

PRESS RELEASE

June 16, 2009

Mai Sato
Institute for Criminal Policy Research
King's College London
Visiting fellow, ICJS, Temple University Japan
mai.sato@kcl.ac.uk

A Japan–UK Deliberative Public Consultation Project has found that when Japanese citizens are provided with information and time to deliberate, they are likely to change their attitudes on the death penalty system.

Initial findings from an innovative study in Japan have found that, when given time to think and talk about the nation's death penalty system, citizens are likely to change their views in both directions, from abolitionist to retentionist and from retentionist to abolitionist. The research used a 'deliberative survey' involving a sample of 50 Japanese.

KEY POINTS

- 40% of the participants changed their attitudes towards the death penalty through the provision of information and deliberation. The changes in attitudes were seen in both directions: from abolitionist views to retentionist, and from retentionist views to abolitionist.
- The reasons why participants' changed their attitudes and the reasons for continuing to support a particular position on the death penalty were wide-ranging. This is also true for those who supported the same position (for example, retentionists gave different reasons for holding their position).
- When thinking about whether or not to retain or abolish the death penalty, the majority of retentionists as well as some abolitionists argued that "the death penalty should be kept to respect the wishes of the victims' family".
- By taking part in deliberation, participants increased "tolerance" and "understanding" towards views and opinions which are different from theirs. This change may have been brought about by providing respondents with new information and their taking part in deliberation with others.
- Before receiving the information leaflet and participating in the deliberative consultation, participants had poor levels of knowledge of the death penalty.

The lack of knowledge related not only to the death penalty itself but to the wider criminal justice system.

- Before receiving the information leaflet and participating in the deliberative consultation, participants had not only lacked knowledge about the death penalty but held “inaccurate beliefs” about crime rates and penal policy. These misconceptions were corrected for most participants when they were presented with accurate information. However, some participants did not accept what they were told. Further research is necessary in order to assess to what extent inaccurate beliefs affect attitudes to the death penalty.

ABOUT THE PROJECT

The Japan – UK Deliberative Public Consultation Project is a joint project between Japanese and English researchers, which aims to examine the Japanese public’s attitudes towards, and their knowledge of, the Criminal Justice System.

The Project’s objective is to measure the Japanese public’s level of knowledge on the criminal justice system, to examine factors which explain the Japanese public’s attitudes to the criminal justice system, and to generate policy recommendations based on these findings.

PROJECT MEMBER:

MIKE HOUGH (Director, Institute for Criminal Policy Research, King’s College London, UK)

TAKESHI HONJO (Associate Professor, Hitotsubashi University, Japan)

MASATO KIMURA (Assistant Professor, Waseda University, Japan)

MAI SATO (Research Associate, Institute for Criminal Policy Research, King’s College London, UK; Visiting fellow, ICJS, Temple University Japan)

For further information, contact Mai Sato (mai.sato@kcl.ac.uk)

When citing this report, please use the project name, “Japan – UK Deliberative Public Consultation Project”. Please also send any articles which include quotations from this report to mai.sato@kcl.ac.uk.

DELIBERATIVE SURVEY ON THE JAPANESE DEATH PENALTY SYSTEM

1. BACKGROUND TO THE DELIBERATIVE SURVEY

The Saiban-in system was introduced in Japan with effect from May 2009. Under this system, the Japanese public will be required not only to make decisions about defendants' guilt but also to pass sentence. This means that the Japanese public will be in the position of making decisions in death penalty cases. While these significant changes are being introduced, it is very unlikely that the public are well-informed about the death penalty system in Japan.

Therefore, it was decided to examine how the death penalty system is understood and accepted as a form of punishment by the Japanese public, and to assess the level of knowledge they have about the death penalty.

The survey carried out was conducted as a pilot survey comprising of relatively small sample before carrying out a large-scale survey targeting the general Japanese public.

