

Briefing Paper

Does the Death Penalty Deter Homicide in Japan?

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DOES THE DEATH PENALTY DETER HOMICIDE IN JAPAN?

ABSTRACT

Unlike the United States, where death penalty and deterrence studies are legion, there has been little research about the death penalty and deterrence in Japan, though the paucity of studies has not discouraged citizens and officials from making confident claims about this issue. Indeed, deterrence has been called “the core of argumentation for and against” the death penalty in Japan. Serious research on this subject has been all but impossible because of difficulties obtaining decent crime data from the Japanese government. This paper uses monthly homicide and robbery-homicide statistics that were previously unavailable to examine whether death sentences and executions in Japan deterred these crimes from 1990 to 2010. The main finding is that the death penalty did not deter homicide or robbery-homicide during this period. More research is needed on this subject, but at present the Japanese government has no sound basis for continuing to claim that the country needs to retain the death penalty because it deters heinous crime.

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DOES THE DEATH PENALTY DETER HOMICIDE IN JAPAN?

DAVID T. JOHNSON

Unlike the United States, where death penalty and deterrence studies are legion (National Research Council, 2012), there has been little research about the death penalty and deterrence in Japan, though the paucity of studies has not discouraged citizens and officials from making confident claims about this issue. Indeed, deterrence has been called “the core of argumentation for and against” the death penalty in Japan (Schmidt, 2002, p.102). Serious research on this subject has been all but impossible because of difficulties obtaining decent crime data from the Japanese government. This paper uses monthly homicide and robbery-homicide statistics that were previously unavailable to examine whether death sentences and executions in Japan deterred these crimes from 1990 to 2010. The main finding is that the death penalty did not deter homicide or robbery-homicide during this period. More research is needed on this subject, but at present the Japanese government has no sound basis for continuing to claim that the country needs to retain the death penalty because it deters heinous crime.

PREVIOUS RESEARCH

Almost all studies of the deterrent effects of the death penalty have focused on homicide rates in the United States. The first serious research was done in the 1950s and did not find deterrent effects (Sellin, 1951). Subsequent studies claimed that, on the average, each execution from 1933 to 1967 saved the lives of 8 potential murder victims (Ehrlich, 1975). Thereafter, more than a hundred studies of the death penalty and homicide deterrence have been published about America. The literature is large and hard to summarize, but in the last 40 years two reviews have been done by blue ribbon panels of the National Research Council (1978, 2012). Both concluded that extant studies are so flawed that they are not informative about whether capital punishment deters homicide (see also Gerritzen and Kirchgassner, 2016). Other reviews of the American research have reached pessimistic conclusions (Berk, 2005; Fagan, 2006; Donohue, 2016), and there is also growing doubt among the American public about the deterrent utility of capital punishment (Pew Research Center, 2015). At present, retribution, not deterrence, is the primary justification for capital punishment in the United States (Radelet, 2016).

In contrast to the United States, there has been little research on the death penalty and deterrence in Japan. One study of 1959-1990 found that media coverage of death sentences and executions did not have a deterrent effect on homicide, robbery, arson, or rape (Sakamoto, Sekiguchi, Shinkyu, and Okada, 2001). Another found no deterrent effect of capital punishment on homicide from 1953 to 1987 (Matsumura and Takeuchi,

1990). And two studies examined homicide in Japan from 1960 to 1986 and concluded that the death penalty did have a deterrent effect (Akiba, 1991 and 1993), though in these studies it is unclear how the probability of capital punishment was calculated, and a reanalysis of the data found no deterrent effect (Mori, 2016). All of these studies are seriously flawed. Most importantly, they relied on annual crime statistics, not monthly statistics of the kind employed in the present study.

Executions in Japan are shrouded in secrecy (Johnson, 2006), as are deliberations by judges and lay judges about life and death sentencing decisions (Johnson, 2013), but these are not large obstacles to doing research about the death penalty and deterrence because some information about executions and death sentences (including dates) is made public after the fact. The main data difficulty is obtaining detailed homicide statistics, for Japan's National Police Agency and Ministry of Justice do not release monthly homicide statistics that would enable researchers to conduct sound time-series studies, which proceed from the premise that the presence of an effect of executions or death sentences on homicide rates "can be seen from the association of fluctuations of executions over time with fluctuations of homicides over time" (National Research Council, 2012, p.75). Without monthly homicide data, associations between these fluctuations cannot be reliably discerned. Without monthly homicide figures, the annual homicide total (one number per year) provides too few data points to satisfy the assumptions of many statistical models. And without monthly homicide data, statistical models of the death penalty and deterrence merely generate crude annual estimates.

