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Beyond Japan Transcript

[Series 2, Episode 24: Public Opinion on Capital Punishment with Dr Viviana Andreescu](#)

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PUBLIC OPINION ON CAPITAL PUNISHMENT  
WITH DR VIVIANA ANDREESCU



**OM:** Oliver Moxham

**VA:** Viviana Andreescu

**OM:** Hello and welcome to *Beyond Japan*, an interdisciplinary podcast that looks at the broad reach of Japanese Studies from within and beyond Japan. This podcast is brought to you by the Centre for Japanese Studies at the Sainsbury Institute for the Study of Japanese Arts and Cultures in collaboration with the University of East Anglia. I'm your host, Oliver Moxham, Research Project Coordinator at the Sainsbury Institute and researcher of language and Japanese war heritage.

This week we are joined by Viviana Andreescu, Associate Professor of Justice Administration at the University of Louisville, to discuss public opinion on capital punishment in Japan. Viviana's 2020 article, 'Public Opinion and the Death Penalty in Japan', took a look at over 2,500 responses of the Japanese General Social Survey to gauge who supports the death penalty and who'd recommend it as a member of the relatively new citizen justice system.

We hope you enjoy the show.

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**OM:** Okay, good afternoon, Viviana, welcome to the podcast.

**VA:** Thank you for inviting me.

**OM:** So, first of all, we'd like to know a bit more about you. Can you tell us about your area of expertise and how your interests have brought you there?

**VA:** I'm an associate professor in the Department of Criminal Justice at the University of Louisville right now, and my research focus is on violent crime, violent victimization, and views on crime, but also my research interest includes social justice issues as they relate to social minorities such as immigrants, sexual minorities, or ethnic and racial minorities.

My dissertation was based on a spatial and statistical macro level analysis of the effects of various structural and cultural factors on homicidal violence in Appalachia, which is a large area in the United States. It includes over 1,000 counties and goes through 13 states from New York to the south on the eastern part of the country. I conduct pretty much quantitative comparative studies, and most of them are based on empirical tests of criminological theories. My interest in death penalty and public attitudes towards death penalty started in the '90s, and during my graduate studies at the University of Louisville, two of my professors, Tom Carl and Adriana Rovito, were exploring at that time death penalty issues in Kentucky. Kentucky is one of the US states that still retains death penalty, and they [Tom and Ariana] were both very generous, and they shared the data that I later use for my master's thesis.

I was interested to see what characteristics people who support or oppose the penalty have, but I was more interested in seeing if people would change their opinions if given the opportunity to choose between an alternative sentence to death, which would be life in prison without the possibility of parole. And in the particular survey that I use, the question actually asks respondent if they would select this and restitution to the victim

family being made, and about 70% of the respondents initially expressed support for death penalty. But then when asked to select the additional alternative, more than half of them change their opinion. So, in the end, about 38% in the entire sample shows support for the death penalty. And I'm mentioning that because many people who examine the correlates of attitudes towards death penalty argue that the structure of the questions actually reflect something that might not be exactly close to reality for unknown reasons.

So, I was always fascinated with Japan and the beauty of the country and its culture. And I guess curiosity prompted me more than anything to try to understand why a pacifist country like Japan, a country that is the safest in the world, a country that, based on my readings, has a cultural affinity for nonviolence and a very low tolerance for anger and aggression, would still retain [the] death penalty. I had a chance to find data and to get some answers to my question.

**OM:** I see, fascinating. So, let's begin with putting the death penalty in Japan into context. Most developed countries have abolished the death penalty, with Japan, the USA, Taiwan, Singapore, and South Korea being the notable exceptions. These systems vary from country to country, so could you explain what Japan's judicial process is on these matters?

**VA:** Yes, I will try. You're right, most of the countries in the world right now abolished [the] death penalty in law or in practice. Based on Amnesty International data, there are about 108 countries in the world that abolish death penalty in law, and overall, 144, as I

said. So, that's about 70% of the countries - that even if they didn't abolish, many of them didn't impose that penalty for more than ten years or had moratorium on death penalty. South Korea, for instance, that retained death penalty statute didn't execute anybody in the past 25 years. In the United States also, death penalty exists at the federal level, but out of 50 states, 23 abolished as penalty, 23 plus District of Columbia.

