



Submission to the Joint Standing Committee on Foreign Affairs,
Defence and Trade

**Inquiry into Australia's Efforts to Advocate for the Worldwide Abolition
of the Death Penalty**

8 August 2024

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About Amnesty International

Amnesty International is a global movement of more than 10 million people who take injustice personally. We are campaigning for a world where human rights are enjoyed by all.

We investigate and expose the facts, whenever and wherever abuses happen. We lobby governments as well as other powerful groups such as companies, making sure they keep their promises and respect international law. By telling the powerful stories of the people we work with, we mobilise millions of supporters around the world to campaign for change and to stand in the defence of activists on the frontline. We support people to claim their rights through education and training.

Our work protects and empowers people – from abolishing the death penalty to advancing sexual and reproductive rights, and from combating discrimination to defending refugees' and migrants' rights.

We help to bring torturers to justice, change oppressive laws, and free people who have been jailed just for voicing their opinion. We speak out for anyone and everyone whose freedom or dignity are under threat.

We are impartial and independent of any government, political persuasion or religious belief and do not receive funding from governments or political parties.

Amnesty International is a proud People Powered movement founded on the work of volunteers and activists all around the country. More than 500,000 Amnesty International supporters live in Australia.

1. Summary & Background

1.1 Amnesty International Australia (AIA) welcomes the opportunity to make a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade regarding the Inquiry into Australia's Efforts to Advocate for the Worldwide Abolition of the Death Penalty.

1.2 Every day, people are executed and sentenced to death by the state as punishment for a variety of crimes - sometimes for acts that should not be criminalised. In some countries, it can be for drug-related offences, in others this cruel punishment is reserved for terrorism-related acts and murder.

1.3 The death penalty is the ultimate cruel, inhuman and degrading punishment. Amnesty International opposes the death penalty in all cases without exception - regardless of who is accused, the nature or circumstances of the crime, guilt or innocence or method of execution.

1.5 Amnesty International holds that the death penalty breaches human rights, in particular the right to life and the right to live free from torture or cruel, inhuman or degrading treatment or punishment. Both rights are protected under the Universal Declaration of Human Rights, adopted by the United Nations in 1948.

1.6 Over time, the international community has adopted several instruments that ban the use of the death penalty, including the following:

- The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Protocol No. 6 to the European Convention on Human Rights, concerning the abolition of the death penalty, and Protocol No. 13 to the European Convention on Human Rights, concerning the abolition of the death penalty in all circumstances; and
- The Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

1.18 For over 45 years, Amnesty International has been campaigning to abolish the death penalty around the world. Amnesty International monitors its use by all states to expose and hold to account governments that continue to use the ultimate cruel, inhuman and degrading punishment. We publish a report annually, reporting figures and analysing trends for each country. Amnesty International's latest report, *Death Sentences and Executions 2023*, was released in May 2024.¹

1.8 In 2023, the countries with the highest number of executions were China, Iran, Saudi Arabia, Somalia and the USA - in that order.²

1.9 China remained the world's leading executioner - but the true extent of its use of the death penalty is unknown as this data is classified as a state secret; the global figure of at least 1,153 excludes the thousands of executions believed to have been carried out there.³ Excluding China, 89% of all reported executions took place in just two countries - Iran and Saudi Arabia.⁴

¹ Amnesty International, *Death Sentences and Executions in 2023*, May 29, 2024, <https://www.amnesty.org/en/documents/act50/7952/2024/en/#:~:text=Amnesty%20International's%20monitoring%20of%20the.31%25%20from%20883%20in%202022.>

² Above n.1, pg 4.

³ Above n.1, pg 9.

⁴ Ibid.

1.10 Amnesty International recorded at least 2,428 death sentences in 52 countries in 2023, a slight decrease from the total of 2,016 reported in 2022.⁵ At least 27,687 people were known to be under sentence of death globally at the end of 2023.⁶

1.11 Amnesty International recorded at least 1,153 executions in 16 countries in 2023, up by 31% from 2022 (when there were at least 883 executions).⁷

1.12 Execution Methods used in 2023 included:

- Beheading;
- Hanging;
- Lethal injection; and
- Shooting.

