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Individual Sacrality, Human Rights, and Abolition of the Death Penalty

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MA, Emory University, 2010

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An abstract of  
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James T. Laney School of Graduate Studies of Emory University  
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in Sociology  
2013

## Abstract

### Individual Sacrality, Human Rights, and Abolition of the Death Penalty By Matthew D. Mathias

In the latter half of the 20<sup>th</sup> century, countries abolished the death penalty en masse. What factors help to explain this global trend? Conventional analyses explain abolition by focusing primarily on state level political processes, typically emphasizing democracies' natural respect for human rights as the most primary driver of abolition. Yet, this focus takes democratic governments' commitment to human rights for granted, and ignores the historical development of these rights as a global ideology and institution. I seek to redress this shortcoming in the literature by linking the historical development of human rights to the modern movement to abolish the death penalty. I first supply a brief historical overview of the death penalty that emphasizes the role of the Enlightenment's secular reconfiguration of the individual's rights and properties in sponsoring the modern widespread revulsion for the death penalty. Second, I develop and apply a Bayesian changepoint model to comprehensive data on the global legislative abolition of the death penalty trend from 1863–2007 to examine both its timing and mechanisms. For the first, the model pinpoints 1978 as the moment in time when the global abolition rate transitioned from a relatively infrequent event to a highly frequent event. For the second, I find that the global institutionalization of the human rights regime positively contributed to the abolition trend throughout the period. Third, I develop a survival analysis of states' abolition of the death penalty. This chapter analyzes world cultural factors that lend to the abolition trend. The main finding shows that the global sacralization of the individual, measured as the institutionalization of the human rights regime, represents a significant driver of states' abolition. Finally, I conduct a multilevel analysis of states' execution behavior, and find that both the global count of states using execution in a given year, and the number of prisoners countries execute in a given year are responsible to world cultural models for human rights. In sum, I show how historical and cultural factors shape states' use of and abolition of the death penalty.

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# CHAPTER ONE

## Introduction

Practice of the death penalty has persisted throughout all of known history. For thousands of years, heathens, non-believers, traitors, revolutionaries, and criminals have been punished with execution. Its persistent practice underscored the penalty's deep-seated legitimacy. The punishment was seen as the natural method to extrude the violator from society. Indeed, the practice of the death penalty was frequently a violent and bloody public affair. And though the death penalty has met resistance and criticism for centuries, a sustained movement to abolish did not arise or attain global prominence until recently.

Only 8 countries had abolished the death penalty for all crimes as recently as 1945. By 2007, 91 countries had abolished for all crimes, 11 countries had abolished for all but the most extreme crimes, and 36 countries had not executed a prisoner in more than 10 years (Amnesty International 2007)<sup>1</sup>. The sum of these vaults the count of countries that have abolished the death penalty in law or practice to 138. These figures mark a tremendous change in the use and legislative status of the death penalty. Thus, while abolition of the death penalty was a relatively isolated event in the world of 1945, a global abolition trend was fully underway in the early 21<sup>st</sup> century.

In terms of this trend, countries' punitive practices have dramatically changed throughout the world. Whereas punishment was historically a violent and public spectacle carried out on behalf of the sovereign, it has since been transitioned out of the public

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<sup>1</sup> Amnesty International labels this form of abolition as de facto abolition.

sphere (Foucault 1979). The state – once free to ravage the criminal through spectacularly garish punishments – has become responsible to a now global set of standards and values that delegitimize excessively violent and cruel acts against the prisoner. My dissertation examines the historical and cultural foundations for these changes, and seeks to understand how they relate to the changing landscape for the practice of the death penalty in contemporary society. What explains the global legislative shift away from the death penalty?

In particular, I aim to understand: a) the development and timing of the global abolition trend, and b) the factors that contribute to countries' legislative position on the punishment. I examine these questions and apply lessons from globalization theory to develop a systematic theory that explains this global trend. I especially emphasize the relationships between the emergence of global individual sacrality, the global institutionalization of human rights, and the development of the global abolition trend.

## **The Trend**

Figure 1.1 charts the global trend toward abolition of the death penalty against the count of the remaining countries that have not yet abolished from 1863–2007. The figure begins with the very first abolition of the death penalty in the modern nation-state system: Venezuela in 1863. Abolition of the death penalty was relatively infrequent at the early stages of the period. The count of abolition grows only very slightly until the middle of the 20th century. Meanwhile, the number of countries that hadn't yet abolished the death penalty in any form in a given year continued to grow throughout the period until the late 1970s. This overall growth in the number of countries not yet abolishing the death penalty reflects the birth of numerous newly independent nation-states after World War II

and throughout the late 1970s. At this point, the global count of countries that have abolished the death penalty in some form began to quickly accumulate, and the count of countries that had yet to abolish began to drop in a similar fashion.

### Abolition vs. Remaining Countries, 1863–2007

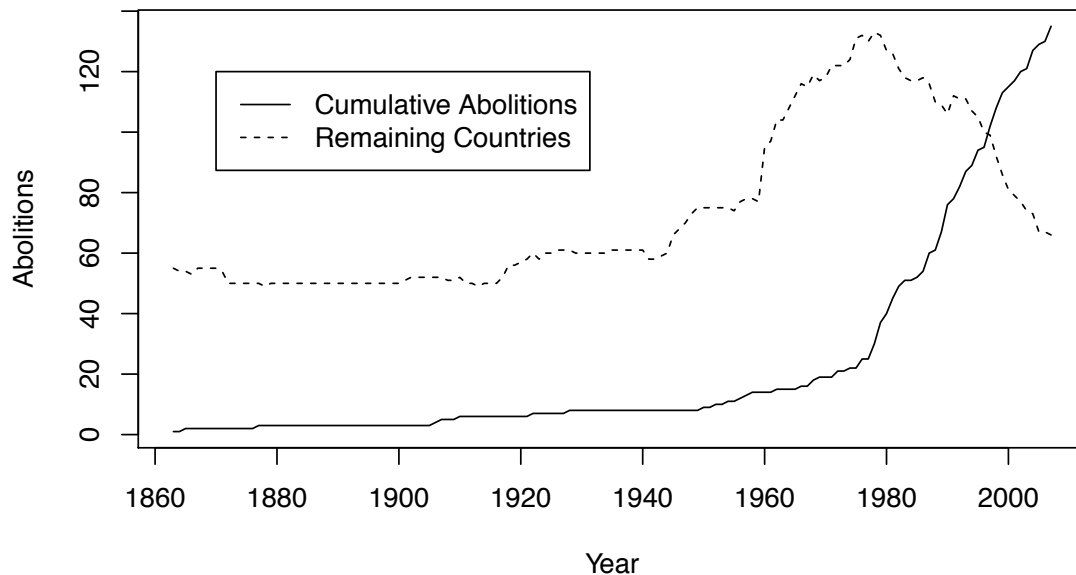


Figure 1.1: *This figure plots the cumulative count of abolition of the death penalty per year over time against the number of countries that haven't yet abolished the death penalty in a given year.*

Figure 1.2 addresses this sudden change in global abolition activity and plots the count of new abolitions per year<sup>2</sup> over time against 6 key developments that helped to shape human rights. The result shows that abolition of the death penalty was initially rare and was an isolated event. It could hardly be considered a trend. Yet, starting in the 1950s, abolition became a more frequent yearly occurrence. By the 1970s, abolition came

<sup>2</sup> Figure 1.1 sums the three forms of abolition of the death penalty over time and codes in favor of countries' strongest legislative position against the punishment to avoid double-counting. Figure 2 follows this same procedure, but instead counts only new abolition of the death penalty per year.

in batches, a pattern that would continue into the current century. After the 1970s, abolition of the death penalty came in waves.

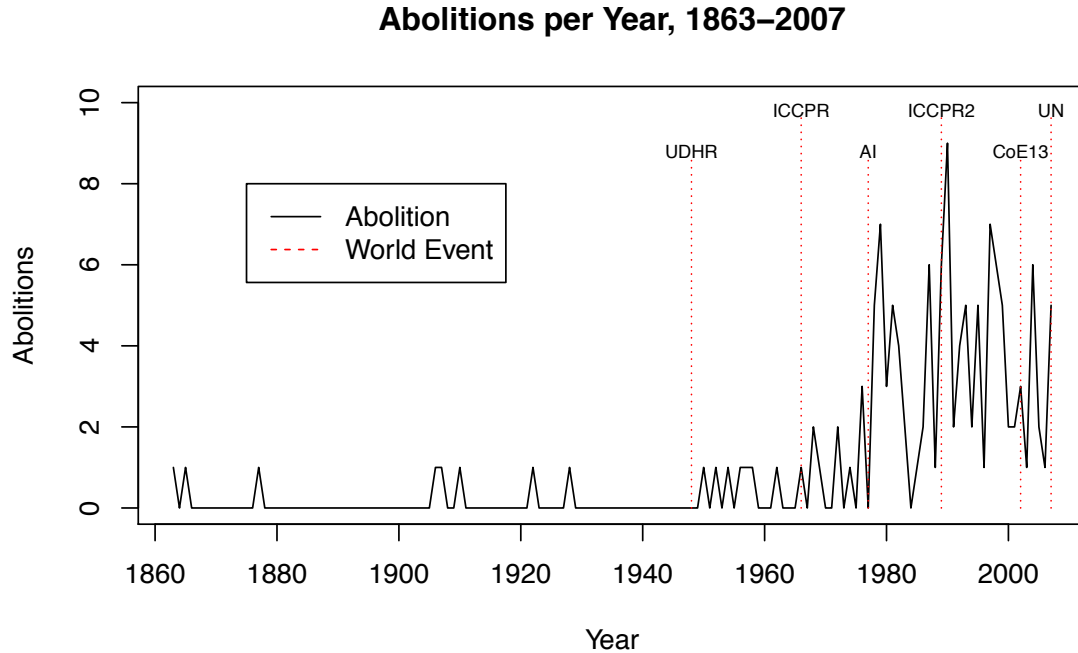


Figure 1.2: *This figure plots the number of countries' new abolition of the death penalty in a given year against 6 key events.*

This figure also gives an initial picture of the relationship between the development of human rights and the global abolition trend. Six major world human rights documents and events are plotted: the Universal Declaration of Human Rights (United Nations 1948), the International Covenant on Civil and Political Rights (ICCPR) (United Nations 1966), Amnesty International's Nobel Peace Prize (1977), the second optional protocol to the ICCPR (United Nations 1989), the Council of Europe's protocol number 13 (Council of Europe 2002), and the United Nations' Moratorium on the Death Penalty (United Nations 2007). Each event bookmarks a moment in the development of the human rights regime that seems to excite the abolition movement. The first two

document important developments in the global legal infrastructure for the establishment and protection of human rights. Given that the Nobel Peace Prize is awarded to those that have most contributed to fraternity between nations and the progress of peace, Amnesty's prize denotes significant celebration of the organization and aligns its human rights activities with the prime world cultural values of international cooperation and peace. The next two mark important international documents that explicitly call for the death penalty's abolition. While the second optional protocol is non-binding, protocol number 13 explicitly requires abolition of the death penalty for admission into the European Union. The final event, the UN's moratorium on the death penalty, was adopted by the General Assembly in 2007 by a strong majority (for: 104, Abs.: 29, Against: 54). Though the moratorium is not strictly legally binding, it nonetheless signals a remarkable shift in the global culture of punishment. The moratorium demonstrates that a majority of nation-states around the world have declared the death penalty a miscarriage of justice and an assault on individuals' fundamental human dignity. Moreover, since the resolution is firmly ensconced within the rhetorical framework provided by the UDHR and ICCPR, it further formalizes the relationship between the death penalty and human rights; i.e., that the death penalty is a violation of human dignity. Together, these events help to show that important moments in the world cultural institutionalization of human rights bear a strong relationship to the development of the global abolition movement.

Figure 1.3 displays countries' position on the death penalty as of 2007. Clearly, it portrays a completely different world as compared to 1945. This figure gives a sense of the extensive distribution of countries' abolition of the death penalty. Abolition of the death penalty is not purely restricted to Europe. Countries are overturning capital

punishment throughout the world and in every region. Moreover, a wide variety of countries, each with a unique history and domestic context, have abolished the death penalty. The momentum of the global abolition trend despite the preponderance of cross-national variation suggests that countries' positions on the death penalty are at least somewhat accountable to global forces that countries around the world hold in common.

## **Current Explanations**

Studies most frequently examine the ethical and moral dimensions of the death penalty according to some religious or philosophical system (Baird and Rosenbaum 1995; Hanks 1997; Sorell 2987). Comparatively little attention has been given to the determinants of death penalty practice and abolition. Recent scholarship on the death penalty has begun to take aim at these issues, seeking to explain why countries have abolished the death penalty. These works emphasize the importance of domestic arrangements in countries' decision to abolish: democratic governance (Neumayer 2008), high economic development (Greenberg and West 2008), and low levels of external and internal conflict (Dunér and Geurtsen 2002) have all been found to be related to abolition of the death penalty. Each of these perspectives emphasizes the national legal and political processes that contribute to abolition of the death penalty, and to great effect. Nonetheless, the historical, cultural, and global dimensions of abolition have received less attention. Further, not much is known about how these factors interlock with and possibly influence domestic arrangements to impact countries' use of the death penalty. These are the principle foci of this dissertation.



## Abolition of the Death Penalty, 2007

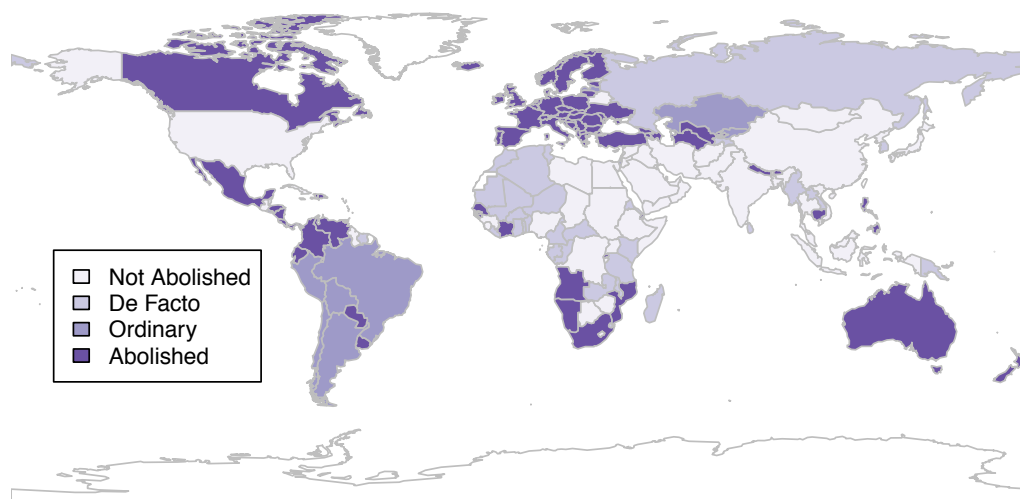


Figure 1.3: *This figure plots the distribution of abolition of the death penalty in 2007. Countries' position on the death penalty is represented by a unique color.*

## My Approach

Two concepts are central to my argument and require some clarification at the outset: the individual and individual sacrality. I see the individual as the product of centuries of historical development and cultural construction (cf. Dumont 1986). My use of the term 'individual' refers to the rights, responsibilities, and meanings that have historically come to be associated with it. That is, I take the individual – its qualities and properties – to be a product of the organization and institutionalization of society. Like Durkheim (1984), I argue that modern social organization increasingly centers on the individual, with society operating in the service, maintenance, and development of the individual (Meyer 1986).

This sense of the individual underlies my conception of individual sacrality, which is similar to Durkheim's (1984) "cult of the individual". Yet, like scholars in the World Polity/Society tradition (Meyer, Boli, and Thomas 1987; Meyer, Boli, Thomas, and Ramirez 1997), I emphasize more strongly that these forms of social organization prioritizing the individual are globalized<sup>3</sup>. This understanding, to the extent that the individual is now more generally and more fully globally integrated into world societal organization, formulates my conceptualization of global individual sacrality.

I emphasize the importance of the historical development of individual sacrality in sparking the abolition trend. The development and global institutionalization of individual sacrality has made the individual an important global totem. As such, global individual sacrality has reconfigured the catalogue of legitimate punishments. Since the individual has been recast into a sacred role, violent punishments that destroy the individual are seen as garish attacks upon an integral social element. It is this transformation of the individual that translates the death penalty into an illegitimate punishment that violates the sacred core of world society.

As a manifestation of Durkheim's "cult of the individual" at the global level (cf. Casanova 1999), human rights provided some of both the global legislative framework and the cultural logic by which the individual became a sacred totem of world society requiring protection (Casanova 1999; Elliott 2007, 2008, 2011; Koo and Ramirez 2009). Accordingly, I use data on the global development of human rights to empirically tap into

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<sup>3</sup> By 'globalized', I am referring to the systems, institutions, organizations, and organizational structures that work to benefit the individual at the global level (e.g., the global human rights regime discussed below) and are diffused worldwide (e.g., standardized forms of mass education).

the growth and development of individual sacrality at the global level. I take a particularly long view on the development of human rights, and quantify the human rights regime as the accumulation of distinct global human rights documents (Elliott 2011) and human rights international non-governmental organizations (HRINGOs) (Brewington 2005) from 1863–2007. These data on the development of human rights provide an apt measure for the global institutionalization of individual sacrality.

I use this perspective to contribute an analysis of the death penalty that examines the impact of global factors on countries' legislative position on and use of the death penalty. In so doing, I examine: a) factors that encouraged the development of the global abolition trend, b) factors impacting countries' decision to abolish the death penalty, and c) factors that shape the use of the death penalty both globally and nationally. In particular, my dissertation seeks to understand how the global institutionalization of individual sacrality via the development of human rights impacts the death penalty, and asks three related questions: 1) What is the relationship between the development of human rights and the genesis of the abolition trend; 2) How does the global institutionalization of human rights impact countries' decision to abolish; and 3) Does human rights institutionalization shape the use of the death penalty?

## **Structure of the Dissertation**

My dissertation is structured as follows. With the exception of the following chapter, the remaining chapters are empirically focused and so some repetition will be apparent. This case will be particularly true for the theory and data sections in chapters 3-5. Though such repetition may not be ideal, it helps each chapter to be fully developed on its own terms.

The second chapter provides an historical perspective on the death penalty. I sketch the development of the punishment and focus on its use, paying particular attention to the methods of execution, the public nature of its practice, and the crimes to which the punishment was applied. My treatment of this complicated history is narrowed to understand how the historical construction and cultural understanding of the individual figured into the development of the punishment. In general, I will highlight that the death penalty was increasingly secularized, civilized, and rationalized over time. That is, the punishment has been increasingly withdrawn from the public sphere, delimited in its application, and made decreasingly garish over time. I also describe the relationship between three world religions' perspectives on religious humanism and their respective positions on the death penalty. Additionally, I trace the impact of key Enlightenment ideas on the development of how the individual is conceptualized today, and develop insights into how these developments have changed the nature of punishment globally. Finally, I tie these observations into early movements to abolish the death penalty, and also discuss the path to abolition in three specific cases. In doing so, I highlight how elements of my argument figured into these abolitions, and also acknowledge the contextual and manifold pathways to abolition. This broad sketch of the death penalty's practice helps to situate the abolition trend within its historical context, and also helps to illuminate important historical and cultural factors that drive current national variation in the death penalty's legal status and implementation.

Chapter 3 continues this line of thought and addresses the first major question of the dissertation: what is the relationship between the global institutionalization of individual sacrality via human rights and the development of the global abolition trend? I

show how the deepening institutionalization of the human rights regime recalibrated the world cultural environment for punishment. The regime institutionalized and rationalized individual sacrality into the highly legitimate global legal framework for human rights. Under this framework, the rights of the individual were explicitly codified and states became responsible for the maintenance of the individual. This process delimited the scope of legitimate punishments states have at their disposal. Violent and overly retributive punishments are especially decried by the human rights regime. These developments help to spur the 20<sup>th</sup> century abolition trend.

The fourth chapter applies the lessons learned about the relationship between the global institutionalization of individual sacrality and the genesis of the global abolition trend to states' domestic decisions to abolish the death penalty. So, while chapter 3 examines abolition as a global trend, chapter 4 looks at how factors operating at the global and national levels interlock and impact states' decisions to abolish the death penalty. Net of several important domestic factors, I find that the global institutionalization of human rights excites countries' likelihood to abolish. This finding is especially crucial in showing how external models for the individual – i.e., global human rights – delegitimize certain forms of punishment regardless of national context.

Where chapters 3 and 4 analyze the global development of the trend and states' decision to abolish, chapter 5 seeks to understand how countries utilize the punishment in the era of human rights and abolition. I find that the broader world cultural environment heavily structures states' use of the death penalty. This finding presents some countervailing evidence for the argument that national penal practices are principally tailored to countries' unique domestic contexts. Despite this result, I nonetheless find that

the death penalty is most vigorously practiced by a small number of recalcitrant states that are highly resistant to world cultural models sponsoring the care of the individual. Last, the results also suggest that the construction of world cultural models and the advocacy activities of international non-governmental (INGOs) differ in terms of their impact on the use of the death penalty both globally and nationally.

The final chapter, chapter 6, summarizes the findings of this dissertation, reflects on the lessons learned, and points to future research that will help to both understand the global abolition trend and develop globalization theory. As a short preview, one line of future research I develop is to examine the world cultural foundations for INGOs' shaming activities. Why are certain issues subject to shame? How do organizations identify shameful behavior? What conditions structure how states experience shame? Empirical work on globalization will best serve theory by examining how and when world culture and global institutions penetrate national contexts. This work should seek to understand connections and disjunctures between the global and the local to develop a general theory of decoupling, a phenomenon that is often noted but suffers a lack of any systematic theory that predicts and explains how, when, and why decoupling occurs. A rigorous analysis of how shaming works both globally and locally will go some distance toward understanding how, when, and why world cultural models do and do not translate into actual change.

## CHAPTER TWO

### A Brief History of the Death Penalty

#### Introduction

In this chapter, I touch upon some important issues in the historical development of the death penalty. As practice of the death penalty stretches over thousands of years, I must be very selective in my discussion. I divide my analysis of this very complicated history into four topics, each of which helps to illustrate the social and cultural forces at play in the development of the death penalty over the ages. First, I develop a history of the practice of the death penalty, focusing in turn on four key issues that highlight the changing nature of the punishment's implementation. Second, I examine the relationship between the death penalty and religion. This relationship is consequential because the death penalty was historically a tool for consolidating and reaffirming the moral order (Barnes 1930). I constrain my analysis to major world religions offering a universal ethic<sup>1</sup>: Buddhism, Christianity, and Islam. Third, I describe the Enlightenment as fostering an ideological shift in the intellectual culture of Europe that led to a reconceptualization of the inherent properties of the individual and also fomented a penological revolution. The Enlightenment's focus on reason, rationality, and justice not only led to the development of criminology and constrained the catalog of legitimate punishments. Fourth, I conclude by discussing the development of a global movement

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<sup>1</sup> Collins (1997) describes Christianity, Islam, and Buddhism as being "world religions" because they offer a universal ethic designed to recruit and proselytize the entire world. Hinduism and Judaism do not fit this definition of world religion, and so I do not include them despite being major religions that have existed and persisted for many thousands of years. My strategy here is to understand how these particular universal ethics relate to the development and practice of the death penalty.

against the death penalty. Here, I address the Enlightenment's impact on key 19<sup>th</sup> and 20<sup>th</sup> century movements against the death penalty. I conclude my discussion in this section by developing three case studies that analyze the path to abolition in three specific cases: Britain, Germany, and Michigan. These four topics concerning the death penalty help to reconstruct the historical development of the death penalty and also provide a framework for understanding current practice.

In general, this chapter highlights three social and cultural processes that have historically shaped the death penalty. First, the death penalty has become increasingly rationalized over time. The number of crimes to which the death penalty can be applied has been increasingly diminished, and the process that determines its use has also been embellished and transferred to the halls of bureaucratic justice. Second, the practice of the death penalty has been shifted from the public's view. The death penalty is no longer a symbolic public spectacle or source of entertainment. Instead, it is the sober business of the state. Third, and finally, the death penalty has been civilized over time. Methods of execution became less gruesome and can therefore be considered more humane. Execution styles have also been increasingly scientized<sup>2</sup>, indicating another layer of rationalization apparent in the history of the death penalty. The rise of more scientific methods of execution demonstrates the relationship between the death penalty's rationalization and civilization: scientific methods are developed to decrease the suffering

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<sup>2</sup> The history of the death penalty is bookmarked with the development of new tools for execution. These methods seem to develop along with the state of scientific discovery and innovation. For example, consider the USA's shift from electrocution in the late 19th century and early 20th century to the gas chamber in the early to mid 20th century to lethal injection today.



and spectacle of the punishment. Thus, the punishment is rationalized according to cultural sensibilities that discourage the use of violence and retribution.

I conclude by discussing some alternative processes that may complicate my story concerning the historical development of the death penalty. These explanations suggest additional factors responsible for the decline in the use of the death penalty, the waning of garish methods, and the rise of abolition activity. One possible implication is that the history I trace is driven by these causal factors that are above and beyond my focus on the historical construction of the individual. Nonetheless, I note some similarities between these approaches and my own. Beyond these synergies, I complete this chapter by describing the unique contribution of my historical sketch that is missed by these competing accounts.

## **Practice of the Death Penalty**

The practice of punishing people with death is as old as recorded history (Bae 2007). Critiques against the punishment are also quite old (cf. Thucydides (1972) and Cicero (1990)). Despite critiques, its legal permissibility<sup>3</sup> has been relatively stable throughout time. The death penalty has developed from its early roots in small-scale society as an informal punishment to a fully bureaucratic institution within the modern nation-state. As a symbolic punishment, execution both punishes the offender and serves as a socio-political signal to the populace as to what the consequences are for certain behaviors (cf. Ignatieff (1978) for a discussion of the changing character of public executions in Britain). While the use and legality of the punishment has largely been

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<sup>3</sup> The death penalty's historical legitimacy is indicated by the fact that a widespread abolition movement only recently developed in the 20<sup>th</sup> century.

stable for much of the historical record, four elements of its practice have changed dramatically over the past several hundred years. I describe these major shifts in four respects: 1) the crimes punishable by death, 2) the methods of execution, 3) the legitimate arbiter of the punishment, and 4) the physical spaces designated for the death penalty's use.

### **Crimes Punishable by Execution**

Both the number and range of offenses to which the death penalty has been imposed has fluctuated much over time. In general, however, the number of capital crimes has reached its lowest point in the contemporary period. The Code of Hammurabi outlined 27 clauses that prescribed the death penalty for a variety of offenses ranging from calumny to murder (Simon and Blaskovich 2002). Mosaic Law, established by Moses and governed the Israelites up until 70 AD, listed 36 capital crimes grouped into six categories: 1) moral abuses, 2) violations of religious law, 3) crimes against the parents, 4) assault and murder, 5) kidnapping and slavery, and 6) treason (ibid.). Capital punishment in ancient India was administered variously for crimes such as treason and murder, but generally depended upon social status; for example, Brahmins were executed for treason but only banished for murder (ibid.). Islamic law formulated in 650 AD applied the death penalty for two categories of crimes: 1) crimes punishable by God, including adultery, robbery, murder, etc. and 2) apostasy from Islam (ibid.: xiii). Simon and Blaskovich (2002) report that 13th century England applied the death penalty as “punishment for all felonies except mayhem and petty larceny, documenting the extensive use of the death penalty in Western Europe” (xiii). Sheleff (1987) notes that the scope of capital crimes diminished as the modern era approached; during the early 19th

century, the British Criminal code outlined more than 200 crimes punishable by death (ibid.). It was during the industrial revolution that the death penalty became mainly focused on crimes against property and less so on the typical moral terrain. Halfway through the 19th century, Britain's capital offences shrank to four: "high treason, murder, piracy with violence, and destruction of dockyards" (Simon and Blaskovich 2002: xiii). With the advent of mass imprisonment<sup>4</sup>, states typically refrained from administering the death penalty for all but the most serious crimes against the state: treason, espionage, attempts to seize power, and acts of terrorism (Hood 2002). Today, the typical state's list of capital offences has diminished and ranges from violent sex crimes to serious threats against the state to murder<sup>5</sup>.

### **Methods of Execution**

In general, the historical practice of the death penalty was quite gory. Yet, recently, the practice is trending away from lurid and garish methods of punishment. Many of these graphic forms of punishment were not only intended to punish the offender, but were also designed to impress upon the public audience the consequences for specific violations. A number of punishments punctuate the death penalty's history; typical punishments included: stoning, burning, boiling, garroting, crucifixion, disembowelment, poisoning, decapitation, drowning, hanging, cutting to pieces,

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<sup>4</sup> States' transition from the death penalty to mass imprisonment as their main method of punishment is an indicator of a massive global restructuring of punishment. It represents a cultural shift in the logic and practice of punishment: criminals are individuals, and as individuals are sacred, criminals should not be annihilated by the death penalty but should instead be reformed and rehabilitated through conscientious incarceration. I address some of the mechanisms responsible for the global transformation of punishment in more detail below.

<sup>5</sup> See Simon and Blaskovich (2002) for a comprehensive listing of punishable crimes by country and a listing of legal execution methods by country.

quartering, firing squad, flaying, and throwing the offender from a deadly height (Simon and Blaskovich 2002; Barnes 1930). A few of these punishments exist in practice today in some countries, but most states practicing the death penalty retain hanging and shooting as the only legal methods of execution (Simon and Blaskovich 2002).

Traditionally, the public nature of these violent and gory punishments were often performed on behalf of some sovereign, and were thereby designed to horrify the audience such that the sovereign's authority was consolidated and insured. Yet, Ignatieff (1978) documents a shift in attitude occurring around the middle of the 18<sup>th</sup> century: the public witnessing such garish executions seemed no longer willing to accept the brutality of these punishments, and juries were no longer willing to sentence criminals according to the dictates of the "Bloody Code". The "Bloody Code" described a system of laws and punishments in England during the 15<sup>th</sup> – 19<sup>th</sup> centuries. During this period, the number of crimes punishable by death rose dramatically to its apex of over 200 in the 19<sup>th</sup> century. Occasionally, the crowds at public executions sought justice for criminals suffering undue punishment and torture by freeing the abused from the gallows (Sheleff 1987). Prisoner's rights and a value for proportionality between the crime and the punishment had taken hold; as I will show below, these changes are consequential for the global movement to abolish the death penalty. Thus, the general trend since the 19<sup>th</sup> century has been public intolerance for public and garish executions.

Today, methods of execution are far less bloody than has been the case historically. The most popular method of execution worldwide today is the firing squad; the next most popular method is death by hanging (Simon and Blaskovich 2002). Stoning and lethal injection are the next most prominent methods, but the number of countries

practicing these methods are far fewer than those using the latter two forms of execution. These four represent the vast majority of methods utilized by countries to practice the death penalty. With the exception of stoning, the other three are typically not very bloody. Regardless, each of these forms of executions is much less gory than previous forms of capital punishment. Overall, current methods of execution are somewhat humanized as compared to other historical methods.

### **Arbiter of the Punishment**

The death penalty has increasingly over time fallen under the purview of the state (Foucault 1979). The modern state controls a monopoly over the legitimate use of violence in society, and it is typically the sole legal right of the state to kill. The consolidation of political power by the state and the ascendancy of democratic institutions worldwide both help to explain the particular shape of the death penalty in the modern era. Criminal codes prescribe the penalty for only particular crimes. Throughout much of the world, juries deliberate over the appropriateness of each sentence. No longer does the state capriciously mete out death to those of its choosing<sup>6</sup>. Church and/or monarchic authorities are no longer the primary forces determining the use of the death penalty<sup>7</sup>. An execution can only be legitimately applied once the rationalized gears of justice have ground their way through the bureaucratic halls of the court. Honor killings

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<sup>6</sup> There are certainly counter-examples to this point, but they are the exception and not the rule. And even so, a broader point to make is that it is now considered a human rights violation when the state kills in some extra-judicial manner.

<sup>7</sup> It is important to mention, however, that this statement is not true in at least two major cases: Iran and Saudi Arabia. These two countries contribute a significant number to the global count of executions every year, and their legal and penal systems do rely on religious and monarchic authority.

and mob justice were once frequent forms of execution, but they are now examples of outmoded and illegitimate forms of the death penalty that are globally decried.

### **Spaces of Practice**

Executions are now predominantly carried out away from the public eye. Where such punishments were once gruesome public spectacles, they are now largely held outside of the public's view<sup>8</sup>. This transformation is striking considering that the death penalty was historically an almost entirely public affair designed to symbolically reaffirm the moral order and power structure. The withdrawal of the death penalty from the public sphere, along with its decreasing garishness, indicates the decreasing legitimacy of public violence. This trend is related to Norbert Elias's civilizing process: an expansion of civilized sensibilities led to a disdain for public violence and gore. In this sense, the death penalty has been rationalized and secularized over time. These two processes contributed to the punishment's civilization over time (Elias 1978[1939]).

### **Summary: History of the Death Penalty**

This brief history of the practice of the death penalty reveals a threefold development in the use of the punishment. The death penalty has been 1) rationalized, 2) secularized, and 3) civilized over time. The declining catalogue of crimes to which the punishment can be legally applied embodies a major component of the death penalty's rationalization. This process is also clearly related to the bureaucratic rationalization of

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<sup>8</sup> Despite the general historical retreat of the death penalty from the public square, two notable exceptions today are Iran and Saudi Arabia. Though executions in Iran are legally required to take place in the 'public', they typically are carried out in prisons and are attended by witnesses. In distinction, all executions from 2007–2010 in Saudi Arabia were carried out in public (US State Department 2010).

the punishment in states' criminal and penal codes. The punishment's incorporation into formal legal codes is furthermore a symbol of its secularization. Where the death penalty was once a major tool by which the religious order was maintained and enforced, the administration of the punishment is now typically the product of some formal judicial process. Execution's retreat from the public eye also illustrates the punishment's secularization and civilization. The death penalty is no longer a violent public theatre, but is instead a horrifying affront to individual dignity. This civilizing process is also apparent in the declining garish nature of legitimate punishments. In general, executions were consolidated under the authority of the state, were applied to a shrinking number of offenses, were carried out in such a way to minimize the spectacle and the suffering, and were increasingly shifted away from the public's direct attention. Both the scale and the scope of the death penalty's role in society have greatly diminished.

## **Religion and the Death Penalty**

The following section relates Buddhism, Christianity, and Islam to the death penalty. It is important to specify these relationships because the death penalty is uniquely associated with the maintenance of the moral order. In its origins, the punishment was frequently used as an effort to "placate" a group's God or Gods (Barnes 1930). Yet, in most countries today, the death penalty is not primarily an institution of religion, and is instead more directly related to the maintenance of a secular moral order. Since a country's religious background, tradition, and history are obviously related to the development of its cultural and moral environment, religion can thereby be indicative of a country's particular orientation to punishment in general and the death penalty in specific. Moreover, I argue that each of these religions developed a universal ethic that

safeguarded the individual – by virtue of its relationship to God or some sacred principle – in distinct ways that warranted only certain forms of punishment practices. In particular, I argue that each religion developed the ontological foundation necessary for the flowering of the secular humanism that later flourished in during the Enlightenment. Thus, these religious traditions helped to constitute the moral foundation of the modern human rights regime that sanctifies and protects the individual. Yet, despite its contribution to this foundation, I also aim to show here that the religious humanism of these faiths fell short of establishing an uncontestable universal ethic that championed the abolition of the death penalty worldwide. In the next sections, I will emphasize the importance of the secular humanism of the Enlightenment and will relate it to the worldwide abolition of the death penalty trend.

### **Buddhism**

Very little has been written on the relationship between Buddhism and the death penalty (Horigan 1996). Like many religions, Buddhism has many different perspectives and no single organizing body, and so one specific statement about the death penalty for the entire religion is difficult to develop (Alarid and Wang 2001). Despite Buddhism's many forms, there is wide agreement that the pañca-sila<sup>9</sup> comprises five basic teachings that underlie the basic foundation for all Buddhists (Horigan 1996). The most relevant of these to the death penalty is the teaching to abstain from the taking of life. This teaching emphasizes the centrality of compassion in Buddhism. All of sentient life is to be seen as holy, no matter how lowly, since all such life can potentially achieve enlightenment.

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<sup>9</sup> The pañca-sila establish five precepts essential to Buddhism; each requires abstention from specific behaviors: 1) the taking of life, 2) taking what is not given, 3) sexual misconduct, 4) false speech, and 5) intoxicants (Horigan 1996).



Compassion is required to show the appropriate restraint and respect due to life, and is also seen as a sign of moral strength and courage (Horigan 1996). Since Buddhism calls for compassion, control, and composure, and the administration of extreme punishments like the death penalty is essentially the opposite of these, it follows that the death penalty does not follow the basic tenets of Buddhism (Alarid and Wang 2001). Moreover, Buddhism holds that all of life is fundamentally good, and because the death penalty is a retributive act that destroys life, it holds that this form of punishment creates a disturbance in the natural order of things according to this worldview. For example, an executed criminal is deprived of the chance to repair the harm caused by the criminal behavior. In this view, the death penalty can be described as an essentially disordering punishment. Despite the prevalence of this interpretation, many predominantly Buddhist countries retain the death penalty as a legal punishment<sup>10</sup>. In terms of the death penalty, this empirical reality suggests that this tenet of Buddhism has not been successfully rationalized into states' systems for justice and governance.

### **Christianity**

Similar to the Buddhism, Christianity represents a variegated theological tradition that is by no means univocal on the subject of the death penalty. Despite numerous calls for its abolition, accompanied by equally fervent defenses, the practice of the death penalty has long been a part of the Christian tradition (Megivern 1997). Internally, the

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<sup>10</sup> In 1989, Cambodia became the only predominantly Buddhist country to have abolished the death penalty. Additionally, Laos (1989), Myanmar (1993), and Sri Lanka (1976) are all considered de facto abolitionist countries because they have not used the death penalty for more than 10 years.

Christian church<sup>11</sup> has struggled for millennia between two opposing values: 1) the belief that heresy is best defeated by death and it is the state's right to kill the heretic, and 2) a belief in the ultimate sanctity of life and the equal dignity inherent in all persons as ordained by God (ibid.). The state's right to kill finds at least one source of support in the book of Genesis, which states, "Whoever sheds the blood of man, by man shall his blood be shed, for God made man in his own image" (quoted in Meilaender 2004). For most of its history, the Church has largely settled on the first set of values, representing the Church's endorsement of the death penalty as a means to control and delimit threats to the Church (Megivern 1997). Yet, interestingly, the Biblical claim that God made man in his image can also be used as justification for the death penalty's vulgarity; this principle serves as one of the moral – in theological terms – pillars supporting claims of mankind's inherent value and sanctity. If man is a creation of God and he is made in His image, then is it not a sin to destroy God's creation and likeness? The Bible is rife with contradictory positions on this topic, and it has only been until recently that the mainline position of the Christian community has shifted toward condemnation of the death penalty (cf. the Vatican city's abolition of the death penalty in 1969). The Church's disorganization and caprice on this issue is suggestive that this religious ideology and faith do not alone provide a sufficient foundation for building a global movement against the death penalty.

## **Islam**

There is little doubt that Islam provides space for the death penalty. It is the legal punishment for a variety of serious crimes in the text of almost every school of Islamic

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<sup>11</sup> Megivern (1997) frequently refers to the church, or the "early Christian church". His references allude to the Catholic ecclesial tradition.

legal thought (El-Awa 1982). Further, Sharia law sees the death penalty and the right to life as being an issue left up to the “administration of Islamic law” (Schabas 2002). Indeed, the death penalty is practiced in most predominantly Muslim nation-states<sup>12</sup>. Nevertheless, these facts do not dismiss the potential for a liberal Islamic position against the death penalty. As in Buddhism and Christianity, Islam demonstrates a similar religious humanism that posits the inherent sanctity of human life. The ultimate jurisdiction of life and death should be relegated to the divine. Fadl (2004) takes an Islamic position against the death penalty by claiming that its imposition can only take place under circumstances of “a clear, explicit, unambiguous, and unwavering authorization and delegation of proper authority by the possessor of the ultimate right over human existence – in a word, by God” (ibid.: 74). There must be absolutely zero doubt as to the necessity of the punishment; the death penalty must not be just reasonable; God’s law must call for it. For the state to kill, it must meet these criteria. In killing a criminal, “the state is acting on God’s behalf, while purporting to know the divine will and while claiming the ability and competence to faithfully and effectively carry out this divine will” (ibid.: 75). Under these terms, El Fadl argues that the religious and legal requirements of the death penalty are too stringent for its practical use. Though the death penalty is widely practiced in the Islamic world, El Fadl’s argument demonstrates that the same sort of humanism exemplified in Buddhism and Christianity is apparent in Islamic faith as well. Thus, Islam does not unequivocally support the death penalty.

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<sup>12</sup> Of the 48 or so predominantly Moslem nation-states, only three have abolished the death penalty for all crimes: Azerbaijan (1998), Djibouti (1995), and Turkmenistan (1999).

**Summary: Religion and the Death Penalty**

What to make of these conflicting positions? How do these faiths advocate for a universal ethic of religious humanism, but also variously practice the death penalty throughout the world and over time? The contradiction can be resolved by observing that the religious humanism of the faiths above is cobbled out of self-contradictory scriptures, teachings, and values: the same teachings of one faith can both legitimate and delegitimize the death penalty. Furthermore, each of the religions above accords earthly governments at least some authority and responsibility to administer justice, monitor, and punish crime. As such, the impact of religious humanism on abolition is hobbled by at least two factors: 1) contradictory theologies, and 2) the acknowledgment of terrestrial authority. Both of these leave the death penalty open to the idiosyncratic human interpretation of sacred texts and the capricious machinations of the state. Thus, religious humanism itself cannot be the primary and final justification for the abolition of the death penalty. Nonetheless, these faiths' ethical universalism and religious humanism serve as the primary inspiration for the Enlightenment's secular humanism, which transcends the religious debate about the source of fundamental individual sacrality and its justification. Secular humanism accomplishes this task by changing the terms of the debate; the ontological justification for the existence of basic individual sacrality is removed from the religious sphere and is reconstituted as an independent existential fact. That is, the source of individual sacrality is shifted to the individual itself; emphasis is placed on natural rights that are accorded by virtue of simply being a human. Below, I discuss this philosophical turn in the definition of universal human rights, and explicitly relate it to the development of a rational position against the practice of the death penalty.

## **The Enlightenment and the Death Penalty**

The Enlightenment famously championed the use of reason and rationality as the most potent source of legitimacy, authority, truth, and value. For my purposes here, the Enlightenment's rigorous application of reason to the social world and the individual is important because it secularized religious humanism and thereby provided the foundation for the establishment of a universal set of human rights that is sheltered from the limitations of competing dogmas. The secular nature of the Enlightenment is important because the validity of the values and rights claims that emanate from this period are purportedly viable on their own terms and are not necessarily reducible to one particular article of religious faith. A wide range of factors helped spur the Enlightenment's reconfiguration of the individual: the Reformation, scientific discovery, and mercantilism are just a few changes in society that transformed the general ontological understanding of the world (Ishay 2004). The Reformation transferred moral authority to mankind by rendering God remote and unknowable<sup>13</sup>; the individual became vastly more responsible for the maintenance of society. Scientific discoveries rationalized – and continue to – the natural realm (cf. Meyer and Jepperson 2000), rendering the world an analyzable and knowable object capable of being mastered and controlled. The world was reconstructed according to secular and universal formulations (e.g., mathematical equations for gravity, etc.). Mercantilism vastly expanded the scope of international trade, and with this expansion came an increasingly dense systemization of the rules that regulated interaction that favored interdependence and exchange. Such changes led to the birth of

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<sup>13</sup> Meyer and Jepperson (2000) refer to this process as a component of the rationalization of spiritual realm, a consequence of which is the 'deadening' of God.

the Enlightenment's core liberal ideals: a commitment to freedom, reason, equality, the enshrining of the individual's inherent right to choose, and the basic value of life (i.e., the basic right to life). These beliefs formulate the Enlightenment's basic precepts that have come to underlie the foundation of all individuals (Ishay 2004). Human rights, and an overarching value for the individual, were created in the yoke of these extensive shifts in the composition of Western society.

Values for individual responsibility, reason, and interdependence constitute a cosmology that privileges the individual before all else. This historical context was developed throughout the Protestant Reformation, most notably by the thinking of Martin Luther. According to Luther, “. . . a Christian man is the most entirely free lord of all, subject to none . . . [yet a] dutiful servant of all, subject to everybody” (Luther 1965: 148). This quotation helps to underscore the sense of responsibility and self-determination that Luther located within the individual, which is the focal point of all terrestrial concern. John Locke wrote in similar terms, but carries the logic further and extended the scope of individual authority. Locke claims, “Political society is instituted for no other end, but only to secure every man's possession of the things of this life. The care of each man's soul, and of the things of heaven, which neither does belong to the commonwealth nor can be subjected to it, is left entirely to man's self” (Locke 1991: 44). Locke's strict emphasis on self-determination and personal responsibility proclaims both the urgency and naturalness of the individual's inherent right to choice and freedom. Together, these thinkers' systems of thought helped to establish the sovereign and autonomous individual as the central occupant of the spiritual, political, economic, and social world.

