



**Australian Government**

**Department of Foreign Affairs and Trade**



# **INQUIRY INTO AUSTRALIA'S EFFORTS TO ADVOCATE FOR THE WORLDWIDE ABOLITION OF THE DEATH PENALTY**

**Department of Foreign Affairs and Trade Submission**

August 2024

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## INTRODUCTION

The Department of Foreign Affairs and Trade welcomes the opportunity to make this submission to the inquiry being held by the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade into Australia's efforts to advocate for the worldwide abolition of the death penalty.

Australia's opposition to the death penalty is longstanding. Australia opposes the death penalty in all circumstances for all people, and we urge all countries, including our closest partners, to abolish the death penalty in law and in practice.

Australia's last execution occurred in 1967 and the death penalty was formally abolished in all Australian jurisdictions by 1985. In 1990, Australia ratified the *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty* ahead of its entering into force in 1991. In 2010, our Parliament passed the *Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010*, prohibiting the reintroduction of capital punishment.

Since the 2016 parliamentary committee inquiry into Australia's advocacy on abolition of the death penalty, DFAT has reinforced its action and commitment to bilateral and multilateral advocacy.

In 2018, DFAT released *Australia's Strategy for Abolition of the Death Penalty* which has underpinned Australia's advocacy and action on advancing the goal of global abolition. More recently, DFAT has been undertaking consultation with other Australian Government departments and agencies to refresh the Strategy. These updates are well advanced.

Australia is known internationally for our strong, evidence-based advocacy on abolition of the death penalty. We advocate consistently and clearly in multilateral, regional, and bilateral settings. We work hand-in-hand with likeminded countries and with civil society in Australia and around the world. Our inaugural Ambassador for Human Rights is a focal point for this work, heightening the effectiveness of Australia's work by providing coordinated advice.

As seen in the Annexure to this submission, retentionist countries are well-aware of Australia's position on this issue. We advocate with purpose, using opportunities and levers in the local context. We are particularly alert to situations where we suspect heightened risk of the death penalty, including on the basis of sexual

orientation and gender identity, ethnicity, religion and political belief.<sup>1</sup> We are aware at all times of the 'do no harm' principle in our country-level engagement.

Australia has a leadership record for our advocacy within the United Nations. Most notably, in 2022, Australia co-led with Costa Rica the biennial resolution in the United Nations General Assembly that calls on all UN Member States to establish moratoria on executions with a view to abolishing the death penalty. The resolution garnered record support with 125 'yes' votes, 37 'no' votes and 9 abstentions.

Bilaterally, Australia continues its strong advocacy on global abolition in almost all retentionist countries. We welcome recent progress. In 2023, Malaysia abolished the mandatory death penalty, Pakistan repealed the death penalty for certain drug-related offences, and Ghana abolished the death penalty for ordinary crimes. In 2022, Papua New Guinea and the Central African Republic abolished the death penalty for all crimes, and Zambia and Equatorial Guinea abolished the penalty for ordinary crimes. Chad abolished the penalty in full in 2020, ahead of Kazakhstan in 2021. Australian officials made representations or statements on abolition of the death penalty to each of these countries prior to reforms.

112 countries are now abolitionist for all crimes, and 144 are abolitionist in law or practice.<sup>2</sup> The move towards global abolition reflects the growing international acceptance that the death penalty has no place in modern society.

However, progress is not linear. While Amnesty International's recent report on the death penalty<sup>3</sup> found that the number of countries carrying out executions in 2023 was the lowest on their record, it also found that there was a 30 per cent increase in the number of executions carried out globally as compared to 2022. Clearly, there is still much work to be done. DFAT welcomes the inquiry's consideration of how Australia can enhance and refine its advocacy. Australia will continue to call for global abolition and for greater protection and promotion of the human rights of individuals on death row.

In response to the inquiry's [terms of reference](#), DFAT's submission covers:

- DFAT's progress against recommendations in the Joint Standing Committee on Foreign Affairs, Defence and Trade 2017 report: *A world without the death penalty: Australia's Advocacy for the Abolition of the Death Penalty*.

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<sup>1</sup> See for example, various Australian statements made at the UN Human Rights Council in 2024 and 2023: [HRC55](#); [HRC55](#); [HRC54](#); [HRC54](#); [HRC53](#); [HRC52](#).

<sup>2</sup> [Amnesty International Global Report](#).

<sup>3</sup> [Amnesty International Global Report](#).

- Australia's international engagement to promote abolition of the death penalty. This includes Australia's engagement with likeminded countries, international institutions, civil society, and advocacy for Australians and foreign nationals subject to or potentially subject to the death penalty.

## PART ONE: PROGRESS AGAINST RECOMMENDATIONS IN THE 2017 JSCFDT REPORT

In response to the inquiry's first [term of reference](#), this section sets out progress DFAT has made against recommendations made by the Joint Standing Committee on Foreign Affairs, Defence and Trade in its 2017 report (*A world without the death penalty: Australia's Advocacy for the Abolition of the Death Penalty*) which fall within DFAT's remit.

