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Cross-National Variability in Capital Punishment

Exploring the Sociopolitical Sources of Its Differential Legal Status

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Guided by existing macrolevel theories on punishment and society, the present study explores the independent and conjunctive effects of measures of sociopolitical conditions on the legal retention of capital punishment in 185 nations in the 21st century. Significant correlations are found between a nation's retention of legal executions for ordinary crimes and its level of economic development, primary religious orientation, citizens' voice in governance, political stability, and recent history of extrajudicial executions. Subsequent multivariate analyses through qualitative comparative methods reveal substantial context-specific effects and wide variability in legal retention even within countries with similar sociopolitical structures. These results are then discussed in terms of their theoretical implications for future cross-national research on punishment and society.

Keywords: *capital punishment; cross-national trends; sociopolitical predictors*

Social scientists have long been interested in the relationship between state-imposed punishment and the structure of society. The apparent change from repressive to restitutive sanctions as societies become more advanced is a basic premise in Durkheim's (1893/1939) theory of social integration and more recent theories about law and societal development (e.g., Black, 1978; Nonet & Selznick, 1978). Similar themes about state punishments and their social context are found in the writings of Michel Foucault (1977), Norbet Elias's (1939/1978) ideas about the growth of "civilizing sensibilities," conflict theories of social order (see Chambliss & Seidman, 1982), and modern applications of the principles of restorative justice as a punishment philosophy (see Braithwaite, 1999).

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Of the different types of state sanctions in contemporary society, capital punishment has received wide attention from academics and international human rights organizations (e.g., Amnesty International, Human Rights Watch). Many of the world leaders, such as Pope John Paul II, have called on all nations to abolish the death penalty, whereas head governmental officials in the United States and China have remained steadfast in their support of capital punishment. Previous research has documented the global distribution of capital punishment across world regions, the methods of execution, and the prevalence of lethal punishments in particular countries. Less research, however, has examined social, political, and economic variability in the retention and abolition of capital punishment.

Using existing theories of punishment and society for a conceptual framework, the present study explores sociopolitical variation in the current legal status of capital punishment in 185 nations. We examine the unconditional and net effects of religiosity, economic development, citizens' voice, political stability, and extrajudicial violence on the likelihood of a nation's retention of legal executions for ordinary crimes. Qualitative comparative methods are then used to explore the nature of variability in death penalty laws among nations with similar sociopolitical structures. The results are then discussed in terms of their theoretical implications for future cross-national research on punishment and society.

Global Trends In Capital Punishment Laws

State-sponsored executions have been a major form of corporal punishment throughout history. However, the social and legal acceptance of the death penalty, as well as the means of inflicting death and the execution process, has changed dramatically across countries throughout time (see, for review, Hood, 2002; Miethe & Lu, 2005; Simon & Blaskovich, 2002). Although variability exists within and across world regions, the primary trend in modern times involves a global movement toward the abolition of capital punishment in both law and practice.

As of January 2005, Amnesty International reports that 83 countries have abolished capital punishment for all crimes and 13 other countries have abolished it for ordinary crimes only (but retain it for crimes under military law or for crimes committed under exceptional circumstances). Another 22 countries are abolitionist in practice (because they have not executed anyone in the past 10 years), and 78 countries in the world have retained the use of the death penalty. Combining these three types of abolition indicates that the majority of countries in the 21st century have now eliminated the death penalty for ordinary crimes by law or practice. This pattern is in sharp contrast to the mid-1960s, when less than 25 countries were identified as having abolished capital punishment for these crimes (Hood, 1996; Miethe & Lu, 2005).

Patterns of retention and abolition of capital punishment vary widely across world regions. As shown in Table 1, the Middle East is the world region with the highest concentration of countries that legally retain the death penalty for ordinary crimes. In fact, Israel is the only country in this region that has abolished capital punishment, but it is even permitted here for "exceptional crimes" committed during wartime (see Amnesty International, 2002a). Iran, Saudi Arabia, and Iraq are among the leading countries of the world in terms of their annual volume of legal execution (see Amnesty International, 2003; Hood, 2002; Miethe & Lu, 2005).

