



# Chapter 8

## An International Perspective on Corrections

# Comparative Penology

- How might one compare countries in terms of their penal sanction?
  - Cavadino & Dignan compare contemporary capitalist societies and find highest imprisonment rates in the neo-liberal countries (e.g., Australia, England and Wales, USA)
  - Ruddell & Urbino found more heterogeneous countries are more punitive (measured by presence of death penalty and imprisonment rate)



# Comparison by Sentence Type

- Cavadino & Dignan, and Ruddell & Urbina provide potentially useful techniques, but they are more involved than what we can use here
- Instead, we resort to the more simplistic (yet easily shown) reliance on sentence type to compare countries



# Typical Sentencing Options

- Punishment options are rather consistent around the world
  - Financial penalties
  - Corporal and capital punishment
  - Noncustodial sanctions
  - Custodial sanctions



# Financial Penalties

- Fines
  - Fines in US jurisdictions used mostly for traffic offenses, misdemeanors, and ordinance violations
  - Other countries use financial penalties for more serious crimes
    - Why don't we?
- European Day Fine
  - Good example of fine for serious crime
  - Used in a few US jurisdictions



# Day Fine System

- Basic idea is to provide a financial punishment that:
  - is proportionate to the seriousness of the crime, and
  - has a similar financial sting on persons with differing financial resources
- Two components:
  1. Fine amount linked to severity of the crime
  2. Fine adjusted to offender's financial situation



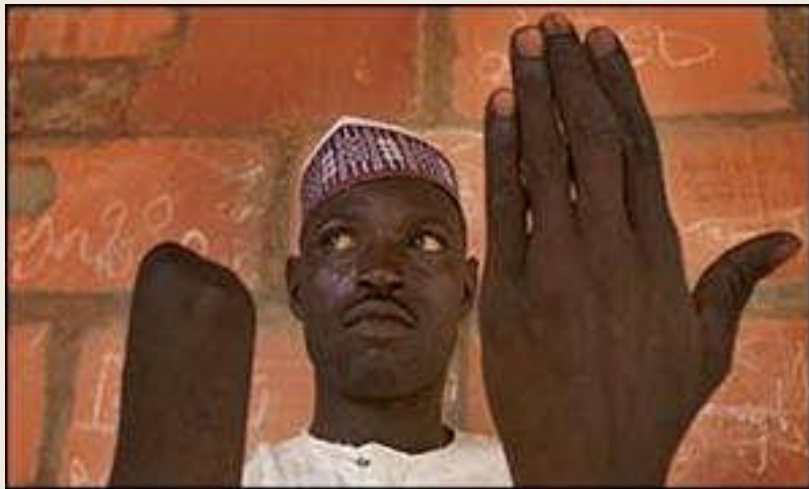
## Day Fine (cont.)

- Both Stefan and Rudolf have been convicted of assault, which is a serious crime valued at 20 punishment units (each unit is one day's net pay--€50 for Stefan and €30 for Rudolf)
- The judge sentences each to 75 day fines
  - Stefan pays €1000 ( $50 \times 20$ )
  - Rudolf pays €600 ( $30 \times 20$ )
- Fine amounts differ, but each offender is presumably affected similarly



# Corporal Punishment

**Judicial corporal punishment**



**Corporal punishment for interrogation**



Our concern is with judicial corporal punishment---  
corporal punishment applied as a sentence



# Judicial Corporal Punishment

- Contemporary examples include amputation and whipping
  - Although in 2005 a Saudi court ordered a man's [right eye to be gouged out](#) – but he was finally [granted clemency](#) by his victim
- Corporal punishment most often used as sentence by Shari'a courts
  - Important to remember restrictions (pp. 160-161) and role of *diyya* (pp. 299-301)



# Capital Punishment

- During 2009, Amnesty International estimates at least 714 prisoners were executed in 18 countries around the world
  - Does not include thousands in China
- 88% of the 714 known executions took place in just 4 countries
  - China (more than rest of world combined)
  - Iran (at least 388)
  - Iraq (at least 120)
  - Saudi Arabia (at least 69)
  - United States (52)