Another basic right emanating from this period is the individual's general right to life. As discussed above, various faiths throughout history have espoused a religious humanism that validated that same belief, yet this faith did not stop tyrants, despots, demagogues, and the faithful from killing in God's name (Ishay 2004). What the Enlightenment accomplishes, or attempts to, is the establishment of this right on a secular basis. This secular basis arises from Hobbes's social contract, wherein all mankind is warranted to fight for the protection of his or her right to life, but such a right is only practicable if all submit to the social contract and surrender elements of his or her liberty for the security of him or herself and all of society (Hobbes 1996). Thus, according to this vein in Enlightenment thought, the fundamental precept of the individual's rights is the security of his/her life and person. Without this security, the social contract, and the individual's will to associate, is void.

In the context of these values, Enlightenment thought called for the rational application of reason in the use of punishment to achieve justice<sup>14</sup>. Above all, a punishment was just if there was parity between the crime and the punishment. Baron de Montesquieu's *The Spirit of Laws* (1977[1748]) called for "constructing a punishment scale to proportion punishments to the severity of the crime committed" (Carrithers 1998: 214). The intention here is to remove the caprice, discretion, and volatility in judges' and juries' sentencing of criminals. Cesare Beccaria, often described as the forefather of modern criminology, follows Montesquieu's line of thought to call for a vast restructuring of criminal punishments, including the abolition of the death penalty.

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<sup>14</sup> Here, the 'justice' to which I refer is that of Beccaria's 2008[1764], "And by justice I mean nothing but the bond required to hold particular interests together, without which they would dissolve into the old state of unsociability" (12).

Beccaria (2008)[1764] argues that the state's right to punish derives only from situations wherein a punishment is the only manner in which the social contract can be preserved and protected; in other words, a necessary punishment is the only just punishment. Punishment must therefore be applied only to serve the public good by discouraging future crimes and reaffirming the bonds that preserve the social contract. If a punishment or its severity is shown to be useless or contrary to the values established by the social contract, then it follows that the punishment is contrary "to justice and to the nature of the social contract itself" (ibid.: 13). If the punishment does not satisfy this requirement, it is then itself an act of violence. Moreover, outside of the state of nature, and under the dictums of the social contract, what man has the authority to destroy another man? Beccaria (2008)[1764] argues that the social contract is derived from only the most minimal concession of liberty, and claims that the minimal extent of this concession is evidenced by the fact that no rational man would give another the right to kill him without his consent (51–52). Furthermore, Beccaria notes that most nation-states outlaw suicide, which is the literal taking of one's own life. If one cannot legally take his or her life, then how is it that the state retains this right? Thus, if the death penalty is a legal punishment, then it puts society in a state where the nation makes war against its citizens (ibid.). Clearly, this condition is revocation of the social contract, which is contrary to the function of punishments.

Additionally, Beccaria reminds the reader that the primary function of punishment is to deter criminal acts that injure the social contract. For a punishment to work in this capacity, it must be swift, expected, necessary, and proportional to the crime. But for these qualifications to be met, the criminal must have a sense of the punishment before it



is levied. Since death can only directly be experienced once, and has never been experienced by the living, this form of punishment can only be an abstract and existential threat<sup>15</sup>. “A great many men look upon death with a calm and steady gaze” because they cannot possibly have any idea of what it means in any practical sense (ibid.: 54). Finally, Beccaria appeals to the ultimate spirit of his age: “It seems absurd to me that the laws, which are the expression of the public will, and which execrate and punish homicide, should themselves commit one, and that to deter citizens from murder that should order a public murder” (ibid.: 55). The death penalty is wrong because it a) is not the right of the state to kill its citizens, b) is not a suitable deterrent, and c) violates the social contract by invoking a punishment that destroys the individual, which is the basic unit of society itself.

Beccaria’s attack on the death penalty is representative of both the Enlightenment’s values and system of thought. His denunciation of capital punishment as an erratic and overly severe punishment amounts to a rational critique of penal practices. This strategy takes advantage of the Enlightenment’s focus on individual responsibility, reason, interdependence, and the general right to life; the result is a culmination of Enlightenment thought applied to punishment. In so doing, religious humanism, which establishes the theology for the Enlightenment’s basic claims for the inherent value of the individual, was thoroughly secularized into a rational system. Beccaria’s use of Enlightenment logic extends this secular argument to show how the basic values and qualities associated with the individual delegitimize the use of the death penalty. In this

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<sup>15</sup> Beccaria argued that lifetime imprisonment and labor were far more effective because they inflicted punishments all men are familiar with and have experienced in at least some degree (ibid.: 54–55).

sense, Beccaria represents an initial moment in the history of the death penalty wherein the fundamental properties of the individual generate specific rights due to all humans that revoke the legitimacy of the death penalty.

### **Movements Against the Death Penalty**

Because the death penalty is still in practice throughout the world today, and has been throughout all of recorded history, there is no authoritative history of the movement to abolish the death penalty. The story cannot be definitively told because the movement is yet underway. Nonetheless, what can be done is to tell the tale up to its most current state. This section outlines a few key steps in the movement against the death penalty. I relate these steps to the secular humanism developed during the Enlightenment, and particularly focus on the impact of Beccaria. Secular humanism made sacrality an immanent quality of the individual, and served as the ideological backbone of efforts to abolish the death penalty, reform penal codes, and form organizations opposed to the death penalty. I document Beccaria's impact on incipient movements to abolish the penalty in both post-Revolution America and Europe's early moves away from the punishment. Further, I connect the movement's first legislative successes – i.e., the earliest of abolition activity – to the 20th century development of a global human rights framework committed to establishing the right to life as a fundamental human right. Hood and Hoyle (2008) argue that the countries in the vanguard (Australasia, Central America, South America, and Western Europe) of the abolition movement supported abolition largely because of their intellectual heritage from the Enlightenment. I conclude this section by briefly sketching a few countries' path to abolition, demonstrating how these countries' unique trajectories are related to the Enlightenment principle of the right

to life. As I show in the chapters to follow, it is this global legislative framework – the product of centuries of institutionalization surrounding the sacralization of the individual – that helps to provide the infrastructure for the global diffusion of the abolition of the death penalty trend.

Somewhat curiously, some of the earliest movements to abolish the death penalty occurred in the United States. In America, the inspiration for these abolitionist movements is popularly traced to Beccaria's (2008[1764]) *On Crimes and Punishments* (Schabas 2002; Reggio 1997; Masur 1989; Gorecki 1983; MacKey 1975; Post 1944). Beccaria's treatise against the death penalty, and his call for the rationalization of punishment, inspired an intellectual sea change in penological sentiments<sup>16</sup>. Popular resistance to the death penalty in Revolutionary America is also frequently linked to reports of Britain's abuse of the punishment during the colonial period (Masur 1989). Indeed, many accounts report that early abolition movements – in many countries – frequently linked horrific abuses of the punishment to the occupying regime.

Beccaria's essay prompted a wave of attempted reforms in post-Revolutionary America<sup>17</sup>. Notable American reformers explicitly referencing Beccaria included Thomas Jefferson, Benjamin Rush, William Bradford, Benjamin Franklin, Thomas Paine, and Thomas Livingston (Reggio 1997; Masur 1989; MacKey 1975). These founding fathers

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<sup>16</sup> Beccaria's centrality is mostly constrained to the West, where his essay became the touch-stone for arguments concerning abolition of the death penalty and penal reform in general.

<sup>17</sup> The USA is somewhat unique insofar as its subnational states can abolish the death penalty, which means that the country as a whole can take on a variety of positions on the death penalty. While most countries take a unified position on their legislative status for the punishment, some other countries share this complication. For example, states in both Australia and Mexico had abolished the death penalty prior to their countries' final abolition of the punishment for all crimes in 1985 and 2005 respectively.

and early Americans drew on Beccaria to develop organizations calling for abolition, pen arguments against the punishment, and introduce reform to state legislatures (Reggio 1997). Jefferson's attempt at death penalty reform in Virginia was narrowly defeated; the Virginia state legislature failed to adopt the measure by only a single vote<sup>18</sup>. Rush and Bradford, prominent Pennsylvania citizens in the late 18th century, were successful in narrowing the applicability of the death penalty to only murder in the first degree (Reggio 1997). Michigan and Wisconsin actually abolished the death penalty in 1846<sup>19</sup> and 1853 respectively. Though these states' abolition of the death penalty occurred some years after the Revolutionary period, they still rank as some of the world's earliest formal legislative moves against the death penalty.

The rational argument against the death penalty appealed to the Enlightenment values for freedom and self-determination that were prevailing in America at the time. These values were also closely related to the central spirit of America's revolution. Masur (1989) argues that 18<sup>th</sup> and 19<sup>th</sup> century American movements against the death penalty were fueled by revolutionaries' complaints against Britain's use of the penalty in colonial America. Americans decried what they saw as the cruel, idiosyncratic, and petty executions of its revolutionary patriots. Indeed, this apparent misuse of the death penalty not only led to revolutionaries' call for penal reform, but it also supplied evidence of Britain's subjugation of America and provided a further justification for the American Revolution itself. Nonetheless, as indicated above, the illegitimate use of the death penalty did not seem to go far enough to sponsor a widespread rationale for abolition.

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<sup>18</sup> This narrow loss is somewhat ironic today considering that Virginia's yearly count of executions is typically second only to Texas.

<sup>19</sup> Michigan abolished the death penalty for all crimes except treason in this year; nonetheless, the state has never carried out a state level execution.

This focus shifts the debate toward the ethical practice of the punishment, which of course leaves aside the issue of whether or not the death penalty is intrinsically opposed to the rights of the individual.

European thinkers and statesmen were also receptive to Beccaria's seminal essay. His work incurred a lasting impact on European countries' practice of the death penalty in at least two extremely powerful ways. First, the number of capital crimes was dramatically decreased in the 19<sup>th</sup> century throughout Europe. Consider two representative examples. Britain's "Bloody Code" in 1810 listed as many as 220 crimes for which death was the legal punishment (Sheleff 1987). Many of these crimes were actually crimes against property involving theft or destruction, and were therefore intended to protect the wealthy gentry. By 1861, Parliament acted to delimit the scope of crimes punishable by death to just 5, most of which involved murder or crimes against the state like treason. Likewise, Sweden's *Code of Ill Deeds* in 1734 listed 68 capital offences. This number was reduced to 20 in 1865's revision of Sweden's penal code (Franck 2003:141). Moreover, Franck (2003) documents that Enlightenment thinking so influenced Sweden's King Gustav III (1746–1792) that he mandated all executions be carried out only upon his signature. The major consequence of this mandate was that the implementation of the death penalty in Sweden during the 18<sup>th</sup> and 19<sup>th</sup> was sharply reduced. Fewer executions were recommended to the king (because it was widely known that he was opposed to the punishment), and many of those that did meet the king's consideration were dismissed via pardon (*ibid.*). Second, while many countries were delimiting their number of capital offences, others were either abolishing the penalty in some form or discontinuing its practice. San Marino, Portugal, and the Netherlands

abolished the death penalty for ordinary crimes in 1848, 1867 and 1870 respectively. Portugal also discontinued its practice of the death penalty starting in 1849. San Marino later abolished the punishment for all crimes in 1865. These two movements during the 19<sup>th</sup> century, the delimiting of capital offences and countries' early abolition activity, are representative of a general downward trend diffusing throughout Europe at this time. This trend away from the death penalty continued into the 20<sup>th</sup> century, and was also translated into more complete legislative abolition in many more countries.

Latin American countries were abolishing the death penalty in full at the same time that European countries were delimiting the number of capital offences, drawing down the number of executions per year, and committing to less complete forms of abolition. Indeed, 5 out of the 7 earliest complete abolishers are located in Latin America. Two of these took place during the mid to late 19<sup>th</sup> century. In order, they are: Venezuela (1863), Costa Rica (1877), Ecuador (1906), Uruguay (1907), Colombia (1910), and Panama (1922)<sup>20</sup>. With the exception of Uruguay, the early Latin American abolishers are geographically contiguous. Clearly, a culture of abolition was diffusing throughout this region at this time. This culture is the child of the Enlightenment, one that calls for parity between crimes and punishments, and privileges rehabilitation and reparation over retribution.

Abolition of the death penalty appears to be related to the development of democracy, the transition away from monarchic rule<sup>21</sup>, and the abolition of slavery. In the

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<sup>20</sup> San Marino (1865) and Iceland (1928) are the other remaining countries on the list of the first 7 abolishers.

<sup>21</sup> For example, during the French Revolution, Robespierre argued unsuccessfully for the abolition of the death penalty during the National Assembly's debate to adopt the Code Pénal (Schabas 2002). Despite his defeat, his arguments signal that abolition of the death

Americas, marked by fledgling democracies newly liberated from colonial control, this new culture for punishment translated into formal abolition of the death penalty for some countries and states (i.e., national abolition in Latin America, and state-level abolition in the USA). In Europe, still under monarchic authority in some cases, the death penalty largely persisted in law, though its scope and application were greatly diminished in practice. These differences signal that the death penalty was more likely to be abolished in new democracies than in old monarchies. It furthermore provides some insights why the earliest complete abolition activity occurred out in the Americas and not in Europe.

Slavery was abolished typically not too long after colonial independence, at least for the early Latin American abolishers<sup>22</sup>. Abolition of slavery typically occurred prior to abolition of the death penalty in Latin America (this was not true at the federal level for early USA abolishers, but it is notable that Michigan, Pennsylvania, and Wisconsin were not slave states). Being the tools of monarchic authority, slavery and the death penalty can easily be seen as symbolic of colonies' subjugation, dehumanization, and victimization. Thus, upon gaining freedom, the abolition of slavery and the abolition of death penalty seem to be two methods by which new democracies shed the oppressive practices of their former colonial masters.

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penalty – or, the consideration of it – is a part of the process for new state formation after the dissolution of monarchic authority.

<sup>22</sup> Dates are listed as follows: [independence], abolition of slavery, (abolition of the death penalty). The following countries are organized chronologically according to their date of abolishing the death penalty. Venezuela [1811] 1821 (1863), Costa Rica [1821] 1824 (1877), Ecuador [1822] 1821 (1906), Uruguay [1825] 1842 (1907), Colombia [1810] 1821 (1910), and Panama [1903] 1821 (1922). The outlier here is Panama, which abolished slavery along with Colombia because it was a part of Gran Colombia at the time and did not gain independence until some time later.

It is important to recall here the Enlightenment's rational arguments concerning the inherent properties of the individual. These arguments argued for the extension of certain privileges and protections. The individual, seen as a cultural product of the Enlightenment, is a sovereign, inviolable, and basic unit of all society. These properties transmogrify the individual into a social entity that should not be bought, sold, or destroyed. These first principles amount to a secular celebration of the individual that delegitimize certain practices like slavery and the death penalty. For example, the secularization of religious humanism during the Enlightenment made theological justifications for slavery and the death penalty less convincing. The shift to a secular logic for the inherent value of the individual does not mean that religion could not be and was not implemented as a resource for abolition (for slavery and the death penalty) movements; it clearly was a useful tool. Instead, secular humanism allows for the universalism of religious humanism to be translated across different and competing faiths. It acted as a sort of common denominator that allowed for the fractious claims of particular faiths to be transposed to other theologies. In this sense, secular humanism provided an ontology for the individual that was born out of reason and the inherent qualities of the individual and was not dependent upon any particular faith.

Latin America's early abolition of the death penalty activities were consequential for establishing the right to life as an inviolable human right both within the region and later on within the UN (Schabas 2002). Arguably, it was Latin America that set the entire process in motion, being that these countries were the very first to legislatively abolish the death penalty for all crimes. These first steps ultimately culminated in the enshrinement of the right to life as one of the basic human rights in the Universal



Declaration of Human Rights (UDHR) adopted by the UN General assembly in 1948<sup>23</sup>. The UDHR led to other documents that explicitly relate the right to life to the abolition of the death penalty, such as the International Covenant on Civil and Political Rights (ICCPR) and a host of other both regional and global documents. As such, these international protocols institutionalized the secular value for the inherent sanctity of the individual and stand as the pillars supporting the global legislative framework for the entire human rights regime. This regime provided – and provides – the ideological justification and the institutional vehicle for the abolition of the death penalty. I explore this argument more thoroughly in chapter 3.

### **Some Cases of Abolition**

This section briefly sketches three historical paths to abolition. I focus on Britain's, Germany's, and Michigan's pathway to abolition. Each of these demonstrates that the route to abolition is domestically contextual. Yet, despite these distinct trajectories, some overarching themes emerge. The punishment is consistently described as a violation of the individual's right to life and a sundering of human dignity. These cases also highlight an increasing emphasis on parity between the crime and the punishment, a preference for rehabilitation over retribution, and are described as better serving justice and human dignity. Thus, though these abolitions took a distinct journey,

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<sup>23</sup> I do not mean to suggest that these early abolishers of the death penalty are solely responsible for the UDHR's focus on the right to life. The point here is to indicate that these governments' abolition of the death penalty helped to lift this piece of legislation, and the value for the right to life associated with it, into the global consciousness. I.e., these states' abolition of the death penalty, at the very least, served as potential examples for other states to follow.

the death penalty was abolished – at least in part – because it was seen as an illegitimate destruction of the individual.

### *Great Britain*

Britain's road to abolition has been noted as especially tortuous (Hood and Hoyle 2008). The Committee Law Commissioners was appointed in the early 1830s to reevaluate the then current "bloody code" of criminal justice. The committee decried the caprice of the "bloody code" and exhorted the proportionality between crime and punishment championed during the Enlightenment and also in Bentham's utilitarianism. As noted above, Britain's list of capital offences diminished considerably – to crimes against the state and murder – by the early 1860s. Moves to enumerate which sorts of murder warranted the death penalty were pursued, and there was some intention to diminish the scope of the punishment. No agreement was reached and capital punishment remained the mandatory punishment for murder during this period. Hood and Hoyle (2008) suggest that this result is partly the result of late Victorian society's emphasis on individual responsibility and a preference for extreme deterrents. Indeed, John Stuart Mill argued that a murderer's destruction of life required the death penalty to note society's emphatic value for it. Murderers violate individuals' right to life, and thereby forfeit their claim to it. Nonetheless, public executions were abolished in 1868, marking a movement away from exhibiting the penalty as a dramatic theater (ibid.: 43). Little movement on the death penalty occurred over the next 60 years; however, in 1928 the Labour administration established a Select Committee in the House of Commons to examine the use of capital punishment in Great Britain. A small majority of the committee voted to suspend the death penalty for a trial period of 5 years, but this

experiment was never conducted because several Conservative party members of the committee withdrew and refused to sign the report. After World War II, Great Britain once again considered this trial abolition period, but concluded that it was not a top priority given other more important reconstruction efforts. In the 1950s, a series of poorly handled capital trials led to the execution of several posthumously exonerated victims, which served to add to the public's disquiet over the death penalty. This public rebuke of the punishment culminated in a moratorium on the death penalty for most crimes of murder from 1965 – 1970<sup>24</sup>. The moratorium continued for several decades, and the public's antipathy toward the death penalty increased over this period when again a series of supposed criminals of severely violent crimes were revealed to be innocent (Hood and Hoyle 2008: 47). Execution would have been a possible punishment for these innocents' supposed crimes if it were available. Such volatility in the certainty in the process of justice convinced Conservative parliament members that the death penalty was too final a punishment for such an uncertain criminal justice system. The death penalty was abolished in 1998 for piracy, treason, and all crimes under military law. In 1999, the United Kingdom ratified Protocol Number 6 to the European Charter on Human Rights and the second optional protocol to the ICCPR. Thus, the death penalty was abolished in Great Britain through the ratification of two international treaties that emphasize the inherent sanctity of life and human dignity.

### *Germany*

Abolition of the death penalty in Germany developed over many centuries as well. Evans (1996) notes that the trend toward abolition in Germany began as early as the

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<sup>24</sup> Britain's last execution took place in 1964.

middle 18<sup>th</sup> century. At this time, the ideology of the Enlightenment began to take hold, and a distrust of the efficacy of torture developed along with a preference for parity between the punishment and the crime. These developments culminated in a complete abolition of torture in most of Germany during the 1770s (Evans 1996: 115). The abolition of torture is also associated with Friedrich II's – the Prussian monarch in mid-1700s – engagement with the European Enlightenment movement. Friedrich abolished burning at the stake for “unnatural sexual crimes” and ordered that dramatic displays of pain should be mitigated (Evans 1996: 122–123). The monarch abolished the administration of the death penalty for theft altogether in 1743, arguing that the public spectacle of the death penalty would be more impactful if it were less frequent and reserved only for the most abhorrent of crimes. Even further, Friedrich II was also inspired by Beccaria's *On Crimes and Punishments* to systematize Germany's penal code in the *General Law Code* of 1794 (Evans 1996). This document took Beccaria's recommendation that punishments be strictly conditioned to the severity of the crime, which greatly constrained the extent of the death penalty and impelled a massive shift toward imprisonment. A further consequence of the General Law Code was that more humane methods of execution were introduced. These were introduced to diminish the suffering of the criminal and delimit the spectacle of the execution. By the 1840s, Beccaria's influence had combined with actual German reforms to generate popular resistance to the death penalty amongst the German intellectual elite (Evans 1996: 250). Furthermore, a growing focus on individual psychology promoted a sense that the criminal could be rehabilitated, which became the prime purpose of the mass imprisonment system. These trends continued throughout the 19th century and the

German Unification. Abolition of the death penalty was debated several times in parliament, but was never implemented. Nonetheless, the reoccurrence of these debates indicates that abolition was gaining favor. Regardless, this momentum was abandoned in the early 20th century with the onset of the First World War, the rise of Hitler, and the Second World War. After World War II, however, West Germany moved quickly to abolish the punishment in 1949 in consideration of the atrocities of Holocaust and the violence of the Nazi regime. East Germany retained the punishment after the war, supposedly as a deterrent to the most grievous crimes presenting threats to the state and society. The punishment was abolished in the East in 1987 to undergird the regime's commitment to human rights (Hood and Hoyle 2008).

#### *Abolition in the USA*

The history of the abolition of the death penalty movement is particularly complicated in the case of the USA<sup>25</sup>. Given that states determine their own legislative

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<sup>25</sup> The Supreme Court of the United States has made a variety of important decisions that have dramatically impacted the scope and legality of the death penalty. For example, the death penalty was suspended from 1972 through 1976 via *Furman v. Georgia* because justices were variously worried about racial discrimination, the inconsistency of its implementation, and the possibility of its unconstitutionality under the Eighth Amendment. *Gregg v. Georgia* reinstated the punishment in 1976, as numerous states had redrafted their statutes to mitigate several of the Supreme Court's erstwhile concerns (United States Supreme Court 1972, 1976). Recently, however, the Supreme Court has released a number of decisions that have constrained the application of the death penalty. In *Atkins v. Virginia*, the Court restricted the use of the punishment for mentally retarded prisoners in 2002 (United States Supreme Court 2002). And in a similar retraction, the Court eliminated the death penalty for minors under the age of 18 in 2005's *Roper v. Simmons*. This latter decision included a majority opinion that wrote it was proper to acknowledge the "the overwhelming weight of international opinion against the juvenile death penalty. . ." (United States Supreme Court 2005). This decision is a testament to the influence of world culture given that the Supreme Court's majority opinion in this case should mention "international opinion", which is a source that the USA Court rarely looks to for jurisprudential precedent.

policy on the punishment, the historical development of the movement is as variegated as states' actual position on the punishment<sup>26</sup>. As noted above, the movement against the death penalty in the USA began with the notable influence of Beccaria's treatise against the death penalty upon some of the USA's revolutionary luminaries (Vila and Morris 1997: 4–5). Beccaria directly influenced Thomas Jefferson's<sup>27</sup> "A Bill for Proportioning Crimes and Punishments", which was introduced to the Virginia state legislature in 1779 and aimed to ration criminal punishments strictly to the severity of the crime (Jefferson 1950[1779]). It was narrowly defeated by one vote. Benjamin Rush, also inspired by Beccaria, was a bit more successful in delimiting the scope of the death penalty by taking a different approach. Rush began the USA's earliest abolition movement in 1787 with a popular text recriminating the punishment and advocating the establishment of a "house of repentance" for the rehabilitation of convicted criminals (Vila and Morris 1997). His efforts were partially successful insofar that the nation's first penitentiary was established in Philadelphia in the early 1790s. Furthermore, in 1794, Pennsylvania eliminated capital punishment for all crimes except for murder in the first degree, and was also provided for in cases of second-degree murder according to the discretion of a jury (Vila and Morris 1997).

These initial movements didn't lead to actual abolitions of the death penalty until Michigan's abolition in 1846. This abolition was preceded by Michigan's first constitutional convention, which was convened in 1835 to discuss the writing of the state's constitution and also contained debates about the punishment. One committee proposed a constitution that prohibited the death penalty, arguing that the punishment

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<sup>26</sup> To date, only 15 states have abolished the death penalty for all crimes.

<sup>27</sup> Jefferson cited Beccaria three times in the document.

was anachronous given that the ideal focus of a penal system should be on rehabilitation and not retribution (Wanger 2002). Regardless, the proposal was not adopted given that many felt that the state was not yet prepared to process and confine all of its criminals (Wanger 2002: 39). Nonetheless, debates surrounding the punishment continued. In 1840, residents of Michigan were shocked by stories coming from across the border in Canada about the wrongful execution of an innocent man, and were increasingly swayed by arguments trumpeting the inherent sacrality of human life (ibid.). The state's criminal code underwent revision in 1846, and the death penalty was abolished. Thus, Michigan's abolition of the death penalty exhibits many of the ideological features first established during the Enlightenment: a) a focus on rehabilitation, and b) a value for the fundamental sacrality of human life. In the case of Britain and Michigan, popular support for abolition was also increased when the penalty was – or, could have potentially been – wrongfully applied to innocents.

## **Alternative Routes to Abolition**

The history I reviewed in brief above is designed to highlight the historical and cultural trends that lead to the current global state of the death penalty, including the global abolition trend. In particular, I aimed to describe the historical and cultural development of the individual (cf. Dumont 1986) in institutional terms (particularly occurring throughout the Enlightenment), and attempted to relate such developments to the current abolition trend. These themes have been under explored in research examining the abolition of the death penalty, and so my stylized history of the punishment is intended to contribute a cultural understanding to the literature on the current global abolition trend. Nonetheless, the short case studies presented above

indicate that countries' path to abolition is tortuous, each following a distinct trajectory. As such, my approach necessarily rendered a very complicated history to be a far more univocal process than it truly is. Other possible explanations may suggest some limitations to my perspective, and provide some potential alternative explanations for the global abolition trend.

Singer's (2011) argument concerning humanity's expansion of social circle concern suggests that altruism, defined by Singer as a concern for the welfare for others that may or may not detract from one's own welfare, has a biological foundation. Whereas my argument focuses on the development of the meaning and value for the individual as historically and culturally developed institutions, Singer argues that the genesis of human ethics and morality sprouted from the biological fitness of certain ancestral genes that fostered care for one's kin. This care, what Singer refers to as altruism, helped one's kin to survive, and thereby helped to ensure that the genes encoding this form of altruism were passed down (given that one's kin shares a specific proportion of genetic material). This form of altruism refers to 'kin altruism', and is perhaps the most basic form of altruism from Singer's biological/philosophical point of view. Other forms of altruism – namely, 'reciprocal' and 'group' altruism – developed as human groups grew in size and diversity. These forms of altruism are applied according to the universalizing tendency of human reason (Singer 2011: 117), which seeks to establish fairness and credibility according to the standard of impartiality and a preference for logical consistency. Singer argues that these lead to the expansion of the circle of altruism – that moral and ethical behavior is increasingly applied to wider social circles that do not necessarily include one's family. As such, Singer argues that today's



human ethics have an ancient genetic foundation, but have since extended beyond one's kin to encapsulate all of humanity.

This genetic account of the development of a universal human-centered ethic could potentially be seen as exposing my historical and cultural focus as epiphenomenal. If one follows Singer's view, the historical and cultural construction of the individual depends not upon the forces I highlight, but follows more directly from the genetic development of altruism and the application of reason to ethical issues over time. The latter are exogenous causal factors that, if correct, make my argument the byproduct of more determinative variables. Unfortunately, this dissertation is unequipped to deal with biological complexities of any sort, even those that are related to the development and application of altruism and ethics. Be that as it may, my approach synchronizes with Singer's attention to the expansion of the circle of moral concern. It is possible to view my discussion of the historical and cultural construction of the individual as a more explicit account of how the individual writ large entered into the wider social circle of moral concern. As such, my historical account of the individual and its relationship to the death penalty is very much related to Singer's argument that the application of reason to ethical concerns is intrinsically expansionist – that is the object and beneficiary of our moral concern is increasingly the entire human family.

Steven Pinker (2011) addresses the dramatic historical decline in violence, and provides a possibly alternative set of explanations for the 20th century abolition of the death penalty trend. This work covers a vast history, discussing six historical trends that signal the retreat of violence: 1) the transition from hunter-gatherer small societies to civilizations with advanced agriculture and stable systems of governance and commerce,

2) the centralization of power during the rise of monarchic authority in Europe's Medieval period, 3) the Age of Reason and the European Enlightenment, 4) the "Long Peace" between developed nation-states after World War II, 5) the end of the Cold War after the collapse of the Soviet Union, and 6) the establishment of the Universal Declaration of Human Rights and the cascade of human rights claims (some successful, others not, and some underway) emanating therein. Each of these developments, according to Pinker, is associated with dramatic decreases in the extent and the use of violence<sup>28</sup>. Pinker also identifies five "Inner Demons" and four "Better Angels" of our human nature that are related to the impulse for violence and virtue respectively. Ultimately, Pinker argues that five historical forces in particular motivate the four "Better Angels" of our nature and are thereby related to violence's decline. These forces are historical currents that activate and guide our human nature away from violence and toward peace, cooperation, and altruism. They are: 1) the development of the state, which monopolized the legitimate use of force, centralized power and authority, and diminished the capricious use of violence at the individual level<sup>29</sup>, 2) the advancement of commerce,

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<sup>28</sup> It is not clear if Pinker means these trends to be causally related to the decline in violence, or if he merely believes that they are associated with the decline. Even though the story he tells is rather descriptive, I treat the factors he targets as causal agents engendering the dramatic decline of violence over the millennia.

<sup>29</sup> It is somewhat strange that Pinker does not identify an important difference between today's states and those of the 18<sup>th</sup> and 19<sup>th</sup> centuries: namely, modern states are far more responsible to internal and external parties than they have ever previously been. What warrants citizens' horror at the abuses of torture by the state? How is it that organizations like Amnesty International can shame governments and prompt the release of political prisoners of conscience? Meyer (2004) argues that states are increasingly under pressure to be "nice guys". For example, the very institutionalization of human rights as a global model for state performance has been largely shouldered by multitudes of non-governmental organizations advocating for their establishment without any real coercive power. At the end of World War II, the most powerful states of the day (Great Britain, the Soviet Union, and the USA) were all hesitant to incorporate a human rights charter into

which allowed goods, culture, and ideas to travel farther and faster and thereby encouraged cooperation, 3) the development of gender equality, which empowered women and deemphasized the glory of violence and domination, 4) the growth and expansion of cosmopolitanism, which encouraged individuals to appreciate and take on the attitudes of others, and 5) the increasing application of reason and rationality to human affairs, which encouraged Singer's "escalation of reason", forced individuals to relinquish the primacy of their personal self-interest over the interests of other and thereby diminished the impulse for violence by seeing it as a problem to be solved rather than won.

Like Singer's "Expanding Circle" argument, I find much to agree with in Pinker's work. Indeed, his sweeping account of the historical forces that are related to the decline of violence today provide some alternative pathways to the current global abolition trend. The development of civilization, the consolidation of authority under the state, the state's control over the legitimate use of violence, and the advancement of commerce do not receive much thorough attention here. And with good reason. Though these issues are important to the historical decline in violence and may thereby be linked to the global abolition trend, they are not exogenous to other historical and cultural factors that Pinker points to being related to the rise of human rights, gender equality, and cosmopolitanism. They work in tandem: the former complement the latter. These latter forces are the focus of this dissertation. In short, I aim to show how the historical, cultural, and global

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the new United Nations charter (Meyer 2004: 45). Yet, the UDHR was adopted by the UN general assembly in 1948, and though particular human rights have typically not enjoyed the support of the most dominant states, the human rights regime has expanded considerably. This result suggests that the global abolition trend is at least somewhat accountable to global cultural forces that are separate from the interests and activities of domestic governments.

construction of the individual – more specifically: the sacralization of the individual – is the driving force behind these factors that Pinker and myself suggest are important. My contribution can therefore be situated as an exposition of some of Pinker’s main themes, as I discuss, for example, where the notion of human rights come from, why they are so important, and how their rise is related to the 20th century abolition trend.

Both Singer and Pinker’s work suggest some alternative pathways to the global abolition trend. Singer’s focus on the genetic foundations of altruism, in combination with the “escalator of reason”, may mean that the eventual abolition of the death penalty is more or less hardwired into the human psyche. That is, preferences for peace and cooperation are evolutionarily built into our brain’s emotive and cognitive structures, and so abolition of the death penalty should naturally follow once humans’ grasp of reason became both sufficiently comprehensive and extensive. Pinker’s discussion of the manifold factors that contributed to the historical decline of violence similarly suggests a considerably larger causal set than Singer proposes. One might wonder, however, why this process should have taken so long to obtain. It seems that the establishment of unique cultural models and institutions were intricately related to the global rise of the abolition trend. Pinker identifies some of these important macro-structural changes, but focuses mainly on how they interact with the “demons” and the “angels” of our human nature. In other words, his focus is on how the broad social and institutional changes he identifies impact humanity’s innate psychology. This strategy clearly yields results, and Pinker’s work is admirable in that regard. Nonetheless, my focus here is on the development of these specific cultural models and institutions that have particular bearing on the global abolition trend. This emphasis is not meant to belie Singer or Pinker’s approach; it is

instead intended to complement their analyses by elucidating more thoroughly the import of these institutions on their own terms. I turn now to these issues in the chapters that follow.

## CHAPTER THREE

# Abolition in the Era of Human Rights: A Bayesian Change-point Model for Abolition of the Death Penalty

### Introduction

Abolition of the death penalty has gained global momentum. In 1863, Venezuela became the first country in the modern nation-state system to abolish the death penalty; in 1945, a total of 8 countries had abolished. Fast forward to 2012, and a total of 141 nation-states had either formally abolished or discontinued practice of the death penalty for 10 or more years (Amnesty International 2012). This count marks tremendous growth in the global abolition of the death penalty trend. What explains this dramatic global change in the legality and practice of the death penalty?

To date, the abolition trend has been generally analyzed in cross-national terms. Abolition is largely seen as being caused by domestic factors. In particular, scholars have mostly focused on the impacts of domestic political arrangements in fostering states' abolition of the death penalty. This perspective misses the global forces related to the development and discussion of the abolition trend.

To attend to this gap, I analyze the abolition of the death penalty trend in explicitly global terms. I measure the abolition trend as the global count of abolition of the death penalty occurring in a given year. This strategy treats the abolition trend as a process of collective action and global movement that gained coherence in the latter half of the 20<sup>th</sup> century. I argue that systemic changes in the institutional infrastructure of world society helped to establish this global turn away from the death penalty. In particular, the global development of the human rights regime institutionalized the legal

framework for individual sacrality into the architecture of world society. This sacrality reconfigured states' responsibility to the individual, and delimited the scope of legitimate punishments. For example, Joas (2008) argued that the development of human rights and the sacrality of the human person are related to the rise of rehabilitative penal practices, mass imprisonment, and the decline of garish corporal punishments. Similarly, I argue that the global institutionalization of individual sacrality via the development of the human rights regime provided the ideological vehicle and the global legislative framework for the abolition trend. Together, these provide both the soul and the practical mechanism for the discussion of the global abolition of the death penalty trend.

I use comprehensive data on abolition and global human rights institutionalization from 1863–2007 to develop a Bayesian Poisson changepoint model. This changepoint model: a) pinpoints the moment in time when global abolition activity transitioned from relative inactivity to high activity, and b) ascertains the relationship between global human rights and the abolition movement throughout the period, a relationship that has been deemphasized (e.g., Zimring (2003) and Johnson and Zimring (2009)). The results show that the institutionalization of human rights both positively increased the global abolition rate throughout the period and also contributed to the changepoint location that marked a dramatic increase in the global rate of abolition. Additionally, the impact of human rights on the global abolition movement appears to have developed through three phases: 1) a weakly positive relationship from 1863–1949, 2) a strongly positive relationship between 1950–1977, and 3) a moderately positive relationship after 1978. The second phase represents the most intense period for global human rights institutionalization, and also marks the epoch with the strongest relationship between

human rights and global abolition rate. This period contributed some of the most central human rights documents that make up the central framework of the human rights regime. I argue that this second phase culminated with Amnesty's Nobel Peace Prize and resulted in a structural break in the global abolition rate thereafter – what is called a changepoint.

My analyses also provide evidence that the global abolition trend is a supra-national process importantly shaped by the central world society institution of human rights. Global organization – e.g., human rights documents and international non-governmental organizations (INGOs) – has major implications for social change. The underlying intuition of my argument is that over time world society achieves greater coherence as a cultural and institutional configuration, which makes the emergence of related outcomes more likely. The institutionalization of individual sacrality via the human rights regime further sanctified the individual and delegitimized the death penalty in world culture, which in turn led to a global abolition trend. More generally, the model I present and test here is of consequence to scholars who are interested in the timing of major social or political change as well as the emergence and success of social movements.

## **Human Rights and the Abolition Trend**

Historically, states practiced the death penalty publicly and with great impunity. The spectacle of the punishment was sometimes a source of entertainment and collective effervescence. Brutal and garish punishments were carried out publicly against the condemned to consolidate the moral order and to serve as a signal to those that would challenge the sovereign or violate the sacred. But, as mentioned previously, states' public



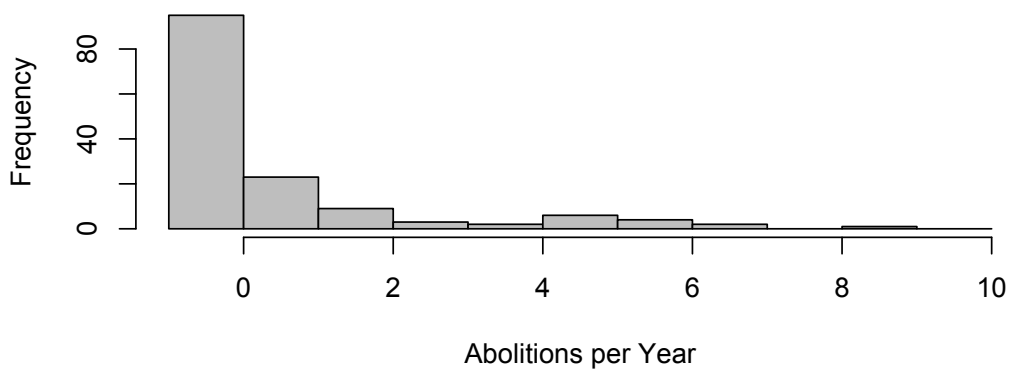
use of execution began to decline during the 18<sup>th</sup> and 19<sup>th</sup> centuries (Foucault 1979), and the public's tolerance for violent displays of punishment also waned (Ignatieff 1978).

Today, the number of countries using the death penalty is also on the decline. Indeed, public executions are now a source of disgust and moral outrage for many. Organizations like Amnesty International and Human Rights Watch work to decry and shame the practitioners of this method of punishment. The status of the death penalty is rapidly changing, and the global trend is toward abolition (see figure 3.1). Below, I focus upon the historical and cultural construction of individual sacrality to explain the global shift in the world culture for punishment.

Figure 3.1 plots the count of abolition of the death penalty per year since the beginning of the global trend in the modern nation-state system: Venezuela's full legislative abolition in 1863. Data on abolition came from Amnesty International. Amnesty International recognizes three different forms of abolition: 1) complete abolition for all crimes, 2) ordinary abolition for all but the most extreme crimes, and 3) de facto abolition wherein a given country has not used the punishment for more than 10 years (Amnesty International 2008). I sum these three measures for each year throughout the period – coding in favor of a country's strongest position against the punishment to avoid double-counting – to get the best picture of the global movement toward legislative abolition of the death penalty. The top panel shows a histogram that plots the distribution of yearly abolition counts throughout the period. The vast majority of years between 1863 and 2007 saw no abolition of the death penalty. The second panel in figure 3.1 adds a temporal dimension to this figure, plotting the count of new abolition of the death penalty per year throughout the period. The bottom panel demonstrates that abolition activity was

relatively infrequent earlier on in the period. Abolition becomes much more frequent as the current day approaches. This figure clearly identifies a global temporal trend in the yearly rate of countries' abolition of the death penalty: a structural break occurred sometime in the latter half of the 20<sup>th</sup> century such that the global abolition rate transitioned from an infrequent and idiosyncratic event to a patterned trend wherein abolition came in batches. The difference between abolition activity before and after this point in time is striking. Therefore, figure 3.1 raises the question: what is responsible for this dramatic change in global abolition activity?

**Histogram of Abolitions, 1863-2007**



**Abolitions per Year, 1863-2007**

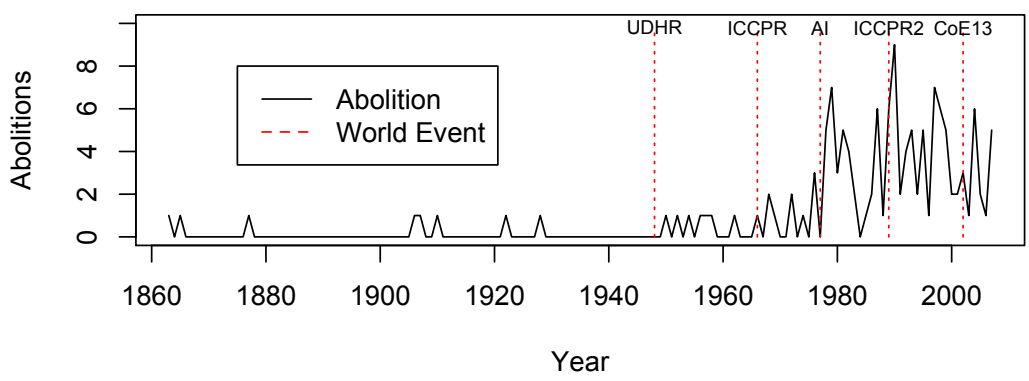


Figure 3.1: *The top panel plots a histogram of abolition of the death penalty per year, and the bottom plots abolition per year over time against five important world cultural events pertaining to human rights and the death penalty.*

As a preliminary sketch of my argument presented above, the bottom panel in figure 3.1 also plots five major world cultural events taking place throughout the 20<sup>th</sup> century. Each of these events had major ramifications for the development, institutionalization, and protection of human rights at the global level. Four of the five consist of major human rights documents and treaties: the Universal Declaration of Human Rights (UDHR) (1948), the International Covenant on Civil and Political Rights (ICCPR) (1966), the Second Optional Protocol to the ICCPR for abolition of the death penalty (1989), and the Council of Europe's (CoE) abolition of the death penalty (Council of Europe 2002); the fifth signifies Amnesty International's Nobel Peace Prize in 1977. In considering Amnesty's prominent position against the death penalty and human rights in general, I include this event because it was a critical moment wherein abolition of the death penalty became a central concern for the human rights movement. Even a quick glance at the plot reveals that each of these events preceded a surge in abolition activity at the global level, providing some insight into how the human rights regime has driven the abolition movement over time.

I argue that these events represent significant moments in the world societal institutionalization of individual sacrality. These documents enshrine the individual's rights as a matter of global concern. They also programmatically establish what these rights are and how they should be maintained. Amnesty's Nobel Peace Prize represents a moment of global celebration, demonstrating the world cultural significance of the organization's work on behalf of political prisoners, prisoners' rights, abolition of the

death penalty, and human rights in general. Furthermore, Amnesty's Prize symbolizes the world cultural value for the individual. Thus, each of these moments highlights the deep significance of human rights at the global level.

