

## RECOMMENDATIONS

Reprieve Australia makes the following recommendations for Australia in its Advocacy for the Abolition of the Death Penalty<sup>1</sup>:

- 1. Whole of government strategy** - Establish a clear and consistent whole of government strategy committed to the global abolition of the death penalty.
  - Develop a policy document which articulates Australia's commitment to global abolition and sets out the positive actions through which the government will realise this commitment.
  - Ensure Australia's abolitionist stance underpins all domestic laws and policies.
  - Collaborate meaningfully with civil society groups working against the death penalty including non-government organisations, capital defence practitioners, academia, media, victims and their families and the broader community.
  - Implement mechanism(s) for regular and transparent evaluating and reporting on government actions.
- 2. Build capacity** - Provide support to build the capacity, expertise and efficacy of civil society groups working against the death penalty.
  - Support under-resourced capital defence practitioners and non-government organisations to continue to advocate for those at risk of execution.
  - Facilitate strategic advocacy through provision of additional resources to those groups working on the ground in retentionist countries.
  - Provide education and training for media and advocacy groups to facilitate informed public debate, raise awareness and exchange accurate information.
  - Monitor the use of death penalty, particularly in our region, by collecting data and reporting on trends in the death penalty prosecution process, the characteristics of people on death row and building upon a register of capital defence practitioners, particularly those willing to provide pro bono legal assistance.

## WHOLE OF GOVERNMENT STRATEGY

Australia is well placed to lead the movement for global abolition of the death penalty:

- Australia has been abolitionist in practice since the 1967 execution of Ronald Ryan, and in law since 1985
- The Australian Government was one of the first to accede to the 1989 *Second Optional Protocol* to the *International Covenant on Civil and Political Rights* (ICCPR)
- In 2007, Australia commenced its ongoing sponsorship of successive United Nations (UN) resolutions calling for global moratorium
- Almost 100 Members of Parliament constitute the cross-party Australian Parliamentarians Against the Death Penalty group led by long-time anti-death penalty advocates the Hon. Philip Ruddock MP and the Hon. Chris Hayes MP
- In February 2015, Foreign Affairs Minister the Hon. Julie Bishop MP and Shadow Minister for Foreign Affairs the Hon. Tanya Plibersek MP moved a joint motion in support of clemency for Andrew Chan and Myuran Sukumaran, who were executed in Indonesia two months later for drug trafficking offences
- In July 2015, the Government announced this Inquiry into Australia's Advocacy for the Abolition of the Death Penalty
- In September 2015, Minister Bishop announced that Australia's advocacy for global abolition would be "unrelenting" in Australia's bid for the 2018 seat on the UN Human Rights Council

**RECOMMENDATION: Establish a clear and consistent whole of government strategy committed to the global abolition of the death penalty**

Now is the time for Australia to lead. While the global trend is toward abolition, our region contains a large percentage of retentionist countries, particularly for drug crimes. Following Indonesia's execution of 14 drug offenders, including Sukumaran, Chan, ten other foreign nationals and two Indonesians, there is renewed activism across the globe against the death penalty.

**1. Develop a policy document which articulates Australia's commitment to global abolition and setting out the positive actions through which the government will realise this commitment**

It is important that, as a leader on global abolition, Australia develops a policy document on the death penalty which sets out its advocacy goals and substantive actions to realise these goals. Australia's first step should be to articulate its stance against the death penalty. We suggest that the Australian government should state that it is opposed to capital punishment in all circumstances, for it is:

- Irrevocable;
- Arbitrary;
- Plagued by wrongful convictions and fair trial issues;
- Disproportionately targeted at marginalised and disadvantaged victims;
- Not a deterrent;
- A violation of the most fundamental human right, the right to life.

To be effective, this policy document must provide mechanisms for measuring government advocacy actions. In a climate of limited resources, consideration should be given to identifying priority countries for government action, with scope for reassessment in response to socio-political shifts.

