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## **Submission to the Australian Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade for the Inquiry into Australia's Advocacy for the Abolition of the Death Penalty September 2015**

In view of the Committee's Inquiry into Australia's Advocacy for the Abolition of the Death Penalty, the World Coalition against the Death Penalty (World Coalition), would like to communicate several points concerning Australia's efforts to advocate for worldwide abolition of the death penalty. The World Coalition acknowledges the significant amount of anti-death penalty advocacy the Australian Government is currently undertaking and uses this opportunity to suggest actions that could be strengthened and a more actions that could be developed.

The World Coalition Against the Death Penalty (WCADP) comprises over 150 members: human rights organizations, professional associations and local authorities on the five continents who have united to campaign for the universal abolition of the death penalty. It was founded in 2002 in Rome. Its actions include the World Day against the Death Penalty, a ratification campaign of the United Nations Protocol aiming at the abolition of the death penalty, and a campaign for the implementation of the UNGA moratorium resolution.

Australia's unique geographic position places it in a crucial situation for the abolition of the death penalty in Asia-Pacific. Of the 41 countries in Asia and the Pacific, 13 are retentionist, 10 are abolitionist in practice, 18 countries (and 2 Special Administrative Regions of China) are abolitionist for all crimes. In total, 28 countries have abolished the death penalty in law and /or practice. However, the 13 retentionist countries (Afghanistan, Bangladesh, China, India, Indonesia, Japan, North Korea, Malaysia, Pakistan, Singapore, Taiwan, Thailand, Viet Nam) are among those who execute most people in the world and who are the most vocal in favour of the death penalty at the international level.

#### **Local contact:**

Professor Peter Norden AO  
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## 1) Reviewing how Australia currently engages internationally to promote abolition of the death penalty

- Ratification campaign for the international and regional protocols for the abolition of the death penalty

In a letter dated 24 March 2011, the Ministry of Foreign Affairs of Australia rejected the call of the World Coalition Against the Death Penalty to **join the “Friends of the Protocol”**, a group of countries which officially support the campaign for the ratification of the UN Protocol for the abolition of the death penalty.

The letter stated that it is not clear to the Australian Government “how membership of the World Coalition would make a material difference to this work”. In response, the World Coalition pointed out that the World Coalition was not asking the Australian government to become a member of the World Coalition, but to join the group of likeminded countries advocating for the ratification of the only universal treaty for the abolition of the death penalty.

At a meeting of the current “Friends of the Protocol” and other interested parties on 17 March in Geneva there was consensus that non-European countries needed to be part of this group. Given Australia’s clear commitment to the abolition of the death penalty and influence in the Asia Pacific region, Australia was the logical choice. Indeed, being a Friend of the Protocol will add a global dimension to Australia’s dealings with those countries that are one step away from ratifying the Second Optional Protocol. Specifically, our experts believe that Australia could play a vital role in seeing Cambodia ratify.

The success of the “Friends of the Protocol” is clear. Every target country which had its UPR accepted the recommendations to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the Death Penalty. Since the beginning of the campaign in 2009, 10 countries have ratified or acceded to the Protocol thanks to combined actions of governments and civil society. The World Coalition estimates that joint efforts of civil society advocacy, international organizations’ involvement, and diplomatic relationships of countries officially sponsoring the Protocol is crucial for the success of universal abolition.

One clear benefit of being part of this select group is the extra weight that will be given to Australia’s representations against the death penalty during bilateral discussions. In dealings with target countries, Australia would ideally let it be known that it is a member of the Friends of the Protocol which is made up of Belgium, Chile, France, Norway, Spain and Switzerland. By coordinating its actions with the World Coalition which is made up of over 150 high profile civil society organizations, the Australian government will ensure greater efficiency while promoting a democratic process.

Given Australia’s commitment to the universal abolition of the death penalty, the amount of additional work needed to be a “Friend of the Protocol” is minimal but the benefits could be extensive. Becoming a Friend of the Protocol will formalize the Government’s commitment and be mutually beneficial in terms of strategy and information exchange.

For these reasons, the World Coalition encourages the Australian Government to consider becoming a “Friend of the Protocol”.