Recommendation (4)
The Committee recommends that the Australian Government revisit the 2011 decision to decline becoming a member of the international group the 'Friends of the Protocol'.
Progress
Australia became a member of the international anti-death penalty alliance - the Friends of the Protocol - in October 2018. The Friends of the Protocol alliance works to strengthen international adherence to the <i>Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty</i> . It also aims to develop strategies to combat the reintroduction of the death penalty. Australia engages actively in the alliance to discuss and take forward advocacy opportunities and strategies, including joint efforts in multilateral fora relating to resolutions which call for abolition of the death penalty.

Recommendation (5)
The Committee recommends that the Department of Foreign Affairs and Trade develop guidelines for the Department's support for Australians at risk of facing the death penalty overseas. This document should guide the coordination of: <ul style="list-style-type: none"> <li>• consular assistance;</li> <li>• diplomatic representations;</li> <li>• legal support and funding assistance;</li> <li>• communications and media strategies; and</li> <li>• other forms of support offered by the Government.</li> </ul>
Progress
In response to recommendation 5 in the JSCFDT 2017 report, DFAT created and has implemented internal guidelines for managing the support to and advocacy on behalf of Australians who have been sentenced



to or are at risk of facing the death penalty overseas. Those guidelines, in line with recommendation 5, address management of:

- consular assistance
- diplomatic representations
- legal support and funding assistance
- communications and media strategies; and
- other forms of support offered by the Government.

#### Recommendation (6)

The Committee recommends that, where appropriate and especially in relation to public messaging, Australian approaches to advocacy for abolition of the death penalty be based on human rights arguments and include:

- references to human rights law, including highlighting the 'right to life' enshrined in the Universal Declaration of Human Rights;
- condemnation for the imposition of the death penalty on juveniles and pregnant women;
- opposition to its use on people with mental or intellectual disabilities;
- highlighting the disproportionate use of capital punishment on the poor, and ethnic and religious minorities;
- communicating the risks associated with miscarriages of justice, including the irreversibility of capital punishment;
- emphasising the inherently cruel and torturous nature of the death penalty and executions;
- refer to the ineffectiveness of the death penalty as a deterrent.

#### Progress

DFAT welcomed the Committee's articulation of these advocacy points. These human rights arguments largely underpin Australia's advocacy on global abolition, as outlined in *Australia's Strategy for Abolition of the Death Penalty*. These arguments are regularly included in our bilateral and multilateral advocacy as appropriate, including in international fora, bilateral representations and public messaging.

#### Recommendation (8, 9, 10)

The Committee recommends that the Department of Foreign Affairs and Trade coordinate the development of a whole-of-government Strategy for Abolition of the Death Penalty which has as its focus countries of the Indo-Pacific and the United States of America.

The Committee recommends that the goals of the Strategy for Abolition of the Death Penalty include:

- an increase in the number of abolitionist countries;
- an increase in the number of countries with a moratorium on the use of the death penalty;
- a reduction in the number of executions;
- a reduction in the number of crimes that attract the death penalty;
- further restrictions on the use of the death penalty in retentionist countries of the Indo-Pacific region;
- greater transparency of states' reporting the numbers of prisoners sentenced to death and executions carried out.

The Committee recommends that the specific aims of the Strategy for Abolition of the Death Penalty include:

- acknowledging the positive steps taken by countries in the region, for example where countries reduce the number of crimes that attract the death penalty or remove mandatory death sentences;
- promoting greater transparency in the number of executions carried out in China, Vietnam, Syria, North Korea and Malaysia, the crimes for which death sentences were imposed and the number of people under sentence of death in each country;
- promoting a reduction in the number of crimes that attract the death penalty in China, Vietnam, Thailand, Taiwan and India;
- promoting an end to mandatory sentencing in death penalty cases in Malaysia and Singapore, especially in relation to drug crimes;
- advocating for Pakistan and Indonesia to resume their moratoria;
- advocating for an improvement in the conditions and treatment of prisoners on death row in Japan;
- encouraging Papua New Guinea not to reinstate capital punishment;
- assisting Nauru, Tonga, Republic of Korea and Myanmar to move from abolitionist in practice to abolitionist in law;
- promoting abolition of the death penalty at the federal level in the United States and encouraging state-level moratoria and eventual abolition; and
- forming a coalition of like-minded countries who can work in concert to promote abolition of the death penalty in the Indo-Pacific region.

### Progress

*Australia's Strategy for Abolition of the Death Penalty* is grounded in the overarching goals recommended by the Committee.

The Strategy is underpinned by a global approach to advocacy on abolition and does not include country-specific aims or goals. The Strategy intends to reflect our worldwide efforts and our principled position of urging all retentionist countries to abolish the death penalty, including our closest partners and countries in our region. Within this framework of global advocacy, Australia's overseas Posts develop tailored advocacy strategies for individual retentionist countries of accreditation, including specific goals and acknowledgement where positive steps are taken.

With reference to the recommended aims, we note that:

- Malaysia removed the mandatory death penalty in April 2023;
- the last execution in Indonesia took place in 2016;
- Pakistan's last execution was in 2020 and in July 2023 it removed the death penalty for certain drug-related offences; and
- Papua New Guinea removed the death penalty in 2022 and remains abolitionist.

Australia has made representations on abolition of the death penalty in all of these countries and will continue to advocate for full abolition in those that retain the death penalty in law.