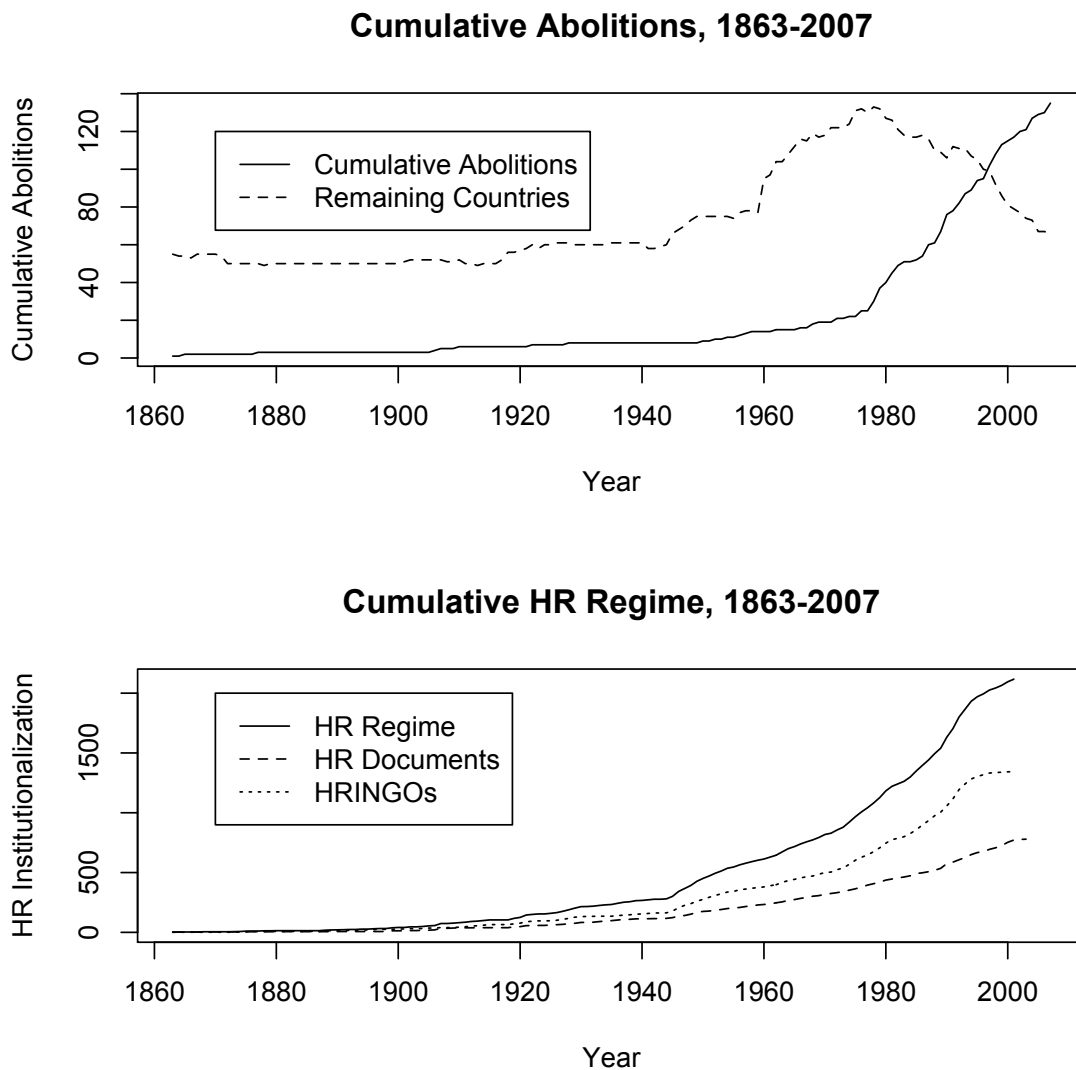


Figure 3.2: This figure plots the cumulative number of abolitions over time against the cumulative number of countries that haven't yet abolished in the top panel, and plots the global institutionalization of human rights over time.

Figure 3.2 has two panels as well. The top panel charts the global count of abolition of the death penalty against the number of countries that hadn't yet abolished

the death penalty for each year throughout the period. The bottom panel plots the global institutionalization of the human rights regime throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries<sup>1</sup>. Elliott (2007) and Brewington (2005) generously provided data on the human rights regime, here measured as the cumulative global count of human rights documents (1863–2003) and human rights international non-governmental organizations (HRINGOs) (1863–2001)<sup>2</sup>. Each of the two plots a very similar trend. Global counts were quite low early in the period, began to increase quickly sometime after the middle point of the 20<sup>th</sup> century, and then finished the period at levels many times greater than their start. Clearly, the level of association between the human rights institutionalization and abolition – measured as cumulative counts – is quite strong; they seem to accumulate in the same manner over time<sup>3</sup>. Additionally, the number of countries that hadn't yet abolished the death penalty increased throughout the period until the late 1970s. Thereafter, the annual rate of abolition increased dramatically, and the number of remaining countries yet to abolish the death penalty began to fall. This development serves to indicate that the world

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<sup>1</sup> I conceive of the human rights regime in broad terms, and consider it to be an indicator for the historical sacralization of the individual. Thus, I see the emergence of explicitly globally oriented human rights organizations and documents throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries as providing the institutional framework for individual sacrality.

<sup>2</sup> These measures constitute the sole independent variable of this study. Other analyses were run to check the robustness of my findings presented below. Results did not vary, or improve, with the inclusion of global measures of economic development, democratization, war, and the number of independent nation-states yet to abolish the death penalty. Furthermore, though this study treats all HR documents and organizations equally, I did run the model with just major human rights documents that mention the death penalty as the independent variable. This measure included documents like the Universal Declaration of Human Rights (UDHR), the International Covenant of Civil and Political Rights (ICCPR), and so on. Results were the same regardless of how I operationalized the human rights regime.

<sup>3</sup> Indeed, the level of correlation between these two global counts is  $\rho = 0.95$ . Of course, correlation is not the same as causation, but this level of association certainly measures an extremely close relationship between these two trends.

transitioned to a new state that was less hospitable for the death penalty at or near this time.

Last, figure 3.3 provides two further comparisons between the two variables of interest. In the top panel of figure 3.3, the abolition trend is represented by a solid line, which provides the global count of abolition occurring in a given year throughout the period. Such a yearly count measures how active the global abolition trend is in a given year, and so this measure will be the dependent variable in the analyses below. The dashed line plots the yearly emergence of new human rights documents plus new HRINGOs divided by 10 such that this measure is on the same scale as the abolition data. This measure, though not divided by 10, will be the independent variable of the model<sup>4</sup>. Thus, the dashed line traces the rate of institutionalization of the global human rights regime compared to the rate of global abolition activity over time. The level of association between the two variables can be simply identified by the eye, and it is quite striking. The line for human rights institutionalization largely traces the number of abolitions per year throughout the period. When human rights institutionalization increases in a given year, then so too does the count of abolitions of the death penalty. When new human rights institutionalization dips in a given year, abolitions of the death penalty also typically drop.

The upper plot in figure 3.3 also suggests that something crucial occurred in the latter half of the 20<sup>th</sup> century. During this period, the yearly rates of human rights institutionalization and abolition of the death penalty are much higher. To better

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<sup>4</sup> I also ran the model with the human rights regime operationalized as the cumulative count of such organizations and documents. Results were largely the same, and did not differ substantively.

understand this change, the lower plot of figure 3.3 treats 1950 as an ad hoc changepoint location<sup>5</sup>, and examines the impact of human rights institutionalization before and after this point. In the lower panel, I generate a scatter plot with two types of points: open points for years before 1950, and closed points for years greater than or equal to 1950. The ‘y-axis’ plots the global rate of abolition in a given year, and the ‘x-axis’ indicates the corresponding level of new human rights institutionalization for a given year. Next, I overlay two Poisson regression lines that predict the number of abolitions for each set of points as human rights institutionalization increases across its range<sup>6</sup>. The solid line fits points prior to 1950, and the dashed line fits points greater than or equal to 1950. As the lower plot in figure 3.3 reveals, the expected rate of abolition prior to 1950 is quite low, nearly 0; however, after 1950, the expected rate of abolition increases greatly. Thus, this lower panel demonstrates two items: first, something happened in the latter half of the 20<sup>th</sup> century to intensify the global abolition trend; second, while the relationship between global human rights institutionalization and the global abolition trend is positive throughout the period, there appears to be a shift in this relationship after 1950. New human rights institutionalization impacts the global abolition rate more strongly after 1950 than in the previous years.

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<sup>5</sup> I choose 1950 as the changepoint location to elucidate the main point that the character of the global abolition trend changes dramatically during the latter half of the 20<sup>th</sup> century. As I discuss below, determining the changepoint in this manner is not ideal, as it is a subjective and biased approach to locating the changepoint. Nonetheless, this method is instructive in figure 3, and helps to build toward the more formal estimation of the changepoint in my analyses below.

<sup>6</sup> The results of the two Poisson regressions provided the coefficients for the predictions plotted by these lines. To generate predicted abolition rates, I allowed the yearly rate of human rights institutionalization to vary across the total period’s range (0 to 100). This strategy allowed me to ascertain the full impact of human rights institutionalization on abolition. I include these lines for expository purposes.

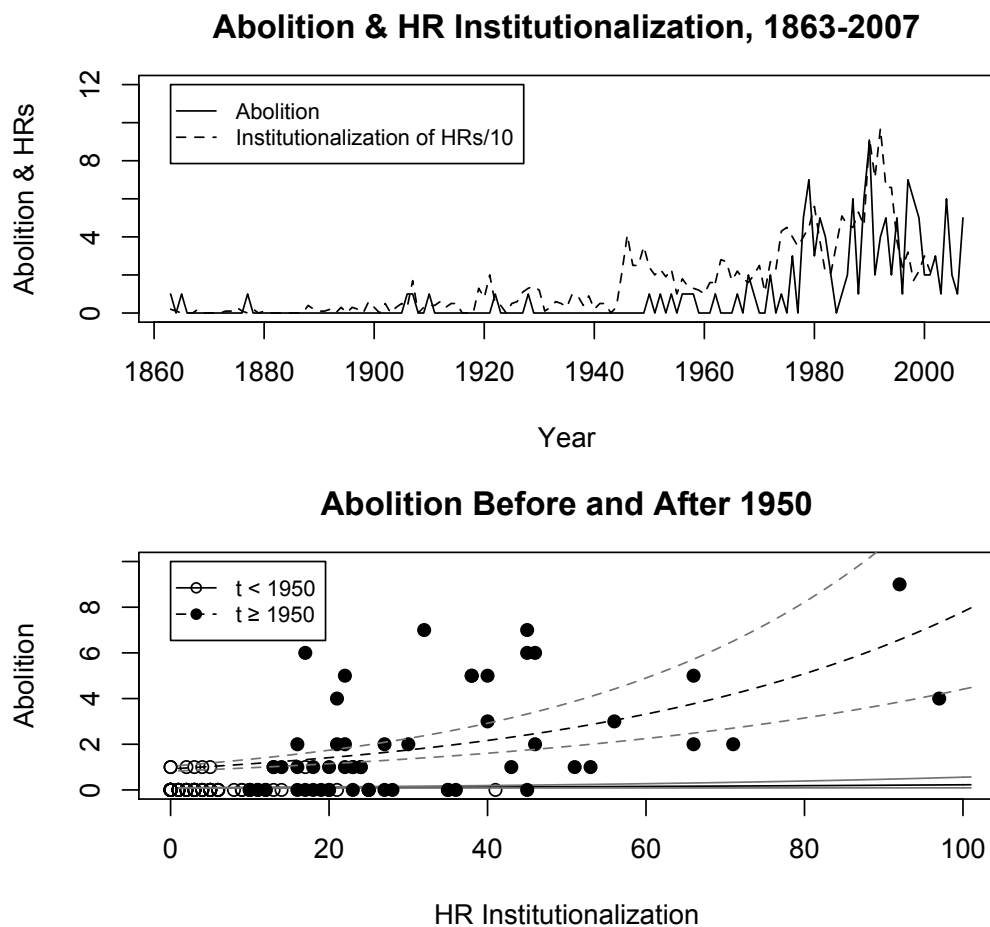


Figure 3.3: *The top panel compares the abolition trend to the institutionalization of human rights over time. The bottom panel plots two Poisson regression best-fit lines that estimate the number of abolitions as human rights institutionalization increases onto a scatterplot of human rights versus abolition before and after 1950. The lighter gray lines plot the 95% confidence interval for each line.*

## The Argument

Typically, the impacts of global factors are measured at some sub-global level of variation. This observation is particularly true for the macro-phenomenological perspective of world polity theory (cf. Meyer et al. 1997). Consider, for example, some representative works in this literature: Hafner-Burton and Tsutsui (2005) look at the



impact of human rights institutions on states' level of human rights respect, Frank et al. (2000) examine the relationship between the global environmental movement and states' environmental practices, and Cole (2005) shows how world culture impacts states' ratification of human rights covenants. This literature's global to national focus is well-suited in demonstrating the global factors that shape domestic affairs, but does not match the explicitly global perspective of the theory<sup>7</sup>. The preponderance of empirical work examining the impact of the world polity on national organization means that less has been done to explain the rise and diffusion of global structures and institutions in the global terms that are the focus of the theory<sup>8</sup>.

Figure 3.3 demonstrates a great degree of parity between two prominent global trends diffusing throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries: the global institutionalization of human rights and the global abolition movement. I develop a theory that interprets and explains the relationship between the two in strictly global terms. I begin with a brief discussion of the historical development of human rights, and focus on how the institutionalization human rights as a global regime shaped the abolition trend. I argue that the historical institutionalization of human rights developed a global legal framework that consolidated their global moral authority. The moral authority of human rights reconfigured the nature of the individual; the individual was transmogrified into a prominent totem of world society, representing the sacred core of world culture. Human rights thereby entailed a shift in the responsibilities of all actors at every level of social

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<sup>7</sup> Yet, on the other hand, this empirical strategy is understandable given that world polity theory's early empirical efforts attempted to consolidate its legitimacy in a literature that frequently emphasized states' sovereignty and rationality.

<sup>8</sup> There are, of course, notable examples. Cf. Boli and Thomas (1999) and Frank et al. (2010) for empirical analyses dealing with global trends.

organization. Individuals were increasingly given special rights, protections, authority, and responsibility. These transformations entailed a vast restructuring of punishment; the death penalty became an illegitimate and garish violation of the individual.

My approach is distinguished from the bulk of scholarship addressing the recent abolition trend that conceptualizes abolition as mainly a manifestation of cross-national political variation (Fijalkowski 2001; Greenberg and West 2008; Johnson and Zimring 2009; Miethe et al. 2001; Neumayer 2008; McGann and Sandholtz 2012). Whereas these authors emphasize the cross-national drivers of abolition, I focus on the cultural embeddedness of all actors in global terms. Nation-states are embedded within a transnational system that is institutionalized formally through inter-governmental organizations, international treaties, and a series of widely proliferating non-governmental organizations. These documents and organizations help to establish the rules and expectations that nation-states operate under (Meyer et al. 1997). Accordingly, I view nation-states as symbolic enactors (Jepperson 1991); like other actors, states' actions represent orientations to meaning systems and understandings of what constitutes "the good" (Taylor 1992). In this sense, the human rights regime institutionalized a model for the treatment of the individual that reformulated its needs, responsibilities and duties, rights, and roles. Its institutionalization remodeled states' behaviors and duties.

The modern human rights regime is related to several major institutions integral to the development of the individual. Today's idea of the individual – and human rights – draws upon too many institutions to discuss here, but chief among these are: the rise of Christianity and Christendom, the Protestant Revolution, secularization, the Enlightenment, the diffusion of capitalism and democracy, and the development of

modern science (Elliott 2007, 2008, 2011). The ideologies developed by these institutions were embedded over time into human rights organizations and documents (ibid.). These organizations and documents rationalized and codified the ideology of human rights into concrete cultural models. This latter process is the principal focus of the paper.

The development of human rights as a modern institution is related to the global abolition trend in at least three major ways. First, human rights are a global institution. These rights are intended to apply to all people regardless of any distinctions. Second, human rights provide models for how all individuals are to be treated. The treatment of individuals is highly codified and prescribed. Third, these models actually shape the behavior of nation-states. Multitudes of organizations and documents monitor and safeguard human rights respect world- wide. At the state level, countries sign and ratify human rights treaties that require and restrict certain behaviors. Each of these elements of the human rights regime contributed to a redefinition of the individual that established it as fundamentally sacred and inviolable. These changes thereby invalidated the use of the death penalty as a legitimate punishment.

One aspect of the globality of the human rights regime derives from the universality of its mandates (Lechner and Boli 2005). Human rights are intended to be equally applicable to all people regardless normative distinctions, and thereby invoke an ideological framework that sees the world as one place that is inhabited by one common human family. They are accorded to every individual by virtue of his or her very humanity. In this sense, human rights are both fundamental and inherent to every person. This immanence of human rights suggests that they serve as the common link across all

peoples. No distinctions are supposed to be made in their application. All individuals share the same fundamental core, and so everyone is a member of the human family.

The modern human rights regime has formally organized, rationalized, and institutionalized models for human rights care and protection in the modern era. Individual rights and protections are codified in highly specific terms. Documents such as the UDHR, ICCPR, and International Covenant on Economic, Social, and Cultural Rights (ICESCR) literally script the elemental properties and rights of all individuals (United Nations 1948, 1966a, 1966b). These documents helped to establish a world cultural model that recalibrated the responsibilities of all actors to the individual<sup>9</sup>. Furthermore, they helped to establish an explicit framework of accountability designed to ensure and safeguard human rights respect. The presence of this framework helps to provide the infrastructure required for the model to diffuse.

The human rights regime does not simply document the individual's rights; a host of organizations, treaties, governing bodies, and other safeguards work to protect and ensure human rights for all worldwide. These organizations and documents make an impact that is both implicit and explicit. The impact is implicit in the sense that many human rights are now taken for granted and are not widely contested. For example, few would argue that freedom from slavery is not an intrinsic human right for all. The explicit impact of human rights is evident in the variety of organizations, tribunals, and governing bodies that monitor human rights practices. This monitoring is not merely superficial,

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<sup>9</sup> This interpretation of human rights is informed by Emile Durkheim's and Mary Douglas's analysis of ritual: human rights models rationalize the individual from the world of the profane to the celestial heights of the sacred. These models prescribe the rites and privileges that pay homage to the fundamental values all individuals represent: the rights to freedom, autonomy, sovereignty and self-determination.

either, as these organizations and bodies delegitimize and shame actors that violate recognized human rights standards<sup>10</sup> (Murdie and Davis 2011). Brutal regimes are decried in the global media, former dictators are arrested and extradited to the International Criminal Court (ICC), corporations' products are boycotted, and champions of human rights are given the Nobel Peace Prize. These examples demonstrate the consequential impacts of human rights today that were largely impossible in previous eras.

Models for human rights stipulate that the individual is sovereign and inviolable. For example, the UDHR and ICCPR name the rights to life and self-determination as fundamental to all individuals. These rights are often referred to as the most basic of all human rights; they are the foundation upon which all other rights are built. According to the logic of these rights, the very practice of the death penalty is a violation that threatens the entire scaffolding of human rights. Since human rights are both the fundamental core of all individuals and also the moral center of the entire human family, a violation of these rights is especially offensive. In this sense, the establishment and global institutionalization of human rights transforms the death penalty into a cruel and garish punishment that violates the principles of human rights and the sacred core of all individuals. The more world society institutionalizes respect for and protections of the individual, the more it delegitimizes perceived violations of the individual. Thus, deepening institutionalization of human rights should foster the global abolition of the death penalty trend.

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<sup>10</sup> For example, Boyle (2002) described how CNN's broadcasting of a female genital cutting (FGC) operation in Egypt led to outrage in the USA's congress. After seeing the video, senate leaders worked to attach stipulations to American foreign aid to Egypt that required the abolition of FGC, a legislative move that promptly followed in Egypt.

## Method

I model the yearly count of new abolitions of the death penalty using a Bayesian Poisson regression model<sup>11</sup> (cf. Jackman (2000) and Western and Jackman (1994) for two user-friendly introductions to Bayesian estimation). I include a change-point parameter in equation 1 below to calculate two related quantities of interest. First, the changepoint marks the temporal location when global legislative abolition rates transitioned from the earlier period of inactivity to the later period of high activity. Second, the changepoint also marks how the impact of global human rights institutionalization develops during these two distinct epochs; i.e., human rights institutionalization has two distinct impacts on the yearly legislative abolition rate – one for each regime on either side of the changepoint. I discuss the mechanics of this model in more detail below, but first describe the benefits of my Bayesian specification.

Bayesian methods are especially useful for three reasons. First, measures of uncertainty are drawn directly from the parameters' posterior distributions estimated by the model<sup>12</sup>. Summarizing these posterior distributions gives a good picture of the range of potential values for the parameter in question. Second, this method makes the changepoint a parameter estimated by the model (Spirling 2007). Making the changepoint a parameter to estimate minimizes the amount of bias introduced by the analyst.

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<sup>11</sup> I implement the Bayesian framework by calling the Just Another Gibbs Sampler (JAGS) (Plummer 2003) program from R (R Development Core Team 2011). JAGS is a free program available for download that allows users to specify their own Bayesian models and requires some basic programming skills.

<sup>12</sup> Unlike frequentist methods, the parameters are not assumed to be fixed. Instead, Bayesian estimation treats each parameter as an estimated quantity surrounded by the some measure of uncertainty, which is described by summarizing each parameter's posterior distribution (Bolstad 2004).

Typically, changepoint problems have been modeled by introducing year dummy variables and examining effect direction and significance (cf. Western and Kleykamp (2004) for a review of these), and by splitting up the data set to equal the number of regimes demarcated in the data by the hypothesized changepoint locations (e.g., Kenworthy (2002)). Clearly, both strategies are ad hoc methods that introduce unnecessary author bias into the model a priori. My strategy allows the data to more directly tell me when the structural break for the global abolition rate occurs. Third, as is typically the case for longitudinal data, my measure for human rights institutionalization has some missing data. Specifically, the years after 2001 are missing for HRINGOs, and the years after 2003 are missing for human rights documents. Nonetheless, this is not a problem in JAGS (Plummer 2003) (cf. endnote 10). The model seamlessly handles missing data by drawing from an appropriate user-specified distribution for the variable with missing data. In this case, since the variable in question is a count of new HRINGOs and new human rights documents per year, I set missing data to be drawn from the Poisson distribution with a conjugate gamma prior<sup>13</sup>.

The general changepoint model is given as:

$$\log(\hat{y}_t) = \alpha_0 + \chi_t \alpha + I_t(\theta) \beta_0 + I_t \chi_t(\theta) \beta,$$

where  $\hat{y}$  is the estimated number of abolitions in year  $t$ , which ranges from 1 (1863) to 145 (2007), and  $\alpha_0$  is the intercept before the changepoint (denoted as  $\theta$ ),  $\beta_0$  is the intercept after  $\theta$ ,  $X$  is a matrix of independent variables (i.e., my measure for human rights institutionalization),  $\alpha$  is a vector of corresponding coefficients prior to  $\theta$ ,  $\beta$  is a

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<sup>13</sup> Replication code and data are available upon request. The model described here achieved approximate convergence after 100,000 iterations, a burn-in of 50,000 iterations, and a thinning rate of 400.

vector of corresponding coefficients after  $\theta$ <sup>14</sup>,  $I_t(\theta) = 0$  when  $t \leq \theta$ ,  $I_t(\theta) = 1$  when  $t > \theta$ , and  $\theta$  is the changepoint estimate that ranges from 1 to 145. As the above equation indicates, the parameter  $\theta$  operates as a sort of switch that turns portions of the equation on and off depending upon whether or not the year under analysis is before or after the changepoint. Thus, the estimated rates of abolition per year are:

$$\log(\hat{y}_t) = \alpha_0 + \chi_t \alpha,$$

when  $I_t(\theta) = 0$  (i.e., before the changepoint:  $t \leq \theta$ ), and is

$$\log(\hat{y}_t) = \alpha_0 + \chi_t \alpha + \beta_0 + \chi_t \beta,$$

when  $I_t(\theta) = 1$  (i.e., after the changepoint:  $t > \theta$ ).

Writing the model in matrix notation adds further explanation. The model is given as:

$$\log(\hat{y}_t) | \xi \sim P(\xi), \quad t = 1, \dots, \theta,$$

and

$$\log(\hat{y}_t) | \eta \sim P(\eta), \quad t = \theta + 1, \dots, T,$$

where  $\xi$  gives the Poisson distributed abolition rate  $\hat{\lambda}$  when  $t = 1, 2, \dots \leq \theta$ , and  $\eta$  gives the Poisson distributed abolition rate  $\hat{\lambda}$  when  $t > \theta$ . Thus, as described above, the estimated number of abolitions per year is given by two Poisson data generating processes (DGPs): a model for the regime prior to the changepoint ( $\theta$ ), and a model for the regime after the changepoint ( $\theta$ ). Following the first equation, and to complete my

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<sup>14</sup> The model reported in this paper utilizes only one changepoint. I attempted, but do not report here, other model specifications that allowed for up to three different changepoint locations. Following the schema provided by Kass and Raftery (1995), Bayes Factors suggested that the evidence for choosing the single changepoint model was “positive” to “very strong” over choosing double and the triple changepoint models respectively. Thus, the single changepoint model is most appropriate for the data.



Bayesian specification, the rest of the parameters estimated by the model are given the following uninformative priors:

$$\begin{aligned}\alpha_0 &\sim N(0, 0.0001), \\ \beta_0 &\sim N(0, 0.0001), \\ \alpha &\sim N(0, 0.0001), \\ \beta &\sim N(0, 0.0001), \\ \theta &\sim U(1, 2, \dots, T).\end{aligned}$$

The intercepts and coefficients are all drawn from the normal distribution with mean 0 and a wide variance<sup>15</sup>. The prior distributions for these parameters are diffuse and non-informative, and are used when the analyst has little prior knowledge on what values the parameters will take and wishes to introduce as little prior bias as possible (Gill 2007). The changepoint,  $\theta$ , is drawn from a discrete uniform distribution (from 1 to  $T$ , which is equal to 145), which assigns an equal prior probability to the changepoint location for every year under analysis.

## Results and Discussion

Table 3.1 displays the results from the changepoint model. I list the posterior mean for each parameter, the interquartile range (IQR) (Bolstad 2004)<sup>16</sup>, and its associated 95% credible interval. I list the posterior median for the changepoint  $\theta$  because this parameter was drawn from a discrete uniform distribution.  $\bar{\xi}$  is the posterior mean

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<sup>15</sup> In JAGS, the second value entered for the normal distribution is the inverse variance parameter,  $\frac{1}{\sigma^2}$ . Thus, smaller values entered for this parameter lead to larger variances.

<sup>16</sup> The IQR is a good measure of dispersion for the bulk of the data that – unlike the standard deviation – is not distorted by outliers located in the tails of the posterior distribution. It is defined as:  $IQR = Q_3 - Q_1$ , where  $Q_3$  refers to the third quartile of the data, and  $Q_1$  refers to the first quartile. Therefore, the IQR is a measure of dispersion within the middle 50% of the posterior distribution.

for all  $\hat{\lambda}$  estimates prior to the changepoint  $\theta$ , and  $\bar{\eta}$  is the posterior mean for all  $\hat{\lambda}$  estimates after the changepoint  $\theta$ . I place the posterior estimate for  $\theta$  in the second regime's column to indicate the beginning of this regime. I also add 1863 as a numerical constant to each  $\theta$  and round to the nearest integer to generate a value that is easier to interpret in terms of the years under analysis. These values are listed in parentheses.  $\alpha_0$ ,  $\alpha$ ,  $\beta_0$ , and  $\beta$  are the posterior means for model's parameters. In general, the results presented in table 1 accord with the trend displayed graphically in figure 1. The global rate of abolition per year during the first regime was virtually zero, or about 0.2. The world underwent a structural shift somewhere between 1976 and 1979, with the changepoint's posterior median being 1978. This changepoint location marks the beginning of the second regime for the global abolition trend, one where the global abolition rate increased to the much higher level of about 3.5 per year. This table also demonstrates that the effect of the human rights regime is positive throughout the period (cf. equations 2 and 3 above). Interestingly, this positive relationship seems to slacken over time, but does not diminish completely. For example, equations 2 and 3 reveal that a yearly increase in the global institutionalization of 10 new human rights documents and/or organizations results in approximately a 0.17 and 0.04 increase in yearly rate of abolition activity during the first and second regimes respectively. So, while the relationship is positive throughout the period, the impact of new human rights institutionalization on the global abolition rate appears to weaken over time. I return to this issue later in this section.

Table 3.1. Changepoint Model Results (IQR) [95% credible interval]				
	First Regime	Second Regime	IQR	Credible Interval
$\theta$	-	115 (1978)	(1)	[113 (1976), 116 (1979)]
$\bar{\xi}$	0.22	-	(0.12)	[0.06, 0.92]
$\bar{\eta}$	-	3.56	(0.78)	[2.00, 5.53]
$\bar{\alpha}_0$	-2.29	-	(0.39)	[-3.01, -1.66]
$\bar{\alpha}_7$	0.054	-	(0.02)	[0.024, 0.082]
$\bar{\beta}_0$	-	3.34	(0.48)	[2.58, 4.11]
$\bar{\beta}$	-	-0.049	(0.02)	[-0.078, -0.015]

Figure 3.4 plots the estimated densities for global abolition rates before and after the changepoint year against the distribution of the data. The first regime's curve takes  $\bar{\xi}$  in table 1 as its mean arrival rate, and is plotted as a solid black line. The second regime's curve takes  $\bar{\eta}$  in table 1 as its mean arrival rate, and is plotted as a dashed red line. Thus, I produce two density curves, one for a range of possible yearly abolition rates according to each regime's mean arrival rate as predicted by the model. Histogram bin heights refer to the density of the actual observed yearly rate of global abolition throughout the period. Note that the majority of density for abolition in the first regime centers on a relatively low mean (i.e., 0.22). In other words, the model estimates that the global abolition rate in the first regime will be zero at about 85% density. Very little density is reserved for any other level of abolition greater than zero in this regime. In distinction, the density for the global abolition rate in the second regime centers at the higher mean of 3.56, with some probability density distributed in the tails of this curve. This result makes sense considering that the global abolition rate during the second regime fluctuated a great deal more than in the first regime.

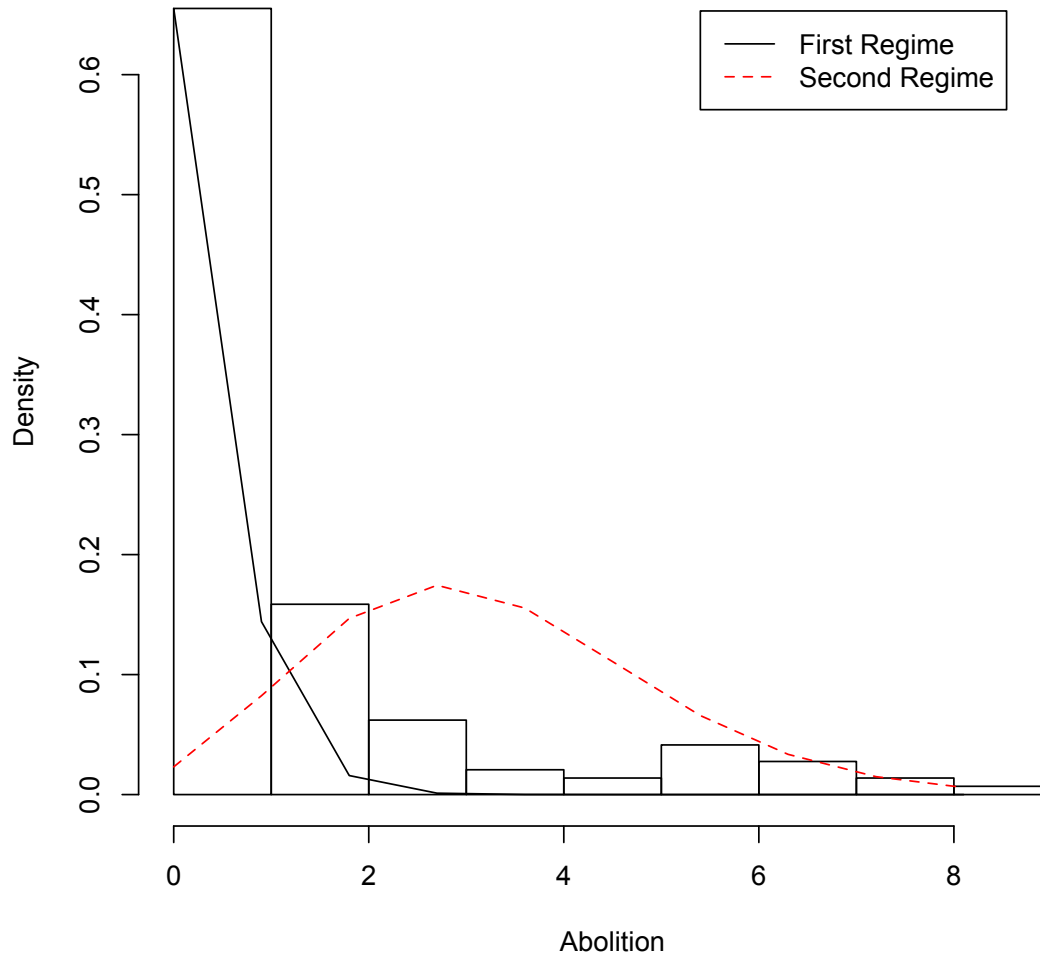


Figure 3.4: This figure plots the estimated posterior densities for various yearly global rates of abolition of the death penalty in both regimes – i.e., before and after the changepoint.

Figure 3.5 graphically displays the model fit and the changepoint location as estimated by the model<sup>17</sup>. The predicted number of abolitions per year ( $\hat{\lambda}$ )<sup>18</sup> is plotted

<sup>17</sup> Overdispersion is a problem that can arise in Poisson regression. I checked for overdispersion by calculating the standardized residuals, and plotted them against the predicted rate of abolition. Visual diagnosis of the plot confirmed that overdispersion is not an issue associated with the model presented here. This plot is available upon request.

Additionally, I calculated the overdispersion ratio ( $\frac{1}{n-k} \sum_{i=1}^n z_i^2$ , where  $n$  = the number of observations,  $k$  = the number of parameters in the model, and  $z$  = the standardized residuals) and found it  $\approx 0.981$ . A Chi-square test of this statistic returned statistically

against the actual number of abolitions, with the thicker black line representing the predicted number of abolitions, and the thinner black line connecting the points plotting the actual number of abolitions per year. The changepoint year is also plotted as a vertical dashed line, and is the median of the posterior distribution. Thus, the thicker line traces the number of abolitions predicted by the model before and after the changepoint.

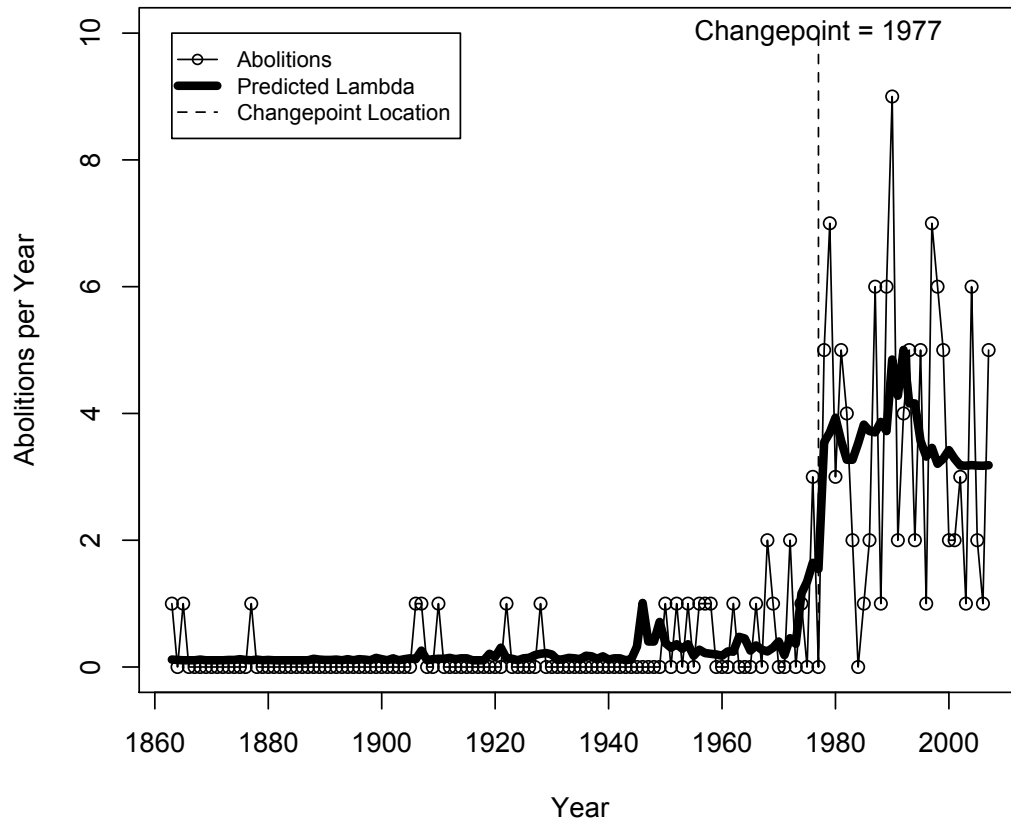


Figure 3.5: This figure plots the changepoint model fit for abolition throughout the modern era. The model is fit using one covariate, a measure for the global institutionalization of human rights. The changepoint is plotted using the dashed line, and the dark black line traces the mean of the posterior distribution for lambda in each year throughout the period.

insignificant ( $p \approx 0.548$ ), suggesting that the sum of standardized squared residuals (137.32) is a likely figure from the  $\chi^2_{40}$  distribution – i.e., approximately 55% of the  $\chi^2_{40}$  distribution is more extreme than this model’s sum of standardized squared residuals. This latter procedure is borrowed from (Gelman and Hill 2007:114).

<sup>18</sup> The lambda reported in the figures and referred to in the text below is the mean of the posterior distribution for the estimated number of abolitions in a given year.

The figure shows that the model fits the data well. Before the changepoint, the model predicts a relatively low amount of abolition of the death penalty per year. From 1863 through the 1950s, the estimated rate of abolition is nearly 0. After the changepoint, the model estimates a greater rate of abolition. Even though the observed rate of global abolition fluctuates more greatly in the second period, the estimated rate of abolition per year captures the trend well.

The median of the changepoint's posterior distribution is estimated to be 115, or approximately 1978. From 1863 until the early 1950s, abolition of the death penalty remains relatively rare. After this period, it is more common for an abolition of the death penalty to occur every year or so. Yet, in the late 1970s, abolition of the death penalty not only becomes a more regular annual occurrence, but abolition starts to occur in clusters: several countries in a single year begin to abolish the death penalty. Clearly, abolition transformed into a more vigorous trend during this period. Judging from this distribution of abolition over time, the changepoint estimate fits nicely with what appears to be a structural break in the abolition trend in the late 1970s and Amnesty International's Nobel Peace Prize in 1977. I will return to this point in the next section below to provide a more substantive interpretation of the changepoint year.

Figure 3.6 shows how accurately the model estimates the annual rate of abolition over time. The gray lines plot the difference between the actual abolition rate per year minus the predicted number of yearly abolitions; I calculate this latter estimate by generating 20 simulated replications randomly drawn from the estimated abolition rate's posterior distribution. When the gray lines are above 0, it means that the actual number of abolitions in a given year was higher than the estimated posterior rate of abolition. When

the gray lines are below 0, it means that the estimated posterior rate of abolition was greater than the actual number of abolition. The closer the lines are to 0, the more accurate the posterior estimates are. Thus, figure 3.6 confirms that the model is more accurate during the first regime. In part, the second regime is particularly difficult to predict with a high degree of accuracy because the annual number of abolitions oscillates greatly. During this second regime, the actual count of abolitions in a given year ranges from a minimum of 0 in 1984 to a maximum of 9 in 1990. This range exemplifies a high degree of variability in the annual rate of abolition that is difficult to predict. Nonetheless, with just one variable, this model does a surprisingly good job of generating accurate predictions for the global trend.

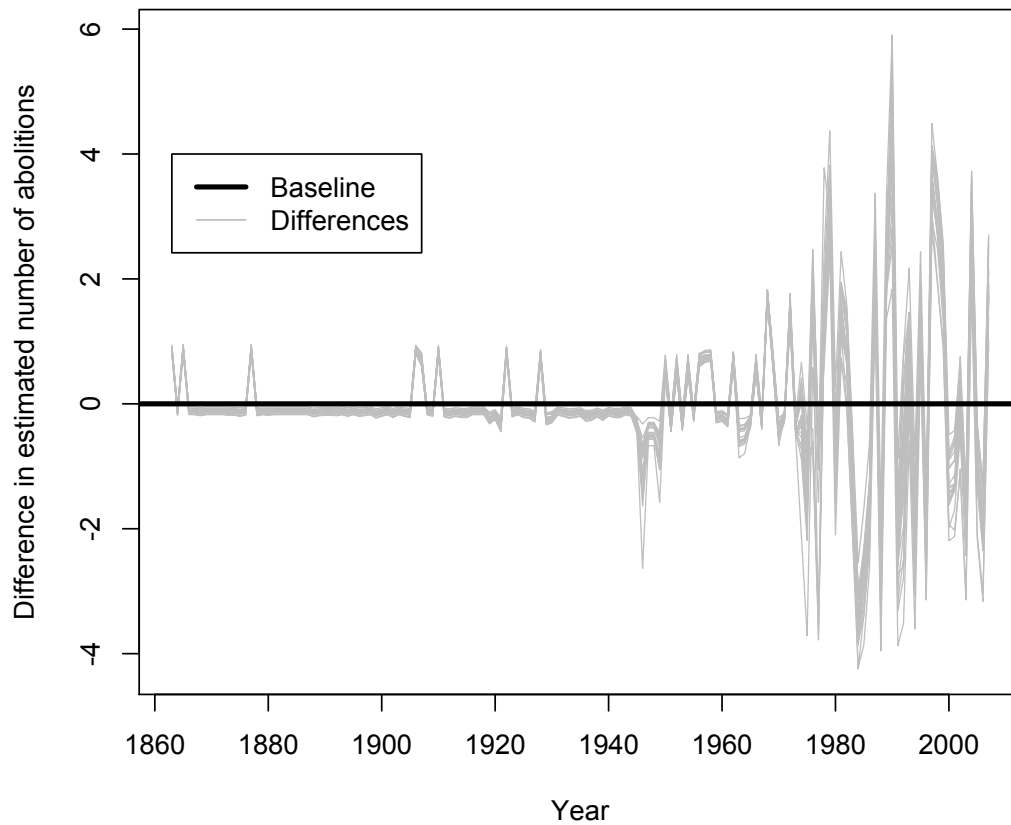


Figure 3.6: *This figure plots the observed number of abolitions (y) minus 20 estimated by the model. Discrepancies between the gray and horizontal lines reveal aspects of the abolition trend not captured by the model.*

What about how the deepening institutionalization of human rights impacts the global abolition trend? Figure 3.7 breaks out this relationship in two panels. The panel on the left examines how human rights impact abolition before the changepoint, and the panel on the right examines this relationship after the changepoint. Actual rates for abolition are paired with their corresponding levels of human rights institutionalization and are plotted as points in each regime's panel.

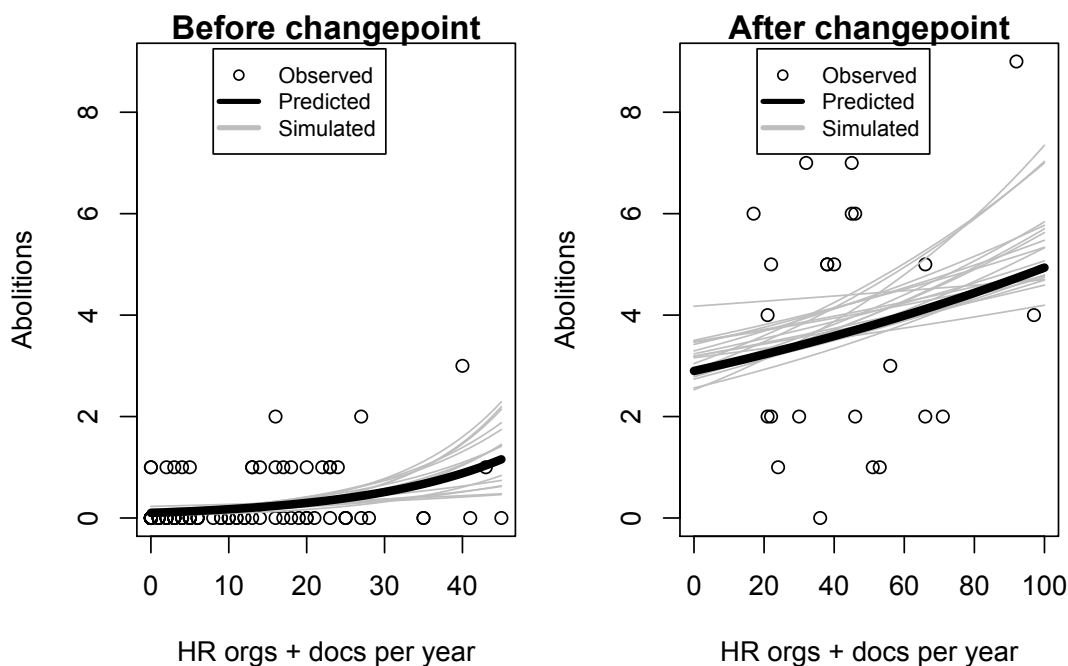


Figure 3.7: *This figure plots the observed values for human rights institutionalization and abolitions before and after the changepoint. The left panel shows the period before the changepoint, and the right panel shows the period after. The dark line plots the estimated rate of abolition using the posterior mean for each parameter as human rights move across its range during the period. The gray lines mirror this process and randomly draw 20 simulated replications from each parameter's posterior distribution.*

The first regime's panel corresponds to equation (2), while the second corresponds to equation (3). To draw the lines, values for global human rights institutionalization were



allowed to vary across their range in both regimes, and these values were plugged into each regime's corresponding equation (cf. equations 2 and 3). Varying the independent variable in this manner shows the full spectrum of the impact of human rights institutionalization on the global abolition trend in each period. Both panels plot the rates of abolition estimated by the posterior mean values of the parameters in a solid black line and compares these values to 20 simulated replications randomly drawn from the posterior distribution. Therefore, each panel describes how certain we can be about the direction of this relationship in both regimes.

