

State-Inflicted Death: Differing Approaches to the Death Penalty in Taiwan and Singapore

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Abstract

This paper seeks to examine why some countries have abolished the death penalty while others choose to keep it, given their popular opinions overwhelmingly favoring this tool to pursue justice. Taking Taiwan and Singapore as cases, this study demonstrates different approaches toward this controversial issue. In contrast to Singapore's self-confidence on exercising its sovereignty, Taiwan has been isolated from international society and thus has stronger incentives to use this issue as a means to attract attention and acknowledgement. Since bluntly abolishing the death penalty might encounter strong political opposition, the Taiwanese government has pursued this goal using a silent approach, i.e. by such administrative means as stopping approval of executions, rather than going through formal, symbolic legislation. By doing so the politicians and ruling party also benefit from gaining a reputation for good human rights records without triggering heated debates on this issue.

Keywords: human rights, democratization, public opinions

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I. Introduction

There is a global trend towards abolition of the death penalty. At present, 139 countries throughout the world have abolished the death penalty, while 58 retain it (Amnesty International 2010). As the list of abolitionist countries grows, those countries retaining capital punishment (including China, Iran, Saudi Arabia, Japan and America) are coming under increasing pressure to conform to this global trend. However, there are still some regions in the world where the death penalty is still used extensively. For example, Asia, which has gone through rapid economic transformation over the last half century, has remained a bastion of the death penalty. Between 85 to 95% of world executions occur in Asia, (most of them in China) so in terms of studying the death penalty, this region is “where the action is” (Zimring and Johnson 2008, 103-04). As well as China, Singapore is also renowned for its high execution rate, earning it the sobriquet “theme park with a death sentence” (Oehlers and Taulevicz 2005, 291).

This paper seeks to examine why some countries abolish the death penalty and others don't. Situating this research in the centre of “study of the power of the state and social order across time and place” (Bienen 1999, 762), this paper will examine the differing experiences of two Asian nations. These two countries, Singapore and Taiwan, are interesting as they originally had similar authoritarian political regimes and extensive use of the death penalty. However, while Singapore retains both its political regime and the death penalty, Taiwan has recently undergone democratic transition, making gradual moves towards abolition, not carrying out any executions between 2006 and 2010. Thus despite high public opinion in favor of retaining the death penalty, under the leadership of President Chen Shuibian (陳水扁) (2000-2008), the number of executions in Taiwan fell from seventy-eight to zero, with no executions between 2006 and 2010 (Liao 2008, 153). The puzzle then is this: in a region with strong proclivity for retaining the death

penalty, and in a country with strong public opinion in support of the death penalty, why did the DPP government continue to push for a policy of abolition? Conversely in Singapore, given the rising international trend of abolition, why do Singapore's policy-makers appear unconcerned with death penalty abolition?

While there are many factors to be analyzed in examining why states choose to abolish or retain the death penalty (such as democracy, democratization, international political pressure, regional effects, legal systems and historical experience) this paper will focus on the motivations and decision-making of political elites regarding the death penalty. Greenberg states that countries that retain the death penalty do it as a conscious choice, therefore it becomes "of particular interest.....to understand why some countries make this choice while others do not" (Greenberg and West 2008, 296). This paper thus will seek to discover why politicians (as the primary actors in penal reform) act or don't act to abolish the death penalty. Why do they make the choices and policies they do?

This paper will use a comparative approach contrasting Singapore with Taiwan using the relevant literature, newspaper articles, surveys as well as interviews with those involved in the death penalty debate including academics and NGOs. After the introduction, will be the literature review, followed by the theoretical framework, empirical findings, discussion of findings and lastly, the conclusion.

II. Literature review

Literature about the death penalty can be divided into several areas including general death penalty debates, the human rights perspective and the issue of death penalty abolition. The continued existence of the death penalty continues to give rise to highly emotional debate between those seek to justify its existence or those who formulate arguments for its abolition. These works tend to examine such perspectives as whether capital punishment has

a deterrent effect, how racial discrimination factors into use of the death penalty, the costs of carrying out executions and the level of public support for capital punishment are also examined (See Constanzo 1997; Sarat 2001). Opponents of the death penalty point to the fact that the poor and uneducated are much more likely to end up on death row than those from better socio-economic backgrounds (Constanzo 1997, 80; Jacobs and Carmichael 2002, 109).