2. OBJECTIVE OF THE DELIBERATIVE SURVEY AND METHODOLOGY

The survey was carried out to conduct the following:

- Analyse participants' level of knowledge on the death penalty;
- Analyse participants' attitudes towards the death penalty;
- Analyse participants' change in attitudes through the provision of information regarding the death penalty;
- Analyse participants' change in attitudes through deliberation on the death penalty; and
- Provide information to participants regarding the death penalty.

As for methodology, a "deliberative survey" was used. This survey method is designed to bring out opinions which are "considered opinions" instead of opinions based on "top-of-the-head answers" or "vague impressions". This survey attempts to gather participants in one place, and elicit considered opinions through a process of providing balanced information, discussing with experts, and deliberating with other participants. It was also the aim of the survey for participants to share different values and points of view through the provision of information and deliberation.

3. FUNDING ORGANISATIONS FOR THE DELIBERATIVE SURVEY

The planning and completion of the survey was possible due to the funding received from the following organization:

- Suntory Foundation;
- Daiwa Foundation;
- Great Britain Sasakawa Foundation; and
- University of London Central Research Fund

4. DELIBERATIVE SURVEY PARTICIPANTS AND METHODOLOGY

① PARTICIPANTS

Participants to the survey were selected based on their positions on the death penalty. These participants were selected from a panel of Japanese males and females aged between 20 and 58 living in the Tokyo metropolitan area (Tokyo, Kanagawa, Chiba, and Saitama), who are registered with a survey company. In total 50 people took part – 25 men and 25 women.

② SAMPLE DISTRIBUTION

Participants were purposefully selected based on their position of the death penalty, and were divided into four deliberation groups as shown below.

The death penalty should...	Definitely be abolished	Probably be abolished	Cannot say	Probably be kept	Definitely be kept	Total (number)
Total sample	1 (2%)	7 (14%)	16 (32%)	13 (26%)	13 (26%)	50 (100%)
Deliberation group 1	1	1	4	3	3	12
Deliberation group 2	0	2	4	3	3	12
Deliberation group 3	0	2	4	4	3	13
Deliberation group 4	0	2	4	3	4	13

A large scale survey (approximately 20,000 samples) which examined the Japanese public attitudes to the death penalty, conducted independently by a project member (Mai Sato), was used in order to determine the distribution of samples based on the position on the death penalty. From the survey, 44% of respondents chose the death penalty “should definitely be kept”, 36% chose “should probably be kept”, 16% chose “cannot say”, 3% chose “should probably be abolished”, and 1% chose “should definitely be abolished”.

However, abolitionists are over-represented in the sample when

compared with the survey results. At least two abolitionists were allocated in each deliberation group. This was done deliberately to promote a lively discussion amongst participants.

③ DELIBERATIVE SURVEY PROCEDURE AND METHODOLOGY

Selection of 50 participants, who are registered with a survey company, based on their position on the death penalty.



Pre-deliberation online survey (hereinafter referred to as the “pre-survey”) for 50 participants to examine their attitudes towards the death penalty and social outlook (conducted approx. 10 days before the deliberative consultation day.)



Delivery of “information leaflet”* to participants as soon as each completes the online survey.



Deliberative consultation held on 4 April, 2009 at Waseda University, Japan. Gathering of 50 participants to deliberate on the death penalty for a whole day. Deliberative consultation includes a session on providing information on the death penalty, two group discussion sessions, and a debate and Q&A session by guest speakers (one retentionist and one abolitionist).



Post-deliberation survey (hereinafter referred to as the “post-survey”) completed straight after the deliberative consultation in the premises (questions were designed to allow comparison with the pre-survey).



Follow-up-interviews via telephone to 10 participants (selection based on the changes in attitudes towards the death penalty) approximately one month after the deliberative consultation.