Table 1
Death Penalty Across World Regions

Region	Legal Status of Death Penalty (a = abolitionist; r = retentionist)	% Retain
Middle East	a: Israel; r: Bahrain, Iran, Iraq, Jordan, Kuwait, Lebanon, Oman, Palestinian Authority, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen	93 (13/14)
Caribbean	a: Dominican Republic, Haiti; r: Grenada, Antigua-Barbuda, Bahamas, Barbados, Cuba, Dominica, Jamaica, St. Kitts-Nevis, St. Lucia, St. Vincent- Grenadines, Trinidad-Tobago	85 (11/13)
Asia	a: Bhutan, Cambodia, East Timor, Nepal, Turkmenistan; r: Afghanistan, Bangladesh, Brunei-Daussalam, China, India, Indonesia, Japan, Kazakhstan, Korea (North), Korea (South), Kyrgyzstan, Laos, Malaysia, Maldives, Mongolia, Myanmar, Pakistan, Philippines, Singapore, Sri Lanka, Taiwan, Tajikistan, Thailand, Uzbekistan, Vietnam	83 (25/30)
Africa	a: Angola, Cape Verde, Côte d'Ivoire, Djibouti, Guinea-Bissau, Mauritius, Mozambique, Namibia, Sao Tome-Principe, Senegal, Seychelles, South Africa; r: Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central Africa Republic, Chad, Comoros, Congo (Republic), Congo (Democratic Republic), Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Libya, Liberia, Madagascar, Malawi, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Sierra Leone, Sudan, Swaziland, Tanzania, Tunisia, Togo, Uganda, Zambia, Zimbabwe	79 (41/52)
North America	a: Canada, Mexico; r: United States.	33 (1/3)
Central America	a: Costa Rica, El Salvador, Honduras, Nicaragua, Panama; r: Belize, Guatemala	29 (2/7)
Oceania	a: Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia, New Zealand, Palau, Samoa, Solomon Islands, Tuvalu, Vanuatu; r: Nauru, Papua New Guinea, Tonga	20 (3/15)
South America	a: Argentina, Bolivia, Brazil, Chile, Columbia, Ecuador, Paraguay, Peru, Uruguay, Venezuela; r: Guyana, Suriname	17 (2/12)
Europe	a: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Bosnia-Herzegovina, Croatia, Czech Republic, Cyprus, Denmark, Estonia, France, Finland, Georgia, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, Vatican City; r: Belarus, Russian Federation	4 (2/46)

SOURCE: Amnesty International (2003).

Caribbean countries represent the second most concentrated world region for the retention of legal executions. More than three fourths of these countries currently retain capital punishment in law. The majority of nations within both Asia and Africa also retain capital punishment. Retentionist practices are the dominant trend within all geographical regions of Asia, whereas variation in the availability of legal executions for ordinary crimes exists across regions of Africa (e.g., Western Africa countries have higher rates of abolition than countries in Northern Africa).

Less than one half of the nations in the other world regions have retained capital punishment in the 21st century. Almost all countries in Europe and South American have legally

abolished the death penalty. About one third of the countries in North America and Central America still use the death penalty.

Theoretically Based Predictors of Legal Abolition

Previous research has identified several factors that may account for the variation in the legal abolition of the death penalty within and across world regions. The theoretical relevance of particular sociopolitical factors in explaining variation in the legal availability of capital punishment is examined below.

Economic Development and Societal Complexity

Most theories of law and society assume that criminal sanctions are directly linked to societal complexity and economic development. The presumed movement from repressive to restitutive sanctions with increasing socioeconomic development is a basic tenet of functionalist theories of social integration (e.g., Durkheim, 1893/1933), theories of legal evolution (e.g., Nonet & Selznick, 1978), and the reemergence of the principles of restorative justice in modern societies (see Braithwaite, 1999). Black's (1978) theory about the quantity of law suggests increasing use of formal social control with rising economic development, whereas conflict theories of social order assert that repressive sanctions continue to be used even in advanced societies to maintain ruling-class interests and to eliminate minority group threat (see Chambliss & Seidman, 1982; Ruddell, 2005; Rusche & Kirchheimer, 1939/1968).

Several additional theoretical arguments have direct relevance to the prevalence, methods, and forum for capital punishment in modern and industrializing societies. For example, contemporary applications of Norbert Elias's (1982) idea of "civilized sensibilities" (see Colvin, 1997; Garland, 1990) suggest that growing inhibitions about violence, aggression, and open displays of basic desires may change the frequency of use of capital punishment, the method of execution (e.g., away from physically disfiguring methods to gas chambers and lethal injections), and its forum (e.g., from public to private settings). Similarly, Michel Foucault (1977) contends that the wide reach and totality of controls over body and soul in modern, disciplinary societies render public punishments and state-sponsored executions largely outdated and unnecessary for purposes of social control.

Previous cross-national studies yield somewhat mixed results about the relationship between repressive sanctions (e.g., imprisonment, death sentences) and socioeconomic development. For example, Ruddell (2005) found no significant net impact of level of modernization on imprisonment rates among the richest 100 nations of the modern world. Based on the bivariate relationship, however, nations that retained capital punishment exhibited lower levels of socioeconomic development. Other studies of criminal penalties and economic development find more repressive sanctions in less developed countries, but various countries are clear exceptions to this pattern (e.g., highly developed countries, such as the United States and Japan, that retain the death penalty), and the magnitude of the relationship between criminal sanctions and development is relatively weak (see, for reviews, Neapolitan, 2001; Ruddell, 2005).