Other works focus on the death penalty from an international human rights perspective. Amnesty International and other international bodies regularly produce reports about the number of executions occurring globally and how many countries have abolished or retain capital punishment. In addition, Roger Hood's updated report (2002) presented to the United Nations Committee on Crime Prevention and Control in 1988 provides a global look at the death penalty, describing Asia as an area where there has been little support for the abolitionist movement (Hood 2002, 47). Thus the Philippines recent abolition of capital punishment was seen as very welcome due to the high proportion of the world's executions take place in the Asia-Pacific region. While some Asian countries (Nepal and Cambodia) have abolished the death penalty and others such as Lao People's Democratic Republic and South Korea are de-facto abolitionist,¹ the majority of countries in the region are retentionist including Indonesia, Malaysia, Thailand, Japan, China and Singapore. Hood states that he believes that the death penalty is widely supported by the Chinese people due to the traditional values of Chinese culture such as "the killer should be killed", as well as its usefulness for the state for promoting stability and deterring crime (Hood 2002, 51). While the idea that Asians have a propensity for punitiveness and supporting the death penalty is a common theme throughout the literature, there is a lack of empirical data in support of this claim.

¹ According to Amnesty International, de-facto abolitionist countries are those that have not executed anyone for 10 years or longer.

A separate strand of literature looks more specifically at the reasons why countries decide to abolish the death penalty. It is generally found to be the case that democracies are more likely to abolish the death penalty than autocracies (although there are obvious exceptions such as the USA and Japan) (Bae 2007, 12). In addition, it has also been found that countries in the process of transitioning to democracy have also often sought to abolish the death penalty, often in attempts to distance themselves from old regimes. Neumayer finds that chances for abolition are higher when factors such as democracy, democratization, international political pressure on retentionist countries, left-wing orientations of chief executive's party and peer group effects in abolitionist regions are present (Neumayer 2008). Others look at the effects of peer group effects in Europe where the Council of Europe's requirement that member states abolish the death penalty has had a great effect on abolition in the region. However, as seen by the example of Taiwan and South Korea, the transition to abolition can be made where few of these conditions exist. Sangmin Bae examines the issue of death penalty abolition from the perspective of international norms. Defining norms as "collective expectations about proper behavior for a given identity" she believes that countries are coming to see the death penalty no longer as a domestic, internal issue, but one deemed inappropriate to modern values, thus they seek to comply with the new universal moral consensus (Bae 2007, 1-21). However, in general it can be said that there is a lack of systematic, qualitative cross-country research into reasons for death penalty abolition.

There are those who focus on cultural rather than political factors when looking at why countries abolish capital punishment (See Garland 1990; Sarat and Boulanger 2005; Zimring 2003) showing how "punishment is not only shaped by cultural processes, it is itself a cultural agent" (Sarat and Boulanger 2005, 11). These scholars look at the existence of capital punishment as a dependent variable through the independent variables of crime rates, socio-

economic indicators, regime type, religion and public opinion. Greenberg finds that the death penalty status of a country can be linked to such factors as its general punitiveness towards criminals, level of political rights, (which are in turn connected to higher socio-economic development and literacy) and the presence of Catholicism (Greenberg 2008, 295). Sarat examines the role capital punishment plays in defining our political and cultural identities concluding that there are no simple explanations for global variations.

Public opinion is frequently cited as a main factor why politicians seek to retain the death penalty. Where public opinion in support of the death penalty is high, politicians fear voter backlash if they vote for abolition. However, most countries that have abolished the death penalty have done so in spite of very high levels of public support for the death penalty. Studies have shown that levels of support only decline after abolition “following national political decisions and even then, only slowly, rather than leading it” (Sarat and Boulanger 2005, 6). In addition, legislators in the US consistently overestimate the degree of citizen support for the death penalty and tend to ignore the fact that, when support for the death penalty decreases when life imprisonment without parole is offered instead of capital punishment. Thus it can be concluded that “simple attitudinal measures obscures more complex attitudes [towards the death penalty]” (Whitehead, Blankenship, and Wright 1999, 254). While this does bring up questions about how democratic these decisions are (when made against the wishes of the majority of the population) it becomes apparent that political elites either act against public opinion or with public opinion due to the presence or absence of incentives to do so.

III. Theoretical framework

While theories about punishment have traditionally been based on approaches seeing punishment as a response to threatening social conditions, a strategy of oppression by the upper classes (Greenburg

2008, 296) or more recently as having cultural roots, this paper will use a rational choice approach. The rational choice approach is useful for examining state policy toward the death penalty as it allows us to focus on how the main actors (political elites) arrive at decisions about the death penalty. We can do this by examining how action taken by elites is affected by preference and constraints they face. Who benefits from the existence of the death penalty and what are the costs and incentives for political elites in abolishing the death penalty? We must bear in mind that the decisions made by elites are based on rational calculations and these are influenced by specific analysis of both international and domestic factors. Demand for punishment in the political marketplace may be caused by political actors seeking to advance their political careers or exploiting public sentiment to advance their own agendas (for example, by deflecting attention from socio-economic insecurities) (Sarat and Boulanger 2005, 7). Thus politicians may seek to introduce policies that are against the wishes of the public when they have enough incentives to do so, whether these incentives are psychological, financial or political. If the incentives outweigh the costs, then it will be in their interests to act however if the opposite is the case, then they will not act.