Australia should consider our many shared ties with retentionist countries and how these relationships might best contribute to the global abolition of the death penalty. We submit the following list of factors which may assist in identifying those countries –

- What are our geographical, political and historical ties? E.g. the retentionist country may be a part of the Commonwealth, the United Nations, the Pacific Islands Forum Secretariat.
- What are our strategic alliances? E.g. the retentionist country may be a key trading partner; Australia may have a targeted aid program within the country.
- What is our likely influence at government level? E.g. resources may be better expended in a retentionist country through building the capacity of frontline services.
- What are our shared goals and barriers to achieving those? E.g. New Zealand has long been a strong abolitionist, standing together with Australia for the Second Optional Protocol and for every UN resolution for global abolition.
- What are the types of crimes eligible for the death penalty? E.g. an incrementalist approach may specifically target the death penalty for drugs, a position which has long been supported by international law.

- At what stage if abolition is the retentionist country? E.g. consider countries that are in unofficial or informal moratorium that may easily renege, withdraw or hover on reintroducing capital punishment? This is necessarily information that can change quickly and dramatically, for example, with the occurrence of a tragic crime.
- What other governments are working in the retentionist country? E.g. it may be better to pool resources and be part of a targeted effort to achieve abolition in one country or, alternately, it may be better to focus resources on countries in which no other resources are being spent.
- Where have there been successes and failures in the abolition movement? E.g. retentionist countries that emerge from moratoria to escalating executions; retentionist countries that reduce the number of death eligible crimes.

Many opportunities exist for Australia to advocate for the global abolition of the death penalty consistently and continuously. We recommend the current three pillared approach including:

- This Inquiry led by the Human Rights Sub-Committee;
- The cross-party parliamentary group; and
- The Department of Foreign Affairs and Trade's own investigation.

## **2. Ensure Australia's abolitionist stance underpins all domestic laws and policies**

Australia must ensure that its abolitionist stance underpins all domestic laws and policies that may apply to our relationships with retentionist countries. Australia's regional neighbours make up almost a quarter of those countries which retain the death penalty for drug offences. Almost all of these countries continue to execute drug offenders. Australia has the unique opportunity to indirectly advocate for abolition through promoting its health-focussed approach to drug policy in bilateral relations, including regional law enforcement, foreign affairs and trade.<sup>ii</sup>

In addition to direct law enforcement cooperation, Australia provides funding for a range of counter-narcotics activities worldwide. The direct link between internationally funded counter narcotics programs and drug-related executions has been recognised by a number of European states, including the UK, Ireland and Denmark. These nations have recently withdrawn funding for supply control operations in Iran<sup>iii</sup>.

In July 2015, the Department of Foreign Affairs & Trade reported that the "government has contributed approximately USD 4.8 million from 2010 to 2015 to the UN Office on Drugs and Crime's (UNODC) country program in Pakistan".<sup>iv</sup> UNODC documents show that Australian-funded initiatives include PAKU83<sup>v</sup>, a 5-year program focusing on illicit trafficking and border management in Pakistan. This program included the enhancement of core capacities of Pakistani law enforcement with key indicators including increased arrests, prosecutions and convictions. Reprieve UK has identified a significant number of European nationals who

have been arrested in Pakistan with death-eligible quantities of narcotics following implementation of PAKU83.

The government has also disclosed that it “contributed AUD 30,662.83 in the 2014–2015 financial year to a UNODC project on drug demand reduction and HIV control in Iran”, which was aimed at promoting public health prevention issues and the protection of individuals and families.<sup>vi</sup>

The organisation receiving the support in Pakistan, Pakistan’s Anti-Narcotics Force, has listed the number of capital convictions it enables on its website under the heading “Prosecution Achievements”, and stated in its most recent annual report that “Bringing culprits to the task through effective prosecution in the courts remained priority of the command in 2013”. Pakistan’s specialist drug courts maintain a conviction rate of more than 92%, and can hand down a death sentence to anyone possessing more than one kilogram of drugs.

