

Death Penalty : The Last Throw of the Dice for South Africans

Introduction

Given recent events in South Africa, Plus 94's public opinion survey was inevitably drawn towards the crime situation plaguing the population, which has become the subject of hyped up discussion in every corridor stadium, house, shebeen, bathroom and just about everywhere else where the people can ventilate not only their frustrations, but more importantly their fears. More specifically baby Makgabo was murdered by suffocation under the most bizarre circumstances, while her 58 year old nanny was being brutally raped. To add insult to injury, baby Khensani was shot dead on her mother's back hardly a week later, in one of the most chilling crime horror stories ever told. The survey also coincided with the release of crime statistics in which it was revealed that 19000 murders and 55000 rapes occur annually. This translates to 1583 murders a month and 4583 rapes per month, more people being grotesquely brutalized and having their rights taken away than normally happens in a war zone. In sentencing the convicted killers of baby Makgabo the judge controversially lamented that he wished the death sentence was in place as he would have under the circumstances applied it. Plus 94 carried out this survey to provide an unbiased dipstick measure of the extent to which crime is experienced by South Africans and their view on bringing back the death penalty which was abolished in 1995 following the ruling in the case of the State versus Makwanyane, in which it was ruled that the death penalty violated certain constitutional rights and was therefore unconstitutional. The existence of the death penalty had been plagued by controversy between the abolitionists on the one hand and retentionists on the other. While the primary argument of the retentionists and those seeking for its reinstatement revolved around deterrence and just retribution, the abolitionists argued that it could not be proven that the death penalty was a deterrent anywhere around the world, this being supported by utterances by Amnesty International. The abolitionists argued that state should not reflect the violent nature of crime by becoming a part of it, that its duty should be that of curtailing the crime and instituting alternative measures of punishment. Added to these justifications was the view that the death penalty is irreversible, and despite all precautions, innocent people could be killed, a situation that was even more glaring in South Africa, as the death sentence was not subject to an automatic appeal as is the case in some countries.

The South African situation was exacerbated by the political role of the courts in the apartheid years, where it became apparent that the criminal justice system could not serve as a definitive safeguard against error, prejudice and injustice. According to Amnesty International from 1982 to 1983, of the 81 blacks convicted for murdering whites 38 were hanged. By comparison 52 whites convicted of murdering whites, only 1 was hanged, and of the 21 whites convicted of murdering blacks none was hanged. It is such glaring imperfections of the criminal justice system that made punishment by the death penalty even more questionable, apart from the other merits of applying alternative sentences to offenders based on, among others, the assumption that the self (a person consisting of moral and legal characteristics) is a sanctified existence that is subject to change and improvement.

The survey was conducted nationally in all nine provinces among 3000 respondents of all races. A stratified probability design was used. The applicable margin of error on the total statistics resulting from this survey is 1.8%, meaning that a measure of 10% can range anywhere between 8.2% and 11.8%.

Main Findings

Respondents when asked to state their feelings about the state of crime in South Africa, 78% said that it was severe and out of control, this being over 70% in all the provinces, except KwaZulu Natal where 23% said it was bad but under control. In total 95% of South Africans of all races thought that crime was bad or severe, the tendency being to view it as being out of control. Only 31% of the total sample felt that the situation would significantly improve in the next 3 years. More than 1 in 2 (51%) were not convinced that the situation would be rectified within 3 years, while 17% were uncertain of what would happen next. The provinces most confident of an improvement in the crime situation were Free State (46%), Northern Cape (39%), North West (38%) and KwaZulu Natal (37%). The most pessimistic provinces about improvement were Eastern Cape (25%), Gauteng (27%), Western Cape (27%), Mpumalanga (27%) and Limpopo (30%).

With this background in mind, respondents were asked whether they thought that they should be allowed by government to vote in a referendum about bringing the death penalty back. Overwhelmingly, more than three quarters (76%) indicated that they would like their government to offer them this opportunity. This was significantly higher for females 80% of them calling for the referendum, compared to 72% of males. As women and children are often the biggest victims of abusive crime and rape, this is unsurprising. In total, 72% of black respondents called for the referendum on the death penalty compared to 94% of whites, 90% of coloureds and 90% of Indians. Another observation is that with increasing age South Africans are more likely to call for a referendum on the death penalty (70% of the 18 to 24 compared to 83% of the 50 plus). The percentages in the tables throughout this report are reported on a grossed up national adult population of South Africa (18 years and older), which currently sits at about 28.7 million people.