## 2) Engaging with international institutions and likeminded countries

- During the **Universal Periodic Review** of the UN Human Rights Council in Geneva, Australia consistently makes recommendations on the death penalty and is a strong ally for NGOs' UPR lobbying. To build on that leadership, Australia could also systematically make recommendations to abolitionist countries that have not yet ratified the OP2-ICCPR to do so. It could also provide assistance to Pacific island small states, many of which are abolitionists, to help with the ratification process of ICCPR and OP2-ICCPR, as many of them claim that they do not have the capacity to ratify these treaties.
- In 2012, the United Nations Office on Drug and Crime (**UNODC**) in Vienna published a Position Paper entitled: "UNODC and the promotion and protection of human rights" stating: "If, following requests for guarantees and high-level political intervention, executions for drug-related offences continue, UNODC may have no choice but to employ a temporary freeze or withdrawal of support." However, UNODC continues to fund law enforcement-focused counter-narcotics activities in a number of countries which aggressively apply the death penalty for drug offences. Earlier this year it was finalizing a new five year funding settlement in Iran, a country that has executed at least 394 drug offenders in 2015. This funding continues despite a recent report from the UNODC's own Independent Evaluation Unit finding that that country has taken "no action . . . yet in line with UNODC guidance." For now we believe that abolitionist donors should freeze all financial support pending an investigation into how it has been spent, clear risk assessments and accountability mechanisms being put in place. Australia could play a strong role in calling for this investigation and accountability mechanisms.
- Since 2007, the United Nations' General Assembly (UNGA) in New York has adopted five **resolutions calling for a moratorium** on executions. Australia could take an active part in the growing support for the coming resolutions (2016, 2018,...).
- In April 2016, the United Nations' General Assembly Special Session (**UNGASS**) on **drugs** will be held in New York. Australia joined the statement, signed by 58 countries, on the issue of the death penalty, regretting that the Joint Ministerial Statement of the 2014 high-level review by the Commission on Narcotic Drugs of the implementation by Member States of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem did not include language on the death penalty. In preparation for the UNGASS, Australia could join other countries to make sure that the abolition of the death penalty is high on the agenda and that UNGASS makes some recommendations on abolition, at least for drug-related offences.

## 3) Cooperating with non-governmental organisations

- Australia could further participate in the global abolition movement by **funding NGOs** working for the abolition of the death penalty in target countries and worldwide.

- In order to reduce the number of people sentenced to death and executed in Asia and elsewhere, Australia could **support lawyers defending people facing the death penalty**.
- The Australian Parliament could also join **networks of parliamentarians against the death penalty**, including the Parliamentarian for Global Action initiative to share good practices and support fellow parliamentarians in retentionist countries.
- In the **fight against drug trafficking**, Australia should always make sure that **human rights guidelines**, including a ban on executions for drug trafficking, are attached to all activities and implemented. Clear risk assessments and proper accountability mechanisms should be put in place to ensure that none of Australia's actions or funding may be, even remotely, linked to death sentences and executions in other countries.
- Australia could taking an active part in the **World Congress against the Death Penalty** every 3 years, and may even consider hosting one. The next World Congress will take place in Oslo, Norway in June 2016. It is organized by the French NGO Together Against the Death Penalty (ECPM) in partnership with the World Coalition Against the Death Penalty.

#### **4) Bilateral engagements and other diplomatic activities**

- Take part in the World Day against the Death Penalty on 10 October every year and encourage all embassies to collaborate with local NGOs to organize events, especially in retentionist countries.
- Australia's Foreign Minister, Julie Bishop signed the Joint Declaration of October 10, 2015 marking the World Day against the Death Penalty. Australia could also engage in diplomatic activities to reach out to other Asian Foreign Ministers to encourage them to sign it, whether their countries are abolitionist in law or in practice.
- In Asian countries that still have the death penalty, Australia could engage in joint bilateral programs to share experience and build capacity of judges, lawyers, parliamentarians, and university scholars on the issue of fair trial, access to justice and the death penalty.
- When contacting Asian countries that still have the death penalty, Australia is encouraged to first get in touch with local NGOs in each country, which can greatly help in identifying the best approach to have a significant impact in that given country.