Iran: Photo from The Economist 25AUG07

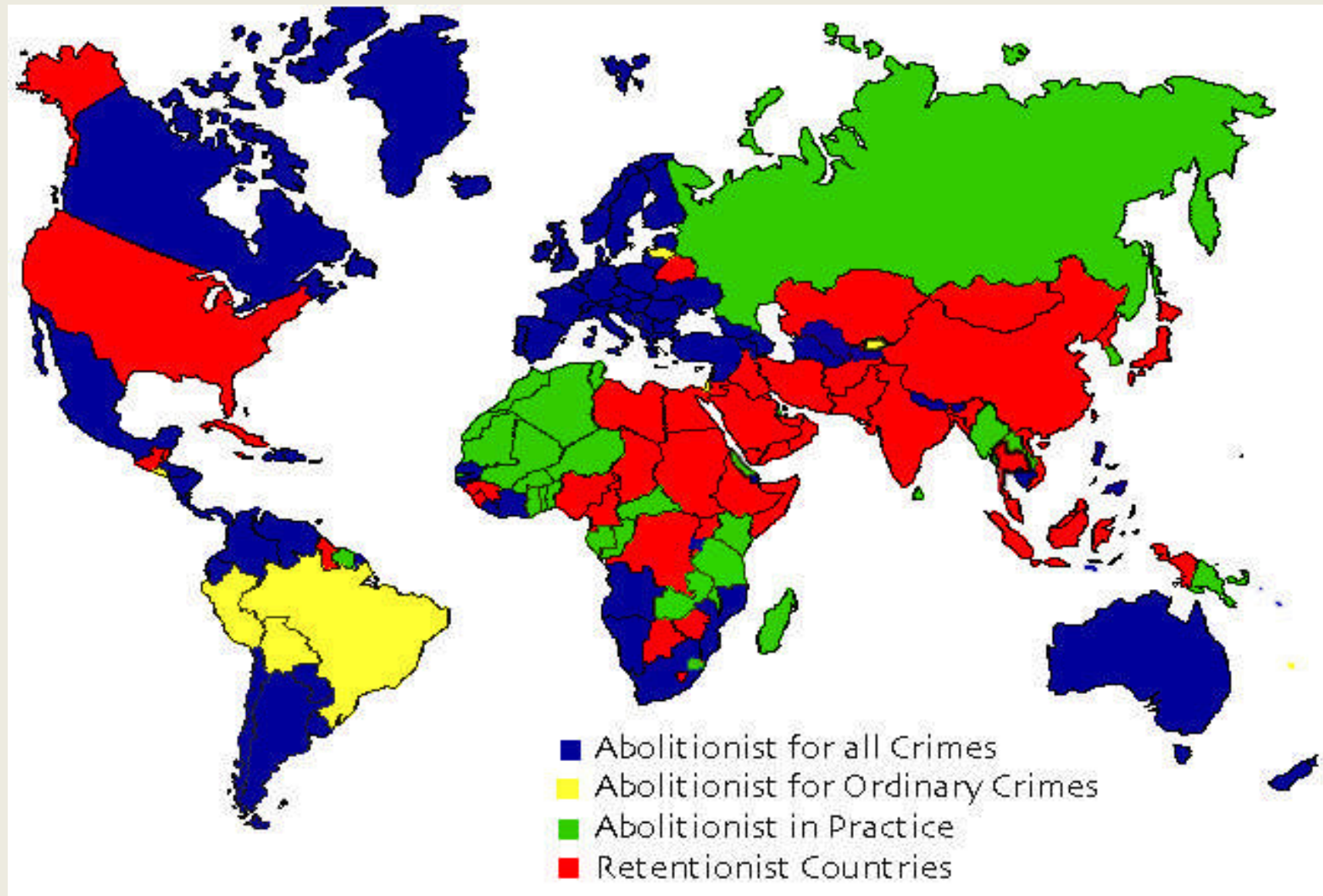


Amnesty International video supporting abolition

## Abolitionist and Retentionist Countries

- More than 71% the world's countries (139 of 197) have abolished the death penalty in law or practice
- Retentionists (N=58) include:
  - Afghanistan, China, Cuba, Iran, Japan, Nigeria, Pakistan, Saudi Arabia, Thailand, Viet Nam, and the United States





Total Abolitionist in law or practice: 139 (as of 23 MAR 2010)

# Foreign nationals and the death penalty

- Vienna Convention on Consular Relations (1963)
  - Article 36 requires local authorities to notify “without delay” all detained foreigners of their right to have their consulate informed of their detention
  - At the national’s request, local authorities must
    - Notify the consulate without delay
    - Facilitate unfettered consular communication
    - Grant consular access to the detainee
- Good idea?