CRIME AND CAPITAL PUNISHMENT IN JAPAN

In 2011, I was able to obtain monthly homicide figures from the Japanese police, which enabled use of a time-series method known as vector autoregression (VAR) that previous researchers could not use and that is explained in the next section of this article.¹ I also obtained monthly figures for robbery-homicide, which in Japan is a different offense from homicide in law in three ways. First, persons convicted of robbery-homicide are about 15 times more likely to be sentenced to death than persons convicted of homicide, and persons convicted of robbery-homicide are about 40 times more likely to be sentenced to life imprisonment than persons convicted of homicide. In these ways, robbery-homicide is punished more severely than homicide. Second, victims and offenders know each other much more often in homicide cases than in robbery-homicide cases. That is, robbery-homicide tends to occur between strangers. Third,

1 Monthly homicide statistics were provided by police in Japan's Police Policy Research Center (*Keisatsu Seisaku Kenkyu Senta*), which is part of the National Police Academy in Tokyo. All of the conclusions in this study are based on those statistics, which were obtained after I was a visiting scholar at the PPRC in 2010. I also am grateful to Komazawa University Professors Kanji Muramatsu and Koiti Yano for help analyzing these statistics and for collaborating on two related articles (Muramatsu, Johnson, and Yano, 2017; Muramatsu, Johnson, and Yano, 2018).

robbery-homicide offenders are more likely to be motivated by greed than homicide offenders. Since crimes of greed (like robbery-homicide) tend to be preceded by more calculation than crimes of anger and resentment (crimes of homicide), it is probably easier to deter robbery-homicide than homicide through legal threats of punishment, including the ultimate threat of capital punishment. These three differences make it essential to distinguish between homicide and robbery-homicide when modeling the effects of capital punishment on crimes that kill (Muramatsu, 2016).

This paper focuses on homicide and robbery-homicide in the two decades from January 1990 through June 2010. Japan experienced a steep decline in reported crime from 1988 to 1989, from 315,568 people arrested for violations of the Criminal Code in the former year, to 246,487 people arrested in the latter, a decrease of 22 percent. Over the same period, Japan's clearance rate for Criminal Code offenses fell, from 59.8 percent to 46.2 percent. The first year of this analysis is 1990 because these large declines in crime and clearance rates may have influenced Japan's homicide and robbery-homicides rates.

The end point of this paper's analysis is the middle of 2010 because Japan's lay judge reform took effect in 2009, and because the first death sentence imposed by a lay judge panel occurred near the end of 2010. Thus, all of the death sentences examined in this paper were originally imposed by panels of three professional judges. In Japan's new trial system, lay judge panels are mixed tribunals composed of three professional judges and six ordinary citizens. It is too early to tell what effects the lay judge system will have on capital punishment, but caution should be exercised in extrapolating the death sentencing findings from the old trial system to the new one.

Japan has been called a "low-crime nation" (Leonardsen, 2004) and a country of "vanishing killers" (Johnson, 2008). From the mid-1990s to the mid-2000s, there was a modest increase in persons cleared for homicide (+17 percent) and a large increase in persons cleared for robbery (+116 percent) and robbery-homicide (+262 percent). But by 2010, all three of these crimes had fallen to levels not seen for 15 years. Throughout this two-decade period, the clearance rate for homicide remained stable between 94 and 98 percent, while the clearance rate for robbery-homicide rose and fell with no clear trend, from 77 to 111 percent, and the clearance rate for robbery declined significantly after 1995 before rebounding partially after 2001. In Japan, increases and decreases in official crime rates have partly been caused by changes in reporting practices by police and prosecutors and by the spread of mobile phones in society, but for serious crimes such as homicide and robbery-homicide, these changes in reporting and technology have probably had little effect on the official rates.

In Japan, a person sentenced to death has the right to appeal to a High Court and then to the Supreme Court, though these rights can be waived. Prosecutors can also appeal acquittals and sentences, and sometimes through appeal they convert a District Court acquittal or prison sentence into a death sentence. Japanese District Court death sentences increased substantially after 1996 (with increases in High Court and Supreme

Court death sentences lagging a few years behind), and District Court life sentences increased as well. Death sentences and life sentences then started to decline about a decade later, shortly before the lay judge reform took effect in 2009. One cause of this decline was a decrease in homicides that started in the mid-2000s. Another was a change in policy by Japanese prosecutors, who became more cautious about seeking severe sentences in anticipation of the new trial system (Takeda, 2014). Prosecutors in Japan have long been risk averse about trial outcomes (Johnson, 2002, ch.7). Without a track record to help predict how lay judge panels would act, they became even more cautious in the years preceding the lay judge reform.