*** The following topics were included in the “information leaflet” on the death penalty.**

- | | |
|--|--|
| - Number of death sentences, death-row inmates, and executions | - death penalty cases |
| - Crimes punishable by the death penalty | - Death penalty and information disclosure |
| - Everyday life of a death-row inmate | - Relationship between the death penalty and crime rates |
| - Period between death sentence and execution | - Voices of victims and perpetrators |
| - Execution method | - Main arguments for retention and abolition |
| - International movement towards abolition | - Trends in murder rates |
| - Possibility of misjudgments in | - Possibility of getting parole from life imprisonment |
| | - Re-conviction rates |

5. DETAILED RESULTS FROM THE DELIBERATIVE SURVEY

As illustrated above, the deliberative survey comprised four elements:

- **Pre-survey:** Online survey conducted approximately 10 days before the deliberative consultation;
- **Deliberative consultation:** Public deliberative consultation event held at Waseda University;
- **Post-survey:** Survey conducted straight after the deliberative consultation where participants filled in a questionnaire; and
- **Follow-up interview:** Telephone interviews conducted to 10 participants approximately one month after the deliberative consultation.

① LEVEL OF KNOWLEDGE AND INFORMATION REGARDING THE DEATH PENALTY

[LEVEL OF KNOWLEDGE REGARDING THE DEATH PENALTY]

When comparing results from pre- and post- deliberation surveys, participants who answered that they “did not have any knowledge” or “lacked knowledge” regarding the death penalty increased and reached 74% in the post-deliberation survey.

- In the pre-survey which asked participants “how much do you think you know about the Japanese death penalty?” a total of 50% chose “lack knowledge” or “do not have any knowledge”, 42% chose “cannot say”, and a total of 8% chose “have some knowledge” or “have thorough knowledge”.
- On the other hand, in the post-survey, those who chose “did not have any knowledge” or “lacked knowledge” increased to 74% in total, 20% answered “cannot say”, and those who chose “had some knowledge” and “had thorough knowledge” decreased to 6% in total.

[NEW INFORMATION REGARDING THE DEATH PENALTY]

“Everyday life of a death-row inmate” was cited repeatedly as information that participants found surprising, and were unaware of, before the deliberation survey.

- Other information included “the lack of life imprisonment without parole as a penal sentence in Japan”, “the method of execution being hanging in Japan”, “the length of period from a death sentence to execution”, and “responsibilities of a prison officer involved in executions”.
- These findings emerged from discussions in deliberation groups and follow-up interviews.

[INFORMATION DISCLOSURE AND THE DEATH PENALTY ①]

Participants across the full spectrum of viewpoints agreed that “little information is disclosed” about the death penalty. They also said that until taking part in the deliberative survey, they “did not know that there was little information made public about the death penalty system”.

- Information pointed out by participants as necessary to disclose included “cost of maintaining and executing death-row inmates”, “cost of maintaining a life prisoner”, and “the treatment of death-row inmates and their physical and psychological well-being”.
- It was also pointed out by participants that the executions are only notified to the victims’ family and the family of the death-row inmate after they take place is problematic.
- The information above was brought up by participants as part of the Q&A between guest speakers and participants. Guest speakers were made up of two speakers: Seiji Fujii (journalist, retentionist) and Makoto Iwai (lawyer, abolitionist). Participants were surprised that “there are so many things even the experts do not know”.

[INFORMATION DISCLOSURE AND THE DEATH PENALTY ②]

Participants repeatedly pointed out during discussions in deliberation groups and in follow-up interviews that “it is important to educate in schools about the death penalty, especially about the everyday lives of death-row inmates, in order to deter serious crimes such as murder”. This view attempts to use information regarding the death penalty as a deterrent to serious crimes.

- In addition to the above proposal, it was often expressed during discussions in deliberation groups that more information regarding the death penalty should be made public to the general population in order to promote transparency in the system.
- Participants, being aware of the introduction of the saiban-in system, expressed that “it is important that each Japanese citizen increase their understanding about the death penalty system.”

[PERCEPTION ON MURDER RATES ①]

When asked about the trend in the number of recorded murders, according to the pre-survey, approximately 70% of participants believed that recorded crimes* in murder increased. This finding makes clear that participants were

not aware of the real trend in the number of recorded murders.

*Recorded crimes refer to crimes which have been detected by criminal justice organizations such as the police.