Thus political decision-making is viewed not as being driven by public good, but rather as an aggregation of private decision-making (See Buchanan and Tullock 1962). Conflicting interests can be reconciled by different parties when the benefits are seen to outweigh the costs, and these parties can work together to accomplish certain common goals. Thus in order to ease agreement between conflicting individuals or groups, there must be some kind of exchange or trade (known as side-payments or log-rolling) whereby it becomes in the interest of those groups to cooperate and agree to the proposal (Buchanan and Tullock 1962, 2-5).

This paper will seek to show that politicians advocating the abolition of the death penalty in Taiwan want to introduce a policy

that conflicts with the overall desires of the general public because of the incentives that they can gain from this policy. However, because at the same time they are constrained by costs such as public opinion, in order to achieve their goal of abolition, they have adopted the gradual strategy of consensus building and legislative change in order to try to bring about unanimity prior to all-out policy change. Conversely, while political elites in Singapore, because of the authoritarian nature of the government, could easily introduce policies conflicting with the overall desires of the public, they have chosen not to because it is not in their interest to do so. Their need to support the death penalty as a tool of political repression and mechanism of state power and control gives them little incentive to abolish capital punishment.

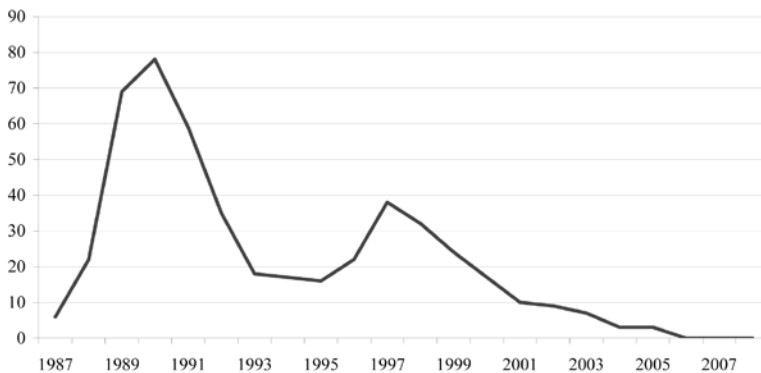
IV. The Case of Taiwan

Over the last decade, the DPP government under Chen Shuibian (陳水扁) (2000-2008), focused on bringing the issue of the death penalty into the public eye. After his election victory, in May 2000, Chen Shuibian's 'State Built on Human Rights' policy (人權立國) was inaugurated, and this included the stated goal of the "gradual abolition of the death penalty (Liao 2008, 158)." The government also published a 'Human Rights Policy White Paper' in 2001 that put forth the idea that mandatory death sentences "in various statutes..... [would be replaced] with discretionary death sentences while reducing the overall number of crimes calling for death sentences" as well as promising to gradually move towards total abolition (Liao 2008, 158). Subsequently, despite high public support for the death penalty (see Table 2 following), Justice Minister Chen Dingnan (陳定南) stated publicly that he hoped to bring an end to capital punishment during his term in office. He also expressed his desire to treat the abolition of capital punishment as a major policy issue to be promoted gradually over the next three years (Amnesty International 2001).

In October of 2001, Taiwan's legislature approved revisions to the island's military code of justice, and reduced the number of offenses liable for mandatory death sentences from 44 to two (Hood 2002, 46). The next year also saw the number of offenses requiring the mandatory death penalty reduced. When the law requiring the death penalty for kidnapping, gang robbery and other violent crimes was abolished, the Justice Ministry hailed this as a crucial step on the road to abolition of capital punishment. It should be noted however that at this time the death penalty was still mandatory for approximately 60 offences and optional for another 96 offenses (Hood 2002, 46).

The government's efforts were successful in reducing the execution rate from a high of 78 in 1990 to zero in 2006 (Liao 2008, 153) (See Table 1 following). Liao argues that the major factors for the reduction in executions were legal ones, including the annulment or amendment of laws, changes in criminal procedures and the establishment of guidelines for executions, amongst others (Liao 2008, 153). This strategy was quite successful in reducing the number of executions however a number of prisoners still remain on death row under sentence of death.

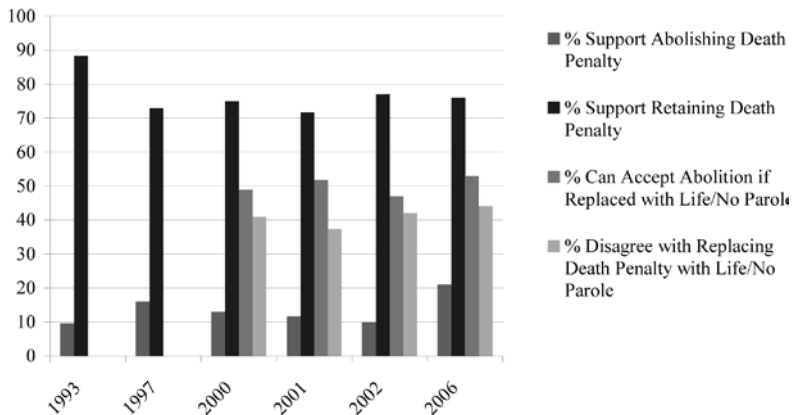
Table 1. Number of executions in Taiwan (1987-2007)



Source: Liao (2008, 154).