As each panel's dark line shows, the relationship between the two global trends is positive throughout the entire period. The global institutionalization of human rights increases the rate of the global abolition trend in both periods. This finding is substantiated by the 20 simulated replications randomly drawn from the parameters' posterior distributions<sup>19</sup>. These simulations demonstrate the consistently positive impact of human rights institutionalization throughout both periods, as predicted by the model. Moreover, both panels demonstrate that new human rights institutionalization has a meaningful positive impact on yearly global abolition trend.

As noted in table 3.1 above, human rights institutionalization seems to have a stronger impact on the abolition trend in the earlier regime. Such a finding points to a diminishing return on further human rights institutionalization over time. Earlier human rights institutionalization appears to have had a stronger impact on the global abolition

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<sup>19</sup> In other words, I drew 20 random samples from each parameter's posterior distribution, and used these posterior parameter samples to generate 20 alternative estimates of  $\hat{y}$ . Since these posterior replication lines are very similar to the mean lines, this strategy allows me to demonstrate how well the two mean lines summarize the impact of human rights on the global abolition rate in each regime.

trend, while later institutionalization, though still positive, seems to accelerate the trend more gently. It is possible that earlier human rights institutions (E.g., the UDHR, ICCPR, etc.) are more foundational and thereby had a stronger impact on the trend. In this formulation, it seems that human rights are central to the story of how the global abolition trend gained momentum in its incipient stages, but may be less effective in converting more recalcitrant practitioners of the death penalty to abolition.

This finding is somewhat at odds with the lower plot in figure 3.3; however, further analysis resolves the apparent tension. With regard to the impact of human rights on the global abolition trend, figure 3.3's lower panel shows two things: 1) the impact from 1863–1949 is basically 0, and 2) the impact from 1950–2007 is much more positive. Figure 3.7 shows a somewhat different picture: the impact of human rights institutionalization is positive in both periods, but the changepoint is estimated as 1978. In this scenario, the first regime, 1863–1977, has a greater positive impact than the positive relationship found in the second regime. So, is the impact of human rights institutionalization positive or nearly 0 during the first regime? By process of elimination, it can be inferred that the relationship between human rights and the abolition trend is as follows: figure 3.3's lower plot tells us that from 1863–1949 the relationship is nearly 0, and is much greater afterward. By combining information from figure 3.7, we see that the relationship from 1950–1977 must be highly positive. Given that figure 3.7 tells us that the relationship is slightly more positive during the first regime than the second, and keeping in mind that the first and second regimes are marked by a changepoint location estimated at 1978, it must be that the bulk of this greater positive relationship in the first regime documented by figure 3.7 is manifesting during the years between 1950 and 1977.

If the above inference is correct, then it seems there are three epochs<sup>20</sup> for the relationship between human rights institutionalization and the global abolition trend: 1) the period from 1863–1949 should have a slightly positive relationship, 2) the period from 1950–1977 should have the strongest positive relationship, and 3) the period from 1978–2007 should have a positive relationship that is weaker than the second period. Figure 3.8 corroborates this line of reasoning by plotting three Poisson regression lines that estimate the rate of abolition for three periods documenting the relationship between human rights institutionalization and the abolition trend over time. As in figure 3.3, human rights institutionalization is allowed to vary across its range to gauge its impact upon the global rate of abolition in a given period. From 1863–1949, the solid line shows that human rights institutionalization has a slightly greater than 0 impact on the global abolition trend. The dashed line shows that human rights institutionalization from 1950–1977 has its greatest impact on the global abolition trend. In the third epoch, the dotted line reveals that the impact of human rights upon abolition is still positive, but it is somewhat diminished compared to the previous period. 95% confidence intervals are plotted for each line, and reveal that the estimates generated by each line are relatively accurately predicted.

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<sup>20</sup> I do not mean for this terminology to indicate that there are three regimes for abolition separated by two changepoints. Indeed, I explored the multiple changepoint model to no effect (cf. footnotes 13 and 19). Instead, I mean to indicate that the relationship between abolition and human rights underwent three general movements throughout the entire period under analysis. The relationship during first regime can be divided into two epochs: a long initial period of weak positive association (1863–1949), and a second period of stronger positive association (1950–1977). The second regime supplies the third epoch (1978–2007), which continues the positive relationship between human rights institutionalization and abolition.

Figure 3.9 plots 4 posterior density histograms, one for each of the parameters estimated by the model. Figure 3.10 plots the posterior density histogram for the changepoint parameter estimate. All of the histograms exhibit desirable traits of an estimate that has converged. The vast majority of the density for each estimate is centered on the posterior mean. This finding is particularly true for the change-point parameter. Moreover, the distribution for each of the parameters is fairly tight and relatively smooth. None of the 4 parameters in figure 3.9 change signs, and each is approximately normally distributed. This result indicates that the model was able converge upon a reliable estimate for the parameters in question. The changepoint is less normally distributed, but this was by design: the changepoint estimates were drawn from a discrete uniform distribution. Furthermore, since the vast majority of the changepoint's posterior density is centered on the posterior median, we can be relatively certain that this posterior median best represents the year in which the global abolition trend shifted toward a higher rate.

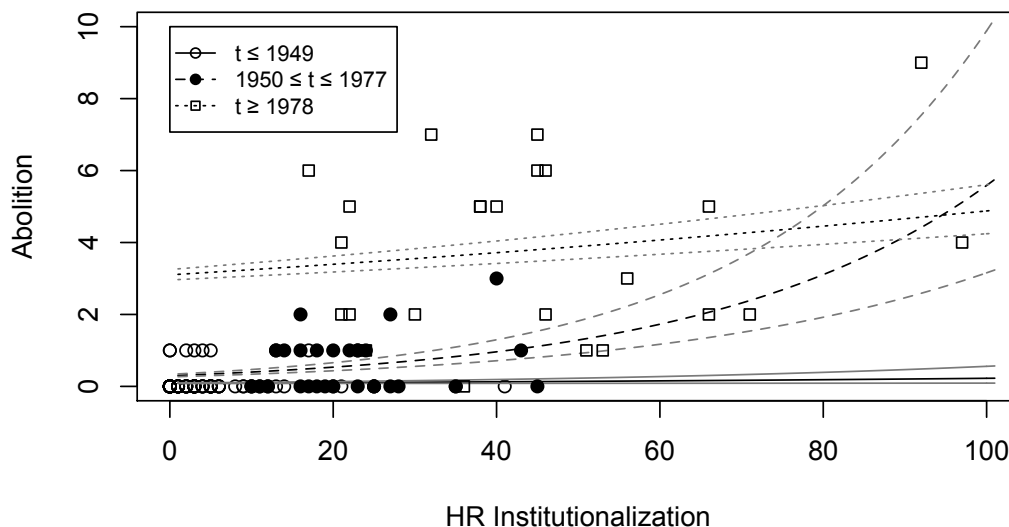


Figure 3.8: This figure fits three Poisson regression lines that estimate the number of abolitions to a scatterplot of human rights versus abolition before 1950, after 1950 and before 1978, and after 1978. The lighter gray lines plot the 95% confidence interval for each line.

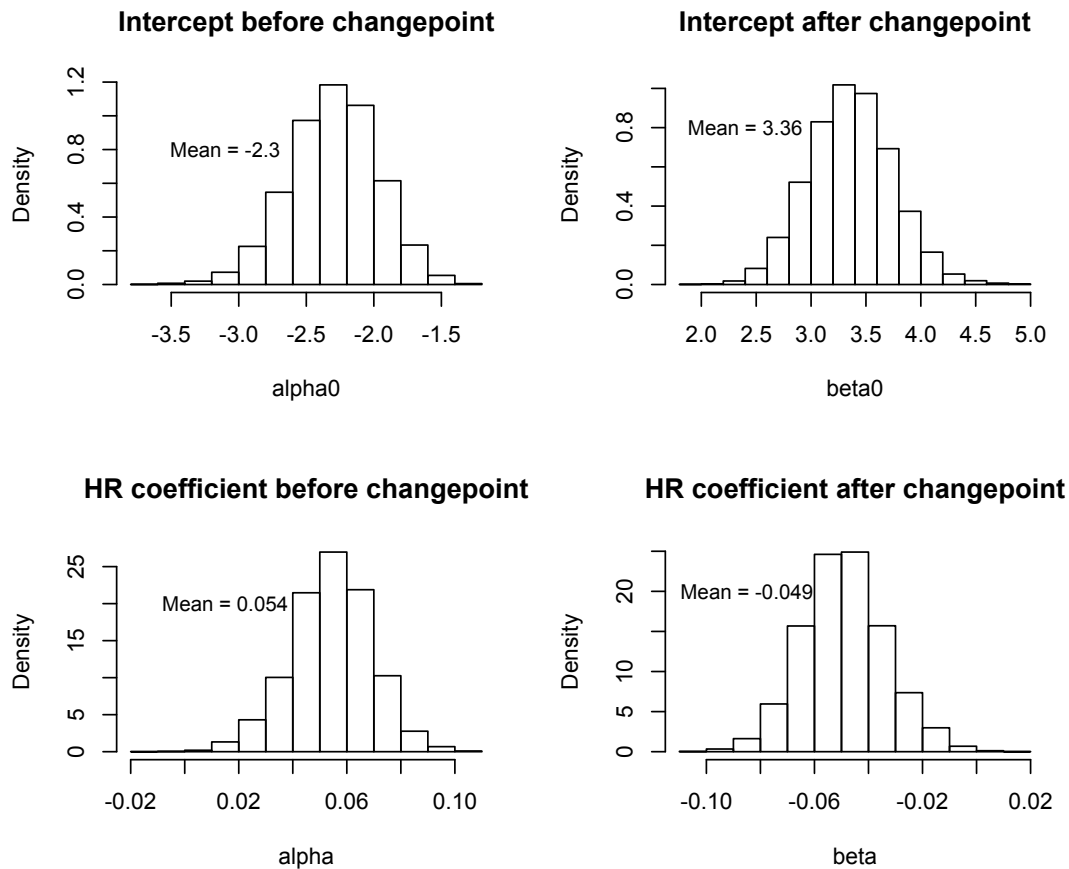


Figure 3.9: This figure plots the posterior densities for the two intercepts and two coefficients in the model. The left-hand plots give the posterior densities for the two parameters before the changepoint, and the right-hand plots give the posterior densities for the parameters after the changepoint.

Figure 3.11 plots the posterior probability of the two regimes over time (cf. Park 2010: 771)<sup>21</sup>. The 'y-axis' plots the posterior probability of being in regime R (i.e., regime 1 or 2) given the model  $k$  (corresponding to the two Poisson DGPs described above) and the data  $y$  at time  $t$  (plotted on the 'x-axis'). Figure 3.11 demonstrates that a

<sup>21</sup> Following footnote 14 above, I examined and compared posterior regime probability plots for the single, double, and triple changepoint models. In each plot, only the changepoint predicted for the year 1978 emerged with any clarity, with posterior probabilities indicating a clean separation between the two regime states on either side of the changepoint. The other breaks predicted by the double and triple changepoint models were not associated with similarly clean regime transitions. These results further indicate that only one major structural break has occurred for the global abolition trend.

clean structural break occurred around the year 1978 (i.e.,  $t = 115$ ), which is the changepoint year and is denoted by a solid vertical line at this location. The probability of being in the first state of the world fell dramatically at this point. Meanwhile, the probability of transitioning to the second regime, which is marked by a higher average rate of annual abolition, increased greatly. Thus, the posterior density plot for the changepoint (figure 3.10) and the posterior regime probabilities (figure 3.11) serve to indicate that the world underwent a single dramatic structural change near the year 1978 such that the global abolition trend transitioned to a new era of much higher activity.

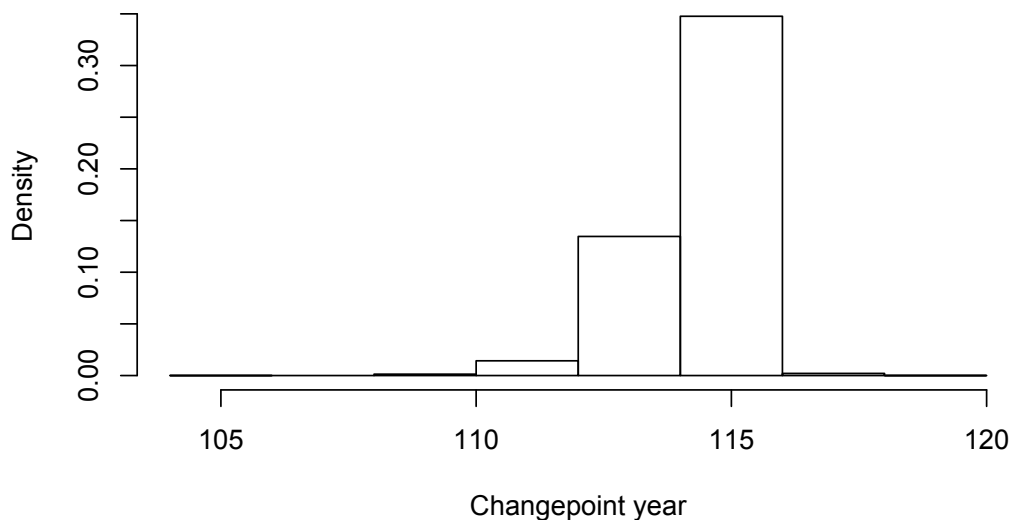


Figure 3.10: This figure plots posterior density for the changepoint estimated by the model. Add the number on the 'x-axis' to 1863 to determine the year plotted by the histogram. Note that the vast majority of the posterior density centers on year 115, or 1978.

Overall, the results indicate three major findings. First, the changepoint location is estimated at being near 1978. Second, human rights institutionalization has a positive relationship with the global abolition trend throughout the period. This finding was convincingly replicated through posterior simulations of the model. Third, the relationship between human rights institutionalization and the global abolition trend has

developed through three phases. Human rights appear to have had a stronger impact on the abolition trend during the earlier regime. More specifically, human rights institutionalization appears to have its strongest impact on the global abolition trend from 1950–1977, which is when the foundation for the human rights regime was laid. This finding means that human rights were influential during the initial stages of the abolition trend while the movement was relatively inchoate. Nevertheless, it is important to note that human rights do seem to continue to play an important role in fueling the global abolition trend, albeit in a somewhat diminished form as compared to this earlier period.

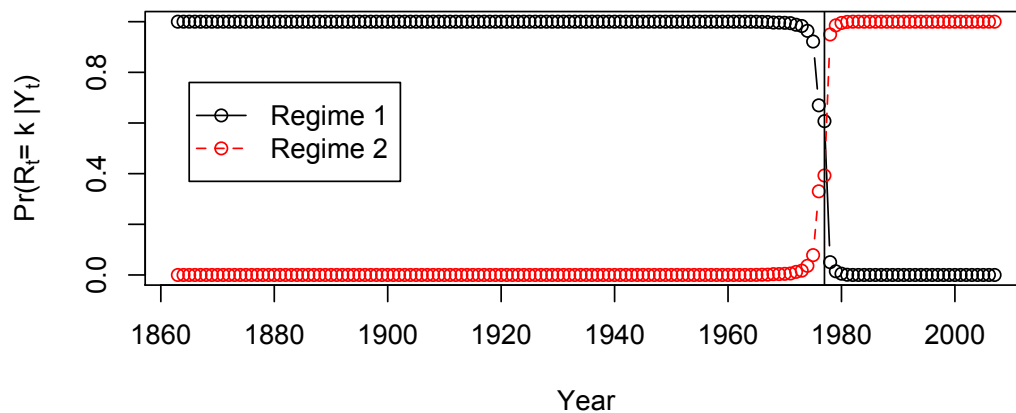


Figure 3.11: *This figure plots the posterior probability a given year is in a particular regime over time given the data. A dramatic shift occurs on or near year 115 (1978). The probability of being in regime 1 after 1978 falls drastically, while the probability of being in regime 2 increases greatly.*

## Interpreting the Change point

The changepoint model discussed above indicates that a structural break occurred around 1978. Abolition of the death penalty was transformed from an infrequent and idiosyncratic event into a regular occurrence that often came bundled together. What explains this change? In order to better understand the changepoint location, it is necessary to consider how the human rights regime was developing during the second

epoch discussed above. Two prominent world cultural developments in this period are particularly important in determining the particular location of the changepoint. These events helped to consolidate the global human rights regime, and also formalized the death penalty's relationship to the broader human rights movement. Specifically, the relationship between these two events, and their proximity to the changepoint year, shows that abolition of the death penalty became embedded within the framework of already legitimate and largely uncontested human rights: the rights to freedom, personal sovereignty, and physical integrity. This association helped to make abolition a world cultural norm, and encouraged a cascade of abolition to follow in the years after the changepoint. Further, it now appears likely that world society is moving toward universal abolition of the death penalty (cf. United Nations 2007)<sup>22</sup>.

First, the International Bill of Human Rights, which comprises the legal framework for the global human rights regime, was formalized by a set of three core human rights documents during this second epoch: the UDHR, ICESCR, and the ICCPR. The UDHR entered into force in December of 1948, and laid the foundation for all subsequent international human rights documents. Its principal aims were to establish the basic human rights of freedom, human dignity, equality, and the right to life. As such, the UDHR is the *sine qua non* of the international human rights legal framework. These rights provide the scaffolding for the entire framework of the human rights regime in the latter half of the 20<sup>th</sup> century. In addition, the ICESCR and ICCPR entered into force in January and March of 1976 respectively. These treaties added to the global model for human rights respect and also helped to further establish the legal framework for

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<sup>22</sup> My interpretation of the changepoint is similar to the “norm cascade” imagery provided by Finnemore and Sikkink (1998).



universal human rights. Each treaty attends to different components of the individual's catalogue of human rights. Namely, the ICESCR attended to the individual's economic and social rights to equal opportunity, employment, leisure, and self-determination, and the ICCPR sought to establish and secure the individual's political rights to freedom, personal sovereignty, and physical integrity (Donnelly 1998; Cole 2005). Together, these three documents provide the bulwark for global human rights.

Abolition of the death penalty is also an important issue raised in the ICCPR: the death penalty is the explicit and sole focus of Part III, Article 6. And while it does not explicitly require the abolition of the punishment, the ICCPR does seek to delimit its use (e.g., the ICCPR rejects the use of the death penalty for children under 18 and pregnant women). More generally, the ICCPR also addresses the issues of prisoner's rights (cf. articles 6-11 and 14-16), which share an explicit link to the fundamental rights to dignity and freedom of torture outlined in the UDHR. Criminals are accorded the same inherent human dignity that all others enjoy, and states' penitentiary systems are charged with specific duties: reformation and rehabilitation (cf. article 10). Despite their crimes, criminals and prisoners should be treated with the same care and respect due to all individuals. These articles indicate a world cultural shift away from punitive forms of justice that might favor capital punishment to more restitutive styles of justice that favor rehabilitation. In more general terms, by codifying the terms of inherent individual sacrality, human rights implicate which forms of punishment are legitimate and those that are not (cf. Joas 2008). Thus, the ICCPR provided a context that located the death penalty within the broader scope of the human rights detailed in the covenant.

Second, Amnesty International, a prominent HRINGO, was awarded the Nobel Peace Prize on December 11, 1977. The organization has opposed the death penalty since its founding in the 1960s, made explicit appeals in 1971 to the United Nations and the Council of Europe to make efforts to abolish, and organized the International Conference on the Death Penalty in Stockholm in 1977 (cf. Amnesty International 2012). These activities and the award granted the organization a tremendous amount of legitimacy, and thrust the organization's campaigns into the global spotlight. To this day, Amnesty's peace prize distinguishes the organization as a central and influential HRINGO. Symbolically, the prize also signals the world community's acceptance of Amnesty's work. It thereby lifts Amnesty's work into the domain of legitimate world culture. As such, the award consecrated the organization's campaigns as high world cultural values worthy of the world community's attention, commitment, and support.

In the award presentation speech, Aase Leonæs – then Chairman of the Norwegian Nobel Committee – underscored Amnesty International's mission to uphold the basic rights guaranteed by the UDHR (Leonæs 1977). Leonæs's speech lauded the organization for its application of the UDHR's principles in the defense of "prisoners of conscience," those individuals incarcerated for holding and expressing certain beliefs. Amnesty's concern for these prisoners is developed from the organization's broader campaign to protect all prisoners' rights to humane treatment and freedom from cruel punishment and torture. These rights, as claimed by Amnesty and discussed by Leonæs, emanate from the individual's inherent human dignity established by the International Bill of Human Rights and include rights to personal sovereignty and physical integrity. Personal sovereignty and physical integrity are such high values that any violent punitive

practice – regardless of guilt or other circumstances – is a fundamental violation of these basic rights. Retributive physical punishments are an affront to human dignity in general. In these terms, the use of capital punishment is a violent practice that disrupts criminals' rights to physical integrity, contradicts their rights to freedom from cruel punishment and torture, and is therefore a violation of their basic human rights. Amnesty's award thereby linked abolition of the death penalty to broader the schemas for prisoner's rights and the basic definitions of human dignity that are major components of the broader human rights regime.

Taken together, these three documents and Amnesty's award helped to establish the individual as something to be protected. These documents consolidated and codified human rights into a legal framework institutionalized at the global level. This institutionalization process provided models for the care and treatment of individuals that changed the global landscape for punishment. The global recognition of the individual's rights to freedom, dignity, personal sovereignty, self-determination, and physical integrity changed the way in which individuals, guilty or not, could be punished. More specifically, the establishment of these rights diminished the appeal of physically garish punishments in the modern era. This institutional sea change culminated in the 1978 with a structural break, the changepoint location. After this point, the expected yearly rate of abolition be- came much higher than had previously been the case.

The years after the changepoint have also been marked by a number of international treaties calling for the abolition of the death penalty. Among these are: the Council of Europe's Protocols 6 and 13 (Council of Europe 1983, 2002), the Protocol to the American Convention on Human Rights to Abolish the Death Penalty (Organization

of American States 1990), and the United Nations (1989). Protocols 6 and 13 are important because they helped to make Europe a geo-political region wherein the death penalty was fully legislatively abolished. And while the Protocol to the American Convention is not as binding as Protocol 13, it does show the same general trend toward abolition in a large geo-political region. The Second Optional Protocol is aimed at the abolition of the death penalty from a global standpoint<sup>23</sup>. Yet, like the Protocol to the American Convention on Human Rights, its signature and ratification is not mandatory at this time. Nonetheless, its attachment to the ICCPR is a further signal that the human rights movement and the movement to abolish the death penalty have become woven together. Moreover, all of these treaties are conscious attempts by nation-states around the world to establish formal commitments against the death penalty before the entire global community. Thus, these protocols formally linked states abolition of the death penalty to the broader human rights regime. As such, abolition of the death penalty has increasingly become a world cultural model for states to implement during this third epoch.

Two important world cultural developments marked the second epoch for the relationship between human rights and abolition as a seminal period in the global trend toward abolition of the death penalty. First, the International Bill of Human Rights institutionalized the legislative framework and the global model for human rights. This model included rights to freedom, personal sovereignty, self-determination, and physical integrity. These rights were also explicitly extended to prisoners and criminals.

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<sup>23</sup> Also notable is the UN's recent moratorium on the death penalty (United Nations 2007). Though this moratorium does not coerce states that retain the punishment to abolish, it serves as an indication that abolition is a global trend that continues to gain support and momentum in this third epoch.

Furthermore, the legitimacy of the death penalty was undermined by virtue of its infringement of these rights. Second, Amnesty International's Nobel Peace Prize symbolically linked this organization's campaigns for the humane treatment prisoners and the abolition of the death penalty to the more general domain of human rights. This award also consecrated the organization's actions and lifted it into the realm of celebrated world culture. These developments helped to establish a new environment for punishment that diminished the legitimacy of the practice after the changepoint. In this period, several regional and international protocols repudiated the use of the death penalty and delimited its practice in two large geo-political regions. These recent protocols are further evidence that the abolition trend has been incorporated into the more general human rights regime, and signal that the global abolition trend continues to be impacted by the global institutionalization of human rights.

## **Conclusion**

Scholars of globalization, particularly those from the world polity/society perspective, often argue that the globe constitutes a suprallevel of social reality. Such global analyses focus on the causal import of world level institutions, global social movements, international organizations, international documents, and more on a variety of outcomes. Typically, these outcomes are examined almost exclusively at the national level. Yet, the presence of global causal factors suggests that many outcomes of interest vary at the global level as well; for example, I consider the abolition of the death penalty as a global rate and trend. As a result, the relationships between global factors and global social change are empirically under-examined.

Study of the death penalty has largely mirrored this method of analysis. Abolition of the death penalty is primarily analyzed as varying cross-nationally along domestic factors. Nonetheless, a historical review of the timing of states' abolition of the death penalty reveals that abolition has recently clustered during the latter half of the 20th century. Such a trend indicates that a global dimension shaped the abolition of the death penalty. A global trend in abolition suggests that some set of factors that favor abolition and span cross-national divides is currently prevailing in the world.

This observation underlies the central question of this chapter: what global factors shape the timing and global dimension of the abolition trend? In addressing this question, I make two related contributions – one to a more general literature and a second to a more specific literature. The first contribution examines the global logic of world polity/society theory. Specifically, how do global factors shape global social change? I find that global factors do indeed exert an impact on global social change. The particulars of this relationship are developed by the second contribution. I apply my global level of analysis to the emerging literature that examines the sudden rush of abolitions occurring in the latter portion of the 20th century. In distinction to the prevailing literature, I view the recent wave of states abolition of the death penalty as a global trend. To facilitate these analyses, I develop a model that treats the changepoint as a quantity to estimate and interpret rather than infer and check. This approach is especially relevant to a host of other sociological questions that are concerned with the timing of social change (e.g., the study of social movements).

I find evidence that suggests that the development of the human rights regime over time strongly contributed to the global abolition trend and unfolds through three

epochs. In the first epoch (1863–1949), human rights institutionalization entails only a modest positive impact on the global abolition rate. This result is primarily due to the limited rates of human rights institutionalization and abolition during this period. In the second (1950–1977), the bulk of the modern legislative framework for the global human rights regime was institutionalized. I find that the impact of human rights on the global abolition rate is strongest during this period. The human rights movement and the abolition movement synchronized, and the period culminated with Amnesty International’s Nobel Peace Prize in late 1977. This award helped the death penalty to be seen as a human rights issue, and provided a legitimate groundwork for specific regional and international treaties targeting abolition to build upon in the third epoch. The third epoch begins in 1978, which marks a structural break in the global abolition trend. Abolition transitioned to a regular annual event in this period. While new human rights institutionalization continued to have a positive impact on abolition during this final epoch, I argue that the second epoch is most important because a) it established the legislative foundations of the global rights regime and b) also saw the interweaving of human rights and abolition into one issue. These results suggest that the development of human rights in general has had an important relationship to the global abolition trend throughout its historical development.

Nonetheless, it is important to acknowledge the limitations of this perspective. Clearly, abolition of the death penalty is a national legislative decision. Domestic institutions, democratic and economic development, judicial systems, and so on are absolutely important sources of variation that impact the abolition trend. Figure 3.6 illustrates the uncertainty associated with the model, pointing to fluctuations in the

abolition trend that the model does not predict perfectly. Yet, the task of this paper has been to develop, and test, a perspective that relates a global causal factor to a prominent global trend. To that end, this paper shows that the global institutionalization of the human rights regime throughout the 19th and 20th centuries is strongly related to the development and diffusion of the global abolition of the death penalty trend.



## CHAPTER FOUR

### **The Sacralization of the Individual: Human Rights and the Abolition of the Death Penalty**

#### **Introduction**

Scholars have long been interested in the social factors impacting the practice of punishment. Foucault (1979) famously argued that the development of the modern penal system was a political tool of control developed to mitigate increasing distaste for punishment as a garish public spectacle. Recent work on human rights treaty ratification interrogates ratification's impact on states' repressive behavior (Hathaway 2002; Hafner-Burton and Tsutsui 2005; Hafner-Burton and Tsutsui 2007; Hafner-Burton, Tsutsui, and Meyer 2008). The global trend toward abolition of the death penalty in the latter half of the 20<sup>th</sup> century sits astride these two issues, embodying a change in states' violent punishment of their criminals and constituting a new human right in the individual's catalogue. I explore the relationship between abolition and the human rights regime and argue that states' practice of this punishment is shaped by world cultural factors.

Several international non-governmental organizations (INGOs) steward the global movement against the death penalty, and embed the movement within the vast institutional structure of the global human rights regime. These organizations hold states' execution of the death penalty to task and help to channel popular opinion against the death penalty. Amnesty International demonstrates the movement's rhetorical power by describing the death penalty as

the ultimate denial of human rights. It is the premeditated and cold-blooded killing of a human being by the state. This cruel, inhuman and degrading punishment is done in the name of justice. It violates the right to life as

proclaimed in the Universal Declaration of Human Rights (UDHR) (Amnesty International 2008).

Human rights organizations claim that all individuals are protected by the UDHR, and see execution as an attack against individuals' rights. The punishment is seen as a fundamental miscarriage of justice and a denial of human rights because the death penalty is inherently opposed to the most basic of all human rights outlined by the UDHR: the right to life. Thus, the modern abolition movement hinges upon a distinct conceptualization of the individual that follows from a unique historical and cultural development.

Throughout the 20<sup>th</sup> century, positive attitudes toward the death penalty flagged, skepticism about its efficacy and morality rose, and abolitions of the death penalty rose sharply (Hood 2002; Radelet and Borg 2000; Bowers 1993; Caldwell 1952). Legal instruments abolishing the death penalty also gained prominence in international law (Schabas 2002; Fijalkowski 2001; Franck 2003). Though the death penalty has long been criticized (cf. Beccaria 2008[1764]), and abolitionist movements are not new (cf. Green 1967; Hartung 1952; Sellin 1967; Filler 1952), a worldwide abolition trend did not occur until the second half of the 20<sup>th</sup> century, a time also marked by an explosion of attention to human rights. Thus, I examine the question: what drives the recent worldwide trend toward legislative abolition of the death penalty, and what is its relationship to the global human rights regime?

I analyze factors contributing to the abolition of the death penalty 1863 – 2007, and take a global perspective emphasizing the global institutionalization of the human rights regime. Abolition of the death penalty is propelled by definitional scripts provided by international human rights treaties, covenants, organizations, and so on. Human rights

are now central to the organization of the global moral order (Boli 2006; Sjoberg, Gill, and Williams 2001), and provide the foundation for what is considered the basic, ethical, and legitimate treatment of all individuals. This global institutionalization of the human rights regime is a measure for what I call the sacralization of the individual. Sacralization identifies the individual as an integral social unit in world society requiring protection (Elliott 2007; Frank and Meyer 2002; Frank, Meyer, and Miyahara 1995). This sacralization transmogrifies the individual into an important icon in world society. Sacralization fuels both legislative and non-legislative abolitions of the death penalty, which are now embedded within the legitimate model for nation-state's practice of punishment.

## **The Abolition Trend**

Figure 4.1 plots the number of abolitions every year from 1945 – 2007 in three different forms. I follow Amnesty International's conventions in monitoring the death penalty to draw the most accurate picture of abolitions worldwide<sup>1</sup>. In the first form, 'Abolition' refers to abolition of the death penalty for all crimes and circumstances. I refer to this form of abolition as 'full' or 'complete' abolition. The second form adds countries that have abolished the death penalty for only ordinary crimes. I call this form 'ordinary' abolition. Amnesty International defines ordinary abolition as "laws [that] provide for the death penalty only for exceptional crimes such as crimes under military law or crimes committed in exceptional circumstances, such as wartime crimes" (Amnesty 2008). The third form adds 'de facto' abolition: "Countries that can be

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<sup>1</sup> Appendix A gives a chronological listing of states' strongest position on legislative abolition of the death penalty.

considered to have an established practice of not using the death penalty but retain it in their laws” (Amnesty 2008). Amnesty considers a country abolitionist in practice if it has not executed a prisoner in at least ten years.

The secondary ‘y-axis’ represents the percentage of nation-states that have abolished as a proportion of all independent nation-states for a given year. Counts and percentages over time are represented as lines. The solid black line indicates the yearly count and percentage of nation-states that have abolished for all crimes, the dashed black line indicates the yearly count and percentage of nation-states that have abolished for ordinary crimes or all crimes, and the dotted black line traces the yearly count and percentage of nation-states that have committed to any form of abolition.

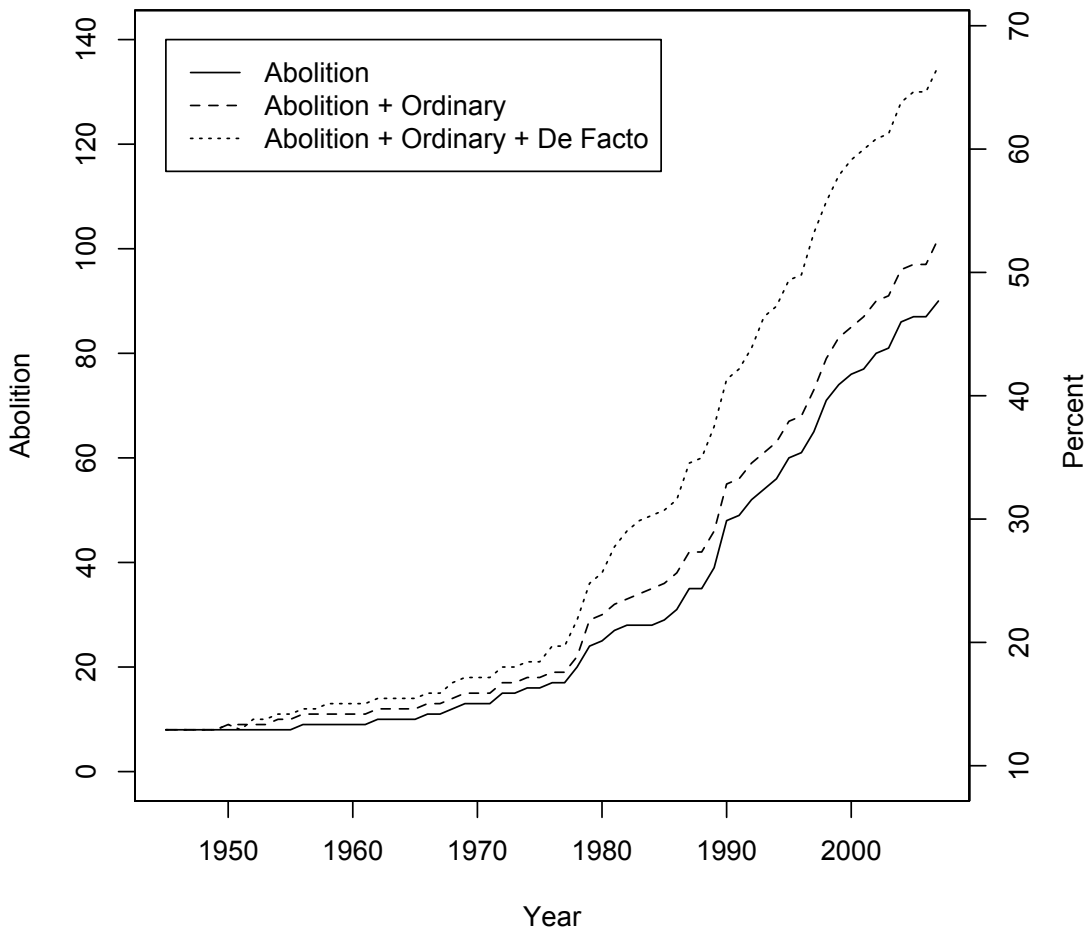


Figure 4.1: *This plot traces cumulative counts of three forms of abolition on the primary 'y-axis', and then calculates the percentage of abolishers on the secondary 'y-axis'.*

The graph shows a global picture of the dramatic rise in abolition activity throughout the post-war period. By 1945, only 8 nation-states had abolished the death penalty for all crimes<sup>2</sup>, and the percentage of states abolishing the death penalty remained around 10% from 1945 to 1975. In the mid 1970s, the population of abolition rose quickly, and continued to do so by the end of 2007: 90 nation-states abolished for all crimes, 12 abolished for ordinary crimes, and 33 for de facto. The percentage of abolishers climbed to 46% for all crimes, 52% for all or ordinary crimes, and 69% for any of the three.

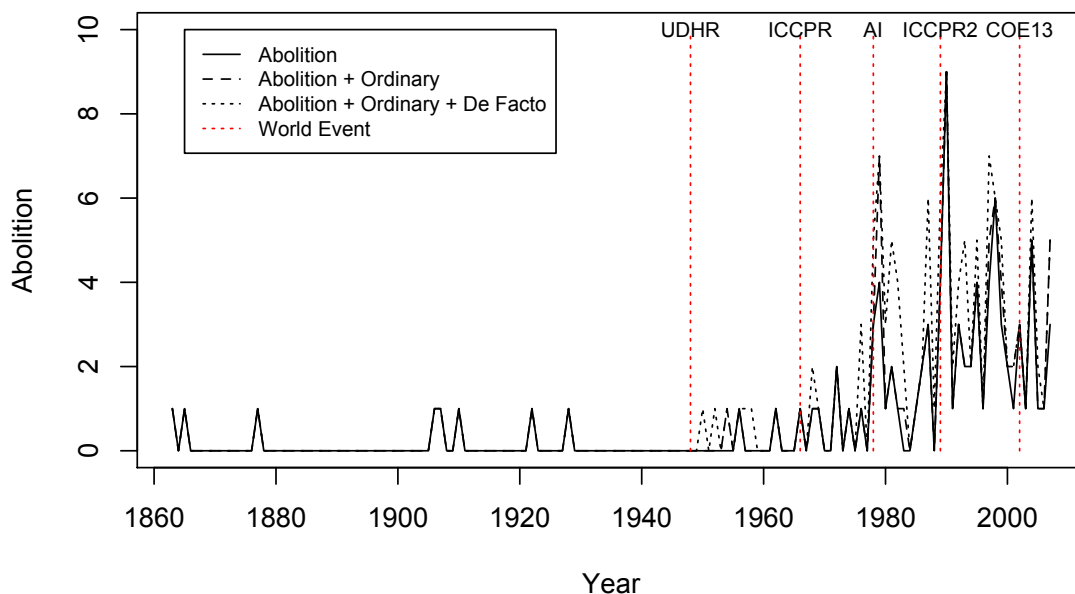


Figure 4.2: *This figure plots the number of new abolitions of the death per year for three different forms of abolition of the death penalty against five major world events that impacted the development of human rights.*

<sup>2</sup> In order of abolition: Venezuela (1863), San Marino (1865), Costa Rica (1877), Ecuador (1906), Uruguay (1907), Colombia (1910), Panama (1922), and Iceland (1928).

Figure 4.2 displays the number of yearly abolitions from 1863 – 2007 for three different cumulative measures of abolition plotted against five major world cultural human rights events. Abolition of the death penalty was extremely rare from 1863 to 1962, only 8 states abolished (for all crimes) during these years. An ordinary abolition and two de facto abolitions were also added during this period. Six more countries abolished by 1975, and 15 more abolished by 1986. Abolition exploded between 1987 and 1991, 18 states abolished the death penalty for all crimes. The abolition trend continues up to the present day, with the mid 1990s being a particularly fertile period for abolition.

Figure 4.2 also relates three types of important world cultural events to the abolition trend: 1) two documents from a growing collection of international human rights instruments condemning the death penalty, 2) two seminal statements establishing human rights' global prominence, and 3) Amnesty International's Nobel Peace Prize. The first set of documents identifies the death penalty as a province of the global human rights regime. Amnesty International recognizes four such instruments: Protocol No. 6 to the European Convention on Human Rights (1982), the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) (1989), the Protocol to the American Convention on Human Rights (1990), and Protocol No. 13 to the European Convention on Human Rights (2002). I plot only the second optional protocol (ICCPR2) and Protocol No. 13 (COE13) to facilitate visual comparison in the figure. Also relevant are the UDHR and the International Covenant on Civil and Political Rights because of their suggestive language in opposition to the death penalty (1966) (Amnesty International 2008) and their prominence in establishing human rights as a global

concern. I also plot Amnesty International's Nobel Peace Prize in 1977<sup>3</sup> because this event signaled an important world cultural moment wherein the international community celebrated this prominent INGO's work against political imprisonment and the death penalty. The award thereby serves as a signal of a growing world cultural climate in opposition to the death penalty. Each event either precedes or coincides with surges in global abolition activity. From a historical perspective, these events mark breakthrough stages in the abolition trend, and are important world cultural events that link the human rights regime to the abolition trend.

## **Current Explanations**

The study of the death penalty largely consists of two literatures. The first is an immense literature that emphasizes a close reading of certain religious texts or an examination of the moral and ethical dimensions of the death penalty in abstract terms (Hanks 1997; Sorell 1987; Baird and Rosenbaum 1995). The second literature, in the social sciences, mainly explores the punishment with respect to deterrence (Peterson and Bailey 1988; Sellin 1967), retribution (Berns 1979), criticism of states' capricious sentencing of the punishment (Golash 2005), and the proliferation of international legal instruments addressing, condemning, and banning the death penalty (Schabas 2002). Two obvious questions linger: 1) what factors shape the legality of the death penalty worldwide, and 2) more broadly, what forces are responsible for the global abolition of the death penalty trend? Recent developments in the literature provide some clues for the first question, but as I argue below, leave the second under-explored.

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<sup>3</sup> The actual year plotted was 1978 because Amnesty was awarded the prize in December of 1977.

### **Political Explanations**

Studies that address this question frequently emphasize political explanations in one of three ways (cf. Greenberg and West 2008; Mitchell and Sidanius 1995; Neumayer 2008). First, such studies argue that state-level political processes best predict abolition. These works focus on regime type, and argue that authoritarianism hinders abolition because such regimes are less likely to support individual freedoms and checks on governmental authority (cf. Killias 1986; Dunér and Geurtsen 2002; Miethe, Lu, and Deibert 2005). On the other hand, Neumayer (2008: 250) claims that: "...democracies, almost by definition, are more willing to accept constitutional limits on governmental power and one would at least expect them to respect better the human rights of their citizens". Since democracy is conceptualized as being a more habitable environment for the development of human rights, then highly democratic states should therefore be more likely to abolish the death penalty.

Fijalkowski (2001) makes a similar argument in her examination of abolition of the death penalty in Central and Eastern Europe after the collapse of communism<sup>4</sup>. Yet, while the association seems to be true, abolition did certainly increase in this region after communism collapsed, an important question still lingers: why should the collapse of communism have anything to do with an increase of abolition? Democratic and communist governments alike both retained and practiced the punishment throughout the 20<sup>th</sup> century (a trend that continues today). Fijalkowski (2011) explains these newly

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<sup>4</sup> I included a dummy variable for years after the Cold War in each of the models run below. This variable indicated that years after the fall of the Soviet Union entailed a positive impact on countries' likelihood of abolition, but was never significant. Moreover, none of the other substantive findings were changed by its inclusion. Thus, I do not report the results of the post Cold War dummy variable in the models below, but they are available upon request.



democratic regimes' abolition activity as being related to direct normative pressure upon entering the European Union: the result of postures taken on by these fledgling democracies constructed to gain a) favor with the broader European community and b) eventual admission into the EU. Both are certainly the result of the EU's general shift toward abolition that began in the 1980s, a trend that matured in 2002 into a full requirement for admission. Abolition of the death penalty has been woven into the institutional fabric of the EU, and is perceived as being a major element of European identity (Sarat and Boulanger 2005; Girling 2005). Therefore, the major question at hand should then be: how has abolition become such an important component to European identity? Clearly, this element of European identity must have some historical, cultural, and institutional roots.

Second, violent political conflict and civil war are considered to be potential threats to the state that could compromise its commitment to human rights (Dunér and Geurtsen 2002; Reicher 2003). As discussed above, states created a category of ordinary abolition that abolishes in only ordinary circumstances, a major exception frequently being times of war. Dunér and Geurtsen (2002) describe this reservation as a response to potential threats made against national values and the state's instinct for self-preservation. Here, the death penalty would be used to protect, and purify, the polity from internal threats caused by civil warfare. States riven by higher levels of civil warfare are less likely to abolish the death penalty.

A third perspective considers the influence of political and intellectual elites on penal and legislative reform. Hammel (2010) argues that abolition took hold in Europe to the extent that these elites could exercise control upon a given country's practice of

punishment. Countries whose political elites were relatively insulated from the mercurial and turgid waters of public opinion on the death penalty were able to institutionalize abolition without the risks of incurring public disfavor (Hammel 2010). The implication of this argument is that countries whose lawmaking process is less directly democratic, and whose criminal and penal codes are more nationalized (i.e., those that do not vary by state or region) are more likely to abolish the death penalty. In these cases, ruling elites – whom Hammel argues are typically more likely to oppose the death penalty – are free to impose their penal and legislative reforms with a higher degree of impunity.

Yet, these political explanations are not complete. What is missing is how democracies – or, states in general – and elites of any variety *learn* that abolition of the death penalty is synchronous with their values. This glissando in the current literature is especially poignant considering that all regime types have avidly practiced the punishment throughout history in general. Thus, the major change in abolition activity during the latter half of the 20<sup>th</sup> century cannot simply be the result of political regime change or liberal elite opinion. Moreover, this recent surge in abolition activity indicates that something about this trend transcends national political contexts to at least some extent. This omission signals that political arguments take the global importance of human rights for granted, and explain the *global* abolition trend in terms of *local* politics. Moreover, if abolition is indeed a function of degree of democracy, state security, and elite opinion and political control, then we should see nation-states' death penalty legislation fluctuate over time along with changes in these variables. Since this is clearly

not the case<sup>5</sup>, it is safe to conclude that local politics alone do not account for the global abolition of the death penalty trend. Global factors, like the human rights regime, are under-explored sources of abolition.

