

WATCHING BRIEF 20-4: DEATH PENALTY

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

April 2020

The imposition of the death penalty remains a significant challenge to Quakers and others committed to restorative and nonviolent approaches to crime and punishment. The Australian Government has now become more active in promoting abolition of the death penalty around the world. This Brief outlines what is being done by government and NGOs.

Global Situation

According to [Amnesty International](#), there is a global trend away from the death penalty after record-high peaks in recent years. The Asia-Pacific is still the region where the majority death sentences apply to drug-related offences. In 2018 there were 690 executions recorded in 20 countries, a decrease of 31% on 2017 and the lowest in the past decade. The 'leading' countries were China, Iran, Saudi Arabia, Iraq and Vietnam. Botswana, Sudan, Taiwan and Thailand resumed executions in 2018. Amnesty estimated that there were 19,336 people on death row at the end of 2018.

The crimes for which the death penalty is imposed include economic crimes such as corruption, digging ancient cultural sites, discharging firearms, witchcraft, sorcery and adultery, blasphemy, treason, espionage and crimes against the state. At least 98 of the 2018 executions were the result of drug offences.

The positive news from Amnesty is that 106 countries have abolished the death penalty, and 142 countries have ended the death penalty in law or practice. This is a strong basis for moving towards a complete removal of the death penalty. Further details are available at www.amnesty.org.au

Government Policy

Australia abolished the death penalty from Commonwealth law in 1973, and the states abolished it at different times. In March 2010 Federal Parliament passed a law without

dissent ensuring that capital punishment can never be

Quaker Peace & Legislation Committee
Religious Society of Friends
(Quakers) in Australia Inc.
Incorporated in the ACT

PO Box 6063
O'CONNOR, ACT 2602
Email cqplc@quakersaustralia.info
Web www.quakersaustralia.org.au
ABN 16 036 715 933

reintroduced in any jurisdiction - state or federal. On 15 October 2018 the Foreign Minister Marise Payne MP announced Australia's Strategy for Abolition of the Death Penalty. She said: "we consider the death penalty to be deeply flawed and an affront to human dignity. There is no conclusive evidence that the death penalty deters crime. It is irrevocable and degrading". The Government is using its term on the United Nations Human Rights Council to pursue this goal internationally. Among the specific aims of the strategy are:

- Increase the number of abolitionist countries, of countries with a moratorium on use of the death penalty, and commuting of existing death sentences.
- Reduce the number of crimes that attract the death penalty, in line with the International Covenant on Civil and Political Rights, such as economic, property, political and religious offences, and nonviolent crimes such as drug offences.
- Ensure that people facing the death penalty have adequate legal representation and a fair trial.
- Increase transparency so that all countries report the numbers of people sentenced to death and executed.
- Prevent the reintroduction of the death penalty where it has been abolished.

Overseas posts have been given strategies for promoting the campaign in a way that relates to the local conditions and policies of different countries. **There is to be a resolution (supported by Australia) put to the United Nations General Assembly on the death penalty later this year.** The government welcomes input from researchers and NGOs. The emphasis at present is on getting more countries to buy into resolutions that move toward abolition, rather than on drafting stronger resolutions.

The Department of Foreign Affairs and Trade (DFAT) has established a Death Penalty Consultative Group (chaired by Justin Lee, First Assistant Secretary) to enable NGOs and others outside government to contribute ideas and offer support to the policy. The Quaker Peace & Legislation Committee (QPLC) is represented on this Group, along with a range of academic and NGO groups. An introductory meeting was held via internet on 31 March 2020. Information about DFAT's role can be obtained from Ruth Stone at the Human Rights Section - ruth.stone@dfat.gov.au

Our Region

New Zealand abolished the death penalty in 1989. Despite some pressure to reintroduce it following the Christchurch massacre in 2019, the government has refused to change the law and practice. In the Pacific, the Solomon Islands abolished the death penalty in 1978, Fiji in 2015, Samoa in 2004. Vanuatu has never had the death penalty. Papua New Guinea has not executed anyone since 1954, but reinstated the death penalty in 2013 following tribal conflicts. Tonga has had the death penalty in law but has not used it since 1982.

In several of these Pacific countries there have been campaigns in recent years to reinstate or introduce the death penalty following tribal and other brutal deaths. So far these campaigns have not changed the law or practice.

The situation in Asia is mixed. Indonesia has a de facto moratorium on the use of the death penalty. The new government of Malaysia has backtracked on an earlier commitment towards abolishing the death penalty. The Chief Justice there has nevertheless made a report on alternatives to the mandatory death penalty. In China there has been a reduction in the number of executions to around 3500 a year – of which drug

offences constitute at least half. Any change will depend on moves within the Communist Party itself.

NGOs working on human rights see a major need to challenge the Asian focus on linking drug policies to the death penalty. The Philippines government may be more open on this than Singapore. Vietnam has reduced the number of crimes that incur a death penalty.

Who is Working to Abolish the Death Penalty?

- Amnesty International (see above) has an ongoing coordinating role, and emphasizes specific individuals who warrant support. See www.amnesty.org.au
- Law Aid International provides human rights and criminal defence lawyers to those under sentence of death, especially in our region – see www.lawaidinternational.org
- The Capital Punishment Impact Initiative, based at Monash University, is creating a world-leading site for anti-death penalty efforts, with a focus on evidence-based research and clinical case-work. See www.monash.edu/law/research.impact/capital-punishment-impact-initiative
- The Capital Punishment Justice Project works with volunteers and interns to develop legal and policy solutions to save lives. Since its founding in 2001 it has placed over 150 volunteer lawyers in places such as USA and Asia. See www.cpjp.org.au
- The Castan Centre for Human Rights Law (Monash) specialises in international human rights law. See www.castancentre.com
- Griffith Criminology Institute has a special focus on death penalty reform, and justice in China. See www.griffith.edu.au/criminology-institute
- Associate Professor Mai Sato (ANU School of Regulation and Global Governance) researches public attitudes to the death penalty around the world. She uses survey work, social experiments, and deliberative consultation as her methodology to determine the effect of information and deliberation on support for the death penalty. Her email address is mai-sato@anu.edu.au

Action

Quakers have been active over many years worldwide in opposing the death penalty, especially through our Quaker United Nations Offices in New York and Geneva, and through participation in the UN Commission on Crime Prevention and Criminal Justice in Vienna. Quakers in the USA including the Friends Committee on National Legislation maintain strong advocacy against the death penalty, especially the recent decision to reinstate it for federal crimes. British Quakers also work actively globally to abolish the death penalty, which ended in Britain in 1964.

In Australia, Friends made strong representations to the Government and Opposition in 2015 during the public debate about the execution of two Australians in Indonesia. Friends can continue to make known to politicians and in public statements their affirmation of the Government's efforts to promote death penalty abolition within the councils of the United Nations, and can support the work of the above-mentioned NGOs and researchers.

Canberra
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