Following a 40-month moratorium on executions that ended in 1993, executions in Japan fluctuated between lows of 1 in 2003 and 2006 and a high of 15 in 2008, with an average of 4 executions per year for the period 1990-2010.² By these measures, Japan, a nation with 130 million people, may seem to be “relatively sparing” in its use of capital punishment compared with the United States (Garland, 2010, p.319), which has more than twice as many people but which performed (during the same period) about 13 times more executions. But per capita rates of capital punishment can be misleading because persons are not selected randomly for death; they are condemned and executed from a pool of potentially capital cases. In the United States and Japan, this pool consists almost entirely of homicide crimes. Hence, to discern the scale of execution in these two countries, one must consider the sizes of their capital-crime pools. By this measure (executions per homicide instead of executions per capita), the probability of a known murderer being sentenced to death and executed in Japan is not much different than in American jurisdictions such as Texas and Virginia (Johnson, 2011, p.1052).

Figure 1 graphs homicide cases known to the police and District Court death sentences for homicide in Japan from 1990 to 2010. While the number of homicides remains flat throughout this period, the number of death sentences for homicide surges from the late 1990s through the late 2000s (Tagusari, 2017).

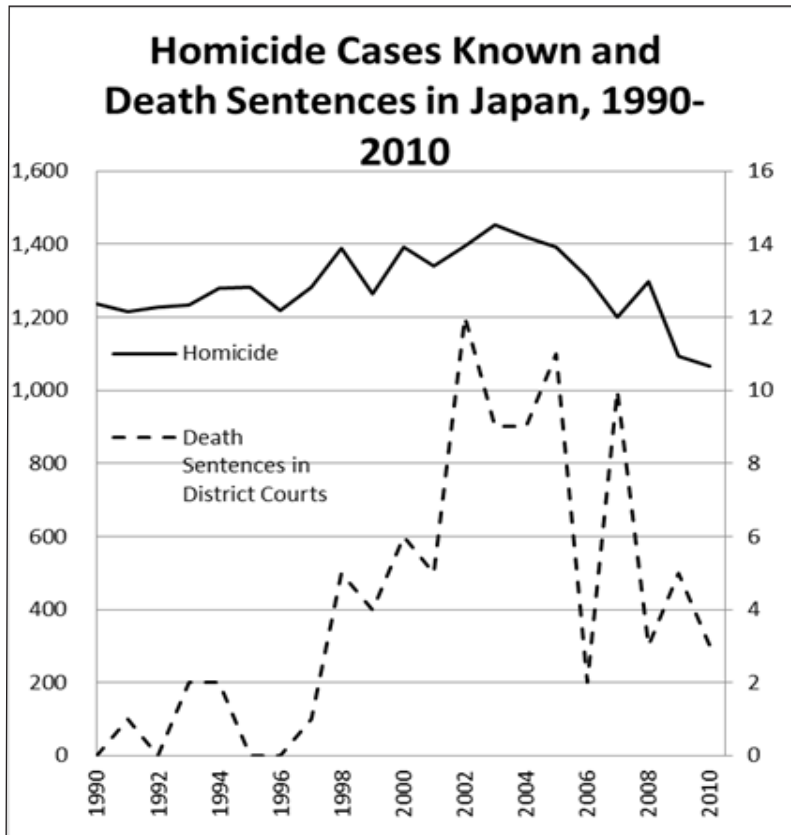
In contrast, Figure 2, which graphs robbery-homicide cases known to the police and District Court death sentences for robbery-homicide from 1990 to 2010, shows that death sentences for robbery-homicide did not surge in any sustained way during this two-decade period, perhaps because (as explained above) robbery-homicide has long been punished severely in Japan.

Figure 3 shows that throughout the period 1990 to 2010, the number of District Court

2 In the three-year period 2007-2008-2009, Japan carried out 31 executions, which was one more than the number of executions for the previous ten years combined. As explained later in this paper, Japan's death penalty did not deter homicide or robbery-homicide even during this execution surge.