### **Economic Explanations**

There are at least three theoretical perspectives that give reason to suspect that higher levels of economic development should increase a country's likelihood of abolition. The first is a venerable argument that dates at least as far back as Lipset's (1959) famous analysis on the relationship between development and democracy. Researchers on the death penalty have focused on the impact of economic development on certain structural conditions in a country that should promote abolition. Second, Durkheim's paradigm relating interdependence, organic solidarity, and the "cult of the individual" supplies the cultural logic that shows how and why countries have shifted toward less corporal punishments over time. Third, Foucault's perspective on modernization and the state's disciplinary impulse explain economic development's impact on abolition in terms of power and control. Though distinct in focus, each supplies a unique perspective on how economic development relates positively to abolition of the death penalty.

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<sup>5</sup> Of the 62 legislative abolitions (full plus ordinary; cf., Appendix A) that have taken place since 1985, only 4 countries have reinstated the practice. Two of these, Nepal and the Philippines, have abolished the punishment once again. The other two, Gambia and Papua New Guinea, retain the legal status of the punishment but no longer utilize it (Amnesty USA 2008). These countries' final positions on the death penalty are used in the models reported on below. Nonetheless, I ran the model on full abolition below without these countries in the data to make sure that their unique relationship with abolition did not exert any undue influence on the general results. Results were little changed and remained substantively the same. This model is not reported below, but it is available upon request.

Despite some doubt concerning economic development's impact on abolition in the empirical literature (Neumayer 2008; Anckar 2004), the relationship between development and democracy has been thoroughly explored. Greenberg and West (2008) find that, while economic development does not entail a direct impact on the use of the death penalty, it does shape the structural conditions within a society that impact political and civil liberties. They argue that economic development's impact on abolition is diffused through the structures it helps to establish (cf. Anckar 2004 for a similar argument). For example, economic development is related to literacy, which is also strongly related to a politically active citizen population and the development of democracy (Hadenius 1992: 89). Thus, if economic development promotes democratic governmental forms that encourage abolition of the death penalty (following the political arguments reviewed above), then economic development should also be associated with an increase in the likelihood of abolition.

Durkheim's (1984[1893]) renowned work on the division of labor examined how this form of economic development impacted the organization of society. High levels of role differentiation led to a pronounced division of labor that sorted individuals into unique functions throughout society. Durkheim (1984[1893]; 1900) argued that such interdependence entailed an organic solidarity marked by a *conscience collective* that was less tightly coupled and more focused on the individual rather than the collective. A "cult of the individual" developed in these societies wherein individuals' basic humanity formulated the strongest bond across disparate people fulfilling specialized roles. As a result, the tightly bounded nature of collective sentiments is greatly diminished. Crime in these societies became less of a moral violation of the compact and rigid *conscience*

*collective* found in societies marked by mechanical solidarity, and is more frequently considered an infraction of individual needs, rights, and interests (Durkheim 1900; cf. Spitzer 1975 and Tiryakian 1964). In this Durkheimian formulation, societal differentiation, and its associated economic development, spur a movement away from physically retributive punishments and a movement toward more restitutive punishments. Differentiation and development are likewise associated with the modern rise of penal rehabilitation and the elimination of penal colonies, debt prisons, and the decline in the number of crimes to which the death penalty applies (for those countries that still practice this punishment).

Though similar to Durkheim in his conclusion, the spirit of Foucault's (1979) argument emphasizes the use of power and control. Foucault (1979) argued that whereas historically the machinations of punishment were orchestrated to symbolize the sovereign's authority and power, changes in the modern organization of economic and political power led to new forms of punishment. For example, the development of global capitalism and the decline of monarchic authority required a disciplined form of individuality that conditioned individuals to fulfill the variegated functions of a differentiated economy and bureaucratic society (Foucault 1979). Thus, Foucault argued that vast changes in the structure and concentration of political and economic power in society led to the retreat of punishment as a violent public spectacle, and the development of a penal system that conditioned criminals' bodies and minds.

### **Religious Explanations**

In its origins, the death penalty was frequently used as an effort to reaffirm the moral order and "placate" a group's God(s) (Barnes 1930). Because religion

systematically organizes and interprets the moral sphere, and punishment seeks to defend against, deter, and redress violations of the sacred, religion and punishment are inextricably linked (cf. Douglas 1966; Durkheim 1984[1893]). Indeed, many penal systems either explicitly or indirectly draw upon religious tradition in their origins (Smith 2008: 15). I argue that three religions – Catholicism, Protestantism, and Islam – offer specific packages of ethics that directly shape the cultural value of the individual and countries' practice of the death penalty.

Despite Catholicism's variable relationship with the death penalty, the Vatican's 1969 abolition officially opposes the church to the death penalty. Since religion generally "travels well" (cf. Sartori 1970), meaning that a specific religion is generally the same throughout the world, the Vatican's abolition serves as a model for all predominantly Catholic nation-states. Regardless of how well religion travels, the Church's hierarchical and consolidated organizational structure helps to deliver this particular model worldwide. Catholicism's abolition thereby encourages further abolition, especially for predominantly Catholic countries but for others as well. Furthermore, the Vatican's abolition places the Church's position on the death penalty in line with its stance on abortion: the unequivocal celebration and reverence for the sacrality of life. Predominantly Catholic countries should therefore be more likely to abolish the death penalty for these reasons.

Sociologists since Weber have widely regarded Protestantism as fostering an individualist ontology. This ontology is more likely to institutionalize cultural models that protect, authorize, and empower the individual, and is particularly strong in Protestantism. Research shows that predominantly Protestant countries are more likely to

liberalize same-sex relationships (Frank and McEneaney 1999), engender rape law reform (Frank, Hardinge, and Wosick-Correa 2009; cf. Frank, Camp, and Boutcher (2010) for an example of how individualism impacted the historical expansion of the criminal regulation of sex), and professionalize psychology (Frank, Meyer, and Miyahara 1995). These examples show how Protestant religious culture promotes stronger forms of individualism that foment specific legislative reforms and structural organization that favor, empower, and protect the individual. Thus, Protestantism's focus on individual freedoms and its impact on increasing countries' protection of the individual should also make predominantly Protestant countries more likely to abolish the death penalty.

In distinction to Protestantism, predominantly Muslim nation-states are more likely to place greater emphasis on the *Umma*, or community of believers (Miller and Hashmi 2001; Anckar 2004). This form of social organization deemphasizes the individual and favors the community broadly conceived of as Muslim society (Anckar 2004). Furthermore, the death penalty is the legal punishment for a variety of serious crimes in many Islamic nation-states (El-Awa 1982), and *Sharia* law (religious law of Islam) explicitly endorses the "principle of an eye for an eye" (Anckar 2004: 34). Such a retributive stance on the pursuit of justice certainly promotes more violent forms of punishment. Thus, Islam's focus on the *Umma* and the retributive nature of *Sharia* law could lead to harsher punishments and make predominantly Muslim countries less likely to abolish the death penalty.

To be sure, not all predominantly Islamic countries practice the death penalty. Neither do all predominantly Islamic countries practice the punishment to the same degree. While my discussion above focuses on specific features of Islam in general that

might steer countries' practice of punishment away from abolition, it is more than likely that specific national contexts shape countries' position on the death penalty. Nonetheless, I show a general relationship between Islam, weaker forms of individualism, and a more retributive orientation to punishment that should make predominantly Muslim countries more likely to practice the death penalty. Along similar lines, my emphasis on the three religions above is not intended to indicate that these are the only religions with any bearing on the death penalty. On the contrary, the death penalty is a matter of concern for too many religions to mention and fully discuss here. I focus on the three religions above because of their well-documented positions on the death penalty or their well-known relationships to individualism.

### **The Death Penalty in World Cultural Perspective**

World society has historically become increasingly organized around the individual, its interests, and development (Meyer 1986). I call this process the global sacralization of the individual. The historical development of the individual and the global institutionalization of its rights, responsibilities, and protections have served to lift the individual from the province of the mundane to the highly codified realm of the sacred. The genesis of the global human rights regime flows from this sacrality and institutionalizes it as a high value in world society. I argue that this historical sacralization process has entailed a transformation in the world cultural model for the legitimate nation-state. Global individual sacrality reconfigured states' responsibility to their citizens, and made the death penalty an illegitimate punishment because it is the symbolic destruction of an important world cultural totem.



## **Human Rights and the Historical Sacralization of the Individual**

I follow in the tradition of institutional scholars that view the modern individual as a cultural model that has undergone significant development and change over time (e.g., Elliott 2007; Dumont 1986; Meyer, Boli, and Thomas 1987). Many unique events, institutions, circumstances, etc. were important for the development of what we call the individual today; nonetheless, two historical developments are of particular importance for the construction of the modern individual's rights, privileges, and responsibilities. The first is the humanism embodied by early Judeo-Christian thought. The second is the rational and secular spirit of the Enlightenment. The culmination of these two systems of thought is the historical and cultural construction of individual sacrality, and it is this sacrality that underlies the modern system of human rights.

Early Judeo-Christian thought established the individual as distinct from all other creation. In particular, Christianity's historical and global diffusion helped to spread this ideology. Christian doctrines claiming that individuals are made in God's image, have a soul, are the pinnacle of God's creation, can attain eternal salvation, and exercise dominion over Earth and all other creatures are central to the Christian theology that sets the individual apart from all else. Humankind is not simply a part of nature and the animal kingdom; humans are the pinnacle and masters of both. In this theology, God has loaded special significance into humankind that entitles individuals to certain rights and privileges (Griffin 2008). According to these early formulations, individuals were sacred by virtue of humanity's relationship to God.

The Enlightenment transformed this relationship into the rationalized language of natural rights and the social contract, locating sacrality within the intrinsic properties of

the individual<sup>6</sup>. A wide range of factors helped to spur the Enlightenment's reconfiguration of the individual (Wronka 1998; Ishay 2004). Aquinas's natural rights provided the unwitting first step toward rationalizing the relationship between God and the individual. The Reformation continued the trend by transferring moral authority to the individual by rationalizing the spiritual realm and rendering God remote and unknowable (Meyer and Jepperson 2000). Scientific discoveries rationalized the natural realm (Meyer and Jepperson 2000), making the world an object to be mastered and controlled. Mercantilism expanded the scope of international trade, and with it came an increasingly dense systemization of interaction norms and regulations that favored interdependence and individualized social forms (cf. Simmel 1971). These social developments transformed the general ontological understanding of the world and led to the birth of the Enlightenment's core liberal ideals: a commitment to freedom, reason, equality, the enshrining of the individual's inherent right to choose, and the basic value of life (i.e., the basic right to life) – without which none of the other rights are practicable. After the Enlightenment, social organization became centered on the individual's development, protection, and fulfillment. This secular reorganization of the social world and the individual provided the foundation for establishing the individual's right to life as a basic and universal human right.

Cesare Beccaria's (2008[1764]) treatise called *On Crimes and Punishments* is the apotheosis of this style of thought applied to states' practice of punishment. Beccaria (ibid.) argued that state's right to punish applies singularly to situations wherein

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<sup>6</sup> In this manner of thinking, the abolition trend is a global social movement whose ideological foundation is “the intellectual legacy of the European Enlightenment” (Hammel 2010: 7).

punishment is the only manner of preserving the social contract. If a punishment or its severity is shown to be useless or contrary to the social contract, then that punishment is contrary “to justice and to the nature of the social contract itself” (ibid.: 13). Beccaria (ibid.), like Locke, argued that the social contract and political society is derived from only the most minimal concession of liberty, being primarily designed to protect material life (cf. Locke 1991: 44). This minimal concession is evidenced by the fact that no rational person would give another the right to kill him or her (2008[1764]: 51 – 52). Furthermore, Beccaria notes that most nation-states outlaw suicide. This begs the question: if one cannot legally take his or her life, then how is it that the state retains this right? Given this tension, Beccaria (ibid.) argued that exercising the death penalty puts society in a condition where the state makes war against its citizens. Clearly, this condition revokes the social contract, which is contrary to the function of punishments. In the rational spirit of his age, “It seems absurd to me that the laws, which are the expression of the public will, and which execrate and punish homicide, should themselves commit one, and that to deter citizens from murder that should order a public murder” (ibid.: 55). Beccaria’s logic shows that the death penalty violates the social contract by invoking a punishment that destroys the individual, which is the basic unit of society and the social contract itself.

The Enlightenment’s secularization of Christian humanism and individual sacrality transformed the death penalty into an impracticable attack upon the foundation of modern society. Individual sacrality was no longer seen as an extension of individuals’ relationship to God, and was redefined by the individual’s natural properties and inherent sacrality. This vision of sacrality helped to establish the ideological

foundation for a universal set of human rights that is separate and beyond the theological and dogmatic differences of competing religious faiths (Griffin 2008). These human rights were themselves institutionalized globally throughout the 20<sup>th</sup> century by the organizations, treaties, and documents that make up the global human rights regime.

### **Global Institutionalization of the Human Rights Regime**

Durkheim's (1984[1893]) "cult of the individual" and "religion of humanity" are given by their rampant institutionalization via the global human rights regime over the 20<sup>th</sup> century (Casanova 1999). In other words, the global human rights regime serves as anecdotal evidence for the institutionalization of a secular and civil religion dedicated to the empowerment and protection of the individual. Human rights institutionalize individual sacrality globally: they apply to all people on account of a universally shared humanity (Morsink 2009; Vincent 1986). Interestingly, while the global human rights regime institutionalizes individual sacrality by serving as a mechanism that guarantees and protects individuals' rights, it is itself also part of this long historical sacralization process. The regime further sacralized the individual by rationalizing its rights and protections, thereby lifting the individual from the profane world of the mundane to the highly scripted realm of the sacred. This rational institutionalization of human rights helped to further locate the individual at the core of a global moral order (Boli 2006), and diminished the impulse for harsh punishments against the human person (cf. Joas 2008).

In this formulation, the human rights regime is helpful in explaining the global abolition trend in two related ways. First, the human rights regime supplies one of the mechanisms of *how* the abolition script was delivered to states worldwide. Human rights organizations and documents place explicit institutional pressures on states that compel

abolition of the death penalty. Consider, for example, the impact instruments like the Council of Europe's protocol number 13 and organizations like Amnesty International have on countries' abolition status. The former explicitly requires abolition of the death penalty in the European Union, and the latter takes states' domestic punishment practices to task in the broader world community. Clearly, both exert unique institutional pressures that encourage states to abolish. Second, the human rights regime serves as a measure for *why* the abolition trend has swept the globe. More specifically, the regime is a global proxy measure for the latent concept of sacrality that I argue became integral to the model of the individual over time. Sacrality is the cultural logic that explains why these documents and organizations carry a cultural gravity that pulls states toward abolition. Human rights instruments and organizations have influence because they carry cultural definitions and requirements that resonate with the world cultural model that safeguards and privileges the individual. Thus, my measure for individual sacrality cannot and does not distinguish between institutional and cultural effects<sup>7</sup>. Instead, it captures both the *how* (e.g., the institutional pressures carried by international human rights instruments) and the *why* (i.e., the cultural significance of human rights institutions) of the global abolition trend.

Figure 4.3 plots the growth of the global human rights regime from 1863 – 2001 in three parts: international human rights documents (Elliott 2007), human rights

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<sup>7</sup> Indeed, the differences between institutional and cultural effects are often vague and not completely distinct. In particular, I draw upon the neo-institutional brand of institutional research that sees these two forces as working concert (e.g., Meyer and Rowan 1977). Human rights documents, to take our example, are clearly symbolically linked to a specific cultural value system that prizes individual sovereignty, autonomy, freedom, etc. These values establish the individual as a sacred world cultural unit and provide the ontological foundation for the formal institutional protections of global human rights regime.

international non-governmental organizations (HRINGOs) (Brewington 2005), and the cumulative sum of these two. At the beginning of the period, only one organization and document existed to protect and safeguard human rights. Nonetheless, both grew dramatically over the years. By 2001, 772 human rights documents existed. Additionally, the number of HRINGOs grew to 1345 in 2001. The proliferation of these documents and organizations demonstrates an intense amount of global discourse directed at developing and protecting the rights of the individual over this period. Clearly, the individual has been increasingly sacralized, or venerated, throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries.

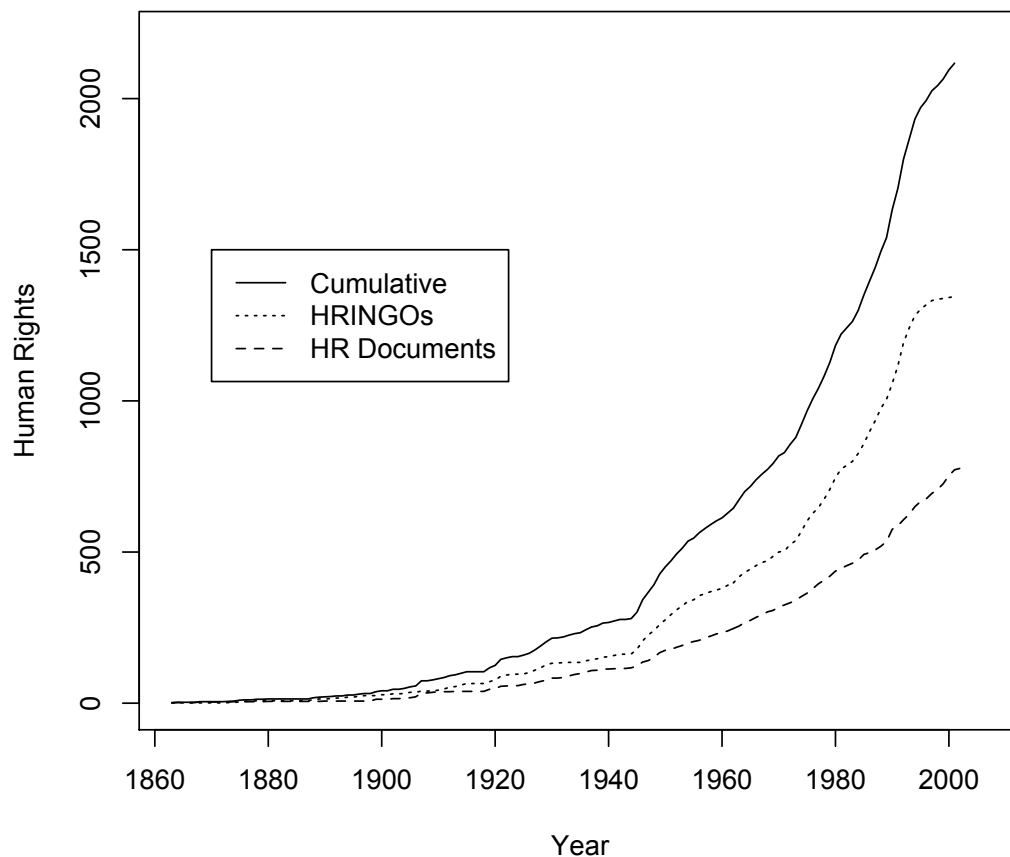


Figure 4.3: *This figure tracks the growth of the institutionalization of human rights in terms of both human rights documents and organizations.*

Table 4.1 shows the correlation matrix for the three cumulative measures of death penalty abolition correlated with the human rights documents and HRINGOs measures. All of the measures are nearly perfectly correlated with one another other (0.97 or above). This striking level of association suggests that a common global process underlies these phenomena. The direction of this relationship is indicated by Figure 2, which plots the dates of five major world cultural events that relate to the abolition of the death penalty and the global establishment of human rights. As reviewed above, abolitions against the death penalty cluster around these events. A large proportion of these gravitates around 1989<sup>8</sup>, the year that the 2<sup>nd</sup> Optional Protocol to the ICCPR was adopted by the UN. This event helps to show that the global human rights regime, which is a proxy for the global institutionalization of individual sacrality, encourages abolition of the death penalty.

Table 4.1. Correlations Matrix Between 3 Forms of Abolition, HR docs, and HRINGOs

	Abolition	Abolition + Ordinary	Abolition + Ordinary + De facto	HR Docs	HRINGOs
Abolition	1				
Abolition + Ordinary	0.99	1			
Abolition + Ordinary + De facto	0.99	0.99	1		
HR Docs	0.99	0.99	0.99	1	
HRINGOS	0.97	0.98	0.98	0.99	1

Some recent scholarship doubts the link between the global human rights regime and the recent worldwide abolition trend (cf. 2003; Johnson and Zimring 2009). The claim is that rhetoric for human rights became attached to abolition of the death penalty in the 1980s and 1990s after Western Europe had already become a death penalty free

<sup>8</sup> Between 1987 and 1991, 25 countries took some stance against the death penalty. 18 abolished the death penalty for all crimes, and 7 more discontinued its practice all together.

zone (Johnson and Zimring 2009)<sup>9</sup>. Figure 4 shows below that this claim is empirically not the case, at least in terms of legislative abolitions of the death penalty. 32 abolitions against the death penalty took place in Europe from 1980 to 2007, 28 of these occurring after 1988. Furthermore, a great number of Western European abolitions took place in the 1990s<sup>10</sup>. Even if we take seriously the claim that rhetoric for human rights regime had only taken hold in Western Europe during the 1980s and 1990s, which is certainly disputable, Figure 4.4 clearly demonstrates that the majority of Europe's 40 abolitions against the death penalty occur after this event. In short, the institutionalization of the global human rights regime is prior to Europe's legislative abolition trend.

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<sup>9</sup> This argument is especially curious considering that Europe's appellation as a "death penalty free zone" typically refers to Protocols 6 and 13 to the European Convention on Human Rights. These respective protocols appeared in 1985 and 2002, and together made abolition of the death penalty a requirement in the European Union (e.g., adoption of Protocol 6 became a requirement to joining the EU in 1999). Moreover, these protocols make the connection between abolition and human rights in Europe explicit: abolition of the death penalty is a component of respecting human rights. Thus, it would seem that "the much-ballyhooed European position with regard to the death penalty is a relatively recent development" (Sarat and Martschukat 2011: 8) that draws upon the global model for human rights.

<sup>10</sup> For example, Ireland (1990), Switzerland (1992), Italy (1994), Spain (1995), Belgium (1996), and the United Kingdom (1998), are just some of the Western European nations to abolish the death penalty in the 1990s.



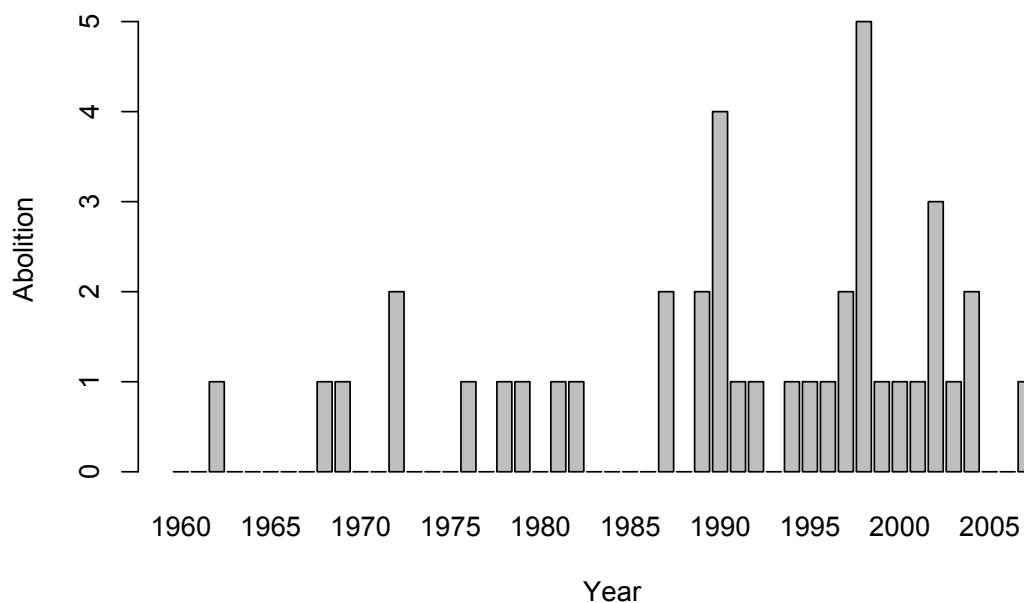


Figure 4.4: *This figure displays the count of European abolitions of the death penalty per year from 1960 – 2007.*

### **The Argument: Mechanisms for States' Abolition of the Death Penalty**

The sacralization of the individual has rewritten the script for the legitimate world cultural model for the nation-state. The global institutionalization of individual sacrality reconstitutes states' responsibilities to the individual: the state should not execute criminals. Doing so would be a severe violation of individuals' sovereignty, integrity, and security of person. Moreover, the execution of an individual is a desecration of a sacred social entity.

World cultural models prescribe templates of legitimate behaviors, interests, and identities for nation-state enactment (Meyer, Boli, Thomas, and Ramirez 1997). Such models are constructed as universal and appear as basic and natural by expressing what is legitimate and expected for nation-state structure and behavior (Boli and Thomas 1997; Boli and Thomas 1998). These models comprise institutionalized elements of world

society that pattern the diffusion of social change (cf. Strang and Meyer 1993), and simultaneously serve as an organizing logic for social mobilization (Frank 1997).

Nation-states with dense linkages to world society experience greater exposure to world cultural models. Much research demonstrates that nation-states with strong ties to world society are more likely to incorporate world cultural models into their institutional structure (Frank 1999; Frank and McEneaney 1999; Frank, Hironaka, and Schofer 2000; Tsutsui and Wotipka 2004). It then follows that nation-states that are highly penetrated by specific domains of world society are more likely to implement particular world cultural models. For example, nation-states more strongly penetrated by individualist ideologies should be more likely to implement cultural models favoring the individual.

The penetration of a world cultural model does not guarantee a nation-state will be able to recognize, decode, and implement the model. Certain institutional structures can be helpful, even necessary, to the reception and interpretation of cultural meanings. One important concept is the “receptor site”, which are “cultural opportunity structures” (Frank and McEneaney 1999) that develop “the capacity to receive, decode, and transmit information from the outside (here, world society) to local actors (here, nation-states)” (Frank, Hironaka, and Schofer 2000:103). Frank et al.’s (2000) concept focuses on the interpretive work local organizations and actors do in decoding world cultural models. I translate this idea into general social receptivity, and assert that particular social structures and institutions are integral in the implementation and enactment of specific cultural models. Receptivity is different from “receptor sites” because its primary focus is on the *institutions* and *structures* that develop the technical capacity, linguistic familiarity, social capital, etc. that provide the necessary circuitry fundamental to the

successful implementation of world cultural models locally. In particular, nation-states that have: a) institutionalized strong forms of individual freedoms and b) developed domestic structures to guarantee and safeguard the individual should be more receptive to social changes favoring the individual.

It follows that penetration and receptivity have a conditional relationship. The impact of the national penetration of specific world cultural models and ideologies is conditioned by a country's domestic social receptivity. Likewise, a country with receptive social structures and institutions may not implement a specific cultural model if the country is disconnected from world society and is not suffused by a certain ideology. Thus, the successful implementation of a particular world cultural model is partly contingent upon the interaction between these two concepts. In this case, the probability of abolition should be increased in nation-states with strong cultural attachments to individualism that are coupled with national institutional arrangements favorable to individualism.

## **Hypotheses**

Four hypotheses are generated for testing. Hypothesis 1 operates at the global level of analysis. Hypotheses 2, 3, and 4 vary cross-nationally over time.

The first hypothesis theorizes that abolition is the result of the global sacralization of the individual. The explosion of human rights documents and HRINGOs institutionalized a world cultural model and helped to establish the individual as sacrosanct in world society. This model reimaged nation-states' responsibilities to the individual and included a resistance to the death penalty. The individual is the glue that

holds modern societies together, serving as the fundamental and sacred unit of society, and thereby fuels the building trend of abolishing the death penalty the world over.

Hypothesis 1 – As the global sacralization of the individual increases, the probability a nation-state will abolish the death penalty increases.

The second hypothesis represents a set of arguments about the relationship between individualism and abolition of the death penalty. The first argues that greater levels of national penetration of professionalized psychology leads to a higher likelihood of abolition. Studies show that nation-states with high levels of integration to world society are more likely to adopt world cultural models. In a similar manner, I argue that a nation-state that is penetrated by a specific domain of world society is more likely to enact the relevant cultural models. Specifically, professionalized psychology is an indicator of individualism (cf. Frank, Meyer, and Miyahara 1995 and Frank and McEneaney 1999); thus, nation-states that are more thoroughly suffused by ideologies of individualism will be more likely to abolish the death penalty.

Hypothesis 2a – The greater the degree of national penetration of professionalized psychology, the greater the probability of abolishing the death penalty.

Penetration, however, does not equate to receptivity. States must have the appropriate institutional structures to decode and enact individual sacrality to abolish the death penalty. States that have institutionalized the ideology of individualism into formal structures and protections should be more receptive to models calling for further sacralization of the individual. For example, nation-states that have developed traditions of civil and political liberties, thus having a large portfolio of approved individual freedoms, should be more likely to confer further freedoms to empower its individual

citizens.

Hypothesis 2b – States with more civil and political liberties will be more likely to abolish the death penalty.

Religion imparts understandings of the world, foundational beliefs about the relationship between things, and establishes hierarchies of value and meaning to adherents. Three religions in particular have clear statements on the individual that should directly visible impact nation-states' position on the death penalty. The Vatican's abolition of the death penalty serves as a prominent model spurring predominantly Catholic nation-states to abolish the death penalty. Research demonstrates the beneficial impact of Protestantism's individualistic religious culture on states' policies concerning the protection and expansion of individual rights. This religious individualism should increase predominantly Protestant nation-states' chances for abolition. Last, Islam's religious culture tends to emphasize the *Umma* over the individual, indicating that predominantly Muslim nation-states should be less likely to expand individual rights and protections. Thus, predominantly Islamic nation-states should be less likely to abolish.

Hypothesis 2c – Predominantly Catholic (the reference category) nation-states should be most likely to abolish the death penalty, with predominantly Protestant nation-states the next most likely to abolish, and predominantly Muslim nation-states being the least likely to abolish.

Studies have frequently shown the importance of national penetration of particular ideologies and the concomitant influence of “receptor sites” in the adoption and implementation of world cultural models. Yet, these mechanisms are typically tested independently of each other, and the interaction between the two has not been fully explored. I argue that the interaction between penetration and receptivity generates a

multiplicative effect that excites the adoption of world cultural models. The adoption of cultural models depends upon both the exposure to a cultural script and the capacity to decode and implement it. In other words, the impact the national penetration of a particular ideology will have on the probability a nation-state will abolish the death penalty is conditional upon its level of civil and political liberties, and vice versa.

Hypothesis 3 – Nation-states that are strongly penetrated by ideologies of individualism *and* have high levels of civil and political liberties will be more likely to abolish the death penalty.

## Data and Method

I use the Cox Proportional Hazards model (Cox 1972; Cox and Oakes 1984). This hazards model is useful for determining the impacts of covariates on the hazard rate of the dependent variable over time (Box-Steffensmeier and Jones 2004; Allison 1984[1893]). The Cox model is a semi-parametric model that does not assume any particular distributional form for the baseline hazard rate (Box-Steffensmeier and Jones 2004). This property is useful considering that little work has been done in this area, and there is therefore no reason to believe the hazard rate takes a particular shape. The model is given as:

$$h_i(t) = h_0(t)e^{\beta X},$$

where  $h_i(t)$  refers to the instantaneous risk of hazard for subject  $i$  at time  $t$ .  $h_0(t)$  refers to the unspecified baseline hazard function mentioned above, and  $e^{\beta X}$  is a matrix of coefficients  $\beta$  and the corresponding vectors of independent variables  $X$  described in the data descriptions below.

Countries' onset of risk for abolition of the death penalty in my model begins when they enter the data, which is 1968 for most countries; however, a number of countries were not in existence at this time, and so it is fitting that their onset of risk begins when they enter the data. On a technical note related to states' risk of abolition, the Cox model organizes the risk set by ordering the duration times of failures, which leads to a complication in calculating the partial likelihood function for tied failures, or failures that occur at the same time duration. This problem leads to difficulty in calculating the parameter values for the covariates. To remedy this issue, I utilize the Efron<sup>11</sup> method for handling tied failures.

#### *Dependent Variable*

My dependent variable (DV) is abolition of the death penalty. As such, I test how factors influence the probability that nation-states will abolish the death penalty. Coefficients represent each variable's impact on the hazard of abolishing the death penalty in one of three forms. I report coefficients instead of hazard ratios; positive coefficients indicate greater probabilities of abolition, negative coefficients indicate lower probabilities of abolition.

The data set includes abolition events for the years 1945 – 2007, collected from Amnesty International (2008), and are measured in three ways: 1) abolition for all crimes<sup>12</sup>, 2) abolition for ordinary crimes, and 3) de facto abolition. Unfortunately, data

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<sup>11</sup> See Efron (1977) for a detailed discussion. This method is preferred to the Breslow method because, unlike the Breslow method, it accounts for the sequencing of tied events (Box-Steffensmeier and Jones 2004).

<sup>12</sup> Abolition dates given by Amnesty International for Croatia, the Czech Republic, Eritrea, Slovakia, and Slovenia occurred prior to independence according to the CIA World Factbook (2008). In each case, abolition did not occur more than a few years prior

on other variables were often missing before 1968 and after 2001. Given this constraint, my period of analysis is 1968 – 2001.

The first DV identifies only those nations that have abolished the death penalty for all crimes by law. I analyze 43 abolition events during the years 1968 – 2001<sup>13</sup> for the first DV. The second DV combines the first set of abolition events with the set of nations that have abolished only for ordinary crimes. I analyze 53 abolitions of this kind from 1968 – 2001 for the second DV. The third DV adds de facto abolition events for nation-states abolishing in this form only to the second DV, allowing for 81 analyzable abolition events of any kind during this period. Abolitions that occur prior to the period cannot be modeled, and so I remove these countries from the data set such that they do not appear to have not abolished. For each of the three DVs, I code in favor of the strongest form of abolition for countries that Amnesty International lists as fulfilling more than one form. For example, if a nation-state has abolished for both ordinary and all crimes, I code in favor of abolition for all crimes. This strategy best models the impacts of my predictor variables on the strongest version of abolition. All abolition events are coded ‘1’ in the year that abolition occurred. All other years were coded as ‘0’.

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to the World Factbook’s list year of official independence. As such, I recoded each of the countries’ abolition events so that they occurred on the listed year of independence.

<sup>13</sup> Despite my period of interest being larger in scope than the 1968 – 2001 period, my period of analysis is ultimately constrained by the availability of data. This issue isn’t extremely limiting; formal state action against the death penalty was rare prior to my period of analysis: a total of only 4 abolitions of each kind occur from 1945 – 1968. Furthermore, I extend my analysis back to 1863 for Europe to see how the model performs for the very earliest cases of abolition activity. Unfortunately, data are simply not available for other countries during this period, and so this extension of the model is not possible for the majority of countries under analysis.



My analyses include 182 independent nation-states that either existed throughout the entire period of analysis, or came into existence during the time period and were present at the ending point. Data on independence come from the CIA World Factbook (2008). Some nation-states have reintroduced the death penalty since abolishing it. To simplify the analysis, I coded each nation-state with the abolition status Amnesty International gives it at the end of my period. For example, a nation-state that abolished, reintroduced, and then abolished the death penalty again will appear in my dataset as an abolisher. I code in favor of a nation-state's first abolition event, as I am interested in what prompts this first movement against the death penalty, and take the nation-state's second abolition of the death penalty as evidence that the ideology of abolition first entered the nation-state during the initial abolition. On the other hand, if a nation-state abolished, and then reintroduced the punishment, I code in favor of the latter throughout the period, considering the final reintroduction of the death penalty as evidence that an ideology of abolition did not take hold. As I do not allow countries to abolish more than once in my data, countries are removed from the analysis after abolishing.

#### *Independent Variables*<sup>14</sup>

*Global Institutionalization of the Sacrality of the Individual.* This concept is composed of two different measures<sup>15</sup>. First, I count the cumulative number of HRINGOs for every year throughout the period (Brewington 2005). Data come from the Union of International Associations' (UIA) 2002 database. Second, I count the number

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<sup>14</sup> See Appendix B for descriptive statistics for all independent variables.

<sup>15</sup> I ran the models below with each component of this measure separately and results were largely the same. I choose to retain both parts of this variable to more completely measure global individual sacrality and its institutionalization via the human rights regime.

of global human rights documents in existence for each year (Elliott 2007). I sum these variables to create a single measure indicating the yearly global institutionalization of the human rights regime throughout the period of interest. Since this variable indicates the degree of global attention to and concern for human rights, it is thereby a measure for the global institutionalization of individual sacrality.

*National Penetration of Individualist Ideology*<sup>16</sup>. I use the yearly count of psychology INGOs to which residents of a given country are members as a measure for a type of individualism that is a prevalent element in world society<sup>17</sup>. The variable measures the national penetration of the ideology of the complex interior individual. This variable counts the number of psychology INGOs to which residents of each country belong, as reported to the UIA. I add 1 to each case to eliminate zeroes, and log the variable to account for skew in the data.

*National Social and Cultural Receptivity*. Freedom House (2008) provides a measure of freedom, on a scale from 1 to 7, based on political and civil liberties

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<sup>16</sup> Frank, Camp, and Boutcher (2010) generously supplied this measure.

<sup>17</sup> It is customary in the world society literature to operationalize ties to world society with a more general measure counting a country's residents' yearly memberships to INGOs. This measure does not typically distinguish a specific area of INGO activity, and instead counts memberships to any and all INGOs. I deviate from this practice for a several reasons. First, my proxy constitutes a more direct specification because it measures the national penetration of a particular view of the individual. Second, and despite this argument, the more general measure for ties to world society was used, but the models performed significantly worse. Variance Inflation Factors indicated that including this more general measure in the model tended to at least double the level of multicollinearity in the model. Third, the more general measure for ties to world society has more than twice as much missing data. This means that my more specific measure is an improved measure because it enjoys more complete data and generates less multicollinearity in the model. As such, the more specific measure allows the models to analyze a greater number of country years. Thus, more abolitions of the death penalty are analyzed in each model, thereby improving the results and the conclusions drawn from the model.

(Freedom House 2008). I take the average of the two measures and consider it a nation-state's "freedom score", a measure for the level of individual freedom institutionalized in civil society. To provide for a more interpretable result, I recoded the Freedom House scale such that higher values indicate higher levels of political and civil freedom. Concretely, the variable captures degree to which a given society has institutionalized structures receptive to the ideology of individualism and freedom.

*Interaction Term.* This variable measures the interaction between the national penetration of the ideology of individual and receptivity. The variable is the product of a nation-state's count for national penetration multiplied by that nation-state's ordinal level "freedom score".

*Dominant Religion.* I use the World Christian Database (2008) for data on dominant religion. The Database provides the percent of adherents for each religion for 238 countries for the years 1900, 1970, 2000, and 2005. I inferred the dominant religious group for the years up to 1970 to be the religious group with the largest share of the population in the year 1970. Likewise, I used the dominant religious group in 2005 as my dominant religion for the years 1971 – 2005. If a discrepancy occurred between 1970 and 2005, then the dominant religious group in 1970 indicated the dominant religion for a nation-state up to 1970 and 2005 indicated the dominant religion for a nation-state during the 1971 – 2005 period. I created dummy variables for Muslim, Catholic, and Protestant religious dominance. A final dummy was created as a container for all other religions. Catholic is my reference category because of the Vatican's official abolition of the death penalty in 1969.

### *Control Variables*

*Democracy.* I use the Polity IV (2008) variable for democratization, which provides a scale ranging from high autocracy (-10) to high democracy (10) for the years 1800 – 2006. Higher levels of this variable indicate higher levels of democracy.

*GPD Per capita.* The Penn World Tables (2006) provide data on Gross Domestic Product per capita (pGDP). The data extend back to 1950 and continue to 2004, covering 188 countries. I log the variable to account for skew in the data.

*Civil War.* I control for the level of civil war within nation-states over time. These data come from the Major Episodes of Political Violence (2008) data set, and are the sum of all civil war episode magnitude scores involving each state. This count measures the intensity of civil warfare in a given state, and is a proxy for the degree of “unsettledness” in a particular country at any point in time.

## **Results and Discussion**

Table 4.2 displays results from three Cox models, 1968 – 2001<sup>18</sup>. Model 1 presents findings on 43 abolitions against the death penalty for all crimes; model 2 displays results on 53 abolitions, ordinary plus the strongest form of abolition; model 3 reports findings on 81 abolition events, de facto plus ordinary and complete abolitions.

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<sup>18</sup> I tested the Cox model’s proportional hazards assumption in two ways. First, I produced a correlation coefficient on the relationship between the coefficients’ scaled Schoenfeld residuals and the transformed survival time, and also generated a chi-square test statistic for the null hypothesis of proportional hazards. In each model described below, all correlation coefficients failed to achieve significance, and so I failed to reject the null hypothesis of proportional hazards. Second, I also generated plots of the scaled Schoenfeld residuals against the transformed survival time. The plots revealed no time dependent trend in the variation of these residuals, and thereby yields further evidence that the proportional hazards assumption is not violated by the models reported below.

Figure 4.5 displays the baseline survival function for full abolition of the death penalty generated by the model I test. The solid line describes the actual survival function generated by the model, and the two dashed lines above and below this solid line represent the 95% confidence envelope for the baseline survival function for full abolition. The survival function shows that the likelihood of *not* abolishing the death penalty decreases appreciably over time. Moreover, the 95% confidence interval suggests that though the interval may be wide, the trajectory of the abolition trend is clear: the probability of abolishing the death penalty, as predicted by the model I test, consistently increases throughout the period of interest.

	Model 1		Model 2		Model 3	
	<i>b</i>	exp( <i>b</i> )	<i>b</i>	exp( <i>b</i> )	<i>b</i>	exp( <i>b</i> )
Global Individual Sacrality	0.003***	1.003	0.002***	1.002	0.002***	1.002
		(0.0005)		(0.0005)		(0.0004)
Penetration of Individualism	-0.228	0.796	-0.220	0.802	-0.059	0.943
		(0.281)		(0.255)		(0.214)
Receptivity	-0.220	0.803	-0.340	0.712	-0.246	0.782
		(0.209)		(0.347)		(0.198)
Muslim	-1.599**	0.202	-1.941***	0.144	-1.150**	0.317
		(0.605)		(0.589)		(0.394)
Protestant	-0.385	0.681	-0.611	0.543	-0.490	0.613
		(0.424)		(0.410)		(0.343)
Other	-0.502	0.606	-0.310	0.733	-0.431	0.650
		(0.385)		(0.325)		(0.264)
Receptivity ^ Ties	0.218	1.243	0.332	1.394	0.164	1.178
		(0.138)		(0.204)		(0.144)
GDP per capita	0.455*	1.576	0.443*	1.558	-0.009	0.991
		(0.218)		(0.181)		(0.150)
Democracy	0.090**	1.095	0.102***	1.108	0.060**	1.062
		(0.029)		(0.025)		0.020
Civil War	0.019	1.019	0.025	1.025	-0.037	0.964
		(0.122)		(0.106)		(0.085)
# of abolitions		43		53		81
<i>N</i> =Country Years at Risk		3198		3026		2676
Wald Test		119.6***		130.1***		93.03***

Note: <sup>†</sup>  $p \leq 0.1$ , \*  $p \leq 0.05$ , \*\*  $p \leq 0.01$ , \*\*\*  $p \leq 0.001$ . Robust standard errors are reported in parentheses. Exp(*b*) report coefficients' impact on the hazard rate for abolition. Exp[*b*\*(unit shift in *x*)] = the shift's impact on the hazard of abolition. Significance tests are two-tailed.

Hypothesis 1 argues that as the global sacralization of the individual increases, so too should the likelihood of abolition. The results provide strong support for this claim. This sacralization process increased the likelihood of abolition in all three models, and

was significant to a high degree in all models. To gain a more substantive understanding of this result, consider: the beta-coefficient generated by model 3 for any abolition of the death penalty is 0.003. To get the percentage impact of this coefficient on the hazard rate of abolition, we can perform the following calculation:  $e^{(\text{beta} \cdot \text{unit change in } x)} = \text{percentage change in hazard}$ . Thus,  $e^{(0.003 \cdot 10)} = 1.03$ . This value is interpreted as follows: holding the other covariates constant, a yearly increase of 10 HRINGOs and/or human rights documents leads to a 3% increase in the hazard of any form of abolition. Following this reasoning, a yearly increase of 10 HRINGOs and/or human rights documents leads to a 3% increase of abolition in models 1 and 2, holding all else constant. As figure 4.3 demonstrates, the global sum of HRINGOs and human rights documents greatly increases throughout the period, from 773 in 1968 to over 2117 in 2001.

