

# 12 Years Without an Execution: Is Zimbabwe Ready for Abolition?

A survey of public attitudes towards the death penalty

Mai Sato



THE  
DEATH  
PENALTY  
PROJECT

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# Foreword

The right to life, though not absolute, is at the apex of the fundamental rights protected by the Zimbabwe Constitution. Mere mention of the right to life might presume the absence of the death penalty; however, capital punishment remains a conundrum in Zimbabwe. The penalty is retained on our statute books and people continue to be sentenced to death, yet the last execution was carried out in 2005. Consequently, Zimbabwe is one of 48 countries that may be classified by the United Nations as abolitionist *de facto*. Moreover, in recent years, the 2013 Constitution has restricted how the death penalty can be applied.

One of the principal reasons given by the government when justifying Zimbabwe's retention of the death penalty is that it has democratic legitimacy. The main evidence to back up this claim is that, during a national consultation on Zimbabwe's new Constitution, a small majority was in favour of retaining the death penalty. However, this data offers little insight into how Zimbabweans feel about the death penalty today. As Zimbabwe finds itself at another critical juncture in its history, the time has come to revisit the question of our relationship with the death penalty. We believe this research, commissioned by The Death Penalty Project and undertaken by Dr Mai Sato, comes at an important time in the political evolution of the country.

In this report, Dr Sato investigates the strength of public opinion regarding retention of the death penalty in Zimbabwe, to interrogate the claim that the public would reject abolition. Dr Sato's conclusion is compelling; although a small majority of Zimbabweans continue to favour the death penalty, it is evident that such support is qualified. When asked what they would do if the government abolished the death penalty, the vast majority of those who supported it said they would be willing to accept the new policy. The findings suggest that public opinion does not pose a barrier to abolition in Zimbabwe.

Dr Sato's nuanced inquiry is relevant not only to Zimbabwe, but to all countries where apparent public support for capital punishment is cited as a barrier to abolition. The report's findings should encourage governments to question their assumptions about public attitudes towards the death penalty and to take the initiative in leading the debate on abolition. It is clear that more information, education and engagement of civil society is needed and, when considering abolition, any discussion of public opinion must be supported by comprehensive and contextualised data, such as that provided in this report. It is, after all, a matter of life and death.

**Elasto Hilarious Mugwadi**  
**Chairperson**  
**Zimbabwe Human Rights Commission**

*April 2018*





# Editors' preface

The global use of the death penalty has been declining steadily for decades. More than two-thirds of the world's nations have now abolished the death penalty in law or committed themselves to not carry out executions. In fact, executions were carried out in only 23 countries in 2017. However, a number of countries remain committed to the death penalty. Some, such as Zimbabwe, have not executed anyone for many years, but have yet to officially renounce executions by declaring a moratorium on their use. When such countries are asked why they do not take steps to halt executions and abolish the death penalty, one is frequently confronted with the same response – the public would never allow it.

Given that many countries, including the United Kingdom, have successfully abolished the death penalty in the face of apparently strong public support for capital punishment, it is evident that this perceived obstacle requires examination. We have been commissioning, publishing and supporting independent academic research on attitudes towards the death penalty for nearly a decade. Rigorous scientific studies, such as that carried out by Dr Mai Sato in Zimbabwe, go beyond the simple 'for or against' questions of many opinion polls, to explore how public support for – or opposition to – the death penalty varies in response to different situations and information. In doing so, these studies paint a more nuanced picture of how the public views the death penalty and might react to abolition. Such research is vital in providing governments and politicians with accurate and authoritative data to confront misconceptions and inform decision-making.

In this important study, Dr Sato examines the complexities of Zimbabwean attitudes towards the death penalty – the reasons for support or opposition, what factors influence these positions, and how people might respond to any change in policy. The research is timely, coming during a period of significant transition for Zimbabwe. The new political administration will have many decisions to make on the future of Zimbabwe, including whether it should join the majority of countries around the world and abolish the death penalty. President Emmerson Mnangagwa has already set himself apart from his predecessor by showing a willingness to take the lead on this issue, including in March of this year, when he commuted the death sentences of all prisoners who had been on death row for a decade or more. Against this backdrop, the research provides valuable insight into how further executive action might be received by the public. Dr Sato's conclusion should serve to reassure the President and others that public opinion does not pose a barrier to abolition in Zimbabwe.

This research builds upon earlier public opinion studies commissioned and published by The Death Penalty Project in Trinidad, Malaysia and Japan. Sincere thanks are due to Professor Roger Hood, who has been instrumental in developing this area of our work over the past decade and whose advice and expertise as a consultant on this project was invaluable. We are also grateful for the assistance and support of Veritas in providing important local knowledge throughout, and to the Zimbabwe Human Rights Commission for its support in contributing the foreword to this report. Finally, we would like to thank and congratulate Dr Sato on this significant research undertaking and her rigorous and thoughtful analysis. We hope that this report will provide the government with further impetus to exercise political leadership on the issue of the death penalty, and finally put an end to this outdated practice in Zimbabwe.

**Parvais Jabbar and Saul Lehrfreund**  
**Co-executive directors**  
**The Death Penalty Project**  
*April 2018*

## Headline results

This report examines Zimbabwean citizens' attitudes towards the death penalty by analysing a nationally representative opinion survey carried out in 2017. It examines what it means to be a 'retentionist' or an 'abolitionist' in a country that has not executed anyone since 2005. It also assesses the public's response to Zimbabwe's 2013 Constitution, which further restricted the application of the death penalty.

Survey results indicate that public opinion does not pose a barrier to Zimbabwe's progress from *de facto* (in practice) to *de jure* (in law) abolition. Survey participants expressed the following views:

**Moral education and reducing poverty were considered more effective by both retentionists and abolitionists than executions in reducing violent crime**

**Those who were in favour of keeping the death penalty supported it to deter others from committing heinous crimes, even though there is little scientific basis for the belief that the death penalty works as a more effective deterrent than life imprisonment**



**61%** supported retention of the death penalty (41% said it should 'definitely' be kept and 20% that it should 'probably' be kept)

**80%** of those in favour of keeping the death penalty were willing to accept abolition if it were to become government policy

**83%** did not know that Zimbabwe has not carried out any executions for more than a decade

**45%** did not know that the method of execution in Zimbabwe is hanging

Most – including those who were in favour of keeping the death penalty – felt that pregnant women and people with mental disorders should be exempt from execution, but would not extend that exemption to all women or to offenders who were young (below 21 years old at the time of the offence) or elderly (aged 70 and above), who are currently protected under the 2013 Constitution

# Background: The death penalty in Zimbabwe

## De facto abolition

Zimbabwe is now described as ‘de facto abolitionist’<sup>1</sup> because it has not executed anyone for more than 10 years<sup>2</sup>. The last execution was carried out in 2005, against a prisoner convicted of murder.<sup>3</sup> Although Zimbabwe has been an execution-free country for 12 years running, the death penalty remains lawful and judges still sentence prisoners to death.<sup>4</sup> According to media reports, there were almost 100 prisoners on death row in January 2018, although – in March 2018 – President Mnangagwa commuted the death sentences of all prisoners who had been on death row for a decade or more.<sup>5</sup> The method of execution is hanging – Article 339(2), Criminal Procedure and Evidence Act 1929 – but Zimbabwe has not had an official hangman since 2005.<sup>6</sup>

Prison conditions in Zimbabwe have been constitutionally challenged.<sup>7</sup> A report by the UK Home Office described prisons in Zimbabwe as ‘overcrowded and dilapidated’; prisoners are subject to poor sanitary conditions and are vulnerable to infectious diseases.<sup>8</sup> Most death-row prisoners are kept at Harare Central Prison, but some are kept at Chikurubi Maximum Prison because of a shortage of space.<sup>9</sup> A cell in Harare Central Prison is two metres wide by 3.5 metres long, with a single, very high window and a chamber pot.<sup>10</sup> The Human Rights Council recommended Zimbabwe improve prison conditions and reduce prison overcrowding.<sup>11</sup>

The Zimbabwean government’s international stance on the abolition of the death penalty has been ambiguous.<sup>12</sup> In 1991, Zimbabwe ratified the International Covenant on Civil and Political Rights (‘the Covenant’), which restricts the use of the death penalty, but it has not ratified the Second Optional Protocol to the Covenant, which bans the death penalty for ordinary crimes. In 2012, while accepting the recommendations made during the universal periodic review process at the UN Human Rights Council, Zimbabwe voted against the UN General Assembly resolution calling for a universal moratorium on executions. Under the universal periodic review in November 2016, Zimbabwe again received

<sup>1</sup> The United Nations categorises states as ‘abolitionist *de facto*’ if the death penalty remains lawful and death sentences may still be pronounced but executions have not taken place for 10 years – United Nations Economic and Social Council, *Capital Punishment and Implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty: Report of the Secretary-General*, (2015) 5. Alternatively, if states have carried out executions within the previous 10 years, but have made an international commitment through the establishment of an official moratorium, they are also categorised as *de facto* abolitionist. Amnesty International does not follow the United Nations’ definition, preferring to classify only those countries that have made an official commitment to cease executions as ‘abolitionist in practice’ – Amnesty International, *Death Penalty*, [www.amnesty.org/en/what-we-do/death-penalty](http://www.amnesty.org/en/what-we-do/death-penalty). At the time of writing, Amnesty International continues to classify Zimbabwe as ‘retentionist’.

<sup>2</sup> Cornell Center on the Death Penalty Worldwide, *Death Penalty Database: Zimbabwe*, (Cornell Law School); Andrew Novak, *The African Challenge to Global Death Penalty Abolition*, (Intersentia, 2016) 119.

<sup>3</sup> Amnesty International, *Zimbabwe: End the Death Penalty After 10-year Execution Hiatus* (2015).

<sup>4</sup> At least six new death sentences were imposed in 2015, *Hands Off Cain, Zimbabwe* (2018).

<sup>5</sup> ‘President Pardons Thousands of Prisoners’ *The Chronicle* (22 March 2018), <http://www.chronicle.co.zw/updated-president-pardons-thousands-of-prisoners/>; ‘Mnangagwa grants reprieve for death row inmates’ *Times Live* (22 March 2018), <https://www.timeslive.co.za/news/africa/2018-03-22-mnangagwa-grants-reprieve-for-death-row-inmates/>.

<sup>6</sup> African News Agency, ‘117 Zim Inmates on Death Row’ *The Citizen* (13 January 2016), <https://citizen.co.za/news/news-africa/942276/117-zim-inmates-on-death-row/>.

<sup>7</sup> Novak, *The African Challenge to Global Death Penalty Abolition*, 131.

<sup>8</sup> Home Office UK, *Country Policy and Information Note Zimbabwe: Prison Conditions*, (2017), 5.

<sup>9</sup> *Hands Off Cain*.

<sup>10</sup> *Catholic Commission for Justice and Peace in Zimbabwe v Attorney-General and Ors* [1993] 1 ZLR 242.

<sup>11</sup> Human Rights Council, *Report of the Working Group on the Universal Period Review*, A/HRC/34/8 (2017) para 131.75-131.76.

<sup>12</sup> Novak, *The African Challenge to Global Death Penalty Abolition*.

recommendations to abolish the death penalty and join the Second Optional Protocol. This was ‘noted’ by the Zimbabwean government and, in December 2016, Zimbabwe – for the first time – abstained on (rather than voted against) the resolution for a global moratorium.<sup>13</sup>

## Colonial legacy

British colonial rule formally brought the death penalty to Zimbabwe. The Shona<sup>14</sup> people, generally, did not impose the death penalty for murder; they believed that killing someone would cause that person’s spirit to return to torment the living – the concept of *ngozi* – and so considered the death penalty unnecessary.<sup>15</sup> The Shona required compensation for homicide, with an offender providing a goat – or, in some cases, the community to which the offender belonged transferred a woman to the victim’s community.<sup>16</sup> Chemhuru and Masaka argue that the traditional Zimbabwean and African idea of *ubuntu*, which focuses on peace and rebuilding trust damaged by the death of a community member, is incompatible with the concept of retribution that underpins the death penalty.<sup>17</sup>

During the era of white-settler rule, from 1965 to 1980, the death penalty became ‘an essential part of the Rhodesian government’s machinery of repression’.<sup>18</sup> After Zimbabwe became independent in 1980, the death penalty remained part of the Constitution, but the number of death sentences and executions declined sharply. In the 1970s, death sentences in the high court averaged around 30–40 per year, and 24–36 executions were carried out annually.<sup>19</sup> In 1983, three years after independence, the number of death sentences imposed by the high court dropped to 15 and only two executions were carried out.<sup>20</sup> Similarly, at independence, Zimbabwe inherited a system in which various crimes were punishable by death, including attempted murder, rape and attempted rape, aggravated robbery and certain political offences.<sup>21</sup> By 1992, the death penalty was restricted to murder and treason.<sup>22</sup>

Challenges to Zimbabwe’s Constitution were prohibited for the first six years of the country’s independence; in 1987, this prohibition expired. Various challenges were brought during the 1990s: the whipping of adults was declared to constitute cruel and degrading punishment, which is prohibited under the Constitution; corporal punishment of juveniles, solitary confinement, and retroactive punishments were also held to be unconstitutional.<sup>23</sup> The constitutionality of the death sentence itself could not be challenged because it was expressly provided for in the Constitution.<sup>24</sup> However, human rights lawyers challenged the constitutionality of the death penalty from other angles. The Supreme Court declared in 1993 that prolonged delay on death row constituted cruel and degrading treatment.<sup>25</sup> It also indicated that it was willing to consider whether hanging constituted cruel or degrading punishment. However, the

<sup>13</sup> Elise Guillot, *The UN General Assembly Voted Overwhelmingly for a 6th Resolution Calling for a Universal Moratorium on Executions*, (World Coalition Against the Death Penalty, 2016).