At present, international law requires that the death penalty, if applied, must be reserved for the most serious crimes only and stresses that drug crimes do not meet this definition. Australia agreed with the UN High Commissioner for Human Rights’ recommendation to the 30<sup>th</sup> session of the HRC that drug offenders should not be sentenced to death. The Commissioner also reported that should the UNODC continue to fund law enforcement programmes in countries where drug offenders continue to be executed, it may freeze or withdraw that support.<sup>vii</sup> The European Union was reported to have emphasized that actions such as legal, financial or other technical assistance should not contribute to the death penalty.

As a result of these twin activities, Australia may unwittingly be complicit in drug executions, in violation of international human rights law and its stance as an abolitionist nation, with little or no evidence of any broader community benefit. Despite substantial financial contributions and drug-related arrests, the UNODC concedes that opiate flows from northern Afghanistan into Central Asia have not lessened in recent years<sup>viii</sup>. A recent Australian study<sup>ix</sup>, funded by the National Drug Law Enforcement Research Fund, revealed that drug seizures by Australian police had no effect on drug-related harm as measured by emergency department admissions or arrests. These conclusions are consistent with research by MacCoun and Reuter<sup>x xi</sup> suggesting that supply reduction is an unrealistic objective in drug markets that are well established and diverse.

There are three important milestones for a nation to be considered truly abolitionist: abolition of the death penalty as a sentence of law; non-refoulement of people to face the death penalty in other countries; and a refusal to provide information or other assistance to facilitate application of the death penalty by others<sup>xii</sup>. Australia must ensure that any future financial or technical assistance, capacity-building and other support for drug enforcement is underpinned by Australia’s absolute commitment to abolition. Australia must look to fellow abolitionist countries for guidance on a range of risk management measures and safeguards that can be implemented to ensure our assistance is grounded in abolition.

**3. Implement mechanism(s) for regular and transparent evaluating and reporting on government actions.**

For Australia to be effective and to be seen to be effective in its advocacy for worldwide abolition, it is vitally important to have mechanisms to allow measurement of actions and public reporting on those actions insofar as is possible. For there to be the opportunity to evaluate, data must be rigorously in order to ensure accurate evaluation. Specific allocation of funds is required for Australia to maintain its leadership and continuously improve on its efforts to achieve global abolition.

**4. Collaborate meaningfully with civil society groups working against the death penalty including non-government organisations, capital defence practitioners, academia, media, victims and their families and the broader community.**

The advocacy for Mary Jane Veloso, a Filipino woman whose execution by the Indonesian government was stayed at the last minute in April 2015, provides the perfect example of a diverse range of stakeholders working together to achieve just results.

While the the Philippines government made representations at the highest level, international and local human rights lawyers and non-government organisations simultaneously prepared urgent submissions on the circumstances of her case and her particular vulnerabilities. Migrant worker and care organisations locally and abroad also ran a targeted and effective public media campaign to introduce her vulnerabilities as being akin to those of Indonesian migrant workers abroad. Government agencies ensured direct communication around these issues between Ms Veloso, her family, and government advisors. As a result of these collaborative actions, Ms Veloso's execution was stayed to allow further investigations into her identification as a victim of human trafficking.

To emulate this example, Australia must strengthen its networks and relationships with domestic non-government stakeholders. The success of advocacy efforts in individual cases, and in the abolition movement generally, will rely on Australia's ability to make informed and strategic decisions. Approaches used by the Philippines government in Indonesia suggest that different outcomes are possible for consular officials and governments that work more closely with capital defence practitioners, non-government organisations, families and the media.

## BUILDING CAPACITY

Australia is in a position to lead the advocacy for global abolition by providing support for civil society groups working on the frontline against the death penalty. It is undisputed that capital punishment is too often meted out against those who are poor, who are mentally impaired, intellectually incapacitated, who belong to a racial minority, who are exploited.

