kelley and Braithwaite, 1990; Stack, 2004), a generally punitive stance toward criminals does not necessarily translate into support for capital punishment, a positive and significant relationship between punitiveness and support for capital punishment has been identified in several studies (Hessing et al., 2003; Kelley and Braithwaite, 1990; Stack, 2004). When analyzing global attitudes toward death penalty expressed by respondents from 57 countries, Unnever (2010) also concluded that instrumental perceptions of crime (i.e., increases in public concerns about crime and dissatisfaction with government crime-control policies) are indeed significant predictors of support for death penalty.

Empirical tests of the symbolic perspective

In addition to utilitarian explanations of public attitudes toward death penalty, several research studies tested empirically the tenets of the symbolic perspective, which hypothesizes that political and social attitudes shape one's attitude toward capital punishment. Based on a review of the literature on Americans' attitudes toward the death penalty, Ellsworth and Gross (1994: 19) contended that most people's (pro or con) death penalty attitudes are shaped by one's emotions, not by information or rational arguments. Specifically, research conducted in United States found that authoritarianism, dogmatism, conservative views regarding various social issues (cf. Tyler and Weber, 1982), and/or racial prejudice (Maggard

et al., 2012) generally predict support for capital punishment. Yet, as Stack (2004: 71) noted, the constructs used in previous US studies (e.g., symbolic orientations such as fundamentalism and authoritarianism) may prove to be less useful as explanatory tools in other nations. In Japan, for instance, race is irrelevant (Jiang et al., 2010b: 303) and to examine the effect of racial prejudice on attitudes toward death penalty would be superfluous.

Yet, in an international context, differences in penal philosophies appear to predict variations in public attitudes toward capital punishment. Unnever (2010) for example, concluded that worldwide, people are significantly more likely to support the death penalty if they endorse retribution, incapacitation, or deterrence, rather than offenders' rehabilitation. A study that examined attitudes toward death penalty in Japan using a sample of college students also found that beliefs in the crime-deterrent effect of the death penalty and retributive attitudes were the strongest predictors of support for capital punishment. Conversely, respondents who favored rehabilitation, those who considered death penalty barbaric, and/or feared potential wrongful convictions were significantly less likely to favor capital punishment (Jiang et al., 2010b). A comparative analysis of government surveys conducted in Japan in 1967 and 2014 also showed that the majority of the population (51% in 1967 and 58% in 2014) acknowledged that death penalty would deter violent crime. However, while in 1967, deterrence was the most frequently mentioned reason for retaining death penalty, in 2014, concern about the victims' families was ranked as the most important reason for retention (Sato and Bacon, 2015).

Although only a limited number of studies examined its effect on attitudes toward death penalty, the citizens' institutional trust is another symbolic factor that has been identified in the literature as a determinant of punitive attitudes in an international context. Using data collected in New Zealand, Pratt and Clark (2005) found that support for penal severity would intensify with a decrease in the respondents' confidence in the political system. Furthermore, the results of a study that analyzed individual-level data from 17 nations indicate that people with a high level of confidence in the courts and the legal system are more likely to oppose death penalty (Stack, 2004). Similarly, in a multilevel analysis based on national samples from 14 countries, Stack et al. (2007) found that when controlling for individual and country-level factors, confidence in the country's parliament was significantly and negatively associated with support for the death penalty. Although Unnever and Cullen (2007) found that one's level of confidence in the government was negatively related to support for the death penalty in United States, the relationship was no longer significant in multivariate analyses. Similarly, a survey conducted in Japan did not reveal significant inter-group differences in the level of institutional trust when death-penalty supporters and opponents were compared. For example, 30% of the death-penalty supporters and 29% of the death-penalty opponents expressed confidence in the courts, the most trusted institution in Japan (Sato and Bacon, 2015: 31–32).