1.13 Execution is the ultimate, irrevocable punishment: the risk of executing an innocent person can never be eliminated. Since 1973, for example, more than 197 people sent to death row in the USA have later been exonerated or released from death row on grounds of innocence.⁸ Others have been executed despite serious doubts about their guilt.

1.14 Countries who execute commonly cite the death penalty as a way to deter people from committing crime. This claim has been repeatedly discredited, and there is no evidence that the death penalty is any more effective in reducing crime than life imprisonment.

1.15 In many cases recorded by Amnesty International, people were executed after being convicted in grossly unfair trials, on the basis of torture-tainted evidence and with inadequate legal representation. In some countries death sentences are imposed as the mandatory punishment for certain offences, meaning that judges are not able to consider the circumstances of the crime or of the defendant before sentencing.

1.16 The weight of the death penalty is disproportionately carried by those with less advantaged socio-economic backgrounds or belonging to a racial, ethnic or religious minority. This includes having limited access to legal representation, for example, or being at greater disadvantage in their experience of the criminal justice system.

1.19 The organisation's work to oppose the death penalty takes many forms, including targeted, advocacy and campaign based projects in sub-Saharan Africa, Asia-Pacific, Americas and Europe and Central Asia, and Middle East and North Africa regions; strengthening national and international standards against its use, including by supporting the successful adoption of resolutions by the United Nations General Assembly on a moratorium on the use of the death penalty; and applying pressure on behalf of people facing imminent execution. We also support actions and work by the abolitionist movement, at the national, regional and global level.

1.20 When Amnesty International started its work in 1977, only 16 countries had totally abolished the death penalty. Today, that number has risen to 112 - more than half the world's countries. More than two-thirds are abolitionist in law or practice.

1.21 The recommendations contained in this submission go towards ensuring that Australia continues to effectively develop and implement a global strategy for the abolition of the death penalty.

⁵ Above n.1, pg.11

⁶ Above n.1 pg.12

⁷ Above n.3.

⁸ Death Penalty Information Centre, Innocence Database, <https://deathpenaltyinfo.org/database/innocence>.

1.22 Where Amnesty International has not made comment on recommendations from the 2017 Joint Standing Committee on Foreign Affairs, Defence and Trade report: A world without the death penalty: Australia's Advocacy for the Abolition of the Death Penalty, the Committee may take this as the organisation either considering progress as sufficient, not warranting comment, or as the organisation not having the relevant data or information to provide a response.

2. Summary of Recommendations

Amnesty International recommends that:

- 1) The Australian Federal Police National Guideline on international police-to-police assistance in death penalty situations is amended to preclude any international cooperation, including through the provision of technical and financial assistance, that would contribute, or carry a real risk of contributing, to the use of the death penalty or the commission of human rights violations;
- 2) Future Australian approaches to advocacy for the abolition of the death penalty recognise that failed punitive models of drug policy have led retentionist countries to an increase in the use of capital punishment. Australian advocacy efforts must prioritise the amending of these policies as a vital step in the abolition of the death penalty worldwide;
- 3) Future Australian approaches to advocacy for abolition of the death penalty include a recognition that disproportionate use of the death penalty does not impact just those financially vulnerable, but more so those suffering from socio-economic discrimination more broadly;
- 4) Future Australian approaches to advocacy for abolition of the death penalty include an objective of growth in by abolitionist states in all regions;
- 5) The Australian Government remains a proactive and steadfast actor in driving the successful adoption of the UNGA resolution on the moratorium on the use of the death penalty. In particular, the Australian Government should actively counter attempts to introduce hostile amendments that seek to undermine the spirit of the resolution, especially those invoking concerns about sovereignty;
- 6) The Australian authorities continue to advocate for an end of the death penalty before Vienna-based UN bodies and support the creation of a cross-regional group of friends of human rights, or even a more specific cross-regional group against the death penalty, at the UN Commission on Narcotic Drugs, to champion discussions on the issue;
- 7) Ensure that consular assistance to Australian nationals and support for anyone facing the death penalty in other countries is readily available, adequately resourced and effective; and
- 8) Ensure that cooperation with and support for civil society continues, including by making more funding available directly to organisations in retentionist countries and interventions are made to protect advocates against state reprisals.