<sup>14</sup> The Shona people belong to the Bantu ethnic group, which is native to Zimbabwe and neighbouring countries.

<sup>15</sup> Andrew Novak, *The Death Penalty in Africa* (Palgrave Macmillan 2014), 120.

<sup>16</sup> The Ndebele people imposed the death penalty for homicide but not for certain types of homicide, such as negligent homicide, infanticide and self-defence (Novak, 2016:120).

<sup>17</sup> Munamoto Chemhuru and Dennis Masaka, *Zimbabwe’s Constitution Making Process and the Death Penalty*, *Africana*, 5:2 (2011), 123, 135–136.

<sup>18</sup> Amnesty International, ‘The Death Penalty ACT 05/03/79’ (1979) 52–55; see also Chemhuru and Masaka, 126; Novak, *The African Challenge to Global Death Penalty Abolition*, 119–142.

<sup>19</sup> Emmanuel Magade, *Country Report on Zimbabwe: The Right to Life and the Death Penalty*, (British Institute of International and Comparative Law, 2004).

<sup>20</sup> Between independence (1980) and the last execution (2005), 79 prisoners were executed (Hands off Cain, 2018). *ibid.*

<sup>21</sup> Novak, *The African Challenge to Global Death Penalty Abolition*, 127.

<sup>22</sup> *ibid.* The death penalty for murder was mandatory in the absence of extenuating circumstances.

<sup>23</sup> *ibid.*, 128.

<sup>24</sup> Greg Linington, *Constitutional Law of Zimbabwe* (Legal Resources Foundation, 2001), 296.

<sup>25</sup> *Catholic Commission for Justice and Peace in Zimbabwe v Attorney-General*, 1993 (1) ZLR 242.

Zimbabwean government intervened. It commuted the sentences of prisoners awaiting execution to life imprisonment, and rushed through a constitutional amendment confirming hanging as a lawful method of execution, and the Supreme Court's 1993 decision was reversed.<sup>26</sup>

On the one hand, the new, independent government significantly restricted the use of the death penalty, signifying a clear departure from colonial rule; on the other hand, when the judiciary showed its willingness to abolish the death penalty, the Zimbabwean government was not yet ready to accept such leadership.

## 2013 Constitution

A new Constitution was adopted in 2013, which 'reflected the desire to retain the death penalty' but to further restrict its application.<sup>27</sup> Zimbabwean citizens approved the new Constitution with overwhelming support (95 per cent of voters) in a referendum.<sup>28</sup>

Article 48 of the 2013 Constitution abolished the mandatory death sentence for murder in the absence of extenuating circumstances, and replaced it with a discretionary sentence restricting the death penalty to murder committed in 'aggravating circumstances'<sup>29</sup> (see Appendix 3 for the text of this article). In addition, the new Constitution prohibited the execution of offenders aged 70 and above, and those aged 21 and under at the time of the offence. The lower age limit was raised from 18, and the upper age limit of 70 was introduced. It also prohibited execution of women, which went beyond the provision of Article 6(5) of the Covenant, which prohibits the execution of pregnant women. As a result of the 2013 Constitution, the only female death-row prisoner had her sentence commuted to life imprisonment.<sup>30</sup>

In November 2016, the then Vice-President Emmerson Mnangagwa, who was in charge of the Ministry of Justice, Legal and Parliamentary Affairs, told the UN Human Rights Council during Zimbabwe's universal periodic review that the country was not yet ready to become an abolitionist country *de jure* because the majority of Zimbabwean citizens who participated in the Constitution-making process were in favour of retaining the death penalty.<sup>31</sup> To date, there is limited scientific literature on public attitudes towards the death penalty in Zimbabwe.<sup>32</sup> This report aims to fill that gap, and to explore the potential consequences of abolition, by quantitatively examining current beliefs held by Zimbabwean citizens on the topic.

<sup>26</sup> *ibid*; Novak, *The African Challenge to Global Death Penalty Abolition*, 128–130. The 2013 Constitution, discussed in the next section, is silent on the method of execution. A constitutional challenge could be brought to consider whether hanging constitutes cruel or degrading treatment, unless the state again intervenes to amend the Constitution to protect the method of execution from judicial scrutiny.

<sup>27</sup> *ibid*, Novak, *The African Challenge to Global Death Penalty Abolition*, 135.

<sup>28</sup> Al Jazeera, *Zimbabwe Votes in Support of New Constitution*, *Al Jazeera* (19 March 2013).

<sup>29</sup> The 2013 Constitution does not define 'aggravating circumstances'. The General Law Amendment Act 2016 defines 'aggravating circumstances' (see 'Murder with aggravating circumstances: scenario-based questions' section). The 2016 Act can be accessed from: [goo.gl/gXT9PC](http://goo.gl/gXT9PC)

<sup>30</sup> Hands Off Cain.

<sup>31</sup> *ibid*.

<sup>32</sup> To the author's knowledge, the Constitutional Commission carried out the only study of Zimbabwean public opinion on the death penalty, in 1999. In this nationwide study, 52 per cent of respondents answered 'yes' to the question 'should the death penalty be retained?' – National Commission of Inquiry, *A Report of the National Commission of Inquiry into the Establishment of a New Democratic Constitution*, (1999).

## Data and methods

This report examines Zimbabwean citizens' attitudes towards the death penalty through a nationally representative survey.<sup>33</sup> The findings are based on the views of 1,200 Zimbabweans aged 18 years and above (Table 1: Methodology at a glance). This is comparable to the sample size used in Afrobarometer, 'a pan-African series of national public attitude surveys on democracy, governance and society' ([www.afrobarometer.org](http://www.afrobarometer.org)). The most recent Afrobarometer survey (2016–2017, Round 7) for Zimbabwe used a nationally representative sample of 1,200 respondents.<sup>34</sup> A sample of this size is large enough to make population inferences; findings based on our sample capture the attitudes of the Zimbabwean public as a whole, with a margin of error of  $\pm 3$  per cent at the 95 per cent confidence level. Our sample is a random probability sample (probability proportionate to size<sup>35</sup>), stratified first by province and second by rural–urban status within a province. A total of 150 enumeration areas were sampled: 95 (63 per cent) rural and 55 (37 per cent) urban.<sup>36</sup> The demographic distribution of the sample is displayed in Appendix 2.

The Mass Public Opinion Institute (MPOI)<sup>37</sup> – responsible for administering the Afrobarometer in Zimbabwe – was subcontracted to carry out the fieldwork.<sup>38</sup> The fieldwork took place over 14 days, from 14–27 July 2017. Face-to-face interviews were carried out in Shona, Ndebele and English. At the beginning of the survey, respondents were assured that neither the government nor any political party was behind the survey (see Appendix 1 for the wording used).<sup>39</sup> Field researchers felt that respondents were very willing to participate in the survey.<sup>40</sup> The questions focused primarily, but not exclusively, on issues concerning the death penalty and the criminal justice system. The survey questionnaire was not considered politically sensitive, and this was thought to be the main reason why interviewees were willing to participate.<sup>41</sup> Field researchers observed interviewees' general reactions, as well as their specific answers; they reported that the majority of respondents were interested (81 per cent) and cooperative (84 per cent).<sup>42</sup>

<sup>33</sup>The University of Reading Ethics Committee approved the implementation of this study.

<sup>34</sup>Mass Public Opinion Institute, Afrobarometer Summary of Results (2017).

<sup>35</sup>This sampling method takes into account the different sizes of subgroups (for example, provinces) and helps prevent under-representation of one subgroup.

<sup>36</sup>Five of the 150 enumeration areas initially chosen during sampling were replaced for technical reasons: for three areas, the Zimbabwe National Statistics Agency (ZIMSTAT) was unable to locate maps; for one area, no dwelling units were shown on the enumeration map; and one area was inaccessible (located on a ranch to which fieldworkers were denied access).

<sup>37</sup>MPOI's website can be viewed at <http://mpoi.net>.

<sup>38</sup>MPOI further subcontracted ZIMSTAT to conduct sampling and provide maps of the enumeration areas.

<sup>39</sup>Despite this assurance, when respondents were asked at the end of the interview, 'who sent us [MPOI] to do this interview?', 43 per cent answered that it was the government, followed by 'MPOI' (20 per cent) and 'NGO/religious organisation' (10 per cent).

<sup>40</sup>The interviews were also completed in the politically hostile provinces of Mashonaland Central and Mashonaland West.

<sup>41</sup>Respondents' perception of the death penalty issue as not politically sensitive is interesting in itself; a survey on the same topic that I carried out in Japan was considered extremely politically sensitive. Mai Sato, *The Death Penalty in Japan: Will the Public Tolerate Abolition?* (Springer, 2014).

<sup>42</sup>According to the field researchers, the remaining respondents seemed 'bored' (2%) or 'in between' (18%) and 'uncooperative' (1%) or 'in between' (15%), respectively.

Field researchers initially reached out to 1,432 citizens aged 18 years or older. Of these, 30 refused to take part; another 202 answered ‘no’ to the question ‘do you know what the death penalty is?’ and were excluded from the survey. The significance of this finding is discussed below. The following section analyses the responses of the 1,200 Zimbabweans who participated in the survey.

**Table 1: Methodology at a glance**

<b>Fieldwork dates</b>	14–27 July 2017
<b>Sample size</b>	1,200
<b>Sampling frame</b>	2012 Zimbabwe Population Census
<b>Population</b>	Citizens of Zimbabwe aged 18 years and over
<b>Stratification</b>	By province and urban–rural status
<b>Sampling method</b>	Probability proportionate to population size
<b>Interview method</b>	Face to face
<b>Cluster size</b>	8 households per primary sampling unit
<b>Respondent selection</b>	Gender representation was achieved by alternating interviews between men and women; potential respondents of the appropriate gender were listed, after which household members drew numbered cards to select an interviewee
<b>Margin of error</b>	±3% at the 95% confidence level
<b>Response rate</b>	84% Achieved sample: 1,200 Total reached out to by field teams: 1,432 Refused to take part in the survey: 30 Screened out because they did not know about the death penalty: 202
<b>Enumeration area substitution rate</b>	3% (5 out of 150 enumeration areas)
<b>Survey languages</b>	Shona, Ndebele and English The questionnaire was written in English and translation entailed forward and back-translation of the questionnaire, translated into Shona and Ndebele
<b>Market research company</b>	Mass Public Opinion Institute

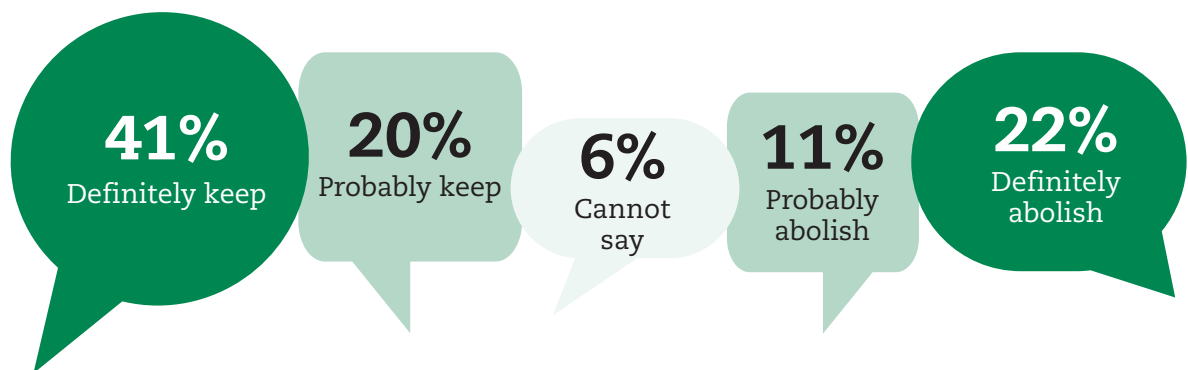


## Baseline result on death penalty attitudes

Respondents were asked: 'Do you think the death penalty should be kept or abolished in Zimbabwe?' They were asked to choose from options on a five-point Likert scale: 'should definitely be kept'; 'should probably be kept'; 'cannot say'; 'should probably be abolished'; and 'should definitely be abolished'. Respondents were categorised as 'retentionist' if they said that the death penalty should 'definitely' or 'probably' be kept, and as 'abolitionist' if they said that it should 'definitely' or 'probably' be abolished. On that basis, 61 per cent supported retention and 33 per cent supported abolition; only 6 per cent selected the neutral option 'cannot say'. This suggests that Zimbabweans have a clear sense of where they stand on the issue.