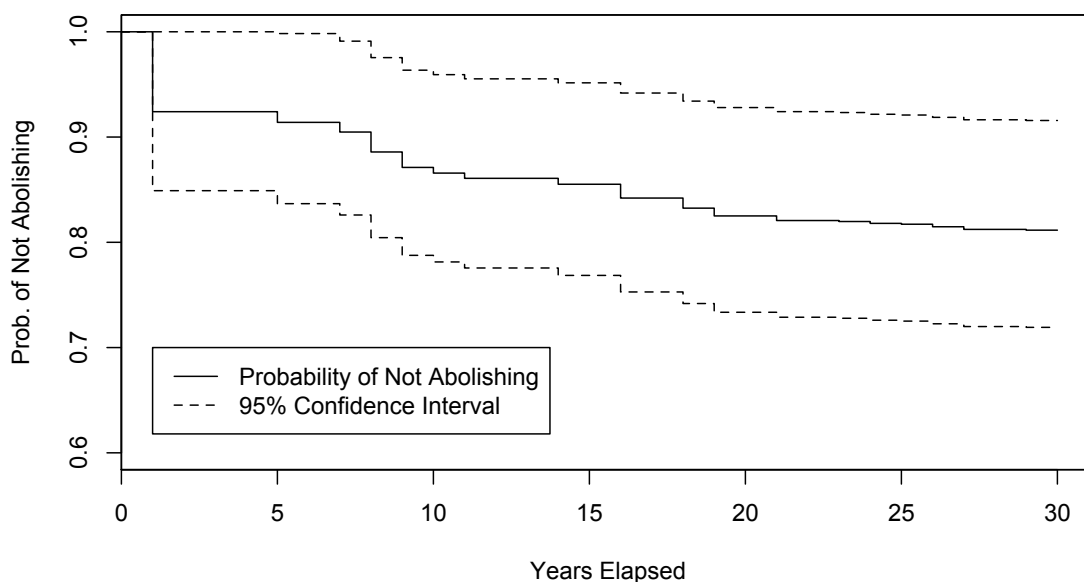


Figure 4.5: *This figure plots the survival function generated by the model for full abolition of the death penalty, and thus displays the baseline hazard function for not abolishing the death penalty.*

Figure 4.6 demonstrates the impact of the deepening institutionalization of human rights upon countries' likelihood of survival (i.e., not abolishing). This figure plots a country's probability of not abolishing for four different levels of global human rights institutionalization: the minimum value (773 documents and organizations), the 1<sup>st</sup> quartile value (1007), the 3<sup>rd</sup> quartile value (1866), and the final value (2117). All other variables are held at their respective means to isolate the impact of human rights institutionalization on the abolition. As human rights institutionalization increases across its range over the period, a country's likelihood of not abolishing the death penalty greatly diminishes over time. Indeed, at the beginning of the period, a country seems to be relatively unlikely to abolish. If human rights institutionalization had remained at this level, then it appears that the likelihood of survival (i.e., not abolishing the death penalty) would have remained quite high throughout the period. Nevertheless, human rights were rapidly institutionalized at high levels throughout the period. By the end of the period, the likelihood of survival fell to nearly 50%, signaling a dramatic increase in a country's likelihood of abolishing the death penalty. Clearly, this explosion of human rights in the 20<sup>th</sup> century has an immense impact on nation-states' likelihood of abolition.

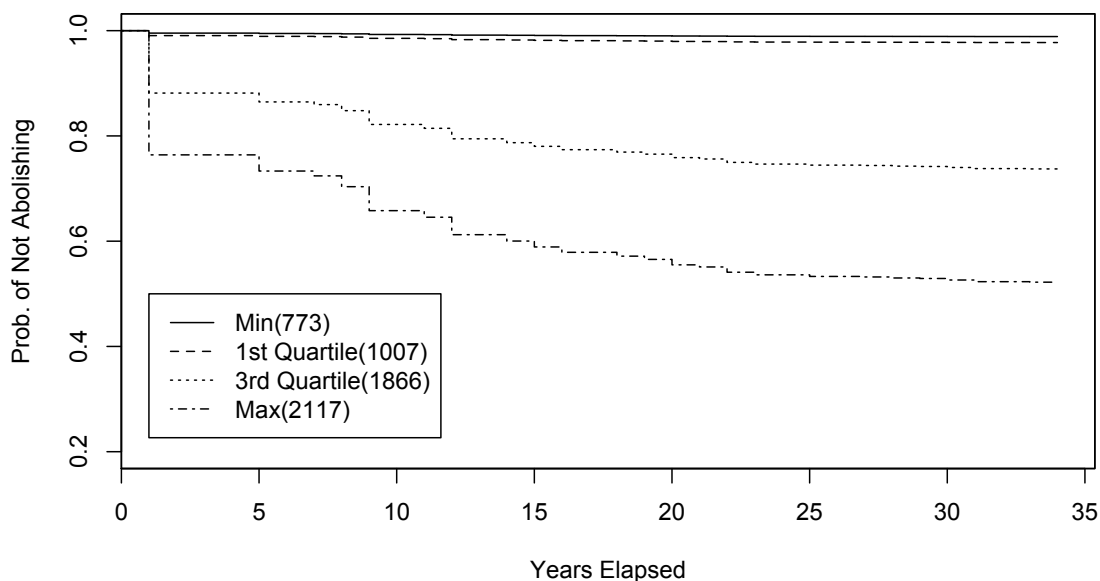


Figure 4.6: *This figure displays the impact of human rights institutionalization of on countries hazard of abolishing over time. Full abolition is considered, and the impact of human rights institutionalization increases in steps across its quartiles.*

This finding indicates that not only does the human rights regime exert an influence on states' legislative position on the death penalty, but it also deters states' practice of the death penalty in informal terms as well. In other words, the human rights regime both shapes states' legislative abolitions and also decreases execution activity through informal – i.e., de facto – abolitions of the death penalty. These results give some reason to doubt Zimring's (2003) and Johnson and Zimring's (2009) arguments that the abolition trend is not shaped by the global human rights regime. Substantively, the pattern is clear: the likelihood of abolishing the death penalty increases as the individual becomes increasingly sacralized in world society.

Hypothesis 2a argues that nation-states that are more extensively penetrated by the world cultural model of individualism should be more likely to institutionalize world cultural models that favor the individual. Hypothesis 2b argues that nation-states with high levels of social and cultural receptivity are also more likely to abolish the death



penalty. Of these two concepts, only the first achieves significance, though only in model 1 for full abolition. Interestingly, the direction of these variables' impacts runs counter to the hypotheses drawn from the world society literature. These contradictory findings are best explained by the high levels of multicollinearity present in each model, which reverses the signs for these coefficients in these analyses<sup>19</sup>. Following Arceneaux and Huber (2007), I elect to retain each variable in my model for fear of under-specifying my model arbitrarily.<sup>20</sup> After all, it is my claim that these variables constitute an impact on abolition, and it would be disingenuous to extrude them from the model<sup>21</sup>. Moreover, the important result here is the significance and direction of the impact for the interaction term, which I will address below.

Hypothesis 2c claims that religions differ in the cultural packages they offer for individualism, with Protestantism being favorable to individualism, Islam being unfavorable, and Catholic being the reference category because of its formal position against the death penalty. I also control for all other major world religions. I find strong

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<sup>19</sup> My measure for receptivity is highly correlated with democracy ( $r = 0.871$ ). The interaction term is necessarily highly correlated with its constitutive parts (receptivity:  $r = 0.756$ , and ties to world society  $r = 0.9$ ), but is also strongly correlated with democracy ( $r = 0.693$ ). See Appendix C for a correlations matrix of all independent variables that covers the entire period. Variance Inflation Factor scores confirm that high levels of multicollinearity are indeed present in these models.

<sup>20</sup> Arceneaux and Huber (2007) show that despite complications that arise due to multicollinearity, it is best to leave multicollinear variables in the model if they are required for full specification. They argue that dropping collinear variables from the model requires a strong assumption that such variables have *no unique* impact on the dependent variable; when this assumption is untenable, as their argument suggests, it is best to leave collinear variables in the model to the conduct the best possible test of their impact.

<sup>21</sup> Nonetheless, I ran the analyses without the measure for psychology INGOs (and the interaction), and found a) that levels of multicollinearity dramatically decreased, and b) that the substantive thrust of the findings was largely unchanged. The single change that did occur was that the coefficient for receptivity became positive in models 1 and 2, remained negative in model 3, and was still not significant in any model.

evidence demonstrating that nations' predominant religion impacts abolition of the death penalty differently. Relative to predominantly Catholic nation-states, all three dummy variables measuring dominant religion exhibit negative impacts on countries' abolition of the death penalty. In particular, Muslim nations are much less likely to abolish relative to Catholic nations, a finding that is quite significant across each of the three models. Following the procedure above, predominantly Muslim nations are 84.3%, 86.6%, and 67.7% less likely ( $1 - e^{(b*x=1)}$ ) to abolish the death penalty relative to predominantly Catholic nations in models 1 – 3, holding all else constant.

Figure 4.7 graphically displays the survival functions for full abolition of the death penalty for the Catholic, Muslim, Protestant, and other religions dummy variables. This chart plots the probability of *not* abolishing the death penalty for each religion when the level of global individual sacrality is held at its final level (2117 human rights documents and organizations), and all other variables remain constant at their means. Predominantly Catholic nations are the most likely to abolish the death penalty over the period, falling from under 60% to a bit under 30% likely to not abolish. Predominantly Protestant nations are just a bit more likely to abolish the death penalty than all other remaining religions, though the line for the “other religions” dummy variable plots a very similar trajectory throughout the period. Finally, predominantly Muslim countries are the most immune to the abolition trend powered by the human rights regime, falling from just over 90% to just over 80% likely to not abolish the death penalty when the level of global individual sacrality is held at this level. Thus, figure 4.7 demonstrates three interesting findings: 1) all religions are more likely to abolish the death penalty when the level of global individual sacrality is held at its final level, 2) predominantly Muslim

countries are the least likely to abolish the death penalty, and 3) the likelihood of abolition in predominantly Muslim countries is only minimally increased by high levels of global individual sacralty. These results underscore the argument that the human rights regime is an important factor that encourages abolitions worldwide. They also highlight a new finding that the impact of human rights institutionalization on a country's likelihood of abolition is dependent upon its predominant religion.

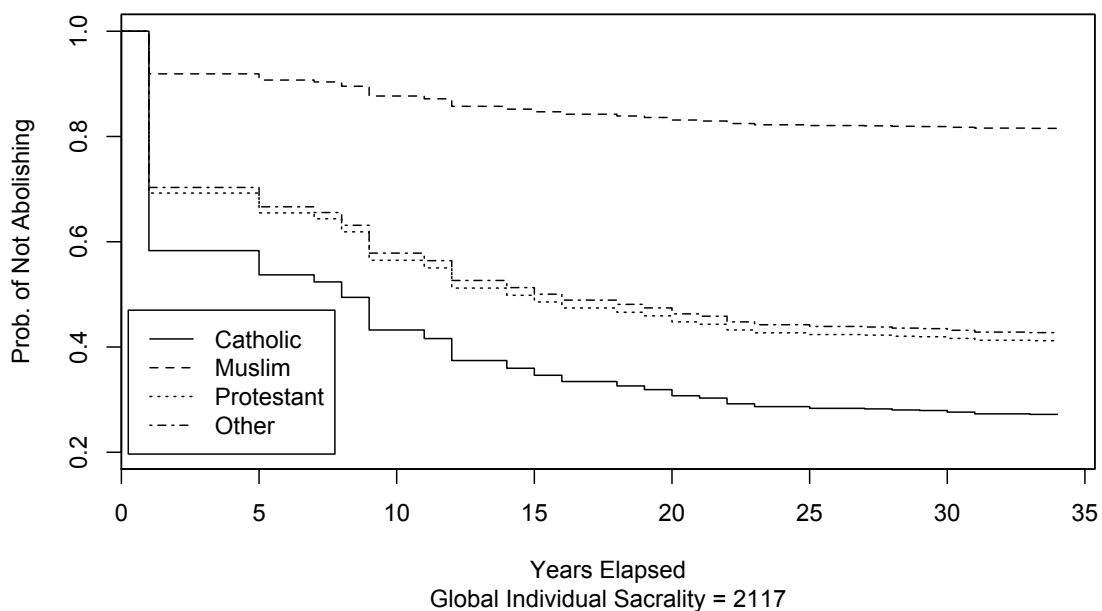


Figure 4.7: *This figure plots the impact of countries' predominant religion on their hazard of abolition over time.*

Hypothesis 3 argues that the interaction between the national penetration of an individualist ideology and the domestic social receptivity to individual rights and freedoms conditions whether or not a country will abolish the death penalty. This hypothesis receives some support; it is positive in each model, and attains significance in model 1 and marginal significance in model 3. Nation-states' chances of abolishing the death penalty for all crimes increases with the multiplicative interaction between high levels of national penetration of ideologies of individualism and stronger national

articulations of civil and political liberties. Thus, I find evidence that the probability of formal national social and political change is increased when a nation-state is both strongly penetrated by a particular world cultural domain and is constituted by specific social structures.

The control variables for economic development, democracy, and civil war do not garner much support. Per capita GDP has a positive impact on abolition in all but the third model, but it fails to achieve any level of significance in all three models. Democracy similarly fails to achieve significance in all models, though its coefficient is consistently positive. This finding contradicts many previous studies that argue abolition of the death penalty is primarily a domestic legislative change negotiated in the political sphere. Democracy is certainly an important domestic factor, but these results demonstrate that it is not democracy itself that drives abolition of the death penalty. Last, the measure for civil warfare is not supported. Contrary to the prediction, it is negative in only the third model. These arguments falter when world cultural factors are introduced to the model.

Yet, the findings above are based on a coding of countries' most extreme form of abolition. As countries tend to legislatively abolish the death penalty after they cease executing prisoners, as well as after ordinary abolition, it stands to reason that the model only captures these variables' impact on the latest forms of abolition per country. If this is the case, then the above model fails to capture how these factors impact countries' earliest movements away from the death penalty<sup>22</sup>. While full legislative abolition does not lag far behind de facto or ordinary abolition in many countries, it is the case that a

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<sup>22</sup> My thanks are due to the anonymous reviewers for making this astute observation.

number of European countries discontinued their practice of the death penalty long before they fully abolished the punishment. These de facto and ordinary abolitions in Europe also represent some of the earliest moves away from the death penalty. In these early cases, it is quite possible that the model described above is ineffective in accounting for the early European abolition trend<sup>23</sup>. If this were indeed the case, then it would appear that human rights and global individual sacrality is unrelated to the inchoate beginnings of the global abolition trend.

To test this line of reasoning, and to determine the relationship between the global institutionalization of the human rights regime and these early abolitions, I applied my model to Europe's earliest movements against the death penalty<sup>24</sup>. Specifically, I coded abolition data for European countries back to 1863. Data on the independent variables

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<sup>23</sup> It is also the case that much of the contemporary abolition activity occurred in Europe. Thus, it is possible that the model does more to elucidate the impact of human rights institutionalization on Europe's *regional* abolition trend than it does to report on the *global* abolition trend. To attenuate this problem, I excluded Europe from the analyses and reran the models (cf. Appendix D). I also ran these models excluding European human rights documents and INGOs, though these results are not reported because of the *global* importance and focus of these documents and organizations despite their region of origin. The results in both analyses were strikingly similar to those reported in table 2. The most major differences were that the coefficients for global individual sacrality and religion increased in magnitude and significance. These findings help to further show that global individual sacrality strongly increased countries' likelihood of abolishing the death penalty both in Europe and globally throughout the time period.

<sup>24</sup> Data on region came from the European Union, and included both countries that were listed as EU members and countries that were considered European but not in the EU. This counting amounted to 47 countries in my data set, with 7 countries omitted due to insufficient data: Iceland, Serbia and Malta were excluded from the analysis because Amnesty International lists their earliest departure from the death penalty as being more than 10 years prior to their official independence. This abolition date made data collection on the other independent variables impossible, and also rendered the assumption of abolition being sufficiently close to independence intractable. Liechtenstein (1785), Monaco (1847), Portugal (1849), and San Marino's (1468) early moves away from the penalty were also impractical to analyze because they occurred too far in the past and data was unavailable for these earlier periods.

were available for my measure of global individual sacrality (global human rights documents and HRINGOs), democracy, and GDP per capita<sup>25</sup>. I also retain the dummy variables measuring countries' predominant religious affiliations. Accordingly, this model addresses how these factors impact Europe's earliest abolitions of the death penalty, and also helps to specify how the global institutionalization of human rights was related to this early abolition activity.

Table 4.3. Estimates Impacting Early European Abolition		
	Model 4	
	<i>b</i>	exp( <i>b</i> )
Global Individual Sacrality	0.002***	1.002
	(0.0005)	
Muslim	-1.028	0.358
	(1.062)	
Protestant	0.773	2.165
	(0.659)	
Other	-0.547	0.578
	(0.422)	
GDP per capita	-0.042	0.959
	(0.507)	
Democracy	0.087*	1.091
	(0.037)	
# of abolitions		33
<i>N</i> =Country Years at Risk		1301
Wald Test		39.28***

*Note:* \*  $p \leq 0.05$ , \*\*  $p \leq 0.01$ , \*\*\*  $p \leq 0.001$ . Robust standard errors are reported in parentheses. Significance tests are two-tailed.

Table 4.3 presents results on factors impacting early European abolition activity.

The results reveal very similar patterns to the results presented above in table 4.2. Figure

<sup>25</sup> Historical data on GDP per capita came from Angus Maddison's (2011) website, <http://www.ggdc.net/MADDISON/oriindex.htm>. Data on human rights and democracy came from the same sources. Unfortunately, data on my other measures were either entirely unavailable (e.g., the Freedom House data) or were impractical to code. Nonetheless, this model on Europe's earliest moves against the death penalty does retain the most important variables at the heart of the argument presented here.

4.8 presents the baseline hazard function associated with this model. The solid line refers to the cumulative survival function, and the dashed lines correspond to a 95% confidence envelope for the survival function's estimate. The likelihood of a European country not abolishing the death penalty falls dramatically as time (measured in years) advances to the contemporary era. By the early 1900s, a European country appears to have a less than 75% or so chance to have not abolished the death penalty. This figure drops even further as time progresses toward the middle of the 20<sup>th</sup> century.

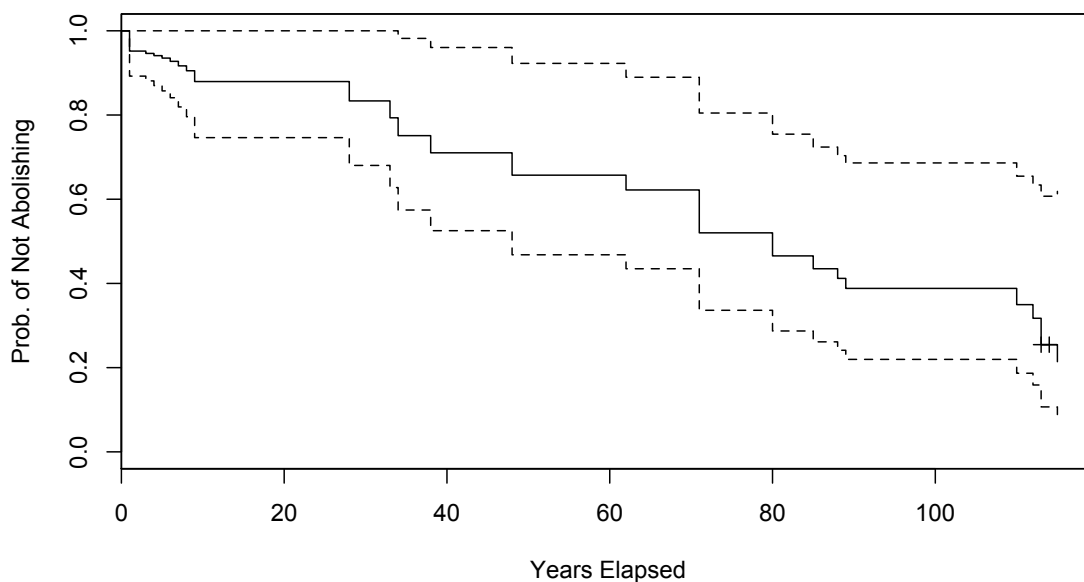


Figure 4.8: *This figure plots the baseline survival function for European countries earliest abolition activity from 1863 – 2001. The solid line is the baseline function, and the dashed lines represent the 95% confidence interval.*

The previous finding that human rights institutionalization positively increases countries' hazard of abolition holds for these earlier abolition events. Following the procedure described above, a 10-unit increase in global human rights institutionalization is associated with a 2% increase in the hazard of an early European abolition. Figure 4.9 demonstrates the impact of increasing global institutionalization of human rights on European countries' survival function. I plot four survival functions; one for the

minimum level of global human rights institutionalization, one for the first quartile, one for the third quartile, and a final line for the maximum level of human rights institutionalization for this period. As the level of human rights institutionalization increases, the probability of surviving (i.e., not abolishing) diminishes rapidly. Moreover, the lowest probabilities of survival are also associated with a small number of years elapsed. This finding demonstrates that increasing levels of global human rights institutionalization are associated with an increased probability of abolition earlier on in the period under examination. Global individual sacralization is clearly related to Europe's earliest abolition activity.

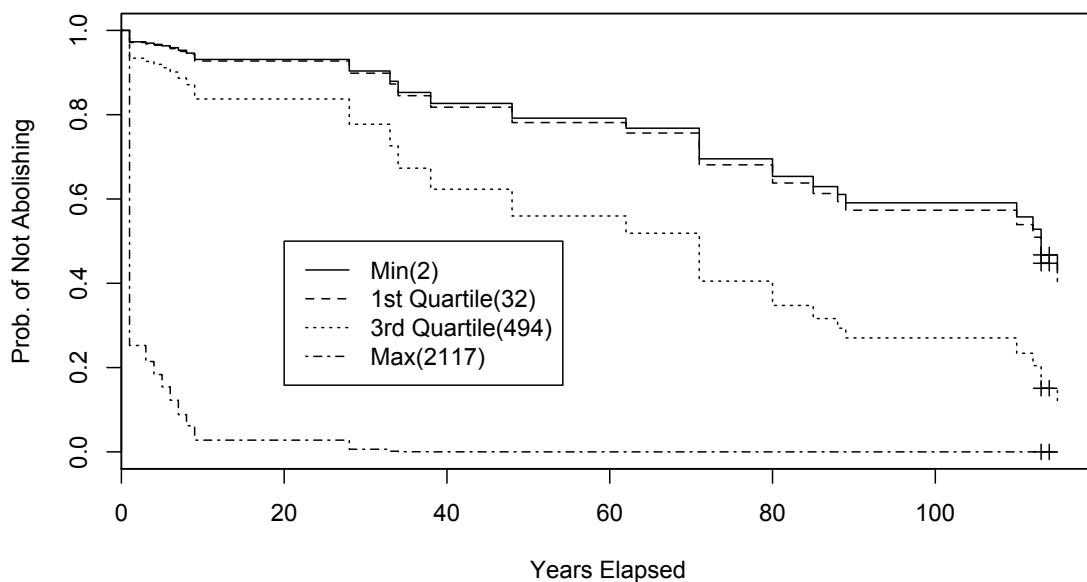


Figure 4.9: *This figure plots European countries' hazard of abolition over time as human rights institutionalization increases in steps across its quartiles from 1863 – 2001.*

Interestingly, none of the religious dummy variables emerge with significance; however, some differences do arise between the first models discussed and this model for earlier abolition. These differences are demonstrated in figure 4.10, which holds individual sacrality at the relatively low median level of 176 throughout the period to



elucidate the impact different predominant religions have on countries' likelihood of abolishing the death penalty. The most major difference arises between the impact of the Protestant and Catholic dummy variables. Whereas in previous models, predominantly Catholic countries were the most likely to abolish, it appears that predominantly Protestant countries are the most likely to abolish during these earlier periods in Europe. Predominantly Catholic countries are next in line for those most likely to abolish, with "other" being next, and predominantly Muslim countries being the least likely to abolish early in Europe.

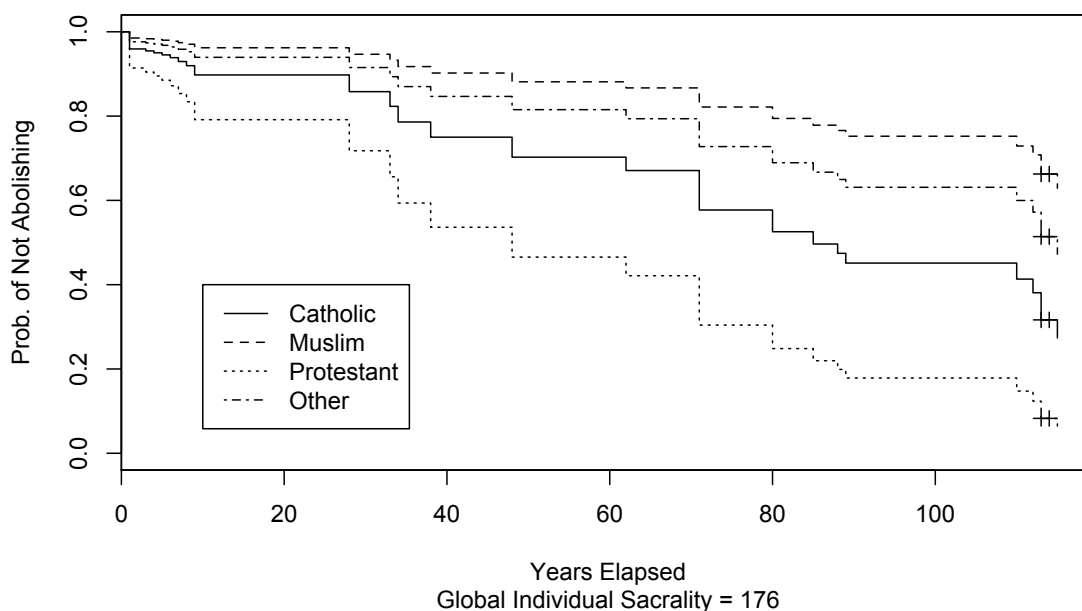


Figure 4.10: *This figure plots the impact of predominant religion on European countries' hazard of abolition over time from 1863 – 2001.*

Last, the results in table 4.3 indicate that democratization is an important factor influencing European countries' early abolition activity. Figure 4.11 displays countries' probability of survival as democracy increases in four steps across its range: high autocracy, medium autocracy, medium democracy, and high democracy. With each progressive step toward higher levels of democracy, the probability of not abolishing

decreases precipitously. In addition, lower probabilities of survival are associated with earlier periods and higher levels of democracy. Higher levels of democracy earlier in the period under analysis translate into a higher likelihood of abolition in Europe. This finding is somewhat at odds with the previous models discussed above, and suggests that while democratization may not be driving legislative or de facto abolitions in the contemporary period, it does reveal that democracy spurred Europe's early abolition activity.

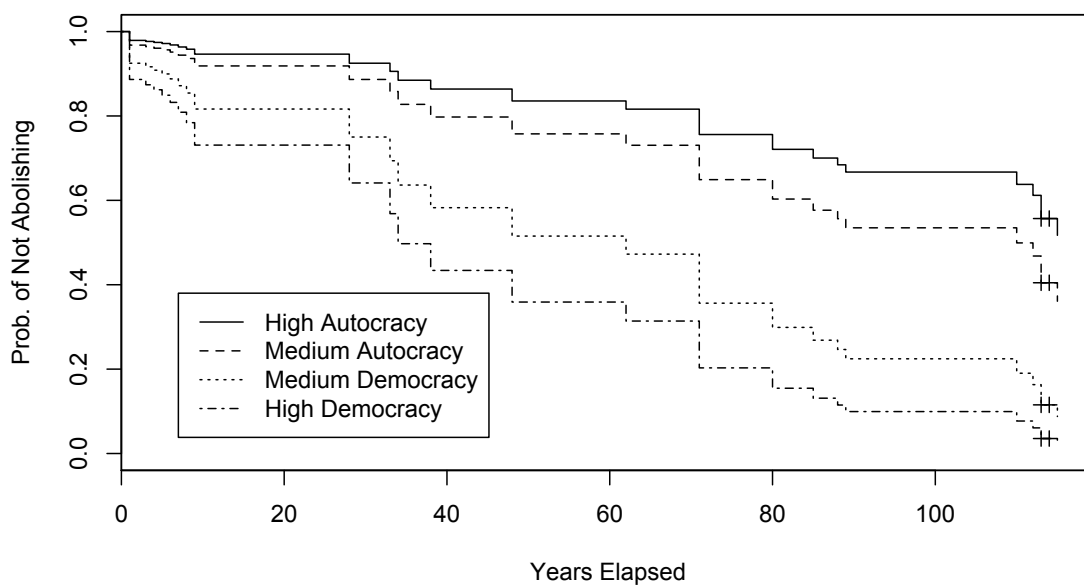


Figure 4.11: *This figure plots the impact of democracy on European countries' hazard of abolishing the death penalty over time.*

The above findings are consonant with Schofer and Hironaka's (2005) arguments that institutions that are (a) highly structured, (b) penetrate multiple levels of society, and (c) persistent over time are most likely to encourage social change. I show that the sacralization of the individual is highly institutionalized via the proliferation of the global human rights regime over the second half of the 20<sup>th</sup> century. This script penetrates multiple sectors of social life in societies through increased ties to world society, and the

institutionalization of stronger political and civil liberties. In particular, the probability a nation-state will fully abolish the death penalty is conditioned by both its degree of penetration *and* its internal social receptivity. Thus, the global sacralization of the individual diffuses through specific social and political structures that help nation-states to decode world cultural scripts calling for the abolition of the death penalty.

## Conclusion

Abolition of the death penalty is shaped by a constellation of global and domestic factors. My analysis emphasizes cultural factors in explaining states' abolition activity. In particular, this paper shows that a world cultural model, what I call the sacralization of the individual<sup>26</sup>, spurs states' abolition of the death penalty in all forms. This model has been institutionalized globally in the 20<sup>th</sup> century as the human rights regime. Packages of cultural values distributed by nations' predominant religious orientation, nation-states' connection to world society, and their general social and cultural receptivity all shape the diffusion of this script. Overall, the worldwide growth in states' abolition of the death penalty is strongly shaped by the deepening global sacralization of the individual and its institutionalization via the global human rights regime.

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<sup>26</sup> Global individual sacrality appears to work differently than the individualism of the USA. This difference reflects a libertarian streak in the USA's brand of individualism that emphasizes both freedom *and* responsibility. In this sense, the criminal is conceived of as freely choosing his or her criminal behavior, and is therefore seen as fully responsible for his or her actions. This vision of crime and punishment gives rise to stiffer penalties in the USA; for example, the USA's prison population per capita is among the highest in the world. Note, however, that this form of American individualism highlights individuality as difference (e.g., freedom and responsibility), whereas I argue that global individual sacrality is founded upon a Durkheimian sense of the individual that relies upon a common image of the human family.

I offer evidence for world cultural explanatory factors that have diffused the abolition script to states throughout world society, and argue that the individual has increasingly become a fundamental unit of modern world society (Durkheim 1984[1893]; Frank and Meyer 2002; Frank, Meyer, and Miyahara 1995). The historical construction of the individual led to the sacralization of the individual and the modern institutionalization of the global human rights regime in world society. Abolition of the death penalty was thereby written into the nation-state as a fundamental responsibility to the sacred unit of modern society: the individual. My argument connects the modern sacralization of the individual to the decreasing spectacle of violent punishment in modern penal systems, i.e., the abolition of the death penalty. Thus, punishment in society, i.e., states' abolition of the death penalty, is not simply derived from local, contextual pressures, but is also inspired by broader cultural scripts institutionalized in world society.

My analysis builds upon previous research that has relied on domestic economic and political causes (Neumayer 2008; Jacobs and Carmichael 2002; Dunér and Geurtsen 2002; Greenberg and West 2008), or national level structural hierarchy, social differentiation, and legal systems (Mitchell and Sidanius 1995; Spitzer 1975; Jacobs and Carmichael 2002; Greenberg and West 2008) as motivators or obstacles for abolishing the death penalty. Though my emphasis on world cultural forces differs from these accounts, domestic contexts surely do affect abolition of the death penalty. I show that the national penetration of a particular ideology and social receptivity impact nation-states' implementation of world cultural models, particularly in formal legislative abolition. Furthermore, countries' predominant religious orientation provides packages

of cultural meaning and value that clearly impact their legislative positions. While democracy and GDP per capita did not reveal to directly impact nation-states' recent abolition activity, both are related to the legislative change. For example, democracy is certainly related to the institutionalization of political and civil liberties, which I found to be part of an important interaction shaping abolition of the death penalty. Furthermore, my analysis of early European abolition showed that democracy was influential in states' abolition during the inchoate stages of the trend. Thus, my analysis shows that domestic factors worked in concert with the world cultural foundations of the trend to deliver the abolition script to states worldwide in the 19<sup>th</sup>, 20<sup>th</sup>, and 21<sup>st</sup> centuries.

## CHAPTER FIVE

# Explaining Global and National Patterns in the Use of the Death Penalty

### Introduction

Nation-states have abolished the death penalty in large numbers throughout the 20<sup>th</sup> and early 21<sup>st</sup> centuries. This abolition of the death penalty trend has generated some recent scholarly attention. While attention has focused on a number of important issues related to the trend, the main focus of research has been on the determinants of states' legislative position on the death penalty. In particular, the majority of research on the abolition trend has examined factors that encourage states' to abolish the penalty. Yet, this focus misses the other side of this important issue. Comparably less attention has been given to the actual practice of the death penalty. To that end, I ask the following question: in the era of abolition, what factors shape the use of the death penalty at both the global and national levels?

As the question suggests, I break this issue into two related components. First, I analyze the use of the death penalty from a global perspective. Specifically, I examine the number of countries utilizing the death penalty in a given year from 1980–2010. This perspective helps to bring into focus the global dimensions impacting the shape of countries' use of the death penalty. Second, I examine the national dimensions of execution behavior. I look to countries' actual use of the death penalty and focus on national execution rates from 2007–2010. Together, these two measures help to sketch the landscape of how the death penalty is used in both global and national contexts.

My strategy situates global factors within the national context, and sheds light on how these two sets of explanations impact states' use of the death penalty. More specifically, I demonstrate how both global and local forces construct states' use of the death penalty, and emphasize that global forces are at play in shaping countries' use of the punishment. The number of countries that both retain and use the death penalty has decreased dramatically over time. At the global level, the development of the legislative framework for the human rights regime and the advancement of democracy worldwide diminish the number of countries using the death penalty in a given year. At the national level, democratic governance and national integration within world society decrease states' execution rates. My findings also suggest that world cultural models for human rights and the shaming activities of INGOs bear differential impacts on the use of the death penalty worldwide.

## **Global Trends in the Use of the Death Penalty**

Figure 1 describes a global picture of states' use of the death penalty from 1980–2010. Data on global execution rates, the number of countries executing, and the number of states' that have yet to abolish the death penalty come from Simon and Blaskovich (2002) and are supplemented by Amnesty International's annual Death Sentences and Executions Reports (Amnesty International 2007, 2008, 2009, 2010)<sup>1</sup>. The global execution rate, the number of countries that have yet to abolish the death penalty in any

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<sup>1</sup> Amnesty began to produce these reports in the 1990s, but do not make these early reports available. Annual reports are available for the years 2007–2010 and are posted on Amnesty's website.

form<sup>2</sup>, and the number of countries executing in a given year are all plotted on the ‘y-axis’. The years 1980–2010 are plotted on the ‘x-axis’.

Together, these data show a number of interesting trends that demonstrate the shifting landscape of the use of the death penalty globally. First, figure 5.1 plots the number of executions occurring globally from 1980–2010. These data demonstrate a significant degree of variation throughout the period of interest. Nonetheless, a LOWESS<sup>3</sup> smoothing function generates the solid black trend line. The smoothing function demonstrates that the general trend in the global execution rate has increased over time; however, this observation should be qualified in at least two respects. First, the global execution rate appears to generally increase from 1980 through the early to mid-1990s. At this point, the global execution count exhibits a decline, though a few years punctuate significant increases in the global rate thereafter<sup>4</sup>. In short, the global execution rate is marked by a high degree of variation from approximately 1995 to the present. This is why the trend line shifts from a positive slope from 1980 through approximately 1995 to a relatively flat – 0 – slope thereafter. Second, it is unclear how seriously this trend should be taken. Amnesty International is the most authoritative repository for death penalty data, and is the only source to generate yearly reports on death penalty execution and sentencing behavior. Nonetheless, statements of uncertainty and qualification mark

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<sup>2</sup> As in the previous chapters, abolition is considered in three forms: full abolition, ordinary abolition, and de facto abolition.

<sup>3</sup> LOWESS stands for: locally weighted scatterplot smoothing; it is a useful method for showing the trend in the relationship between two variables.

<sup>4</sup> Nonetheless, it is important to note that the world population is increasing throughout this period, from approximately 4.5 billion in 1980 to over 6.8 billion in 2010. Such large growth in global population attenuates the apparent general increase in global execution activity. That is, the growth in global execution rate, conceived of as the number of executions per 1 million people, is diminished given this large increase in population over the period.



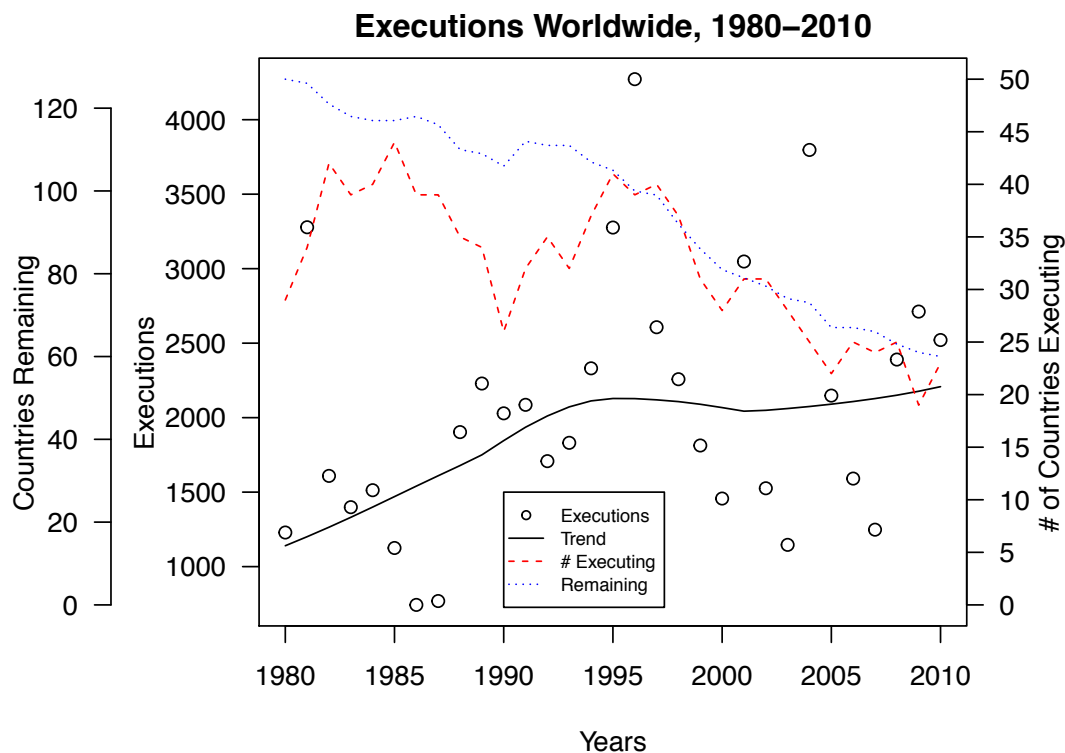


Figure 5.1: *This figure plots the global distribution of states' execution behavior from 1980–2010 in three ways. The actual global execution rates are plotted as points, the number of countries executing in a given year is plotted as a red dashed line, and the number of countries that have yet to take a legislative position against the death penalty worldwide is plotted as a dotted blue line. A solid black line represents the overall trend for global execution rates.*

these reports. Amnesty frequently stresses that their execution numbers are minimum value estimates<sup>5</sup>. In other words, Amnesty reports execution rates at the global and national level that represent the lowest possible execution rate. These numbers are generated from official reports that could be independently verified by Amnesty International. This problem introduces a fair amount of uncertainty to these data. For example, starting in 2009, Amnesty discontinued reporting any specific number for China's execution rate. Instead, Amnesty simply reported that China was confirmed to

<sup>5</sup> Indeed, this problem of uncertainty associated with these execution data is particularly problematic for models interested in estimating national execution rates. I will return to this issue later on.

have executed “thousands” of prisoners in these years, and noted that it was impossible to verify the exact count. In these cases, I recoded the national execution rate for China to 2,000, and adjusted the global counts for these years accordingly. Obviously, this strategy is less than desirable, but the uncertainty associated with the data present few alternatives<sup>6</sup>.

Despite the uncertainty associated with the global execution counts, two other more certain trends are apparent in figure 5.1. First, the dashed red line plots the number of countries performing an execution in a given year from 1980–2010. This count reaches its apex at 44 in 1985, and its nadir at 19 in 2009. In general, the dashed line shows that the number of countries committing an execution per year declines throughout the period. Second, the dotted blue line plots the number of countries that have yet to take legislative action against the death penalty throughout the period. The general trend of this line is similar, but is also clearer. The number of countries that have yet to abolish the death penalty in a given year consistently declines over the period<sup>7</sup>. There is one exception: the number of countries yet to abolish increases from 1990 to 1991. This increase coincides with the breakup of the Soviet Union, which led to the establishment of a number of newly independent countries. Nonetheless, it is telling that after this brief uptick, the trend continues is gradual decline in the following year. This finding suggests that the end of the Cold War could have something to do with the global landscape for states’ use of the death penalty (Fijalkowski 2001, 2011). I develop this point more thoroughly below.

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<sup>6</sup> Obviously, this recoding is somewhat arbitrary and undesirable. Below, I ran the models with and without China, and found no substantive difference in the results.

<sup>7</sup> As in previous chapters, abolition is conceived of here as any of the following: complete abolition, ordinary abolition, or de facto abolition.

To summarize, the general trends in the global landscape for the use of the death penalty are as follows. The global execution rate appears to vary greatly over time, particularly as we approach the current year. The global rate appears to have increased earlier in the period, but seems to have flattened over time since the mid-1990s. Unfortunately, the execution data that Amnesty reports is rather uncertain, and so these observations must be qualified with some hesitation. Nonetheless, two trends are more certain. The number of countries that have used the death penalty in a given year, and the number of countries that have yet to take action against the penalty are both on the decline. Counts for both of these measures of execution activity indicate a downward trajectory. The pool of countries that may use the death penalty is shrinking, and the number of countries actually using the penalty is also dwindling.

## **Global and National Factors of Death Penalty Use**

The use of the death penalty has both a global and a national character. At the global level, use of the death penalty can be conceived of as the number of countries actually practicing the punishment in a given year. This count gives a sense of how widely the punishment is utilized throughout the world in a given year. At the national level, use of the death penalty can be measured more directly as the number of executions performed by a country in a given year. To gain purchase on these issues, I identify both global and national factors impacting how the death penalty is used. My discussion of global factors conceives of the death penalty as being fundamentally impacted by the broader global environment. States' use of the death penalty is responsible to institutional, cultural, and structural arrangements in world society. My discussion of national factors acknowledges that the practice of the death penalty is also a domestic

affair. I integrate insights from my global analysis into the national models below to show how these two sets of factors relate. As I discuss below, the overall picture reveals that both global and national arrangements drive the contours of capital punishment.

### **Global Factors**

My perspective emphasizes two important points. First, I argue that global institutions, structures, and processes comprise their own distinct level of social reality that is above, beyond, and separate from national and local causal forces (Boli and Thomas 1997, 1999; Robertson 1992; Meyer et al. 1997). Second, and in relation, I highlight the world cultural embeddedness of all actors at all levels of observation. Most important for this present chapter, I see nation-states as members of a broader world society who are constituted by a world culture that provides models, values, and rules for actors at all levels of social organization (Jepperson 1991; Lechner and Boli 2005; Lechner 2009). In taking this approach, I see states' use of the death penalty as being constituted by world cultural forces that are constructed and institutionalized at the global level and which are embedded within particular national contexts. The consequence is that states' use of the death penalty is organized by and responsible to a global arena that is external to and distinct from the domestic context.

The world has represented a single global social system since at least the past century (Boli and Thomas 1997). This social system is marked by its own (world) culture that is institutionalized in the global organizations, institutions, global documents and covenants, and other general structures that make up the global system. For the purposes of understanding the global dimensions of the use of capital punishment, I argue that the global human rights regime structures the use of the death penalty in two respects. First,

international non-governmental organizations (INGOs) are of special interest because they operate explicitly at the global level. These organizations consciously construct models and rubrics to guide the purposes and behavior of all sorts of actors throughout the world. Moreover, these organizations also target states' abuse of power and advocate on behalf of the disenfranchised. Second, global human rights documents are also integral to understanding states' exercise of the death penalty as they script the rights and treatment of the individual in universal and humanistic terms (Elliott 2007, 2008, 2011). As such, these documents provide the legal scaffolding and the global models that establish the principle values of the global human rights regime.

INGOs are both carriers and enactors of world culture (Boli and Thomas 1997, 1999). Boli and Thomas (1997) describe the five major world cultural principles that underlie INGOs: 1) universalism, 2) individualism, 3) voluntaristic authority, 4) rationalizing progress, and 5) an emphasis on world citizenship. INGOs generate models for enactment that are universal in scope (e.g., the dictates generated by human rights organizations are prescribed for all people on account of every- one's shared humanity), and are directed toward the betterment of humankind in general. Their authority derives from the lack of a single all-encompassing world power; the authority of INGOs is rationally organized and self-authorized. Moreover, INGOs organize to improve the world through development-centered approaches. For example, INGOs promote the advancement of science, economic growth, the protection of disenfranchised individuals, and the establishment of the rule of law. These four principles combine to construct the concept of world citizenship: all peoples share a common core that grants each individual specific rights and responsibilities. Though individuals vary greatly in their basic

capabilities, opportunities, and resources, everyone is equal in this transcendental sense. Individual rights transcend national boundaries, which is a somewhat ironic source of tension given that it is national states that are often directly responsible for the guarantee of individual rights. It is this link, however, that shows how world culture structures states' use of the death penalty.