From a symbolic perspective, social trust as well as one's views of the human nature may also influence attitudes toward the death penalty. According to the social capital theory, trust in people is an indicator of social bonds and social solidarity. Communities characterized by high levels of interpersonal trust are more cohesive and have a higher capacity to control crime informally. As a result, there may be less need for governmental control and excessive punitive measures (Lappi-Seppälä, 2011: 312–313). In a country-level analysis, Lappi-Seppälä (2011) found that with an increase in social trust, formal control (i.e., incarceration rates) would decrease significantly. In a micro-level analysis of data collected in United Kingdom, King and Maruna (2009) identified a significant negative relationship between social trust and punitive attitudes. Similarly, using data collected in Australia, Kelley and Braithwaite (1990) found support for their hypothesis that a pessimistic view of human nature, seen as selfish and brutish, would predict support for the death penalty.

In addition to social trust, another important indicator of social capital is the rate of civic engagement in public life (Putnam, 2000). According to Barker (2006: 6), structures of state governance and practices of civic engagement significantly shape how states understand and respond to crime and other perceived societal problems. In the author's view, democratization, especially a deliberative type of civic engagement, limits punitiveness because "when citizens participate in public life they may be more likely to keep a check on the repressive powers of the state." Using a case study analysis, Barker (2006) noted that American states with widespread civic participation had relatively low incarceration rates, even when facing increases in crime rates. Similarly, documenting further a significant negative relationship between civic engagement and punitiveness, Neill et al. (2015) also found that in US, states with higher levels of voter turnout had significantly lower incarceration rates. Accordingly, even if to our knowledge there are no studies that examined the effect of citizen participation on attitudes toward death penalty in Japan, we hypothesize that those who express support for the lay assessor system¹ introduced in Japan in 2009 to create a more democratic criminal justice process would be more likely to oppose death penalty.

Research examined frequently the role played by religion, religiosity, and religious beliefs in structuring attitudes toward capital punishment. Although some religious traditions have been interpreted as providing support for the death penalty, while others were found to be against it, "across religious affiliations, teachings emphasize values of forgiveness, mercy, and compassion over punishment" (Rade et al., 2017: 65). Consequently, individuals who are more religious should be expected to oppose rather than support death penalty. However, the findings of various research studies are inconsistent. For instance, a recent systematic review found that in most studies (9 out of 13) that evaluated the impact of religiosity on support for death penalty in United States, church attendance/religious practice did not have a significant effect on public attitudes toward capital punishment (Rade et al., 2017). Yet, other researchers found religiosity to be significantly and negatively related to support for death penalty (Applegate et al., 2000;

Baker and Booth, 2016; Kelley and Braithwaite, 1990; Stack et al., 2007; Unnever, 2010; Unnever and Cullen, 2006). Moreover, Hessing et al. (2003) found in Netherlands that persons who belonged to a religious denomination were less likely to support capital punishment. Similarly, a study conducted among college students in Japan found that respondents who acknowledged a religious affiliation were less likely to support death penalty. However, the effect was not significant (Jiang et al., 2010a).

Sociodemographic correlates of death penalty attitudes

As previously noted, research also examined variations in public attitudes toward death penalty as a function of sociodemographic characteristics, such as age, gender, race/ethnicity, education, and socio-economic status. In general, when examining the effects of various sociodemographic indicators on death penalty attitudes, the explanatory power of these factors was quite low (cf. Ellsworth and Gross, 1994: 21; Fox et al., 1991) and findings tend to be inconsistent. For instance, some studies found that support for death penalty increases with age (Alston, 1976; Fox et al., 1991; Maggard et al., 2012), while other researchers noted that death penalty support decreases with age (Hessing et al., 2003). On the other hand, several studies could not identify any age effect (Jiang et al., 2010a, 2010b; Keil and Vito, 1991; Kelley and Braithwaite, 1990; Tyler and Weber, 1982; Unnever, 2010; Unnever and Cullen, 2006, 2007; Vito et al., 1999).