**RECOMMENDATION: Provide support to build the capacity, expertise and efficacy of civil society groups working against the death penalty**

Non-government organisations in retentionist countries do the bulk of the capital defence work. They do so in opposition to the State and on shoestring budgets. While they are fearless and impressive advocates, their impact is limited by available resources. With individual casework an obvious priority, challenging the systemic issues that arise from this casework is often left without the necessary resources.

### **1. Support under-resourced capital defence practitioners and non-government organisations to continue to advocate for those at risk of execution**

One of the key pillars of the fight against the death penalty is frontline activism. It is vital that Australia support under-resourced capital defence advocates to provide excellent and accessible legal representation to marginalised and disadvantaged capital defendants. As each jurisdiction will have its own needs, it is important to engage with advocates on how to provide the most effective support.

#### **United States**

In the United States, in Louisiana, where cases will run for several years, there exists a small number of non-profit organisations that provide legal representation to indigent capital defendants, at trial, appellate and federal habeas proceedings. These offices were established in the 1990s, are funded by the public defender board and are staffed by dedicated but overworked specialist lawyers and investigators. The board assigns cases both at trial and post-conviction stage to these offices.

While they have succeeded to prevent an execution for more than five years, they run on a limited budget and are constantly under threat of having legal aid funds withdrawn. The majority of the work is in post-conviction which means also pursuing systemic litigation related to issues such as racism in the criminal justice system and lack of funding for adequate representation.

The work is both high volume and high stakes, and with limited resources these offices require a great deal of support. Their work is already supported by fellowships from anti-death penalty non-profits and public interest law programs at leading universities, and a steady stream of international volunteers from anti-death penalty advocacy groups such as Reprieve Australia.

These offices also pursue systemic litigation related to issues such as racism in the criminal justice system and lack of funding for adequate representation through the generosity of such organisations.

In addition to law offices defending Americans, there are foreign governments that have established same for their own citizens in the US. In 2000, the Mexican Foreign Ministry established the Mexican Capital Legal Assistance Program (MCLAP) to improve access to and the quality of legal representation for the rapidly growing numbers of Mexican nationals facing death penalty prosecutions and executions.

*In the previous 10 years alone, 51 Mexican citizens had been sentenced to death, and in every single case, U.S. authorities violated binding consular notification obligations under the Vienna Convention on Consular Relations.<sup>xiii</sup>*

MCLAP works at all stages of capital litigation, from dissuading states from seeking the death penalty through executive clemency proceedings. MCLAP maximizes pre-trial opportunities for negotiated plea agreements or charging reductions while simultaneously preserving compelling issues for appeal, thereby radically increasing the chances that a defendant will receive a life sentence or a term of years, or be acquitted. MCLAP monitors defense counsel's performance, prepares legal memoranda and briefs for them, assists counsel in court, anticipates and coordinates appellate legal strategies, and, when necessary, provides funds for experts, attorneys, and investigators.

In addition, MCLAP radically enhances Mexico's consular protection by providing expert advice and training to its consular personnel. Through landmark legal decisions upholding the consular rights of Mexico and its citizens, MCLAP has greatly increased awareness of consular treaty obligations among the judiciary and US law enforcement and significantly improved consular communications with defense lawyers.

There is strong evidence that this program is highly effective. In a recent and rigorous study of death-eligible murder cases initiated and completed in the two largest Arizona counties from 2002 to 2013, MCLAP examined the fates of different groups including Whites, Blacks, Native Americans, Hispanic Americans and, separately, Mexican nationals. The data revealed that Mexican nationals charged with death-eligible crimes fare far better than any other group examined; their cases proceed to capital trials and yield death sentences much, much less frequently than cases of Whites, Blacks, Native Americans and Hispanic Americans. The only realistic explanation for this stark contrast is the intervention of the Mexican government.