- In the pre-survey, when asked about their knowledge on the shift in the number of recorded murders, 28% of participants responded that they “increased significantly”, 46% answered “increased slightly”, 24% answered “about the same”, 2% answered “decreased slightly” and 0% answered “decreased dramatically”.

[PERCEPTION ON MURDER RATES ②]

When asked about the trend in the number of recorded murders, in the post-survey, the percentage of participants who considered that recorded murders “decreased dramatically” decreased to 6%. This means that there was an increase in the percentage of participants who understood the accurate trend in recorded murder.

- According to crime statistics released by the National Policy Agency, the number of recorded murders have been going down since the WWII and reached the lowest in 2007. There was a slight increase in 2008 but as a trend, it has been mostly stable since the 1990s.
- While the shift in the number of recorded murders is dependent on each individual’s interpretation of the trend, it is safe to say that options “increased dramatically” and “decreased dramatically” are both wrong interpretations.
- The information regarding the shift in the number of recorded murders was explained in the information leaflet which was distributed after the completion of the pre-survey and before the deliberative consultation. In the information leaflet, there was a graph which showed the shift in the number of recorded murders since WWII, and this data was further explained on the day of the deliberative consultation during a session on the provision of information.

[PERCEPTION ON MURDER RATES ③]

According to the post-survey, participants who continued to have incorrect understanding of the shift in the number of recorded murders (i.e. those who chose “increased dramatically”) were mainly retentionists.

- According to the post-survey, all abolitionists chose options “about the same” or “decreased slightly” in the murder rate question. However, those

who chose options “increased dramatically” and “slightly increased” were seen by retentionists. It may be considered that “perception” in this case on murder rates may be a factor in determining people’s position on the death penalty.

[PERCEPTION ON MURDER RATES ④]

According to the pre-survey, those who considered that “the number of murders were going up” interpreted the new information which informed them that “recorded murders have decreased since WWII” in various ways that would justify their original misconception.

- For example, some participants would question the validity of the decreasing murder rate, other would express views such as “even though murder rates may be decreasing, the quality of murders must be getting worse”, and “each murderer must be killing more people in one murder case”.
- Those who expressed opinions indicated above considered “murders are increasing” in the pre-survey and were retentionists or those who answered “cannot say”.
- These points were made clear from discussions in deliberation groups as well as follow-up interviews.

[PERCEPTION ON THE POSSIBILITY OF PAROLE FOR LIFE PRISONERS ①]

According to the pre-survey, approximately 60% of participants thought that all or most of life prisoners imprisoned in Japan will be released on parole. This information is inaccurate.

- In detail, in the pre-survey, 12% chose the option “all life prisoners get parole”, 50% chose “most life prisoners get parole”, 38% chose “limited amount of prisoners get parole”, and 0% chose “no life prisoners get parole”.

[PERCEPTION ON THE POSSIBILITY OF PAROLE FOR LIFE PRISONERS ②]

In the post-survey, participants who chose the inaccurate option “most life prisoners get parole” decreased to 8%.

- In the post-survey, in total 92% of the respondents chose either “limited amount of life prisoners get parole” or “no life prisoners get parole”.
- Statistics show that cases where life prisoners receive parole are very limited, and it can be considered from recent cases that the Japanese life imprisonment is becoming more of a “life imprisonment without parole”.

For example, while there were 89 prisoners sentenced to life imprisonment in 2007, no life prisoner had been released on parole the same year.

- Therefore, options “all life prisoners get parole” and “most life prisoners get parole” are inaccurate.
- The current status of life prisoners receiving parole was explained in the information leaflet and also in the deliberative consultation during the session of the provision of information.

[PERCEPTION ON THE POSSIBILITY OF PAROLE FOR LIFE PRISONERS ③]

Many participants made comments during the discussions in deliberation groups either by “not acknowledging that the current life imprisonment is de facto life imprisonment without parole” or acknowledging the information but focusing on the fact that “there is no life imprisonment without parole as a system”.

