

Democracy and the making of contentious policy: The role of democracy in the abolition of the death penalty, 1950–2010

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Abstract

Previous scholarship discussed the pivotal role of democracy in promoting human rights policies. However, prior work did not examine the distinct process of how democratic regimes adopt contentious policies with low public support. In focusing on the distinct policy-making process of contentious policy, this study examines how democracy can lead to a policy change with one contentious policy in particular: the abolition of the death penalty. The research compares dissimilar dynamics within gradual and immediate abolition processes with data from 164 countries between 1950 and 2010. The results of a competing risks event history model suggest that a country's overall level of democracy, a specific democratic component such as the institutional separation of powers, democratic transition, and the presence of democratic legacy increase the likelihood of gradual abolition. However, democracy does not lead to immediate death abolition, except in cases where there is a sudden transition to democracy. The results have important implications for understanding the role of democracy in promoting contentious and unpopular policies.

Keywords

Death penalty, democracy, human rights, policy-making, process-oriented approach

Introduction

Previous scholarship on the relationship between democracy and human rights suggested that a state's transition to and consolidation of democracy leads to the protection of human rights. A great deal of empirical research shows that democratic states are more likely to promote and enhance human rights than non-democratic states (Davenport, 1995, 1999; Henderson, 1991, 1993; Mitchell and McCormick, 1988; Poe et al., 1999; Poe and Tate, 1994; Walker and Poe, 2002). More recent studies focus on how variation in other elements of democracy can influence human rights, including the institutional separation of powers (O'Donnell, 2004; Powell and Staton, 2009), competitive participation of political parties (De Mesquita et al., 2005), and democratic transition (Futamura and Bernaz, 2014).

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Notwithstanding numerous studies on the relationship between democracy and human rights, the distinct processes of how democratic regimes adopt unpopular and contentious human rights policies remain under-examined. While democratic governments face pressure to avoid the inhumane and cruel treatment of their citizens (Dahl, 1971; Davenport, 2000), policy-makers hesitate to push any agenda in face of strong opposition (Mooney and Lee, 1995, 2000; Soss et al., 2003). Past scholarship failed to illuminate the general processes and patterns of how these unpopular policies pass in the face of public opposition. Previous qualitative case studies investigated specific political struggles and the slow and muddling processes that lead to the promotion of human rights policies in democratic states, but cross-national research rarely identified the *generalized* process through which democracy promotes the adoption of human rights policies. To fill this lacuna, this article distinguishes between the gradual and rapid processes of policy adoption and contrasts the dynamics of these processes.

This study focuses on the abolition of the death penalty as the contentious policy of interest. The abolition of the death penalty is an interesting case to examine for two reasons. First, nation-states have increasingly abolished the death penalty although it has strong public support. While the public largely views the death penalty as a just punishment for crime, political elites have promoted the abolition of the death penalty as part of a human rights agenda (Brown et al., 2010; Jiang et al., 2007; Keil et al., 1999; Kelley and Braithwaite, 1990; Kutateladze and Crossman, 2009; Lambert et al., 2008). The death penalty thus provides a compelling window to examine the processes of contentious policy-making.

Second, a state's stance on the death penalty is clear and identifiable, making it possible for researchers to examine the abolition process. For states to retain the death penalty, they need to formally institutionalize the penal policy within their criminal justice system. Nation-states are unable to decouple their formal policies from their actual practices.¹ The clear identification of abolition status makes capital punishment an ideal case for examination.

Cross-national quantitative studies suggest a positive relationship between democracy and death penalty abolition (Greenberg and West, 2008; Mathias, 2013; Neapolitan, 2001; Neumayer, 2008). According to these studies, authoritarian regimes are less likely than democratic regimes to abolish the death penalty and are more likely to stabilize their power by employing repressive measures and inhumane treatments against challengers. Qualitative case studies, on the other hand, suggest that democracy does not have a straightforward effect on death penalty abolition. These studies reveal that the abolition process has been slow and contentious, even in stable democracies. In the face of considerable public support for the death penalty among conservative elites and their constituencies, liberal elites strive to abolish the death penalty from the top-down through fragmented governmental structures (Hammel, 2010; Johnson and Zimring, 2009; Zimring, 2003). Despite its merits, quantitative research often elided the crucial historical processes of policy-making (Boulanger and Sarat, 2005).

In order to fill this gap in the existing quantitative research and identify the distinct adoption patterns of contentious policies, this study distinguishes between gradual and immediate abolition processes. Nation-states can go through a number of intermediary steps in the abolition process or skip them altogether by abolishing the death penalty in one fell swoop (Hood and Hoyle, 2008). This research applies a process-oriented perspective to examine the distinct dynamics of gradual and immediate abolition. Specifically, I utilize a competing risks event history framework to scrutinize the effect of democracy on the different paths of abolition. This study reveals the differential effects of democracy on both the gradual and immediate processes of death penalty abolition by employing a cross-national, discrete-time dataset that covers 164 countries from 1950 to 2010.

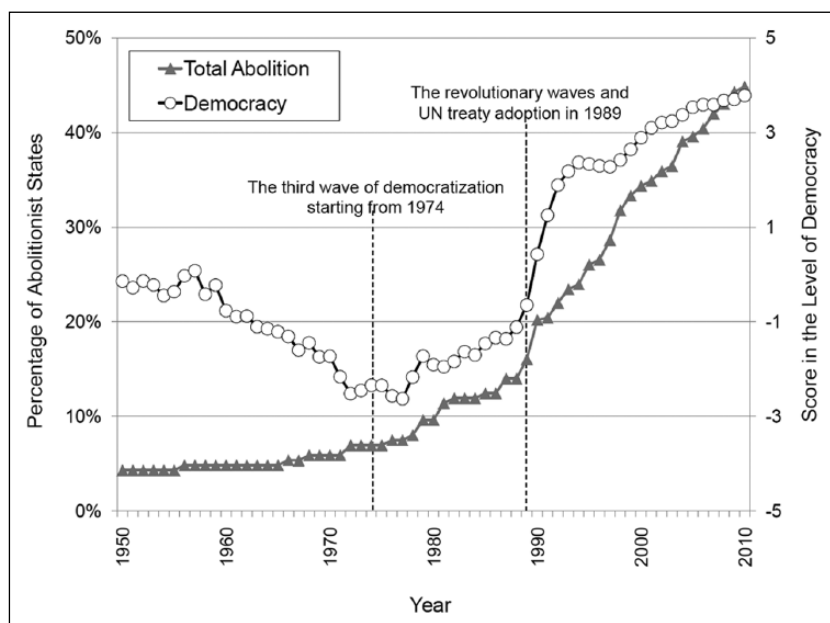


Figure 1. Democratization and the complete abolition of the death penalty: 1950–2010.

The case: the processes of death penalty abolition

In the premodern era, the death penalty was a popular tool for political powers to punish outlaws and maintain social order. This punishment was carried out as part of a public ceremony to create terror among subordinates and demonstrate the state's almighty power over the public (Hood and Hoyle, 2008). In *Discipline and Punish*, Michel Foucault (1977) describes the execution as a public exhibition of a 'tortured, dismembered, [and] amputated body' (p. 8). Since the late-18th century, however, humanitarian reformers have questioned the cruelty and inefficiency of the criminal justice system. Aligned with the spread of humanitarian movements, the death penalty began to disappear. The death penalty was first abolished, along with torture, in Tuscany, Italy, in 1786. Venezuela became the first nation-state to abolish the death penalty for all crimes in 1854.