## Indonesia

In Indonesia, there are few private lawyers who will provide pro bono assistance to capital defendants. There are legal aid offices, which can apply for a set fee for each criminal matter they accept, whether it be a one off appearance or a capital case. While technically Courts appoint lawyers, most capital defendants have private lawyers before attending Court.

*Changes should come from within and therefore Australia must engage in strategic partnership with local NGOs that work on the issue. The Australian government must [be] aware that funding for frontline NGOs working on the abolition is scarce. At least in Indonesia, there is no single human rights organization that has institutional and continuous financial support to enable them grow stronger and become more active in the field given limited human and financial resources.<sup>xiv</sup>*

As in the US, the highest prospect of avoiding a death sentence is at trial stage. In Indonesia, this stage comes very quickly and usually occurs without substantial investigation into the circumstances of the case. If a capital defendant reaches a legal aid office, they are usually at post-conviction stage and potentially all out of appellate options.

The resources required to provide post-conviction assistance in capital cases are significant and cases are therefore essentially accepted by legal aid offices pro bono and in addition to an already demanding caseload. Such offices may rely on the assistance of fellows sponsored by international anti-death penalty non-profits, local and international university student volunteers. Strategic litigation is rarely undertaken without such pro bono assistance.

International non-government organisations such as Reprieve UK and Reprieve Australia provide pro bono casework assistance to capital defendants through these frontline offices. With established networks of frontline defenders in many retentionist countries, including non-government organisations such as Reprieve, Australia is well placed to continue and increase funding to those offices. Resourcing the regular and rigorous collection of data and relevant information from local, regional and international advocacy groups, will allow Australia to better allocate funds. Ongoing review of the impact of that funding will inform future targeting of strategy and resources.

## **2. Facilitate strategic advocacy through provision of additional resources to those groups working on the ground in retentionist countries**

Systemic issues including access to legal representation for marginalised and disadvantaged defendants, racism, mental health and human trafficking, continue to deny capital defendants a fair trial. Through providing additional resources to frontline advocates in retentionist countries, Australia has an opportunity to facilitate strategic litigation and advocacy and affect systemic change.

## Racism

*The death penalty is one of America's most prominent vestiges of slavery and racial oppression.<sup>xv</sup>*

As a part of its systemic litigation addressing racism in Louisiana's criminal justice system, the Louisiana Capital Assistance Center (LCAC) developed the Blackstrikes project, addressing the disproportionate use of peremptory challenges against African-American prospective jurors. The LCAC partnered with Reprieve Australia in developing and working on this project.

This data revealed that prosecutors in Louisiana's Caddo Parish, which issues most of the State's death sentences, strike African American jurors at three times the rate they strike others. A non-profit legal advocacy group is now preparing for civil rights litigation on behalf of African-American prospective jurors in the community.

Together with local and national media, the research has shone a light on racism in the South and its pernicious impact on death sentencing. There have been no death sentences handed down in Caddo Parish since publication of the research in 2015.

This activism was made possible through an excellent network of frontline practitioners, community advocacy groups and media connections, but it could not have been achieved without research funding. This is exactly the kind of research funding Australia could assist with and facilitate.

## Mental illness and intellectual impairment

The United Nations Economic and Social Council, the UN Commission on Human Rights and the UN General Assembly have called on member States not to impose the death penalty on 'persons with mental or intellectual disability'. We commend the government's amendment to the most recent resolution for global moratorium -

*To progressively restrict the use of the death penalty and not to impose capital punishment for offences committed by persons below 18 years of age, on pregnant women or on persons with mental or intellectual disabilities,<sup>xvi</sup>*

Understanding of the seriousness of mental illness and intellectual impairments and the effect it should have on sentencing is an area that needs to be further developed in many jurisdictions. In spite of international and domestic protections, countries often fail to provide defendants with appropriate medical examinations or take into account clear medical evidence in conviction, sentencing and execution. Countries also diverge on their definition of mental health and intellectual impairment with some countries adopting definitions that are so stringent that even many individuals are considered legally competent.