Given the state of crime in SA, do you think that the SA government should allow its people to vote in a referendum on bringing back the death penalty?

	GENDER		RACE			AGE			years	years	50+ years
	Male	Female	Black	White	18-24	25-34	35-49				
TOTAL					Coloured	Indian					
	28653538	13306160	15347378	21791030	3366488	2707489	788532	6588908	8502724	7728448	5833458
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Yes	21928762	9584880	12343882	15637235	3155411	2425973	710143	4608718	6354635	6134414	4830995
	76.5	72.0	80.4	71.8	93.7	89.6	90.1	69.9	74.7	79.4	82.8
No	6443426	3595132	2848294	5924421	183333	270574	65097	1957136	2063495	1520147	902647
	22.5	27.0	18.6	27.2	5.4	10.0	8.3	29.7	24.3	19.7	15.5
Dont know	248495	126149	122346	196518	27743	10942	13292	23054	84594	56219	84628
	0.9	0.9	0.8	0.9	0.8	0.4	1.7	0.3	1.0	0.7	1.5
NO ANSWER	32856	-	32856	32856	-	-	-	-	17668	15188	
	0.1	0.2	0.2					0.2	0.3		

Several reasons were given for imploring the government to table the death penalty argument to its subjects. The main one was that this would reduce crime (51%). Over 1 in 5 South Africans felt that crime was a national problem, therefore the government should involve the people in resolving it. Of particular concern were crimes such as murder and rape towards which respondents felt they were helpless. Furthermore, jail sentences were too short and jails were not effective (8% mention). These feelings were shared almost equally across the different age and race groups.

Why do you think government should allow its people to vote in referendum on bringing death penalty back ?

	GENDER		RACE				AGE					
	TOTAL	Male	Female	Black	White	Coloured	18-24	25-34	35-49	years	years	50+ years
							years	years	years			
ALLOW TO VOTE	21928762	9584880	12343882	15637235	3155411	2425973	710143	4608718	6354635	6134414	4830995	
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
It may decrease rape cases	7.4	6.5	8.2	5.7	7.5	18.2	7.6	5.5	7.8	9.0	6.9	
		1628018	620630	1007388	896660	235102	442181	54074	251846	493944	549304	332923
It may decrease murder cases	10.4	10.0	10.6	7.3	15.4	24.5	8.1	10.4	8.9	12.6	9.5	
		2273894	959979	1313915	1135922	485256	595006	57710	478558	562671	772784	459881
Murderers must be held to account	14.0	13.8	14.1	12.9	18.8	12.8	19.8	12.1	13.0	14.1	16.9	
		3060164	1321570	1738594	2016969	592610	310170	140416	556593	823061	864547	815964
People should be involved with this decision	21.8	24.0	20.1	26.8	10.2	8.9	8.9	24.7	24.9	17.7	20.3	
		4788739	2302291	2486448	4187414	321541	216620	63163	1136298	1584683	1088234	979526
It will reduce crime	51.2	51.1	51.4	50.9	52.8	52.0	48.5	49.4	51.5	53.1	50.3	
		11234193	4893545	6340649	7964957	1664669	1260457	344110	2277499	3273784	3254582	2428329
Jail sentences are too short	6.0	5.7	6.2	5.3	5.9	7.2	16.5	8.2	4.7	5.3	6.3	
		1308471	544336	764135	830469	187415	173685	116902	380061	295846	325919	306645
Jails are not effective	2.4	2.2	2.5	1.7	5.4	1.8	6.1	2.3	1.9	2.8	2.6	
		522734	209331	313403	265900	170597	43066	43171	104049	121536	170236	126913
NO ANSWER	*	8115	-	8115	-	8115	-	-	8115	-	-	-
		0.1		0.3		0.2						

The minority of the respondents who did not support the need for a referendum either vented the feeling that they were opposed to the concept of a death penalty (38%), or provided a specific reason for their rejection of the idea. Some of the more potent reasons given were that innocent people can get killed (19%), that there were alternative ways of dealing with the problem (13%), religious reasons (9%), and that this would not make a difference to the situation (8%). A further 7% thought that the government had the prerogative to take such an important decision.