### Recommendation (11)

The Committee recommends that the following techniques, among others, be utilised to achieve the aims of the Strategy for Abolition of the Death Penalty:

- intervening to oppose death sentences and executions of foreign nationals, especially in cases where there are particular human rights concerns, such as unfair trials, or when juveniles or the mentally ill are exposed to the death penalty;
- commissioning research and analysis to inform the specific actions and advocacy approaches which may be most effective in each priority country;
- provision of modest annual grants funding to support projects which seek to advance the cause of abolition within the region, such as efforts to influence public opinion, promoting alternatives to the death penalty, engaging with the media, political representatives, religious leaders, the legal profession and policy makers;
- provision of funding to support the Anti-Death Penalty Asia Network and abolitionist civil society groups within the region, including to assist with advice and representation in individual cases;
- provision of training and networking opportunities in Australia and elsewhere for representatives of abolitionist civil society groups within the region;
- where their involvement would help achieve specific objectives under the Strategy, utilising the Australian Parliamentarians Against the Death Penalty group, Parliamentarians for Global Action, and experts such as Australian jurists;
- engaging with the private sector and supportive high-profile or influential individuals in priority countries, where this may be effective;
- supporting the continued participation by Australian delegations at the 6th World Congress Against the Death Penalty and subsequent congresses;
- Australia to continue to co-sponsor resolutions on abolition of the death penalty at the United Nations.

### Progress

Australia's advocacy on global abolition of the death penalty employs many of the Committee's recommended techniques as part of our bilateral and multilateral engagement, most of which are articulated in *Australia's Strategy for Abolition of the Death Penalty*.

Australian officials consider making representations in relation to cases of foreign nationals on death row where Australian advocacy may be particularly effective and not counter-productive, or where use of the death penalty does not comply with the strict requirements of international law. Given the large number of individuals executed every year, it is not viable for Australian officials to raise every case.

Australia has a strong leadership record for our advocacy on resolutions on abolition of the death penalty at the United Nations. Most notably, in 2022, Australia co-led with Costa Rica the biennial resolution in the United Nations General Assembly that calls on all UN Member States to establish moratoria on executions with a view to abolishing the death penalty. The resolution garnered record support with 125 'yes' votes, 37 'no' votes and 9 abstentions. Australia has also attended and/or supported the 6<sup>th</sup> (2016), 7<sup>th</sup> (2019), and 8<sup>th</sup> (2022) World Congresses Against the Death Penalty. We use the UN's Human Rights Council's Universal Periodic Review strategically to ensure a continued focus on abolition of the death penalty.

DFAT also provides regular funding support to pro-abolition civil society organisations and institutions to undertake projects that seek to advance abolition of the death penalty. These analytical and research products serve both to raise public awareness and to inform Australian advocacy, including the identification of opportunities and risks for Australia to advocate for the abolition of the death penalty. This has included studies in relation to the heightened risk of the death penalty based on sexual orientation and gender identity, ethnicity, religion and political beliefs. Funding has been provided by DFAT, over the period 2017-2024, to support:

- research and analysis on the application of the death penalty, including in relation to:



- the disproportionate impact on certain groups including children and youth, persons with disabilities, indigenous peoples, LGBTQIA+ persons, and ethnic or religious minorities
- the use of death penalty for specific crimes that do not meet the definition of 'most serious crimes' under the ICCPR
- to inform specific actions, advocacy and reform approaches in particular countries;
- advice and legal representation in individual death penalty cases;
- projects that influence public and government opinions on abolition of the death penalty and increase support for the UN General Assembly resolution on the moratorium on the use of death penalty;
- establishing an Anti-Death Penalty Institute as a coordinated regional hub and network for research, advocacy and casework focused on capital punishment;
- providing training and networking opportunities for representatives of pro-abolition civil society organisations and legal professionals;
- publishing accurate data on the use of the death penalty;
- strengthening the capacity of national human rights institutions in the Indo Pacific to promote the abolition of the death penalty;
- parliamentary campaigns for the abolition of the death penalty; and
- funding for World Congresses Against the Death Penalty

#### Recommendation (12)

The Committee recommends the Australian Government provide dedicated and appropriate funding to the Department of Foreign Affairs and Trade to fund grants to civil society organisations, scholarships, training, research and/or capacity building projects aimed at the abolition of the death penalty

#### Progress

DFAT regularly provides funding to support pro-abolition civil society organisations and institutions to undertake projects that seek to advance abolition of the death penalty. Most funding is currently facilitated through DFAT's Human Rights Advocacy Grants Program and other departmental funding avenues as appropriate. As noted in the Government's response to the JSCFDT 2017 report, funding remains subject to budgetary considerations.

#### Recommendation (13)

The Committee recommends that the Australian Government make available to the Department of Foreign Affairs and Trade ongoing operational funds to resource the preparation and implementation of the Strategy for Abolition of the Death Penalty, including a budget for adequate staffing

#### Progress

Australia's opposition to the death penalty and our advocacy on global abolition remain a core pillar of Australia's international human rights advocacy. As guided by *Australia's Strategy for Abolition of the Death Penalty*, this advocacy is deeply integrated into the work of Australian officials at our overseas Posts, teams across DFAT, and the work of Australia's Ambassador for Human Rights. Officials often closely monitor updates and developments in retentionist countries, make representations as appropriate, and look for other opportunities to undertake effective advocacy.