So, in United States, support for death penalty tends to decrease a little bit. Not the same thing happens in Japan, and Japan [is] interesting because centuries ago, it was the first country in the world that actually abolished [the] death penalty. And for about 300 years in the 9th century, up to the 12th century, nobody was executed in the country.

In Japan, also, [there] was a 40-month moratorium between 1989 and 1993. And I suspect some people hope that this might happen again in recent years because there are no executions [for] about two years. Between December 2019 and December 2021, nobody was executed in Japan. However, four months after the new Prime Minister [SUGA Yoshihide] was elected, three people were executed on December 21 last year. Now, to go back to your question, [capital] criminal offense is committed by Japanese citizens who are 20 years old or older – so people [who] are younger than 20 are minors in Japan. [They] are judged and penalized according to the penal code enacted in 1907. There are several other acts that regulate punishments for specified crimes, of course, like in any country. The most common crime in United States [and] in Japan based on

statistical information are property crimes, theft in particular. Murders, like in any country, are rare events, and Japan has probably one of the lowest murder rates in the world. For instance, in the United States right now, in the past three years, the murder rate increased, unfortunately, and it's now similar to the murder rate in the '90s, about 6.4 people per 100,000 individuals have been killed. Well, in Japan, a third of a percent per 100,000 people have been killed. So, in other words, if three people out of 1,000,000 people are murdered in Japan, in the United States, there are 64 people who are killed out of 1,000,000 people.

The criminal justice system in Japan was affected by some change a little bit more than a decade ago, so in 2009, a new mixed jury system was created in Japan. The purpose of this initiative was to increase civic engagement in the criminal justice system and to increase the democratic procedures and to decrease bias, I suspect, and this "lay assessor system" is, however, different from the jury system in the United Kingdom and in the United States. Under this new system, six lay judges, which are randomly selected from electoral roles, sit alongside three professional judges and hand down rulings by majority. That means that out of nine people, if five recommended convictions, this is going to take place. However, in this group of five, there needs to be at least one [professional] judge. Smaller panels that include four lay judges and one professional judge may be also used. When the facts identified during pretrial procedures are undisputed, like when a defendant confesses [to] committing the crime, they can have smaller panels. The role of the lay judges, however, are constrained, and

legal interpretations and determinations remain with the professional judges. And in any judicial decision, professional judges have a veto power.

Defendants can be sentenced to death by district courts, and like in United States, they have the right to appeal the decision and the case moves to a superior court, to a higher court, and then to the Supreme Court. I don't know much about the right of appeals. I don't know how many appeals capital-case defendants have the right to pursue, but it looks like it's more than three. For instance, one of the defendants who died in prison, he was 89, and he died five, six years ago, claiming his innocence. He was pursuing his aid appeal. So the data varies, so I can't be 100% sure what's the correct number.

But Japan's Innocence Project that keeps data on [the] death penalty [claims that] in Japan, at least right now, 118 people on death row, eight of them are women, six of them are non-Japanese convicts, and five of them committed a crime as minors, so they[were] younger than 20 when they committed a crime. So, there aren't too many. It's a pretty low number, especially comparing that figure to data from United States, where there are now about 4500 people on death row and 44 of them [on] federal death row.

**OM:** I see. So just to get the Japanese system right in my head, so you have civilian judges, and do they recommend the sentence or do they just state if someone is innocent or guilty, like in the juries [here]?

**VA:** Yeah, they recommend the sentence. And as I said, if five of them agree, for instance, and they say, "well, we vote for death penalty", then this is a conviction. You have lay judges in district courts, but in the upper-level courts, you do not. So, at higher

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courts, there are three judges, and they can appeal the decision there, too. [Then] it moves to Supreme Court that has five judges. So, there are no lay jurors in those courts.

