

Conference: The Politics of Death Penalty Abolition in Australia and Beyond

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ABSTRACTS

Julian McMahon

Australia and the death penalty: where are we, where are we going?

The death penalty was finally abolished throughout Australia by 1985, yet our relationship with it continues to evolve. This article traces the recent history of Australia's relationship with the death penalty by beginning at the end of executions in our nation, with Ronald Ryan as the last man hanged in 1967. It analyses our shifting attitudes to executions in the following decades at a government level, as well as in the media and amongst the public. The article then focuses on the recent executions of Australians overseas, Van Nguyen, Andrew Chan and Myuran Sukumaran. It examines the politics and changing attitudes within Australia as those executions loomed up until 2015, when Australia finally declared itself opposed to all executions everywhere. The article examines those shifts, then explores the developments in anti-death penalty advocacy since 2015: the parliamentary enquiry, the strategy of DFAT, the work of NGOs and universities, including the creation of Eleos Justice at Monash University, and the efforts made by Australia and Australians in Asia.

Tim Lindsey

Politics and the Death Penalty in Indonesia: reform as mirage

Under President Jokowi, Indonesia has taken an uncompromising position on the death penalty. The informal moratorium of his predecessor, President Yudhoyono, was abandoned after Jokowi fulfilled election promises to execute drug dealers, including Australians, turning capital punishment into a display of political strength. However, there is still strong support for abolition in some parts of government. Efforts to reform the Criminal Code so that most death sentences would be commuted to life after ten years of good behaviour won general support in the legislature, but then never went to a vote. Unfortunately, wider political problems with other provisions of the draft Code meant it was removed entirely from the legislative agenda. Once again, death penalty reform in Indonesia fell foul of wider political contests and reform, seemingly imminent, proved to be a mirage. The lesson is that good policy is not enough; abolition in Indonesia will only happen when it offers clear benefits to the political elite. This paper offers some suggestions for how this could happen.

Tobias Smith, Sue Trevaskes, and Matthew Robertson
The Politics of Death Penalty Reform in China's Xi Jinping Era

In the mid-2000s the tectonic plates of punishment in China shifted dramatically and the Chinese Communist Party (CCP) embarked on ambitious death penalty reforms that saw the numbers of prisoners executed in China decline rapidly. This shift was framed by a political dictum *shaosha shensha* (kill fewer, kill cautiously) which occupied the leniency side of the debate. It was also facilitated by a new national criminal justice policy called Balancing Leniency and Severity (*kuanyan xiangji*). However this policy did not cancel out the long-lived *Yanda* (Strike Hard) policy which has occupied the severe end of China's punishment rhetoric and practice for decades. This article looks at death penalty policy and rhetoric 15 years on from the momentous reforms of 2006, situating the discussion within a wider political framework of Xi Jinping politics.

Daniel Pascoe and Andrew Novak
Retention in the Pacific: Papua New Guinea and Tonga

Papua New Guinea and Tonga are the sole remaining Pacific Island states which retain capital punishment. Papua New Guinea last executed a prisoner in 1954, whereas Tonga last executed in 1982, yet both states remain outwardly enthusiastic about death penalty retention and demonstrate no intention to abolish in law in the immediate future. Within this article, I analyse the past and present death penalty politics of Pacific Island states through the lens of the global literature on retention and abolition (e.g. Greenberg & West 2008; Neumayer 2008; Anckar 2004) to determine why it is that Papua New Guinea and Tonga have charted a different path than their geographical, cultural and historical neighbours such as Samoa, Solomon Islands and Fiji, among others. The importance of abolition in the Pacific to Australia's foreign policy, despite the region's lack of executions for some time, was discussed in the Australian Parliament's 2016 report 'A World Without the Death Penalty'. Surrounded by their own abolitionist hinterland, Papua New Guinea and Tonga should, in theory, find it easier to abolish capital punishment than Australia's Asian neighbours which execute frequently, such as Singapore, Vietnam or Indonesia. To that end, it is vital to understand the justifications for retention and distinguishing features of the 'holdout' states Papua New Guinea and Tonga, within an otherwise entirely abolitionist region.

Mai Sato
Politics of abolition: international advocacy against the death penalty

The international landscape of retentionists versus abolitionists has flipped, compared to forty years ago when only a handful of states had abolished the death penalty in law or practice. Today, abolitionist states make up nearly two-thirds of the countries around the world, with global and regional organizations as well as some abolitionist governments working towards the universal abolition of the death penalty. But for much of our history, what the majority of nations now consider inhumane was practiced, accepted and institutionalised. This article examines the politics of abolition from an international perspective. It discusses the narratives of the UN, the European Union and its member states, and more recently of the Australian government in persuading retentionist states to move away from the death penalty. The UK government—now a vocal advocate for abolition—used to have over 200 capital offences and brought the death penalty to many of its former colonies. The Australian government, while being surrounded by retentionist states, has joined the international advocacy against the death penalty. This article examines what roles governments and organisations (can) play in death penalty politics, and what it means to be an abolitionist in 2020.

Mark Finnane

'Upholding the cause of civilization' – the Australian death penalty in war and colonialism

The abolition of the death penalty in Queensland in 1922 was the first in Australian jurisdictions, and the first in the Asia-Pacific region. But the legacy of the Queensland death penalty lingered in Australian colonial territories. And the abolitionist platform of the Australian Labor Party that had driven Queensland abolition was later challenged by the political demands for retribution in the aftermath of war. This paper considers a variety of practices in which the death penalty was invoked by Australian decision-makers during the first half of the twentieth century. These include the history of exemption of Australian soldiers from execution in World War 1, the use of the death penalty in colonial Papua and the mandate territory of New Guinea, hanging as a weapon of war in the colonial territories, and the retrieval of the death penalty for the punishment of war crimes. In these histories we see not only that the Queensland death penalty lived on in other contexts, but that ideological and political preferences for abolition remained vulnerable to the sway of other historical forces of war and security.

Carolyn Strange

Thwarted Abolition: New South Wales, 1925

The unelected upper house in state parliament and the death penalty were two targets of labour reform in Queensland and New South Wales in the 1920s. In government, Queensland's Labor Party successfully disbanded the Legislative Council in the lead-up to abolition. In contrast, the two matters became entangled in NSW. The conservative, opposition-dominated upper chamber scuttled Labor's death penalty abolition bill in 1925, and it led to the reinforcement of the Legislative Council's power and longevity. This paper frames these unique failures within the wider context of ambivalence over capital punishment in the 1920s in Britain, Canada and the U.S.