The clear stance on the death penalty becomes more pronounced when looking at attitudes within the 'retentionist' and 'abolitionist' groups. Among the retentionists (61 per cent), more chose the 'definitely' option (41 per cent of the total sample) than the 'probably' option (20 per cent of the total sample); among abolitionists (33 per cent), more chose 'definitely' (22 per cent of the total sample) than 'probably' (11 per cent of the total sample). Thus, 63 per cent of participants had a strong commitment to their point of view (Figure 1).

**Figure 1: Baseline result: death penalty attitudes on a five-point scale**



Note: N=1,200

A binary logistic regression predicting respondents who ‘definitely’ believed in the retention of the death penalty showed that sex, education level and religiosity<sup>43</sup> were not statistically significant, but there were some differences between age groups and provinces (Table 2: Binary logistic regression predicting strong support for the death penalty). Compared with respondents aged 18–25 (the reference category), respondents aged 36–45 were much more likely to be committed retentionists, holding other variables constant. The other age groups were not statistically significant. Respondents aged 36–45 were born or grew up just after the final years of British colonial rule. In contrast, those aged 18–25 – who were born after independence, when the use of the death penalty declined – and those aged 66 and above, who had lived through more than 30 years of British rule, when the death penalty was used more aggressively as a tool for political control, felt least strongly about retention.

Committed retentionists – those who believed that the death penalty should ‘definitely’ be kept – were more likely to be concentrated in the provinces of Masvingo and Matabeleland South. Compared with Harare, residents in Masvingo and Matabeleland South were 2.5 times more likely to be retentionists, while holding other variables constant. The geographical proximity of Masvingo and Matabeleland to crime-ridden South Africa may be one of the factors that underline the punitive attitudes expressed in these provinces.<sup>44</sup> In addition, Masvingo has the highest homicide rate in Zimbabwe.<sup>45</sup> These factors may explain the strong support for the death penalty in these provinces.

<sup>43</sup> Christians comprised 92 per cent of respondents, so the religiosity variable was used in the regression model (question 47).

<sup>44</sup> The homicide rate (per 100,000 population) in South Africa (30.7) was almost five times higher than in Zimbabwe (6.7) (United Nations Office on Drugs and Crime, n.d.)

<sup>45</sup> ‘Zim’s homicide cases lowest in the world’ *The Herald* (22 April 2014), <https://www.herald.co.zw/zims-homicide-cases-lowest-in-the-world/>; ‘Masvingo records 25% increase in murder cases’ *NewsDay* (09 February 2016), <https://www.newsday.co.zw/2016/02/masvingo-records-25-increase-in-murder-cases/>

**Table 2: Binary logistic regression predicting strong support for the death penalty**

Predicting respondents who believed that the death penalty should 'definitely' be kept

				95% confidence interval for odds ratio		
		B	SE B	Lower	Odds ratio	Upper
Constant		-.82	.42			
Sex (ref: male)	Female	.00	.13	.78	1.00	1.29
Age (ref: 18-25)						
	26-35	.21	.19	.86	1.24	1.78
	<b>36-45**</b>	<b>.52</b>	<b>.19</b>	<b>1.15</b>	<b>1.68</b>	<b>2.46</b>
	46-55	.22	.22	.81	1.24	1.91
	56-65	.33	.25	.86	1.40	2.27
	66+	-.18	.31	.46	.84	1.55
Education (ref: no formal education)						
	Primary	.03	.33	.55	1.03	1.95
	Secondary	.14	.32	.61	1.15	2.17
	Post-secondary	.25	.36	.64	1.29	2.60
Religiosity		-.03	.056	.87	.97	1.08
Province (ref: Harare)						
	Bulawayo	-.04	.29	.54	.96	1.70
	Midlands	.30	.230	.86	1.35	2.12
	<b>Masvingo**</b>	<b>.90</b>	<b>.24</b>	<b>1.55</b>	<b>2.45</b>	<b>3.89</b>
	Mashonaland East	.07	.24	.67	1.07	1.72
	Mashonaland West	.31	.24	.85	1.36	2.18
	Mashonaland Central	-.36	.28	.41	.70	1.20
	<b>Matabeleland South*</b>	<b>.92</b>	<b>.33</b>	<b>1.32</b>	<b>2.52</b>	<b>4.81</b>
	Matabeleland North	.11	.312	.60	1.11	2.05
	Manicaland	-.10	.23	.58	.91	1.42

Note:  $R^2 = .039$  (Cox-Snell),  $.053$  (Nagelkerke). Model  $X^2(19) = 45.80$ ,  $p = .001$ . \*\* $p < .01$ , \* $p < .05$ . The 'religiosity' variable used question 47 (see Appendix 1): the religiosity scale ranged from 1 (never engage in religious practice) to 5 (engage in religious practice more than once a day).

The following sections use the question on death penalty attitudes as a baseline to understand the Zimbabwean public's attitudes towards the death penalty. They examine how death penalty attitudes are correlated with knowledge and other attitudinal variables that underpin people's support for the retention of the death penalty.

# Public understanding of the death penalty

## How informed is the Zimbabwean public?

The ‘Data and methods’ section reported that 14 per cent of survey participants (202 of 1,402) did not know what the death penalty was. These respondents were excluded from completing the survey, so it is not possible to carry out further analysis on them – but it is important to keep in mind that a small minority of Zimbabwean citizens have no knowledge of the death penalty. The following analysis focuses on respondents who knew what the death penalty was.

The survey asked the following basic questions about the death penalty to test respondents’ level of understanding (available responses are listed in Appendix 1):

- Is the death penalty recognised as a punishment in Zimbabwe? (Question 7)<sup>46</sup>
- Can you tell me roughly how many people have been executed by the state in Zimbabwe in the past 10 years (January 2007–December 2016)? (Question 10)
- Can you tell me what the current method of execution is in Zimbabwe? (Question 12)
- Can you tell me if the following offences are punishable by death in Zimbabwe? (Question 13)
  - Murder with aggravating circumstances
  - Ordinary murder
  - Rape
  - Armed robbery

The correct answers to these questions are: Zimbabwe recognises the death penalty; it has not carried out any executions since 2005; the method of execution is hanging; and murder with aggravating circumstances is the only offence punishable by death.

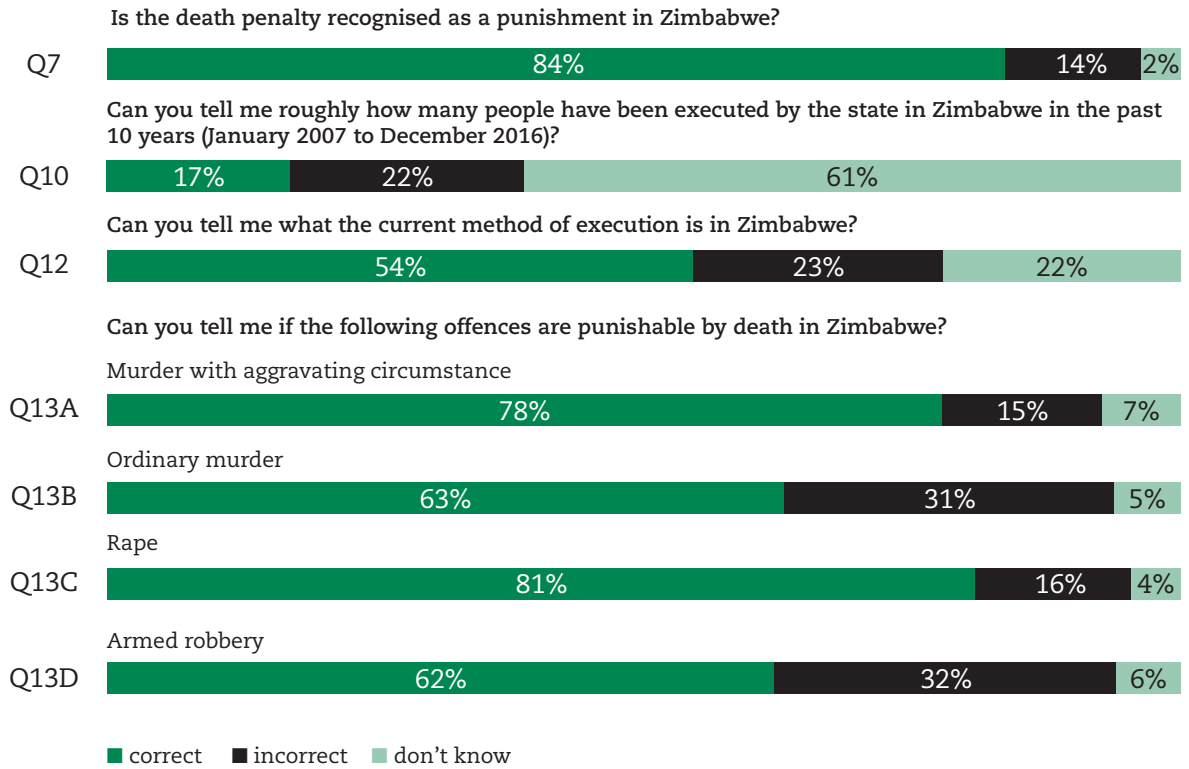
Figure 2 shows the proportion of respondents who answered correctly or incorrectly, or responded that they did not know the answer. The majority of respondents (84 per cent) knew that the death penalty was recognised in Zimbabwe. However, only 17 per cent knew that there have been no executions in the past 10 years. Just more than half (54 per cent) knew that the method of execution was hanging. Respondents’ knowledge concerning offences punishable by death was relatively high: 78 per cent correctly identified murder with aggravating circumstances as a crime punishable by death, and correctly stated that ordinary murder (63 per cent) and armed robbery (62 per cent) were not punishable by death. The vast majority of respondents (81 per cent) knew that rape was not punishable by death.

Only 4 per cent of respondents, however, were able to answer all seven knowledge questions correctly. Bearing in mind that these questions test basic knowledge on the death penalty in Zimbabwe, these

<sup>46</sup>Note that Question 7 is different from the earlier question of whether the interviewee knows what the death penalty is. Question 7 was asked before the baseline five-point Likert scale question on attitudes towards the death penalty (Question 15).

findings show that the attitudes towards the death penalty discussed in the previous section are based on incomplete knowledge of the issue.

**Figure 2: Level of knowledge concerning the death penalty**



Note: N=1,200. Figures may not add up to 100% because of rounding of decimal points to whole numbers.

## Knowledge and death penalty attitudes

Having established that attitudes were based on limited knowledge of the death penalty among respondents, it was examined whether levels of knowledge were systematically correlated in any way with views on retention and abolition. Combining the seven knowledge questions, a knowledge scale was created – ranging from zero to seven (mean 4.4, standard deviation 1.4) – with seven for all correct answers and zero for all incorrect or ‘don’t know’ answers.

It may be tempting for advocates of death penalty abolition, both domestic and international, to hold the view that the more informed people are, the more likely they are to be abolitionists. This, however, was not the case for the Zimbabwean public. There was no statistically significant correlation between how informed people were and their views on the death penalty ( $r = -0.004$ ,  $p = 0.903$ ). Looking specifically at each death penalty attitude – from committed retentionists to committed abolitionists – there was no clear link between the knowledge scores and death penalty attitudes. For example, respondents who believed that the death penalty should ‘definitely’ be kept scored a mean average of 4.4 (standard deviation 1.2) on the knowledge scale, and respondents who believed that the death penalty should

‘definitely’ be abolished also scored a mean of 4.4 (standard deviation 1.5).<sup>47</sup> This showed that committed retentionists and abolitionists had an equal level of knowledge on the basic facts of the Zimbabwean death penalty system.

While the level of knowledge and death penalty attitudes were not associated in a linear way, retentionists were better informed on some issues and abolitionists on others. There was evidence of confirmation bias – a tendency to search for, remember, and interpret information that fits with our beliefs<sup>48</sup> – in that retentionists were more likely to believe that the Zimbabwean government applied the death penalty more widely than it did, and abolitionists were more likely to overestimate the progress Zimbabwe has made towards abolition. For example:

- Abolitionists were more likely to incorrectly assume that the death penalty was no longer recognised as a form of criminal punishment in Zimbabwe (abolitionists 19 per cent, retentionists 10 per cent)
- Retentionists were more likely to overestimate the number of executions carried out in the past 10 years (retentionists 25 per cent, abolitionists 17 per cent)<sup>49</sup>
- Abolitionists were more likely to incorrectly believe that murder with aggravating circumstances was not punishable by death (abolitionists 24 per cent, retentionists 11 per cent)
- Retentionists were more likely to incorrectly believe that the following crimes were punishable by death: ordinary murder (retentionists 36 per cent, abolitionists 24 per cent), rape (retentionists 19 per cent, abolitionists 8 per cent), and armed robbery (retentionists 40 per cent, abolitionists 18 per cent)

These examples demonstrate respondents adhering to their beliefs – supporting retention or abolition – in interpreting the knowledge-based questions. Confirmation bias has been used to explain the polarisation of views where like-minded people seek each other out and reinforce their existing beliefs.<sup>50</sup> As noted above (see ‘Baseline result on death penalty attitudes’ section), death penalty attitudes in this survey were indeed polarised, with a majority of respondents choosing a ‘definitely’ option for either retention or abolition. In this sense, the Zimbabwean public’s polarised views towards death penalty retention and abolition, and the associated low to moderate levels of accurate knowledge concerning the death penalty, may be explained by confirmation bias.