- For example, there were many comments made by participants during the discussions in deliberation groups, which ignored the current status of life imprisonment such as “if murderers do not get the death penalty, then these criminals will eventually come outside the prison walls”.
- Even those participants who have the correct understanding about the current life imprisonment status focused on the fact that “the possibility of parole is not zero”, and called for the retention of the death penalty.

[PERCEPTION OF MISJUDGEMENT ①]

Participants shared the views that “misjudgments are unforgivable” but at the same time, they considered that “there is no misjudgment on death penalty cases” under the current criminal justice system in Japan.

- When participants were asked in the pre-survey to choose the more problematic option between “convicting an innocent man” and “freeing a guilty man”, 80% of participants responded that it would be more problematic to “convict an innocent man”. 2% chose “freeing a guilty man” and 18% chose “cannot say”.
- In the information leaflet, which was delivered to each participant before the deliberative consultation, included information about four cases in the past where death-row inmates were found to be not guilty through a re-trial.
- During the discussions in deliberation groups, when an abolitionist pointed out the possibility of misjudgment in death penalty cases, other participants in the group responded with comments such as “past misjudgment cases are not recent cases so they are irrelevant to current courts”, “the police do their job properly nowadays”, and “there are no

misjudgments now because scientific techniques such as DNA tests have been developed.”

- It was brought to light in the follow-up interviews that participants had complete trust in the current Japanese criminal justice system. For example, when asked if they were to make an appearance to court as a defendant, whether they think they will have a “fair trial”, almost all respondents responded that they will.

② CHANGES IN ATTITUDES TOWARDS THE DEATH PENALTY

[CHANGE IN ATTITUDES ①]

40% of participants changed their positions on the death penalty when comparing pre- and post- survey results.

- In both pre- and post- surveys, positions on the death penalty were divided into five positions: the death penalty should “definitely be abolished”, “should probably be abolished”, “cannot say”, “should probably be kept”, and “should definitely be kept”. When participants changed their choice of option, it was defined as a “change in attitude”. Under this definition, 40% of participants changed their attitudes towards the death penalty between pre- and post- surveys.

[CHANGE IN ATTITUDES ②]

Both retentionists and abolitionists have changed their attitudes towards the death penalty in both directions (i.e. towards retention and towards abolition) between pre- and post-surveys.

- There were participants who were “retentionists” in the pre-survey who became stronger “retentionsits” and also those who changed to “abolitionists”. Similarly, there were participants who were “abolitionists” in the pre-survey who reinforced their position and also those who changed to “retentionists”.
- Those who selected “cannot say” as their position on the death penalty, around half remained in the same position and the rest changed to both retentionsts and abolitionists.
- Participants who had a very clear position (who chose “should definitely be abolished” and “should definitely be kept”) did not change their views drastically.

[CHANGE IN ATTITUDES ③]

The following sub-sections go through each position on the death penalty, explaining their attitudes, changes in opinion, and the reasons they support each position.

- Reasons for supporting a particular position on the death penalty are varied including amongst those who support the same position.
- Amongst the reasons given for supporting a particular position on the death penalty, some are unique to a particular position and some are common across positions.
- It was clear from the discussions in deliberation groups and follow-up interviews that by taking part in deliberation, participants increased “tolerance” and “understanding” towards views and opinions which are different from theirs. This change may have been brought about by providing respondents with new information and their taking part in deliberation with others.

Note: Quantitative data shown below are expected to be interpreted along with the qualitative data produced from the discussion in deliberation groups and follow-up interviews.