3. Progress against the recommendations in the 2017 Joint Standing Committee on Foreign Affairs, Defence and Trade report: A world without the death penalty: Australia’s Advocacy for the Abolition of the Death Penalty

Recommendations 2 & 3: International Police-to-Police Assistance in Death Penalty Situations, Particularly Drug Crimes

3.1 States and intergovernmental organizations engaging in international assistance and cooperation, including in the area of drug control, have an extraterritorial obligation to ensure that their policies do not lead to human rights abuses in other countries, either directly or indirectly.⁹ This is supported by Article 16 of the International Law Commission’s Articles on State Responsibility, which prohibits complicity in internationally wrongful acts.¹⁰

3.2 As discussed in previous Amnesty International Submissions on this topic, the imposition of the death penalty in violation of restrictions set out under international human rights law and standards renders the use of the death penalty arbitrary.¹¹ Among other examples are violations of the fair trial guarantees provided for in Article 14 of the International Covenant on Civil and Political Rights (ICCPR); the imposition of mandatory death sentences;¹² and the use of the death penalty for offences that are not the “most serious crimes”.¹³

3.3 The UN Human Rights Committee has stated that “The term ‘the most serious crimes’ must be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death, such as [...] drug and sexual offences, although serious in nature, can never serve as the basis, within the framework of article 6, for the imposition of the death penalty. [...]”¹⁴ The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has similarly stated that “The death penalty may not be imposed for drug-related offences unless they meet this requirement.”¹⁵

3.4 The UN Common Position on Drugs has reiterated in unequivocal terms that the application of the death penalty for drug-related offences does not respect the spirit of the international drug-control conventions and has the potential to become an obstacle to effective cross-border and international cooperation against drug trafficking.¹⁶

3.5 The International Narcotics Control Board has also noted that the use of the death penalty for drug-related offences is in breach of the UN Drug Conventions and a violation of international human rights law, and has called on States that still retain this punishment for drug-related

⁹ Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, https://www.fidh.org/IMG/pdf/maastricht-eto-principles-uk_web.pdf

¹⁰ Responsibility of States for Internationally Wrongful Acts, https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf

¹¹ UN Human Rights Committee, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), UN Doc. CCPR/C/GC/36, 30 October 2018, paras.41-42.

¹² UN Human Rights Committee, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), CCPR/C/GC/36, 30 October 2018, para.37.

¹³ Article 6(2) of the International Covenant on Civil and Political Rights; Safeguard No.1 of the [UN Safeguards guaranteeing protection of the rights of those facing the death penalty](#), adopted through UN Economic and Social Council resolution 1984/50.

¹⁴ Human Rights Committee, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), UN Doc. CCPR/C/GC/36, 30 October 2018, para.35.

¹⁵ [Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions \(2012\)](#), UN Doc. A/67/275, para.122.