<sup>47</sup> Respondents who believed that the death penalty should ‘probably’ be kept scored 4.5 (standard deviation 1.3), and those who believed that the death penalty should ‘probably’ be abolished scored 4.4 (standard deviation 1.5). The knowledge score was slightly lower for those who selected ‘cannot say’, with a mean of 4.2 (standard deviation 1.5).

<sup>48</sup> Raymond S Nickerson, Confirmation Bias: A Ubiquitous Phenomenon in Many Guises, *Review of General Psychology*, 2 (1998), 175.

<sup>49</sup> These numbers exclude respondents who answered ‘don’t know’.

<sup>50</sup> Eg: Michela Del Vicario et al, Modeling Confirmation Bias and Polarization, *Scientific Reports*, 7 (2017); Cass R Sunstein, The Law of Group Polarization, *Journal of Political Philosophy*, 10:2 (2002).

## Scope of the death penalty: execution of young and elderly people and women

The new Constitution of Zimbabwe further restricts the application of the death penalty, in addition to the restrictions that were implemented after independence (see the section ‘Background: The Death Penalty in Zimbabwe’). The 2013 Constitution prohibits the execution of women, those aged 21<sup>51</sup> and below at the time of offending, and those aged 70 and above (see Appendix 3). It also limits the application of the death penalty to murder with aggravating circumstances, which will be examined in the next section. As stated earlier, an overwhelming majority of Zimbabweans approved the new Constitution. This section examines the extent to which the changes introduced in that Constitution compare with the general Zimbabwean public’s view on who ought to be eligible for execution if convicted. The survey asked respondents’ views on the restrictions placed under the 2013 Constitution, as well as other questions that attempted to capture the acceptable scope of the death penalty (Table 3; Appendix 1).

On the question of age-based exemptions from the death penalty, respondents showed more support for an exemption for elderly prisoners than for the young. In both cases, a minority of respondents considered that the group should be eligible for the death penalty: 35 per cent for people 70 years and above, and 42 per cent for people 21 years or younger at the time of the offence. Half of retentionists disagreed with the upper age limit and the majority (63 per cent) of retentionists considered the lower age limit unnecessary. In this sense, the age restrictions in the 2013 Constitution are more progressive than the retentionists would call for.

Respondents, including retentionists, considered the prohibition on executing people with mental or physical disabilities to be more important than the age restrictions established under the 2013 Constitution (see Table 3). Only 13 per cent of retentionists considered the execution of people with a serious mental disorder appropriate. This is in stark contrast to the majority of retentionists who considered it appropriate to execute the elderly (52 per cent) and the young (63 per cent).

<sup>51</sup>The minimum age of criminal responsibility in Zimbabwe is seven. The Children’s Act defines a child as under 16, a minor as under 18.

**Table 3: Perceived applicability of the death penalty**

<b>Do you think the following people should be subject to the death penalty? (Question 20)</b> Percentage of respondents who answered 'yes'			
	<b>All respondents</b>	<b>Retentionists only</b>	<b>Abolitionists only</b>
<b>People more than 70 years of age</b>	35%	52%	7%
<b>People less than 21 years of age at the time of committing the crime</b>	42%	63%	7%
<b>All women</b>	52%	76%	10%
<b>Pregnant women</b>	8%	12%	1%
<b>New mothers</b>	25%	38%	4%
<b>People with serious mental disorders</b>	8%	13%	1%
<b>People with serious physical disabilities</b>	32%	48%	4%
<b>People born into poverty with limited life chances</b>	51%	73%	10%
<b>People who have contributed greatly to society</b>	55%	79%	12%

Another category of people for which most retentionists (88 per cent) did not consider execution to be appropriate was pregnant women. Support for the exemption for pregnant women, however, did not extend to all women. There was less support for exempting new mothers from execution, compared to the overwhelming support for protecting pregnant women – or, perhaps more accurately, for protecting their unborn children. Just more than half (52 per cent) of all respondents considered the execution of 'all women' to be acceptable. A clear majority of retentionists (76 per cent) considered that women ought to be eligible for the death penalty. Even 10 per cent of abolitionists supported the execution of women.

This analysis demonstrates that the 2013 Constitution's exemption of all women from execution does not reflect a shared norm among the Zimbabwean public. Zimbabweans who categorically oppose the death penalty may welcome any restriction to its application; for those whose support for abolition is less absolute, however, the exemption of women may strike many as unjust or even sexist. In western sociology of deviance, it is widely accepted that women offend less and commit different types of offences than men.<sup>52</sup> Scholars such as Campbell<sup>53</sup> also suggest not only that women commit fewer crimes, but that the criminal justice system treats women less harshly – from arrest to prosecution to sentencing; this is referred to as the chivalry thesis. Feminist criminologists argue that the criminal justice system tends to treat women leniently for two main reasons: it views women as vulnerable and dependent, but also as mothers with caring responsibilities. When women deviate from the social construction of them as caring and vulnerable, however, the criminal justice system treats them more harshly than men, because women who have committed serious 'male' crimes are seen as 'doubly deviant'.<sup>54</sup>

<sup>52</sup> For example, Carol Smart, *Women, Crime and Criminology: A Feminist Critique* (Routledge, 1976).

<sup>53</sup> A Campbell, *Girl Delinquents* (Blackwell 1981).

<sup>54</sup> Frances Heidensohn, *Women and Crime* (New York University Press 1985).



Zimbabwe's 2013 Constitution can be interpreted in light of the chivalry thesis, and it is primarily paternalistic in nature. The survey asked further questions on why respondents considered it appropriate or inappropriate for women to be exempt from execution. For retentionists who agreed with the 2013 Constitution's prohibition on executing women, just more than half (56 per cent) saw women as vulnerable and not culpable, selecting either the option 'women need to be protected' or 'women who commit heinous crimes are often under the influence of others and are not fully responsible for their crime'. The remaining retentionists saw women as 'mothers' and took the view that 'women should be able to look after their children' (43 per cent).<sup>55</sup> For retentionists who disagreed with the 2013 Constitution on exempting women from execution, the majority (82 per cent) took the view that 'men and women should be treated equally'. Only 16 per cent of retentionists subscribed to the idea of some women offenders being 'doubly deviant', considering that women who commit crimes are especially evil.<sup>56</sup>

<sup>55</sup> For abolitionists who considered it appropriate for women to be exempted from execution, just more than a third (36%) did so on principle, based on their opposition to the death penalty per se. The rest based their response on their perception of women as carers (27%) or as in need of protection and not culpable (37%).

<sup>56</sup> There were 39 abolitionists who disagreed with the 2013 provision concerning women, mostly based on the principle of fair and equal treatment of men and women.

## Murder with aggravating circumstances: scenario-based questions

The Zimbabwean public is in favour of applying the death penalty for murder only in cases where aggravating circumstances are present (Question 19). Of retentionists, 99 per cent were of the view that people convicted of murder with aggravating circumstances should be sentenced to death. Even among abolitionists, a substantial minority (28 per cent) considered the death penalty appropriate in such cases. This finding demonstrates that support for abolition is not always categorical, but in some cases qualified.

Scenario-based questions were used to examine the respondents' sentencing preferences. The survey presented respondents with six crimes punishable by death under the 2013 Constitution and the General Laws Amendment Act 2016 ('the 2016 Act'). As noted earlier, the 2013 Constitution narrowed the scope of the death penalty to be imposed only on a person convicted of murder committed in 'aggravating circumstances' (Appendix 3). The 2016 Act defined the meaning of aggravating circumstances.<sup>57</sup> Scenarios used in this survey – robbery resulting in death (questions 23 and 24 in Appendix 1), premeditated murder (questions 25 and 26), and rape resulting in death (questions 26 and 27) – are all listed under the 2016 Act as examples of murder with aggravating circumstances.

Figure 3 shows the proportion of respondents who considered that the offender should be sentenced to death for each scenario. Respondents' sentencing preference for the death penalty ranged from 23 per cent to 56 per cent. Bearing in mind that 61 per cent of respondents believed that the death penalty should 'definitely' or 'probably' be kept, the scenario-based questions appear to have the effect, in this survey, of decreasing support for the death penalty, by contextualising 'generalised' death penalty support. The results also show that respondents are more lenient in their sentencing preference than the current provisions in the Constitution and the 2016 Act.

The six scenario-based questions were also used to test the importance of the offenders' culpability on respondents' sentencing preferences. For the scenario of robbery resulting in death, respondents were presented with one version in which the offender had no previous convictions and another version with previous convictions (Figure 3). The existence of previous convictions significantly increased the proportion of retentionists who considered that the offender in that scenario should be sentenced to death (McNemar test,  $p < 0.001$ , two-sided). Similarly, motivations behind the premeditated murder of a partner were important: murdering a partner to escape from an abusive relationship decreased the proportion of respondents choosing a death sentence in comparison to murdering a partner to be with a lover (McNemar test,  $p < 0.001$ , two-sided). The scenario of rape resulting in death also showed that respondents were more likely to sentence the offender to death for stranger rape than under a scenario in which the offender and the victim were in a romantic relationship (McNemar test,  $p < 0.001$ , two-sided).<sup>58</sup> These scenarios again highlight the gap between respondents who would be defined as 'retentionist'

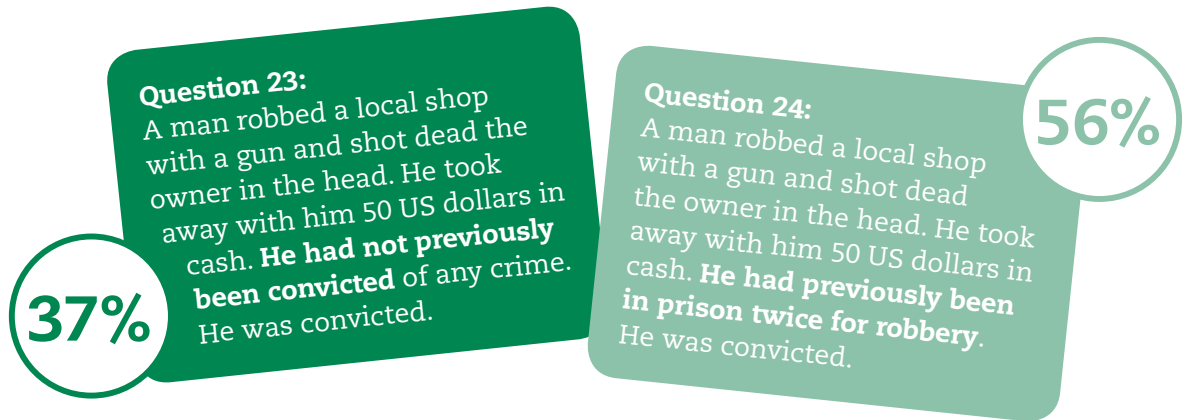
<sup>57</sup> See footnote 29 for the 2016 Act.

<sup>58</sup> The survey did not divide respondents into two groups (one answering a baseline scenario and the other answering either the scenario with mitigating or aggravating circumstance), as the survey was not administered by computer-assisted personal interviewing (CAPI).

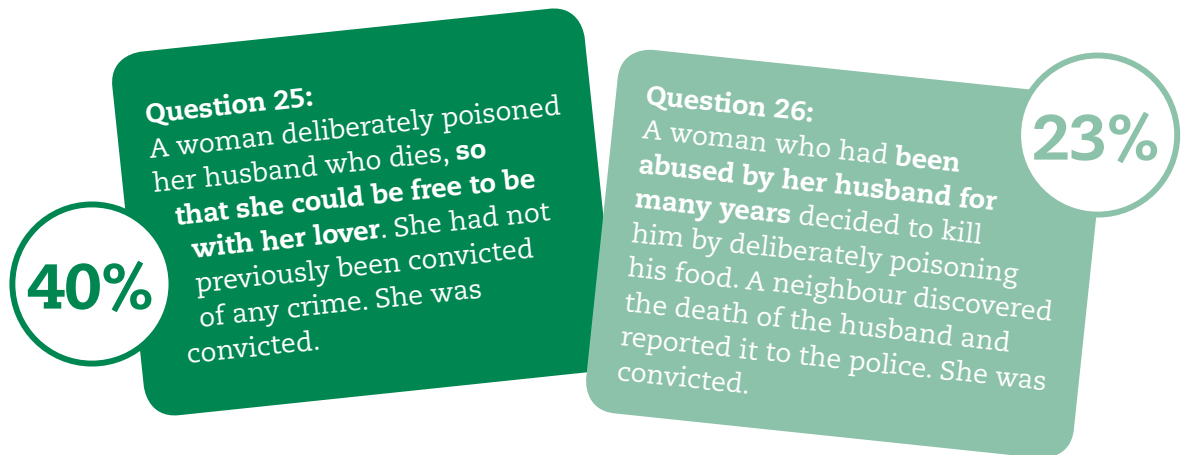
using the baseline question and respondents' much narrower acceptability of the death sentence in these individual scenario-based questions.