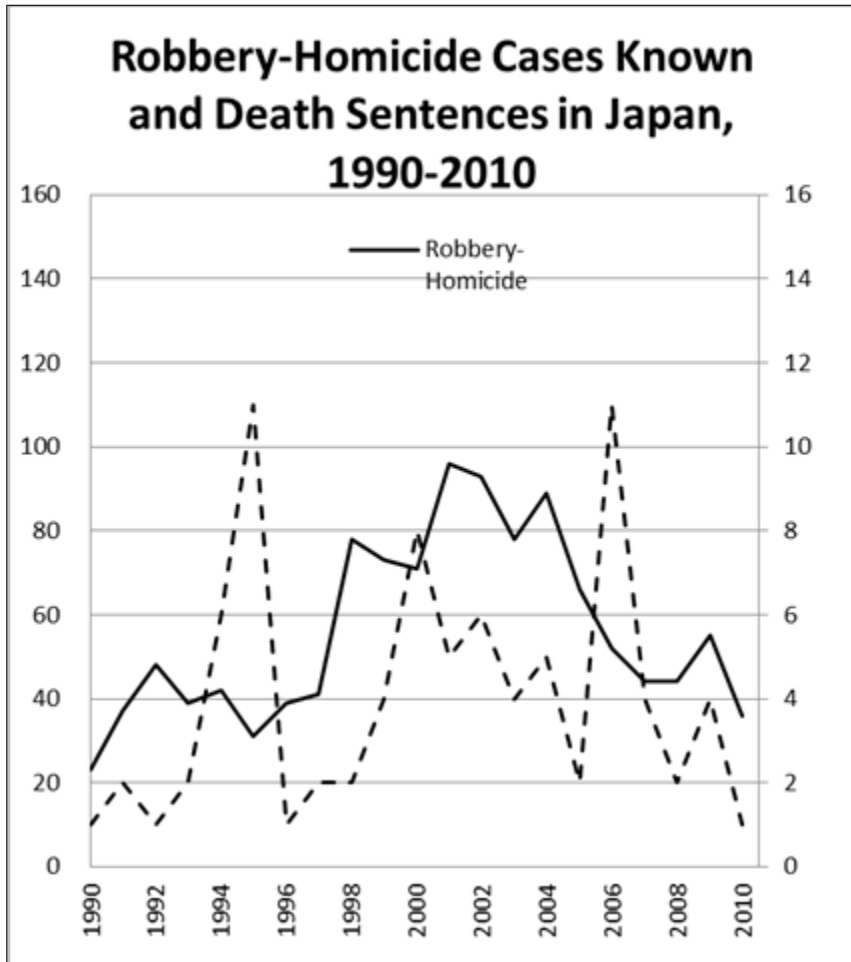
death sentences and the number of District Court life sentences tracked each other closely, with the numbers increasing from the early 1990s until the early 2000s and then decreasing significantly until 2010. The mountain-like shape of the lines in Figure 3 reflects the fact that Japan experienced a decade-long “get tough on crime” (genbatsuka) trend that was shorter and less intense than the punishment increases which occurred in the United States after the 1970s.

Figure 1: Homicide & District Court Death Sentences for Homicide in Japan, 1990-2010



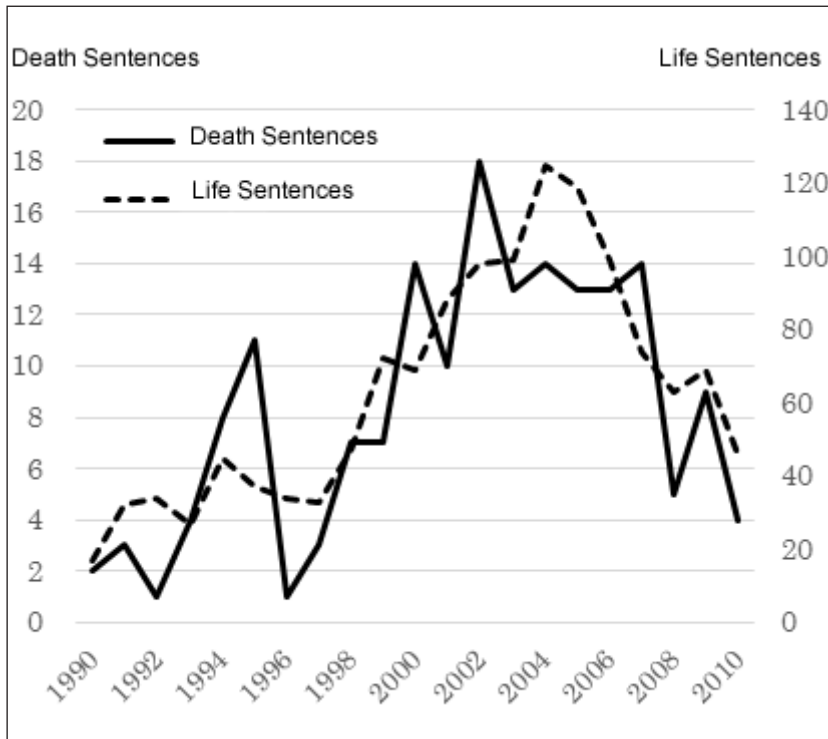
Source: Japanese Ministry of Justice, Hanzai Hakusho (various years).