The US has made appreciable progress in the case of *Atkins*, a U.S. Supreme Court decision which found that executing severely intellectually impaired individuals was a violation of the Eighth Amendment which protected against cruel and unusual punishment. However, there remain major concerns about the narrow definitions applied by individual States, resulting in an arbitrary application of the death penalty and continued execution of those with severe intellectual impairment. Similarly, in Japan the legal tests are so stringent that most persons with intellectual disability are considered completely legally competent. A key point here is that even where legal arguments may exist, this claim requires intensive resourcing including funding for obtaining medical reports and staff to investigate the medical and social histories of the defendants.

In Singapore, Malaysia and Taiwan, the criminal law excuses any person who is incapable of knowing the nature of the act is either wrong or contrary to the law. China, provides that no criminal responsibility attaches to a 'mental patient' if he or she 'causes harmful consequences at a time when he is unable to recognize or control his own conduct. However, for such an assessment to be considered, the law requires defendants to first provide past medical records showing evidence of a mental disorder. Similarly, Japan has legal provisions that prohibit executing the 'insane', but its criminal procedures do not require independent health assessments.

Though draft criminal law in Indonesia lacks clear substantive and procedural safeguards to prevent execution of the mentally ill, Indonesia is soon to implement the 2014 *Law on Mental Health*. This piece of legislation is the first in the country that comprehensively brings together health law that stipulates the rights of citizens to access mental health treatment, and seeks to regulate the use of involuntary treatment.

However, the law itself does not descend into procedure, process or detailed definitions, something that is usually left to subordinate legislation in the Indonesian system. The possible content of subordinate legislation for the Law on Mental Health is now being considered by government, and this as an opportunity to lobby for a range of procedural and substantive safeguards protecting persons with a mental or cognitive impairment in their interactions with the justice system.

It is clear that the laws and practices of individual countries which maintain the death penalty are still insufficient to prevent the imposition and execution of the death penalty in the case of any person suffering from any mental illness or intellectual disability. Well-resourced and strategic litigation and advocacy around the execution of mentally ill and intellectually impaired defendants is needed, including knowledge sharing and capacity building with retentionist countries. By highlighting questions about the appropriateness of capital punishment in this context, it is expected to reap benefits for a broader abolitionist movement incrementally. While resources for individual cases are already limited, Australia might usefully contribute to such work in collaboration with and as guided by the frontline advocates in each jurisdiction.

## Human trafficking

Human trafficking involves the recruitment, transportation or transfer of persons, by means of the threat, coercion, deception or the abuse of power, for the purpose of exploitation.<sup>xvii</sup> According to the UN, individuals who meet these criteria and who have been coerced into trafficking drugs should be considered victims of human trafficking.

The UN Office on Drugs and Crime concedes that many victims of human trafficking are used to ferry drugs across international borders, sometimes at risk of the death penalty. Despite the Australian Crime Commission's view that a significant number of drug traffickers are duped or manipulated by crime syndicates, there are few formal protections in place to even identify whether a person caught trafficking drugs might be the victim of human trafficking.

The UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons* stresses that prosecution and punishment of a criminal offence should not endanger the safety of a victim of human trafficking. Unfortunately the obligations imposed by the Convention are not always well understood or followed, even by signatory states, and protections which should be afforded to trafficked persons are not always guaranteed.

Indonesia is reported to have approximately 281 migrant workers facing the death penalty abroad.<sup>xviii</sup> The government, media and broader community are particularly sympathetic to these cases as it is most often women from impoverished backgrounds who have been in one way or another forced into this work with poor remuneration and conditions. With resourcing from government, Indonesia has had some significant success in saving female migrant workers from execution in countries such as Saudi Arabia. Figures from Thailand show that while women make up only 10 per cent of the death row population, 83 percent of those women have been sentenced to death for drug related offences.<sup>xix</sup> This data shows that women are disproportionately represented in death eligible drug crimes, and their specific vulnerability to being victims of human trafficking.