Why do you think government should not allow its people to vote in referendum on bringing death penalty back?

	GENDER		RACE				AGE					
	TOTAL	Male	Female	Black	White	18 -24 Coloured	25-34 Indian	35-49 years	years	years	50+ years	
NOT ALLOWED TO VOTE	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
		6443426	3595132	2848294	5924421	183333	270574	65097	1957136	2063495	1520147	902647
Don't support the death penalty	38.4	37.8	39.1	38.4	33.8	41.9	33.2	37.0	38.6	42.0	34.7	
		2472954	1359410	1113544	2275909	62035	113425	21585	724303	797275	637883	313494
There are alternative ways to solve problems	12.9	14.2	11.3	12.2	17.5	20.7	33.2	17.3	10.5	11.8	11.0	
		833573	510333	323240	723838	32062	56087	21585	338922	216250	179265	99136
It would not help	7.5	6.9	8.3	7.7	8.3	2.8	6.6	6.1	9.5	5.8	9.2	
		485007	247954	237053	457842	15253	7595	4317	118734	195386	88102	82786
It would be like living under Apartheid again	6.1	7.1	4.9	6.5	3.5	1.4		3.7	8.2	7.4	4.9	
		396204	255644	140560	386128	6398	3678	-	71883	168314	111788	44219
Sometimes innocent people will be killed	19.4	18.6	20.5	19.8	9.3	20.7	13.3	21.0	19.5	16.4	21.0	
		1252078	666927	585151	1170440	17096	55908	8634	410161	403303	249251	189363
Government should make the decision	7.2	7.4	7.0	7.5	4.9		13.8	8.0	8.1	8.0	2.2	
		464182	266138	198044	446302	8905	-	8975	156308	167156	120872	19846
Religious reasons	9.4	9.1	9.8	8.9	22.7	12.5		7.7	6.3	9.5	20.0	
		605110	327274	277836	529643	41586	33881	-	150117	129655	144400	180938

When confronted with the question of timing of the decision on a death penalty referendum, 64% of the sample felt that this decision was long overdue and should be taken as a matter of urgency. This view was more emphatic among females (68%) than males (59%). The race breakdown indicated that 57% of blacks felt that the decision was long overdue, compared to 90% of whites, 84% of coloureds and 80% of Indians. Overall, a further 13% felt that the decision should be taken within the next three years, largely mentioned by 15% of blacks. Older citizens (above 25) were more inclined to believe that the decision to take the matter to a referendum was long overdue. Perhaps with the 2010 soccer in mind 18% of respondents, again mostly black suggested that the death penalty referendum be held after 2010.

How soon do you think that a decision on the death penalty should be taken?

	GENDER		RACE					AGE				
	Male	Female	Black	White	18 -24	25-34	35-49	years	years	years	50+ years	
					Coloured	Indian						
TOTAL												
	28653538	13306160	15347378	21791030	3366488	2707489	788532	6588908	8502724	7728448	5833458	
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Urgently, it is long overdue	63.8	18291484	7826322	10465162	12353214	3023442	2284096	630733	3738502	5299326	5001632	4252024
		58.8	68.2	56.7	89.8	84.4	80.0	56.7	62.3	64.7	72.9	
Within the next three years	13.4	3840497	1899846	1940651	3429647	168683	172073	70095	1001945	1113916	1044636	680000
		14.3	12.6	15.7	5.0	6.4	8.9	15.2	13.1	13.5	11.7	
After 2010	17.6	5030765	2720063	2310701	4719443	99312	203035	8975	1470287	1698919	1274175	587384
		20.4	15.1	21.7	3.0	7.5	1.1	22.3	20.0	16.5	10.1	
Dont know	4.0	1138954	681972	456982	955872	73336	48286	61461	308105	291309	300582	238958
		5.1	3.0	4.4	2.2	1.8	7.8	4.7	3.4	3.9	4.1	
Never/Not At All	1.2	334170	177957	156213	315187	1715	-	17268	70069	99254	89756	75092
		1.3	1.0	1.4	0.1		2.2	1.1	1.2	1.2	1.3	
NO ANSWER	0.1	17668	-	17668	17668	-	-	-	-	17668	-	
			0.1	0.1					0.2			