Regarding inter-group comparisons based on gender, the findings of studies conducted in US and other countries generally indicate that males are significantly more likely to favor death penalty than women do (Fox et al., 1991; Hessing et al., 2003; Kelley and Braithwaite, 1990; Stack, 2004; Unnever, 2010; Unnever and Cullen, 2006; Vito et al., 1999). Yet, gender-based differences in support for death penalty were not discovered in studies conducted in Japan (Alston, 1976; Jiang et al., 2010a) or elsewhere (Johnson, 2009; Maggard et al., 2012; Tyler and Weber, 1982).

Data and methods

Data source

The data source of the study was the Japanese General Social Survey (JGSS) conducted in 2010 on a representative sample of the adult population in Japan ($N=2507$). The JGSS Project is a Japanese version of the original General Social Survey project conducted in United States by the National Opinion Research Center at the University of Chicago. The analysis uses citizens' responses at form A of the JGSS questionnaire, which contains 74 specific, self-administered questions focusing on values and behaviors (Tanioka et al., 2010).

Results

Univariate analyses

Table 1 presents the descriptive statistics (relative frequencies, means, standard deviations, and minimum and maximum values) for all the variables included in the analysis. As previously noted, respondents who did not answer the selected questions have been excluded from the analysis. The rate of non-responses was very low, varying from zero to 1.75%.

While a government survey conducted in Japan in 2009 found that 86% of the citizens who expressed an opinion had pro-death penalty attitudes (Sato, 2014), our findings indicate a much lower level of support for capital punishment in Japan. If almost two-thirds of the respondents (65.2%) “agree with the death penalty”, more than a quarter of the respondents (26.1%) could not express a clear opinion about capital punishment. Moreover, slightly more than half of those who expressed an opinion (50.5%) stated they would (probably) hesitate to recommend the death sentence, if elected to serve as a lay judge.

Although most respondents (58%) said they would be afraid to walk at night in their neighborhoods, only 3% of the residents have been victims of personal crime during the year preceding the data collection. Despite low victimization rates, almost 65% of the respondents believe the courts should be harsher or much harsher when dealing with criminals and about 30% of those interviewed think the government spends “too little” on crime control.

Japanese respondents show a moderate level of trust in the police and the judicial system. On average, their level of trust in council members, the government, and members of the parliament is even lower. For instance, 53.7% of respondents do not trust members of the national Diet, 42.5% have no confidence in members of municipal councils, and 29.2% do not trust ministries and government agencies. Conversely, only 5.1% of respondents distrust the courts and

Table 1. Descriptive statistics.

Variable	N	Freq.	Mean	SD	Min	Max
Death penalty attitude	2501				1	3
Agree		65.2%				
Undecided		26.1%				
Disagree		8.7%				
Instrumental factors						
Crime victim	2496	3.3%			0	1
Fear of crime	2493	58.6%			0	1
Dissatisfaction with crime-control expenditures	2467	29.7%			0	1
Punitive attitudes (Courts should be harsher)	2499	64.8%			0	1
Death sentence as lay judge	2470				0	1
Would not hesitate to recommend death penalty		49.5%				
Would hesitate to recommend death penalty		50.5%				
Symbolic factors						
Institutional trust (diet, government, councilors)	2463		1.61	.43	1	3
Trust in courts	2474		2.16	.49	1	3
Trust in the police	2484		2.02	.56	1	3
Social trust /Positive views of humankind	2477		4.64	1.39	1	7
Civic engagement / Support citizen judge system	2475	43.1%			0	1
Religiosity	2484	12.4%			0	1
Demographics						
Gender (female)	2507	54.3%			0	1
Age (<30 years old)	2507	9.5%			0	1

14.1% have low confidence in the police. The level of social trust in Japan is moderate as well. On a scale from 1 to 7, the average score (4.64) is slightly higher than the mid-point of the interval. However, if only 6.1% of the respondents (scores 1 and 2) think that human nature is basically evil, 26.9% (scores 6 and 7) believe people are basically good.

The Japanese did not appear to be particularly interested to engage in the criminal justice process. The majority (57%) of those who expressed an opinion said they would (probably) not support the CJS that started in May 2009 and under which ordinary people would be involved in the judgments of serious criminal cases such as murder, arson, and abduction.