**OM:** It seems like quite a lot of responsibility to put on civilian as opposed to what we do with Western juries.

**VA:** Yes, this is true, and it's interesting - I was reading a couple of years ago that more than 1,000,000 people in Japan have been asked to serve as a lay judge and about 90,000 of them up to 2019 served. But many didn't want to. [They] found reasons to avoid serving as a lay judge. So those who eventually agreed to do that, I don't know how representative they are of the entire population, so it might be a process of self-selection.

Something that also was interesting was that after the system was inserted in Japan, sentences became harsher than they used before. So that's why I suspect that people who agree to serve might be those who think that crime is increasing in Japan and that harsher punishment should be imposed.

**OM:** Interesting. So on that note, high profile cases such as the Aum Shinrikyo cult leader, Shoko Asahara, who was responsible for the 1995 Tokyo subway sarin attack, these cases invariably lead to a death penalty verdict. But what types of crimes in Japan generally leads to prosecutors seeking the death penalty?

**VA:** Yeah, you're right. Those high-profile cases that involve multiple murders are more likely to get the death penalty. In Japan, according to their penal code, murder, in particular aggravated murder, is eligible for the death penalty. So, the prosecutor can seek the death penalty. The crimes of homicide, however, that are stipulated in the penal code include: homicide; parricide, which means the killing of a parent; preparation of homicide; inducing or aiding suicide; homicide with consent; and attempted homicide. Not all those types of homicide are subject to the death penalty, as a Japanese professor, MORI [Daisuke], recently wrote in a paper that was published in 2020 about the current effect of death penalty in Japan. For instance, preparation of homicide, inducing or aiding suicide, and homicide with consent are not eligible for death penalty. If you look at people who are on death row in Japan right now, you see that more than 90% of those 118 cases involved two victims, at least. That doesn't mean that if somebody killed only one person, he cannot get the death penalty, because that happened.

It doesn't happen only in murder cases. For instance, on death row now is a person who was involved in Red Army activities in the '70s and got death penalty. Arson as a cause of death is a crime that is eligible for death. Murder that took place during the commission of another crime, like robbery, for instance, that ended up robbery and murder, it's more likely to get [the] death penalty. Building bombs to kill people, you receive the death penalty because of that. [For] parricide, also murder for hire, [there] was a case of a convict who killed only one. So that wasn't more than one person, but the commission of the crime was during a parole period. He had a life sentence and got

out of prison and killed this older lady, and then he got [the] death penalty. So in general, murder cases [of] more than two people being killed are more likely to secure a death penalty.

But again, Japanese scholar Norio Takahashi was talking about nine criteria. They are generally used in their liberation. So lay judges in particular and the professional judges make an assessment based on: the degree of viciousness; the motivation behind the crime; the manner in which the victim has been killed; the outcome of the crime, meaning the number of victims, and this is considered the most important motive on deciding criminal liability; they also take into account the feelings of the victim's family members; the impact of the crime on Japanese society; the defendant's age – I don't know if we can expect that they would be more lenient if a person is younger but as I was saying earlier, there are five individuals on death row now who committed the crime as minors; also they consider the previous criminal records; and the degree of remorse shown by the defendant.

So, I don't know exactly who gets life in prison and who doesn't. I couldn't find information about that. I'm not saying that it doesn't exist but based on the data included in the study that I mentioned earlier written by Professor Mori who conducted a time series analysis of murder rates and the effect of death sentences and life imprisonment, it looked like the average rate for life imprisonment and death sentences was pretty much the same if I remember correctly. But again, I suspect that if there is only one victim involved, that the defendant is more likely to get life in prison. [What's] different

from the United States [is that] in Japan, there isn't a sentence like life in prison without the possibility of parole that is here [USA]. But when you get a life sentence, based on what I've read, the chances to get out earlier on the prison are pretty slim. But around ten people get out before they die every year, so ten who get a life sentence.

In any case, the imprisonment rate in Japan is pretty low, especially compared to the United States that keeps incarcerating people. So, the imprisonment rate here [USA] is about 665 per 100,000 people. When in Japan, it's 39 per 100,000. So I couldn't find any information about the actual number of people who have life sentences in Japan, but probably it's not very high. It might be comparable to those who are on death row.