**Figure 3: Respondents' sentencing preferences: proportion of respondents who selected the death penalty**

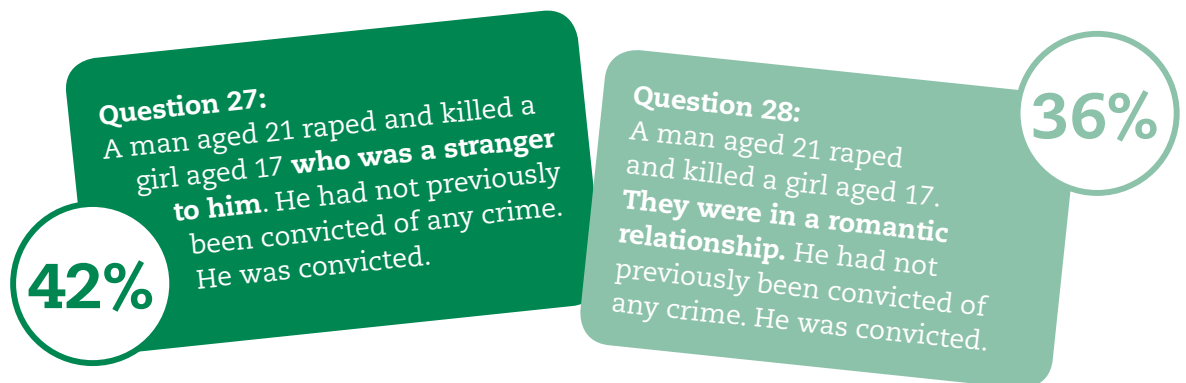
**Robbery resulting in death (questions 23 and 24)**



**Premeditated poisoning of partner (questions 25 and 26)**



**Rape resulting in death (questions 27 and 28)**



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## Reasons for retention and abolition

After establishing the respondents' positions on the death penalty using the baseline question (see 'Baseline result on death penalty attitudes' section), the survey asked respondents to justify their position, selecting the most important reason from the options provided. Figure 4 summarises the reasons in order of popularity.<sup>59</sup>

### Deterrence

Retentionists most frequently supported their view by reference to deterrence. General deterrence (detering others from committing serious crimes) was the most popular option, followed by incapacitation (preventing the convicted offender from reoffending). The death penalty is not the only punishment that would achieve specific deterrence: imprisonment incapacitates the offender, and so as long as prisoners are incarcerated – for example, life imprisonment without the possibility of parole – they are unable to reoffend in the community. However, prisoners could offend inside the prison against members of staff and other prisoners. As for general deterrence, academic researchers working in the United States have argued that using the severity of punishment as a deterrent to crime is ineffective, either because offenders know little about the punishment for specific crimes or they do not anticipate any consequences when planning or committing the crime.<sup>60</sup> This survey also demonstrated a substantial minority of respondents' inaccurate understanding of the crimes punishable by death (see 'Public understanding of the death penalty' section). Furthermore, taking into consideration that executions have not been carried out in Zimbabwe since 2005, there is no certainty that offenders would be executed. In this sense, the retentionists' justification for their position is based on scientifically shaky grounds.

Only a minority of retentionists (14 per cent) supported the death penalty for retributive reasons (eye for an eye; 'those who commit murder should forfeit their own life'). This is significant considering that recent surveys found retribution to be the main reason for supporting the death penalty in Trinidad, Malaysia<sup>61</sup> and Japan<sup>62</sup> and one of the most popular reasons in Ghana.<sup>63</sup> It is possible that cultural factors – such as the traditional values of the Shona, who did not generally carry out executions – may be shaping the way in which retentionists justify the death penalty (see 'Background: The Death Penalty in Zimbabwe' section).

<sup>59</sup>The 6 per cent of respondents who could not commit to either retention or abolition of the death penalty (option: 'cannot say') are excluded from Figure 4. When asked to justify this uncommitted position, the majority selected the option 'the death penalty is a difficult issue' (75%).

<sup>60</sup>Eg: Daniel S Nagin, Deterrence in the Twenty-First Century, *Crime and Justice* 42 (2013), 199 <<http://www.journals.uchicago.edu/doi/10.1086/670398>>.

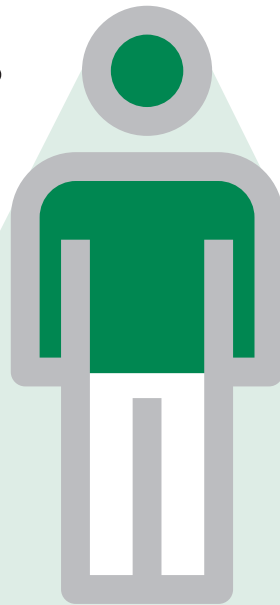
<sup>61</sup>Roger Hood, *The Death Penalty in Malaysia: Public Opinion on the Mandatory Death Penalty for Drug Trafficking, Murder and Firearms Offences*, (The Death Penalty Project, 2013).

<sup>62</sup>Mai Sato and Paul Bacon, *The Public Opinion Myth: Why Japan Retains the Death Penalty* (The Death Penalty Project, 2015); Sato.

<sup>63</sup>Justice Tankebe, Kofi E Boakye and Atudiwe P Atupare, *Public Opinion on the Death Penalty in Ghana: Final Report*, (Centre for Criminology and Criminal Justice, 2015).

Figure 4: Most important reason given by respondents for supporting retention or abolition

## Retentionists



To deter others from committing serious crimes **34%**

To prevent those convicted from committing further crimes **28%**

The death penalty should remain the most severe punishment under law **18%**

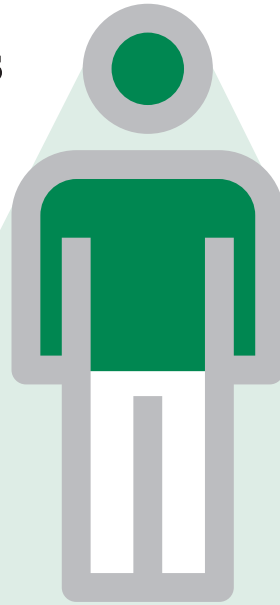
Those who commit murder should forfeit their own life **14%**

Necessary when taking into consideration the feelings of victims' families **6%**

Some traditional leaders in my area support the death penalty **0%**

My religion supports the death penalty **0%**

## Abolitionists



Note: Because of rounding of decimal points to whole numbers, figures may not add up to 100%.

Killing another human being is inhumane **28%**

My religion does not support the death penalty **23%**

Better to keep prisoners alive and make them repent for their crimes **21%**

Even offenders who commit serious crimes have the potential to be rehabilitated **13%**

The spirit of ngozi should provide justice, not the state **8%**

Miscarriages of justice for death penalty cases are irreversible **5%**

Serious crimes will not increase even if the death penalty is abolished **2%**

Some traditional leaders in my area don't support the death penalty **1%**

## Morality and religion

Eight possible reasons for supporting abolition were presented to respondents. The options included practical problems with the death penalty, such as the possibility of miscarriages of justice and the lack of evidence of a deterrent effect. Others challenged the death penalty for moral, religious, or cultural reasons. The two most popular reasons among abolitionist respondents were based on morality: ‘killing another human being is inhumane’ (28 per cent), followed by ‘my religion does not support the death penalty’ (23 per cent). Religion played a significant role in justifying abolition, while it played virtually no role for retentionists. Bearing in mind that 92 per cent of respondents identified themselves as Christians (see Appendix 2), it may be possible to argue that retentionists were aware that they were going against their religion, provided of course that respondents share the same understanding of the Bible. A third of abolitionists also rejected the death penalty based on the possibility of remorse (‘better to keep prisoners alive and make them repent for their crimes’) or rehabilitation (‘even offenders who commit serious crimes have the potential to be rehabilitated’).

Practical concerns about miscarriages of justice (5 per cent) and deterrence (2 per cent) were not frequently cited by abolitionists as their most important reason. While concerns about wrongful convictions in death penalty cases shape public attitudes towards the death penalty in the United States,<sup>64</sup> the same level of concern is not present in Zimbabwe. When respondents were asked if they considered innocent people have been sentenced to death in Zimbabwe, 21 per cent of respondents considered ‘some’ or ‘many’ innocent people have been sentenced to death (question 31): there was no difference in opinion between retentionists (22 per cent) and abolitionists (21 per cent). Furthermore, retentionists were asked if they would reconsider their support for the death penalty if it were proven that innocent people have been executed; 70 per cent answered that they would continue to support the death penalty.<sup>65</sup> These findings show that innocence and miscarriage of justice are neither a game changer for retentionists nor a strong motivator for abolitionists in Zimbabwe.

The option ‘ngozi should provide justice not the state’ was included to examine whether traditional beliefs shape the death penalty attitudes of abolitionists. As noted in the ‘Colonial legacy’ section, the Shona people believed that killing another person would cause the deceased’s spirit to return to torment the living. Although this option was not the most important reason (selected by only 8 per cent of abolitionists as their first reason), it was elected more frequently than the concern about wrongful convictions, discussed above.

<sup>64</sup>James D Unnever and Francis T Cullen, Executing the Innocent and Support for Capital Punishment: Implications for Public Policy, *Criminology & Public Policy*, 4:1 (2005), 3.

<sup>65</sup>This means that overall support for retention would fall from 61 per cent to 43 per cent *if* it were proved that innocent people have been executed. However, the above results show that the concern for wrongful conviction is low and the possibility of wrongful conviction changing retentionists’ views on the death penalty remains a hypothesis.



# Putting death penalty support in context

## Perceived effectiveness of different crime-reduction policies

Studies on public attitudes towards the death penalty often ask respondents to what extent they support the death penalty, just as this survey did. The analysis of this single variable has shown that 61 per cent of respondents were retentionists and 41 per cent were committed retentionists, choosing the ‘definitely’ option rather than ‘probably’. So far, this report has attempted to understand to what extent – and why – Zimbabweans believe the death penalty should be retained or abolished. While this approach allows death penalty attitudes to be examined in detail, it treats the death penalty in a vacuum and ignores the fact that it exists alongside other crime-reduction policies, not all of which involve criminal sanctions. The survey asked respondents to identify policies that they believed were effective in reducing violent crimes leading to death in Zimbabwe. They were offered a list of seven policies and asked to select and rank the three they thought were most effective (Question 29); Figure 5 reports the proportion of respondents’ first choice.

The policy of ‘more executions’ came sixth out of the seven policies presented. The top two policies – ‘better moral education of young people’ and ‘reduce poverty’ – do not rely on the criminal justice system to reduce crime. This highlights the important distinction between asking exclusively about people’s death penalty attitudes and asking about the death penalty in relation to other policies. The majority of Zimbabweans did support the death penalty; however, more importantly, they did not consider it to be the most effective anti-crime policy, preferring to focus on enhancing moral and social standards, and – in criminal justice – on longer prison sentences. Both abolitionists and retentionists expressed a preference for these policies.

**Figure 5: Respondents’ confidence in policies to reduce violent crime: respondents’ first choice**



Note: Options ‘other’ (2%) and ‘don’t know’ (1%) are excluded.

Poverty is a real concern for the Zimbabwean public. In this survey, respondents were asked about their and their families' experiences in the past 12 months. Half or more of respondents had gone without enough food to eat (57 per cent), enough clean water for home use (61 per cent), medicines or medical treatment (79 per cent), enough fuel to cook food (50 per cent), and cash income (91 per cent).<sup>66</sup> When respondents were asked to rank the three most important problems facing Zimbabwe (Question 2), creating jobs and managing the economy were their top two choices – reducing crime was not a high priority. Law and order is often a key policy agenda for many countries; particularly in countries where the death penalty is retained, it often becomes a political tool for politicians to gain votes and to give the impression that they are tough on crime. In Zimbabwe, however, the above findings suggest that the public's priorities are different, and that decisions on the death penalty must be considered in light of other pressing social issues.

## Perceived consequences of abolition

For retentionist governments considering abolishing the death penalty, it would be a reasonable concern if abolition could foreseeably damage the rule of law and the perceived legitimacy of the criminal justice system. The survey asked a series of questions (questions 37A-D) to test if serious damage to political or judicial legitimacy is likely to result from abolition. An example of potential erosion of the legitimacy of the criminal justice system is a lack of cooperation with the police, such as refusing to provide a witness statement or report a crime. In extreme cases, victims or their families may take justice into their own hands if they know there will be no punishment that will take away an offender's life. A less severe – but nonetheless serious – expression of public dissatisfaction and anger may be people coming together to campaign for the death penalty to be brought back. All of these hypothetical scenarios, with varying degrees of potential damage, may be of concern to governments.