Despite high levels of public opinion in favor of the death penalty (see Table 2 following), the DPP government continued to amend legislation with the aim of restricting the ambit of capital punishment. In 2005 the parliament passed a revised law restricting capital punishment and exempting people under age 18 or above age 80 from the death penalty. In February 2005 a new act replacing the mandatory death penalty with discretionary death penalty was promulgated, which also raised the upper limits of sentences and the parole threshold for life imprisonment. At this time, President Chen suggested that capital punishment be replaced with a life sentence without parole and in September of that year he again vowed to abolish the death penalty, stating that the criminal code needed to be revised further to pave the way for the eventual complete abolishment of capital punishment in Taiwan. He also stated his desire to see the death penalty to be used sparingly ahead of complete abolition (Office of the President ROC (Taiwan) 2007b).

Table 2. Levels of Public Support for the Death Penalty in Taiwan (1993-2006)



Source: Compiled by author.

In December 2005, Justice Minister Shih Maolin (施茂林) spoke of his plans to introduce a conditional moratorium on the death

penalty as part of preparation for complete abolition (Deutsche Presse-Agentur 2005). He said that Taiwan was studying the possibility of following China's example of issuing a "death penalty with two years' suspension" to give criminals a chance to repent and have their sentences changed to life imprisonment. The next year, 2006, the Justice Minister came under intense pressure not to execute prisoner Chong Deshu (鍾德樹). He wrote to Amnesty International during this time to state his intention to "give serious thought to your suggestion not to carry out any executions over the coming months." He stated: "We must say we agree with you completely that the reliance on the death penalty as a method of crime control is illusory. We also believe that execution is not the answer" (Amnesty International 2006). Ultimately the execution was not carried out after intense lobbying by NGOs and international pressure, which led to 2006 being declared an execution-free year. Thus an unofficial moratorium existed until Chen stepped down from power in 2008, during which time he continued to reaffirm his commitment to international human rights experts to the 'phasing out' of the death penalty (Office of the President ROC (Taiwan) 2007a).

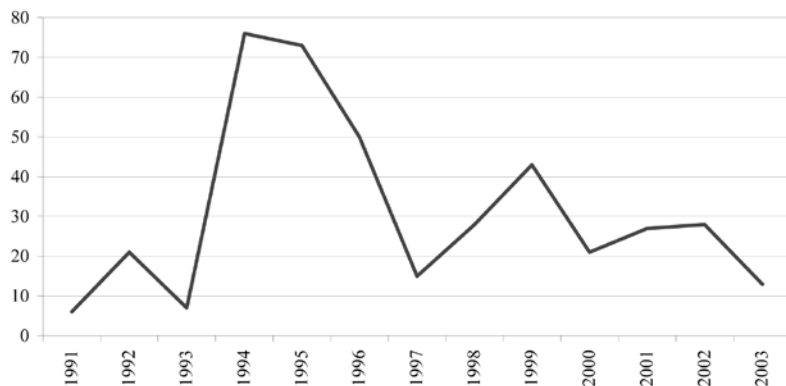
2008 saw the KMT party led by Ma Yingjiu (馬英九) achieve victory in the presidential election, and the new Justice Minister (Wang Chingfeng 王清峰) quickly expressed her support for abolishing the death penalty, amidst a storm of public protest (China Post 2008). While she had long advocated the abolition of capital punishment, she later tempered her statements saying that she would pursue a gradual approach towards abolition. Not long after assuming power as president, Ma Yingjiu made statements about death penalty abolition, stating that "although reducing the number of state executions was desirable, more education and legal revisions would be required to make it a reality" (Taipei Times 2008). Thus it seemed likely that the new government would pursue a gradual approach based on public consensus and public education. This was indeed the case until May 2010 when newly-appointed Justice Minister,

Tseng Yung-fu signed the death warrants of four prisoners. This flurry of executions took place only five weeks after the resignation of Wang Chingfeng who resigned amidst political turmoil over her continued refusal to carry out death sentences (Focus Taiwan 2010).