Multivariate analyses

Table 2 presents the results of a multinomial logistic regression analysis that tries to determine which factors are more likely to differentiate the three subgroups of respondents, which differ in their attitudes toward the death penalty in Japan. Prior to multivariate analyses, we examined the bivariate correlations among all the predictors and performed collinearity diagnostics. Results of these preliminary

Table 2. Multinomial logit estimates for attitudes toward death penalty in Japan.

	DP opponents vs. DP supporters			Undecided vs. DP supporters			DP opponents vs. Undecided		
	B	SE	Exp(B)	B	SE	Exp(B)	B	SE	Exp(B)
Instrumental factors									
Crime victim	-.009	.468	.991	.241	.293	1.272	-.250	.476	.779
Fear of crime	-.225	.162	.799	-.033	.113	.968	-.192	.169	.825
Dissatisfaction with crime-control	-.388*	.197	.678	-.175	.127	.839	-.213	.208	.808
Punitive attitudes	-.890***	.163	.411	-.139***	.113	.320	.249	.169	1.283
DP recommendation as lay judge	-2.519***	.232	.081	-1.459***	.117	.232	-1.060***	.248	.346
Symbolic factors									
Institutional trust	.045	.206	1.046	.503***	.143	1.653	-.458*	.215	.633
Trust in courts	-.289	.191	.749	-.136	.130	.872	-.152	.200	.859
Trust in the police	-.104	.169	.901	-.249*	.118	.780	.145	.178	1.156
Social trust	.107†	.061	1.113	-.012	.041	.988	.119†	.063	1.126
Civic engagement in CJ system	.281†	.161	1.324	-.243*	.113	.784	.524**	.168	1.688
Religiosity	.440*	.220	1.552	.182	.168	1.199	.258	.234	1.294
Demographics									
Gender (female)	.107	.163	1.112	.996***	.118	2.708	-.890***	.173	.411
Age (<30 years old)	.485*	.239	1.624	-.004	.185	.996	.489*	.249	1.630
Model $\chi^2 =$	721.341***								
Pseudo R ² (Nagelkerke) =	.324								
N =	2367								

†p < .10; *p < .05; **p < .01; ***p < .001.

analyses indicate that multicollinearity is not an issue. Specifically, the highest bivariate correlation coefficient was .437 (between *trust in the police* and *trust in courts*) and the highest Variance Inflation Factor was 1.381.

An examination of the effects presented in Table 2 shows that three predictors (i.e., trust in the judicial system, victimization, and fear of crime) did not have the ability to explain inter-group differences regarding attitudes toward death penalty. The first model included in Table 2 compares death penalty opponents and death penalty supporters. Compared to retentionists, death penalty opponents are significantly less dissatisfied with crime control policies. Abolitionists are significantly less likely to favor harsher punishments for criminals in general and they are significantly less likely to recommend a death sentence, if selected to serve on a panel of judges.

In fact, if a person opposes death penalty, the odds of a death penalty recommendation by a potential lay judge decrease by almost 92% ($\text{Exp}(B) = .081$; $p < .001$). Relative to retentionists, death penalty opponents tend to be younger, they express a higher level of social trust, they are more religious, and they show more support for civic engagement in the criminal justice process.

Similar to their counterparts who oppose capital punishment, when compared to the retentionist group, respondents with ambivalent feelings about capital punishment are significantly less likely to support harsher punishments in general and they are significantly less likely to recommend without hesitation a death sentence, if chosen to serve as a lay assessor. The odds of a death penalty recommendation by a lay judge decrease by almost 77% ($\text{Exp}(B) = .232$; $p < .001$) for the undecided versus retentionists. Compared to death penalty supporters, the undecided trust their government, the national Diet, and council members significantly more, but they are significantly less likely to trust the police. Those who do not take a clear stance on death penalty issues show a significantly lower level of interest in the newly created CJS than those who favor capital punishment. Relative to Japanese residents who support the death penalty, the undecided are more likely to be females.