Religion

Religion is an important social institution that is associated with variation in the use of capital punishment across world regions. In fact, each major religion provides a moral and philosophical context to justify the secular retention of capital punishment.

The principles of Islamic faith and law establish a path to follow for Muslims. Under Islamic law (i.e., *Shari'a*), punishment for the seven *hudud* crimes (i.e., adultery, defamation, drinking alcohol in public or private, theft, highway robbery, apostasy, and corruption of Islam) must be harsh and swift because such acts violate the sanctity of God and threaten the integrity of society (see Lippman, McConville, & Yerushalmi, 1988). Accordingly, adultery by a married person requires death by stoning, and apostasy by males is punished by beheading. Countries with large Muslim populations also represent world regions with the highest retention of capital punishment in the 21st century (i.e., Middle East, North Africa, and Central Asia).

Both Judaism and Christianity have their basis in the biblical and Mosaic law of the Old Testament. Within both religious traditions, different interpretations of scriptures are possible to offer support and opposition for the use of the death penalty. For example, support for capital punishment in Judaism is found in the Torah, which explicitly prescribes the death penalty for certain offenses and describes the "eye-for-eye" rationality for punishment in several passages in the Pentateuch (see Simon & Blaskovich, 2002). Christian support also derives from a similar retributive basis, whereas opposition to capital punishment within this religion is related to beliefs about providing the repentant sinner the opportunity for redemption. Although conflicting theological positions still exist among Christians, most major denominations now oppose the death penalty (see House & Yoder, 1991; Simon & Blaskovich, 2002).

Punishment in Buddhism is restricted to the purpose of protecting society from further criminal activity and should be administered in the spirit of compassion. The goal of punishment from this religious perspective is to help offenders correct their path of life by providing the chance for good thoughts and deeds that would compensate for the bad karma they earned from their wrongful conduct, desires, and passions. Consistent with its core principles of compassion and human malleability, Buddhism is not a religion that would widely endorse or support the death penalty.

Political Conditions

According to conflict theories of social order, the nature and application of criminal sanctions is reflective of political power and the ability of particular groups to get their own interests protected by law. From this perspective, political conditions that may influence variation in nations' retention and use of capital punishment include the stability and centralization of the established government, the political rights and civil liberties of citizens, freedom of political opposition parties, and the perceived legitimacy of legal rules and process.

The relationship between political conditions and repressive sanctions is likely to be influenced by other aspects of the wider socioeconomic environment. For example, newly independent nations may use repressive sanctions and other punitive crime control strategies to enhance their political legitimacy (see Killias, 1986; LaFree, 1998; Ruddell, 2005). However, established political regimes may use these same coercive measures to maintain control and minimize any social threat to their authority. There may also be additional context-

specific effects, including the possibility that political instability may be less important in the retention of repressive sanctions when the economic order, legal structures, and other institutions of control are firmly entrenched in the society.

Most of the research on political conditions and criminal sanctions has involved longitudinal case studies rather than comparative methods. Nonetheless, the limited cross-national literature provides some evidence of a direct relationship between various political conditions and the availability of state-sponsored executions. For example, in a study of 112 nations in the 1960s, Bowers (1984) found higher political centralization to be related to a greater likelihood of having the death penalty in both developed and developing countries. In contrast, political instability was largely unrelated to this repressive sanction in both more and less developed nations, whereas political coerciveness was associated with the availability of legal executions only in the more highly developed countries in this sample. Given that capital punishment is defined as state-sponsored executions, it seems especially important to examine more fully the political context in which such criminal sanctions exist in the contemporary world.

Another aspect of the political context involves international and multinational organizations that place requirements on the membership of particular nations. Within the context of death penalty, the best illustration of these wider political forces is the European Union (EU) and the Council of Europe. EU protocol and procedures require legal abolition of the death penalty for member nations. The Council of Europe is somewhat less restrictive in its membership, permitting only a moratorium on capital punishment as an interim step for admission. Other international organizations and political entities, such as the United Nations, Amnesty International, and Human Rights Watch, further represent external sociopolitical forces that influence death penalty laws and practices in particular countries.

Extrajudicial Violence

Capital punishment involves legal executions sanctioned by the rule of law. However, there are other types of lethal sanctions (e.g., deaths in custody, genocides, political “disappearances,” paramilitary killings) that may involve either direct or tacit approval by the prevailing legal authority. These extrajudicial executions serve many of the same functions as legal executions (i.e., protect elite’s interests, reduce minority group threat).

Competing theoretical arguments are available about the expected relationship between legal and extrajudicial executions. For example, under Black’s (1978) content that the quantity of law varies inversely with the degree of informal social control, extrajudicial executions should be more commonly found in nations without legally mandated death sentences.¹ Research on symbolic reforms would suggest the same inverse relationship (see Gusfield, 1963; McCorkle & Miethe, 2001). From this perspective, the abolition of legal executions in a country may serve to pacify competing interest groups and scrutiny from the international human rights groups (e.g., Amnesty International, Human Rights Watch) without necessarily changing the prevalence of death to citizens. Alternatively, as an indicator of a general culture of violence, both legal and extrajudicial executions may widely coexist with the same nation for purposes of social control (see Amnesty International, 2003; Horowitz, 2002; Scully, 1997).