¹⁶ UN Chief Executives Board, [“What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters”](#), UN Doc. E/CN.7/2019/CRP.10.

offences to consider abolishing it for such offences and commuting death sentences that have already been imposed.¹⁷

3.6 Considering this, it is vital that all States refrain from providing assistance in situations where the death penalty might be imposed in such a manner that violates international safeguards. This obligation applies even more restrictively to states that have abolished the death penalty in law; that have an official moratorium on executions; or that have signed the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, as also summarized by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions in its 2015 report.¹⁸

3.7 Grounding its analysis in the abolitionist vision of Article 6 of the ICCPR, the UN Human Rights Committee highlighted that “for countries that have abolished the death penalty, there is an obligation not to expose a person to the real risk of its application”.¹⁹ In its consideration of a landmark extradition case from Canada to the USA, the Human Rights Committee clarified that “by deporting [the individual] to a country where he was under sentence of death, Canada established the crucial link in the causal chain that would make possible the execution of the author.”²⁰ It is under this framework that state parties to the ICCPR not only “cannot deport, extradite or otherwise transfer persons to a country in which they are facing criminal charges that carry the death penalty, unless credible and effective assurances against the imposition of the death penalty have been obtained”;²¹ but also carry some responsibility for the imposition of the death penalty in other countries due to cooperation over law enforcement programmes or the provision of technical or legal assistance, both through bilateral and multilateral engagements and must act to prevent the risk of the death penalty as result.²²

3.8 For these reasons, Amnesty International supports the work of like minded organisations in advocating to close the loophole in the Australian Government’s Strategy for Abolition of the Death Penalty that includes a specific exclusion of government-to-government or police cooperation in matters that could lead to prosecutions that result in the death penalty.

Recommendation 1: Ensure that the Australian Federal Police National Guideline on international police-to-police assistance in death penalty situations is amended to preclude any international cooperation, including through the provision of technical and financial assistance, that would contribute, or carry a real risk of contributing, to the use of the death penalty or the commission of human rights violations.

Recommendation 6: Australian Approaches to Advocacy for the Abolition of the Death Penalty

3.9 While Australia’s public messaging regarding the abolition of the death penalty has been consistent and principled, it is important to understand that there is an overlap with other rights and

¹⁷ [Report of the International Narcotics Control Board for 2021](#), UN DOC. E/INCB/2021/1, para. 90.

¹⁸ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/70/304, 7 August 2015, paras.95-101.

¹⁹ UN Human Rights Committee, *Judge v. Canada*, Communication No. 829/1998, CCPR/C/78/D/829/1998, 13 August 2003, para. 10.4.

²⁰ UN Human Rights Committee, *Judge v. Canada*, Communication No. 829/1998, CCPR/C/78/D/829/1998, 13 August 2003, para. 10.6.

²¹ Human Rights Committee, [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), UN Doc. CCPR/C/GC/36, 30 October 2018, para.34.

²² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/70/304, 7 August 2015, paras. 102-107. See also UN Office on Drugs and Crime, UNODC and the promotion and protection of human rights –Position paper, 2012, p.10, https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf

systemic structural issues that public messaging within a time of crisis cannot possibly address. This is particularly relevant in relation to drug related cases.

3.10 On this matter, the UN Working Group on Arbitrary Detention stated that:

“The war on drugs may be understood to a significant extent as a war on people. Its impact is often greatest on those who are poor, but also frequently overlaps with discrimination in law enforcement directed at vulnerable groups. This has been referred to as the intersectionality of different forms of discrimination, which reinforces disadvantage. The Working Group has observed that criminalization of drug use facilitates the deployment of the criminal justice system against drug users in a discriminatory way, with law enforcement officers often targeting members of vulnerable and marginalized groups, such as minorities, people of African descent, indigenous peoples, women, persons with disabilities, persons with AIDS and lesbian, gay, bisexual, transgender and intersex persons. Homeless persons, sex workers, migrants, juveniles, the unemployed and ex-convicts may also be vulnerable. The Working Group has encouraged States to take measures to prohibit discriminatory practices of arrest and detention of members of vulnerable and marginalized groups in their drug-control efforts.”²³

3.11 This point is further illustrated by the UN High Commissioner on Human Rights in his 2023 report submitted to the UN Human Rights Council:

“Shifting away from punitive models is critical to addressing all human rights challenges that arise from or are facilitated by the implementation of punitive drug control policies. Drug control policies should be understood as a way of achieving broader objectives, including the protection of human rights, in particular the right to health, ensuring equality and non-discrimination”.²⁴