PERSISTENCE AND CHANGE IN PARTICIPANT WHO CHOSE THE DEATH PENALTY “SHOULD DEFINITELY BE KEPT”

- Amongst those participants who chose the option that the death penalty “should definitely be kept” in the pre-survey, 61% remained in the same position in the post-survey, but 39% changed to “should probably be kept”.
- Amongst those participants who chose the option that the death penalty “should definitely be kept” in the post-survey, when asked whether they would still support the death penalty if life imprisonment without parole was introduced, 80% answered “yes” and 20% answered “no”.
- Amongst those participants who chose the option that the death penalty “should definitely be kept” in the post-survey, when asked whether they will be able to push the execution button, half of them responded “I don’t know”. When asked whether they can sentence a defendant to death as a saiban-in, 20% answered “I don’t know”.
- According to a follow-up interview conducted to a participant who did not change their position from “should definitely be kept” throughout the deliberation survey process, the participant commented that his attitude towards retention has become stronger after the process. He stated that this was because he “realised that there was no life imprisonment without parole in Japan and felt that the death penalty should not be abolished at this stage.”
- The same participant also noted that “it would be a good idea to introduce

life imprisonment without parole while keeping the death penalty and see how it goes (in terms of crime rates)". Furthermore, the same participant stated that in the event that a person commits murder "the murderer should stay inside the prison for the rest of his life" and "whether or not he straighten himself out is irrelevant".

- While this same participant seem to express strong belief in his position by choosing "should definitely kept", he chose "I don't know" to a question which asked whether he could press the execution button in the post-survey.

PERSISTENCE AND CHANGE IN PARTICIPANT WHO CHOSE THE DEATH PENALTY "SHOULD PROBABLY BE KEPT"

- Amongst those participants who chose the option that the death penalty "should probably be kept" in the pre-survey, 61% of those remained in the same position in the post-survey, but 15% changed to "should definitely be kept", 8% changed to "cannot say", and 16% changed to "should probably be abolished."
- Amongst those participants who chose the option that the death penalty "should probably be kept" in the post-survey, when asked whether they would still support the death penalty if life imprisonment without parole was introduced, 65% chose "yes" and 30% chose "I don't know", and 5% chose "no".
- Amongst those participants who chose the option that the death penalty "should probably be kept" in the post-survey, when asked whether they can pass a death sentence as a saiban-in, 15% answered "no", 45% answered "I don't know". When asked whether they can press the execution button, 25% responded "no" and 45% responded "I don't know".
- According to a follow-up interview conducted to a participant who changed their position from "should definitely be kept" to "should probably be kept", the participant noted that "finding out that death-row inmates have to spent each day not knowing when they will be executed made me think this treatment was inhumane and my support towards the death penalty declined slightly."
- According to a follow-up interview conducted to a participant who changed their position from "cannot say" to "should probably be kept", the participant noted that "I actually have not made up my mind yet but I felt that the death penalty was necessary when taking into considering the feelings of victims' families." On the other hand, the same participant also stated that "it may be a good idea to keep the death penalty as a symbol of most severe punishment but stop carrying out executions and introduce life imprisonment." When asked about the treatment of life prisoners if life imprisonment without parole was introduced, she stated that "life prisoners should be able to have contact with people unlike how death-row

inmates are treated now. The focus should be for the prisoners to reflect on what they have done.”

- According to a follow-up interview conducted to a participant who changed their position from “should probably be abolished” to “should probably be kept”, the participant noted that “before participating in the deliberative survey, I saw a programme on TV which made me think the death penalty should be abolished from humanitarian reasons. But during the discussions in deliberation groups, I realised that I was the minority and after listening to other participants arguing about the importance of victims’ families, I became a retentionist.”

PERSISTENCE AND CHANGE IN PARTICIPANT WHO CHOSE “CANNOT SAY”

- Amongst those participants who chose the option “cannot say” in the pre-survey, 56% of those remained in the same position in the post-survey, but 31% changed to “should probably be kept”, and 13% changed to “should probably be abolished”.
- According to a follow-up interview conducted to a participant who did not change their position from “cannot say” throughout the process, the participant noted that “When I think about the victims’ families, I do agree with keeping the death penalty, but I also understand the distress that prison officers have to go through when they have to be involved in the execution.” She then stated that “For victims’ families, it may be important that the murderer is sentenced to the most severe punishment available in the criminal justice system and may not strictly have to be the death penalty.” The same participant also noted that “we should try to look beyond victims’ families and try to see the role of the death penalty system and change it in to something positive”. She further noted that “it is important that the murderer atones the crime he/she committed and not trying to solve a murder case with another death”. On the other hand, she also commented that she is not sure “when a person commits murder, whether the murderer can truly atone its crime other than taking one’s own life”
- Participants who remained in “cannot say” frequently stated that it would not be possible to decide abolition or retention due to the limited information available.