# And, The Optional Protocol

- Optional Protocol, requires ICJ signatories (US being one) to make the final decision when their citizens say they have been illegally denied the right to see a home-country diplomat when jailed abroad
- United States was first to invoke the optional protocol
  - Sued Iran for taking of 52 U.S. hostages in Tehran in 1979
  - US won the suit in World Court agreed



# USA compliance

- USA ratified the convention w/o reservation
- What does “without delay” mean?
  - Inter American Court of Human Rights says it means immediate notification upon detention and before any interrogation
  - US State Department says it means as soon as possible (i.e., w/o undue delay) and normally by time detainee is booked for detention
- Is overwhelming evidence that prompt notification of these rights across the US is the exception rather than the rule





# Enter the World Court

- Since 1999, three countries have sued the USA for violation of the Vienna Convention
  - Germany (AZ ignored 2001 court order and executed German citizen), Paraguay, & Mexico
- Mexico's complaint was filed in JAN 2003
- In April 2004, the World Court ordered the USA to review 51 death sentences



# Decision

- World Court (i.e. the International Court of Justice) ruled USA violated rights of 51 Mexicans on death row to receive diplomatic help
  - Ordered Washington to review the cases
- Attorney for one Mexican national asks:
  - “If the U.S. ignores this right to call your consul, why should the rest of the world honor it?”



- US hasn't denied breaching the convention
- In past has apologized and promised better compliance
- U.S. usually does not pay much attention to the international court unless the court rules in its favor



# US Reaction to World Court?

- March 7, 2005, President Bush sends letter to Kofi Annan that the United States “hereby withdraws” from the Optional Protocol to the Vienna Convention
- Does not affect requirement to inform foreigners of their right to see a home-country diplomat when detained overseas
  - Just means USA doesn’t accept World Court as having final say



# Current Status

- Most recent USSC decision (*Medellin v. TX*, 2008; (No. 06-984) ruled Vienna Convention was not binding federal law b/c Congress has not passed legislation to enforce it
  - Dissenters (was a 6-3 decision) took view that treaties become part of U.S. law and, therefore, must be followed by state and federal officials
- In August 2008, Texas executed Medellin
  - [Council of Europe declaration](#)