In Canberra, DFAT staff provide support to our overseas officials, including assisting with monitoring developments, supporting development of specific advocacy strategies, contributing to Australia's relevant engagement in international negotiations and multilateral fora, and continuing to assess the effectiveness of Australia's advocacy and messaging on the death penalty, including through *Australia's Strategy for Abolition of the Death Penalty*.

## PART TWO: AUSTRALIA'S INTERNATIONAL ENGAGEMENT TO PROMOTE ABOLITION OF THE DEATH PENALTY

In response to the inquiry's second and third [terms of reference](#), this section details Australia's international engagement to promote global abolition. This is underpinned by DFAT's strategic approach across our multilateral, bilateral, regional, consular and public diplomacy work.

This work includes identification of opportunities for engagement with likeminded countries, international institutions, civil society, as well as advocacy on the heightened risk of the death penalty for certain groups, and for Australians and foreign nationals subject to or potentially subject to the death penalty.

### ***Key lessons since the release of the 2018 Strategy for Abolition of the Death Penalty***

Key lessons from our advocacy over recent years, which inform our engagement, include:

- engagement at a global level is important, including to show that we have a consistent, country-agnostic policy – we stand against the death penalty at all times;
- advocacy is most likely to result in real change when is tailored to local context;
- risks and opportunities are heavily localised – country-specific plans are essential for real change;
- locally-driven reforms are most likely to be successful and sustainable;
- our overseas Posts and civil society have critical knowledge of local contexts, including in terms of identifying levers for change in specific circumstances;
- progress is often incremental – for example, in some countries we will advocate for the abolition of mandatory sentencing as an initial step to full abolition;
- we must always bear in mind the 'do no harm' principle, to ensure our engagement does not put individuals, their families, or our broader advocacy at risk;
- we must bear in mind the wishes of the families of individuals subject to the death penalty;

- showcasing the success of Australian advocacy needs to be carefully calibrated based on the local context and can be counter-productive;
- data on the application of the death penalty is difficult to obtain with varying levels of reliability – this makes it difficult in some countries to identify whether minority groups are at a higher risk; and
- we must keep supporting research to inform our understanding of trends.

### ***Australia's advocacy goals***

Australia's strong opposition to the death penalty is underpinned by our position that:

- it is not an effective deterrent
- it is irrevocable - any mistake or miscarriage of justice in the imposition of the death penalty is irreversible and irreparable
- it denies any possibility of rehabilitation to the convicted individual
- it is unfair – being disproportionately used against people in vulnerable situations, including people facing economic or educational disadvantage, people with intellectual disabilities, and other vulnerable or minority groups
- it is a cruel and inhumane punishment that brutalises human society

While Australia's firm goal is global abolition of the death penalty, we recognise that retentionist countries take varied paths towards full abolition. Therefore Australia's international engagement focuses on the following policy goals, as appropriate to the relevant context:

- end the mandatory use of the death penalty
- oppose the use of the death penalty against all people in all circumstances
- oppose the imposition of the death penalty for crimes committed by persons below eighteen years of age and executions of pregnant women (both of which are prohibited under Article 6 of the International Covenant on Civil and Political Rights (ICCPR))
- recognise and address the heightened risk and impact of use of the death penalty on persons in situations of vulnerability, including persons with intellectual disabilities
- increase the number of abolitionist countries and prevent the reintroduction of the death penalty where it has been abolished

- increase the number of countries with an official moratorium on the use of the death penalty and prevent resumption of executions where moratoria exist
- increase commutations of existing death sentences
- encourage more countries to ratify the *Second Optional Protocol to the ICCPR* which prohibits use of the death penalty and obliges each State Party to take all necessary measures to abolish the death penalty within its own jurisdiction
- ensure that people facing a death sentence can access adequate legal representation and that their rights to a fair trial and due process are realised at all stages of legal proceedings, consistent with international law
- reduce the number of crimes attracting the death penalty, especially those that do not meet the threshold of 'most serious crimes' under the ICCPR, including for drug-related offences, political activities, sexual orientation or gender identity, or for practicing or not practicing a religion or belief
- improve death row prison conditions
- increase transparency on the application of the death penalty, including release of comprehensive and disaggregated statistics on the use of the death penalty, and information on crimes attracting death penalty
- increase adherence to the Economic and Social Council of the United Nations' *Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty*, which details international standards to be applied in countries that still impose the death penalty
- urge all countries to respect international law obligations relating to imposition of the death penalty.

### ***Bilateral advocacy***

Australian ministers and officials raise abolition of the death penalty as a priority human rights issue where appropriate, when undertaking official duties both in Australia and overseas.

In most cases, Australia's representations are private, giving consideration to specific context and circumstances. However, public statements, such as media releases, open letters, or other public comments, are also used when appropriate or to complement private representations. Australia also considers making representations in coordination with other likeminded countries when appropriate.

Advocacy is also often made through Australian statements at the Universal Periodic Review (UPR) of retentionist countries (<https://www.dfat.gov.au/international-relations/themes/human-rights/universal-periodic-review>). Australian officials also seek to follow up on recommendations made at the UPR in bilateral meetings, as appropriate.

The **Annexure** to this submission notes whether advocacy on abolition of the death penalty has been made by Australian officials since 1 July 2022 to countries that retain the death penalty.