The movement to abolish the death penalty reemerged after the Second World War. The number of modern nation-states that abolished the death penalty spiked following the third wave of democratization in the mid-1970s (Huntington, 1991). Whereas authoritarian governments employed the death penalty to suppress political opponents (Futamura and Bernaz, 2014; Hood and Hoyle, 2008), states that transitioned to democracy curtailed the use of the death penalty as a political tool. The trend toward abolition continued with the passage of international protocols, such as the United Nations' (UN) Second Optional Protocol in 1989, which framed the death penalty as a violation to human rights and promoted the abolition of the death penalty except for serious crimes committed during wartime (UN, 1989).

Figure 1 shows the average level of democracy across states and the percentage of states that completely abolished the death penalty for each year from 1950 to 2010. As shown in Figure 1, democracy increased alongside an increase in abolition, especially since the 1970s. After the reversal of democratization between the mid-1950s and mid-1970s, a third wave of democratization started in Portugal in 1974 and expanded outward (Huntington, 1991: 19–22). This democratic

trend spread from Southern Europe to Latin America, Asia, and Eastern Europe by the 1990s. During this time, a number of countries abolished the death penalty, and since 1990, there has been an even more dramatic increase in the number of abolitionist states. According to the data in this study, the percentage of nation-states that abolished the death penalty for all crimes and all circumstances increased from 4.3 percent in 1950 to 44.8 percent in 2010.

The path to death penalty abolition often involves a 'slow step-by-step process' (Hood and Hoyle, 2008: 12). Abolitionist states often remained in a state of intermediate abolition before completely abolishing the death penalty. A major intermediary step for many countries is the abolition of the death penalty for ordinary crimes but not for crimes committed during wartime or involving military law. Abolition advocates often promote this intermediary status to avoid criticism and opposition from proponents of national security (Dunér and Geurtsen, 2002). While states with an intermediate abolition status rarely practice the death penalty, they are still distinguished from countries that abolished the death penalty without exceptions since the death penalty remains among its potential repertoire of state practices. When national security emerges as a national priority during war or armed conflicts, nation-states at this intermediary status may reinstitute the death penalty in the name of security. However, the legal status of complete abolition, unless it is reversed, eliminates the possibility of employing the death penalty.

Many modern nation-states had an intermediary abolition status before reaching the complete abolition status. A representative case of the step-by-step abolition process can be found in the United Kingdom. England and Wales partially abolished the death penalty in the mid-19th century; they restricted the exercise of capital punishment to cases of murder and crimes against the state. The Labor Government then abolished the death penalty for ordinary crimes (including murder) in Great Britain in 1969 and Northern Ireland in 1973 but not for exceptional crimes related to national sovereignty such as espionage and treason (Hoffman and Rowe, 2003). After several unsuccessful attempts by the conservative political elites to reestablish the death penalty, the death penalty was abolished for all crimes – including crimes committed during war – in 1998.

In contrast to the United Kingdom, a number of states proceeded directly from the retention of the death penalty to its complete abolition. Eastern European states such as Bulgaria, the Czech Republic, Georgia, Hungary, Poland, Romania, the Slovak Republic, and Slovenia as well as post-Soviet states such as Kyrgyzstan, Turkmenistan, Ukraine, and Uzbekistan stopped utilizing the death penalty immediately. Various external changes are responsible for this trend including the collapse of communist bloc and the rise of the European Union. In most of these cases, nation-states sought to enhance their legitimacy by following international society's institutional models regardless of their domestic conditions.

As demonstrated in the aforementioned examples, the abolition process can be classified into two distinct patterns of gradual and immediate abolition. In gradual abolition, the nation-state experiences a status of incomplete abolition before reaching a final status of complete abolition. While in an incomplete status, the death penalty is abolished for ordinary crimes but is maintained for exceptional cases involving war crimes or crimes committed under military law. This intermediary status reflects the controversial nature of the death penalty. Since the death penalty often creates a heated debate between supporters and opponents, these competing forces often find the status of incomplete abolition as a compromise. In contrast, in the case of immediate abolition, the intermediary status is bypassed before the nation-state completely abolishes the death penalty.

Democracy's place in death penalty abolition

Political regimes structure the ways in which governments treat their citizens. In principle, democratic governance prevents the permanent monopolizing of power by the state and guarantees the

rights of citizens (Bobbio, 1989; Russell, 1993 [1938]). Democratic regimes can approve of the suppression of minorities and violate their human rights in practice, but the democratic structure allows challengers to contest such suppression through the state's legislative and judicial branches, as well as the exertion of pressure from civil society (Dahl, 1971). Authoritarian regimes, on the other hand, tend to employ repressive measures and inhumane treatments to stabilize their political power. Since the separation of power is not institutionalized and the freedom to press and speech is not guaranteed, it becomes harder for individuals under these regimes to challenge human rights violations (Davenport, 2000). Empirical cross-national studies using quantitative methods do indeed show that the human rights of citizens are more respected in democratic regimes than in authoritarian ones since challengers can more easily mobilize against the government's practices in a democracy. Previous studies revealed a negative relationship between democracy and the violation of human rights in terms of political repression (Davenport, 1995, 1999; Henderson, 1991, 1993), mass violence (Harff, 2003; Hibbs, 1973; Krain, 1997), and illegal detention and torture (Mitchell and McCormick, 1988; Poe et al., 1999; Poe and Tate, 1994; Walker and Poe, 2002).

Similarly, empirical research shows that the level of democracy in a state is strongly associated with the likelihood of abolishing the death penalty (Greenberg and West, 2008; Neapolitan, 2001; Zimring, 2003). Cross-national studies treat death penalty abolition as a focal binary outcome in an event history framework and demonstrated that democratic regimes are more inclined to abolish the death penalty (McGann and Sandholtz, 2012; Mathias, 2013; Neumayer, 2008). McGann and Sandholtz (2012) identify parliamentary systems with proportional representation as a specific institutional condition that leads to the abolishment of death penalty in democracies.

While there is widespread consensus on the generally positive effect of democracy on the abolition of the death penalty, qualitative and comparative case studies suggest that a high level of democracy does not automatically lead to abolition. These studies reveal that nation-states in Western Europe and the United States (Garland, 2010; Hammel, 2010; Jacobs and Carmichael, 2002; Sarat and Martschukat, 2014; Zimring, 2003) as well as states in Asia and other continents (Futamura and Bernaz, 2014; Johnson and Zimring, 2009) often muddle through the process of abolishing the death penalty.

The intense opinions and heated controversy about several different aspects of capital punishment result in an uneven process of death penalty abolishment across democracies (Ellsworth and Ross, 1983; Jiang et al., 2007; Lambert et al., 2008; Mooney and Lee, 2000; Sutton, 2000). First, while its proponents often defend the death penalty based on the principles of criminal justice and retribution, their opponents advocate for its abolition on grounds of human rights and mercy. Second, the proponents often emphasize the social utility of deterring crime and curtailing criminals with high rates of recidivism – a claim that its critics question by focusing on the corrupting influence of harsh penalties and the importance of the rehabilitation of criminals (Von Hirsch et al., 1999). Finally, the death penalty triggers a great deal of moral and political debate due to its intertwinement with politics (Garland, 2010; Grasmick et al., 1993; Radelet and Borg, 2000). Linking partisanship with penal policy, previous studies argued that conservative politicians and their constituencies are more inclined to defend the death penalty based on their traditional belief in individual accountability. On the other hand, liberal elites largely attribute crime to social structure and believe in a criminal's potential for rehabilitation (Garland, 2010; Jacobs and Carmichael, 2002).

The conflicting dynamics of different social groups makes the issue of the death penalty even more controversial. Majority groups often call for the harsh punishment of crimes due to their fear of and resentment toward minority groups. On the other hand, minority groups often feel themselves subjected to the unfair and discriminatory treatment of the judiciary; wrongful conviction is

often a looming possibility and constant concern for them (Jacobs and Carmichael, 2002; Kelley and Braithwaite, 1990; Radelet, 1981; Ruddell and Urbana, 2004; Soss et al., 2003; Young, 1992).