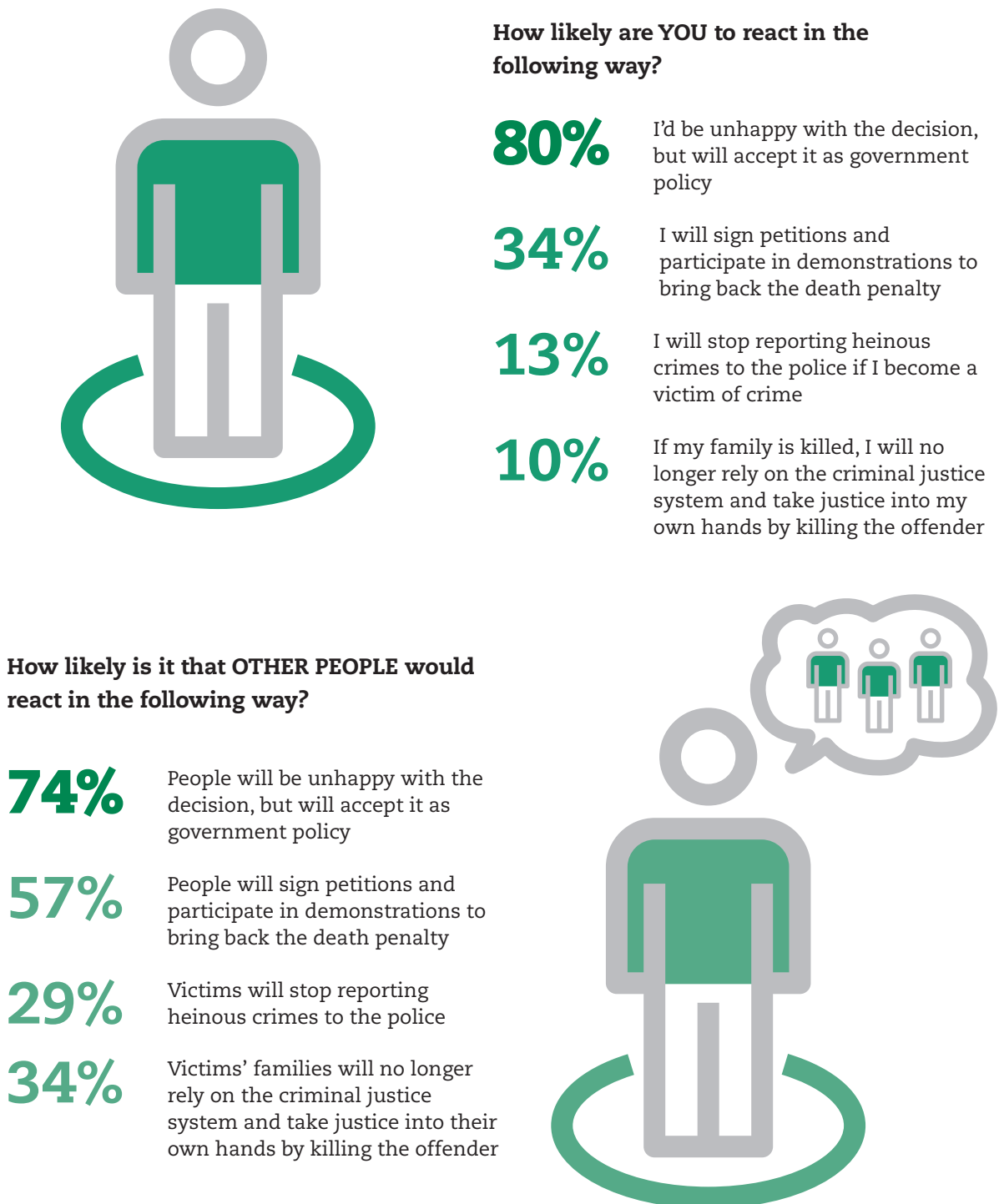
Figure 6 displays the views of all retentionists, the group that would be the source of any potential backlash against abolition. The findings of this survey provide overwhelming evidence that, although the majority (61 per cent) of Zimbabweans support the retention of the death penalty, abolition would be a smooth process.

Of the retentionists, 80 per cent believed that – if the death penalty were abolished – they would accept it as government policy. Smaller proportions believed they would be 'very likely' or 'somewhat likely' to campaign to bring it back (34 per cent), not to report crimes to the police if they were victimised (13 per cent), or to take justice into their own hands if a family member was murdered (10 per cent). These results hardly depict a society where the legitimacy of the criminal justice system rests on retention of the death penalty.

<sup>66</sup>The proportions represent respondents who answered 'just once or twice', 'several times', 'many times' and 'always' to question 4.

In addition to asking retentionists how they would react if the government abolished the death penalty, the survey also asked how they thought other retentionists would react. Retentionists consistently estimated potential disruption by others as greater than their own by a margin of roughly 20 percentage points (Figure 6). This shows that retentionists tended to overestimate other retentionists' commitment to the death penalty, thus creating the illusion that support for the death penalty is higher and more committed than it actually is.

**Figure 6: Perceived consequence of abolition (responses by retentionists)**



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## Conclusion: is public opinion a barrier to abolition?

Between fieldwork and the drafting of this report, several significant events have taken place in Zimbabwe. In November 2017, Robert Mugabe, then President, announced plans to resume the execution of prisoners after 12 years of moratorium. A few days later, Mugabe fired then Vice-President Emmerson Mnangagwa, who has publicly advocated for abolition.<sup>67</sup> Within the same month, Mugabe tendered his resignation after running the country for 37 years and was replaced by Emmerson Mnangagwa. The country now has a President who himself faced the death penalty under the unilateral declaration of independence period, when the death penalty was used as a tool for political oppression.

When Mnangagwa was in charge of the Ministry of Justice, Legal and Parliamentary Affairs, he explained that Zimbabwe was not ready to become an abolitionist state *de jure* because it had been found that the majority of Zimbabwean citizens who participated in the constitution-making process were in favour of retaining the death penalty.<sup>68</sup> Five years after the adoption of the 2013 Constitution, this study has examined the Zimbabwean public's attitudes towards the death penalty. It has attempted to understand how citizens think and feel about the death penalty, living in a country that has not executed anyone for more than 12 years.

Among survey respondents, 61 per cent supported the retention of the death penalty, but 80 per cent of these retentionists stated that if the death penalty were abolished, they would accept it as government policy. Only a small minority of retentionists considered taking action against death penalty abolition. Respondents were polarised in their attitudes towards the death penalty: committed retentionists and committed abolitionists together comprised a majority. However, these strong views were based on uninformed and misinformed ideas about the death penalty in Zimbabwe, ranging from the number of executions carried out in the past 10 years to the method of execution. The most common reason given by retentionists for supporting the death penalty was its presumed general deterrent effect, despite there being little scientific basis for the belief that the death penalty is more effective at preventing crime than life imprisonment. This was followed by the desire to incapacitate offenders, which could be achieved by other forms of punishment, such as life imprisonment without parole. Both retentionists and abolitionists considered moral education and reducing poverty to be more important than use of the death penalty to reduce violent crime.

Given that Zimbabwe has not carried out an execution since 2005, the death penalty continues to function as a sentencing tool and a symbolic declaration that executions could take place. Whether or not to abolish the death penalty is, ultimately, a political decision. Any progress towards the abolition of capital punishment in Zimbabwe must be determined by the country's policy-makers. The findings detailed in this report should serve to assure such policy-makers that public opinion does not pose a barrier to abolition. Indeed, the findings suggest that the Zimbabwean public – which overwhelmingly approved the 2013 Constitution and its restrictions on the death penalty – is ready to accept reform, should the government decide to move away from the death penalty in law and practice.

<sup>67</sup> 'Latest: I want the death penalty abolished – Mnangagwa', *The Sunday News* (15 September 2016), <http://www.sundaynews.co.zw/latest-mnangagwa-lobbies-for-abolition-of-death-penalty/>

<sup>68</sup> Hands Off Cain.

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# Appendices

## Appendix 1: Questionnaire in English

### Survey on public attitudes to death penalty in Zimbabwe

Respondent Number				Fieldworker No.			Data Entry Clerk No.			Field Number			
[Office Use Only]													

[Supervisor Use Only]					
Household back-checked?		Questionnaire checked by:		PSU/EA: [Circle one]	
Yes	1	[Supervisor signature]		Urban	1
No	0			Rural	2

[Interviewer: Select appropriate code for Region/Province. Write names for District and Town/Village and EA number in the boxes.]			
Region/Province		District	
Harare	1	Town/Village	
Bulawayo	2	EA Number	
Midlands	3	Ward	
Masvingo	4		
Mashonaland East	5		
Mashonaland West	6		
Mashonaland Central	7		
Matabeleland South	8		
Matabeleland North	9		
Manicaland	10		

*Interviewer: It is your job to select a random (this means any) household. A household is a group of people who presently eat together from the same pot.*

*Start your walk pattern from the start point that has been randomly chosen by your Field Supervisor. Team members must walk in opposite directions to each other. If A walks towards the sun, B must walk away from the sun; C and D must walk at right angles to A and B.*

*Use a 5 / 10 interval pattern to select a household. That is, walking in your designated direction away from the start point, select the 5th household for the first interview, counting houses on both the right and the left (and starting with those on the right if they are opposite each other). Once you leave your first interview, continue on in the same direction, this time selecting the 10th household, again counting houses on both the right and the left. If the settlement comes to an end and there are no more houses, turn at right angles to the right and keep walking, continuing to count until finding the tenth dwelling.*



Good day. My name is \_\_\_\_\_. I am from the Mass Public Opinion Institute (MPOI) an independent research organisation. I do not represent the government or any political party. We are studying the views of citizens in Zimbabwe about punishment and the criminal justice system. We would like to discuss these views with you. Your answers will be confidential. We are asking the same questions to 1,200 people to get an overall picture. It will be impossible to pick you out from what you say, so please feel free to tell us what you think. This interview will take about 30 minutes. There is no penalty for refusing to participate. Do you wish to proceed?

## Respondent selection procedure

Interviewer: **Within** the household, it is your job to select a random (this means any) individual. This individual becomes the respondent. In addition, you are responsible for alternating interviews between men and women. Circle the correct code below.

Note the 'First Interview' should **ONLY** be used for your very first interview on the first day of fieldwork, **NOT** your first interview every day.

	First interview	Male	Female
PREVINT	0	1	2
THISINT		1	2

**Please tell me the names (pseudo-names only) of all males/females [select correct gender] who presently live in this household. I only want the names of males/females [select correct gender] who are citizens of Zimbabwe and who are 18 years and older.**

*If this interview must be with a female, list only women's names [pseudo names only] on selection card. If this interview is with a male, list only men's names [pseudo names only]. List all eligible household members of this gender who are 18 years or older, even those not presently at home but who will return to the house at any time that day. Include only citizens of Zimbabwe.*

*Take out your deck of cards with pseudo names for the respective gender. Present them face-down so that the names cannot be seen. Ask the person who is selecting respondents to pick any card. The person who corresponds to the pseudo name chosen will be the person interviewed.*

If the selected respondent is not the same person that you first met, repeat Introduction:

**Good day. My name is \_\_\_\_\_. I am from the Mass Public Opinion Institute (MPOI) an independent research organisation. I do not represent the government or any political party. We are studying the views of citizens in Zimbabwe about punishment and the criminal justice system. We would like to discuss these views with you.**

To ALL respondents:

**Your answers will be confidential. They will be put together with 1,200 other people we are talking to, to get an overall picture. It will be impossible to pick you out from what you say, so please feel free to tell us what you think. This interview will take about 30 minutes. There is no penalty for refusing to participate. Do you wish to proceed?** [Proceed with interview only if answer is positive].

[If respondent agrees to proceed, add:] **We can do this interview in [English, Shona or Ndebele]. Please, tell me which language you would like to use.** [If interviewer does not speak selected language, then make an appointment for later in the day with a member of the team who speaks that language.]

**Note:** The person must give his or her informed consent by answering positively. If participation is refused, thank the person and walk away from the household. Substitute the household using an interval of 10 households. If consent is secured, proceed with the interview.

NOCALL: Do you know what the death penalty is?							
<i>[If NO, end the interview by thanking the participant. Record your progress on the table below until you find a successful call. Substitute with the next household to the right and repeat the respondent selection procedure]</i>							
<i>[If YES, code '97' and proceed with interview]</i>							
	NOCALL_1	NOCALL_2	NOCALL_3	NOCALL_4	NOCALL_5	NOCALL_6	NOCALL_7
	Household 1	Household 2	Household 3	Household 4	Household 5	Household 6	Household 7
Does not know what death penalty is	1	1	1	1	1	1	1
Not Applicable	97	97	97	97	97	97	97

DATEINTR	Day	Month	Year
Date of interview <i>[Interviewer: Enter day, month, and year]</i>			

STRTIME	Hour	Minute
Time interview started <i>[Interviewer: Enter hour and minute, use 24 hr. clock]</i>		

**Let's begin by recording a few facts about yourself**

**1. How old are you?** [Note: interview Zimbabwean citizens only who are 18 years old and above]

**Let me start by asking questions about your *views* on social and political issues in Zimbabwe.**

2. In your opinion, what are the THREE most important problems facing Zimbabwe that the government should address? [Do not read out options. Code from responses. Rank top 3 options.]			
	1st most important	2nd most important	3rd most important
Managing the economy	1	1	1
Improving the living standards of the poor	2	2	2
Creating jobs	3	3	3
Keeping prices down	4	4	4
Narrowing gaps between rich and poor	5	5	5
Reducing crime	6	6	6
Improving basic health services	7	7	7
Addressing education needs	8	8	8
Providing water and sanitation services	9	9	9
Ensuring everyone has enough to eat	10	10	10
Fighting corruption in government	11	11	11
Maintaining roads and bridges	12	12	12
Providing a reliable supply of electricity	13	13	13
<b>Other responses</b>			
Nothing/no problems	0		
Other (1st response) Specify _____	95		
Other (2nd response) Specify _____		95	
Other (3rd response) Specify _____			95
No further reply		96	96
Don't know	99		

3. In your opinion, how often, in this country: [Read out options]						
		Never	Rarely	Often	Always	Don't know [DNR]
A.	Do people have to be careful of what they say about politics?	0	1	2	3	99
B.	Are people treated unequally under the law?	0	1	2	3	99
C.	Do officials who commit crimes go unpunished?	0	1	2	3	99
D.	Do ordinary people who break the law go unpunished?	0	1	2	3	99

I now have some questions concerning you/your family's experience in the last 12 months.