Australia is a signatory to the *UN Convention against Transnational and Organised Crime* and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. In view of the trend noted in some of Australia's closest retentionist neighbours, Australia has an opportunity to improve its own systems, share this knowledge and build capacity within the region.

The current National Action Plan on human trafficking could also address the serious issue of exploitation of people in the criminal justice system. This might include resourcing the monitoring of human trafficking with respect to drug trafficking, particularly in our region, and develop and implement mechanisms to identify and protect victims from the death penalty. Regard might also be had to the experiences of our abolitionist allies, such as the UK, and its introduction of the Modern Slavery Act 2015. Australia can complement this leadership by advocating, in appropriate fora, for greater restrictions on the use of the death penalty, including more proportionate sentencing and guaranteed protections for vulnerable and exploited people.

### **3. Provide education and training for advocacy groups and media to facilitate informed public debate, raise awareness and exchange accurate information**

The learning and knowledge translation involved in the capacity building of frontline advocates has the potential to be scaled up to a broad-based education and advocacy campaign. Australia could therefore be indirectly facilitating more informed public debate on death penalty issues within retentionist countries. Such a climate allows for strengthened domestic lobbying of retentionist governments, which would be tailored to their existing engagement of international and domestic obligations.

Several delegations to the UN recently reported that they had abolished the death penalty in their countries following debates and exchanges of ideas that had resulted in slow changes in mentalities. They also emphasized that, in the absence of objective information, the public might be reluctant to accept and support abolition efforts.<sup>xx</sup>

This approach should also include working with the media. Understanding local media is vitally important to building up domestic advocacy against the death penalty. As played out earlier this year in Indonesia, a sympathetic international media does not necessarily guarantee the equivalent locally. Strengthened links with frontline advocates may lead to same with local media and to like opportunities to share knowledge and exchange accurate information.

Collaborative and targeted education and training may assist to reframe death penalty sentiment in retentionist countries. It may also help identify areas where public opinion is more amenable to change and where such government action is likely to be most effective.

### **4. Monitor use of death penalty, particularly in our region, by collecting data and reporting on trends in the death penalty prosecution process, the characteristics of people on death row and building upon a register of capital defence practitioners, particularly those willing to provide pro bono legal assistance**

Global and public figures on the application of the death penalty are difficult to obtain. This difficulty arises from a lack of resources and a lack of transparency on the part of some retentionist countries. Up to date and accurate data is required to make informed, strategic and effective decisions about the allocation of resources for advocacy to abolish the death penalty.

Such data includes the number of persons sentenced to death, the number of persons on death row and the number of executions carried out in retentionist countries. It also includes trends in capital sentencing and the status of domestic, regional and international legal appeals. Equally important is obtaining an improved understanding of the nuances of public opinion on the death penalty, including possibly surveys to support the case for abolition. This data can contribute to more informed and transparent debates on the issue

**RECONSIDER,**  
**REBUILD,**

including its effects on society and the obligations of States pertaining to the use of the death penalty.<sup>xxi</sup>

The collection of accurate, reliable and current data will depend on good relationships with key stakeholders including governments, non-government organisations, frontline advocates, advocacy groups, media, families and the general community.

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<sup>i</sup> Reprieve thanks our volunteers who generously contributed to the research referenced in this submission. In particular, we thank Jean-Paul Ong, Narelle Sherwill, Sarah Gill, Jessica Richter, Morgan Nyland, Eden Manning and Anna Martin.

<sup>ii</sup> Commission on Narcotic Drugs, *Supporting the collaboration of public health and justice authorities in pursuing alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature*, UN ESC, 58<sup>th</sup> sess, Agenda Item 5, UN Doc E/CN.7/2015/L.8/Rev.1 (16 March 2015).

<sup>iii</sup> Reprieve, *European Aid for Executions: How European Counternarcotics Aid Enables Death Sentences and Executions in Iran and Pakistan* (November 2014) <<http://www.reprieve.org.uk/wp-content/uploads/2014/12/European-Aid-for-Executions-A-Report-by-Reprieve.pdf>>.