Despite the worldwide trend toward abolition, the issue of death penalty has not reached widespread consensus due to its controversial characteristics. A substantial portion of the population supports the death penalty not only in the United States (Jacobs and Carmichael, 2002; Mooney and Lee, 2000), Western Europe (Hammel, 2010; Sarat and Martschukat, 2014), India (Lambert et al., 2008), and China (Jiang et al., 2007) but also in newly democratized countries where the death penalty was previously used as a tool to repress political dissents under authoritarian regimes (Brown et al., 2010; Keil et al., 1999). Although democratic states are more inclined to abolish the death penalty than autocratic ones, democracy often provides an environment where a large portion of death penalty supporters can hamper its abolition.

Due to significant pro-death penalty support in democracies, the death penalty was more frequently abolished by top-down processes than bottom-up processes; political elites promoted abolition as a part of their human rights agenda. Case studies of nations in Western Europe stress the importance of the institutional arrangement and strategies of elites inside democratic institutions for abolition in the face of challenges from conservative elites and unsupportive public opinion (Hammel, 2010; Zimring and Hawkins, 1986). The democratic institutional structure provides an arena for political elites to influence death penalty policy. Additionally, in newly democratized states, political leaders often abolish the death penalty without strong public support to distance themselves symbolically from previous authoritarian governments (Futamura and Bernaz, 2014).

International influence on death penalty abolition

Previous research on policy diffusion suggested that increasing legitimacy of policies leads to shifts in causal processes: after public policies reach a threshold of adoption, they are legitimized as a broader cultural norm and spread rapidly to other actors for whom the policies were not originally intended (Dobbin et al., 2007; Strang and Meyer, 1993; Strang and Soule, 1998; Tolbert and Zucker, 1983). In terms of human rights policies, the world polity theory – an extension of the neo-institutional theory in organizational studies explaining how institutional constraints lead to isomorphism among organizations in a field (DiMaggio and Powell, 1983; Meyer and Rowan, 1977) – notes that the sources of policy adoption change from domestic conditions to the international norms of human rights over time (Meyer et al., 1997; Meyer and Ramirez, 2000; Meyer and Rowan, 1977). After the incorporation of human rights policies into the world polity, nation-states tend to follow – or at least pretend to follow – legitimate norms, models, and scripts commonly accepted by the international society regardless of their regime type. In the case of the death penalty, Matthew Mathias (2013) used a unique collection of global human rights documents and data from non-governmental human rights organizations to demonstrate how cultural factors supporting the sacralization of the individual lead to the worldwide diffusion of death penalty abolition. International organizations play a critical role in providing legitimate cultural models for states to emulate (Boli and Thomas, 1997). The UN and European organizations such as the European Union and the Council of Europe are arguably the most powerful drivers behind the abolition of the death penalty (Hood and Hoyle, 2008). Intergovernmental organizations promote a view of the death penalty as a human rights violation – especially the right to life and human dignity – and have promoted a series of international treaties to pressure nation-states to abolish it.

After proclaiming the ‘Universal Declaration of Human Rights’ in 1948, the UN endorsed a series of treaties such as the ‘International Covenant on Civil and Political Rights’ in 1966 to attempt to abolish the death penalty. In 1989, the UN’s General Assembly also adopted the Second Optional Protocol which called for death penalty abolition – with the exception of ‘a most serious

crime of a military nature committed during wartime' (UN, 1989). In 1983, the Council of Europe adopted the landmark treaty, Protocol No. 6, which calls for the abolition of the death penalty during peacetime (Council of Europe, 1983). The international consensus to abolish the death penalty had a particularly strong influence over nation-states that seek to gain legitimacy from the international community. While the treaty endorsed by the UN had a more symbolic influence on its signatories, the Council of Europe's treaty exerted a more direct and coercive pressure over its non-democratic member states that aspired to join the European Union.²

Hypotheses

Based on the previous literature, this article assumes that democracies are more likely than non-democracies to experience a gradual abolition of the death penalty. At the same time, the presence of rival elites and unsupportive constituencies will hinder rapid and radical policy change. Therefore, I hypothesize as follows:

Hypothesis I. Democracy increases the likelihood of gradually abolishing the death penalty but does not increase the likelihood of abolishing the death penalty rapidly.

Democracy consists of multiple components such as free and fair elections, checks and balances among political institutions and elites, and the political participation and civil liberty of citizens. Among these democratic factors, I specifically focus on the institutional separation of powers as the primary driver that leads to the gradual abolition of the death penalty. Fragmented institutional structures in democracies, including independent legislative and judicial branches that are autonomous from the administrative branch, can provide opportunities for political elites to gradually push their human rights agenda. While liberal legislators may attempt to pass bills that ban the use of the death penalty, their liberal counterparts in the judicial body may influence death penalty policy by ruling the penal policy unconstitutional. Due to the generally unsupportive public attitude, however, the process of abolition might be slow and gradual rather than rapid and radical. Thus, I posit the following hypothesis:

Hypothesis II. The institutional separation of powers increases the likelihood of gradually abolishing the death penalty but does not increase the likelihood of abolishing the death penalty rapidly.

In addition, new democracies are more motivated to abolish the death penalty compared to stable democracies. In regimes that experience democratic transition, governments may feel inclined to reform their death penalty policy as a 'symbolic departure' from previous authoritarian regimes (Futamura, 2014: 16). If the process of democratization itself involved sustained challenges from old elites, however, a rapid change in death penalty policy may be unlikely. Therefore, I assume that major regime change toward democracy has a positive influence on the gradual abolition of the death penalty:

Hypothesis III. Democratization increases the likelihood of gradually abolishing the death penalty but does not increase the likelihood of abolishing the death penalty rapidly.

Even in the absence of institutional democracy, the history of a political regime can also influence the abolition of the death penalty. After the spread of modern democratic institutions to over

30 countries in the 19th and early 20th centuries, the world experienced reverse waves of democracy with European states (e.g. Greece, Spain, and Portugal) and South American states (e.g. Argentina, Chile, and Uruguay) regressing back to authoritarianism. Nonetheless, individuals and groups with Enlightenment ideals continue to participate in the international humanitarian movement and pressure their governments to avoid harsh, punitive measures against their citizens. Thus, I assume that nation-states with a history of being democratic are more likely than others to abolish the death penalty, at least gradually:

Hypothesis IV. The democratic legacy of a country increases the likelihood of gradually abolishing the death penalty but does not increase the likelihood of abolishing the death penalty rapidly.

Finally, external environmental factors are critical in understanding the adoption and diffusion of death penalty abolition. After certain policies are granted legitimacy by the international society, even non-democratic regimes may feel pressure to adopt them. Therefore, I posit that the international pressure exerted by international organizations such as the UN and the Council of Europe will increase the likelihood of either gradually or rapidly abolishing the death penalty:

Hypothesis V. Pressure from international society increases the likelihood of either gradually or rapidly abolishing the death penalty.

Data and methods

Death penalty abolition

There are multiple policy statuses in terms of death penalty abolition. Following previous empirical research on death penalty abolition (Mathias, 2013; Neumayer, 2008), I rely on Amnesty International's (2010) categorization to divide the abolition process into four statuses: (1) retention, (2) abolition in practice but not in law (i.e. *de facto* abolition), (3) incomplete abolition (i.e. abolition for ordinary crimes only), and (4) complete abolition (i.e. abolition for all crimes). In the retention status, countries both legally and practically permit the death penalty. In the abolition in practice status, the death penalty is not banned legally, but the administration has not executed anyone in the previous 10 years. Since no legal decision has been made to make the death penalty illegal, this tentatively held status is examined separately. In the incomplete abolition status, countries abolish the death penalty for ordinary crimes but continue to execute people for exceptional crimes. These are usually crimes committed during wartime or under military law. Finally, in the complete abolition status, countries abolish the death penalty for all crimes under all circumstances. Although the death penalty is not normally utilized in either the incomplete abolition or complete abolition status, the ability of the state to execute criminals to protect national security still constitutes a major difference between the two statuses.