**4. In the last 12 months, how often, if ever, have you or anyone in your family: [Read out options]**

	Never	Just once or twice	Several times	Many times	Always	Don't Know [DNR]	NA
A. Gone without enough food to eat?	0	1	2	3	4	99	
B. Gone without enough clean water for home use?	0	1	2	3	4	99	
C. Gone without medicines or medical treatment?	0	1	2	3	4	99	77
D. Gone without enough fuel to cook your food?	0	1	2	3	4	99	
E. Gone without a cash income?	0	1	2	3	4	99	

**5. In the last 12 months, how often, if ever, have you or anyone in your family: [Read out options]**

	Never	Just once or twice	Several times	Many times	Always	Don't Know [DNR]
A. Felt unsafe walking in your neighbourhood?	0	1	2	3	4	99
B. Feared crime in your own home?	0	1	2	3	4	99

**6. In the last 12 months, have you or anyone in your family: [Interviewer: If the respondent answers yes, follow by asking:] Did this happen once, twice, or three or more times?**

	No	Yes			Don't Know [DNR]
		Once	Twice	Three or more times	
A. Had something stolen from your house?	0	1	2	3	99
B. Been physically attacked?	0	1	2	3	99

Let's move on to questions concerning your views on the death penalty in Zimbabwe.

**7. Is the death penalty recognised as a punishment in Zimbabwe?**

No [explain to interviewees that the death penalty is recognised as a form of state punishment]	0
Yes	1
Don't know [Do not Read]	99

**8. How concerned are you about the death penalty in Zimbabwe as an issue? [Read out options]**

Not concerned at all	0
Not very concerned	1
Concerned	2
Very concerned	3
Don't know [Do not Read]	99

9. In the last 12 months, have you discussed the death penalty with your family or friends? <i>[Read out options]</i>	
No	0
Yes	1
Don't know/Don't remember <i>[Do not Read]</i>	99

10. Can you tell me roughly how many people have been executed by the state in Zimbabwe in the last 10 years (January 2007 to December 2016)?	
None	1
1-10	2
11-20	3
21 and above	4
Don't know <i>[Do not Read]</i>	99

11. Can you tell me roughly how many people are currently on death row in Zimbabwe? <i>[Explain that 'death row' = prisoners who have been sentenced to death and who are detained waiting to be executed.]</i>	
None	1
1-50	2
51-100	3
101 and above	4
Don't know <i>[Do not Read]</i>	99

12. Can you tell me what the current method of execution is in Zimbabwe? <i>[Read out options]</i>	
Lethal-injection	1
Electrocution	2
Hanging	3
Stoning	4
Shooting	5
Beheading	6
Don't know <i>[Do not Read]</i>	99

13. Can you tell me if the following offences are punishable by death in Zimbabwe? <i>[Read out options]</i>				
		No	Yes	Don't Know <i>[DNR]</i>
A.	Murder with aggravating circumstances	0	1	99
B.	Ordinary murder	0	1	99
C.	Rape	0	1	99
D.	Armed robbery	0	1	99

*[Note: Interviewer, explain the difference between 'murder with aggravating circumstances' and 'ordinary murder'. Murder with aggravating circumstances = refers to cases where the murder was perhaps unprovoked or was carried out in a particularly brutal manner. Ordinary murder = refer to a situation where there are some mitigating circumstances or perhaps where the murderer had been provoked into carrying out the murder].*

**14. Do you think the number of murders in the last five years has been increasing, decreasing or has remained about the same in Zimbabwe? [Read out options]**

Increased significantly	1
Increased slightly	2
About the same	3
Decreased slightly	4
Decreased significantly	5
Don't know [Do not read]	99

**15. Do you think the death penalty should be kept or abolished in Zimbabwe? [Read out options]**

Should definitely be kept	1
Should probably be kept	2
Cannot say	3
Should probably be abolished	4
Should definitely be abolished	5
Don't know [Do not read]	99

**16. [If response to Question 15 is, 'should definitely be kept' or 'should probably be kept', ask:] What is the MOST important reason you support the retention of the death penalty in Zimbabwe? [Read out options].**

The death penalty should remain the most severe punishment under law	1
To prevent those convicted from committing further crimes	2
To deter others from committing serious crimes	3
Those who commit murder should forfeit their own life	4
Necessary when taking into consideration the feelings of victims' families	5
My religion supports the death penalty	6
Some traditional leaders in my area support the death penalty	7
N/A	77

**17. [If response to Question 15 is 'should definitely be abolished or 'should probably be abolished, ask:] What is the MOST important reason you support the abolition of the death penalty in Zimbabwe? [Read out options].**

Better to keep prisoners alive and make them repent for their crimes	1
Even offenders who commit serious crimes have the potential to be rehabilitated	2
Serious crimes will not increase even if the death penalty is abolished	3
Miscarriages of justice for death penalty cases are irreversible	4
Killing another human being is inhumane	5
My religion does not support the death penalty	6
Some traditional leaders in my area do not support the death penalty	7
The spirit of 'ngozi' should provide justice not the state	8
N/A	77

**18. [If response to Question 15 is 'cannot say', Ask] Why did you choose the option 'cannot say'? [Read out options]**

The death penalty is a difficult issue: I cannot decide	1
I am not concerned about the death penalty	2
N/A	77
Don't know [Do not read]	99

**19. Do you think people who commit the following crimes should be sentenced to death? [Read out options]**

	No	Yes	Not sure [DNR]
A. Murder with aggravating circumstances	0	1	2
B. Ordinary murder	0	1	2
C. Armed robbery	0	1	2
D. Rape of a child 15 and under	0	1	2
E. Rape of a child between 16-17 years	0	1	2
F. Rape of an adult - 18 years and above	0	1	2
G. Stealing of public funds	0	1	2
H. Knowingly infect others with HIV	0	1	2
I. Illegally aborting an unborn baby	0	1	2
J. Engaging in homosexual acts	0	1	2
K. Adultery	0	1	2
L. Genocide	0	1	2
M. Treason	0	1	2

[Note: Interviewer, explain the difference between 'murder with aggravating circumstances' and 'ordinary murder'. Murder with aggravating circumstances = refers to cases where the murder was perhaps unprovoked or was carried out in a particularly brutal manner. Ordinary murder = refer to a situation where there are some mitigating circumstances or perhaps where the murderer had been provoked into carrying out the murder].

**20. Do you think the following people should be subject to the death penalty? [Read out options]**

	No	Yes	Not sure [DNR]
A. People more than 70 years of age	0	1	2
B. People less than 21 years of age at the time of committing the crime	0	1	2
C. All women	0	1	2
D. Pregnant women	0	1	2
E. New mothers	0	1	2
F. People with serious mental disorders	0	1	2
G. People with serious physical disabilities	0	1	2
H. People born into poverty with limited life chances	0	1	2
I. People who have contributed greatly to society	0	1	2

**21. [If response to Question 20C is 'NO'] You answered that all women should not be subject to the death penalty. Why is this? [Read out options]**

Women need to be protected	1
Women who commit heinous crimes are often under the influence of others and are not fully responsible for their crime	2
Women should be able to look after their children	3
Other (specify) _____	95
N/A	77
Don't know [Do not read]	99

**22. [If response to Question 20C is 'YES'] You answered that all women can be subject to the death penalty. Why is this? [Read out options]**

Men and women should be treated equally	1
Women who commit heinous crimes are especially evil	2
Other (specify) _____	95
N/A	77
Don't know	99

**People have different ideas about sentences which should be given to offenders. You will now be presented with several cases and be asked about your personal opinion in each case.**

**23. A man robbed a local shop with a gun and shot dead the owner in the head. He took away with him 50 US dollars in cash. He had not previously been convicted of any crime. He was convicted. Which sentence do you think is appropriate? [Read out options. If the response is a prison sentence, ask how many years.]**

Prison sentence [Interviewer ask: <b>how many years</b> & write number of years in space provided] _____	1
Life imprisonment with the possibility of release when no longer a danger	2
Life imprisonment without any possibility of release	3
Death sentence	4
Other (specify _____)	95
Don't know [Do not read]	99

**24. A man robbed a local shop with a gun and shot dead the owner in the head. He took away with him 50 US dollars in cash. He had previously been in prison twice for robbery. He was convicted. Which sentence do you think is appropriate? [Read out options. If the response is a prison sentence, ask how many years.]**

Prison sentence [Interviewer ask: <b>how many years</b> & write number of years in space provided] _____	1
Life imprisonment with the possibility of release when no longer a danger	2
Life imprisonment without any possibility of release	3
Death sentence	4
Other (specify _____)	95
Don't know [Do not read]	99



25. A woman deliberately poisoned her husband who dies, so that she could be free to be with her lover. She had not previously been convicted of any crime. She was convicted. Which sentence do you think is appropriate? *[Read out options. If the response is a prison sentence, ask how many years.]*

Prison sentence <i>[Interviewer ask: how many years &amp; write number of years in space provided]</i> _____	1
Life imprisonment with the possibility of release when no longer a danger	2
Life imprisonment without any possibility of release	3
Death sentence	4
Other (specify _____)	95
Don't know <i>[Do not read]</i>	99

26. A woman who had been abused by her husband for many years decided to kill him by deliberately poisoning his food. A neighbour discovered the death of the husband and reported it to the police. She was convicted. Which sentence do you think is appropriate? *[Read out options. If the response is a prison sentence, ask how many years.]*

Prison sentence <i>[Interviewer ask: how many years &amp; write number of years in space provided]</i> _____	1
Life imprisonment with the possibility of release when no longer a danger	2
Life imprisonment without any possibility of release	3
Death sentence	4
Other (specify _____)	95
Don't know <i>[Do not read]</i>	99

27. A man aged 21 raped and killed a girl aged 17 who was a stranger to him. He had not previously been convicted of any crime. He was convicted. Which sentence do you think is appropriate? *[Read out options. If the response is a prison sentence, ask how many years.]*

Prison sentence <i>[Interviewer ask: how many years &amp; write number of years in space provided]</i> _____	1
Life imprisonment with the possibility of release when no longer a danger	2
Life imprisonment without any possibility of release	3
Death sentence	4
Other (specify _____)	95
Don't know <i>[Do not read]</i>	99

28. A man aged 21 raped and killed a girl aged 17. They were in a romantic relationship. He had not previously been convicted of any crime. He was convicted. Which sentence do you think is appropriate? *[Read out options. If the response is a prison sentence, ask how many years.]*

Prison sentence <i>[Interviewer ask: how many years &amp; write number of years in space provided]</i> _____	1
Life imprisonment with the possibility of release when no longer a danger	2
Life imprisonment without any possibility of release	3
Death sentence	4
Other (specify _____)	95
Don't know <i>[Do not read]</i>	99

29. What measures do you think are most likely to be able to reduce violent crimes leading to death in Zimbabwe? Please rank them in order of likelihood. [Read out options. Rank 3 most important]			
	1st most likely	2nd most likely	3rd most likely
Better moral education of young people	1	1	1
More effective policies to control the possession of firearms	2	2	2
Longer prison sentences for violent offenders	3	3	3
More executions	4	4	4
More effective policing to bring criminals to justice	5	5	5
Reduce corruption in the police	6	6	6
Reduce poverty	7	7	7
Other responses			
Nothing/no problems	0		
Other (1st response) Specify _____	95		
Other (2nd response) Specify _____		95	
Other (3rd response) Specify _____			95
No further reply		96	96
Don't know [Do not read]	99		

30. All systems of justice make mistakes, but which mistake do you think is worse... to convict an innocent person, or to let a guilty person go free? [Read out options]	
To convict an innocent person	1
To let a guilty person go free	2
Don't know [Do not read]	99

31. Do you think that innocent people have been sentenced to death in Zimbabwe? [Read out options]	
No innocent people have been sentenced to death	0
Very few innocent people have been sentenced to death	1
Few innocent people have been sentenced to death	2
Some innocent people have been sentenced to death	3
Many innocent people have been sentenced to death	4
Don't know [Do not read]	99

32. [If response to Question 15 is, 'should definitely be kept' or 'should probably be kept', ask:] Suppose it was proved to your satisfaction that innocent people have in fact sometimes been executed, would you then still support the retention of the death penalty or change your mind and support abolition? [Read out options]	
I still support the death penalty	1
I will support abolition	2
I support abolition regardless of wrongful executions	3
N/A	77
I don't know [Do not read]	99

**33. [If response to Question 15 is, 'should definitely be kept' or 'should probably be kept', ask:] The Zimbabwean Government ratified an international treaty in 1991 which expresses the desirability of abolition. If the Government decides to abolish the death penalty in Zimbabwe, would that decision affect your everyday life? [Read out options]**

No impact on my everyday life	0
A small impact on my everyday life	1
A significant impact on my everyday life	2
N/A	77
Don't know [Do not read]	99

[Note: Interviewer, if asked about the international treaty, explain it is the International Covenant on Civil and Political Rights].