V. Singapore

Singapore, a tiny country well-known for having one of the highest rates of executions in the world, has been ruled by the People's Action Party since independence from Britain. It retains the death penalty despite frequent international criticism which is heightened during high profile cases such as the execution of foreign nationals. International condemnation has meant that the death penalty is a sensitive subject for the government and executions are surrounded by secrecy. The government does not publish official statistics and there is strict government control over the media which results in little public debate about the death penalty. Amnesty International has expressed concern about Singapore due to the lack of information issued on executions, the number of executions and the processes.....which might feed a public debate and a higher level of public scrutiny about what is actually happening (Tan 2002).

Table 3. Number of Executions in Singapore (1991-2003)



Source: Amnesty International (2004).

The penal code provides for the death sentence for at least ten different offences with murder, attempted murder or endangering a person's life during an act of piracy and "offences against the President's person" carrying a mandatory death sentence. In addition the Misuse of Drugs Act provides for a mandatory death sentence for at least 20 different drug offences, the Internal Security Act stipulates the death sentence for offences involving firearms, ammunition or explosives; the Arms Offences Act provides for a mandatory death sentence for anyone, using firearms or trafficking in arms while the Kidnapping Act provides for the death penalty for kidnapping for ransom (Amnesty International 2004).

Because many of these death sentences are mandatory, the judges involved are prevented from taking mitigating circumstances into account which can result in arbitrary decisions. Where these decisions involve foreign nationals, this can result in an international furor such as happened in 1995 with the controversial execution of a Filipino domestic worker, Flor Contemplacion. She was sentenced to death for the murder of a fellow Filipino domestic worker and her employer's child despite serious doubts about the fairness of her trial. And in 1995, when Macau-born Angel Mou Puipeng was executed, after being granted a short stay of execution to spend Christmas with her 9-year-old son, the Governor-General of Macau describing it as "revolting". However, Singapore political elites seem oblivious to international condemnation, denying that the death penalty is a human rights issue. In September 2003, Prime Minister Goh Chok Tong stated in an interview that there had been "in the region of 70 or 80 executions" so far that year, but he didn't know the precise number because he "had more important things to worry about" (Amnesty International 2004). He later amended his statement saying that only 10 people had been executed.

The PAP government is able to keep a tight control over the judiciary through the use of short-term appointments that may or may not be renewed at government discretion. In addition, the

authoritarian government prevents the growth of autonomous political associations thereby strictly controlling civil society and political pluralism. Those that are perceived to act against the state run the risk of having their citizenship (by registration or naturalization) revoked and being deported under the Banishment Act (Tremewan 1994, 209). NGOs such as the Think Centre and parliamentarians have sought to raise awareness about death penalty abolition but they remain isolated voices. When J.B. Jeyaretnam (a parliamentarian and human rights campaigner) sought to raise debate in parliament about the imminent execution of a prisoner, the Minister for Law and Home Affairs prevented discussion of the issue, and the execution took place as scheduled two months later (Amnesty International 2004). Thus the government, through its strict control of both institutions of the state and civil society, prevents debate about the death penalty, ensuring its status as a non-issue in Singapore.

The government has justified its continued use of the death penalty by citing its effectiveness in lowering the crime rate providing “a safe and crime-free environment..... to tourists and investors.”² Singapore’s strong pro-death penalty stance at last year’s November UN General Assembly vote on a draft resolution calling for an end to the death penalty, was widely condemned but this stance seems unlikely to change in the future. Sinapan Samydorai, manager of the Think Centre, has stated that “it remains an uphill battle to abolish the death penalty” in Singapore (Kuppsuamy 2007).

VI. Discussion of findings

The differences between attitudes to the abolition of the death penalty in Singapore and Taiwan are clear-cut. In Singapore, death penalty abolition remains an unlikely event while the PAP government remains in power. In Taiwan however, the DPP

² Prof. S Jayakumar, Minister for Law and Foreign Affairs, 12 April 2000.

government under Chen Shuibian was committed to a policy emphasizing human rights and death penalty abolition and was working towards this goal. While Taiwan is not a member of international organizations such as the United Nations due to its political status, it has still proved sensitive to international pressure to abolish the death penalty (for example by the EU or the UK).³ In addition, international human rights bodies and NGOs including Amnesty International and the FIDH (the International Federation of Human Rights) have also applied pressure by issuing statements criticizing Taiwan for its high execution rate, the high number of offences carrying the mandatory death penalty and the need to upgrade human rights safeguards.

The Taiwanese government thus views international approval as a way to help Taiwan achieve recognition on the world stage and contribute to a positive international image. This is a strong incentive for political elites to engage with death penalty abolition. Many in the DPP are generally seen to be in favor of abolishing the death penalty, and bringing Taiwan in line with the global trend of abolition.⁴ DPP politicians such as legislator Chen Ching-chun (陳景峻) (one-time ruling Democratic Progressive Party whip at the Legislative Yuan) in 2003 praised efforts of the government to introduce human rights legislation banning the death penalty, lauding it as a great step forward that would bring Taiwan into line with other civilized countries. And 2008 saw Frank Hsieh (謝長廷), the DPP presidential candidate, expressing his desire that Taiwan could be the first country in Asia to abolish the death penalty in line with the international norm.

