

WATCHING BRIEF WB15-2: QUAKERS AND THE DEATH PENALTY

The trauma of recent events in Indonesia involving two Australian drug traffickers has drawn attention once again to the use of capital punishment as a legal sanction for serious crimes. This briefing paper gives an up-to-date picture of progress towards the elimination of the death penalty around the world.

Statistics

There are now 160 countries that do not use the death penalty. Most of these have abolished it in law, whilst others have an indefinite moratorium. Nevertheless, the number of executions carried out by government directive is alarming. Figures available indicate at least 750 executions in 2014, including around 500 in Iran. But figures are not known for China, Malaysia, Nigeria, India, and Bangladesh, among others. The United Nations Human Rights Office estimates that there are up to 30,000 people on death row around the world.

International Moves

The United Nations has adopted a number of principles. The Universal Declaration of Human Rights and its subsequent expression in human rights conventions emphasise the right to life and the right not to be subjected to cruel punishment. The Optional Protocol to the Covenant on Civil and Political Rights obliges signatories to give up the death penalty. In 2007, 2008, 2010, and 2012 the General Assembly has passed resolutions supporting moves towards universal abolition. In December 2014 a General Assembly resolution (GA 11604) called for a moratorium on the use of the death penalty. The resolution also called for a complete ban on execution of people under 18, pregnant women and people with mental disabilities. Voting was 117 for, 37 against, and 34 abstentions.

UN Secretary-General Ban Ki-Moon said in July 2014 that “the death penalty has no place in 21st century”. The UN Human Rights Commissioner advocates for universal abolition because of (a) the fundamental nature of the right to life; (b) the unacceptable risk of executing innocent people; and (c) the absence of proof that the death penalty serves as a deterrent to crime.

In an article in *The Canberra Times* (18 February), Donald Rothwell (ANU Professor of International Law) pointed out that capital punishment for drug crimes is not allowed under international law to which Indonesia is subject. He says Indonesia is a party to the International Covenant on Civil and Political Rights, which regards nonviolent acts as outside the scope of ‘most serious crimes’ for which the death penalty may be imposed.

Pakistan has begun using the death penalty again following the attack on a school in Peshawar several months ago, in which many children died. Papua New Guinea has reinstated the use of the death penalty after many years, because of increasing violence especially in Port Moresby. On the other hand, Uganda in 2013 resisted pressure to institute the death penalty for homosexuality.

Australia's Role

Australia has not used the death penalty for over 30 years (and it was formally abolished in 1973 under Commonwealth law). Australia has co-sponsored resolutions at the United Nations Commission on Human Rights and General Assembly calling for abolition of the death penalty worldwide. Under Australian law, no person can be extradited if they are subject to the death penalty in the country applying for their return.

In March 2010 the Federal Parliament passed without dissent a law ensuring that capital punishment can never be reintroduced in any jurisdiction, state or federal. Public opinion has varied over time, sometimes favouring the death penalty after very serious criminal events. However, there seems to have been a trend against its use. The Morgan Institute polled Australians over many years on the question – ‘in your opinion, should the penalty for murder be death or imprisonment?’ and reported that the results showed a significant drop in support for the death penalty between 1995 (53%) and 2005 (27%). The figure in 2009 was 23%.

There has, however, been some inconsistency in Australia's approach. While supporting UN resolutions on the general principle of abolishing the death penalty, Australia's leaders have sometimes given mixed messages in different individual cases. This has taken the form of statements on some occasions that executions in other countries are entirely a matter for them (even when Australians are involved), and at other times that Australians should be protected from other countries' capital punishment laws.

Quakers and the Death Penalty

According to *Quaker Faith & Practice of Britain* Yearly Meeting (Sect. 23.95 of 1993 edition), John Bellers in 1699 pleaded for the abolition of the death penalty because it went far beyond the appropriate sanction by society against wrongdoing. Elizabeth Fry, as a result of her work in prisons, condemned the death penalty. However Quakers did not immediately abandon the death penalty as the ultimate sanction. When William Penn founded Pennsylvania, he retained the death penalty in the law for murder and treason. This was much more moderate than English penal law at the time, which prescribed the death penalty for about 200 offences, but did still reflect something of the prevailing view of the times.

There was a major concern for capital punishment at a London Yearly Meeting in 1818, even at a time when Friends were more inwardly-focused than earlier in their history. Over the years Friends have included this concern in their overall witness on crime and punishment, in recent times especially with a focus on alternatives to violence and on restorative justice.

In recent times Friends have put considerable effort into restorative justice internationally as part of our peace testimony. US Friends Committee on National Legislation (FCNL) states in its Legislative Policy and Priorities – “We seek the abolition of the death penalty because it denies the sacredness of life”. And Quakers are closely linked to abolitionist groups in various countries, without necessarily taking a lead.

In 1962 British Quakers adopted the following statement:

As members of a democracy we are involved in the wickedness of capital punishment and therefore feel bound to raise our voices against it and hope that a majority of our fellow-citizens will unite with us in urging the Government to free society from this communal guilt. Whilst our objection to capital punishment is founded on our Christian convictions, we nevertheless share the views of those who base their advocacy on the following ethical and practical considerations:

- *the motive of retribution is unworthy of an enlightened civilisation;*

- *the implementation of a sentence of death is debasing to those who carry it out;*
- *it often places on the conscience of public servants an unjustifiable burden;*
- *there is increasing evidence that it does not deter.*

... In a world of increasing violence we still believe in the Christian principle of overcoming evil with good.

Statement on the Death Penalty, Meeting for Sufferings, 1962

On 15 February 2015, Canberra Quakers led a silent vigil of around 30 people outside the Indonesian Embassy to express deep concern at the Indonesian Government’s use of the death penalty, and to draw attention to the unacceptable use of capital punishment worldwide. QPLC then drafted a letter for the Presiding Clerk to send to both Government and Opposition in the Australian Parliament seeking a cross-party approach to campaign for abolition globally. A copy of the letter is appended.

Action

Friends are encouraged to seek the views of their MPs and Senators on the issue of capital punishment, and to let them know of the ongoing Quaker concern for abolition. Friends can also join with other NGOs such as Amnesty International www.amnesty.org.au and the Australian Campaign against Capital Punishment www.acdadp.com

Appendix: Letter to both Julie Bishop and Tanya Plibersek

I write on behalf of Australian Quakers to you in your role as Foreign Minister. I am sending the same letter to the Shadow Foreign Minister. Firstly I congratulate you both on the moving and strong statements you made in Parliament over the death penalty for the two Australians Andrew Chan and Myuran Sukumaram. It was fitting that the Parliament was united in its expression of concern.

As Quakers we are firmly against capital punishment for any offence. We believe it would be timely for the Government and Opposition to work together for the abolition of the death penalty in all countries. We urge you to begin such a campaign through all available diplomatic channels, building upon Australia’s enhanced global standing as a result of its active role on the United Nations Security Council over the past two years.

The campaign could include encouraging those states where the death penalty is still prescribed to start by declaring an indefinite moratorium on its use, and then moving to replace capital punishment with alternative options for all crimes as soon as possible.

We believe that most Australians are opposed to the death penalty, or are at least open to persuasion that it is no longer appropriate for a civilised community, does not deter serious crime, and runs the risk of executing innocent people.

We expect that a cross-party campaign led by the Government and Opposition would be supported by the media, the legal community and by many NGOs.

In peace.

Julian Robertson
Presiding Clerk