Previous studies focused on international and domestic determinants of the partial and total abolition statuses (Mathias, 2013; Neumayer, 2008). In contrast, this article pays particular attention to the abolition processes themselves.³ Using the death penalty categorization provided by Amnesty International, I define gradual abolition as one in which states move (1) from the retention to the incomplete abolition status and (2) from the incomplete to the complete abolition status. On the other hand, I define immediate abolition as cases where states move directly from the retention status to the complete abolition status without passing through the incomplete abolition status.

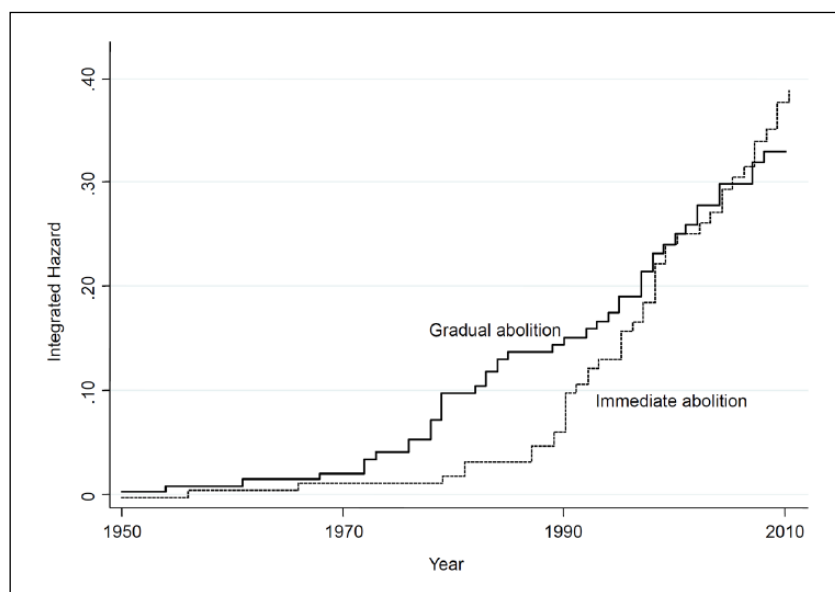


Figure 2. Integrated hazards for gradual and immediate abolition, 1950–2010.

For example, Canada abolished the death penalty for ordinary crimes through the National Defence Act in 1976 and then removed the death penalty for exceptional crimes in 1998. Thus, it is identified as a case of gradual abolition with the first move toward incomplete abolition coming in 1976 and the second move toward complete abolition occurring in 1998. On the other hand, the Constitutional Court in Ukraine ruled the death penalty unconstitutional in 1999. This case can be considered a single event of immediate abolition from retention to complete abolition. I use data collected by Amnesty International (2010) to reorganize the dependent variables on gradual and immediate abolition. Figure 2 illustrates the integrated hazards for gradual and immediate abolition using the Nelson–Aalen cumulative hazard function.

These figures show that the integrated hazard rate for gradual legal change has risen at a relatively constant rate since 1970, while the rate of immediate legal change has increased rapidly since 1990. I compare the processes of gradual and immediate abolition within a competing risks event history framework. In addition to the main analysis, I conduct a separate analysis of the status of abolition in practice. This is a tentative status where countries retain the death penalty as a judicial possibility but cease to apply it. For example, the Russian Federation executed a death penalty inmate for the last time in 1999 in the Chechen Republic: in this case, the Russian Federation is considered a country with the status of *de facto* abolition. Since *de facto* abolition may not involve any legal decision, however, I treat this stage as a continuous status that begins 1 year after the last execution and finishes when the nation-state either reestablishes the death penalty or makes a decision to abolish the penal policy either partially or completely. My analysis of this unique status will provide additional information on the role of democracy within the abolition process.

Democracy

Democracy is a concept that consists of several components. As a measure of democracy, I use data generated by the Polity IV project (Marshall et al., 2011).⁴ The Polity IV data provide one of the

Table 1. Level of democracy during periods of abolition and retention.

	Countries	Level of democracy
Immediate abolition	43	2.093
Gradual abolition	31	8.159
De facto abolition	72	.033
Retention	132	-3.031

most commonly used measures for regime types. The data use expert judgment to measure the level of democracy with a score ranging from -10 to 10: A score of 10 means total democracy, and a score of -10 denotes total autocracy.

Table 1 shows the mean values of the level of democracy for each abolition status. The level of democracy for countries during the year that they immediately abolish the death penalty is 2.093 out of 10, while the level of democracy for countries during the year that they abolished it gradually is 8.159. The results indicate that the states included in the gradual abolition category are more democratic, on average, than states that fall in the category of immediate abolition.⁵ The level of democracy for countries that remain at the stage of de facto abolition is 0.033. Finally, the democracy level for retentionist states in any given year is -3.031.

Next, I investigate how three institutional components of democracy influence the policy-making process: (1) executive recruitment, (2) executive constraints, and (3) political competition. Executive recruitment refers to 'how institutionalized, competitive and open are the mechanisms for selecting a political leader' (Marshall et al., 2011: 51; also see Eckstein and Gurr, 1975: 150). It generally indicates the open competitiveness of the election process. The executive constraints variable is defined as 'the extent of institutional constraints on the decision-making powers of the chief executive' (Marshall et al., 2011: 66) and, within democracies, refers to both the general institutional separation of powers and the specific constraints imposed by legislative and judicial bodies on the administration. By political competition I mean the autonomy of civil society; this variable is measured in terms of both the degree of institutionalization of civic participation and the degree of civic freedom from governmental control (Marshall et al., 2011: 71). All three variables are z-standardized to compare their effect size.

In addition to measuring the level of democracy, I add two political variables related to democracy: democratic transition and democratic legacy.⁶ Democratic transition, directly derived from the Polity IV data, refers to a drastic change in the level of democracy with a score that ranges from -2 to 3. Democratization provides opportunities for political opposition elites to take political power from the incumbent authoritarian government (Marshall et al., 2011: 30), resulting in the replacement of an authoritarian regime with a democratic one. In my analysis, I define a democratic legacy as having experienced a democratic regime in the first wave of democracy from 1828 to 1926 (Huntington, 1991: 14-16). These states tend to have a legacy of humanitarian movements since the 19th century. Following Huntington (1991), I identify 33 countries with a democratic legacy; most of these countries are located in Europe (Austria, Belgium, Czechoslovakia, Estonia, France, Finland, Hungary, Ireland, Latvia, Lithuania, Poland, and the United Kingdom, among others), but they can also be found in North and South America (Argentina, Canada, Chile, Colombia, and the United States), Oceania (Australia and New Zealand), and Asia (Japan). Even if the current institutional structure is undemocratic, I assume that the historical legacy of democracy will still influence the legal process of abolishing the death penalty. I measure democratic legacy as a binary variable in which the 33 aforementioned countries have a value of 1.