A final question was then asked to determine how respondents would vote if they were given the opportunity by government to participate in a referendum on the death penalty. Respondents could say that they would vote against the death penalty or vote for it. If they were not sure how they would vote they were allowed to air such a sentiment, or to refuse to answer the question. Only 1% refused to answer the question, 8% were not sure how they would vote. Strikingly, 69% would vote to have the death penalty in place, compared to 22% who opposed it. As has been the general trend in these findings, 74% of females want to have the death penalty back, compared to 64% of males, once again emphasizing the fact that not only are women primary victims of crime, but they also carry the largest physical and emotional burden on behalf of the family when deaths as a result of violent crime have occurred.

Notwithstanding the history of apartheid atrocities, it is noteworthy that 64% of blacks would vote to have the death penalty back, perhaps as a

last ditch effort to deal with crime which they consider to have spun out of control, and are not confident of having it reduced, against a backdrop of what appears to be a precarious criminal justice system.

Among other races, 93% of whites would vote for the death penalty, compared to 87% of coloureds and 88% of Indians, all bearing testimony to the ailing criminal justice system, more than a desire for just retribution for victims and their families through the act of hanging.

If you could vote on the death penalty issue, how would you vote?

	GENDER		RACE			AGE					
	Male	Female	Black	White	Coloured	Indian	18 -24 years	25-34 years	35-49 years	50+ years	
TOTAL	13306160	15347378	21791030	3366488	2707489	788532	6588908	8502724	7728448	5833458	
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
I would vote to have the death penalty	19844666	8487723	11356943	13687806	3122400	2343400	691060	3964794	5883004	5583945	4412923
	69.3	63.8	74.0	62.8	92.7	86.6	87.6	60.2	69.2	72.3	75.6
I would vote against the death penalty	6347714	3674586	2673128	5917116	138493	234962	57144	1915606	1905942	1558959	967207
	22.2	27.6	17.4	27.2	4.1	8.7	7.2	29.1	22.4	20.2	16.6
Not sure	2211194	1003704	1207490	1994080	92548	88894	35671	612233	689649	497941	411371
	7.7	7.5	7.9	9.2	2.7	3.3	4.5	9.3	8.1	6.4	7.1
NO ANSWER	249964	140147	109817	192028	13047	40232	4658	96275	24128	87604	41957
	0.9	1.1	0.7	0.9	0.4	1.5	0.6	1.5	0.3	1.1	0.7

Conclusion

The South African nation is at a cross roads regarding its criminal justice system, and the decision on the death penalty. Given the current loopholes in apprehending, trying, convicting and incarcerating criminals, the death penalty appears mandatory as an apparatus for deterring violent crime, rather than one for according proportionate punishment. The population is not convinced

about the probability of arrests and of convictions. Even if both did happen, there is an impression that sentences are light and parole is easily available, and therefore that the alternative methods to the death penalty are either vastly improved overnight or the death penalty should be installed. This will avoid a growing sense of disillusionment and despair. Ultimately people might end up taking the law into their hands as happened in October 2006 in Johannesburg when a member of the public shot and killed a would be hijacker, to much acclaim by other citizens who became aware of the event. The crime situation has already tainted South Africa's image internationally. Doing more about it would reduce the need for South Africans to call for a death penalty. This will have a positive effect on the country's reputation.

In a country where 200 people are either killed or raped per day (official statistics released by the South African police for 2005/2006) a lot more needs to be done to appease the long suffering members of the public. While critics of the criminal justice system might themselves be criticized for lack of patriotism, this rather morbid crime situation in South Africa requires some urgent attention from the authorities.