Previous research on extrajudicial killings has documented the incredible human carnage from democides, genocides, “death squads,” and other paramilitary groups (see Horowitz,

2002; Miethe & Lu, 2005). It also appears that deaths from civil strife and extrajudicial sources are more common in nations that have retained legal executions. However, how these basic patterns vary within nations with similar sociopolitical structures requires further investigation.

Research Questions

Both contemporary theories and previous empirical studies suggest that a nation's use of capital punishment is linked to the sociopolitical and economic conditions in that society. Using secondary data on 185 nations, the current study examines the direct and conjunctive effects of these conditions on whether a country has retained capital punishment in the 21st century. Qualitative comparative analysis (QCA) will identify combinations of social, political, and economic factors that define the most prevalent structural profiles for abolitionist and retentionist countries. These obtained results are then discussed in terms of their theoretical implications for future research on punishment and society.

Method

Data for this study derive from various secondary sources. Annual reports from Amnesty International (2002a, 2002b, 2003) are the primary source to identify the current status of the death penalty in 185 countries in the sample. United Nations data and other sources (e.g., Central Intelligence Agency, 2003) provided various social and economic indicators for these nations. Summary reports by the United Nations and Amnesty International also provide information on extrajudicial executions and other human rights violations. Composite indices developed by researchers at the World Bank are used to measure political conditions (see Kaufmann, Kraay, & Mastruzzi, 2003). These secondary sources have been widely used in previous research to construct socioeconomic and political measures of the primary variables in this study (see Bowers, 1984; Neapolitan, 2001; Ruddell, 2005).

Measures of Variables

The dependent variable in this study involves whether the country has legally retained capital punishment for ordinary crimes. About 53% of the countries allow for death sentences for these crimes. Although some retentionist countries have not conducted legal executions in the past 10 years, the fact that capital punishment is a possible sentence for ordinary crimes has enormous symbolic and instrumental value, even when it is not used in recent practices (see Evans, 1996).

The major independent variables involve world region, primary religion, and measures of economic development, political conditions, and extrajudicial executions. Regional classification and primary religion are based on the Central Intelligence Agency's (2003) *World Factbook* and corroborated through other sources (e.g., United Nations, Members of the Council of Europe). The nation's per capita GDP in 2000 is used as the indicator of economic development.² This variable was subsequently recoded based on natural breaks in its empirical distribution to establish low, medium, and high categories of economic development.

Our composite measures of political conditions involve two different dimensions of governance. As developed and described by Kaufmann et al. (2003, pp. 2-3), these dimensions represent the following aspects of governance:

- *Voice and accountability.* Multiple indicators of various aspects of the political process, civil liberties, and political rights that measure the extent to which citizens are able to participate in the selection of governments.
- *Political stability and absence of violence.* Multiple measures of perceptions of the likelihood that the prevailing government will be destabilized or overthrown by possibly unconstitutional and/or violent means.

These measures of political conditions were derived from multiple surveys and government indicators from 20 different sources (e.g., Gallup International, Global Insight, Freedom House).³ Nations with either high citizen's voice or political stability should exhibit greater likelihood of legal abolition because capital punishment is less important symbolically or as a repressive instrument of social control in these more firmly entrenched and democratic political structures. The greater presumed legitimacy of government in these political contexts is another reason why repressive sanctions such as the death penalty should be less common in these sociopolitical contexts.

A report by the Special Rapporteur of the United Nation's Commission on Human Rights in 1996 was the primary source for classifying countries based on their record of extrajudicial and summary killings. These data were augmented by annual reports from Amnesty International and Human Rights Watch. If countries were included in the United Nations report or had multiple years of extrajudicial killings in recent reports by human rights organizations, they were classified as having a record of extrajudicial executions.

Analysis and Results

Three separate analytic strategies were used to examine the sociopolitical predictors of the retention of capital punishment. Univariate and bivariate analysis of these data were followed by the estimation of a logistic regression model to assess the net effects of each independent variable on the legal availability of capital punishment. The method of QCA was then used to identify particular combinations of sociopolitical factors that are most representative of cross-national variability in retentionist and abolitionist practices. These results are summarized below.

Univariate and Bivariate Patterns

As shown in Table 2, the majority of countries in this study have legally retained capital punishment, and the legal status of capital punishment is significantly associated with all of the independent variables. The direction of the bivariate relationships is largely consistent with past research and current theories about cross-national variability in repressive sanctions.