**OM:** I see, thank you. Let's turn to your 2020 article now, titled 'Public Opinion and the Death Penalty in Japan'. Your study takes a look at trends amongst retentionists and abolitionists that is, those for and against the death penalty. Could you give us an overview of your findings?

**VA:** Yeah, sure. Tad Hughes and I – he's my colleague – we work on this analysis a couple of years ago, and as I mentioned earlier, I was planning to analyse data on that penalty in Japan for some time, but I couldn't find the proper data. And our study is based on Japan's General Social Survey, which is very similar to the general social survey that is used in United States on a yearly basis. And it's a secondary data analysis. And the survey that we use was from 2010. At that time, [the] only one more recent available [was] from 2012. And I remember one of the anonymous reviewers asked why we didn't use the more recent one, and I didn't because the most recent one

didn't include any information about the new lay judge system, and I was interested in that particular issue.

So, the main goal of the analysis was to identify the characteristics of people who have different opinions toward death penalty. Most studies tend to use the dichotomy and say, "well, who are those who favor and who are those who oppose the sentence?" I was interested in those who are undecided because they can go one way or another, and especially if they are non-profit organizations in Japan and other groups who would like to see a change in the legislation and would like to see [the] death penalty abolished. They might be interested in focusing their attention on this group of people who are undecided in case they are more likely to be like those who oppose [the] death penalty. I didn't know what [the] findings were going to be. So, studies that try to explain variations in attitudes towards punishment and harsh punishments in particular, like [the] death penalty, are generally used to theoretical perspectives.

So, in order to understand [opinion on the death] penalty, social scientists argue that there are differences in opinions as a result of people's differences in basic political and social values. This is called the symbolic perspective, but also as a result of variations in people's crime victimization experience [and] crime concerns in general. This is called the "instrumental perspective", and according to the instrumental hypothesis, and according to the pragmatic theory formulated by [TR] Tyler and [R] Weber (1982), citizens who favour the death penalty do so pragmatically. So this is an utilitarian explanation of public attitudes towards [the] death penalty. So, people favour the death

penalty because they believe that it would have a deterrent effect. A crime deterrent effect would reduce crime levels. So, the variables that we included in the analysis were trying to reflect those perspectives, so some of the variables as they relate to instrumental factors like being a crime victim and having a high level of fear of crime and some dissatisfaction with crime control. [These] were part of the instrumental factors and social trust. So, social trust is a measure of social capital, for instance, institutional trust, civic engagement, and religiosity were variables that would capture the symbolic perspective.

Before I tell you briefly what the findings were, I can give you a short picture of the sample that was used. So, the sample includes about 2500 individuals was representative of Japan's adult population at the time, and respondents were asked their attitude towards the death penalty and different from some official polls conducted every five years in Japan that asks questions in [a] manner that is a little bit strange. In the general social survey, respondents were asked if they agree with the death penalty, if they disagree, or if they don't know. So, 65.2% at the time showed support for the death penalty and a relatively large number, about one in 40 respondents, 26% were undecided and those who disagree with [the] death penalty were about 9%, so 8.7%.

[On] crime victimisation experience, respondents were asked and for that particular variable, I remember I used two questions. So, "during the past year, did anyone take something directly from you by using force or during the past year", "did anyone break into your house" and those that answered "yes" to any of those two questions were

labelled “victims of crime”. So only 3.3% of the respondents acknowledge some victimization. What was very interesting was that more than half of the respondents, 58%, show a relatively high level of fear of crime, fear of walking alone at night in your own neighbourhood, which is generally a question that is frequently used when assessing one's level of fear of crime. So almost 59% (58.6%) said they are afraid to walk at night. About a third of the respondents show dissatisfaction with crime control measures. About 65% saw more punitive attitudes. They said that courts should be harsher. And when asked about the lay judge system – again, this survey was conducted in 2010 and the system when it introduced the year before – so 50.5% said that they were hesitant to recommend the death penalty, even if 65% originally said that they would favour the death penalty.