INGOs work explicitly to develop models that protect the individual. As prominent actors at the global level, they propagate to extend and defend the scope of human rights worldwide Tsutsui and Wotipka (2004). Indeed, much of the current global human rights regime is the direct consequence of INGOs' efforts (Lauren 1998; Tsutsui and Wotipka 2004; Tsutsui 2004). These organizations, particularly HRINGOs like Amnesty International and Human Rights Watch, have expended considerable attention and energy to develop models for the treatment and protection of the individual. The resulting models have led to the emergence of this regime, the widespread legitimacy of fundamental human rights, and the belief in their universal application to all (Wotipka and Tsutsui 2008).

INGOs also actively work to pressure for changes in states' policies and actions (Keck and Sikkink 1998). Given the extensive legitimacy of these organizations as global authorities on the care and treatment of the individual, INGOs often seek to directly shame governments to change the course of their behavior (Hafner-Burton and Tsutsui 2005). Taking this relationship one step further, Bell et al. (2012) show that the HRINGO memberships of neighboring countries also improve the probability of improved human rights practices in a home country – this result is labeled the “neighborhood effect”. This finding suggests that the impacts of HRINGOs – and INGOs in general – transcend

national borders. In addition, HRINGOs shape the human rights agenda, both globally and locally. For example, HRINGOs shape national public opinion on human rights issues (Davis et al. 2012). In sum, INGOs work both to develop models for state implementation and also directly engage states by exerting their moral authority to pressure or shame states toward behavior that accords with world cultural standards.

Another important component of the global human rights regime is the proliferation of explicitly global human rights treaties, documents, protocols, and covenants. Elliott (2007, 2008, 2011) describes the tremendous growth of this global institutionalization of human rights. These global instruments insitutionalize models for the appropriate care of the individual as formal legal standards available for formal nation-state incorporation and ratification (Elliott 2011). In general, Elliott notes an enormous growth in attention to and concern for human rights via the explosive growth of these documents. This general concern for the individual translated to a massive effort to codify, rationalize, and model the protection of the individual in the most general, universal terms. The result was the development of the ideological infrastructure for the global human rights regime: since 1863, a total of nearly 800 human rights documents have been constructed, with the vast majority this growth occurring in the latter half of the 20th century. The number of rights outlined by these documents has vastly expanded over time, with over 1,500 unique human rights codified by these documents throughout the 20th century. Hundreds of global documents available for signature and ratification have propagated to script more than 1,500 unique rights claims. Accordingly, it is a platitude to say that the rights and protections due to the individual have received an increasing amount of attention over time. The more profound point to make is that this

attention signals a global preoccupation with the protection of the individual that lifts it out of the realm of the ordinary, and lifts it to the realm of the sacred and inviolable.

One important human rights document that relates the death penalty to the human rights regime in general is the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR2) (United Nations 1989). This document was adopted by the United Nations General Assembly in 1989, and introduced the concept of complete abolition of the death penalty to the International Bill of Human Rights<sup>8</sup>. As an optional protocol to the ICCPR, the ICCPR2 certainly relates abolition of the death penalty to the human rights regime, but that's not the full extent to its scope or importance. Its status as an optional protocol to a central human rights document also establishes the abolition of the death penalty as a matter of central concern. In other words, the ICCPR2 was not attached to just any peripheral human rights document. Instead, the ICCPR2 was embedded within the scaffolding of an already highly legitimate set of human rights institutionalization. Accordingly, abolition of the death penalty was folded into the very center of the human rights regime, and is thereby a prime concern in world society.

Together, these two components of the global human rights regime signal that the world cultural environment has dramatically changed throughout the 20th century. The individual is a highly consecrated social entity, replete with hundreds of documents that script its rights and thousands of organizations that seek to explicitly guarantee its safety

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<sup>8</sup> The International Bill of Human Rights is the set of core human rights documents that establish the fundamental logic and legal framework of the global human rights regime. This set of documents is comprised of the Universal Declaration of Human Rights (UDHR), the ICCPR, and the International Covenant on Economic, Social, and Cultural Rights.



and respect. In short, the individual is highly sacralized in world society. This process of sacralization impacts the practice of punishment by suppressing forms of punishment that violate the sanctity of the individual. As such, the development and expansion of the global human rights regime should depress the use of the death penalty by delimiting the number of countries willing to utilize the punishment and diminishing the execution rates of those that still retain it.

### **Other Global Factors**

Other factors have been related to the use and abolition of the death penalty. Key among these are democracy, the collapse of the Soviet Union and the end of the Cold War, and the advancement of economic development.

Neumayer (2008) argues that democracies are more likely to abolish the death penalty. According to his argument, democracies are predisposed to acknowledge the “fundamental conflict between capital punishment and the human rights and dignity typically afforded to citizens in democracies” (10). This acknowledgement is partially the product of democracies being more likely to accept checks on governmental authority and power (Neumayer 2008: 8). The logic here is that democracies are fundamentally concerned with the empowerment of citizen’s rights and a general care for humanity (Hood 1998). These concerns help to establish the rule of law and also undermine perceptions of the fairness and legitimacy of the death penalty in democratic contexts (Hood 1998; Sarat 2001; Garland 2002). Given these arguments, it follows that the advancement of democracy worldwide should be associated with fewer countries performing an execution in a given year and a decrease in executions worldwide.

In relation, some authors in this literature see the collapse of the Soviet Union as a significant event that fundamentally altered the global landscape for the death penalty. Fijalkowski (2001, 2011) argues that the end of the Cold War had at least two major impacts on the global abolition movement. First, the collapse of the Soviet Union led to the creation of several newly independent nation-states. These new states seized the occasion to reflect upon and develop new legislative and penal systems. As such, the end to the Cold War coincided with a substantial increase in the global count of democratic countries. Given the logic presented above, these authors assume that these new democracies were more likely to abolish or limit the death penalty in ways that autocratic regimes are not. Second, and in relation, newly democratic states located in eastern European simultaneously sought admission to the Council of Europe to acquire legitimacy and access to resources (Fijalkowski 2001, 2011). The timing of these moves were consequential for their practice of the death penalty because the Council of Europe began its formal repudiation of the death penalty in 1983 with its restriction of the death penalty to times of war (Council of Europe 1983). This movement continued in 1996 with a moratorium on the death penalty as a formal requirement for admission (Fawn 2001). As such, the collapse of the Soviet Union spawned a number of newly independent and democratic states that were coming of age in a region that was structurally arranging itself against the death penalty.

Economic development is less often directly tied to the practice of the death penalty. Nonetheless, development can be tied to the death penalty through at least two specific connections. First, though economic development has not been shown to directly impact the death penalty (Neumayer 2008; Anckar 2004), it has nonetheless been related

to the promotion of democracy. Greenberg and West (2008) show that economic development indirectly impacts states' positions on the death penalty through its relationship to the promotion of democratic political institutions. Second, a Durkheimian perspective argues that more differentiated economies promote role specialization and increased levels of interdependence (Durkheim 1984). High levels of interdependence foster an increase in individuated forms of exchange, and a perception of crime that emphasizes the violation of individual contracts and deemphasizes crime as a violation of the integral moral codes of society. The result is a decline in retributive punishments and a shift toward more restitutive punishments (Durkheim 1900) (cf. Chapter 4). Both views on economic development suggest that more economic development worldwide should be related to a global decrease in the practice of the death penalty.

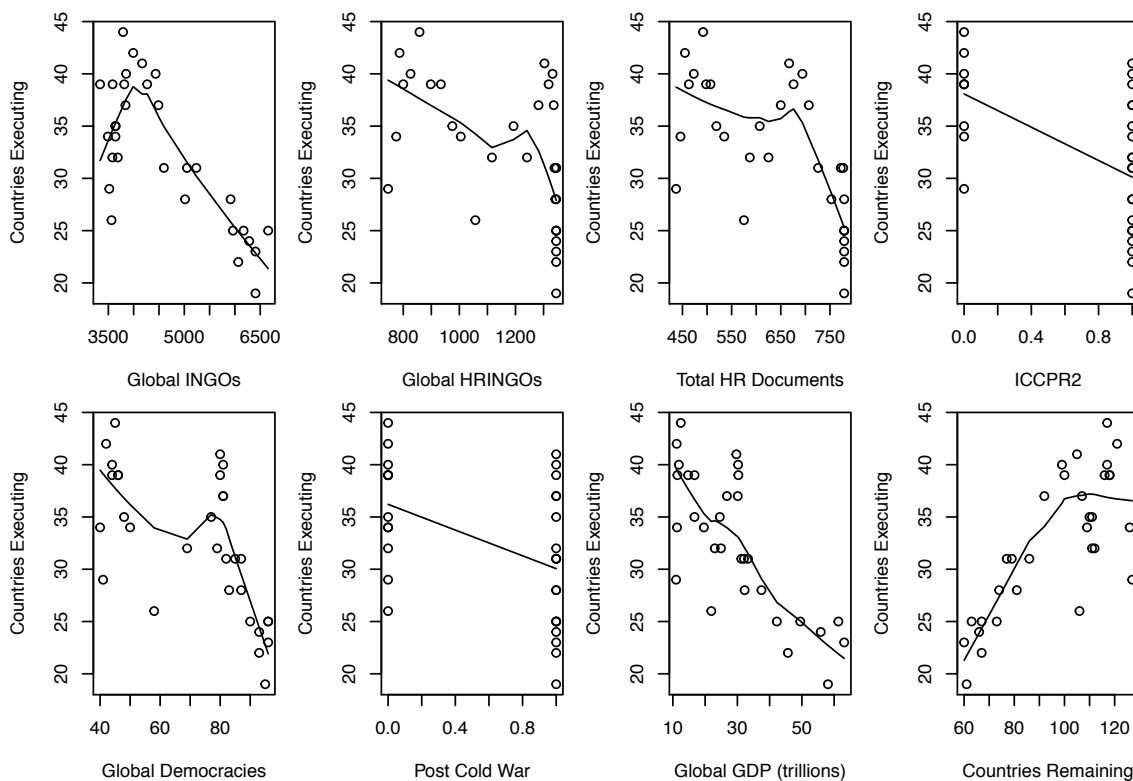


Figure 5.2: This figure plots the relationship between global measures of these variables and the number of countries committing at least one execution from 1980–2010. A LOWESS smoothed trend line summarizes the relationships.

Figure 5.2 plots the relationships between the number of countries executing per year from 1980–2010 against measures for the seven concepts reviewed below. I also plot the number of countries executing against the number of countries that have yet to abolish the death penalty. I generate a trend line in each plot to illustrate the relationship between the two variables in question. This plot reveals that the number of countries executing a prisoner in a given year rises along with the number of countries that have yet to abolish the death penalty. In general, the rest of the variables in figure 5.2 seem to bear the projected impact on the number of countries executing. For example, the plots for the Cold War codes years after the conclusion of the Cold War as ‘1’, and all others as a ‘0’; the plot for the Second Optional Protocol charts points after the ICCPR2 in the same way. Both of these show that years after these two events are associated with fewer countries utilizing the death penalty in a given year. I describe these data sources in greater detail in the ‘Data and Method’ section below.

### **National Factors**

Three of the global factors discussed above can be translated to national level measures that are potentially useful explanations of states’ use of the death penalty. First, the global INGO measure can be translated to the national level by counting the number of citizen memberships to distinct INGOs in a given year. This count helps to show how well a given national society is connected to world society and penetrated by world culture. More memberships signify a higher degree of national exposure to world culture. These countries should thereby be more likely to pick up the models INGOs instantiate into world culture and implement them as national institutions. As the above section suggests, INGOs are inextricably related to the development of the global human

rights regime. This connection is both practical and symbolic. In the practical sense, INGOs are responsible for much of the actual work that has gone into codifying, monitoring, and safeguarding human rights of the past century. In the more symbolic sense, the structural organization of INGOs emphasizes individual rights and sovereignty. Thus, exposure to either of these should heighten citizens' consciousness of individual sacralty and should thereby decrease the practice of the death penalty in a given country.

Second, democracy's relationship to a country's execution rate should follow logically from its relationship to the number of countries practicing the death penalty at the global level. If democracies are indeed related to an increased fundamental respect to human rights, then higher levels of democracy at both the global and national levels should deter the practice of the death penalty. At the global level, this relationship should translate to fewer countries using the death penalty in a given year. At the national level, higher levels of democracy should slacken a country's execution rate.

Third, economic development should also carry a similar impact on the practice of the death penalty. Development's relationship to democracy at the national level should diminish a country's rate of execution. Higher levels of development should be related to increased democratization, which should in turn institutionalize structures that deemphasize corporal punishments. This line of thinking also complements the Durkheimian perspective. High levels of economic development are associated with increased levels of differentiation and interdependence. Higher levels of interdependence emphasize crime as a violation of a contract. In this sense, then, punitive measures are taken to repair the contract. Thus, punishment in economically developed countries focuses on restitution more than retribution. The goal is to balance the schedule of

payments; for example, as Foucault (1979) notes, punishments are no longer explicitly organized to symbolically neutralize a threat to the sovereign via some violent public spectacle.

Human rights respect can also be linked to countries' use of the death penalty. Namely, countries with positive records on human rights have demonstrated a culture that respects individual protections and rights. This favorable orientation to human rights should incline such countries to other practices that follow this model of care for the individual. Prominent INGOs like Amnesty International have taken great pains to link the death penalty to the broader human rights regime (cf. chapter 3). Given that the death penalty and human rights are now related topics, countries' practice of human rights should be related to their use of the death penalty. Beyond this relationship, countries with high levels of human rights respect have demonstrated a marked appreciation and concern for the individual. Such care for the individual signifies an investment in practices that safeguard the individual, especially for those issues that are related to the human rights regime. Countries marked by a higher respect for individual freedom should thereby be less likely to administer corporal punishments. Thus, as the death penalty involves the fundamental destruction of the individual, countries' with higher levels of human rights respect should also utilize the death penalty with a lower frequency.

Much recent scholarship suggests that the shaming activities of HRINGOs impact the behavior of countries that are not friendly to human rights. Risse and Sikkink (1999) argue that HRINGOs conduct two important functions. First, and as described above, HRINGOs help to shape the global agenda for human rights by building models and setting the issues that are of concern to the global human rights regime. In effect, they

establish and focus the attention space for human rights. Second, HRINGOs globally publicize states' abuse of human rights (Welch 2001). This process of advertising human rights abuses forces other citizens, organizations, and governments to "bear witness" to the violations of the infracting government. The intention here is that this strategy will lead the "witnesses" to levy external coercive pressure upon infracting states, which will thereby engender an improvement in behavior. Not only do shaming events like these bring the infraction to the attention of both the global community and the offending state, but they also highlight the "correct" behavior. As such, these events place pressure on the states in question to change their practices, and also provide the world cultural manifest to improve their respect for human rights. Indeed, Murdie and Davis (2012) find that human rights shaming events positively impact infracting states' human rights performance, particularly for those countries that are highly immersed within world society.

Checks on governmental authority and the separation of powers are crucial to the development and protection of freedom in a country (La Porta et al. 2004). Integral to these protections is the absence of governmental coercion (Hayek 1960). Governmental corruption and coercion, particularly in the Western style democracies, are typically delimited by the introduction of checks and balances in the form of a separation of powers in the formal structures of the state (Staton and Moore 2011: 561; Alt and Lassen 2003). Checks and balances require that the different branches of government share power, and can – in particular circumstances – prevent the opposing branches of governments from taking certain actions. For example, judicial independence means that the executive is not able to manipulate the machinations of justice toward certain ends

that are likely to be unfavorable to advancement of freedom. Hayek (1960) and Buchanan (1974) argue that judiciaries independent of the executive are more likely to impartially adjudicate cases and administer justice objectively. To this end, La Porta et al. (2004) find that judicial independence is positively related to respect for human rights and individual freedom (458). Thus, if countries with high levels of judicial independence are more likely to respect human rights and individual freedoms, and the death penalty is a central human rights concern, then countries with higher levels of judicial independence should be less likely to utilize the death penalty. Judicial independence should decrease the countries' execution rates.

Scholars have long argued over the relationship between population size and the potential distribution of resources in a country. Some research suggests that larger populations create scarcity and increase competition. Increased scarcity and competition can translate into emotional distress and can also lead to limited access to and deprivation of important resources (Henderson 1993). Henderson (1993) argues that these "population pressures" destabilize governments and frustrate their attempts to distribute resources efficiently. As such, country populations may be more likely to organize, demonstrate, and rebel against governmental authority. States in these conditions are more likely to repress human rights both to consolidate order and to distribute the available resources (Poe and Tate 1994; Poe et al. 1999; Hafner-Burton and Tsutsui 2005). It could be argued that countries with large populations, those experiencing Henderson's "population pressures", should thereby also be more likely to use the death penalty as a form of political control. Since large populations increase scarcity, competition, and the chances for civil unrest, states managing these "population



pressures” will be more likely to use the death penalty to consolidate order, discourage conflict, and establish governmental control.

## **Hypotheses**

I develop hypotheses to test important components of my global perspective. In so doing, I address both the global and national implications of my argument. I categorize my hypotheses accordingly.

My argument above concerning INGOs suggests that INGOs should decrease the practice of the death penalty at both the global and national levels. Globally, INGOs help to establish and diffuse a world culture that emphasizes universalistic models that privilege the individual. These two activities should place downward pressure on the number of countries utilizing the death penalty in a given year. Nationally, INGO memberships signal a country’s immersion within these world cultural scripts, and serve as a proxy for the world cultural penetration of a national society.

Hypothesis 1a – Higher global counts of INGOs should decrease the number of countries using the death penalty.

Hypothesis 1b – Countries with more INGO memberships should have lower execution rates.

HRINGOs more actively aim to articulate and enforce the rights of the individual. This self-conscious drive to develop and diffuse models for the care and protection of the individual mean that HRINGOs should also carry their own impact on the use of the death penalty worldwide.

Hypothesis 2 – Higher global counts of HRINGOs should decrease the number of countries using the death penalty.

Human rights documents provide the legal architecture for the protection of human rights. Many of these documents are formal human rights treaties that monitor compliance upon signature and ratification. Other documents, like the UDHR, are the touchstones for the global moral order, helping to establish the global legal foundation for human rights.

Hypothesis 3 – Higher global counts of human rights documents should decrease the number of countries using the death penalty.

In particular, one major human rights document explicitly targets the death penalty from a global perspective. This document is the Second Optional Protocol to the ICCPR, and was adopted by the UN in 1989. This protocol builds abolition of the death penalty into a central document of the International Bill of Human Rights. It is therefore significant because it incorporates abolition of the death penalty into the global human rights regime.

Hypothesis 4 – The Second Optional Protocol's boost to the global abolition movement should decrease the number of countries performing an execution.

The final three hypotheses operate at the national level, and assess countries' human rights performance in two ways. First, countries' with a high degree of respect for human rights should be less likely to undertake the destruction of the individual, regardless of the context. Second, countries cited by HRINGOs for human rights violations experience external pressure to improve their record that should translate into their improved care of the individual. In other words, shaming events should impel countries to implement better human rights practices. Third, countries that are more

connected to world society (cf. hypothesis 1b) are more fully immersed within the world culture that sponsors individual rights and freedoms (Murdie and Davis 2012). As such, shaming events should particularly impact these countries.

Hypothesis 5a – Countries with high levels of human rights respect should have lower execution rates.

Hypothesis 5b – Countries experiencing more shaming events should have lower execution rates.

Hypothesis 5c – Shaming events should more strongly decrease the execution rates of countries with strong ties to world society.

## **Data and Method**

### **Dependent Variables**

Data on the use of the death penalty come from Simon and Blaskovich (2002) and Amnesty International. Together, these sources provide measures on two dimensions of the use of the death penalty over time. First, Simon and Blaskovich (2002) and Amnesty International detail information on the use of the death penalty from a global perspective. In this measure, I count the number of countries using the death penalty in a given year from 1980–2010, which provides a global picture on how pervasive the use of the death penalty is in a given year. Second, I constructed a data set on states' use of the death penalty from 2007–2010; the data set includes any country that has not legislatively abolished the death penalty, which makes for a total of 91 countries. Amnesty International provides yearly information on the use of the death penalty at the national level<sup>9</sup>. While Amnesty has tracked these data for some time, the organization has only

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<sup>9</sup> De facto abolishers have not formally abolished the death penalty, but haven't used the punishment for 10 or more years. I ran the analyses below with and without these cases.

made national execution data regularly available since 2007<sup>10</sup>. These data provide an opportunity for a more contextual analysis of the determinants of states' use of the death penalty<sup>11</sup>. Together, these two variables describe a comprehensive picture of the use of the death penalty throughout the world.

Table 5.1 describes the distribution of the national execution data, providing information on the minimum value, the maximum value, the mean, and the number of countries not using the death penalty for each year in the data. I calculate the national execution mean for each year both with and without China. I also exclude China's figures from the calculation of maximum values. Doing so facilitates interpreting the distribution of the yearly execution rates. The minimum execution rate for each year is 0; indeed, the

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The results did not differ. As such, I retain observations for de facto abolishers in the analyses on national execution rates below.

<sup>10</sup> To my knowledge, this is the first cross-national analysis of execution behavior. Thus, despite the uncertainty of the execution rate data, I hope this study will impel better reporting of the data and increase scholarly attention to the use of the death penalty.

<sup>11</sup> As mentioned above, Amnesty attaches some uncertainty to these cross-national execution data. In some cases, Amnesty states that the figure reported for a given country and year is simply their best estimate for that country's execution behavior, one that should be interpreted as only a minimum value. These figures are drawn from the executions that could be confirmed via national media, systems of accounts, or another independent party. The uncertainty associated with Amnesty's execution data is clearly driven by how open a particular government is. For example, the execution rates for China, Egypt, Iran, Iraq, Libya, North Korea, Pakistan, Saudi Arabia, Sudan, Syria, Vietnam, and Yemen are highlighted by Amnesty as being the most uncertain. While these comprise only a small proportion of countries that haven't yet abolished the death penalty, they do nonetheless account for the vast majority of executions worldwide each year. Thus, the uncertainty associated with these execution rates is somewhat problematic. Accordingly, I ran the analyses below with and without these countries. Though these results did not differ (except for the coefficient for democracy, which falls out of significance), the results I present should be regarded as preliminary and exploratory. This observation is especially true because these are the very countries I ultimately want to examine; thus, I retain these countries in the analyses and results presented below. Ultimately, I would like to develop a model to estimate countries' execution rates in the cases that Amnesty marks with uncertainty and rerun my analyses to check for the robustness of my findings in previous models.

majority of countries in the data do not commit an execution in a given year. As such, the median execution rate for each year is 0. The maximum value (excluding China) ranges from 252 and 388. Yearly mean values (excluding China) are all fewer than 10, ranging from 5.89 to 8.89. Overall, table 5.1 documents that the use of the death penalty is relatively rare, even amongst countries that have not yet abolished the punishment. Most of the executions that occur in a given year must occur in a relatively small number of countries, an observation that follows from the right-most column.

	Minimum	Maximum	Mean (with China)	Not Executing
2007	0	317	8.89 (14.01)	67
2008	0	346	7.49 (26.29)	66
2009	0	358	7.93 (29.82)	72
2010	0	252	5.89 (28.04)	67

### Independent Variables<sup>12</sup>

*INGOs.* Data on INGOs come from the Union of International Associations (UIA). The UIA publishes an annual yearbook that details the number of distinct INGOs worldwide, and also provides data on the number of citizen memberships to distinct INGOs in a given country per year (Union of International Associations 1980–2009). In both the global and national analyses, I repeat the value of 2009 in 2010 so that no missing data are present. This strategy is conservative given that the global count of INGOs generally increases from year to year. I take the natural logarithm of this variable

<sup>12</sup> Missing data are not a major issue in these data. Specifically, the data used for the model on national execution rates is only  $\approx 4\%$  missing. In these cases, I replaced missing values with the variables' respective means or medians, with the sole exception being for INGOs. While this strategy is not particularly sophisticated, I ran the models with and without mean replacement and found no substantive difference in the results. Thus, I use this strategy to maximize the number of observations from which the estimates are drawn.

in the model for national execution rates to accommodate for skew in the distribution of these data.

*Global Human Rights Regime.* Data on the global human rights regime come in three different forms. Data on HRINGOs come from Brewington (2005), who records information on the global count of HRINGOs from 1980–2001. Elliott (2011) provides data on the global count of human rights documents from 1980–2003. As these data are missing after 2001 and 2003, respectively, I repeat the values recorded in the final year of the data. Again, this strategy is overly conservative because both measures are strictly increasing over time. Last, I code 2 years prior and two years after the UN adopted the Second Optional Protocol to the IC- CPR (United Nations 1989), and include this measure in the global analysis. This coding captures the impact of this document upon world society. All together, these data provide a global picture of the human rights regime from 1980–2010, and allow me to distinguish between the impact of model-building and advocacy behavior on the use of the death penalty worldwide.

*Human Rights Respect.* Data on countries' human rights respect come from the Cingranelli and Richards (CIRI) Human Rights Data Project (Cingranelli and Richards 2010). CIRI measures states' respect for citizens' physical integrity along three dimensions: torture, extrajudicial killing, political imprisonment, and disappearance throughout the period in question. The scale for these data ranges from 0–8, with 0 equaling no respect and 8 equaling full respect.

*Human Rights Shaming Events.* Human rights shaming events data come from Murdie and Davis (2012). Murdie and Davis (2012) construct an event variable that details when an HRINGO directs criticism to an infracting government (cf. Murdie and

Davis 2012: 5). The result is a measure that tallies the number of human rights shaming events occurring in a given country per year. I lag this variable one year since shaming events are often reactive, signaling that shaming events targeting human rights violations this year should have a positive impact on human rights performance in the following year. Moreover, including this measure in the national model allows me to differentiate between the effects of INGOs' model-building and shaming activities on national execution rates.

*Democracy.* I use two measures for democracy, one for the global model of countries executing in a given year, and another for the national model on execution rates. Both measures come from the Polity IV data set (Marshall et al. 2010). For the national model, I use Polity IV's measure of democratization, which provides a scale ranging from high autocracy (-10) to high democracy (10) for the years 1800–2010. Higher scores on this variable indicate higher levels of democracy. In the global analysis, I count the number of democracies in a given year from 1980–2010. I define democracy for the purposes of this measure as any country rated a 6 or greater in a given year.

*Post Cold War.* I code a 1 after the collapse of the Soviet Union in 1991 to control for the end of the Cold War. All other years are given a 0.

*Economic Development.* I implement two measures for economic development. Both are drawn from the World Bank's World Development Indicators (World bank 2012). The first measure – global gross domestic product (GDP) – is applied to the global model for the number of countries committing an execution in a given year. Global GDP is measured in tens of trillions. The second measure tracks countries' GDP per capita. I

take the natural logarithm of this measure in the model for national execution rates to accommodate for skew in these data.

*Population.* Country population is also coded from the World Bank (World bank 2012). I take the natural logarithm of this variable to accommodate for skew in these data, and apply it to the model for national execution rates.

*Judicial Independence.* My measure for judicial independence comes from the CIRI data set (Cingranelli and Richards 2010). The data are coded on a scale from 0 to 2. ‘0’ signifies a lack of judicial independence. A ‘2’ signifies a generally independent judiciary.

## **Method**

The chapter utilizes two models to analyze how the death penalty is used throughout the world. The first model analyzes factors that impact the number of countries committing an execution in a given year from 1980–2010. The second model analyzes factors that impact countries’ use of the death penalty from 2007–2010.

### *Number of Countries Executing, 1980–2010*

The first model is given as:

$$\hat{y}_i \sim \text{Poisson}(u_i \lambda_i, w)$$

$\hat{y}_i$  is the number of countries committing an execution in a given year and is Poisson distributed with  $\lambda_i$  as the rate parameter for each year.  $i$  signifies each year from 1980–2010.  $u_i$  is an exposure parameter that is entered into the model as data. These data serve as a baseline and are the count of how many countries that could possibly commit an execution in a given year; i.e., this count is the number of countries that haven’t yet



abolished the death penalty. I take its natural logarithm to formulate an offset (Gelman and Hill 2007: 111–112).  $w$  is an overdispersion parameter that adjusts for the Poisson regression assumption that the variance equals the mean.

$\lambda_i$  is estimated as:

$$\lambda_i = e^{\alpha + \beta_1 x_{1i} + \beta_2 x_{2i} + \beta_3 x_{3i} + \beta_4 x_{4i} + \beta_5 x_{5i} + \beta_6 x_{6i} + \beta_7 x_{7i}}$$

I estimate  $\lambda$  by exponentiating the above equation to avoid estimating values of  $\lambda < 0$ .  $X_{1i}$ – $X_{7i}$  are variables representing data for INGOs, HRINGOs, human rights documents, the Second Optional Protocol to the ICCPR, the number of democracies per year, the GDP of the world measured in tens of trillions, and the years after the Cold War respectively.  $i$  ranges from 1980–2010.  $\alpha$  is the equation's baseline intercept, and the  $\beta$ 's are the model's coefficients relating the variables to the outcome.

#### *National Execution Rates, 2007–2010*

I estimate national execution rates using an overdispersed multilevel Poisson regression similar to the model described by Gelman and Hill (2007) (325–331). The model is given as:

$$\hat{y}_{it} \sim \text{Poisson}(\lambda_{it}, w),$$

$\hat{y}_{it}$  is the number of executions country  $i$  performs in year  $t$ .  $\lambda$  is the Poisson rate parameter for country  $i$  in year  $t$ .  $i$  marks each of 91 different countries in the data set, and  $t$  marks each year from 2007–2010. Once again,  $w$  is an overdispersion parameter that adjusts for the Poisson regression assumption that the variance equals the mean.

$$\lambda_{it} = e^{\alpha + \alpha_{jit} + \alpha_{kit} + \beta_1 x_{1it} + \beta_2 x_{2it} + \beta_3 x_{3it} + \beta_4 x_{4it} + \beta_5 x_{5it} + \beta_6 x_{6it} + \beta_7 x_{7it}},$$

As in the model above,  $\lambda_{it}$  represents the Poisson rate parameter for each country-year. The rate parameter is estimated from seven independent variables: with  $X_{1it}$ – $X_{7it}$  representing data for INGOs, human rights respect, human rights events, democracy, GDP per capita, population, and judicial independence<sup>13</sup>. The  $\alpha$ 's are the intercepts of the model.  $\alpha$  is the overall intercept,  $\alpha_{jit}$  is the year-varying intercept, with  $j$  ranging from 1 to 4 for each country-year observation, and  $\alpha_{kit}$  is the country-varying intercept, with  $k$  ranging from 1 to 91 for each country-year observation. These latter two parameters accommodate for temporal and spatial variation not accounted for by the data entered into the model. The  $\beta$ 's are the coefficients that relate the respective independent variables to the outcome.  $\beta_{3kit}$  is the country-varying coefficient relating human rights shaming events to execution rates. It is designed to test hypothesis 5c, which argues that countries with greater ties to world society should be more strongly impacted by human rights shaming events.

## Results and Discussion

Figure 5.3 plots the fit for the global model on the number of countries committing an execution per year. The predicted number of countries is plotted a solid black line, the observed number are plotted as empty points, and the 95% confidence is plotted as two dashed red lines. Overall, the model fit is fairly good; the predicted

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<sup>13</sup> I also ran models controlling for countries' levels of homicide, engagement in violent political conflict, a dummy variable for whether or not the country was predominantly Muslim. Data on homicide came from the United Nations Office on Drugs and Crime (United Nations Office on Drugs and Crime 2011), data on conflict came from the Major Episodes of Political Violence data set (Marshall 2010), and my measure for predominant religion came from the World Christian Database (World Christian Database 2008). The inclusion of these variables did not alter the main substantive findings. Thus, I do not report models with these data included for the sake of parsimony.

number of countries using the death penalty in each year is close to the actual number. Furthermore, the uncertainty associated with the model fit is relatively low.

Table 5.2 presents the results from the first model. Variable names are in column 1, coefficient estimates in column 2, standard errors in column 3, and 95% confidence intervals are presented in column 4. Confidence intervals indicate the degree of certainty that should be attached to the coefficient estimates<sup>14</sup>. The confidence intervals for the coefficients of INGOs, HRINGOs, human rights documents, the second optional protocol, and democracy all stay to one side of 0, indicating a high degree of certainty associated with these estimates. The intervals for the remaining coefficients cross 0, and so the direction of their effect is harder to pinpoint.

	Coefficients	(Standard Errors)	[95% Confidence Interval]
Intercept	-2.80	(0.43)	[-3.64, -1.97]
INGOs	0.0003	(0.0001)	[0.0001, 0.0005]
HRINGOs	0.004	(0.001)	[0.002, 0.006]
HR Documents	-0.004	(0.002)	[-0.007, -0.0006]
ICCPR2	-0.279	(0.106)	[-0.487, -0.071]
Democracy	-0.018	(0.007)	[-0.031, -0.004]
Cold War	-0.336	(0.221)	[-0.767, 0.097]
World GDP	-0.007	(0.006)	[-0.019, 0.005]

The direction of the coefficients for INGOs and HRINGOs run counter to their projected directions in hypotheses 1a and 2. These findings indicate that increases in these two variables are associated with higher counts of countries using execution in a given year. I discuss these findings in greater detail below, and discuss them more immediately after my introduction to the impact of human rights documents.

<sup>14</sup> I elect to report confidence intervals rather than p-values. Regardless, the 95% confidence interval I report corresponds roughly to a p-value of  $\leq 0.05$ .

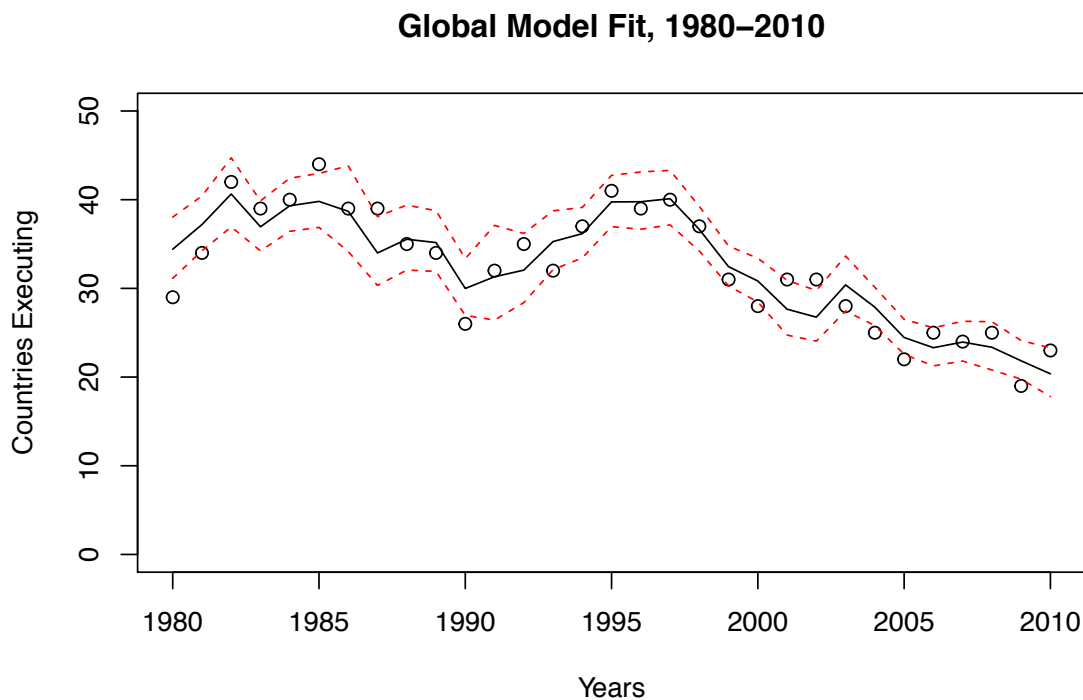


Figure 5.3: This figure plots the model fit for the model predicting the number of countries using the death penalty from 1980–2010. The predicted number is plotted as a solid line, the observations are plotted as open points, and the 95% confidence interval is plotted as two dashed red lines.

Human rights documents in general, and the second optional protocol in particular, impacts the global count of executing countries in the expected direction. That is, increases in the count of human rights documents are associated with decreases in the yearly count of countries utilizing the punishment. In particular, the years surrounding the second optional protocol are associated with an  $\approx 24.34\%$  decrease in the global count of executing countries<sup>15</sup>. Thus, I find evidence in support of hypotheses 3 and 4.

The tension between these two potentially opposing findings can be addressed by differentiating the effects of model building and advocacy/shaming at the global level<sup>16</sup>.

<sup>15</sup> This figure is calculated as:  $100 * (e^{-0.279} - 1)$ .

<sup>16</sup> It is possible that this finding is an artifact of multicollinearity. Indeed, variance inflation factors (VIF) indicated that multicollinearity was an issue for this model.

That is, these findings suggest that the model building of human rights documents works differently than the advocacy and shaming activity of organizations at the global level. Human rights documents help to develop a global legal framework for the protection of human rights. This framework develops the moral terrain of world society and also provides the structure for countries to formally commit to the values outlined by global human rights jurisprudence. The models developed by human rights documents – representing both ratifiable and non-ratifiable documents – serve to decrease the number of countries that are using the death penalty in a given year. The advocacy behavior of INGOs and HRINGOs, on the other hand, work in the opposite direction<sup>17</sup>. This result makes some sense considering that these activities explicitly target human rights violations. In other words, INGOs propagate to address and diminish human rights violations. Though this point possibly introduces the specter of reciprocity between the independent variable and the dependent variable, it is nonetheless sensible to expect greater INGO formation and activity when human rights violations – i.e., the count of countries executing – increase<sup>18</sup>.

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Appendices E and F presents correlations matrices for the models run in this chapter. Table E documents a high degree of correlation across almost all variables in the global model. Results from this first model should be interpreted cautiously. Table F, however, exhibits tolerable levels of multicollinearity between variables in the model for national execution rates. Moreover, stepwise entry of each variable into this latter model revealed that coefficient estimates were stable; coefficient magnitudes did not vary great and signs did not change at all.

<sup>17</sup> INGOs are certainly related to the development of world cultural models, but this activity is not the sum of their behavior. Indeed, INGOs focus much of their efforts on actual advocacy. Running the model with global documents and organizations separated allows for me to distinguish between these two sets of effects.

<sup>18</sup> It's also important to note that this model works only with global data, and thus misses important cross-national variation. I discuss analyses on national level execution data below.

Figure 5.4, shows the impact of the global count of human rights documents and the number of democracies. I calculate the probability of the global count of executing countries being greater than a low (27), medium (32), and high (39) sum given a series of values for  $\lambda$  generated by the model; these sums are the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quartiles of the observed counts of countries executing from 1980–2010. Values for  $\lambda$  were calculated by allowing both human right documents and democracy to increase across their respective ranges while all other variables were held constant at their means or medians. Thus, this figure shows that increases in both human rights documents and democracy strongly diminish the probability that the global count of executing countries will be greater than low, medium, and high levels of global execution. For example, as human rights documents reach their highest global levels, the probability of having a count greater than 27 (i.e., a low count of executing countries) is less than 40%. This finding suggests that the models written into the legal architecture for human rights exert an important depressing influence in the sum of countries using the death penalty worldwide.

Figure 5.5 plots how well the model for national execution rates performs.  $y$  (the observed execution rate) -  $\hat{y}$  (the predicted execution rate) is plotted on the ‘y-axis’, and the observation number is plotted on the ‘x-axis’. That is, figure 5.5 plots how close the predicted value for each country-year observation is to the observed value. These differences are plotted as vertical gray bars; the black line traces a horizontal line at 0 to indicate no difference – perfect prediction. The model underestimates  $y$  when the bars are above the horizontal line, and overestimates  $y$  when the bars are below. As the figure shows, the overdispersed model fits the data well.

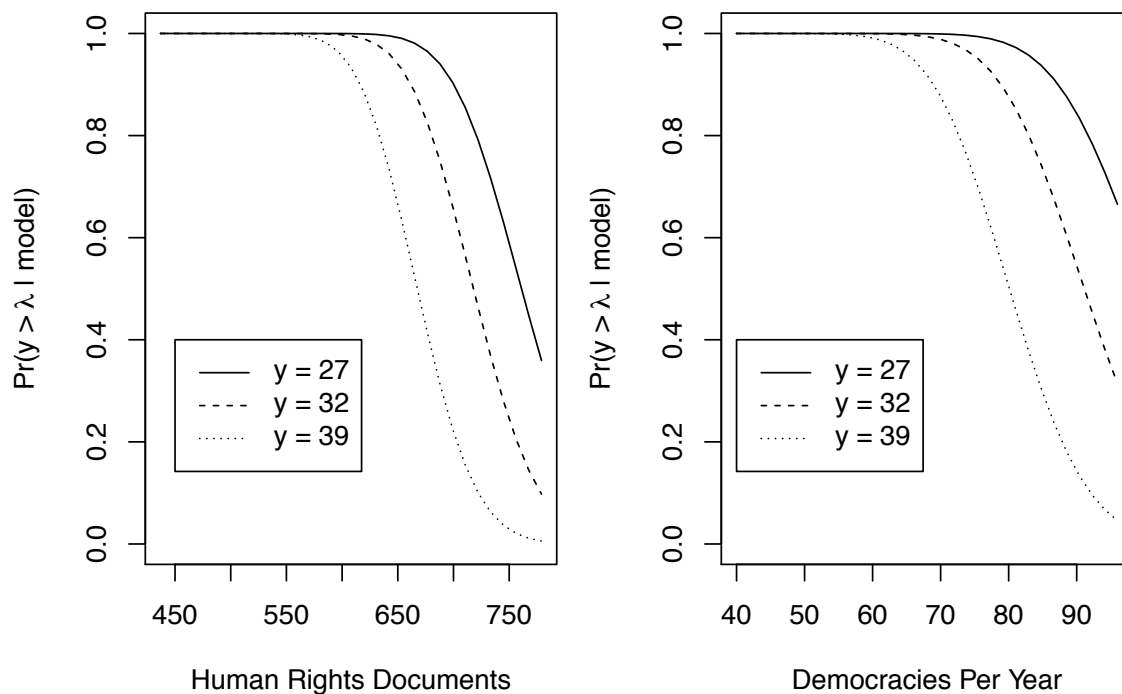


Figure 5.4: This figure plots the probability that the number of countries committing an execution in a year will be greater than a low, medium, and high count given the model. Values for  $\lambda$  were constructed by allowing human rights documents (left) and democracy (right) to progress through their respective ranges. Low, medium, and high levels of  $y$  were defined as the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quartiles of the observed counts of countries executing from 1980–2010.

Table 5.3 organizes the model’s predictive accuracy more specifically. The model overestimates  $y$  by 1 20 times ( $\approx 5.5\%$ ), predicts the outcome perfectly 314 times ( $\approx 86.5\%$ ), underestimates the outcome by 1 27 times ( $\approx 7.4\%$ ), and by 2 1 time ( $\approx 0.3\%$ ).

	-1	0	1	2	Total
Count	20	314	27	1	363
%	$\approx 5.5\%$	$\approx 86.5\%$	$\approx 7.4\%$	$\approx 0.3\%$	$\approx 100\%$

The model’s accuracy is greatly aided by the overdispersion parameter included in equation 3 above. This parameter adds flexibility to the structural component of the model. It adds a stochastic parameter that helps the model cover the distance between

what is included in the model and what is not. Taking into account this variation that is not incorporated directly into the model as data, then, generates the model's coefficients. Thus, the overdispersion parameter not only helps the model to perform better, but it also helps to build more confidence into the estimates for the variables included in the model.