Figure 2: Robbery-Homicide & District Court Death Sentences for Robbery-Homicide in Japan, 1990-2010



Source: Japanese Ministry of Justice, Hanzai Hakusho (various years).

Figure 3: Death Sentences & Life Sentences in Japanese District Courts, 1990-2010



Source: Japanese Ministry of Justice, Hanzai Hakusho (various years).

METHODS

Because this article asks whether the death penalty in Japan deterred homicide and robbery-homicide between 1990 and 2010, the main explanatory variables relate to capital punishment. They are: (1) the number of persons sentenced to death by Japan's 50 District Courts; (2) the number of persons sentenced to death by Japan's 8 High Courts; (3) the number of persons sentenced to death by Japan's Supreme Court; (4) the total number of persons sentenced to death by all of these courts; and (5) the total number of persons executed in Japan, where the only method of execution is hanging (and has been since 1873). All of these variables are measured per month.

By law, a person sentenced to death cannot be hanged until his or her death sentence has been “finalized” (*kakutei sareta*). From 1993 to 2012, one-third of the persons executed in Japan (30/91) had their death sentences finalized without review by the Supreme Court, either because they did not file an appeal or because they withdrew their appeal (Death Penalty Project, 2013, p.27). The remaining two-thirds (61/91) had their death sentences reviewed and finalized by the Supreme Court. Appellate death sentences are included in this analysis because the large majority of death sentences are reviewed and affirmed by appellate courts and because appellate court death sentence decisions receive considerable publicity in Japan.

In addition to the five death penalty variables described above, there are two other independent variables in this study. The first is the unemployment rate (*shitsugyoritsu*), which captures some of the economic circumstances that shape human behavior. For many years in the postwar period, Japan had one of the most equal income distributions in the world (Park, 2006, p.11). But since 1990, the country has experienced two “lost decades” characterized by recession, deflation, and other economic stresses, including rises in unemployment and temporary employment. Chen et al (2012) report that between 1990 and 2010 the suicide rate in Japan was highly correlated with the unemployment rate, and they argue that this connection can be partly explained by the weak public and private safety nets for unemployed workers in Japan. This paper employs analogous logic to hypothesize that unemployment also causes homicide. The other explanatory variable is Japan’s “get tough on crime” (*genbatsuka*) movement, which was described at the end of the preceding section and is represented in the present study by a composite of two dummy variables. The first dummy variable captures a legal change in 2005 that increased the “maximum fixed term of punishment” (*yuki choekikei no jogen*) for a single crime from 15 years to 20, and for multiple crimes from 20 years to 30. In Japan, the crime of homicide may be punished by a death sentence, a life sentence, or a fixed term of imprisonment of 5 years or more. If potential offenders consider an array of possible consequences before deciding how to act (as most theories of deterrence suppose), then the increase in maximum fixed term of imprisonment could have an effect on homicide rates, though it should not influence robbery-homicide rates because in Japanese law this crime must be punished by either a death sentence or a life sentence, not by a fixed term of imprisonment. The increase in the maximum fixed term of imprisonment may also have enhanced deterrence by altering potential offenders’ perceptions of the possibility of being released on parole.

The other “get tough” dummy variable captures a legal change in 2005 which raised the statute of limitations for homicide and robbery-homicide from 15 years to 25 (Japan abolished this statute of limitations in 2010). Since changes in the statute of limitations and in the maximum fixed term of punishment occurred simultaneously, it is impossible to distinguish between the effects of these two reforms. This paper therefore refers to these two variables together as “increased punishment based on law reform,” or “law

reform” for short.³

Note, too, that since the number of death sentences and the number of life sentences rose and fell together from 1990 to 2010 (see Figure 3), the omission of life sentences from the present study probably causes the vector autoregression models to overstate the deterrent effects of Japan’s death penalty. In this sense, this paper’s conclusions about Japanese capital punishment can be considered conservative because they are biased in favor of finding a deterrent effect.