PERSISTENCE AND CHANGE IN PARTICIPANT WHO CHOSE THE DEATH PENALTY “SHOULD PROBABLY BE ABOLISHED”

- Amongst those participants who chose the option that the death penalty “should probably be abolished” in the pre-survey, 57% of those remained in the same position in the post-survey, but 29% changed to “should probably be kept”, and 14% changed to “should definitely be abolished”.
- According to a follow-up interview conducted to a participant who changed

from “should probably be kept” to “should probably be abolished”, she explained that “before participating in the deliberative survey, I vaguely supported the death penalty by seeing the media reporting. I realised when reading the information leaflet about the possibility of misjudgment in death penalty cases and came to the conclusion that the possibility of misjudgment is far important than victims’ families’ feelings.

- According to a follow-up interview conducted to a participant who did not change from “should probably abolish” throughout the process, the participant noted that “those who committed serious crimes should be sentenced to a more severe punishment than the death penalty” and further stated that “we should introduce a life imprisonment where life prisoners in return beg to be executed.”

PERSISTENCE AND CHANGE IN PARTICIPANT WHO CHOSE THE DEATH PENALTY “SHOULD DEFINITELY BE ABOLISHED”

- A participant who chose the option that the death penalty “should definitely be abolished” in the pre-survey remained in the same position in the post-survey.
- According to a follow-up interview conducted to a participant who did not change from the view that the death penalty “should definitely be abolished”, he noted that “I do feel for the victims’ families but retention and abolition of the death penalty should not be determined by sentimental reasons.” He also noted that “if a state kills a murderer through the death penalty, the state is answering to murder through another murder.”
- The same participant, when asked whether he would be able to pass a death sentence as a saiban-in in the post-survey, chose “I don’t know”. For a person who takes a strong stand in his position by choosing “should definitely abolish”, this may seem slightly strange. The participant clarified his reasons during the follow-up interview by stating that “if I was selected as a saiban-in and was in charge of a heinous crime, I may become very emotional and think that the defendant deserves the death penalty.”

③ DISCUSSIONS DURING DELIBERATION

[VICTIMS ①]

When thinking about whether or not to retain or abolish the death penalty, the majority of retentionists as well as some abolitionists argued that “the death penalty should be kept to respect the wishes of the victims’ family”.

- Discussions in deliberation groups were made up of two sessions lasting an hour each. In these discussions, there were no pre-organised topics that

participants were required to discuss. Instead, participants in each group were free to discuss whatever topic they felt suitable and important.

- Participants spent most time discussing about the role of victims' families in the death penalty.
- The majority of participants were under the impression that "victims are not protected". For example, they feel that not enough care is provided for victims, leading to a statement that "it is always the right of the criminals that are protected".

[VICTIMS ②]

It was clear from the discussions in deliberation groups that participants were focused on the "victims" point of view. On the other hand, it was also clear that participants did not have a proper understanding about the aims of courts as well as the difference between a "defendant" and a "criminal".

- When analysing the participants' statements in the discussions in deliberation groups and follow-up interviews, they were likely to think of criminal courts as a place where it is fought between "defendants" versus "victims". One participant stated that "it is strange why defendants get a lawyer but victims do not get one".
- Participants also perceived that "criminals get the help of a lawyer" and did not distinguish conceptually between a "defendant" and a "criminal".
- Participants see criminal courts as a place where "victims should win justice", and "justice" is whether or not the defendant is found guilty (i.e. death penalty). For participants, courts are not a place, for example, where defendants are judged whether they really committed a crime, or a place where judges declare the norms to the society toward a crime committed.