Compared to their respective counterparts, the likelihood of retaining capital punishment is significantly higher for countries with each of the following characteristics: Middle East, Asia, or Caribbean regions; dominant religions other than Christianity; lower economic development; lower political "voice"; lower political stability; and recent histories of extrajudicial killings. Similar results are found when each measure of political condition is dichotomized near its mean rating to designate low and high scores on these indices.⁴

Table 2
Coding of Variables, Univariate Statistics, and Bivariate Relationships

Variable	Coding	Sample Statistics (%)	<i>n</i>	Retention		Abolition	
				<i>M</i>	%	<i>M</i>	%
Death penalty law	0 = <i>abolish</i>	47	87				
	1 = <i>retention</i>	53	98				
World region	1 = <i>Middle East</i>	7	13		92		8*
	2 = <i>Caribbean</i>	7	13		85		15
	3 = <i>Asia</i>	16	29		86		14
	4 = <i>Africa</i>	29	53		77		23
	5 = <i>North America</i>	2	3		33		67
	6 = <i>Central America</i>	4	7		29		71
	7 = <i>South America</i>	6	12		17		83
	8 = <i>Europe</i>	24	44		4		96
	9 = <i>Oceania</i>	6	11		18		82
Economic development (per capita GDP)	1 = <i>low</i>	46	85		68		32*
	2 = <i>medium</i>	39	72		46		54
	3 = <i>high</i>	15	28		25		75
Primary religion	1 = <i>Christian</i>	61	113		35		65*
	2 = <i>Islam</i>	26	49		82		18
	3 = <i>other</i>	9	16		75		25
	4 = <i>none</i>	4	7		86		14
Recent history of extrajudicial executions	0 = <i>no</i>	42	77		40		60*
	1 = <i>yes</i>	58	108		62		38
Political voice (dummy coding)	0 to 100 scale		185	34.6		65.0*	
	0 = <i>low</i> (< mean)	52	96		75		25*
	1 = <i>high</i> (> mean)	48	89		29		71
Political stability (dummy coding)	0 to 100 scale		185	40.6		60.1*	
	0 = <i>low</i> (< mean)	50	92		63		37*
	1 = <i>high</i> (> mean)	50	93		43		57

* $p < .05$.

Multivariate Analysis of the Net Effects of Sociopolitical Factors

A logistic regression analysis was conducted to evaluate the conditional impact of social, economic, and political factors on the legal status of capital punishment for ordinary crimes. The results of this analysis are summarized in Table 3.

The association between increasing economic development and legal abolition remains statistically significant even after successive controls for the nation's primary religion, history of extrajudicial executions, and various measures of political conditions. As reflected in the column marked *Odds Ratio* in Table 3, unit increases in economic development decreased by about 50% the odds of legal retention of the death penalty after controlling for other variables. Both measures of political conditions also had significant net effects on the legal status of capital punishment. Countries with greater political voice had substantially lower net risks

Table 3
Logistic Regression Results for the Legal Retention of Capital Punishment ($N = 185$)

Variable and Coding Contrast	Logit (B) Coefficient	Standard Error (SE)	Odds Ratio
Economic development	-1.67	0.28	0.51*
Primary religion			
Christian vs. none	-1.56	1.15	0.21
Islam vs. none	-0.26	1.21	0.77
Other religion vs. none	-0.08	1.29	0.92
Recent history of extralegal executions			
Yes vs. no	0.57	0.41	1.76
Political conditions			
Political voice (high vs. low)	-1.41	0.48	0.24*
Political stability (high vs. low)	0.82	0.49	2.28*
Constant (intercept)	2.27	1.23	9.67
Model $\chi^2 = 61.2$ ($df = 7$)*			
Nagelkerke $R^2 = .38^a$			

a. Nagelkerke R^2 is a measure of the overall fit of a logistic regression model that approximates the measure of explained variation (R^2) in linear regression.

* $p < .05$.

of legal retention, whereas the conditional odds of retaining the death penalty were about 2.3 times higher among more than less politically stable countries. In contrast to the bivariate results, neither primary religious orientation nor history of extrajudicial executions were significantly related to legal retention of the death penalty after we control for other measures of social, economic, and political conditions.⁵

Qualitative Comparative Analysis

The analyses thus far focused on the investigation of the unconditional and conditional effects of social, economic, and political variables treated individually. However, there are both theoretical and methodological reasons for questioning the utility of this “main effect” specification of the functional relationship between particular independent variables and death penalty practices (e.g., simplification of social reality, multicollinearity problems). The alternative is to look at the joint or conjunctive effects of these variables. The method of QCA is ideally suited for examining such conjunctive causes (for applications, see Miethe & Regoeczi, 2004; Ragin, 1987).