3.12 Among other recommendations, the report calls on states to adopt alternative approaches to criminalisation, “zero tolerance” and the elimination of drugs, such as decriminalisation and responsible regulation “to eliminate profits from illegal trafficking, criminality and violence”; to adopt drug policies that explicitly protect people’s rights “to health and to be treated with respect, dignity and equality, without discrimination on any grounds “including drug dependency”; and to address the underlying socioeconomic factors and social inequalities that increase the risks of using drugs or that lead to engaging in the drug trade, including by promoting human rights.²⁵

3.13 So while it is important that abolitionist countries such as Australia maintain a human rights centered approach in regards to public messaging, it is also vital that this goes beyond just messaging and encompasses a broader understanding of the mitigating factors that have led people to be facing the death penalty in the first place, as well as advocacy aimed at challenging and dismantling those systems.

3.14 As a first step, this must include recognising that the disproportionate use of the death penalty does not just impact the ‘poor’, but more so those suffering from socio-economic discrimination which captures not just financial means, but also factors such as education, language, access to networks of influence which can all differently impact engagement with the criminal justice system.

²³ Working Group on Arbitrary Detention, [Arbitrary detention relating to drug policies – Study of the Working Group on Arbitrary Detention](#), UN Doc. A/HRC/47/40, 18 May 2021, para 51.

²⁴ UN. Office of the High Commissioner for Human Rights, Human rights challenges in addressing and countering all aspects of the world drug problem : report of the Office of the United Nations High Commissioner for Human Rights, 2023, <https://digitallibrary.un.org/record/4020040?ln=en>

²⁵ Ibid.

Recommendation 2: Future Australian approaches to advocacy for the abolition of the death penalty must recognise that failed punitive models of drug policy in retentionist countries have led to an increase in capital punishment. Australian advocacy efforts must prioritise the amending of these policies as a vital step in the abolition of the death penalty worldwide.

Recommendation 3: Future Australian approaches to advocacy for abolition of the death penalty must include a recognition that disproportionate use of the death penalty does not impact just the 'poor', but more so those suffering from socio-economic discrimination more broadly.

Recommendation 9: Goals of the Strategy for the Abolition of the Death Penalty

3.15 To see the success of the abolitionist movement, it cannot continue to be a handful of 'western' countries championing the cause alone. There exists several other abolitionist countries in Africa, Asia-Pacific and central Asia that must be engaged more effectively.

Recommendation 4: Include an objective of growth in anti-death penalty activism by abolitionist states in all regions.

4. Opportunities and risks for Australia to advocate for the abolition of the death penalty internationally, including: Engagement with international institutions and likeminded countries

United Nations General Assembly resolution on a Moratorium on the use of the death penalty

4.1 For Amnesty International, the United Nations General Assembly resolution on the moratorium on the death penalty is crucial for our work and we continue to encourage abolitionist countries such as Australia to remain proactive and support the adoption, with an increased number of votes in favour, of this year's resolution.

4.2 A key risk for progress in relation to this resolution are hostile amendments that seek to undermine the spirit of the resolution, particularly concerning sovereignty. At Amnesty International we remain opposed to the sovereignty amendment because it denies the link between suspending executions and human rights, as well as sets a dangerous precedent for other human rights resolutions.

4.3 To date, the record of co-sponsors of the resolution opposing attempts to weaken the text and spirit of the resolutions through sovereignty language remains untarnished. Amnesty International is also not convinced by proposals to suggest alternative language on sovereignty because countries proposing these alternatives have said many times that their opposition to these resolutions is ideological, and language on sovereignty was the first attempt to "rebalance" the text of the resolution. Abolitionist countries like Australia can be certain that if this is allowed, it will not end there.

