

Agreement between Australia and Japan concerning the Facilitation of Reciprocal Access and Cooperation between the Australian Defence Force and the Self-Defense Forces of Japan

Public hearing: Wednesday, 12 October 2022

Response to questions on notice

Associate Professor Mai Sato - Eleos Justice, Faculty of Law, Monash University

Question

CHAIR: You refer to the UK and the fact that, as we did with the Philippines and PNG, they secured a blanket removal of the prospect of the death penalty in relation to the agreement they reached with Kenya. Do you know anything about the way in which the status-of-forces agreement that we understand is being negotiated between the UK and Japan is progressing? Is it your understanding that the UK will seek a similar blanket exemption?

Response

In 2011, the UK took on the role in as an anti-death penalty advocate beyond what is required under international law:

Promoting human rights and democracy is a priority for the UK. It is the longstanding policy of the UK to oppose the death penalty in all circumstances as a matter of principle . . . This strategy sets out the UK's policy on the death penalty, and offers guidance to FCO [Foreign and Commonwealth Office] overseas missions on how they can take forward our objectives.¹

The UK has signed defence agreements with countries that retain the death penalty, namely Kenya and Belize. Both agreements ensure that UK military personnel or its civilian component are not subject to the death penalty.

- 2021 Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Kenya concerning Defence Cooperation. Under this agreement, whenever a member of the Visiting Forces, Civilian Component or a Dependant is prosecuted under jurisdiction exercised by the authorities of the Host Nation, he or she shall be entitled 'to have any sentence of the death penalty or corporal punishment commuted to a prison sentence or fine'.²
- 2018 Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Belize concerning the Status of United

¹ See page 3:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/35448/death-penalty-strategy-oct-11-15.pdf

²See page 11:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034481/CS_Kenya_1.2021_Defence_Cooperation_Agreement.pdf

Kingdom of Great Britain and Northern Ireland Forces in Belize and Defence Cooperation. Under this agreement, the UK has jurisdiction for all criminal proceedings against UK Forces Personnel and their dependents in Belize.³

The UK is currently negotiating a Reciprocal Access Agreement with Japan, and a security and defence partnership with Nigeria. Finally, the UK appears to have signed a Joint Defence Agreement with Oman (2019) but the details of the agreement are not publicly available.⁴

³ See Article 4:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824533/CS_Belize_1.2019_Treaty_UK_Belize_Status_of_Forces_and_Defence_Cooperation.pdf

⁴ <https://www.gov.uk/government/news/uk-and-oman-sign-historic-joint-defence-agreement>