**34. Seventeen countries in Sub-Saharan Africa including two neighbouring countries – Mozambique and South Africa – have abolished the death penalty for all crimes. Do you think that Zimbabwe should aim to follow these countries and abolish the death penalty? [Read out options]**

Yes – we should follow the trend in Sub-Saharan Africa	1
No – China still has the death penalty	2
No – USA still has the death penalty	3
No – Other countries' death penalty policy is irrelevant	4
Don't know [Do not read]	99

[Note: the total list may be given to interviewees in case asked. Angola, Burundi, Cape Verde, Côte d'Ivoire, Djibouti, Gabon, Guinea-Bissau, Mauritius, Madagascar, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, and Togo.]

**35. Do you think that the retention of the death penalty harms Zimbabwe's international reputation? [Read out options]**

No	0
Yes	1
Don't know [Do not read]	99

**36. When making decisions about the future of the death penalty in Zimbabwe, who should have the most influence over whether it is kept or abolished? [Read out options]**

The Government	1
The Parliament	2
The President	3
The Ministry of Justice	4
Modern courts	5
Traditional courts	6
Academic experts in criminal law and criminology	7
The Public	8
Don't know [Do not read]	99

**37. Let's assume that the death penalty is abolished in Zimbabwe. How likely are YOU to react in the following way? [Read out options]**

	Very likely	Somewhat likely	Somewhat unlikely	Very unlikely	Don't know [DNR]
A. I'd be unhappy with the decision but will accept it as government policy	1	2	3	4	99
B. I will sign petitions and participate in demonstrations to bring back the death penalty	1	2	3	4	99
C. I will stop reporting heinous crimes to the police if I become a victim of crime	1	2	3	4	99
D. If my family is killed, I will no longer rely on the criminal justice system and take justice into my own hands by killing the offender	1	2	3	4	99

**38. Again, let's assume that the death penalty is abolished in Zimbabwe. In your view, how likely is it for OTHER PEOPLE to react in the following way? [Read out options]**

	Very likely	Somewhat likely	Somewhat unlikely	Very unlikely	Don't know [DNR]
A. People will be unhappy with the decision but will accept it as government policy	1	2	3	4	99
B. People will sign petitions and participate in demonstrations to bring back the death penalty	1	2	3	4	99
C. Victims will stop reporting heinous crimes to the police	1	2	3	4	99
D. Victims' families will no longer rely on the criminal justice system and take justice into their own hands by killing the offender	1	2	3	4	99

**39. What do you think is the MOST important reason Zimbabwe has the death penalty? [Read out options]**

Heinous crimes are being committed	1
Religious reasons	2
Colonial legacy	3
Zimbabwean culture and tradition	4
The President wants to keep the death penalty	5
The Government wants to keep the death penalty	6
Don't know [Do not read]	99

**40. How much do you trust each of the following, or haven't you heard enough about them to say? [Read out options]**

	Not at all	Just a little	Somewhat	A lot	Don't know/HHE [DNR]
A. The President	0	1	2	3	99
B. Politicians from the ruling party ZANU-PF	0	1	2	3	99
C. Politicians from opposition parties	0	1	2	3	99
D. The Police	0	1	2	3	99
E. Modern courts of law	0	1	2	3	99
F. Traditional courts of law	0	1	2	3	99
G. Traditional leaders	0	1	2	3	99
H. Religious leaders	0	1	2	3	99
I. Private media	0	1	2	3	99
J. Public media	0	1	2	3	99

## Let me ask a few questions about you

41. Gender of respondent	
Female	1
Male	2

42. What is your ethnic community, cultural group or tribe? [Do not read options. Code from response.]	
Ndebele	1
Shona	2
ZeZuru	3
Korekore	4
Karanga	5
Venda	6
Manyika	7
Ndau	8
Kalanga	9
Tonga	10
Zimbabwean only (or does not think of self in terms of 'ethnic community, cultural group or tribe')	11
Refused to answer	12
Other (specify) _____	95
Don't know	99

43. Which of these things do you personally own? [Read out options]				
		No: don't own	Yes: do own	Don't know [DNR]
A.	Radio	0	1	99
B.	Television	0	1	99
C.	Motor vehicle or motorcycle	0	1	99
D.	Mobile phone	0	1	99

**44. What is your main occupation? If [unemployed, retired or disabled], ask what your last main occupation was? [Do not read options. Code from response.]**

Never had a job	1
Student	2
Housewife/homemaker	3
Agriculture/farming/fishing/forestry	4
Trader/hawker/vendor	5
Retail/shop	6
Unskilled manual worker (e.g. cleaner, labourer, domestic help, unskilled manufacturing worker)	7
Artisan or skilled manual worker (e.g. trades like electrician, mechanic, machinist or skilled manufacturing worker)	8
Clerical or secretarial	9
Supervisor/Foreman/Senior Manager	10
Security services (police, army, security)	11
Mid-level professional (e.g. teacher, nurse, mid-level government officer)	12
Upper-level professional (e.g. banker/finance, doctor, lawyer, engineer, accountant. Professor, senior-level government officer)	13
Other [Specify] _____	95
Don't know	99

**45. What is your highest level of education? [Code from answer. Do not read options.]**

No formal schooling	1
Informal schooling only (including Koranic schooling)	2
Some primary schooling	3
Primary school completed	4
Intermediate school or some secondary school/high school	5
Secondary school/high school completed	6
Post-secondary qualifications, other than university, e.g. a diploma or degree from a polytechnic or college	7
Some university	8
University completed	9
Postgraduate	10
Don't know	99

**46. What is your religion? [Code from responses. Do not read options]**

Christian groups/denominations (includes: respondent says only 'Christian' without identifying a specific sub-group, Roman Catholic, Orthodox, Coptic)	1
Protestant – Mainline (includes: Anglican, Lutheran, Methodist, Presbyterian, Baptist, Quaker, Mennonite, Dutch Reformed, Calvinist)	2
Protestant – Non-mainline (includes: Evangelical, Church of Christ, Pentecostal (e.g. 'Born Again' 'Saved'))	3
Independent (e.g. 'African Independent Church'), Zionist Christian Church	4
Other Christian groups (includes: Jehovah's Witness, Seventh Day Adventist, Mormon)	5
Muslim groups (includes: respondent who says 'Muslim' without identifying a specific sub-group, Sunni (Ismaeli, Mouridiya Brotherhood, Tijaniya Brotherhood, Qadiriya Brotherhood), Shia)	6
Atheist	7
Other (Traditional ethnic origin, Hindu, Bahai, Agnostic, Jewish)	8
Refused	98
Don't know	99

**47. People practise their religion in different ways. Aside from weddings and funerals, how often do you personally engage in religious practice like prayer, reading a religious book, or attending a religious service or a meeting of a religious group? Would you say you do so: [Read out options]**

Never	0
A few times a year	1
About once a month	2
About once a week	3
About once a day	4
More than once a day	5
Respondent has no religion [Do not Read]	6
Don't know [Do not Read]	99

48. Just one more question: Who do you think sent us to do this interview? [Do not read options. Code from response.]	
No one	0
Mass Public Opinion Institute (MPOI)	1
Research company / organisation / programme [but not MPOI]	2
Non-government or religious organisation	3
University / school / college	4
Private company	5
Media	6
Political party or politician	7
Government (including any government official, government agency or ministry or any other part of government named by the respondent)	8
International organisation or another country	9
God	10
Other [Specify] _____	95
Refused to answer	98
Don't know	99

[Interviewer: If asked, explain that the research is carried out by a UK-based NGO (The Death Penalty Project) and an independent UK-based researcher from the University of Reading.]

49. Had respondent asked the interviewer about organisers before reaching question 48?	
No	0
Yes	1

	Hour	Minutes
ENDTIME. Time interview ended [Interviewer: Enter hour and minute, use 24 hr. clock]		

What was the respondent's attitude toward you during the interview?			
A. Was he or she	1 Friendly	2 In between	3 Hostile
B. Was he or she	1 Interested	2 In between	3 Bored
C. Was he or she	1 Cooperative	2 In between	3 Uncooperative
D. Was he or she	1 Patient	2 In between	3 Impatient
E. Was he or she	1 At ease	2 In between	3 Suspicious
F. Was he or she	1 Honest	2 In between	3 Misleading



## Appendix 2: Demographic distribution of the sample

Gender	Percentage
Male	50
Female	50
<b>Location</b>	
Urban	37
Rural	63
<b>Province</b>	
Harare	19
Bulawayo	6
Midlands	12
Masvingo	11
Mashonaland East	10
Mashonaland West	11
Mashonaland Central	9
Matabeleland South	5
Matabeleland North	5
Manicaland	13
<b>Education</b>	
No formal education	6
Primary	22
Secondary	58
Post-secondary	14
<b>Religion</b>	
Christian	92
Muslim	1
Other	7

Age Groups	Percentage				
	Urban	Rural	Male	Female	Total
18-25	23	17	19	19	19
26-35	32	26	26	30	28
36-45	25	20	21	22	22
46-55	11	17	15	15	15
56-65	7	12	12	9	10
66+	4	8	8	5	7

*Note: Because of rounding of decimal points to whole numbers, columns may not add up to 100%.*

## Appendix 3: Article 48 of the 2013 Constitution of Zimbabwe

### Article 48: Right to life

- (1) Every person has the right to life.
- (2) A law may permit the death penalty to be imposed only on a person convicted of murder committed in aggravating circumstances, and
  - a) the law must permit the court a discretion whether or not to impose the penalty;
  - b) the penalty may be carried out only in accordance with a final judgment of a competent court;
  - c) the penalty must not be imposed on a person
    - (i) who was less than 21 years old when the offence was committed; or
    - (ii) who is more than 70 years old;
  - d) the penalty must not be imposed or carried out on a woman; and
  - e) the person sentenced must have a right to seek pardon or commutation of the penalty from the president.

**Source: Constitution of Zimbabwe 2013**

## About the Author



### **Mai Sato**

Mai is a lecturer at the School of Law, University of Reading, in the United Kingdom. She holds a PhD from the School of Law, King's College London. Her monograph *The Death Penalty in Japan: Will the Public Tolerate Abolition?* (Springer, 2014) received the Young Criminologist Award 2014 from the Japanese Association of Sociological Criminology. She is also the author of the report *The Public Opinion Myth: Why Japan Retains the Death Penalty* (2015, with Paul Bacon), published by The Death Penalty Project.

# About The Death Penalty Project

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

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

We have been commissioning, supporting and publishing independent academic research on attitudes towards the death penalty for almost a decade. We use original data from public opinion surveys and other empirical research to engage in dialogue with policy-makers and politicians, and challenge popular misconceptions around the death penalty. Our previous publications focusing on attitudes towards the death penalty include:

- *Public Opinion Survey on the Mandatory Death Penalty in Trinidad* (2011), by Roger Hood and Florence Seemungal
- *The Death Penalty in Malaysia: Public Opinion on the Mandatory Death Penalty for Drug Trafficking, Murder and Firearms Offences* (2013), by Roger Hood
- *The Public Opinion Myth: Why Japan Retains the Death Penalty* (2015), by Mai Sato and Paul Bacon

These reports and other publications by The Death Penalty Project are available to view and download at [www.deathpenaltyproject.org](http://www.deathpenaltyproject.org)

# 12 Years Without an Execution: Is Zimbabwe Ready for Abolition?

A survey of public attitudes towards the death penalty

This report examines Zimbabwean citizens' attitudes towards the death penalty by analysing a nationally representative opinion survey carried out in 2017. It examines what it means to be a 'retentionist' or an 'abolitionist' in a country that has not executed anyone since 2005. It also assesses the public's response to Zimbabwe's 2013 Constitution, which further restricted the application of the death penalty. Survey results indicate that public opinion does not pose a barrier to Zimbabwe's progress from *de facto* to *de jure* abolition.

*“Any punishment or treatment incompatible with the evolving standards of decency that mark the progress of a maturing society, or which involve the infliction of unnecessary suffering, is repulsive. What might not have been regarded as inhuman decades ago may be revolting to the new sensitivities which emerge as civilisation advances.”*

Catholic Commission for Justice and Peace in Zimbabwe v Attorney-General and Ors [1993] 1 ZLR 242  
Former Chief Justice Gubbay, Supreme Court of Zimbabwe

In partnership with:



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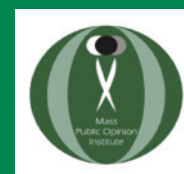


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