The time-series method of vector autoregression employed in this study examines the statistical association of executions (or death sentences) and homicides (or robbery-homicides) over time. The main premise of the models is that the presence of an effect of executions (or death sentences) on homicide rates (or robbery-homicide rates) can be seen from the association of fluctuations of executions (or death sentences) over time with fluctuations of homicides (or robbery-homicides) over time (National Research Council, 2012, p.75). In the United States, a variety of time-series models have been used to study the death penalty and homicide deterrence. Among them, vector autoregression (VAR) has been called “the methodological state of the art” (National Research Council, 2012, p.82). With vector autoregression, impulse response functions are used to trace the response of current and future values of each variable to an increase in the current value of one of the VAR error terms. This represents the response of the dependent variable (homicide or robbery-homicide) over time to changes in the vector of independent variables (capital punishment, unemployment, and law reform).

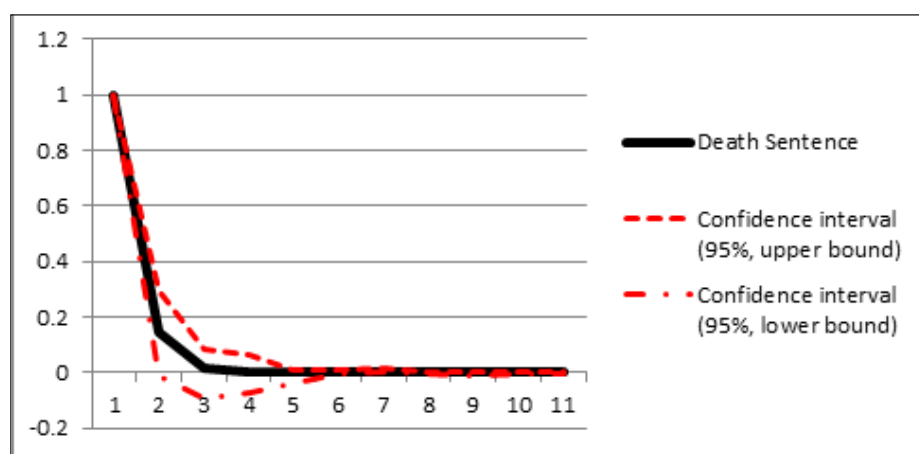
The two panels in Figure 4 explain impulse response functions by representing the effect of sentencing a person to death in district court.⁴ In the top panel, the horizontal axis represents months and the vertical axis represents the number of persons sentenced to death by district courts. In the bottom panel, the horizontal axis represents months and the vertical axis represents the number of robbery-homicide cases known to the police. In the top panel, the null hypothesis that a district court death sentence in the first month causes other district court death sentences after the first month is rejected because the 95 percent confidence interval (indicated by the dashed and dotted lines) contains

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- 3 In addition to the explanatory variables used in this study, there may be other influences on homicide and robbery-homicide in Japan, including clearance rates, perceptions of the legitimacy of government, the age structure of the population, and informal social controls. These factors should be taken into account in future research.
 - 4 In the impulse responses depicted in Figure 4 and summarized in the text, a district court death sentence is used to illustrate the general pattern that was found for all death penalty “shocks” to homicide and robbery-homicide. That is, for all of the death penalty independent variables in this study, the null hypothesis that the death penalty has a deterrent effect on homicide (or on robbery-homicide) was rejected because the 95 percent confidence interval contains 0.

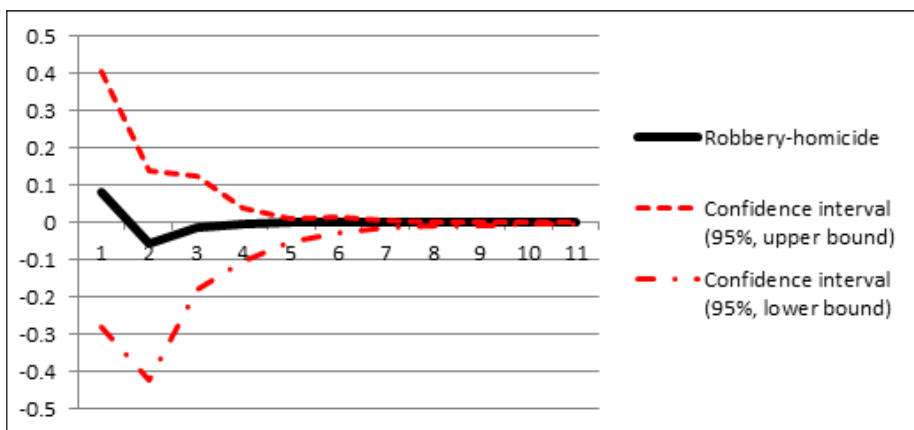
0. In the bottom panel, the null hypothesis that a district court death sentence has a deterrent effect on robbery-homicide is rejected because the 95 percent confidence interval contains 0.