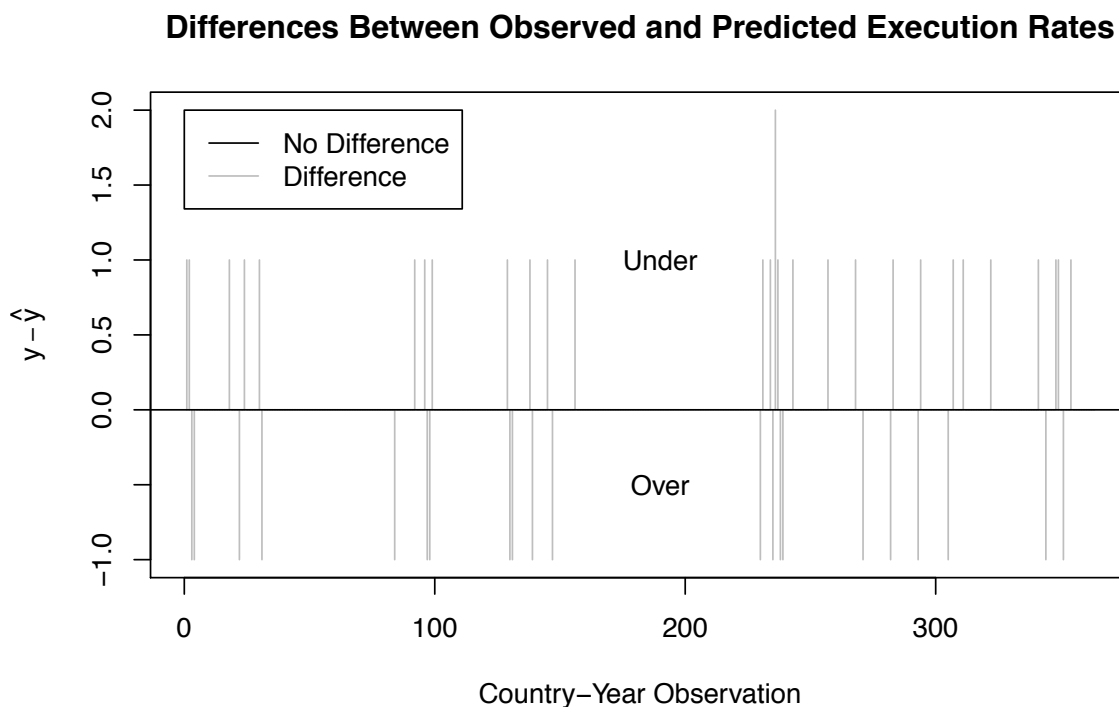


Figure 5.5: This figure plots the observed rate of national execution ( $y$ ) minus the predicted rate of national execution resulting from the overdispersed multilevel Poisson regression model ( $\hat{y}$ ). Differences are plotted vertically as gray bars; bar heights correspond to the magnitude of the difference between the actual value and the predicted value. The horizontal black line shows the baseline comparison, which is no difference; i.e., the observed and predicted values match.

I report preliminary results on the model predicting national execution rates in table 5.4<sup>19</sup>. Like the table above, variable names are in column 1, coefficient estimates in column 2, standard errors in column 3, and 95% confidence intervals are presented in column 4.

<sup>19</sup> As indicated above, these results should be interpreted with some restraint.



Table 5.4 provides support for hypothesis 1b concerning the impact of INGOs upon national execution rates. More INGO memberships in a given country are associated with a lower national execution rate; greater ties to world society lead to less use of the death penalty. Indeed, this finding is fairly robust, as indicated by the 95% confident interval. Holding everything else constant, a one-unit increase in the number of INGO memberships in a given country is associated with an  $\approx 74\%$  decrease in the rate national execution rate<sup>20</sup>.

	Coefficients	(Standard Errors)	[95% Confidence Interval]
Intercept	-24.965	(5.454)	[-35.872, -14.056]
INGOs	-1.352	(0.638)	[-2.627, -0.077]
HR Respect	0.065	(0.179)	[-0.292, 0.423]
HR Events	0.114	(0.029)	[0.055, 0.172]
Democracy	-0.179	(0.065)	[-0.309, -0.049]
Jud. Ind.	-0.176	(0.613)	[-1.401, 1.049]
GDP per capita	0.646	(0.222)	[0.203, 1.09]
Population	1.495	(0.353)	[0.789, 2.202]

Hypothesis 5a does not receive support. Countries' level of human rights respect is unreliably related to their national execution rates. Hypothesis 5b is also not supported. Human rights shaming events were not found to be effective – in general – in lowering countries' national execution rates. To the contrary, these events were found to be positively related to higher levels of national executions rates. This finding, however, makes sense given that these events are initiated to target countries infracting human rights. Thus, countries that are persistently marked by higher levels of execution should

<sup>20</sup> The measure for INGOs was logged. Thus, the above calculation is based on a one-unit increase on the log-scale for INGOs. To interpret this variable on its original scale, we can say that a 1% increase in a country's INGO memberships is associated with an  $\approx 1.352\%$  decrease in that country's expected execution rate, holding everything else constant in the equation.

be targeted with more shaming events. For example, this result is certainly the case for countries like China, Iran, and the USA that Amnesty International frequently highlights as some of the most fervent practitioners of capital punishment. In these cases, shaming events are less likely to decrease national execution rates because the punishment is so firmly entrenched in these national penal cultures. An interesting further test of this finding would be to look at the long-term effects of shaming events upon countries' with high execution rates. It may be the case that these countries' execution rates are resistant to shaming events in the short-run, but are susceptible to decrease in cases of sustained shaming pressure.

Moreover, this finding for human rights shaming events accords with the findings suggested by the global model presented above. That is, this national model controls for both INGOs and shaming events. This distinction helps to distinguish between the effects of model-making and advocacy activity on the use of the death penalty. The INGOs variable more directly captures the model-making behavior of these organizations because the shaming events variable directly measures the advocacy behavior of INGOs. Like the global model presented above, I find evidence suggesting that the development of world cultural models protecting the individual are more impactful in delimiting the use of the death penalty than the shaming activities of these organizations.

Figure 5.6 examines the model's implications for hypothesis 5c, which argues that countries with more ties to world society should be more sensitive to human rights shaming events. The figure shows the relationship between countries' INGO memberships and their respective country-varying coefficients for the impact of human rights events on national execution rates. The dashed red line traces 0, or no effect. If

hypothesis 5c is correct, then coefficients for human rights events should decrease as the value for INGOs increases; even more strongly, these coefficients should become more *negative* as INGO memberships increase. I overlay a solid black line generated by the LOWESS smoothing function to examine the relationship between the INGOs variable and the  $\hat{\beta}$ 's quantifying the impact of human rights shaming events varying by country. Two items are notable: first, most of these coefficients are positive. This finding does not provide evidence for hypothesis 5b; shaming events are not associated with lower execution rates. Second, as the value for INGOs increases, the estimates for human rights coefficients decrease only slightly. Furthermore, though this relationship appears to be slightly negative, it does not appear that greater ties to world society are associated with stronger negative relationships between shaming events and execution rates. That is, HRINGOs' shaming activities do not more acutely suppress the execution rates of countries that are more strongly tied to world society.

Last, as in the global model above, democracy bears a strongly negative impact on the use of the death penalty. More democracy translates to less use of the death penalty. GDP per capita and population impact execution rates in the opposite manner. Higher levels of GDP per capita and population are both related to greater national execution rates. The findings for economic development run counter to the expectations presented above, but make more sense considering that population positively influences execution. More democratic countries use the death penalty less, while countries with larger populations and greater economic development use it more. Pooling these findings together suggests that autocratic countries with large populations and some economic development are more likely to utilize capital punishment as a form of political control.

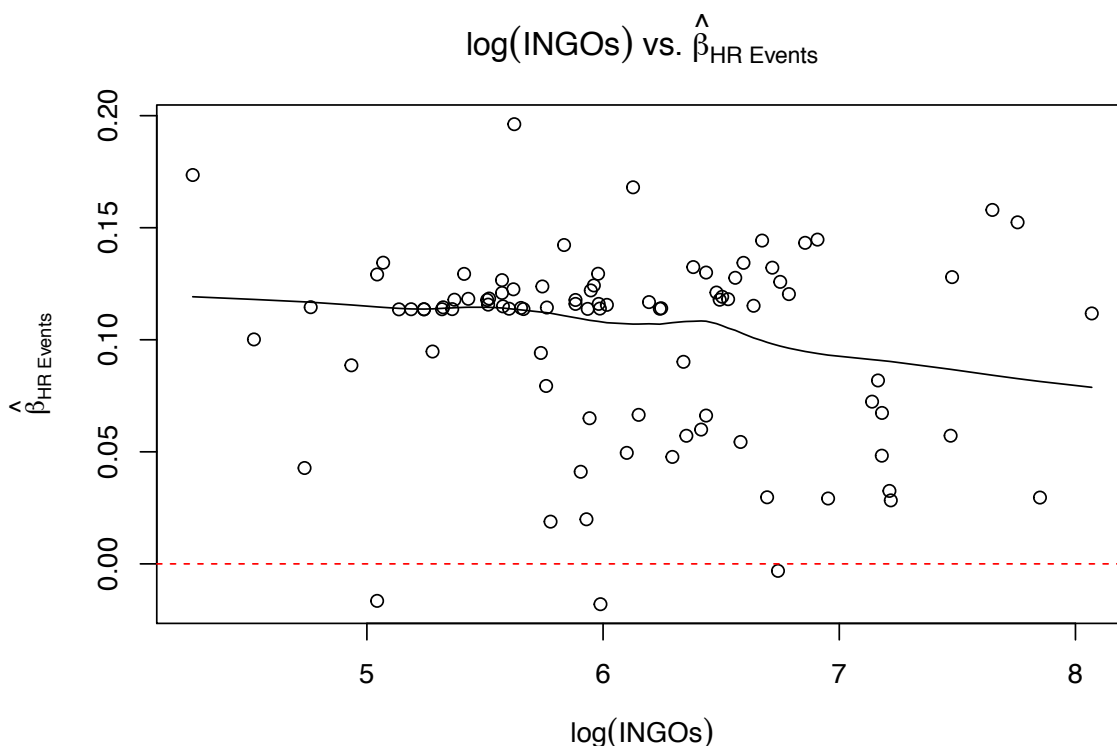


Figure 5.6: This figure plots the country-varying coefficients for the impact of human rights events as a function of the natural logarithm for INGOs. The red dashed line plots a 'zero effect', and the solid black line plots the LOWESS smoothing function, which helps to show the underlying relationship between these two values.

## Conclusion

The aim of this paper is to shed light on the global factors that implicate the use of the death penalty worldwide. To that end, I present preliminary findings on two issues related to the use of the death penalty over time. First, I conduct a global analysis of the number of countries using the death penalty from 1980–2010. Additionally, I examine the impact of both global and national factors in shaping states' execution rates. These two analyses represent a strategy that seeks to contextualize insights on how the global development of human rights shapes states' use of the death penalty. Below, I summarize the key findings presented in this chapter, outline the implications for theory, and then link them to future research agendas. In short, I find strong evidence that the practice of

the death penalty is strongly shaped by world culture, particularly the development of the global human rights regime.

The findings for INGOs' relationship to the use of the death penalty suggest a possible tension. At the global level, INGOs seem to be associated with a greater count of countries utilizing the death penalty in a given year. This finding was also the case for HRINGOs – HRINGOs are positively associated with more countries practicing the death penalty. Yet, at the national level, INGOs are associated with lower execution rates. How to resolve this tension?

Before answering, it's important to note the negative relationship between human rights documents – and the second Optional Protocol to the ICCPR – and the number of executing countries. Greater levels of global human rights documents translate into fewer countries practicing the death penalty in a given year. It is also important to remember that human rights shaming events were not found to have the expected negative relationship with national execution rates.

It is then possible to resolve the tension by noting that INGOs generate, carry, and enact world culture (Boli and Thomas 1999), which means that the variable for INGOs – at both the global and national levels – measures both the world cultural model building and shaming activity of these organizations. Accordingly, since the global model controls for the proliferation of human rights documents, which are not active sanctioning elements in world society and are more directly related to the construction of models for the care of the individual (Elliott 2011), the global measure for INGOs is more directly capturing their shaming activity. Likewise, since the national level model controls for HRINGOs' human rights shaming activities, the INGOs measure is more directly

capturing the world cultural model construction activities of INGOs. Thus, I find in both the global and national models that world cultural models and shaming activities bear differential impacts upon the use of the death penalty worldwide.

The models constructed, carried, and institutionalized by INGOs and human rights documents decrease the use of the death penalty. Meanwhile, the shaming functions performed by INGOs seem to be ineffective in mitigating of states' practice of capital punishment. This finding is at odds with other models for the impacts of human rights organizations. Most notably, Keck and Sikkink (1998) argue that HRINGOs comprise important components of the transnational advocacy network (TAN) that is able to levy pressure upon violators of human rights to implement positive change. I do not find evidence for this relationship in the context of the use of the death penalty. Instead, I find that the shaming activities of these organizations rise along with states' practice of the death penalty. This result makes sense given that these organizations proliferate to address such practices.

Two important, and related, theoretical implications follow from these findings. First, world cultural models and the shaming activities of global organizations do not impact the use of capital punishment in the same way. World cultural models bear more directly upon suppressing the use of the death penalty than do shaming activities, which appear to be more reactive to the death penalty's practice. Moreover, as I have shown in chapters 3 and 4, the development of these models seem to be more effective in promoting the global abolition trend and states' abolition of the death penalty. As such, it would behoove further studies to distinguish between these two features of global organization. Second, and in relation, this indicates that the normative power of world

culture is more effective in reducing the practice of the death penalty than the moral authority of global civil society – that is, the shaming activities of INGOs. In a sense, this result is intuitive given that the world cultural model for human rights is in fact the source of states' shame – if it is indeed felt – after being highlighted as violators of human rights by Amnesty International, for example. Such is the normative power of organizations like Greenpeace, whose impact is drawn not from its sanctioning authority, but is instead couched in its ability to direct world society's attention to the violation of consecrated world cultural values. These INGOs “create conditions that direct the actions of others within a world context” (Wapner 1996: 42). In effect, world culture operates as the gravity of world society. It establishes the common framework that shapes the trajectory, meaning, interpretation, and reaction to world society's various actors.

This study suggests three important areas of further research. First, further research should investigate the sources of high-executing states' practice of the punishment. My empirical survey of states' use of the death penalty revealed that an increasingly small minority of outlier countries most frequently uses the punishment. The vast majority of states use the death penalty either sparingly or not at all. My analysis suggests that some common features mark those countries that practice the death penalty most vigorously. Autocratic governance and Islam as the predominant religion seem to be related to countries' resistance to the impacts of the global sacralization of the individual in diminishing these national execution rates. A more in-depth analysis would help to elucidate the historical contingencies that shaped these countries' recalcitrance to the global abolition trend.

Second, more thinking, data collection, and testing need to be done to examine the relationship between world cultural models .....and shaming activities. What is the relationship between world culture and shaming activities? Given the reasoning presented above, it is possible that world culture is simultaneously the impetus and the source of shaming activity and experience. Put differently, violations of important world cultural principles evoke the moral outrage necessary for organizations to pursue shaming behavior. If shame is experienced, then it would also seem that world culture is the source of violators' shame. More work is needed to understand world cultural models are translated into potentially shameful behavior and effective shaming activity. For example, does the violation of all world cultural principles generate a similar moral response? Or, is there some sacred core that receives the most attention? On the side of states', what are the dynamics by which a state experiences shame? Do states' experience of shame depend upon national variation? For instance, are certain states immune to shaming activity? Is shame felt most acutely when certain world cultural principles are violated? These are some potentially fruitful issues to consider in the future.

Third, and as acknowledged throughout the paper, data on national execution rates are not ideal. While I made reasonable efforts to verify the robustness of my findings<sup>21</sup>, our faith in these results must be mitigated by the fact that Amnesty attaches a fair amount of uncertainty to their figures. Thus, it seems worthwhile to pursue a project that presents a methodological contribution to the analysis of uncertain data. While much research exists that examines the analysis of missing data, I am not aware of a

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<sup>21</sup> For example, my decision to run a global model on the number of countries using the death penalty in a given year was motivated by the fact that this count is far more certain than Amnesty's national execution rates.



comparable literature that provides the “best practices” for analyzing uncertain data. One potential strategy to pursue would be the development of a model that would simulate countries’ yearly execution rates based on some national characteristics and the certainty associated with the figure provided by Amnesty. For example, the execution data provided by Amnesty contains some country-year observations about which the organization is certain. In these circumstances, for example, the algorithm would not simulate a new value; however, in circumstances wherein Amnesty indicates that the reported figure is a minimum estimate, the chain would then simulate a new value based on the certainty – if any – associated with other figures in the data for that country and some national data that is indicative of execution, with the original data being the floor of the simulated estimate. It would then be possible to simulate a number of “fake data” sets that resemble the data provided by Amnesty, but vary insofar as the simulated estimates are always greater than or equal to the minimum figures reported by Amnesty. The next step would be to run my models on these data, saving the coefficients and standard errors from each model. I could then summarize the distribution of these coefficients and standard errors to examine the robustness of my models on the original data presented by Amnesty. If the distribution of the coefficients generated by the simulated data match the coefficients generated by the models of the original data, then this strategy would provide support for the findings presented here. As this task is fairly onerous and outside of the main goals of this chapter, I leave it to my future research.

## CHAPTER SIX

### Conclusion

The practice and use of the death penalty has dramatically changed throughout the past centuries. The sorts of punishments used, the spaces in which it was carried out, the number of crimes to which it was applicable, and the procedures by which it was administered were delimited in their own way. Countries in general withdrew from its practice, executing fewer and fewer prisoners, and also abolished the punishment in great numbers. Furthermore, global human rights documents and organizations targeting the abolition of the death penalty flourished throughout the 20th century, and continue to do so today. These historical trends suggest that the global landscape for the punishment dramatically changed throughout the 19<sup>th</sup>, 20<sup>th</sup>, and 21<sup>st</sup> centuries. What explains this vast restructuring of the legitimacy, legality, and application of the death penalty?

To gain purchase on this question, I decompose the issue into four related questions. First, how has the practice of the death penalty developed over time? I focus mainly on the historical and cultural conditions that structured past practice of the punishment and those that shape the contours of the death penalty today. Second, what is responsible for the global abolition trend? What factors are related to its genesis, and what forces have spurred its progression over time? These issues are integral to understanding how the death penalty became a central concern of world society, which helps to explain why countries are concerned with its abolition. Third, and in relation, what factors impel countries to abolish the death penalty or discontinue its practice? This focus is needed in order to understand the national contexts in which abolition of the death penalty occurs. Fourth, and finally, how do countries practice the death penalty in

the era of abolition? Analyzing the use of the punishment has been overlooked, with the majority of scholarly attention focusing on countries' legislative positions on the death penalty. Yet, it is important to understand the use of the death penalty as being more nuanced than simply abolished or not. Furthermore, my approach indicates that both countries' legislative positions and use of the death penalty are responsible to a broader world cultural environment.

I briefly review my findings below. In so doing, I reiterate my theoretical perspective. The historical development of the individual transmogrified it into a sacred totem of world society. This vision of individual sacrality was institutionalized into world society via the proliferation of the human rights regime. Global human rights documents rationalized the individual out of the mundane world into the highly scripted realm of the sacred. These documents also provided some of the global legal architecture for the protection and safeguarding of the individual. INGOs in general and HRINGOs more particularly, while related to the establishment of the global foundation for human rights, also carry out a unique function as world society's conscience collective (Durkheim 1984). In other words, these organizations self-consciously serve as world society's conscience, advocating on behalf of the disenfranchised and seeking to consolidate the prime world cultural values that constitute world society. Together, the two comprise the input and output system for the world cultural value for individual sacrality; human rights documents – and INGOs – provide the models that sanctify the individual, and INGOs package, deliver, and defend them worldwide.

## **Main Findings**

### **History of the Death Penalty**

My historical review of the death penalty revealed that the practice of the punishment has changed greatly over time. I divide this history into four parts. First, I review the practice of the death penalty. Over time, the number of crimes to which the penalty was applied greatly declined. This trend was noted in England, Germany, and Sweden<sup>1</sup>, and it is certainly the case for the greater portion of the Western world, especially when one takes a long view of the death penalty's historical practice. The array of methods used to carry out the death penalty was also significantly diminished throughout history. These methods also became less garish and were increasingly humanized. Capital punishment's administration has also been increasingly bureaucratized, at least insofar as the practice of the penalty is now the province – most typically – of the state. This latter trend also marks the general retreat of the punishment from the public sphere, with all but a very few states practicing the death penalty away from the public eye. These trends demonstrate that the historical development of the death penalty has been transformed through a process of rationalization, secularization, and civilization. Its practice has been gradually codified and systematized. As a punishment, it is largely no longer the province of symbolic public theater; its implementation has been formalized as the sober business of the state. Many of the states retaining the death penalty delimit their execution methods to those that minimize suffering and are the least bloody. What explains these developments?

The second component of my review of the history of the death penalty seeks some purchase on this question, and turns to the relationship between religion and the death penalty. This focus is sensible because the death penalty has been strongly related

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<sup>1</sup> This trend is also noted for Michigan.

to the maintenance of the moral order or the placation society's God(s) (Barnes 1930). I follow Collins's (1997) typology of world religions, and focus on Buddhism, Christianity, and Islam. I focus on these religions because they offer universal ethics designed to proselytize the entire world. Accordingly, these religions have provided all-encompassing moral orders that are intended to describe and apply to all of creation regardless of faith or denomination. Such universal ethics breakdown social barriers that stratify people along the lines of kin, class, race, or creed and unify all under a common banner of moral meaning (Collins 1997: 848). In my review of these religions, I find that each provides a universal ethic that sanctifies the individual via some connection to God or some sacred principle. In other words, these religions generated unique platforms for the development of a religious humanism that sees human life as intrinsically sacrosanct by virtue of its relationship to the deity. Nonetheless, while these religions generated universal ethics, these ethics are limited by their attachment to the articles of faith that generated. Moreover, these ethics are grounded in theologies that are often contradictory and in competition with each other. As such, though these religious perspectives helped to found the idea of individual sacrality, they were not enough to sustain the notion alone. Self-contradictory scriptures and competing dogmas limited these religions' capacity to generate a lasting movement to abolish the death penalty worldwide.

Third, I review the Enlightenment as capitalizing on and contributing to this universal ethic for individual sacrality. What distinguished the Enlightenment, however, was its focus on the use and application of reason and logic to all facets of life. This focus furnishes a secular moral logic, a secular universal ethic. The secularization of the universal ethic for individual sacrality meant that the justification for individual sacrality

could be defended on its own terms. That is, Enlightenment thinkers – through the exercise of reason – purported to have uncovered the intrinsic properties of the individual that made it inviolate, and as such were unimpeachable regardless of religious doctrine. This secular foundation for the individual helped to establish the platform for the development of a universal set of human rights (Ishay 2004). Moreover, these developments bore significant implications for the practice of punishment. Baron de Montesquieu's 1777 *The Spirit of Laws*, for example, famously argued that the proper administration of justice required that punishments were scaled to the severity of the crime. Montesquieu's argument for parity between crime and punishment is intended to remove the caprice in criminal sentencing in the hopes of achieving just and reliable outcomes. Beccaria (2008) utilized a similar line of rational thought to conclude that the death penalty was opposed to the social contract that warranted the formation of the state. Thus, both thinkers represent a particularly Enlightenment style of thought, a mindset that emphasized the methodical application of rational thought to the realization of specified goals. This method, similar to Weber's rationalization (Weber 1930) and Ellul's *la technique* (Ellul 1964), reflects a specific attitude about how to achieve the good society. Ultimately, this world-view of the individual and its associated method of thought were institutionalized as the zeitgeist of modern abolition movements.

Fourth, Beccaria's *On Crimes and Punishments* (2008[1764]) made an indelible mark upon early movements to abolish the death penalty. The salience of his arguments for these abolition movements in many countries helps to demonstrate how the rational argument against the death penalty particularly captured the spirit of the times. Moreover, his argument underscores the secular basis of the individual's sacrality that I argue was

formulated throughout the Enlightenment. As a result, movements to delimit and/or completely abolish the death penalty emerged throughout Europe and the New World shortly after Beccaria's seminal text (Schabas 2002; Reggio 1997; Masur 1989; Gorecki 1983; MacKey 1975; Post 1944). Leaders of these movements were often directly motivated and moved by Beccaria's work. Latin America's early abolition of the death penalty activities during the middle 19<sup>th</sup> century were related to the circulation of Beccaria's ideas, and further helped to institutionalize the secular basis for the individual's right to life within actual legal institutions. Schabas (2002) also notes that these early abolishers helped to inject this vision for the individual into the global discourse on human rights. Ultimately, the UDHR enshrined the right to life as a first principle for the individual, a document that operates as the touchstone for the global human rights regime. This right to life has been expanded upon in other important and ratifiable human rights documents like the ICCPR. These issues are central to my first empirical chapter.

### **Changepoint Model for Abolition of the Death Penalty**

Chapter 3 examines the origins and development of the abolition of the death penalty trend in explicitly global terms. In this chapter, I model the global abolition of the death penalty rate per year from 1863 through 2007. This approach brings into focus two issues fundamental to understanding the 20<sup>th</sup> century trend. First, my global analysis highlights the global nature of the abolition trend, and seeks to understand how the development of the global human rights regime contributed to the growth of the global abolition trend. I find that the relationship between human rights institutionalization and the global abolition rate is marked by three epochs. Each epoch is characterized by a

positive relationship between human rights institutionalization, but to varying degrees. 1863 – 1949 is marked by a weakly positive relationship, the strongest impact for human rights occurs between 1950 and 1977, and the relationship for human rights and abolition between 1978 and 2007 falls between those of the previous two periods. Second, my changepoint model for the global abolition rate revealed that the global abolition trend underwent a massive transformation in 1978 such that abolition of the death penalty became a much more common occurrence. I find evidence suggesting that the timing of this change in the global abolition rate coincided with Amnesty International's Nobel Peace Prize, which I argue symbolizes the moment in time wherein the movement against the death penalty became firmly ensconced with the more legitimate world cultural framework for human rights. Furthermore, the location of the changepoint helps to make sense of the finding that the relationship between global human rights institutionalization and the global abolition rate is strongest during the years 1950 – 1977. These are the years during which the principle foundations for the global human rights regime were laid. In theoretical terms, the central elements of the individual's sacrality were scripted and institutionalized during this period. For example, the ICCPR (United Nations 1966) (entering into force in 1976) highlighted the death penalty as a revocation of the individual's right to life, and otherwise focused on developing more human models of criminal rehabilitation. As such, it located the death penalty as an important human rights concern. Moreover, this period was punctuated and closed by Amnesty International's Nobel Peace Prize, which recognized the organization's efforts on behalf of prisoners' rights and abolition of the death penalty. Thus, the Prize bookmarks a significant world cultural moment wherein the death penalty was further institutionalized as a violation of



human rights. This shift in the global landscape delegitimated the death penalty as an appropriate tool for punishment worldwide.

### **States' Abolition of the Death Penalty**

Chapter 4 analyzes countries' legislative positions on the death penalty 1968–2001, estimating the impact of factors on three types of abolition: full, ordinary, and de facto abolition. This chapter's focus complements chapter 3 insofar as it extends my argument – that the global institutionalization individual sacrality via the development of the human rights regime rendered the death penalty an illegitimate punishment that destroys a sacred world society totem – to the national level. As such, chapter 4 allows me to control for common explanations of abolition of the death penalty against my argument. These include: democracy, religion, and war among others. Despite these controls, I find that the global sacralization of the individual bears a strong positive impact on increasing countries' likelihood of abolishing the death penalty. Moreover, I find some initial evidence that countries' ties to world society – measured here as citizen's memberships to psychology INGOs – and general social receptivity – measured as the institutionalization of civil and political liberties – also interact to increase countries' chances for abolition. This finding suggests a way to understand why and how the human rights regime – i.e., the global sacralization of the individual – contributes to abolition in some national contexts and not others.

### **Use of the Death Penalty**

The final empirical chapter – chapter 5 – looks at how the death penalty is used both globally and nationally. Globally, I examine the number of countries utilizing the

death penalty 1980–2010. Nationally, I examine countries' execution rates 2007–2010. In the global analysis, I find that the institutionalization of models for the human rights regime via the development of human rights documents decreases the number of countries utilizing the death penalty in a given year. One unexpected finding was that INGOs and HRINGOs were not negatively associated with the number of countries using the death penalty. The national analysis of execution rates revealed that countries' ties to world society strongly – measured as citizen's memberships to distinct INGOs – decreased their practice of the death penalty. The contradiction between these two findings can be resolved by noting the human rights documents are more directly related to the model building of the human rights regime, while INGOs are also related to advocacy and shaming activity. Thus, the global model disambiguates the effects of model building (human rights documents) from shaming (NGOs) in the human rights regime. Likewise, the national model controls for human rights shaming events wherein HRINGOs cite specific countries for human rights violations. Thus, the national analysis controls more directly for the shaming activity of NGOs, and thereby allows the INGO ties measure to capture the model building activities of these organizations. Accordingly, I find preliminary evidence that suggests that model building and shaming incur differential impacts upon states' execution rates. Theoretically, this finding implies that world culture is itself a driver of national execution rates. Moreover, my results bear on research examining the impacts of NGOs' shaming activities. I turn now to address the overall implications of this dissertation.

## **Implications**

Previous research on factors impacting countries' decision to abolish the death penalty needs some revision in light of this dissertation. Here, I focus on the implications for the literature's previous findings for the impacts of democracy, war, and religion on abolition of the death penalty. I also translate these implications into some general observations for broader theory on world society and the behavior of states.

Neumayer (2008) and McGann and Sandholtz (2012) argue that primarily domestic political processes drive abolition of the death penalty. In particular, Neumayer claims that the development of democracy is the most major determinant of death penalty abolition. His argument for the effect of democracy, however, emphasizes what he considers democracy's fundamental receptivity to human rights. Thus, in my cross-national analysis of abolition, I find that the impact of democracy on abolition is eclipsed by the global institutionalization of human rights. Nonetheless, I do find support for Neumayer's argument in terms of how the death penalty is used both globally and nationally. The progress of democracy is associated with: a) a decrease in the number of countries utilizing the death penalty in a given year, and b) lower national execution rates.

Dunér and Geurtsen (2002) find evidence suggesting that the global abolition of the death penalty trend is mitigated by the risk of war. I test this argument in chapter 4, and find that countries' level of civil war is not reliably related to diminishing countries' chance for abolition. Since this argument was tested against my argument concerning the global sacralization of the individual, my finding suggests that countries' experience with and risk for war are not strong discouragers of abolition. In other words, the world

cultural model for individual sacrality operates above and beyond the domestic pressures generated by war<sup>2</sup>.

I find evidence that a country's predominant religion impacts its legislative position on the death penalty. Predominantly Catholic countries are much more likely to abolish the death penalty. This finding suggests that Catholicism's emphasis on the sanctity of life is extended to abolition of the death penalty. Conversely, I find that predominantly Muslim countries are less likely to abolish the death penalty. These countries are also more likely to have higher execution rates<sup>3</sup>. These results provide justification for the argument that culture is a key causal factor shaping the death penalty historically, globally, and nationally. Culture not only strongly shapes countries' position on the death penalty, but also structures how the death penalty is used. In this era of globalization, in particular, *world* culture helps to institutionalize global models prescribing the rights, duties, and fundamental properties of the individual (Meyer et al. 1997). The development of the global human rights regime throughout the 19th and 20th centuries globally institutionalized models for individual sacrality – under development for millennia via the diffusion of Christianity, the ascendancy of the Enlightenment, the Protestant Reformation, etc. – as global legal documents (Casanova 1999). Such documents established the global infrastructure of individual sacrality as a formal system, with many treaties available for ratification and incorporation within domestic contexts. Sacrality's global institutionalization means that the global topography for punishment is

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<sup>2</sup> I also tested for the impact of war on the use of the death penalty in chapter 5 and did not find it to be reliably related to the number of countries using the death penalty globally or countries' execution rates.

<sup>3</sup> See footnote 13 in chapter 5.

fundamentally altered<sup>4</sup>, which forces states to navigate a new path – i.e., establish a new set of practices – in the administration of punishment.

I see abolition of the death penalty as a symbolic and ceremonial act of deference paid by the state to the individual that is motivated by an at least vestigial awareness that the individual is a sacred entity in world society (Goffman 1956: 479–480). In this view, the global abolition trend is strongly related to the development of the current world culture that emphasizes the centrality and sacrality of the individual. States are also global citizens, with duties, obligations, and responsibilities that are externally constructed. Contrary to what rational-actor perspectives in international relations (IR) and state competition theory may predict, my findings demonstrate that national penal practices are not solely – and not even primarily – formulated domestically through the pursuit of national interest and power (Morgenthau 1948; Waltz 1959, 1979) or via international competition between states (Skocpol 1985; Tilly 1992). Instead, the legal status and the practice of the death penalty are strongly shaped by world cultural models valorizing the individual. Indeed, it is difficult to understand why states would abolish the death penalty or diminish their practice of the punishment if their behavior were primarily directed by the pursuit of power and national interest<sup>5</sup>.

In practical terms, this dissertation shows that the deepening institutionalization of individual sacrality at the global level is directly related to: (1) the development of the

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<sup>4</sup> Joas (2008) argues that deepening sacralization of the individual is related to an increasing distaste for violent corporal punishments and the growth of the mass incarceration system as the dominant form of punishment. As I discuss below, I am interested in pursuing this argument empirically.

<sup>5</sup> This inconsistency between these theories and the actual abolition trend is especially poignant considering that the death penalty has historically been leveraged as a political power tool to consolidate control.

global abolition trend, (2) increasing national abolition of the death penalty (both in formal and symbolic terms), (3) decreasing practice of the death penalty in terms of the number of countries practicing the punishment, and (4) diminishing national execution rates. More specifically, in terms of the death penalty, I show that the development of the global human rights regime bears major consequences for the improvement of states' care for their individual citizens, a relationship that has been strongly questioned (Hathaway 2002; Hafner-Burton and Tsutsui 2005). Thus, my findings show that the content and organization of world culture has observable impacts on – quite literally – life and death, a matter of unquestionable gravity.

## **Future Directions and Projects**

My dissertation findings signal new directions for research. First, I'm excited to apply my understanding of individual sacrality to other topics. Second, I'm curious to further explore how the construction of world cultural models differs from the shaming activities of global civil society non-governmental organizations. Third, I'd like to code countries' criminal codes to examine how punishment has been institutionalized and codified. Each of these represents a component of my future research agenda.

I am interested in exploring further how the world cultural model for individual sacrality impacts other outcomes of sociological concern. For example, Joas's (2008) argument concerning the relationship between individual sacrality and the development of mass incarceration as the dominant system of punishment is a particularly fruitful area of future empirical research. This project is especially reasonable in light of my findings

for the impact of individual sacrality on abolition of the death penalty<sup>6</sup>. Moreover, it will help to extend our current knowledge of how world cultural models impact the organization and behavior of nation-states. In relation, I'd like to examine the relationship between world culture and shaming/advocacy work at the global level. What are the world cultural foundations for shaming? In other words, how do organizations: a) determine what is shameful behavior, b) identify shameful actors, and c) execute their shaming activities? Since chapter 5 found that shaming activity was not successful in delimiting how the death penalty was used both globally and nationally, I'm also interested in further understanding how, when, and why shaming works. This research will go some distance toward understanding how the "global moral order" is developed and leveraged toward certain outcomes (Boli 2006). In this sense, the goal of this analysis will be to conduct a deep cultural analysis of how virtue and virtuosity is rationalized in world society (ibid.). Furthermore, this focus will give me the opportunity to examine how and when specific world culture models "play" well in certain domestic contexts; that is, it should provide the opportunity to develop and systematically test a comprehensive theory for the decoupling of world cultural models.

Last, recent scholarship finds that national criminal regulations and policy outcomes are shaped by the development of world cultural models (cf. Frank et al. (2009) and Frank et al. (2010)). This research suggests that countries' catalogue of legal execution methods are similarly subject to global conditions. Furthermore, the count and

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<sup>6</sup> One can envision a penological version of Rieff's *Triumph of the Therapeutic* (1966). I.e., as world cultural models for society increasingly center upon the individual, systems of punishment should develop to complement the individual rather than expurgate the unclean or sacrilegious from society. Thus, if modern mass imprisonment is marked by a commitment to rehabilitate individual offenders, then higher levels of exposure to and immersion within world culture should increase countries' level of imprisonment.

types of crimes punishable by death are also potentially related to – for example – the global sacralization of the individual. My dissertation leads to the expectation that greater institutionalization of individual sacrality should engender: a) fewer execution methods, b) more humane (i.e., less garish) execution methods, c) fewer crimes punishable by death, and d) a shift toward applying the death penalty to only the most severe and heinous crimes. This research will rely upon countries' criminal codes in order to analyze how world culture constructs the use of punishment, and a template is available in the research mentioned. These data could also be helpful in developing some sort of retribution scale, and could possibly directly test Durkheim's two laws of penal evolution (Durkheim 1900). Is increasing societal development and differentiation related to a related decrease in retributive (read: physically harsh) punishments? Do checks on absolute governmental authority diminish the intensity of criminal punishments (Tiryakian 1964)<sup>7</sup>?

In general, these project ideas sketch a potential trajectory for my immediate future research agenda. This agenda should allow me to further develop my main intellectual and substantive interests. Specifically, how do the formal organization of world society and the substantive content of world culture shape the construction of social reality? Insofar as my dissertation responds to this very complex question, I have

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<sup>7</sup> These questions focus more on Durkheim's first law of penal evolution, which concerned with the relationship between societal development and punishment. Nonetheless, fruitful avenues of research for his second law can also be mined with my approach. This second law asserts that societal differentiation and evolution are associated with a comparable transition to privative punishments; i.e., penalties that deprive the criminal of his or her freedom for a time commensurate with the gravity of the crime.



found that the historical construction and the world societal institutionalization of individual sacrality is the engine driving the global abolition of the death penalty trend.

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Appendix A. Table of Nation-States' Abolition of the Death Penalty in Three Forms, 1945 - 2007		
Abolitionist for All Crimes	Abolitionist for Ordinary Crimes	Abolitionist in Practice
Honduras(1956)	Israel(1954)	Nauru(1968)
Monaco(1962)	Fiji(1979)	Niger(1976)
Dominican Republic(1966)	Peru(1979)	Sri Lanka(1976)
Austria(1968)	El Salvador(1983)	Grenada(1978)
Vatican City State(1969)	Argentina(1984)	Togo(1978)
Finland(1972)	Brazil(1988)	Mali(1980)
Sweden(1972)	Bolivia(1997)	Central African Republic(1981)
Niue(1974)	Latvia(1999)	Gabon(1981)
Portugal(1976)	Chile(2001)	Gambia(1981)
Denmark(1978)	Kazakhstan(2007)	Congo, Republic of(1982)
Solomon Islands(1978)	Kyrgyzstan(2007)	Suriname(1982)
Tuvalu(1978)		Tonga(1982)
Kiribati(1979)		Swaziland(1983)
Luxembourg(1979)		Benin(1987)
Nicaragua(1979)		Kenya(1987)
Norway(1979)		Mauritania(1987)
Vanuatu(1980)		Burkina Faso(1988)
Cape Verde(1981)		Laos(1989)
France(1981)		Tunisia(1991)
Netherlands(1982)		Malawi(1992)
Australia(1985)		Algeria(1993)
Marshall Islands(1986)		Ghana(1993)
Micronesia (Federated States)(1986)		Morocco(1993)
Germany(1987)		Myanmar(1993)
Haiti(1987)		Tanzania(1995)
Liechtenstein(1987)		Cameroon(1997)
Philippines(1987)		Korea (South)(1997)
Cambodia(1989)		Zambia(1997)
New Zealand(1989)		Russia(1999)
Romania(1989)		Liberia(2000)
Andorra(1990)		Tajikistan(2004)
Hungary(1990)		
Ireland(1990)		
Mozambique(1990)		
Namibia(1990)		

Sao Tome And Principe(1990)		
Macedonia(1991)		
Angola(1992)		
Paraguay(1992)		
Switzerland(1992)		
Guinea-Bissau(1993)		
Seychelles(1993)		
Italy(1994)		
Palau(1994)		
Djibouti(1995)		
Mauritius(1995)		
Moldova(1995)		
Spain(1995)		
Belgium(1996)		
Georgia(1997)		
Nepal(1997)		
Poland(1997)		
South Africa(1997)		
Azerbaijan(1998)		
Bulgaria(1998)		
Canada(1998)		
Estonia(1998)		
Lithuania(1998)		
United Kingdom(1998)		
Timor-Leste(1999)		
Turkmenistan(1999)		
Ukraine(1999)		
Cote D'Ivoire(2000)		
Malta(2000)		
Bosnia-Herzegovina(2001)		
Cyprus(2002)		
Armenia(2003)		
Bhutan(2004)		
Greece(2004)		
Samoa(2004)		
Senegal(2004)		
Turkey(2004)		
Mexico(2005)		
Albania(2007)		
Cook Islands(2007)		
Rwanda(2007)		

	Global Individual Sacralty	Penetration of Individualism	Receptivity	Muslim	Protestant	Other	GDP per capita	Democracy	Civil War
Minimum	856	0	1	0	0	0	69.44	-10	0
1st Quartile	1127	0	2	0	0	0	876.87	-7	0
Median	1396	1	3	0	0	0	2314.25	-5	0
Mean	1480	1.632	3.162	0.2936	0.1926	0.2047	4470.79	-1.424	0.9376
3rd Quartile	1932	2	5.5	0	0	0	5774.29	7	1
Maximum	2117	17	7	1	1	1	43129.52	10	11
Missing	None	154	155	None	None	None	351	672	666
Transformation	None	+1 and logged	Residualized	None	None	None	logged	None	None

	Global Individual Sacralty	Penetration of Individualism	Receptivity	Muslim	Other	Protestant	Freedom	* Psychology	GDP per capita	Democracy	Civil War
Global Individual Sacralty	1.000	0.253	0.029	0.082	-0.024	0.030	0.136	0.223	0.190	0.014	
Penetration of Individualism	0.253	1.000	0.508	-0.213	0.048	0.026	0.900	0.576	0.493	0.003	
Receptivity	0.029	0.508	1.000	-0.313	0.231	0.039	0.756	0.390	0.871	-0.158	
Muslim	0.082	-0.213	-0.313	1.000	-0.308	-0.367	-0.289	0.005	-0.321	0.097	
Other	-0.024	0.048	0.231	-0.308	1.000	-0.235	0.107	0.009	0.199	-0.137	
Protestant	0.030	0.026	0.039	-0.367	-0.235	1.000	0.030	-0.016	0.111	0.061	
Freedom * Psychology	0.136	0.900	0.756	-0.289	0.107	0.030	1.000	0.583	0.693	-0.044	
GDP per capita	0.223	0.576	0.390	0.005	0.009	-0.016	0.583	1.000	0.274	-0.180	
Democracy	0.190	0.493	0.871	-0.321	0.199	0.111	0.693	0.274	1.000	-0.035	
Civil War	0.014	0.003	-0.158	0.097	-0.137	0.061	-0.044	-0.180	-0.035	1.000	

	Model 1		Model 2		Model 3	
	<i>b</i>	exp( <i>b</i> )	<i>b</i>	exp( <i>b</i> )	<i>b</i>	exp( <i>b</i> )
Global Individual Sacrality	0.007*** (0.002)	1.007	0.006*** (0.001)	1.006	0.003*** (0.001)	1.003
Penetration of Individualism	-3.263* (1.371)	0.038	-1.495 (0.946)	0.224	-0.836 (0.560)	0.433
Receptivity	0.087 (0.589)	1.091	0.194 (0.462)	1.214	-0.086 (0.197)	0.917
Muslim	-4.004** (1.246)	0.018	-4.264*** (1.100)	0.014	-1.214* (0.489)	0.297
Protestant	-1.844 (1.134)	0.158	-2.666** (0.911)	0.070	-0.868 <sup>+</sup> (0.471)	0.420
Other	-0.248 (0.683)	0.780	-0.907 <sup>+</sup> (0.497)	0.404	-0.602 <sup>+</sup> (0.355)	0.548
Receptivity * Ties	0.450 <sup>+</sup> (0.258)	1.568	0.168 (0.191)	1.183	0.137 (0.117)	1.147
GDP per capita	0.537 (0.359)	1.711	0.537 <sup>+</sup> (0.288)	1.711	-0.054 (0.188)	0.948
Democracy	-0.002 (0.134)	0.998	0.065 (0.095)	1.067	0.051 (0.047)	1.053
Civil War	0.221 (0.138)	1.247	0.152 (0.100)	1.165	-0.045 (0.089)	0.956
# of abolitions	18		26		53	
<i>N</i> =Country Years at Risk	2813		2660		2312	
Wald Test	45.23***		65.23***		27.52**	

Note: <sup>+</sup>  $p \leq 0.1$ , \*  $p \leq 0.05$ , \*\*  $p \leq 0.01$ , \*\*\*  $p \leq 0.001$ . Robust standard errors are reported in parentheses. Exp(*b*) report coefficients' impact on the hazard rate for abolition. Exp[*b*\*(unit shift in *x*)] = the shift's impact on the hazard of abolition. Significance tests are two-tailed.

Appendix E. Correlations Matrix for Global Model Variables								
	# Executing	INGOs	HRINGOs	HR Docs	ICCPR2	Democracy	Cold War	World GDP
# Executing	1.0							
INGOs	-0.747	1.0						
HRINGOs	-0.521	0.706	1.0					
HR Docs	-0.651	0.853	0.964	1.0				
ICCPR2	0.050	-0.397	-0.280	-0.338	1.0			
Democracy	-0.629	0.811	0.970	0.974	-0.376	1.0		
Cold War	-0.436	0.684	0.935	0.902	-0.552	0.937	1.0	
World GDP	-0.763	0.932	0.808	0.886	-0.288	0.895	0.752	1.0

Appendix F. Correlations Matrix for National Model Variables								
	Executions	INGOs	HR Respect	HR Events	Democracy	Jud. Ind.	GDP pc	Population
Executions	1.0							
INGOs	0.218	1.0						
HR Respect	-0.215	-0.160	1.0					
HR Events	0.415	0.522	-0.266	1.0				
Democracy	-0.157	0.313	0.163	0.048	1.0			
Jud. Ind.	-0.105	-0.012	0.596	-0.015	0.326	1.0		
GDP pc	-0.022	-0.020	0.194	-0.018	-0.067	0.108	1.0	
Population	0.665	0.521	-0.340	0.421	0.067	-0.093	-0.040	1.0