Conversely Singapore resists abolishing the death penalty because it regards its criminal justice system as “a matter of national sovereignty reflecting their cultural and religious values

³ Interview with Chen Hsinmin (陳新民), 10/06/08.

⁴ Interview with Lin Hsinyi (林欣怡), TAEDP, 28/05/08.

and reject arguments that judicial executions are an infringement of basic human rights” (Hood 2002, 18). Thus they affirm their sovereign right to use penalties which they believe to be appropriate in combating crime effectively. Thus, instead of conforming to international norms regarding the death penalty, Singapore resists the legitimacy of human rights by asserting her sovereign rights. According to Lee Kuan Yew “certain liberties in a developing nation sometimes have to be sacrificed for the sake of economic development and security and to prevent communist oppression” (Tremewan 1994, 190). Under an authoritarian government, political elites in Singapore are not motivated to seek international approval, believing continued economic success to be more important than their global human rights image.

In Taiwan, pressure from domestic NGOs such as the Taiwan Alliance to End the Death Penalty (TAEDP) has also influenced government attitudes towards the death penalty. Since Taiwan’s democratization many NGOs and human rights groups have sprung up and have the political freedom to pressure politicians for change. Thus politicians feel more need to take public opinion into account. Indeed, Chen Shuibian’s pre-election promise to abolish the death penalty was taken partly in light of maintaining the support he received from many of these new human rights advocacy groups as much as his own personal desire to abolish capital punishment.⁵ As we have seen, this is not the case in Singapore, where the government actively works to suppress domestic NGOs and harass those who speak out against government policy. There is little public space to formulate opposition and debate about the death penalty thus the government is immune from public protest.

However, we must also bear in mind that the goals of Taiwanese political elites regarding death penalty abolition have encountered obstacles. The DPP government’s attempts to legislate

⁵ Interview with Lin Hsinyi (林欣怡), 28/05/08.

against the death penalty were stymied by opposition politicians from the TSU and KMT parties who expressed reservations about abolition, citing the existence of rampant crime and public support in favor of the death penalty as their justification (Central Taiwan News Agency 2003). It is important to note that the death penalty holds crucial symbolic value of a government's willingness to fight crime, thus moves towards abolition are easily attacked by the opposition (Sarat 2001, 17). The DPP government remained wary about voter backlash thus they adopted the strategy of working gradually towards public consensus before proceeding to abolition. In December 2007, the Ministry of Justice expressed its intent to solicit views from all sectors of society on the issue of whether to abrogate capital punishment (Central Taiwan News Agency 2007). This goal was echoed by President Chen that year who also expressed similar intent to forge a consensus among the public prior to the actual abolishment of the death penalty. Local prosecutors and social activists also agreed that a complete set of coping measures should be worked out before the government moved to phase out the death penalty.

More recently, the former Justice Minister (Wang Ching-feng 王清峰) seemed to be pursuing a similar approach, taking into advisement a study undertaken by Academia Sinica regarding the abolition of the death penalty. The report made several key recommendations including that capital punishment be replaced with a special life sentence with very strict parole provisions and also the use of referendum to be used as a tool for public education and discussion.⁶ After her appointment in May 2008 as Justice Minister, Wang quickly expressed her support to abolish the death penalty, stating that although opinion polls show that most local people still oppose abolition, it was a prevailing trend in the international community. She also cited the results of local opinion polls as showing that if appropriate complementary measures (such

⁶ Written by Chen Hsin-min (陳新民) of the Institutum Jurisprudentiae.

as imposing life sentences and setting a stricter threshold for parole) are introduced, the ratio of opponents to the abolition of the death penalty would be lowered substantially. Whether this more nuanced view of public opinion polls will give more room for legislative opposition to the death penalty remains to be seen (Whitehead, Blankenslip, and Wright 1999, 257). It is unclear at this point whether the new Justice Minister, Tseng Yung-fu, will continue to sign death warrants, but he has reiterated that gradual abolition remains a goal of the government.

In Taiwan, impediments to achieving the goal of abolition (such as strong public support for the death penalty) have led to a government approach of trying to achieve social consensus prior to abolishing capital punishment. Thus both the DPP government (2000-2008) and the subsequent KMT government (2008-) have adopted similar approaches by signaling their reluctance to proceed without more public support. Over the years, government spokespersons have consistently stated that the government intends to abolish the death penalty “when social conditions and public opinion favor such a move (Hood 2002, 47)” thus a gradual approach to abolition is seen as necessary to avoid the fall-out they fear would result from rapid moves towards abolition in the face of strong public opposition. It is apparent then that politicians seek to balance the conflicting demands of international and domestic forces. Political elites continue to advocate the gradual abolition of the death penalty in order to improve Taiwan’s international status, despite the fact that this policy conflicts with the overall desires of the general public. However, a gradual strategy of consensus building and legislative change is called for due to the constraining force of public opinion.

