



Foreign &
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Office

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The Hon Philip Ruddock MP
Chair, Human Rights Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Philip,

Thank you for your letter of 20 August to the Foreign Secretary. I am replying as the Minister responsible for human rights. The close ties between our two countries and our common approach to so many issues makes the sharing of experience a particularly useful exercise, following earlier exchanges between our officials. I am very conscious that your country has faced challenging times over the past year, with a number of your nationals facing the death penalty overseas. I am happy for this letter to be published as part of the sub-committee's work.

Your review of Australian work to secure global abolition of the death penalty comes a few months after a more general review here of the UK's approach to human rights in our foreign policy. We decided to focus our human rights efforts around three broad, overarching themes: democratic values and the rule of law; the rules based international order; and human rights for a stable world.

A key outcome of our review was to move away from a hierarchy of rights to a focus on universal rights. This included a reaffirmation that we oppose any use of the death penalty as a matter of principle. We come to this conclusion for a number of reasons:

- Executing a prisoner is a brutal act which undermines our claim, as Governments, to be more deserving of support than terrorist and criminal networks.
- The death penalty does not deter violent crime or guarantee public safety.
- Application of the death penalty is prone to error, yet irreversible. Since 1967, more than a hundred people have been convicted of murder in the UK, but later exonerated. Those people might well have been hanged had we not introduced a moratorium.

We use a full range of diplomatic tools to persuade others to move towards abolition, including UN work, project work and multilateral and bilateral diplomacy.

Multilateral

The UK supports the abolitionist work of the United Nations, which is carried out by the Human Rights Council, the General Assembly and the Treaty bodies. We have supported a resolution on the death penalty at the 30th session of the Human Rights Council which highlights the fact that the conduct of an execution often amounts to torture of the condemned, which is of course in breach of international law. We also place importance on the biennial UN General Assembly (UNGA) vote on a moratorium on the death penalty. The vote count in 2014 was the best ever, but I would like the position to improve further in 2016. Another useful approach is to promote ratification of the second optional protocol to the International Covenant on Civil and Political Rights, which commits parties permanently to abolition.

Diplomacy on individual cases

We take diplomatic and occasionally public action over individual cases. The decision to do so is taken on a case by case basis. We do this particularly when a British national is in jeopardy, when we consider that an execution would be in breach of Article 6 of the International Covenant on Civil and Political Rights (ICCPR) or when an execution would be a backward step, for example because it would end a period of de facto moratorium.

When commenting publicly, or taking diplomatic action, we favour multilateral approaches, such as statements or demarches carried out by all EU member states. The EU's High Representative Federica Mogherini comments frequently and publicly on individual cases on behalf the European External Action Service.

But we do take national action, for example, I recently issued a statement expressing concern at the execution of Shafqat Hussain in Pakistan.

Project Work

We have developed and sponsored a range of judicial and Parliamentary contacts between the UK and executing nations, with the intention of persuading them to reform, restrict and ultimately do away with executions. As an example, I would highlight the work of London-based non-governmental organisation, the Death Penalty Project, which provides pro bono support in death penalty cases worldwide and pursues litigation which might restrict the application of the death penalty in a particular country. We have found this approach, albeit incremental and behind-the-scenes, more effective in some countries where the number of executions has dropped sharply over the last decade, than lobbying in individual cases.

Overseas Security and Judicial Co-operation

An important additional consideration is that the death penalty can frustrate our desire to work with other jurisdictions on issues of concern to my Government, including the fight against international crime. In 2014, the then Foreign Secretary introduced Guidance on Overseas Security and Justice Assistance which screens all British Government assistance and co-operation with foreign justice systems. A key aspect of that guidance is identifying and avoiding cases where assistance may lead

to application of the death penalty. A message that we give to partners who continue to execute is that we are constrained in the assistance that we can offer them. Similarly, we are generally unable to assist foreign prosecutions when we cannot rule out the possibility that the death penalty might result.

I know that our officials already work closely together on a broad range of human rights and democracy issues. My officials would be delighted to offer further information about our approach if that would be helpful.

I look forward to hearing about the results of your review in due course.

I am copying this letter to His Excellency The Hon Alexander Downer, AC, The Australian High Commissioner to the UK, and to Menna Rawlings, The British High Commissioner to Australia.

**RT HON BARONESS ANELAY OF ST JOHNS DBE
MINISTER OF STATE**