Regarding symbolic factors, the level of institutional trust - trust in three governmental institutions - wasn't particularly high in Japan. So, on a scale from one to three, it was below the midpoint, 1.61. Trusting courts, trusting the police can be considered average. Social trust which acts based on a question regarding one's views of humankind, was higher than average. So, on a scale from one to four where four would be like the midpoint, the average for that was like 4.64, indicating that in general Japanese trust their fellow citizens. Regarding civilian engagement, which in this particular case the question that we use to measure civilian engagement was one that asked respondents if they support the citizen judge system, most of them didn't at the time. So, 43% said that they would support and the majority 57% said they didn't. One's religious practice was used as a measure of religiosity, so respondents who said that

they practice a religion were compared to those who said that they don't have any religious affiliation or that the family belongs to some religious denomination, but they don't practice. So, those who said that they practice religion, the percentage was quite low, 12.4% in the sample.

About 54% of the respondents were females, and about 10% of them were 30 years old and younger, and age was used in this case because [it was revealed in a study] that was conducted in Japan, I believe it was a study conducted in the '70s, they found that younger people tend to have different opinions towards a penalty than people who are 30 and older.

Other variables that are typically used in studies conducted in the United States weren't included here because preliminary analysis showed that they are not significant differences. For instance, in United States, Republicans and people who have more conservative views are more likely to support [the] death penalty, while in Japan, having liberal views was positively correlated to opposition to [the] death penalty, but the correlation was so small it was close to zero, so it didn't have any impact

Now, regarding the findings of the multivariate analysis, there are three comparisons, possibly between opponents and supporters, and those were undecided and supporters of [the] death penalty and undecided compared to those who showed a disposition toward the death penalty. I'm just going to talk about two comparisons that I think are more interesting.

So based on our results, those who show support for [the] death penalty in Japan were more likely to be dissatisfied with crime control policies. They had stronger punitive attitudes. They are more likely to recommend [the] death penalty if elected to serve as a lay judge. They had a lower level of social trust, they were less supportive of the lay judge system, the mixed criminal justice system, and they are significantly less likely to practice a religion.

Being a crime victim and having a high level of crime didn't differentiate opponents from supporters in Japan. When we look at differences or similarities between the undecided and the supporters, we could conclude that the undecided were somewhat closer to responding to oppose the death penalty than they were to the others. So, they were less likely to have punitive attitudes compared to supporters. They were less likely to recommend death if they've been elected a judge. They had a significantly higher level of institutional trust. However, they are less likely to trust the police, they are less likely to want to be involved or to serve on the lay judge system, and they are more likely to be women. So, as I said, in many respects [the undecided] are closer to respondents who show opposition to the death penalty.

**OM:** That's a very comprehensive answer, thank you very much. An intriguing element of your study, as you mentioned earlier was the new citizen judge panel, something similar to the jury system in the UK or USA, asking respondents whether they would recommend the death penalty from the panel. Your findings suggest that despite the

majority of respondents being retentionists, more than half expressed a reluctance to seek the death penalty. So, I was just wondering how do you explain this?

**VA:** Well, I can only guess. As I said earlier, the majority of the respondents show no interest in supporting the system, which is not surprising. There is a book that was published in 2010 by [Henk] Vinken, NISHIMURA [Yuko] and [Bruce] White about civilian engagement in contemporary Japan, and they are saying that since the early '80s, the overall population involved in civic activities has remained pretty stable, around 25%. Now to answer your question, Vinken and his colleagues argue that Japanese people generally hesitate to exercise influence in the public sphere because they're inclined to believe that experts should be in charge of politics, governance, and civil service. So, that might explain why they were reluctant to participate and also to express an opinion. I mean, it's different when you ask in general if you support something, but then when you have to imagine yourself actually having the responsibility of someone's life and taking a decision that would alter somebody's life, I suspect everybody would be more cautious.

So, I'm not surprised to see the difference in percentages, the fact that they were less supportive of the death penalty, but obviously things change a little bit in the areas that follow that survey. It's like I told you, that punishment seemed to be harsher since that lay judge system had been implemented in Japan.

**OM:** Now, being based in the USA, I'm sure you must have thought about capital punishment in America when conducting your research. Are there any interesting

similarities or differences that stood out for you and the attitudes towards capital punishments between Japan and the USA?