In contrast, Singaporean political elites see use of the death penalty in Singapore as “part of a wider effort to enforce a culture of developmentalism designed to underpin a postcolonial project of nation-building..... [thus] defining the bounds of acceptable behavior

or conduct..... and eliminating those that do not submit to its vision of the Singapore nation” (Oehlers and Tarulevicz 2005, 292-93). The authoritarian government has concentrated on the twin goals of rapid economic development and modernization at the expense of human rights or international norms regarding the death penalty. Thus “societal order and stability bolstered by universal ‘Asian values’” is emphasized and politicians who speak out against government policy are quickly silenced (Hilsdon 2000, 182). The twin goals of modernization and political stability are promoted through the enactment of restrictive laws and severe punishments. Thus political elites operating in an authoritarian regime such as Singapore, who are much less constrained by public opinion, retain the death penalty because it is in their interest to do so. It serves an essential role as a tool of political repression, and a mechanism of state power and control. This combined with the low priority afforded to Singapore’s international human rights image gives elites little incentive to abolish capital punishment.

VII. Conclusion

It has been seen that politicians advocating the abolition of the death penalty in Taiwan act to introduce a policy that conflicts with the overall desires of the general public because of the incentives that they can gain. These incentives may include improving Taiwan’s international image in the light of Taiwan’s political isolation, achieving their personal goals of abolition and improving the legitimacy of the government by distinguishing it from Taiwan’s authoritarian past. These incentives outweigh the costs of not acting thus they pursue abolition. However, because at the same time they are constrained by the high costs of public opinion, in order to achieve their goal of abolition, they have adopted a gradual approach in order to bring about unanimity prior to all-out policy change.

Conversely, political elites in Singapore do not have any incentives to abolish the death penalty and legitimize their continued

support of the death penalty on the need for public order and Asian values. Thus the belief is held that international human rights must be subordinated to the needs of the developmental state. The primacy of economic development combined with the authoritarian nature of the government means that abolition of the death penalty is not a priority. Rather, continued support of the death penalty is essential for political repression and maintaining state control.

Thus, we can see the contrast between Singapore's self-confidence in exercising its sovereignty, and Taiwan's continued isolated from international society. This isolation gives Taiwan a much stronger incentive to use the death penalty as a means to attract attention and acknowledgement from the international community. However, since bluntly abolishing the death penalty might encounter strong political opposition, the Taiwanese government has pursued this goal using a silent approach. That is, administrative means such as stopping approval of executions are pursued rather than enacting formal, symbolic legislation. In this way, politicians and ruling party also benefit from gaining a reputation for good human rights records without triggering heated debates on this issue.

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References

- Amnesty International. 2001. "Taiwan: Death Penalty/Legal Concern/Fear of Imminent Execution." <http://www.amnesty.org/en> (October 8, 2010).
- Amnesty International. 2004. "Singapore: The Hidden Toll of Executions." <http://www.amnesty.org/en/library/info/ASA36/001/2004> (July 5, 2010).
- Amnesty International. 2006. "Taiwan: Imminent Execution: Chong Deshu." <http://www.amnestyinternational.org.en> (September 7, 2010).
- Amnesty International. 2010. "Abolitionist and Retentionist Countries." http://www.amnesty.org/en/death_penalty (October 8, 2010).
- Bae, S. 2007. *When the State No Longer Kills: International Human Rights Norms and Abolition of Capital Punishment*. New York, NY: State University of New York Press
- Bienen, Leigh B. 1999. "What We Write About When We Write About the Death Penalty." *The Journal of Criminal Law and Criminology* 89(2): 751-70.
- Buchanan, James M., and Gordon Tullock. 1962. *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor, MI: University of Michigan Press.
- Central Taiwan News Agency. 2003. "Taiwanese Parties React to Draft Human Rights Bill." <http://www.focustaiwan.com.tw> (July 5, 2010).
- Central Taiwan News Agency. 2007. "Justice Ministry to Solicit