International environment

To capture the influence of international ratifications, I created two binary variables. For the UN treaty in 1989, I assign a value of 1 to a country for each year after the country either signed or ratified the Second Optional Protocol. I do not claim a strong causal relationship between ratifying the international treaty and abolishing the death penalty; I rather assume that the act of signing and ratifying the treaty may serve as a precursor of abolition. In addition, I measure the Council of Europe treaty's influence by creating a binary variable with a value of 1 for all 47 of its member countries since 1983. This is when Protocol No. 6 was passed. The value is coded as 1 for each year since 1983 even for countries that joined the Council of Europe after 1983. This allows the binary variable to also capture the effect of the Council of Europe's treaty on aspiring member states. These states may have felt compelled to abolish the death penalty to improve their odds of admittance into the council. I expect that either actual or potential members of the Council of Europe feel pressure to abolish the death penalty, with the hope of joining the European Union in the future.⁷

Control variables

To rule out other social and cultural explanations, I include control variables on the legal tradition of the country, the degree of ethnic fractionalization, and the proportion of adherents for major religions. Legal tradition may structure the way in which the opponents of the death penalty can promote its abolition (Neumayer, 2008). In the legal tradition of civil law, the legislature can propose constitutional amendments to repeal old laws and suspend the death penalty. In the legal tradition of English common law, on the other hand, the judicial body can play a critical role by ruling the death penalty unconstitutional. To control for the influence of legal tradition in the abolition process, I include a binary variable for the common law system. This variable's value is 1 when the legal system is based on the English common law and 0 if it is classified as a civil law, customary law, mixed, or some other system. The data on the legal system are provided by JuriGlobe in the University of Ottawa's (2013) Faculty of Law.

I include the level of ethnic fractionalization in the analysis to control for the possibility that ethnic diversity leads to the harsh punishment of ethnic minority groups. In other words, societies with higher ethnic heterogeneity might tend to support the death penalty and other harsh measures in order to exercise social control (Ruddell and Urbana, 2004). In order to control for this, I use an index of ethnic fractionalization compiled by Alberto Alesina et al. (2003). The variable measures the degree of ethnic heterogeneity in various countries.

Finally, I control for the influence of religion by including variables that measure the percentage of adherents of major religions in each country. Christians hold mixed opinions on the death penalty. Some religious leaders have supported the death penalty for those who commit serious crimes, but others emphasize forgiveness and oppose it. In Roman Catholicism, the Church has begun to oppose the death penalty in the past few decades; in Protestantism, the opinion over the death penalty varies across denominations (Greenberg and West, 2008). On the other hand, Islam explicitly supports the death penalty since the Koran endorses the principle of 'life for life' in its text (Dunér and Geurtsen, 2002; Neumayer, 2008). Thus, I expect that countries with high Catholic populations are more likely to abolish the death penalty either gradually or radically, while countries with high Protestant adherents will not show a distinct tendency one way or the other. Also, I assume that countries with large Muslim populations will tend to maintain the death penalty in their law. I control for the influence of these three major religions by including the percentage of Christian

Table 2. Descriptive statistics of dependent and independent variables.

Variable	Observation	Mean	SD	Minimum	Maximum
Gradual abolition	6.518	0.007	–	0	1
Immediate abolition	5.869	0.007	–	0	1
Abolition in practice	5.804	0.223	–	0	1
Democracy	7.672	–0.027	7.464	–10	10
Separation of powers (standardized)	7.672	–0.036	0.999	–1.308	1.287
Competitive election (standardized)	7.672	–0.046	0.994	–1.135	1.327
Political participation (standardized)	7.672	–0.041	0.998	–1.800	1.089
Democratic transition	7.672	0.058	0.565	–2	3
Democratic legacy	7.672	0.209	–	0	1
UN treaty ratification	7.672	0.096	–	0	1
Council of Europe treaty ratification	7.672	0.115	–	0	1
Legal system: common law	7.672	0.066	–	0	1
Ethnic fractionalization	7.672	0.445	0.265	0	0.931
Religion: Catholic	7.672	0.266	0.338	0	0.994
Religion: Protestant	7.672	0.103	0.190	0	0.990
Religion: Islam	7.672	0.264	0.370	0	1

SD: standard deviation.

Catholic adherents, Christian Protestant adherents, and Islam adherents, respectively.⁸ These three continuous variables are derived from the World Religion Project version 1.1 (Maoz and Henderson, 2013). This is a unique time-series dataset that provides information about religious adherence for each half-decade period from 1945 to 2010. Table 2 reports the descriptive statistics for all variables used in the analyses.

Analytical strategy

I employ a competing risks event history framework to examine the risk of a nation experiencing either a gradual or immediate abolition. Event history analysis is useful for investigating if and when a country will abolish the death penalty. Among event history models, the competing risks model is appropriate for cases where the dependent variable consists of multiple competing events (Box-Steffensmeier and Jones, 2004; Pintilie, 2006). Within this framework, nation-states can move to either the ‘gradual abolition’ or ‘immediate abolition’ statuses, and a move to one abolition status cancels the possibility of moving to the other abolition status.

Among event history models, the semi-parametric Cox proportional hazard model is used to estimate the likelihood of abolishing the death penalty either gradually or rapidly. The Cox model is widely used in social scientific research since it does not specify a particular functional form for the duration.⁹ The equation for the hazard rate in the Cox model is

$$h_i(t) = h_0(t) \dots \exp(\beta_1 x_{1i} + \beta_2 x_{2i} + \dots + \beta_k x_{ki})$$

where $h_0(t)$ is the baseline hazard function, β represents the regression coefficients, and x represents the covariates (Box-Steffensmeier and Jones, 2004). I obtain robust standard errors to adjust for regional-level clustering in the data.¹⁰

I use a discrete-time dataset where each observation denotes the values of dependent and independent variables for each country in each year from 1950 to 2010. All countries where data are available are included in the analysis. States that were established in the middle of the observation period are included for each year since their establishment. Also, states that were abolished before the end of my observation period are included until they ceased to exist. States that were never sovereign between 1950 and 2010 are excluded.¹¹ In addition, countries that abolished the death penalty before 1950 – the starting point of my observation period – are left-censored in my analysis.¹² Finally, countries with missing information on their level of democracy are excluded from analysis. My complete dataset includes data from 1950 to 2010 from 164 different nation-states. With my focus on the role of democracy in the diffusion of death penalty abolition, I aim to cover the second reversal wave (since the mid-1950s), the third wave of democratization (since the mid-1970s), and the current reversal stage after the United States's 'War on Terror'. For countries that declared their independence after 1950, they enter the risk set in the year that they became independent.

I analyze the hazard rates for countries that may move from the 'retention' status to either the 'gradual abolition' or 'immediate abolition' status in a given year. Both the immediate abolition and gradual abolition variables are coded as zero during the period of death penalty retention. The dependent variable for immediate abolition then becomes 1 when a country moves from the retention status to the complete abolition status. The variable for gradual abolition is recorded as 1 when a country makes a gradual move from retention toward total abolition. A repeated events framework is applied to cover both moves from retention to incomplete abolition and then from incomplete to complete abolition.¹³ In cases where a country experiences immediate abolition, it is considered impossible for that country to experience gradual abolition, and vice versa. Accordingly, when a country experiences either immediate abolition or incomplete abolition, it leaves the risk set of the other category of abolition, and the variable for that process is coded as missing for the remaining years.¹⁴

As a supplement to the competing risks event history analysis for immediate and gradual abolition, I also analyze the unique status of *de facto* abolition. Nation-states that continue to impose death sentences but cease to execute inmates fall into this category. *De facto* abolition does not necessarily involve any event or a decision to outlaw the death penalty in the legal code of a country. It is rather a tentative status that continues until the regime either abolishes the death penalty in its law or resumes practicing execution. For example, Zambia is a *de facto* abolitionist state since 1998 because the last execution was carried out in 1997. The Russian Federation has also been considered in a *de facto* abolition status since 2000 because no executions have been reported since 1999. Accordingly, I analyze this tentative status using logistic regression models, not event history models. I obtained robust standard errors to adjust for clustering within the states. Since a country in the *de facto* abolition status can still proceed to either the gradual or immediate abolition status, these countries do not leave the risk sets of gradual or immediate abolition.

Two types of countries go through *de facto* abolition: (1) those that enter this status as a stepping stone toward the legal abolition of the death penalty and (2) those that are obliged by the international community to discontinue executions although they have no intention of legally abolishing them. I examine the role of democracy and the international environment in encouraging retentionist states to abolish the practice of execution.