<sup>iv</sup> Senate Estimate hearings, Response to question taken on notice in Foreign Affairs and Trade hearing, June 2015

<sup>v</sup> UNDOC. ADAM (Automated Donor Assistance Mechanism) [Online] Available at: <<http://www.unodc.org/unodc/en/global-it-products/adam.html>> [Accessed 20 May 2015] Restricted Access

<sup>vi</sup> Senate estimate hearings, Response to question taken on notice in Foreign Affairs and Trade hearing, June 2015

<sup>vii</sup> United Nations Office of the High Commissioner, *Study on the impact of the world drug problem on the enjoyment of human rights*, 4 September 2015

<sup>viii</sup> UNODC. The Paris Pact Initiative Phase IV - a Partnership to Combat Illicit Traffic in Opiates Originating in Afghanistan. New York: 2009. pp7

<sup>ix</sup> Wai-Yin Wan et al, 'Supply-side Reduction Policy and Drug Related-Harm (Report, Australian Institute of Criminology, December 2014) < [http://www.aic.gov.au/media\\_library/publications/tandi\\_pdf/tandi486.pdf](http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi486.pdf)>.

<sup>x</sup> Global Commission on Drug Policy, 'War on Drugs' (Report, June 2011).

<sup>xi</sup> Robert MacCoun and Peter Reuter, *Drug War Heresies: Learning from Other Vices, Times & Places* (Cambridge University Press, 2001).

<sup>xii</sup> John Dowd of the International Commission of Jurists (Australia). Minutes of Meeting of Anti-Capital Punishment Roundtable of the NSW Council for Civil Liberties, 4 February 2006

<sup>xiii</sup> Email from Mexican Capital Legal Assistance Program to Ursula Noye, Vice-President, Reprieve Australia, October 2015.

<sup>xiv</sup> Email from Ricky Gunawan, Director, LBH Masyarakat to Ursula Noye, Vice-President, Reprieve Australia, October 2015.

<sup>xv</sup> Stephen Bright, president of the Southern Center for Human Rights in Atlanta, Georgia , 2014

<sup>xvi</sup> *Moratorium on the Use of the Death Penalty*, GA Res 69/186, 69<sup>th</sup> sess, 73<sup>rd</sup> plen mtg, Agenda Item 68(b), UN Doc A/RES/69/186 (18 December 2014, adopted 4 February 2015).

<sup>xvii</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (supplementing the UN Convention Against Transnational Organized Crime) art 3(a).

<sup>xviii</sup> Heru Sri Kumoro, '281 Indonesian Migrant Workers Face Death Penalty Abroad', The Jakarta Post (online), 10 October 2015 < [http://m.thejakartapost.com/news/2015/10/10/281-indonesian-migrant-workers-face-death-penalty-abroad.html#sthash.mrmGvF91.uxfs&st\\_refDomain=&st\\_refQuery=>](http://m.thejakartapost.com/news/2015/10/10/281-indonesian-migrant-workers-face-death-penalty-abroad.html#sthash.mrmGvF91.uxfs&st_refDomain=&st_refQuery=>).

<sup>xix</sup> 'Prison Population of Thailand', in *Death Penalty Thailand* (30 January 2015) [http://deathpenaltythailand.blogspot.com/2015\\_01\\_01\\_archive.html](http://deathpenaltythailand.blogspot.com/2015_01_01_archive.html).

<sup>xx</sup> UN Human Rights Council, 27<sup>th</sup> session, Annual report: Summary of the high-level panel discussion on the question on the death penalty, Geneva, 30 June 2014, p.11

<sup>xxi</sup> UN Human Rights Council, 27<sup>th</sup> session, Annual report: Summary of the high-level panel discussion on the question on the death penalty, Geneva, 30 June 2014, p.11