Australia's Posts in retentionist countries also work to maintain bilateral strategies on abolition of the death penalty and ensure timely monitoring and reporting on in-country developments. Bilateral strategies are tailored to the specific circumstances in each country, and take into account the opportunities and risks – for example, in respect of heightened risks for certain groups – arising in each context.

### ***Multilateral and regional advocacy***

Australia's overseas Posts with multilateral and regional responsibilities play a critical role in advocating for global abolition of the death penalty in multilateral and regional fora, including in defending against weakening of international norms on the death penalty.

In relevant multilateral and regional fora, Australia aims to:

- advocate for, support, lead or contribute to resolutions, statements and side events that advocate for abolition of the death penalty or establishment of moratoria, including at the UN General Assembly and Human Rights Council
- make recommendations on the death penalty at the Universal Periodic Review of most retentionist countries
- in relevant resolutions or statements on the death penalty, advocate against the introduction of language that elevates the principle of state sovereignty as a justification for the death penalty, or which subverts international human rights obligations
- promote widespread accession and adherence to international law instruments central to abolition of the death penalty, particularly the *Second Optional Protocol to the ICCPR* (noting that ratification of the Optional Protocol imposes no additional reporting requirements on countries)
- develop and maintain relationships with civil society, human rights defenders and relevant UN agencies to advance global abolition of the death penalty



- continue our membership of the Inter-Regional Taskforce, which leads the biennial resolution in the United Nations General Assembly on a moratorium on the death penalty
- monitor and report on multilateral developments where the death penalty is relevant, such as drug policy and organised crime, across a variety of fora
- support technical cooperation activities in multilateral fora aimed at abolition of the death penalty
- support the mandates of the UN Special Rapporteurs on Extrajudicial, Summary or Arbitrary Executions; and on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and consider use of their reports as a means to apply pressure.

### ***Public diplomacy***

Public diplomacy can amplify Australia's advocacy on abolition of the death penalty. DFAT uses a variety of public diplomacy tools, including social media, cultural diplomacy and media engagement, to inform and influence attitudes towards the death penalty.

Australia's overseas Posts consider appropriate public diplomacy activities throughout the year – taking into account what is assessed to be most influential in the local context – including in association with the World Day Against the Death Penalty on 10 October. Posts also consider coordination of activities with likeminded countries and non-governmental organisations that are working against the death penalty. Similarly, some Posts seek opportunities to facilitate discussion between prominent and influential actors both for and against abolition to advance the debate in support of abolition in their countries of accreditation.

### ***Civil society and stakeholder engagement***

Civil society plays a key role in advocacy efforts to abolish the death penalty. In consideration of country context and local circumstances, Australia's overseas Posts maintain and build links with civil society organisations advocating against the death penalty. Civil society contributes to global abolition by monitoring and documenting developments, sharing expertise and knowledge, supporting affected individuals, and engaging in local decision-making processes. Stakeholders can provide valuable insights into the relative effectiveness and/or risks around different forms of advocacy.

DFAT actively engages with civil society actors advocating against the death penalty, both in Australia and overseas, including through regular consultations led by Australia's Ambassador for Human Rights.

Australia considers and identifies opportunities to cooperate with and support National Human Rights Institutions (NHRIs) and civil society organisations to deliver activities that further global abolition of the death penalty, particularly in our region, including:

- promotion of effective pro-abolition arguments to support advocacy to key stakeholders
- activities which increase public support for abolition of the death penalty
- technical capacity training and networking opportunities leveraging the expertise of local abolitionist civil society groups or key stakeholders
- academic or legal research and analysis on aspects of the death penalty in country (for example, mandatory death sentences, public attitudes, addressing heightened risks and impacts of the death penalty on certain groups) to inform actions and advocacy
- research and analysis of specific barriers to ratification of the *Second Optional Protocol to the ICCPR*
- capacity development of civil society or foreign governments to fully implement abolition (for example, supporting timely and proper review of sentences following abolition of the death penalty).

### ***Advocacy for Australians subject to or potentially subject to the death penalty***

DFAT has guidelines managing the support to and advocacy on behalf of Australians who have been sentenced to or are at risk of facing the death penalty overseas. These guidelines include advice for the management of:

- consular assistance
- diplomatic representations
- legal support and funding assistance
- communications and media strategies
- other forms of support offered by the Government.

In exercising its consular role, the Australian Government accords the highest priority to cases of Australian citizens who face, or potentially face, a death penalty sentence.

Under the guidelines a strategy is developed and adapted to account for the circumstances of each case to ensure the careful planning and management of appropriate consular, legal and diplomatic responses. Strategies are dynamic and are recalibrated to respond to new developments or new information. Death

penalty cases are managed with close oversight and guidance provided by senior managers. Effective coordination across government is essential in managing our advocacy in support of Australians in death penalty cases.

Ministers maintain a high level of interest in death penalty cases and are closely engaged in diplomatic advocacy efforts on behalf of Australians in the circumstances of the particular cases.

Consistent with the Australian Government's commitment to focus consular resources on our most vulnerable clients, the guidelines require that the highest priority is given to ensuring appropriate, targeted and sensitive ongoing consular assistance is provided to detained Australians facing or potentially facing the death penalty.