# Noncustodial Sanctions (briefly)

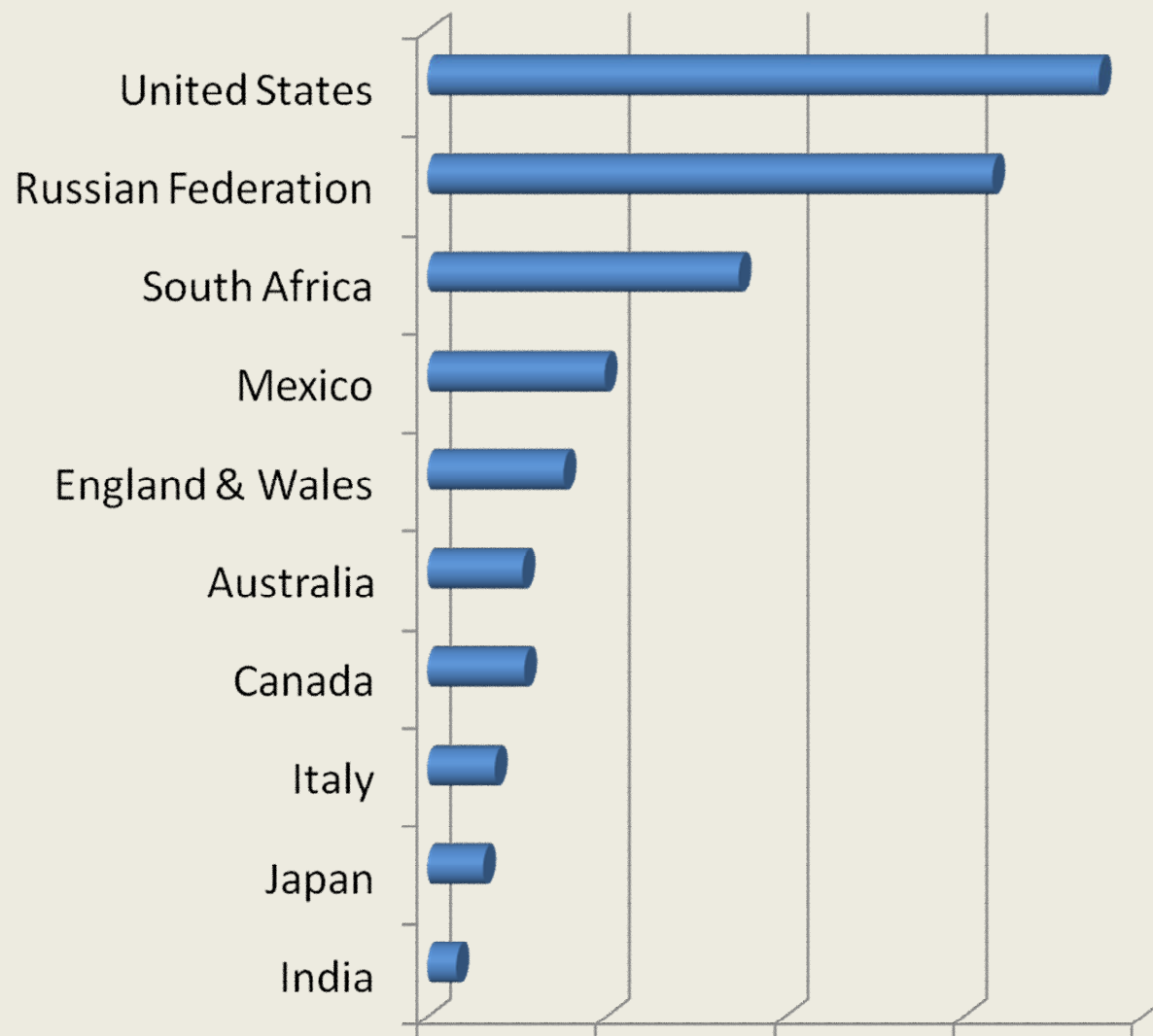
- Probation
  - Found throughout the world
  - Defining characteristic is that it attempts to reintegrate the offender into the society
  - Typical responsibilities
    - Provide information to other CJ agencies (e.g., PSI report)
    - Case supervision (e.g., assist & monitor)
    - Enforcement (e.g., initiate revocation)



# Custodial Sanctions

- About half of the world's prison population is in just three countries
- United States (@ 2 mil)
- China (@ 1.5 mil)
- Russia (@ 1 mil)
- The U.S. has the highest imprisonment rate (Ir) in the world (751)
- The median Ir for all the countries in the world is around 120







# Issues: Women in Prison

- Small numbers
  - Typically about 5% of a country's prison population
    - Range from >20% (Hong Kong) to <1% (Ghana)
- Imprisoning drug offenders
  - Situation around world reflects that in US (tough drug sentencing affects women in higher proportion than men)
- Needs and problems
  - Universal concern about how prison affects mother/child relationship



# Issues: Racial & Ethnic Minorities in Prison

- Not just a US problem
  - Racial and ethnic minorities are consistently overrepresented in prisons around the world
  - Shouldn't take that to mean the problem is inevitable or unsolvable
- Foreign prisoners more likely
  - Many countries keep track of foreign prisoners rather than tracking ethnic/racial minorities
  - Seems that many countries have disproportionate representation of foreign prisoners
    - Explanations similar to those offered in US (i.e., discriminatory CJ system, or poor social/economic situation leading to crime)