Figure 4: Impulse Responses for Death Sentences & Robbery-Homicide in Japanese District Courts

Death Sentence Shock to Death Sentence



Death Sentence Shock to Robbery-Homicide



Note: This figure illustrates the impulse responses of a vector autoregression. In the upper and lower panels, the horizontal axis represents month, and a district court death sentence (a “shock” in the VAR) occurs in the first month, while the vertical axis represents the magnitude of the response of a district court death sentence or robbery-homicide to a district court death sentence. The upper panel shows the response of district court death sentence after a district court death sentence occurs in the first month. In the upper panel, the null hypothesis that a district court death sentence causes other district court death sentences after the first month is rejected because the 95 percent confidence interval contains 0. The lower panel shows the response of robbery-homicide after a district court death sentence occurs in the first month. In the lower panel, the null hypothesis that a district court death sentence has a deterrent effect on robbery-homicide is rejected because the 95 percent confidence interval contains 0.

RESULTS

Vector autoregressions and impulse responses are difficult to interpret for readers not trained in these statistical methods, so the main results of this analysis are presented in tabular form.

Table 1 presents the results for homicide. None of the death penalty variables – executions or death sentences – had an influence on homicide, but Japan’s “get tough” law reforms (raising the maximum fixed term of punishment and extending the statute of limitations) did have a significant influence on homicide in three of the four models. Conversely, the unemployment rate did not have a significant influence on homicide in three of the four models.

Table 2 presents the results for robbery-homicide. Here, too, none of the death penalty

variables had a significant effect, but the “get tough” law reforms of 2005 did have a significant influence on robbery-homicide in all of the VAR models, and so did the unemployment rate.

Finally, VAR tests were performed to determine whether Japan’s death penalty deterred homicide or robbery-homicide during the surge in executions that occurred between December 2006 and January 2009 (see footnote 2). The conclusions remain unchanged. Even during a period in which Japan carried out executions more aggressively than it had since the mid-1970s, there is no evidence of a deterrent effect of the death penalty on homicide or robbery-homicide.

Table 1: The Influence of Death Sentences, Executions, Criminal Law Reform, and Unemployment on Homicide in Japan

	Impulse Response	Law Reform	Unemployment Rate
Influence of Executions on Homicide	No influence	Not significant (p=0.071)	Significant (p=0.017)
Influence of District Court Death Sentences on Homicide	No influence (p=0.077)	Significant (p=0.017)	Not significant
Influence of Supreme Court Death Sentences on Homicide	No influence	Significant (p=0.013)	Significant (p=0.003)
Influence of All Death Sentences on Homicide	No influence	Significant (p=0.008)	Not significant (p=0.056)

Note: “No influence” means within a 95 percent confidence interval.

Table 2: The Influence of Death Sentences, Executions, Criminal Law Reform, and Unemployment on Robbery-Homicide in Japan

	Impulse Response	Law Reform	Unemployment Rate
Influence of Executions on Robbery-Homicide	No influence	Significant (p=0.000)	Significant (p=0.000)
Influence of District Court Death Sentences on Robbery-Homicide	No influence	Significant (p=0.000)	Significant (p=0.000)
Influence of Supreme Court Death Sentences on Robbery-Homicide	No influence	Significant (p=0.000)	Significant (p=0.000)
Influence of All Death Sentences on Robbery-Homicide	No influence	Significant (p=0.000)	Significant (p=0.000)

Note: “No influence” means within a 95 percent confidence interval.

DISCUSSION

This study examined the deterrent effects of the death penalty in Japan from 1990 to 2010. There are two main findings. First, the death penalty deterred neither homicide nor robbery-homicide. This double negative is striking because Japan’s criminal justice system punishes robbery-homicide offenders more harshly than ordinary homicide offenders, and because robbery-homicide tends to be a crime of calculation. In Japan, robbery-homicide is the best crime candidate for finding a deterrent effect of capital punishment, yet even for this thin slice of murder there is no evidence of that influence. Second, punitive law reform did deter robbery-homicide in Japan, while the evidence of its effect on homicide is mixed. It seems “getting tougher” on crime in non-capital ways may prevent some kinds of killing. So might macroeconomic policies that reduce unemployment, though in our models the evidence for this conclusion is stronger for robbery-homicide than for homicide.