4.4 Furthermore, Amnesty International does not believe opponents would be ready to accept any real compromises considering that more than 100 states voted in favour of the amendment in 2022. It also is not clear that the amendment will have a positive impact on how opponents would vote on the resolution as a whole; and ultimately, it distracts resources from the much-needed outreach to states who could defend the text from this and other hostile amendments. Additionally, being on record as accepting compromises on sovereignty language in the UNGA moratorium resolution would set a dangerous precedent in relation to other human rights resolutions; and risks sending the message that the death penalty is an issue that can be approached differently from other human rights resolutions.

Recommendation 5: The Australian Government remains a proactive and steadfast actor in driving the successful adoption of the UNGA resolution on the moratorium on the use of the death penalty. In particular, the Australian Government should actively counter attempts to introduce hostile amendments that seek to undermine the spirit of the resolution, especially those invoking concerns about sovereignty.

UNODC and UN Commission on Narcotic Drugs

4.5 Historically, international drug control bodies - such as the UN Commission on Narcotic Drugs (CND), established by the UN Economic and Social Council - have largely been dissociated from human rights mechanisms and have largely failed to ensure that drug policies are consistent with international human rights law. In turn, this has resulted in poor monitoring of human rights compliance in the application of drug control policies. For its part, the UN Office on Drugs and Crime (UNODC) has also been criticised for its failure to address human rights violations in a comprehensive way, both in its operative and monitoring tasks.²⁶

4.6 Notwithstanding the sharp increase in executions and the distressing cases in which the death penalty has been applied over the last years, the UNODC and other international drug control mechanisms have failed to publicly condemn these serious violations of international law. The World Drug Day itself, an initiative designed to encourage international cooperation in the fight against drugs, has frequently been used to promote highly punitive approaches as the authorities display “iron-fist on drug crime” stances. In some retentionist countries, World Drug Day has been used to support an increased resort to the death penalty or even to ramp up executions for drug related offences.²⁷ For example, this international day has been a regular hook for Chinese courts, including the Supreme People’s Court, to issue judicial guidelines on how to apply the death penalty for drug related offences.²⁸

4.7 Amnesty International has called on all international drug control mechanisms, including the CND and UNODC, to consistently incorporate human rights into their work. In particular, we’ve called on the CND to establish a standing item in its agenda to address the human rights impacts of drug policies; and on UNODC to ensure that human rights are part of its constant monitoring

²⁶ Amnesty International, Unlawful and discriminatory – The death penalty for drug related offences (ACT 50/7213/2023), 10 October 2023, p.12 <https://www.amnesty.org/en/documents/act50/7213/2023/en>

²⁷ Amnesty International, World Drugs Day: UNODC must integrate ending drug-related executions in its work (ACT 50/4347/2021), 26 June 2021, <https://www.amnesty.org/en/documents/act50/4347/2021/en/>;
World Drugs Day: UNODC must act to stop the use of death penalty for drug related offences and urge states to end executions (Joint statement, IOR 40/6919/2023), 26 June 2023, <https://www.amnesty.org/en/documents/ior40/6919/2023/en/>

²⁸ Global Times, China’s top court reveals death penalty case involving crimes related to new types of drugs, June 27, 2023, <https://www.globaltimes.cn/page/202306/1293227.shtml> ;
Amnesty International, Death sentences and executions in 2023 (ACT 50/7952/2024), 29 May 2024, p.22, <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

work, including through the inclusion of a specific chapter on human rights in its yearly World Drug Report.

4.8 The decision to adopt a resolution during the 67th session of the CND by vote finally broke what has been known as “the Vienna consensus” by which all resolutions have been commonly adopted without a vote. The “Vienna consensus” has been deemed by many civil society organisations as a key obstacle in advancing new drug policies that uphold human rights. This can open new opportunities to advocate for the abolition of the death penalty for drug related offences in this important multilateral space. Importantly, delegations should continue to call for a vote on resolutions when consensus would preclude advancing policies that would better uphold human rights.

Recommendation 6: Continue to advocate for an end of the death penalty before Vienna-based UN bodies. Support the creation of a cross-regional group of friends of human rights, or even a more specific cross-regional group against the death penalty, at the CND, to champion discussions on the issue.