Under the guidelines, it is a priority to ensure that clients and their families are informed of the importance of securing suitably qualified and experienced local legal representation, as well as being provided the details of the Attorney General Department's administered Scheme for Overseas Criminal Matters involving the Death Penalty.

DFAT also offers and provides support to these Australians and their families with communications and media.

### ***Advocacy for foreign nationals facing the death penalty overseas***

Australian officials may also raise individual cases of foreign nationals facing the death penalty overseas. Given the large number of individuals executed every year, it is not viable to raise every case. However, officials may raise cases when the strict conditions for the use of the death penalty required under international law have not been met, where international action on the case is widespread, or where our representations may resonate more because of the case's relevance to Australia, for example where the victims or targets of a crime are Australian or where Australia was the intended destination of a crime.

### ***Whole of Australian government engagement***

DFAT maintains primary responsibility for Australia's international advocacy for abolition of the death penalty. Other Australian Government departments and agencies which have international presence or relevant relationships with international government partners also take steps to ensure that their international engagement is aligned with Australia's strong opposition to the death penalty in all circumstances for all people.

In line with Australia's international obligations, all Australian agencies take measures to ensure, as far as possible, that they do not expose a person overseas to a real risk of execution when cooperating with foreign governments. Specific mitigation measures are discussed between relevant agencies, taking into account the specific context, and risks in question. Where, despite best endeavours, it is not possible to secure measures to remove the risk entirely, decisions on such measures may need ministerial-level consideration and approval, in consultation with DFAT and the Attorney-General's Department.

Australia may refuse to provide or place conditions around the provision of information and financial or technical assistance in situations where the death penalty could be applied.

This submission does not touch in detail on efforts and measures related to global abolition undertaken by other Australian Government departments and agencies, however this is covered in further detail in a separate joint submission to this inquiry by the Attorney General's Department and the Australian Federal Police.

## ANNEXURE

Australia's advocacy on abolition of the death penalty (since 1 July 2022)		
Retentionist country/jurisdiction	Status <i>(includes references to figures from public reports, such as <a href="#">Amnesty International's 2023 Global Report</a>)</i>	Whether representations or statements have been made by Australia since 1 July 2022 (including through the Human Rights Council's Universal Periodic Review)
Afghanistan	Executions continue to be carried out in Afghanistan, but credible figures remain unavailable.	Yes
Algeria	Algeria is abolitionist in practice. Its last execution was in 1993 and it has a formal moratorium on executions. Death sentences are still imposed.	Yes
Antigua and Barbuda	No executions have been carried out since 1991. No one was known to be under a death sentence at the end of 2023.	Yes
Bahamas	No executions have been carried out since 2000. No one was known to be under a death sentence at the end of 2023.	Yes
Bahrain	Bahrain has executed six people since it ended a seven-year de facto moratorium on the death penalty in 2017 (last execution in 2019). Reports suggest at least 40 people were under death sentences at the end of 2023.	Yes



Bangladesh	At least five executions were carried out in 2023. Reports suggest at least 248 death sentences were handed down in 2023.	Yes
Barbados	No executions have been carried out since 1984. Reports suggest that at the end of 2023, there were four people under death sentences.	Yes
Belarus	The last recorded execution occurred in 2022, although individuals have been sentenced to death in 2023 and 2024.	No (Post has not engaged with the Government of Belarus since the 2020 elections).
Belize	The last execution took place in 1985. Belize's last death sentence was handed down in 2005 and there are no longer any individuals on death row.	Yes
Botswana	The most recent executions were undertaken in 2021 (two executions). Reports suggest at least two death sentences were handed down in 2023.	Yes
Brazil	The 1988 Brazilian Constitution bans the death penalty in all cases, except for exceptional crimes such as treason, espionage, and desertion when Brazil is in an officially declared state of war. Reports suggest the last known execution was in 1876.	No
Brunei	Brunei is abolitionist in practice. Its last execution was in 1996 and it has a de facto moratorium on executions.	Yes
Burkina Faso	Burkina Faso abolished the death penalty for ordinary crimes in 2018 but retains the death penalty only for exceptional crimes (crimes committed during war). Its last execution was in 1989.	Yes

Cameroon	Cameroon is abolitionist in practice. Its last execution was in 1997 and it has a de facto moratorium on executions. A number of death sentences are still handed down each year. Over 200 persons are believed to remain on death row in the country.	Yes
Chile	Chile abolished the death penalty for ordinary crimes in 2001, however retains the death penalty for exceptional crimes such as crimes committed under military law. Reports suggest the last execution occurred prior to 1900.	Yes
China	China retains the death penalty and public reports suggest China continues to execute the largest number of people per annum of any country.	Yes
Comoros	Comoros has had a de facto moratorium on executions since the late 1990s. The last known execution took place in 1997.	Yes
Cuba	Cuba has a de facto moratorium on executions, with the last execution carried out in 2003.	Yes
Democratic Republic of the Congo	In March 2024, the DRC Ministry of Justice published a circular announcing the lifting of the moratorium on the use of the death penalty, in response to deteriorating security in Eastern DRC. While death penalty sentences have been handed down in 2024, no executions have been carried out in the DRC since 2003.	Yes
Dominica	The last execution took place in 1986. No one was known to be under a death sentence in 2023.	Yes
DPRK	Executions continue to be carried out in the DPRK but credible figures remain unavailable.	No