Results

How does democracy influence the processes of death penalty abolition? Table 3 presents the results of competing risks event history models on both gradual abolition (Models 1–3) and immediate abolition (Models 4–6).

Table 3. Hazard estimation for the gradual and immediate abolition of the death penalty: a competing risks framework.

	Gradual abolition			Immediate abolition		
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Democracy	0.223*** (0.064)	0.205*** (0.063)		-0.002 (0.033)	-0.011 (0.033)	0.365 (0.521)
Separation of powers			1.118* (0.516)			-0.519 (0.348)
Competitive election			0.233 (0.324)			0.125 (0.217)
Political participation			-0.044 (0.277)			0.415*** (0.054)
Democratic transition		0.621*** (0.119)	0.633*** (0.117)		0.402*** (0.033)	-0.030 (0.559)
Democratic legacy		0.749** (0.255)	0.851*** (0.229)		0.087 (0.538)	0.220 (1.003)
United Nations ratification	1.468** (0.503)	1.436** (0.456)	1.402*** (0.390)	0.177 (0.954)	0.239 (0.959)	1.306** (0.500)
Council of Europe ratification	-0.001 (0.522)	0.065 (0.491)	0.106 (0.489)	1.349** (0.465)	1.360** (0.509)	-0.426 (0.653)
Legal system: common law	0.274 (0.423)	0.263 (0.353)	0.341 (0.344)	-0.553 (0.630)	-0.337 (0.587)	-0.448 (0.610)
Ethnic fractionalization	-1.630 (0.885)	-1.126 (0.709)	-1.276 (0.692)	-0.581 (0.609)	-0.417 (0.539)	1.606* (0.779)
Religion: Catholic	0.836 (0.455)	0.418 (0.366)	0.491 (0.376)	1.635** (0.594)	1.567 (0.814)	-0.307 (1.161)
Religion: Protestant	1.575** (0.566)	1.391** (0.441)	1.501*** (0.404)	-0.171 (1.506)	-0.292 (1.144)	-0.793* (0.393)
Religion: Islam	0.443 (0.476)	0.343 (0.567)	0.224 (0.540)	-0.608 (0.348)	-0.714 (0.437)	-180.076
Log-likelihood	-167.257	-161.517	-162.306	-184.062	-181.222	5954
No. of observations	6590	6590	6590	5950	5954	43
No. of failures	44	44	44	43	43	164
No. of countries	164	164	164	164	164	

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$ (two-tailed tests); standard errors in parentheses.

Table 3 clearly shows the dissimilarities between the processes influencing gradual versus immediate abolition. However, democracy plays a critical role in promoting gradual abolition. Models 1 and 2 suggest that each point increase in the level of democracy is associated with a 25.0 percent increase ($\exp(0.223) = 1.250$; $p < 0.001$) and 22.8 percent increase ($\exp(0.205) = 1.228$; $p < 0.001$) in the gradual abolition hazard rate, respectively. In Model 2, I add two variables related to democracy, democratic transition, and democratic legacy. Both of these aspects of democracy also predict a gradual abolishment of the death penalty. Each one unit increase in the level of democratic transition is associated with a ($\exp(0.621) = 1.861$; $p < 0.001$) 86.1 percent increase in the likelihood of making a gradual move toward abolition. Also, the presence of a democratic legacy makes a nation 2.115 times more likely to gradually abolish the death penalty ($p < 0.01$). In Model 3, I include three core components of democracy: the separation of powers, competitive elections, and political participation. The institutional separation of powers turns out to be the most relevant aspect of democracy for gradual abolition. The independence of legislative and judicial bodies increases the rate of gradual abolition by a factor of 3.059 ($p < 0.05$). Taken together, the results of this model support Hypotheses I–IV by showing that (1) the level of democracy, (2) the institutional space for legislative and judicial bodies to engage in a policy-making process, (3) a major regime change toward democracy, and (4) a history of being a democratic regime are all essential for the gradual abolition of the death penalty.

In contrast, the next set of models suggests that democracy plays a limited role in the immediate abolition process. Results from Models 4 and 5 suggest that the level of democracy in a state is not positively associated with immediate abolition. A state's democratic legacy is also not significantly related to rapid change toward abolition. Only the democratic transition variable shows a positive and statistically significant influence on immediate abolition: Models 5 and 6 show that a one unit increase in the democratization variable is associated with a 49.5 percent increase ($p < 0.001$) and 51.4 percent increase ($p < 0.001$) in the hazard of immediate abolition, respectively. Thus, the results indicate that only a major shift in power from authoritarian to democratic leaders, and not the democratic political environment itself, leads to immediate abolition.

In addition, the results in Table 3 suggest that international organizations such as the UN and the Council of Europe play an important role in promoting abolition. The ratification of the UN's Second Optional Protocol has a positive and statistically significant relationship with the gradual process of death penalty abolishment. In other words, the increasing legitimacy of death penalty abolishment granted by the UN positively influenced the gradual abolition of the death penalty in retentionist states. Furthermore, the Council of Europe's adoption of the Protocol 6 treaty in 1983 has positively and significantly influenced the immediate abolition of capital punishment in member states and aspiring member states. The results suggest that the Council of Europe exerted a direct and coercive influence over states that wished to maintain or enhance their position in the European Community.

Moving on to the effects of the control variables, results of the models indicate that the presence of the common law system does not have a statistically significant effect on the gradual or immediate abolition of the death penalty. The extent of ethnic fractionalization in a society has a consistently negative influence on the process of both gradual and immediate abolition, but the effect is not significant at the 0.05 significance level. However, religion turns out to be influential in the state's likelihood of abolishing the death penalty. The percentage of the population that is Catholic is positively related to immediate abolition in Models 4 and 6, although the effect is not significant in the case of gradual abolition. The percentage of Protestant adherents in a state is significantly and positively associated with gradual abolition in Models 1–3, but it does not seem to have an influence on immediate abolition. Finally, the percentage of the population that identifies as Muslim has a negative and significant effect on immediate abolition in Model 6, although no significant pattern emerges in any model of gradual abolition.¹⁵

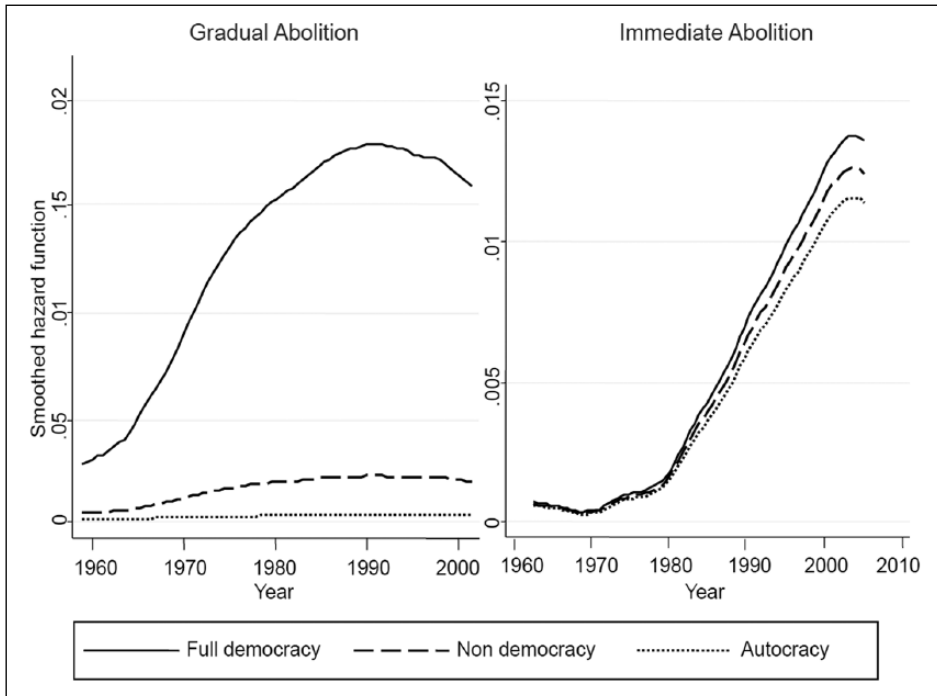


Figure 3. Level of democracy and the hazard curves of gradual and immediate abolition.