# Issues: Aging Prisoner

- Probably familiar with problem in US with increasing number of elderly prisoners
- Some problem confronting other countries
- Japan
  - Japanese 65 and over now make up the fastest-growing group
  - Result of more crime by that group rather than longer sentences



See the [NYT article](#) for more information

## Japan's prison for the elderly prisoners (@ 3 min)

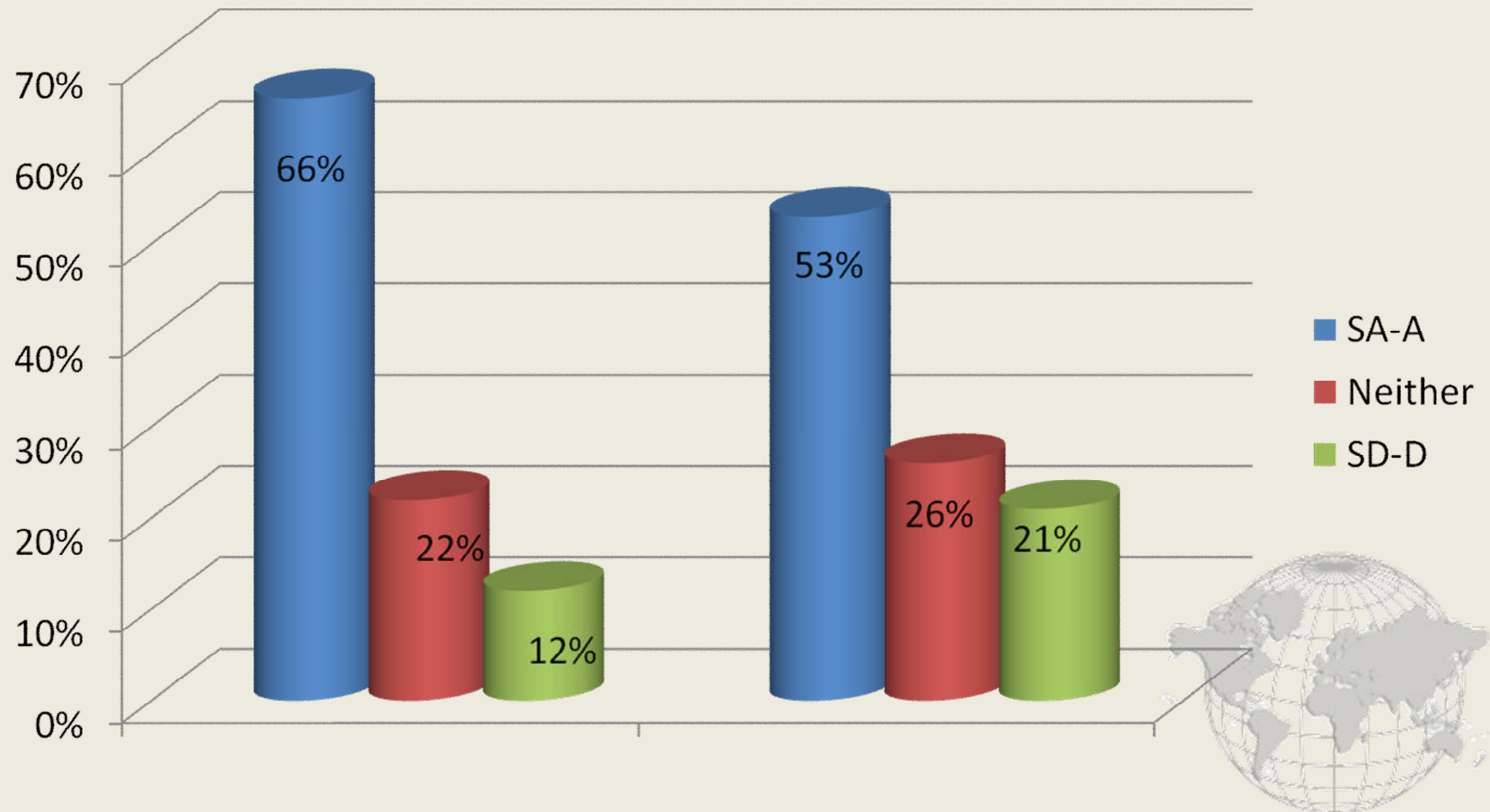
Japan's elderly prison population - 02 Mar 08