Advocacy for Australians Subject to or Potentially Subject to the Death Penalty

4.9 Australia should provide consular, legal and other technical assistance to persons facing the death penalty in another country.²⁹ Where a person faces the death penalty, states should take all reasonable steps to ensure that the death penalty is not imposed or executed, including by providing adequate consular assistance to the person and through the use of diplomatic channels.

4.10 Examples of the type of consular assistance in death penalty cases may include:

- Gathering of information that could be used to mitigate at sentencing, or to support clemency petitions;
- Providing medical/forensic experts or simply soliciting information/documentation on the case, which can be quite critical for someone (or their family members) facing trial in a foreign country and possibly in a foreign language; and
- Paying for legal representation and maintaining liaison with the legal team.

4.11 The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has said that, in cases of the death penalty, abolitionist states that do not provide adequate consular assistance can “arguably be said to have failed in [their] duty of due diligence to protect [their] nationals from arbitrary deprivations of life.”³⁰

4.12 It must be underlined that these above considerations apply with regard to the risk of the death penalty for any individuals, regardless of their nationality.

Recommendation 7: Ensure that consular assistance to own nationals and support for anyone facing the death penalty in other countries is readily available, adequately resourced and effective.

²⁹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/70/304, 7 August 2015, para. 109.

³⁰ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/70/304, 7 August 2015, paras.95-101.

Cooperation with Civil Society and Non-Government Organisations

4.13 Australian delegations to the UN in New York, Geneva and Vienna have been very cooperative to Amnesty International delegates in the shared pursuit of international initiatives and dialogues towards abolition. The organisation has also regularly cooperated with delegations of Australia in other countries, including in the Asia-Pacific region.

4.14 As an example of this cooperation, the delegation of Australia co-sponsored the side event that Amnesty International and Harm Reduction International co-organized on the death penalty for drug-related offences at the 67th session of the UN Commission on Narcotic Drugs in Vienna in March 2024.³¹

4.15 While we would request that this cooperation with our organisation and civil society partners continues, we would also ask that Australia makes more funding available directly to organisations in retentionist countries, including by ensuring that requirements are accessible and opportunities known to smaller organisations and non-English speakers. The continued cooperation should also include support for human rights defenders in retentionist countries when they face reprisals for their work against the death penalty through wider diplomatic support, publicly calling out the reprisals and intervening in key moments to ensure protection and legitimacy of human rights defenders.

Recommendation 8: Ensure that cooperation with and support for civil society continues, including by ensuring more funding is made available directly to organisations in retentionist countries and interventions are made to protect advocates against state reprisals.

5. Conclusion

The overwhelming majority of countries in the world have made the choice to abolish the death penalty in law or practice. This has provided renewed hope that it is just a matter of time before the world completely gets rid of the death penalty.

However, abolitionist countries like Australia must remain vigilant and proactive in their advocacy, moving beyond just crisis responses that attempt to deal with the impacts of death penalty impositions, and include a focus on dealing with the root causes of why the death penalty is being applied in the first place. They must also work to make sure that the abolitionist movement becomes truly global in leadership, with initiatives led by countries from all regions and socio-political backgrounds.

Progress over several decades has shown that when a human rights agenda is put at the centre of government plans, it is possible to rethink the response to crime and shift the investment of resources from retribution to prevention of crime and rehabilitation of offenders.

Thus, the Australian Government should use this inquiry as an opportunity to review and update its strategy for the Abolition of the Death Penalty, which must include among other things a recognition that failed punitive models of drug policy in retentionist countries have led to an increase in the use of capital punishment.

³¹ Harm Reduction International, 67th CND Side Event: The Death Penalty for Drug-related Offences, March 20, 2024, <https://hri.global/publications/the-death-penalty-for-drug-related-offences-challenges-to-restrict-its-use-and-pathways-towards-abolition/>