Figure 3 presents the hazard curves of gradual and immediate abolition for countries with different levels of democracy. The figures are derived from Model 1 for gradual abolition and from Model 4 for immediate abolition. These curves illustrate the dissimilar effects of democracy on gradual and immediate abolition when all other covariates are held at their mean values.

The left portion of this figure clearly illustrates the positive impact of the level of democracy on the gradual abolition hazard. In the case of stable democracies (democracy = 10), the hazard rates of gradual abolition are consistently high. Conversely, partial democracies (democracy = 0) and autocracies (democracy = -10) have very low hazard rates for gradual abolition of the death penalty. On the other hand, the right portion of this figure shows that the effect of democracy on immediate abolition is much weaker than the effect of democracy on gradual abolition. The likelihood of immediately abolishing the death penalty dramatically increased throughout the time of analysis, especially since 1980, but this increase is not limited to stable democracies. Although the hazard rates are slightly higher in stable democracies than in partial democracies and autocracies, the gap is trivial compared to the gap in the case of gradual abolition.

The results so far reveal the role of democracy in the legal decision to abolish the death penalty. Although democracy provides a platform for legislative and judicial actors to gradually pursue abolition as part of a larger human rights agenda, it does not lead to rapid and radical change in a seamless way. As additional analysis, I focus on the unique status of 'retention but no practice' where nation-states retain the death penalty in law but not in practice. Table 4 shows the results of this separate analysis of de facto abolition.¹⁶

The results in Table 4 demonstrate that democratic factors contribute to a moratorium on the practice of the death penalty even in the absence of legal abolition. Both Models 1 and 2 show that each additional increase in the level of democracy is associated with a 7.0 percent ($p < 0.01$)

Table 4. Logistic regression analysis of nation-states at the de facto abolition stage.

	Retention but no practice		
	Model 1	Model 2	Model 3
Democracy	0.068** (0.023)	0.068** (0.023)	
Separation of powers			-0.133 (0.224)
Competitive election			-0.235 (0.250)
Political participation			0.928*** (0.225)
Democratic transition		0.136 (0.070)	0.136* (0.069)
Democratic legacy		-0.507 (0.516)	-0.491 (0.524)
Council of Europe ratification	1.245** (0.446)	1.345** (0.434)	1.367** (0.465)
Legal system: common law	-0.933 (0.847)	-0.708 (0.888)	-0.880 (0.934)
Ethnic fractionalization	1.018 (0.606)	0.834 (0.651)	0.949 (0.642)
Religion: Catholic	1.471* (0.614)	1.602* (0.663)	1.453* (0.663)
Religion: Protestant	1.908 (1.627)	1.946 (1.678)	2.098 (1.872)
Religion: Islam	-0.026 (0.617)	-0.052 (0.618)	-0.288 (0.645)
Constant	-2.235 (0.496)	-2.137 (0.507)	-2.072 (0.507)
Log-likelihood	-2729.363	-2717.341	-2654.297
No. of observations	5804	5804	5804
No. of countries	144	144	144

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$ (two-tailed tests); standard errors in parentheses.

increase in proceeding to the stage of de facto abolition. More specifically, Model 3 suggests that each additional standardized unit of the measure of political participation and civil liberty is associated with a 2.529-fold ($p < 0.001$) increase in the likelihood of advancement to this stage. Thus, the degree of civic participation and freedom from governmental control is an important determinant of whether or not nation-states will stop the practice of execution. However, legislative and judicial independence from the government, which turns out to be critical for legally abolishing the death penalty, does not have a statistically significant influence on advancement to the de facto abolition stage. Additionally, an increase in the democratic transition variable is also associated with an increase in the likelihood of nation-states advancing to the de facto abolition status ($p < 0.05$). These results provide further evidence for the importance of democracy in matters of death penalty policy.

Finally, the Council of Europe's international treaty increases the likelihood of imposing a moratorium on execution by a factor of 3.473 ($p < 0.01$) in Model 1 and a factor of 3.924 ($p < 0.01$) in Model 3. Also, the proportion of Catholic adherents, among control variables, is positively associated with proceeding to the de facto abolition stage. Thus, even after controlling for democratic factors, governments are more likely to discontinue the death penalty when they are under the influence of either the European community or the Catholic religion.

Conclusion and discussion

How does democracy influence the adoption of a policy reform that has low public consensus, such as the abolition of the death penalty? Previous studies found that democratic regimes have a generally positive effect on death penalty abolition (Greenberg and West, 2008; Mathias, 2013; Neapolitan, 2001; Neumayer, 2008; Zimring, 2003). With the use of a competing risks event history model imposed on a cross-national, time-series dataset from 1950 to 2010, this study suggests

that democracy has a generally positive, but specifically structured, effect on death penalty abolition. On one hand, the overall level of democracy in general, and more specifically the institutional separation of powers, enhances the likelihood of a gradual revision in the death penalty policy. Among other democratic factors, both major democratic transition and the presence of a democratic legacy are also important determinants of gradual abolition. A supplementary analysis of which nation-states enter a policy of *de facto* abolition, where capital punishment is legal but no longer practiced, also suggests that democracy in general, as well as the political participation of citizens and democratic transition increases the likelihood of at least imposing a moratorium on the use of the death penalty. On the other hand, both the level of democracy and the legacy of democracy have no significant impact on the immediate abolition of capital punishment. Only a major democratic transition and external pressure from the European community appear to be critical factors in immediately abolishing the death penalty. These findings imply that democracy does not necessarily bring about a rapid change in contentious policies, but it does provide a political and institutional arrangement within which legislative or judicial actors can introduce these policies in face of public opposition.¹⁷

This study advances our understanding of the adoption of unpopular policies under democracy in several ways. First of all, this research supports the idea that democracy is related to the gradual elimination, if not the immediate abolition, of the death penalty. More specifically, the results suggest that fragmented institutional structures in democracies can provide room for legislative and judicial elites to promote their agenda in the face of unsupportive public opinion. In the legislative body, liberal political elites can initiate legislative bills and make a compromise with conservative elites to ban the use of the death penalty except for crimes related to national sovereignty such as espionage, treason, and war crimes. The judiciary body can also influence death penalty policy by ruling the practice unconstitutional. Social movements and cause lawyers often collaborate to challenge governmental policies inside the court (Sarat and Scheingold, 2006), and their litigations often lead to judicial rulings that are favorable to policies that face opposition from the public (McCann, 2006; Meyer and Boutcher, 2007; Suh, 2014). Moreover, as the supplementary analysis reveals, actors within an autonomous civil society can pressure the government to set a moratorium on the death penalty. While countries that guarantee the independence of the legislative and judicial body tend to legally abolish the death penalty, countries that allow the political participation of individual members of society are likely to proceed to the *de facto* abolition status.

At the same time, however, the absence of a relationship between a high level of democracy and rapid policy change implies that democratic regimes are less likely to experience a radical transition toward the complete abolition of the death penalty. Public support for this policy and the controversies surrounding its abolition may prevent stable democratic states from making rapid policy changes. A radical move toward abolition in the legislative body is often forestalled by conservative legislators and constituencies who are supportive of the death penalty. Also, the judicial body lacks sufficient independence from external forces such as public opinion (Rosenberg, 1991, 1992). In countries where the abolition of the death penalty meets strong opposition from the public, the judiciary tends not to make a rapid and radical move against the current of popular opinion. In the case of the United States, the Supreme Court has ruled the death penalty unconstitutional for specific groups such as the mentally insane, mentally retarded, and juvenile criminals. Under the common law system, the court may continue to make this gradual move by ruling the death penalty unconstitutional for all ordinary crimes (crimes not related to issues of national security). However, despite the decreasing legitimacy of the death penalty in international society, I argue that stable democracies will tend to engage in a long battle over its abolition.