The QCA analysis helps identify combinations of social, economic, and political variables that are associated with retentionist and abolitionist practices. For this analysis, we explore the conjunctive effects of economic development (coded 1 = *low*, 2 = *medium*, and 3 = *high*), Christianity as the primary religion (0 = *non-Christian* and 1 = *Christian*), political voice (0 = *low* and 1 = *high*), and political stability (0 = *low* and 1 = *high*). Table 4 shows the proportion of nations that abolish capital punishment within each of these sociopolitical contexts.

Among the 20 unique combinations of these sociopolitical factors, there are relatively few structural profiles ($n = 8$) in which all nations within them either are exclusively abolitionists or retentionists. These structural profiles also represent only about one eighth (23/185) of all

Table 4
QCA Profiles of Sociopolitical Factors Associated
With Abolitionist and Retentionist Legal Practices

Sociopolitical Profile of Predominantly Abolitionist Clusters of Nations (A)	# Nations	% Abolitionist
A-1: Christian, high voice, high political stability, and moderate development (e.g., Bulgaria, Chile, Cyprus, Iceland, Mexico, Namibia, Suriname ^a)	24	96
A-2: Christian, high voice, high political stability, and high development (e.g., Australia, Canada, France, Italy, Norway, United States ^a)	22	91
A-3: Christian, high voice, low political stability, and moderate development (e.g., Brazil, Macedonia, Peru, South Africa, Jamaica, Philippines ^a)	11	64
A-4: Christian, high voice, low political stability, and low development (e.g., Nicaragua, Solomon Islands, Vanuatu, Ghana ^a)	4	75
A-5: Judeo-Christian, high voice, low political stability, and high development (e.g., Israel)	1	100
Sociopolitical Profile of Predominantly Retentionist Clusters of Nations (R)	# Nations	% Retain
R-1: Non-Christian, low voice, low political stability, and low development (e.g., Afghanistan, Chad, Laos, Yemen, Cambodia, Nepal ^a)	31	77
R-2: Non-Christian, low voice, low political stability, and moderate development (e.g., Algeria, Iran, Lebanon, Saudi Arabia, Albania, Turkey ^a)	14	79
R-3: Non-Christian, low voice, high political stability, and moderate development (e.g., Bahrain, China, Kazakhstan, North Korea, Malaysia, Oman, Tunisia)	7	100
R-4: Christian, low voice, high political stability, and low development (e.g., Equat. Guinea, Malawi, Mauritania, Swaziland, Madagascar, Tonga)	6	100
R-5: Non-Christian, low voice, high political stability, and low development (e.g., Brunei, Gambia, Maldives, Vietnam, Bhutan, Mozambique ^a)	6	67
R-6: Non-Christian, high voice, high political stability, and moderate development (e.g., Botswana, Taiwan, Thailand, Mauritius ^a)	4	75
R-7: Non-Christian, high voice, low political stability, and low development (e.g., India, Mali, Senegal ^a)	3	67
R-8a: Non-Christian, high voice, high political stability, and high development (e.g., Japan, Singapore)	2	100
R-8b: Non-Christian, low voice, high political stability, and high development (e.g., Qatar, United Arab Emirates)	2	100
R-8c: Christian, low voice, high political stability, and moderate development (e.g., Cuba, Gabon)	2	100
R-8d: Non-Christian, high voice, high political stability, and low development (e.g., Benin, Mongolia)	2	100
R-12: Non-Christian, low voice, low political stability, and high development (e.g., Kuwait)	1	100
Sociopolitical Profile of Neither Primarily Abolitionist or Retentionist Nations (AR)	# Nations	% Abolitionist
AR-1: Christian, low voice, low political stability, and low development (e.g., abolition: Angola, Fiji, Georgia, Haiti, Moldova, Ukraine; retention: Burundi, Cameroon, Kenya, Uganda, Zimbabwe)	17	41
AR-2: Christian, high voice, high political stability, and low development (e.g., abolition: Cape Verde, Kiribati, Samoa, Seychelles; retention: Bahamas, Barbados, Belize, Dominica, St. Lucia)	16	44
AR-3: Christian, low voice, low political stability, and moderate development (e.g., abolition: Columbia, Ecuador, Honduras, Paraguay, Venezuela; retention: Belarus, Guatemala, Lesotho, Papua–New Guinea)	10	50

NOTE: QCA = qualitative comparative analysis.

a. Examples of exceptions to the dominant patterns.

nations in the sample. These basic findings indicate that there is great variability in the retention of capital punishment even within nations that share similar sociopolitical profiles.

As shown in Table 4 (profile A-1), the most prevalent context for legal abolition involves countries with the following profile: nations with high citizen voice, high political stability, moderate economic development, and Christianity as the primary religion. Nearly all of the 24 nations in this particular profile (except Suriname) have abolished capital punishment for ordinary crimes.⁶ These nations are located primarily in Europe and Central or South America. This sociopolitical profile also includes a lower than average proportion of nations with recent histories of extrajudicial executions.