What explains the contrasting effects of capital punishment and punitive law reform in Japan? The large majority of cleared homicide cases do not result in a death sentence; they result in a term of imprisonment, the most severe of which is life with the (remote) possibility of parole. Legal reforms to lengthen terms of imprisonment may affect the calculations of more potential offenders than changes in death penalty practice do. Similarly, extending the statute of limitations could have increased potential offenders' perception of their likelihood of being arrested. And since sentencing standards in Japan's judiciary have been relatively stable over time and consistent across jurisdictions, changes in the number of death sentences may affect the calculations of potential offenders less than legislative changes in sentencing maxima do.

The present study does not decisively answer all questions about the death penalty and homicide deterrence in Japan. The data only cover a period of two decades, and the results might change if a different time period were employed or if the models were specified differently. More research is needed, but the main finding of "no marginal deterrence from the death penalty" is consistent with findings from recent peer-reviewed studies of the death penalty and deterrence in Singapore (Zimring, Fagan, and Johnson, 2010) and Trinidad and Tobago (Greenberg and Agozino, 2011) and with findings from previous studies of deterrence in Japan (Matsumura and Takeuchi, 1990; Sakamoto, Sekiguchi, Shinkyu, and Okada, 2001; Mori, 2016) and in the United States (Fagan, 2006; Donohue and Wolfers, 2009; Gerritzen and Kirchgassner, 2016). There might be good reasons to challenge our conclusion that the death penalty does not deter homicide or robbery-homicide in Japan, but inconsistency with the results of previous research is not one of them.

The main finding of this study is also consistent with crime and capital punishment patterns in Japan in the postwar period. Japan's homicide rate has declined more than 80 percent since the 1950s. Over the same period, Japan's annual execution average dropped from 24.6 hangings per year in the decade of the 1950s to 4.6 per year in the 2000s – a decline of more than 80 percent during a period in which the country's population grew more than 50 percent. Killers have been vanishing in Japan (Johnson, 2008), especially among young males, who currently commit (per capita) about one-tenth as many homicides as their counterparts did in the 1950s. Japan's homicide rate is now as high among men in their 50s as among men aged 20 to 24 – an age-crime distribution seldom seen in other societies. It may be possible to construct an explanation for Japan's vanishing killer that posits capital punishment as a signal to which young males are especially sensitive, but such an account would seem to contradict general criminological truths about age and orientations to risk (Gottfredson and Hirschi, 1990).

Executions in Japan are shrouded in secrecy to an extent seldom seen in other societies. This raises the question of whether the "no deterrence" finding results from residents receiving insufficient information about how the death penalty is deployed. In the period under study, all executions were publicized after the fact, and all death

sentences were announced by the media on the same day they were imposed or on the day after. Moreover, the only published study of the death penalty, media coverage, and deterrence in Japan (using annual crime statistics) concluded that more reporting about capital punishment did not produce more deterrence of homicide, robbery, rape, or arson (Sakamoto, Sekiguchi, Shinkyu, and Okada, 2001). In short, the secrecy that surrounds capital punishment in Japan probably cannot account for the “no deterrence” finding, though additional studies in this field are needed. For that research to occur, Japan’s government must provide more of the data that researchers need (including monthly crime figures) to do sound studies.

Scholars have been studying the death penalty and homicide deterrence in the United States for decades, and much of that research is seriously flawed. The National Research Council (2012) has made several recommendations for improving the quality of future research, but considering its critical view of extant studies, it is difficult to see the basis for its optimism. My own view of the American research is best expressed by analogy: “It is impossible to prove that there are no unicorns. All we can prove is that we have found none so far” (Trefil, 1978, p.21). Scholars have been searching for the unicorn of deterrence in the United States for more than half a century. When the net result is a statement that deterrence claims cannot be proved or disproved (National Research Council, 2012, p.2), perhaps it is safe to put belief in the deterrent value of the death penalty in the same category as belief in unicorns (Sellin, 2013, p.178).

But if the United States does not need much more research about the death penalty and homicide deterrence, Japan does – and Japanese officials should encourage and enable it. In many countries, evidence about deterrence has been largely irrelevant to the ultimate decision about whether to retain the death penalty. In Europe (Hammel, 2010; Temkin, 2015), the United States (Garland, 2010), and Asia (Johnson and Zimring, 2009), death penalty policy has been determined mainly by moral sentiments, political developments, and leadership-from-the-front, not by utilitarian considerations. Still, Japanese officials frequently invoke deterrence as a reason for retaining the death penalty and carrying out executions. After publication of this study, they cannot credibly claim there is good empirical evidence to support that view, though they might contend that “common sense” leads to their preferred conclusion. Of course, once upon a time, “common sense” also held that the earth is flat.

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