In sum, even if only two predictors significantly differentiate death penalty supporters from the other two groups, the direction of the effects is the same in 9 out of 13 instances when abolitionists and the undecided are both compared to the retentionist group. Nonetheless, despite many similar opinions the undecided and capital punishment opponents share when they are compared to those expressing pro-death penalty attitudes, inter-group differences do exist between abolitionists and the undecided as well. Although people in both subgroups appear to be unwilling to recommend a death sentence, if they would serve on a panel of judges, the death penalty opponents' reluctance to impose capital punishment is significantly stronger. While abolitionists tend to show a lower level of confidence in government and public officials, they express a higher level of trust in people and they show a significantly higher level of support for public participation in the criminal justice process. In terms of demographic characteristics, these two subsamples differ significantly as well. Relative to the undecided, death penalty

opponents are younger and are more likely to be males. Alternatively, death penalty opponents and the undecided show a comparable level of satisfaction with crime-control expenditures and with the way courts treat criminals, and the respondents' level of religiosity is relatively similar in both subsamples.

Discussion and conclusion

Informed by two theoretical perspectives, the present analysis tried to identify the factors able to predict variations in attitudes toward the death penalty in Japan. We found partial empirical support for the instrumental and the symbolic perspectives. Consistent with prior research (Bobo and Johnson, 2004; Fox et al., 1991; Kelley and Braithwaite, 1990; Tyler and Weber, 1982; Unnever and Cullen, 2007; Vito et al., 1999), experience with victimization and fear of crime have not been able to differentiate death penalty supporters from those who oppose capital punishment. However, the direction of the effect is consistent with the pragmatic theory (Tyler and Weber, 1982). Although only a small proportion (3%) of those interviewed acknowledged direct victimization, death penalty supporters experienced victimization more often than those who opposed death penalty. Additionally, the level of fear of crime was higher among retentionists. This suggests that the residents' excessive fear of victimization might partially account for public support for capital punishment in Japan.

Although the survey did not include questions meant to assess crime concerns, the retentionists' support for harsher punishments by the courts, might be a result of a subjective overestimation of violent crime, which Sato (2014) noted as well. The fact that death penalty supporters also expressed a higher level of dissatisfaction with the government's crime-control expenditures suggests that this might be the case. Yet, due to data limitations, we do not know if unrealistic assessments of crime levels in the country or other factors are responsible for significant intergroup differences in punitiveness. Nonetheless, consistent with Unnever's (2010) findings, instrumental perceptions of crime (i.e., dissatisfaction with government crime-control policies) are significant predictors of support for death penalty in Japan.

Our results show partial empirical support for the symbolic theoretical approach as well. Although abolitionists and retentionists do not have significantly different levels of trust in the police, courts, and other important institutions, consistent with the theoretical predictions, death penalty opponents tend to have more positive views of human nature than retentionists do, as prior research (Kelley and Braithwaite, 1990) also found. Furthermore, as the symbolic perspective would predict, when controlling for the selected predictors, citizens who showed interest in public participation in the criminal justice process were more likely to be death penalty opponents. This finding is consistent with prior research (Barker, 2006; Neill et al., 2015) that documented a negative relationship between civic engagement and punitive attitudes.

However, more than half of the respondents (57%) showed no interest in supporting the lay assessor system, which is not surprising given the relatively low level of civic engagement in the country. Since the early 1980s, the overall population involved in civic activities has remained stable at about 25% (Vinken et al., 2010: 6). Based on empirical evidence, Vinken and his colleagues argued that Japanese people hesitate to exercise influence in the public sphere because they are inclined to believe that experts should be in charge of politics, governance, and civil service (Vinken et al., 2010: 7). Although Japan's Supreme Court documents indicate that over the past decade, about 1.2 million people were selected as lay judge candidates and 90,000 of them actually took part in court proceedings, either as a lay judge or as a substitute, more than 70% of the potential lay assessors declined to accept the duty (*The Japan Times*, 2019). According to Japanese legal experts, this low rate of participation "makes it questionable whether the goal of promoting public engagement in the criminal justice system is being met" (Muraoka and Murai, 2019). We could speculate that a relatively low level of public interest in creating a more democratic criminal justice process could partially explain the persistence of pro-death penalty attitudes in Japan. Nonetheless, additional research is needed to verify the stability of our findings and examine further the effect of civic engagement on punitive attitudes in Japan.