- Views on Scrapping Capital Punishment.” <http://www.focustaiwan.com.tw> (July 5, 2010).
- China Post. 2008. “Serene Thoughts on the Death Penalty.” <http://www.chinapost.com.tw> (September 7, 2010).
- Costanzo, M. 1997. *Just Revenge: Costs and Consequences of the Death Penalty*. New York, NY: St. Martin’s Press.
- Deutsche Presse-Agentur. 2005. “Taiwan Mulls conditional Moratorium on the Death Penalty.” <http://www.mail-archive.com/deathpenalty@lists.washlaw.edu/msg04128.html> (October 8, 2005).
- Focus Taiwan. 2010. “Rights Groups Condemn Taiwan’s Executions.” <http://www.focustaiwan.tw> (October 15, 2010).
- Garland, David. 1990. *Punishment and Modern Society: A Study in Social Theory*. Chicago, IL: University of Chicago Press.
- Greenberg, David F., and Valerie West. 2008. “Siting the Death Penalty Internationally.” *Law and Social Inquiry* 33 (2): 295-343.
- Hilsdon, Anne-Marie. 2000. “The Contemplacion Fiasco: The Hanging of a Filipino Domestic Worker in Singapore.” In *Human Rights and Gender Politics: Asia-Pacific Perspectives*, eds. Anne-Marie Hilsdon, Martha Macintyre, Vera Mackie and Maila Stivens. London, England: Routledge.
- Hood, R. 2002. *The Death Penalty: A Worldwide Perspective: A Report to the United Nations Committee on Crime Prevention and Control*. Oxford, England: Oxford University Press.
- Jacobs, David, and Jason T. Carmichael. 2002. “The Political Sociology of the Death Penalty: A Pooled Time-Series

- Analysis.” *American Sociological Review* 67 (1): 109-31.
- Kuppsuamy, B. 2007. “Death Penalty: Singapore: Stand at UN Leaves Many Angered.” *IPS News* (December 3).
- Liao, Fort Fu-te. 2008. “From Seventy-eight to Zero: Why Executions Declined after Taiwan’s Democratization.” *Punishment and Society* 10 (2): 153-70.
- Neumayer, Eric. 2008. “Death Penalty: The Political Foundations of the Global Trend towards Abolition.” *Human Rights Review* 9 (2): 241-68.
- Oehlers, Alfred, and Nicole Tarulevicz. 2005. “Capital Punishment and the Culture of Developmentalism in Singapore.” In *The Cultural Lives of Capital Punishment: Comparative Perspectives*, eds. Austin Sarat and Christian Boulanger. Stanford, CA: Stanford University Press.
- Office of the President ROC (Taiwan). 2007a. “President Chen Meets World Coalition against Death Penalty Founder Mario Marazziti.” <http://english.president.gov.tw> (June 24, 2010).
- Office of the President ROC (Taiwan). 2007b. “Presidential Office’s Response to the ‘Abolition of Death Penalty’ Issue.” http://www.president.gov.tw/en/prog/news_release/ (October 8, 2010).
- Sarat, Austin. 2001. *When the State Kills: Capital Punishment and the American Condition*. New Jersey, NJ: Princeton University Press.
- Sarat, Austin, and Christian Boulanger, eds. 2005. *The Cultural Lives of Capital Punishment: Comparative Perspectives*. Stanford, CA: Stanford University Press.

- Taipei Times. 2008. "More Work Needed before Abolition of Death Penalty: Ma." <http://www.taipeitimes.com.tw> (September 7, 2010).
- Tan, Amy. 2002. "Singapore Death Penalty Shrouded in Silence." *Reuters* (April 12).
- Tremewan, C. 1994. *The Political Economy of Social Control in Singapore*. New York, NY: St. Martin's Press.
- Whitehead, John T., Michael B. Blankenship, and John Paul Wright. 1999. "Elite versus Citizen Attitudes on Capital Punishment: Incongruity between the Public and Policy-makers." *Journal of Criminal Justice* 27 (3):249-58.
- Zimring, Franklin E. 2003. *The Contradictions of American Capital Punishment*. Oxford, England: Oxford University Press.
- Zimring, Franklin E., and David T. Johnson. 2008 "Law, Society and Capital Punishment in Asia." *Punishment and Society* 10 (2): 103-04.

Appendix: Interviews

- Chen Hsinmin (陳新民), Research Professor, Constitutional Law, Institutum Jurisprudentiae, Academia Sinica, 10/06/08.
- Liao, Fort Fu-te (廖福特), Associate Research Professor, Human Rights Law, Institutum Jurisprudentiae, Academia Sinica, 25/06/08.
- Lin Hsinyi (林欣怡), Taiwan Alliance to End the Death Penalty (廢除死刑推動聯盟), 28/05/08 and 05/06/08.

國家造成的死亡： 台灣與新加坡死刑政策的比較

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摘要

本文探討在民意仍支持死刑的狀況下，為何有些國家以某種形式放棄死刑，有些則否。本研究以台灣與新加坡為案例，展示不同國家如何處理此一極富爭議的議題。相對於新加坡以高度自信的方式行使國家主權，台灣在相對孤立的國際關係情勢下，有更強的動機利用此一議題爭取國際認同。為避免修法帶來激烈的民意反彈，陳水扁政府以技術性的、停止核准死刑執行的方式，低調地達到廢除死刑及爭取國際支持的目的。

關鍵詞：人權、民主化、民意