Highly developed, Christian countries with high citizen voice and political stability (profile A-2) are the next most prevalent context for legal abolition. More than 90% of the 22 countries with this structural profile have abolished capital punishment. The exceptions are the retentionist countries of the United States and South Korea. Nations within this sociopolitical structure are primarily Western democracies without recent histories of extrajudicial executions.

The most prevalent contexts for legal retention of the death penalty involve non-Christian nations with low voice, political instability, and moderate or lower levels of economic development (see Profile R-1 and R-2 in Table 4). Nearly 80% of the nations in these two profiles have legally retained capital punishment. The retention countries in the profile for low development (R-1) are overrepresented by histories of extralegal executions and are located primarily in Africa and Asia. Moderately developed countries with these same characteristics (R-2) are primarily Muslim countries of the Middle East and Southern Europe. The abolitionist exceptions in this latter profile (e.g., Albania, Bosnia-Herzegovina, Turkey) are located in geographical proximity and share state membership in the Council of Europe, but these countries also have diverse records of civil strife and extrajudicial violence in their recent histories.

The remaining profiles in Table 4 involve particular sociopolitical profiles that are either less common or exhibit wider variability in their classification as abolitionist or retentionist countries. For example, 17 nations are represented by the following sociopolitical profile: low developed, Christian countries with low voice and low political stability (Profile AR-1 in Table 4). About 40% of these countries have abolished capital punishment, whereas the remaining countries in this profile are legal retentionists. Both retentionists and abolitionist nations with this sociopolitical structure are geographically dispersed across the continents, and most of them (e.g., Burundi, Haiti, Rwanda, Uganda) have long histories of civil unrest and extrajudicial violence.

Based on this QCA analysis, two general conclusions can be reached from the sociopolitical profiles of primarily abolitionist and retentionist countries. First, nations with similar sociopolitical structures often vary widely in the legal status of capital punishment within them. Second, there is no single sociopolitical variable that is associated with procapital or anticapital punishment laws across all contexts. The context-specific nature of the impact of particular sociopolitical factors illustrates the limitations of the "main effect" statistical model used here (see Table 3) and most other cross-national studies.

Discussion and Conclusion

This cross-national study of sociopolitical variation in the legal retention of capital punishment has been guided by various theoretical perspectives and previous empirical research. How the results of this study inform further research is summarized below.

When death penalty practices are compared across levels of economic development, the conventional wisdom surrounding repressive sanctions and modernity is generally supported, but there are numerous exceptions. Specially, the United States and Japan are the only large industrialized countries that have retained the death penalty. In contrast, more than two thirds of the developing countries (i.e., defined by GDP per capita of less than US\$4,000 in 2000) have retained the death penalty in law. The exceptions are abolitionist countries in less developed nations across the world, including those in Western Africa (e.g., Cape Verde, Côte d'Ivoire, Guinea-Bissau, São Tomé), Southern Africa (e.g., Angola, Mauritius, Mozambique, Namibia), the Caribbean (e.g., Haiti, Dominican Republic), Central America (e.g., Costa Rica, Honduras), South American (e.g., Ecuador, Venezuela), and Central and Eastern Asia (e.g., Turkmenistan, Nepal). This extensive list of exceptional cases across world regions suggests that the level of economic development, in and of itself, is not necessarily a good predictor of a country's retentionist or abolitionist practices. Low economic development is neither a necessary nor sufficient condition for this type of repressive sanctions.

A similar conclusion is reached about differences in capital punishment laws based on the country's primary religious orientation. Specifically, most Muslim-dominated countries have retained capital punishment in law. However, primarily Muslim countries that have abolished the death penalty are Azerbaijan, Turkey, Turkmenistan, and Djibouti. Among mostly Christian countries, about one third of them have retained the death penalty. Thus, although there are religious differences in nations' death penalty laws, there is also wide variability within each religion that is specific to particular sociopolitical contexts.⁷ Similar to the main effects of economic development, the failure to recognize these contextual effects may seriously distort substantive conclusions about the importance of religion in explaining national differences in death penalty laws.

Context-specific differences in the legal status of capital punishment are also found within regional comparisons. In fact, there is no world region in which capital punishment is universally retained or abolished. Europe as a primarily abolitionist region and the Middle East as a primarily retentionist region are the best examples of countries with the least within-region variability. For African and Central American countries, the wider within-region variability is obviously tied to specific aspects of the socioeconomic development of the particular country, its colonial histories and other political legacies, and the nature and magnitude of its oppression against particular groups (e.g., women, migrants, nationalized citizens, ethnic and racial minorities). By empirically demonstrating the wide variability in death penalty practices within and across different measures of social, economic, and political conditions, we hope the current study serves as a basis for further comparative and historical investigations of these practices.