Egypt	At least eight executions were carried out in 2023. Public reports suggest at least 590 death sentences were handed down in 2023.	Yes
El Salvador	El Salvador abolished the death penalty for all ordinary crimes in 1983, however it retains the death penalty for exceptional crimes such as crimes committed under military law. Reports suggest El Salvador's last execution was in 1973.	Yes
Equatorial Guinea	Equatorial Guinea abolished the death penalty for ordinary crimes in 2022, however it retains the death penalty for exceptional crimes such as crimes under military law. No executions have been carried out since 2014.	No
Eritrea	Eritrea is abolitionist in practice. Its last execution was in 1989.	Yes
Eswatini	Eswatini is abolitionist in practice. Its last execution was in 1983 and it has a de facto moratorium on executions. Eswatini courts have not handed down death sentences since 2016, although one prisoner remained on death row as recently as 2019.	Yes
Ethiopia	Ethiopia retains the death penalty, however it has not carried out an execution since 2007. Despite this, death penalty sentences continue to be handed down, including three sentences so far in 2024.	Yes
The Gambia	The Gambia retains the death penalty for ordinary crimes including treason, murder and terrorism-related offences. However, The Gambia has implemented an official moratorium on the death penalty since 2018 and has not carried out the death sentence since 2012. In 2019 the death	Yes

	sentences of all prisoners on death row in The Gambia were commuted.	
Ghana	Ghana abolished the death penalty for ordinary crimes in August 2023, although the penalty is still retained for military crimes and for the crime of treason in the Constitution. The last execution was in 1993.	Yes
Grenada	Grenada is abolitionist in practice. Its last execution was in 1978 and it has a de facto moratorium on executions.	Yes
Guatemala	Guatemala abolished the death penalty for ordinary crimes in 2017. It retains the death penalty for exceptional crimes such as crimes under military law. Reports suggest the last execution took place in 2000.	Yes
Guyana	There have been no executions since 1997. Reports suggest seven death sentences were handed down in 2023, with a total of 24 people under sentence of death at the end of 2023.	Yes
India	According to public reports, 561 prisoners were on death row at the end of 2023. Executions are rare (last execution in 2015), usually only in response to murder, sexual assault and terrorism related crimes.	Yes
Indonesia	Indonesia retains the death penalty for some crimes. The last execution in Indonesia was in July 2016, however in 2023 Indonesia issued 114 death sentences (according to public reports).	Yes
Iran	Death penalty sentences continue to be handed down in Iran, including for drug-related offences. In 2023, an estimated 874 executions were carried out.	Yes

Iraq	Public reports suggest at least 16 executions were carried out in 2023. Death penalty sentences continue to be handed down.	Yes
Israel	Israel has abolished the death penalty for ordinary crimes but retains it for exceptional crimes such as crimes under military law or crimes committed in exceptional circumstances. The last execution occurred before 1965.	Yes
Jamaica	The last execution took place in 1988. No one was known to be under sentence of death at the end of 2023.	Yes
Japan	The last execution occurred in 2022. Reports suggest at least 115 people were under death sentences at the end of 2023.	Yes
Jordan	Jordan has had a de facto moratorium on executions since 2017 (time of last execution). Reports suggest at least 222 people were under death sentences at the end of 2023.	Yes
Kenya	Kenya has had a de-facto moratorium on executions since 1987, with the last execution carried out in 1987.	Yes
Kuwait	Public reports suggest at least five executions were carried out in 2023 and at least nine death sentences were handed down.	Yes
Laos	Laos has had a de facto moratorium on executions since 1989 (the time of last execution).	Yes
Lebanon	Lebanon has had a moratorium on executions since 2004 when the last execution took place. Currently, 171 prisoners are sentenced to death and courts continue to issue death sentences.	Yes
Lesotho	There have been no executions since 1995.	Yes



Liberia	Liberia is abolitionist in practice and its last execution was in 2000.	No
Libya	The last known execution was in 2010. Reports suggest at least 29 death sentences were handed down in 2023.	No
Malawi	Malawi is abolitionist in practice. Its last execution was in 1992 and it has a de facto moratorium on executions.	Yes
Malaysia	Moratorium on executions since 2018. In June 2023, Malaysia's Parliament passed laws abolishing the mandatory death penalty, and introducing sentencing discretion. The resentencing process is underway and according to information from the Malaysian government, as of 31 May 2024, a total of 474 applications had been completed and, of those, 19 review applications had been rejected (meaning the death penalty was upheld).	Yes
Maldives	Maldives is abolitionist in practice. Its last execution was in 1954 and it has a de facto moratorium on executions. However, on 20 December 2023, Maldives' Minister of Homeland Security Ali Ihusaan announced the government would enforce the death penalty. No executions had been carried out by the new government as of 10 July 2024.	Yes
Mali	Mali is abolitionist in practice, with a de facto moratorium on executions since 1980. There was one death sentence handed down in 2023 but media reports indicate the sentence has not been carried out.	Yes