**VA:** Yes, there are similarities if you look at adults who support the death penalty. So, both states have death penalty statutes and both countries argue that one reason they continue to do that is because of the expansive public support, which is a very legitimate explanation because in any democracy, the policies or law should reflect the opinion of the majority. In the United States, however, the support for the death penalty seems to be a bit lower than it is in Japan. In the last survey conducted by the Peer Research Centre in 2001, 63% of Americans support the death penalty. In the years before – this survey had been conducted in this country since 1936 – they have been dutifully contacted, and all the time respondents were asked about [the] death penalty, they say whether they oppose that, and a few years ago, support for the sentence decreased below 60%. So, if I remember correctly, in 2017 only 55% of Americans show support for the death penalty.

Now in Japan, the government is conducting [surveys] every five years, and they include questions about [the] death penalty, and the last one was conducted in 2020. Consistently, those high rates were saying that about 80% of the public is showing support for the death penalty. But I think I mentioned earlier the questions that they asked were a little bit strange to me. So, respondents had to agree or disagree or select one of those options. And the first one was "[the] death penalty should be abolished for all circumstances." The second option was "[the] death penalty is unavoidable in some

cases." And the third option was "I don't know, I can't decide" or "it depends", or something like that. One Japanese scholar who published a book and conducted - Mai Sado is her name, [she] got her PhD in UK, actually - she was saying that it's one thing to ask somebody "[are] you [in] favour or do you oppose", it's a pretty clear question, but to say something like "[the] death penalty is unavoidable in some circumstances", it's pretty vague. Of course, more people are going to agree with that, but when you restrict [it to] "the death penalty should be abolished for all crime", people are forced to be more cautious [about saying] "yes". But something that was interesting at the recent poll, they asked respondents if they were to choose "between death penalty and life in prison without parole, what do you prefer?" And I think that's the first time that question has been used. So, to me [it's] a small sign that something might change, that officials took into consideration research that was conducted in Japan and the criticism researchers like [SADO] Mai and Paul Bacon (and others) made. Support for [the] death penalty from 80.7% dropped to 52% when respondents had that alternative answer. So, that's one similarity, that in both countries the majority of the population tend to be supportive of [the] death penalty.

Based on the results of our study, if you recall, I was saying that fear of crime and experiencing victimization didn't differentiate supporters from the undecided from the opponents of the death penalty. Studies conducted in the United States also found that those instrumental factors didn't have an effect on structuring opinions. However, similar to studies conducted here, dissatisfaction with crime control was predicting support for the death penalty. Civic participation in a few studies that look at the effect of this

variable on punitive attitudes also found that people who are civically engaged are less punitive than others, and religiosity was again documented in studies conducted in the United States.

So, religious people, even if they are [of] different opinions, for instance, in Japan you have people who are Buddhist and Shintoist, or people who practice both spiritual traditions, and they are very different in ways. [For example, Shintoists] tend to support the death penalty whereas Buddhists do not. However, there is some common denominator and individuals who tend to be more religious, they believe in forgiveness, and maybe that's why those who acknowledge or report high levels of religiosity tend to oppose the death penalty.

Regarding differences, research conducted in the United States over the past decades revealed the proponents of the death penalty are more likely to be males, older individuals, white, Republicans, and persons who identify with conservative religious denominations. So neo-protestant churches in particular, who tend to be supportive of harsher punishments in general. In Japan, however, there are no gender-based differences. Women's opinions were not significantly different from male opinions. Women in general, studies show that they are less supportive of harsher punishments than men are. Race in Japan is not a relevant factor, so it couldn't be used here. You have a pretty ethnically homogeneous population. Other factors like education, socioeconomic status, political attitudes that I mentioned earlier didn't generate differences in opinions like research conducted in the United States does.

Something that is also a little bit different in Japan compared to the United States, based on opinions I think, [is] that you could see opinions were stabilized in Japan over the years, and I believe interest in [the] death penalty is much lower in Japan than it is in United States. And research conducted in Japan on the issue, it's pretty limited and that might be because the visibility of the measure is different than it is in the United States. Many observers say that the death penalty in Japan is very secretive, that defendants don't know when they are going to be executed, that the morning of the execution they can be announced. Their lawyers or their family, they are only [told] that the person has been executed after the execution actually took place.