Contrary to Black's (1978) theoretical contention of an inverse relationship between the quantity of informal and formal social control, the current results indicate a significant positive bivariate relationship between the availability of legal and extrajudicial executions. An even stronger relationship between these types of state-sponsored killings is found for "communal violence" (i.e., acts of violence by one social group against another in which govern-

ment forces support one side or did not intervene to stop the violence).⁸ In fact, all eight countries that were involved in these practices between 1992 and 1996 retain the death penalty (see United Nations, 1996).

It is important to note, however, that various exceptions exist to this positive correlation among types of state-sponsored violence. For example, several countries in different world regions (e.g., Cambodia, Chile, Colombia, Israel, Haiti) have abolished capital punishment but remain plagued by civil violence, death squads, and “disappearances” that are linked to state authorities. In contrast, several retentionist countries (e.g., Cameroon, Ethiopia, Indonesia, Myanmar, Philippines, Uganda) rarely conduct legal executions, but they have extensive reports of extrajudicial executions (see Amnesty International, 2002b, 2003; Horowitz, 2002). These context-specific differences in types of state-sponsored violence are largely ignored in “main effect” statistical models that do not investigate the nature of within-group variation.

Although many of the bivariate results are consistent with various theoretical perspectives about punishment and society, the QCA results reveal many patterns that are contrary to existing theory. For example, the fact that repressive sanctions such as capital punishment remain in some highly developed nations, and that some less developed countries have abolished it, raises some serious questions about the generality of the presumed movement from repressive to restitutive sanctions that underlies most theories of punishment and society (e.g., Durkheim, 1893/1933; Nonet & Selznick, 1978). Given that advanced economic development is not a necessary condition in this study for legal abolition of the death penalty, the theoretical arguments of Elias and Foucault are also challenged by these findings. Although these theories are best tested with comparative historical data within particular nations, their limited predictive accuracy in the current cross-national study is worthy of future investigation.

Finally, the variability of capital punishment practices within nations with similar sociopolitical structures suggests that future research should investigate more fully the sources of international differences. Comparative historical methods have been widely used to study punishment in a variety of different contexts (see, for examples, Colvin, 1997; Evans, 1996; Miethe & Lu, 2005). By using such methods to explore capital punishment within a global perspective, future research should be better able to isolate the particular sociopolitical factors that are associated with variation in punishment and society.

Notes

1. Bowers (1984) found a similar inverse relationship between formal and informal social control in his study of state-sponsored legal executions and lynchings in Southern U.S. states in the late 19th and mid-20th centuries.

2. Several measures of economic development have been used in past research, including GDP, per capita income, and the human development index (see Neapolitan, 2001; Ruddell, 2005). The results of this study are not substantially different when per capita income is used as a measure of development. Because per capita income is a component of the human development index, we would also expect our results to be similar to those based on this composite index of development. However, missing data and issues of definition comparability on several components of the index (e.g., infant mortality, literacy) within less developed countries led us to reject this composite index of development in favor of per capita GDP.

3. Margin of errors associated with these estimates of governance within each country, as well as other methodological issues in the construction of these indices, are fully described in the original source (Kaufmann et al., 2003). For most countries, there was little change in the governance scores from 2000 to 2002, suggesting that

these composite measures of political conditions that combine objective and subjective ratings exhibit high reliability.

4. The robustness of these findings across levels of measurement is important because it indicates that our subsequent QCA analysis based on the dichotomous coding of these variables will not affect our substantive findings.

5. As observed in the bivariate analysis, the greatest contrast within the categories of religion involves primarily Christian countries with those having no dominant national religion. The odds ratios for these contrasts suggest that Christian countries are nearly 5 times more likely than their counterparts to have legally abolished capital punishment. The statistical insignificance of this contrast is in part due to the small sample size in the base category ($n = 7$ countries with no primary religion). The net effects become statistically insignificant once we take into account that higher political voice, political stability, and higher economic development is more common in nations with Christianity as the dominant religion.

6. Suriname has not performed a legal execution within the past 10 years. Amnesty International considers Suriname to have legally abolished the death penalty in practice. Under this de facto definition, Suriname would be placed within the abolitionist group, thereby no longer being an exceptional case in this particular sociopolitical profile of countries.

7. The inconsistencies in death penalty law and practice within Christian countries is explained in part by their unique historical circumstances (e.g., the British influence on the English-speaking Caribbean countries) and the relatively loose coupling of secular and religious practices among different countries that follow this religion. Similarly, primarily Buddhist countries have secular laws that have changed dramatically as a result of major sociopolitical changes (e.g., changes to and from communist regimes, socialist countries, dictatorships, and independent democracies). Variability in the predominance of prodeath penalty practices in these nations may also be explained by the wider sociopolitical context of these countries and the distinctiveness of Buddhism as a secular life philosophy.

8. We define *state-sponsored violence* as those involving acts of both commission (i.e., acts done by state security forces, military groups, or government officials) and omission (i.e., the failure of state officials to intervene to stop acts of extrajudicial violence; see also Horowitz, 2002).

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