Mauritania	Mauritania is abolitionist in practice. Its last execution was in 1987 and it has a de facto moratorium on executions.	No
Morocco	Morocco is abolitionist in practice. Its last execution was in 1993 and it has a de facto moratorium on executions since this time. Reports suggest at least two death sentences were handed down in 2023.	Yes
Myanmar	Myanmar retains the death penalty in law. In July 2022, the Myanmar military regime, which took power in a coup d'etat in February 2021, carried out four executions. These were the first executions since 1988.	Yes
Niger	Niger is abolitionist in practice. Its last execution was in 1976 and it has a de facto moratorium on executions. Despite this, death sentences are still handed down from time to time. Eight people are believed to remain on death row in the country.	Yes
Nigeria	Nigeria has had a de facto moratorium has since 2016 (time of last execution). Nigerian courts still hand down hundreds of death sentences annually. Over 3,400 persons are believed to remain on death row in the country.	Yes
Oman	Reports suggest the last execution was in 2021.	Yes
Pakistan	Pakistan has had a de facto moratorium on executions since a moratorium was re-introduced in 2019. According to data from the Justice Project Pakistan, 112 death sentences were handed down in 2023 and there are currently 6,039 people on death row.	Yes

Peru	Peru abolished the death penalty for ordinary crimes in 1979, however retains the death penalty for exceptional crimes such as certain wartime offences. Reports suggest the last execution occurred in 1979.	No
Qatar	Qatar retains the death penalty, but has executed one person since 2003 (in 2019). Death sentences are still handed out.	Yes
Republic of Korea	De-facto moratorium on executions since December 1997, with the last executions carried out in 1997.	Yes
Russia	Russia is abolitionist in practice. Russia introduced a moratorium on executions in August 1996.	No (Post's engagement with the Russian Government is limited following the invasion of Ukraine in February 2022).
Saint Lucia	Saint Lucia's last execution took place in 1995. Saint Lucia's last death sentence was commuted in 2013.	Yes
Saint Kitts and Nevis	Saint Kitts and Nevis' last execution was in 2008. No one was known to be under sentence of death at the end of 2023.	Yes
Saint Vincent and the Grenadines	Saint Vincent and the Grenadines' last execution took place in 1995. One person was under sentence of death at the end of 2023.	Yes
Saudi Arabia	By 2 July 2024, there had been 85 executions in 2024. Reports suggest there were at least 172 executions in 2023.	Yes
Singapore	Reports suggest at least five executions were carried out in 2023.	Yes
Somalia	Reports suggest that in 2023, 31 death penalty sentences were handed down and 38 executions were carried out.	Yes

South Sudan	Reports suggest the last known execution was in 2019 and that individuals remained under death sentences at the end of 2023.	Yes
Sri Lanka	Sri Lanka is abolitionist in practice. There is a de facto moratorium in place since 1976, the same year the last execution took place. The High and Supreme Courts continue to hand down death sentences for murder and drug trafficking convictions, but many on death row have their sentences commuted to life imprisonment.	Yes
Sudan	Death penalty sentences continue to be handed down in Sudan, as recently as May 2024. According to reports however, Sudan did not hand down death sentences in 2023, although did in 2022.	No
Syria	Executions in Syria continue to be carried out but credible figures remain unavailable.	No
Taiwan (*noting Australia's one-China policy, we do not recognise Taiwan as a country)	Taiwan has a de facto moratorium on executions in place. There are 37 people on death row as of July 2024.	Yes
Tajikistan	Tajikistan has observed a moratorium on the death penalty since 2004, when the last known execution was carried out. The death penalty has been completely abolished for the elderly, women and children.	No
Tanzania	Tanzania has had a de facto moratorium on executions since 1994, with the last execution carried out in 1995. 14 death penalty sentences were handed down in Tanzania in 2023.	Yes
Thailand	Thailand's last execution was carried out in 2018. Reports suggest at least 123 death sentences were handed down in 2023.	Yes

Tonga	Abolitionist in practice since 1982. Last Pacific island country to retain the death penalty.	Yes
Trinidad and Tobago	Trinidad and Tobago's last execution was in 1999. Reports suggest three death sentences were handed down in 2023, with 37 people under death sentences at the end of 2023.	Yes
Tunisia	De facto moratorium in place since 1991, however individuals continue to be sentenced to death every year (at least three in 2023).	Yes
UAE	Reports suggest at least 40 people were under a death sentence at the end of 2023 and that the last known execution was in 2021.	Yes
Uganda	Uganda retains the death penalty in law, but has had a de-facto moratorium on executions since 1999 (with unconfirmed reports the last execution may have been carried out in 2005).	Yes
USA	USA retains the death penalty in law in 27 states, and under Federal and US Military statutes. In practice 73% of jurisdictions (states, federal, military) have abolished or not executed a prisoner in more than a decade. Public reporting suggest at least 24 people were executed in 2023.	Yes
Vietnam	Vietnam still applies the death penalty routinely in cases involving murder, narcotics, and national security. Reports suggest at least 122 people were executed in 2023.	Yes
Yemen	Reports suggest at least 15 people were executed in 2023. Death penalty sentences continue to be handed down.	Yes



Zambia	Zambia abolished the death penalty for ordinary crimes in 2022, but retains the death penalty only for serious crimes, such as those committed during times of war. Reports suggest the last execution was carried out in 1997.	Yes
Zimbabwe	Zimbabwe has had a de-facto moratorium on executions since 2005, with the last execution carried out in 2005.	Yes