This study also suggests that a major transition to democracy can lead to either a gradual or a radical change in penal policies. Newly established governments often attempt to signal their

departure from an authoritarian past by abolishing the death penalty (Futamura, 2014). The sustained challenges from old political elites inside legislative or judicial bodies may lead to a gradual abolition and make rapid and radical change less likely. But in cases where old elites are neutralized, democratic leaders may have greater leverage to attempt a radical move in the transitional period, leading to an immediate abolition. While the research shows that democratic transition is associated with both a gradual and an immediate abolition of the death penalty, future studies can expand their scope and examine the substantial effect of democratization on the adoption of other contentious policies.

Finally, this study contributes to diffusion studies that use a neo-institutional approach. Previous studies of policy diffusion suggested that policies that gain legitimacy from the international community will spread rapidly to other nation-states for whom the policies were not originally intended (Dobbin et al., 2007; Strang and Meyer, 1993; Strang and Soule, 1998; Tolbert and Zucker, 1983). This study, on the other hand, focused on a contentious policy, distinguished the gradual step-by-step process from the rapid process, and examined how governments and other entities use multiple routes to adopt and revise their policies in a gradual manner. Applying this process-oriented approach, this research showed that the causal link between domestic political factors and gradual policy adoption does not disappear between 1950 and 2010. Even after the abolition of the death penalty gained legitimacy in international forums, both endogenously driven and exogenously influenced abolition processes unfolded simultaneously. This study suggests a closer examination of the distinct diffusion process of policies related to contentious issues – such as abortion, same-sex marriage, counter-terrorism legislation, and others – that divide both political elites and public opinion.

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Notes

1. This is different from other controversial practices that are conducted but denied and concealed by governments, such as extrajudicial killing or torture.
2. The non-democratic states that became members of the Council of Europe are Turkey (1949), Russia (1996), Georgia (1999), Azerbaijan (2001), and Armenia (2001).
3. Empirical studies of death penalty abolition may focus on the number of people executed by countries. I do not examine the actual use of the death penalty for two reasons: First, the primary focus of this article is on the formal policy-making processes of death penalty abolition and not its practice. Second, the data for the number of executions are not complete enough to conduct a longitudinal analysis for a substantively long period, and no accurate statistics exist for some countries including China, Iran, Iraq, Malaysia, North Korea, Saudi Arabia, and Somalia, among others. Instead, my analysis on the stage of de facto abolition will provide an indirect examination of the practical use of the death penalty.

4. I also used data from Freedom House (2013) to measure the level of democracy in an alternative way. The analysis using this measure, which covers the 1972–2010 period, provided results that are not qualitatively different from the analysis using the Polity IV data. I focus my analysis here on the Polity IV data since these include a more detailed set of variables that measure the specific institutional components of democracy and democratic transition.
5. Stable democracies that experienced gradual paths toward the complete abolition stage between 1950 and 2010 include Canada (1976; 1998), Denmark (1978), the Netherlands (1982), Norway (1979), Sweden (1972), Switzerland (1992), and the United Kingdom (1973; 1998), among others. Countries that immediately abolished the death penalty in a single year include (1) authoritarian states such as Azerbaijan (1998), Bhutan (2004), Djibouti (1995), Guinea-Bissau (1993), Haiti (1987), Kyrgyzstan (2007), Turkmenistan (1999), and Uzbekistan (2008); (2) Eastern European states such as Bulgaria (1998), Croatia (1990), the Czech Republic (1990), Georgia (1997), Hungary (1990), Poland (1997), Romania (1989), the Slovak Republic (1990), and Slovenia (1989); and (3) nation-states that experienced genocide such as Angola (1992), Burundi (2009), Cambodia (1989), Mozambique (1990), Namibia (1990), and Rwanda (2007).
6. While no cross-national data exist on public opinion of the death penalty covering the 1950–2010 period, case studies show that public support of this practice exceeds 50 percent of the population on average in stable (Jacobs and Carmichael, 2002; Mooney and Lee, 2000; Hammel, 2010; Sarat and Martschukat, 2014) and new democracies (Brown et al., 2010; Keil et al., 1999) as well non-democratic states such as China (Jiang et al., 2005).
7. Although the number of international non-governmental organizations (INGOs) in each country is included as an additional control variable, the number of INGOs is shown to not significantly influence the gradual or immediate abolition of the death penalty. My thanks to Evan Schofer for generously providing these data (see Schofer and Longhofer (2011) for information on these data).
8. I only include Protestantism, Catholicism, and Islam variables in the models since only these three religions have a percentage of 10 percent or more of the whole population in a country on average.
9. As a robustness check, the data are analyzed using parametric survival models including those of Weibull and Gompertz. The results do not show any qualitative change.
10. Based on the region identifier of the United Nations (UN) Statistics Division, I categorize countries into six regions: Africa, Asia, Europe, Oceania, North America, and South America.
11. Countries that became sovereign after 2010 include the Palestinian Authority (2012) and South Sudan (2011). Countries that are not sovereign include Bermuda, The Holy See, Hong Kong, Macao, Puerto Rico, and others.
12. There are eight countries that partially abolished the death penalty before 1950. They include Denmark (1933), Finland (1949), Italy (1947), the Netherlands (1870), Norway (1905), Portugal (1867), Sweden (1921), and Switzerland (1942). All of these countries took the step to abolish the death penalty completely after 1950. Although their first step toward incomplete abolition is left-censored, their second step toward complete abolition is included in the analysis of gradual abolition. Nine countries that completely abolished the death penalty by 1950 include Colombia (1910), Costa Rica (1877), Ecuador (1906), Germany (1949), Iceland (1928), Panama (1922), San Marino (1865), Uruguay (1907), and Venezuela (1863). The humanitarian movement played a generally important role in influencing incumbent political powers to abolish the death penalty for all crimes, with the exception of Germany where the treatment of Nazi war criminals was more salient than the humanitarian movement itself in the debate over death penalty abolition after Second World War.
13. I also analyze the move from retention to incomplete abolition and incomplete to complete abolition separately. The results do not show any qualitative change in terms of the first move toward incomplete abolition. Within the second move toward complete abolition, however, the total observation (30 countries at risk; 619 cases) is too small – especially compared to the first move (161 countries at risk; 5947 cases) – to yield meaningful findings for the independent variables.
14. Countries that abolish the death penalty rarely restore it, although restoration is not unprecedented (Johnson and Zimring, 2009). An exceptional case of restoration in recent times occurred in the Philippines, where the death penalty was abolished for all crimes in its newly drafted Constitution in

- 1987 only to be reinstated in 1996. After a final execution in 1999, the death penalty was re-abolished for all crimes in 2006.
15. The effect of cultural and social control variables on the abolition of the death penalty is important when a larger causal chain between democracy and abolition is considered. The results from ordered regression analysis show that the degree of ethnic fractionalization and the percentage of the population that is Protestant are both negatively and significantly associated with the level of democracy, while the presence of the common law system and the percentage of the population that is Muslim are both positively related to it. Thus, the effect of control variables on death penalty abolition is mediated by democracy.
 16. In this supplementary analysis, I obtain robust standard errors to adjust for the country-level clustering in the data. The UN ratification variable is deleted because no country ratified the UN ratification before ending the death penalty in practice.
 17. For research on the gradual influence of democracy that supports the findings of this study, see De Mesquita et al. (2005).

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