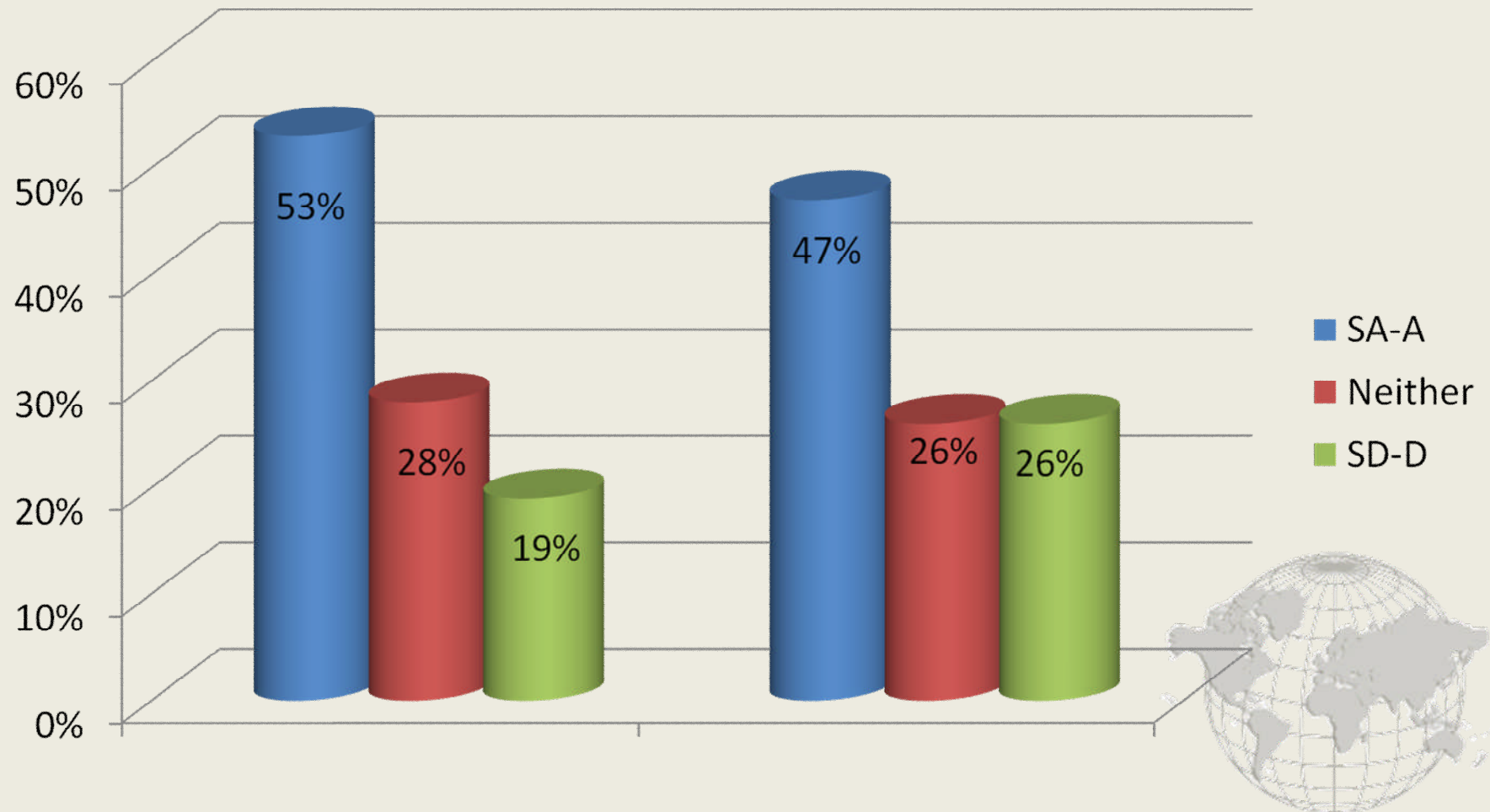
# Returning to the Opinions Poll



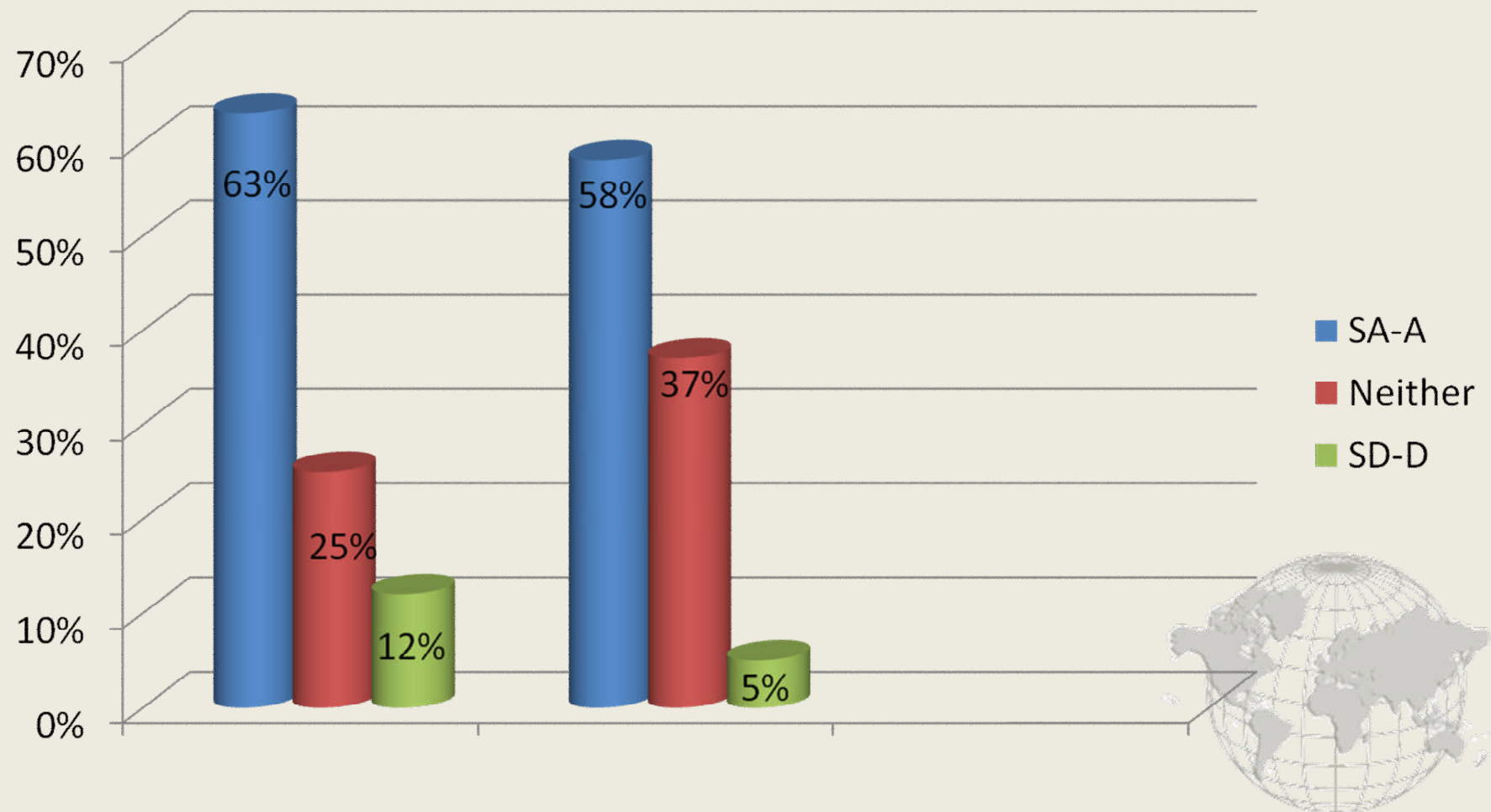
# It takes too long for the courts to do their job



# Juries are the most important part of our court system



# Despite its occasional problems the American justice system is still the best in the world





I can think of no better way than the American jury system to determine whether a defendant actually committed the accused