So, there are a lot of controversial issues and the fact that many of those convictions are based on confessions which many suspect that those are forced convictions. I mean, if you keep somebody for days and days in the pretrial period, at some point they give up. They don't have access to counsel, until recently nobody was recording or videotaping the interrogations of the defendant. So, there are many questions about the process and even the fact that when they are convicted, they are not considered prisoners, which is not the case in the United States. I mean, you have high security prisons where death row inmates have to be, but in Japan, there are seven detention centres that are especially for death row inmates. They spend a lot of time in solitary confinement, and they are allowed about two days a week to exercise. They have the right to have only three books and cannot watch television, and 26% of those on death row in Japan are people who are 70 years old or older.

I don't know if I'm right or wrong, but I remember in 2019, Pope Francis had a four-day visit to Japan, and he expressed his disagreement with [the] death penalty and called it inhumane and wanted to meet one of the death row inmates who's now 86 years old. He claims he's in prison since 1968, and he kept claiming his innocence. At some point he was paroled, then it was revoked – that's something that you don't see in the United States. For instance, cases here as a prosecutor, you can try a case as a capital case, or you don't. Those social scientists who oppose the death penalty in the United States many times claim that – and I'm talking here about Professor [TJ] Keil and [GF] Vito (1991), for instance, who wrote about the capriciousness of the death penalty in the United States – you have prisoners that are eligible for the death penalty, about 3% of them get death because the process here is just so much more expensive to process the case as a capital case. It's extremely expensive because of the legal stipulations, because when that happens, you have to bring experts and you have the number of appeals that you have the right to, so it's lengthier. So, that's why it's much more expensive. I remember that when I was in the doctoral program, I did a cost efficiency analysis that I wish I still [had] on the death penalty, and I found out how much more expensive it was to prosecute the case if it's a capital case than to put a person in prison for life without the possibility of parole. I don't know what the costs involved are in Japan. I just couldn't find any information about that. I don't know if the officials are willing to publish anything about that.

So, there are differences and [while] there is social science research, as you probably saw or heard, most studies about death penalty have been conducted in the United

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States because there are more problems here even now. If you look, you have African Americans in particular that are overrepresented on death row among inmates at the federal and state level as well, and about 1.6% of people on death row have been exonerated. In Japan, there isn't much talk about mistakes, and something that I found strange, and I spoke about it in a long discussion, was that I don't think in the United States you can have somebody who gets a life sentence and appeals that and then [gets given] the death penalty, but in Japan you can. So, you get a life sentence in the district court and you appeal that because you said, "well, I didn't commit a crime", and it goes to the higher courts and they give you a death sentence. So, that has happened several times. If you look at those people who are on death row, you'll see that they have those sentences reversed. It happens the other way around also, but only three times since 1945 when the Supreme Court reversed some sentences, but most likely, if you take the risk to appeal a pretty harsh sentence, you might get death.

So, there are differences in the way people react, and as I said, the fact that the support for the death penalty decreased from 80% in the 90s to 60% in 2021, it could be partially explained by [the] public's increased willingness to follow the international trends that show a steady worldwide decline of the acceptance of the death penalty.

The Japanese are probably less willing to do that, even if Sado, in one of her studies where she interviewed people who were supporting or opposing death penalty, found that respondents said that if the government would change a policy in order to abolish the death penalty, they would support that decision. But there are differences, as I said, because in Japan, there aren't too many studies that actually document the impact of

the death penalty. Now, at the last [governmental] survey, when people were asked why they support [the] death penalty or why they think it's a necessity, and that's something the motive that was mentioned in the previous survey as well, they're talking about the family of the defendant, you know, that it wouldn't be fair to them, that they are thinking about the family.