As the symbolic perspective would predict and consistent with prior research (Applegate et al., 2000; Baker and Booth, 2016; Hessing et al., 2003; Kelley and Braithwaite, 1990; Unnever, 2010), death penalty opponents were more likely to be religious people. While most Japanese adhered to Shintoism or Buddhism, many people follow both spiritual traditions (Central Intelligence Agency, 2019). Yet, while most Shinto groups (Japan's indigenous faith) support the death penalty, Buddhist organizations oppose it (Kakuchi, 2007). Whereas capital murder is unacceptable in Buddhism, killing as punishment for a crime is unacceptable as well. As Alarid and Wang (2001: 236) noted, the Five Precepts within Buddha's teachings indicate that people should abstain from killing all living creatures, should learn to control their hatred, and should cultivate compassion and kindness for all creatures. Although future research should explore the complex relationships between religiosity, religious adherence, and attitudes toward capital punishment in Japan, it seems that despite apparent divergent views on death penalty issues among various religious groups, Japanese persons who practice any religion are more likely to favor the abolition of capital punishment. Additional analyses (not presented) showed that among those who acknowledged a religious affiliation, the majority (52%) of the respondents who described themselves as "very devoted" to their religion did not express support for capital punishment.

Empirical research conducted in United States over the past decades revealed that proponents of the death penalty are more likely to be males, older individuals, whites, Republicans, and persons who identify with conservative religious denominations (cf. Bohm, 2016). Nevertheless, in Japan, variables such as gender, education, socio-economic status, or political attitudes were not able to differentiate abolitionists from retentionists. Yet, it should be noted that additional analyses

(not included) showed that when the effect of other variables was not taken into account, the proportion of women who expressed support for the death penalty (55%) was significantly lower ($\chi^2 = 148.787$; $p < .001$) than the proportion of males (77%) who favored capital punishment. Consistent with prior research conducted in Japan (Alston, 1976) and elsewhere (Fox et al., 1991; Maggard et al., 2012), younger respondents were significantly more likely to express disagreement with death penalty. Moreover, persons younger than 30 years old were less likely to have ambivalent opinions about death penalty.

However, before discussing further the implications of our findings, the study limitations should be noted. This secondary data analysis could use only a limited number of predictors that were included in the JGSS data set. Therefore, the effect of potentially important determinants of public attitudes toward capital punishment could not be examined. For instance, respondents have not been asked to motivate their opinion and the effect of one's philosophy of punishment could not be assessed. The study could not test the *Marshall Hypothesis* and see if public support for the death penalty was influenced by one's lack of knowledge about the subject, as studies conducted in United States have often found (cf. Bohm et al., 1993; Bohm and Vogel, 2004; Lee et al., 2014). According to Johnson (2006: 269), "abolitionists in Japan believe more citizens would resist the death penalty if they knew more about it." Yet, a pre-test/post-test experiment conducted in Japan in 2014 showed that participation in a two-day workshop meant to increase one's knowledge about the death penalty did not have the anticipated outcome. Out of 135 study participants that included abolitionists, retentionists, and persons without a clear stance toward death penalty, 80% of the respondents preserved their initial opinion about death penalty (Sato and Bacon, 2015).