So, not so much about the deterrent effect of the death penalty. That was like the last reason, which is very hard to demonstrate. I mean, Professor Mori's studies show that there's no significant relationship between capital sentence's rate and murder rate in Japan. So, in other words, it doesn't matter, as it should be. Some people argue that if there are harsher sentences, criminals would be deterred, and people would stop committing crimes. Now, in Japan, you have trends that show that for the past 60 years, you have a [consistent] decrease in murders. In Japan, in 2020, there were 929 murders. The clearance rating in Japan is fantastic. In the United States, it's a little bit higher, above 50%. In Japan, it's over 90%, the conviction rate is 99%, but there are 929 murders in Japan and there are [approx.] 20,000 in the United States. [However], the Japanese still think that crime is increasing, and it's something that is not unusual because that's pretty much a common opinion in other places. But it's strange that in such a safe place, people continue to believe that crime is increasing.

**OM:** Yeah, there may be a correlation in that, there's a lot of data not being published by the prosecution, as you said earlier.

**VA:** Yes, and Professor Mori, he identified only three studies and two of them were published in Japan. But when you do those sophisticated quantitative analyses, the ordinary citizen [doesn't] have access to them, and then if they do, they can't understand the statistical procedures. He also found some serious methodological flaws, but he published in a journal, University of Chicago Press, here [in the USA], and I said, "well, I wonder how many Japanese scholars or policymakers are going to read that, to look at your findings, because it's very hard to determine the deterrent effect of [the] death penalty." How can you do that? Because you have people who are in prison for life and people who are put on death row, and how can you detach the two? How would you know which one was more effective than the other? In his analysis, he controlled for that. So, he was calculating the marginal effect of the death penalty and found no effect, but as I said, he found that with an increase in the rate of life sentences, the robbery/murder rate would significantly decrease, which is a very important finding for policymakers in Japan. Again, those are not common events. Even if foreign officials and ministers of justice in Japan, they are saying, "well, we maintain the death penalty because there are so many atrocious crimes in the country", and of course, they're highly publicized. People see all those stories on TV or on the internet, and they have a distorted image of reality. That doesn't happen only in Japan, [though]. It happens pretty much everywhere.

**OM:** Thank you for answering all my questions, Viviana. Before we finish the episode, could you share with us what other projects you are currently working on?

**VA:** Well, I'm working with several doctoral students, and sometimes I need to adapt to their needs as much as I can. I am working on a project that is dear to me, on a manuscript that I can't manage to finish for one reason or another. It's based on country-level analysis. It includes over 180 countries, and I'm looking at the effects of gender inequality on the gender gap in homicide. I don't know if that makes any sense to you. In most countries, men tend to be victims of homicides more than women are, and my research findings indicate that gender equality, that's an indicator. That's a UN indicator, and it's used in many studies. So, countries where men and women tend to have more equal positions tend to have lower murder rates for men and for women. So, there is a negative relationship between the two. However, something that has been noted years and years ago by a Swedish scholar continues to happen: the gender gap. So, the closeness in legal victimization rate between men and women tend to be smaller in some countries and larger than others. People would suspect, "well, yeah, women are more likely to kill probably in countries that they have those patriarchal tendencies and women are in inferior positions", and actually, it doesn't happen.

So, Western European countries have like the smallest gap in victimization between men and women. And regarding Japan, I saved the data before I knew I was going to talk to you. I didn't have to analyse that the most recent jobs survey that I found, and I'd be interested to look at fear of crime in Japan and the predictors of fear of crime. There are too many variables that I use, but probably I would look at exposure to media and the effect on that and fear of crime. I suspect that in addition to victimization, which again, you'd expect that people who have been victims of crime to have high levels of

fear, but it doesn't happen. It happens in some instances and it doesn't in others, so there isn't a consistency in results. So, that's the next study that I will do with Japan.

**OM:** Thank you for joining me again, Viviana.

**VA:** It's been a real pleasure. Thank you very much.

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**OM:** You can find a link to Viviana's research profile in the description below. Don't forget to subscribe on [JapanInNorwich.org](http://JapanInNorwich.org) or on your preferred podcast provider for updates on new episodes. Join us for our next episode with Brittany Rapone, PhD candidate at the School of Social Sciences at Oxford Brooks University, to discuss pets and animal cafes in Japan as a form of self-care.

We hope you will join us then. Thank you for listening.