Additionally, the JGSS used only a binary choice question (agree vs. disagree with death penalty), restricting the respondents' response options. As previously noted, studies conducted in Japan showed that the language used in surveys meant to assess public attitudes toward death penalty did make a real difference in the opinion polls' outcomes (Bacon et al., 2017). Moreover, several research studies (Bohm et al., 1993; Dieter, 1997; Fox et al., 1991; Paternoster, 1991; Sandys and McGarrell, 1995; Vito et al., 1999) indicate that when respondents could choose between capital punishment and life in prison without the possibility of parole, public support for death penalty decreased substantially. Similar findings were obtained in other retentionist countries, such as China (Hood, 2009).

In summary, systematic research is needed to identify additional explanatory variables of public attitudes toward capital punishment in Japan. In terms of their opinion about capital punishment, the Japanese seem to be less predictable than are Americans. While Japanese citizens who have more punitive attitudes in general, are also more likely to support death penalty, it is not clear what cultural and social circumstances influenced their opinions or what individual psychological traits have those who favor the extreme punishment in Japan. Nevertheless, it is possible that responses reflect the social desirability bias, which has been suspected by researchers conducting public opinion polls in Japan (Kondo et al., 2010).

As Kondo et al. (2010: 357) noted, the omnipresent socially conforming behavior in Japan might have influenced respondents to provide answers that did not necessarily reflect their true opinion about death penalty, but what they believed was the socially desirable answer.

Nonetheless, similar to prior findings (Sato, 2014), our results suggest that the public support for capital punishment in Japan is not as extensive as government-sponsored public opinion polls tend to show. Although the proportion of retentionists (65.2%) did not decrease dramatically since 1967, when 71% of a national sample favored death penalty (Alston, 1976), in 2010, more than half (50.5%) of those who expressed an opinion noted that if elected to serve on the citizen judge panel, they would hesitate to recommend death penalty, even in brutal murder cases. The survey, however, was conducted only nine months after the Lay Judge System was introduced in Japan and the respondents' lack of familiarity with the new system and the citizen judges' responsibilities might have influenced the results. As a recent report of the International Federation of Human Rights (FIDH) shows, since the introduction of the Lay Judge System, the rates of convictions, as well as the number of death sentences in trials involving capital offenses, have been much higher than they were during the previous judicial structure (FIDH, 2017). However, noting the shortcomings of the lay assessor system, Japanese legal scholars argue that "the increase in death-penalty rulings has nothing to do with public support [for death penalty], but stems from an overemphasis on speeding up the trial process" and "the lack of a clear and fair standard for applying the death penalty" (Muraoka and Murai, 2019).

In conclusion, although a policy change regarding capital punishment is less likely to occur in Japan in the near future (cf. Johnson, 2016; Sato, 2014), anti-death penalty activists in Japan willing to increase the number of their supporters should persuade the youth, the religious devotees, persons who show civic engagement, and the undecided. Additionally, they should also try to increase the public's knowledge about death penalty and the public's misconceptions regarding the crime-deterrent effect of death penalty should be addressed as well (cf. Sato and Bacon, 2015). Moreover, future surveys meant to assess public attitudes toward death penalty should include questions that would allow respondents to choose between death penalty and alternative punishments, such as life in prison. Anti-death penalty activists should also inform citizens about Japan's questionable standpoints on human rights issues pertaining to those accused or found guilty of committing murder or other crimes eligible for capital punishment. Although JIADep provides details and a count of wrongful convictions officially recorded in Japan over the past decades, scholars contend that the actual number of the innocent defendants is severely underestimated because Japan has few actors or institutions that focus on finding wrongful convictions (cf. Johnson, 2016). Thus, anti-death penalty activists should encourage the development of "Innocence Projects, innocence commissions, and exoneration registries", which coupled with "aggressive investigative journalism" helped exposed wrongful

convictions in the United States (Johnson, 2016: 883), contributing eventually to a decrease in public support for capital punishment.

As Dang (2017: 165) recently noted, “the abolition of the death penalty is gradually moving toward a core human rights standard as part of the requirement of the right to life and the prohibition of inhuman and degrading treatment”. In the context of international law, it is therefore the states’ educational duty to promote and protect human rights and to mobilize public support against capital punishment. Yet, it remains to be seen how soon Japan will decide to comply with international law.

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