**Report of the Secretary-General to the Human Rights Council on the question of the death penalty, pursuant to decision 18/117 and resolution 22/11 of the Human Rights Council.**

**Request from OHCHR:**

In its decision 17/117 adopted on 28 September 2011, the Human Rights Council requested “the Secretary-General to continue to submit to the Human Rights Council, in consultation with Governments, specialised agencies and intergovernmental and non-governmental organisations, a yearly supplement to his quinquennial report on capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence, on pregnant women and on persons with mental or intellectual disabilities.” Furthermore, in its resolution 22/11, adopted on 21 March 2018, the Human Rights Council decided that the yearly supplement to the quinquennial report of the Secretary-General on the question of the death penalty will continue to inform on the matter of the human rights of children of parents sentenced to the death penalty or executed.

Accordingly, OHCHR would be most grateful to receive from Member States relevant information (maximum 1,500 words) covering developments since 1 July 2020 with regard to the question of the death penalty, so as to enable the Secretary-General to report to the Human Rights Council fifty-first session.

**Australia’s response:**

Australia commends the Secretary-General for undertaking this quinquennial report on capital punishment, and for focussing the 2022 supplement to the report on the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty.

Australia opposes the death penalty, in all circumstances and for all people. Australia’s opposition to the death penalty is a long-standing, bipartisan policy position. All jurisdictions in Australia abolished the death penalty by 1985. In 2010, the federal government passed legislation that prohibited the reintroduction of capital punishment.

Reflecting our commitment to universal human rights, we believe as a matter of principle that the death penalty has no place in the modern world. It brutalises human society, is degrading, and is an affront to human dignity.

In particular, we oppose the death penalty because:

* there is no conclusive evidence that the death penalty deters crime
* it is irrevocable – any miscarriage or failure of justice in the implementation of the death penalty is irreversible and irreparable
* it is unfair – it is used disproportionately against the poor, people with intellectual disabilities and minority groups.

The international trend is strongly in favour of global abolition – we want this to continue and strongly advocate, both bilaterally and multilaterally, for the abolition of the death penalty to retentionist countries, as well as those considering reintroducing the death penalty.

While Australia’s Strategy for the Abolition of the Death Penalty advocates for global abolition, we recognise that for some countries the move towards abolition will be gradual. A staged, sequenced approach may be most effective, depending on particular country circumstances. As a result, Australia has tailored its strategy and includes a number of specific goals, ranging from improving the conditions and treatment of prisoners on death row, to encouraging universal adherence to Second Optional Protocol to the International Covenant on Civil and Political Rights (OP2‑ICCPR).

We are firmly of the opinion that the use of the death penalty is unfair. The inequities in the administration of the death penalty are well established; people with disabilities, the poor, the uneducated, and the marginalised do not often have access to the resources necessary for the fair exercise of judicial power. These groups are also often subjected to discrimination which impacts their right to a fair trial. This is a penalty largely reserved for people from lower socio-economic groups.

The disproportionate use of the death penalty on these groups, whether direct or not, has broader implications for society and social inclusion. It is a violation of international standards and enables systemic discrimination against people in some of the most vulnerable situations.

Comprehensive safeguards are a vital prerequisite to assess whether the death penalty is being carried out in compliance with international human rights law. Without it, it is not possible to ensure that those in detention awaiting execution are being treated humanely and afforded appropriate legal and procedural protections in accordance with international human rights law.

Australia strongly urges countries who retain the death penalty to:

* ensure that people facing a death sentence have adequate assistance to legal counsel, and that their rights to a fair trial and guarantees of due process under Article 14 of the ICCPR are realised;
* increase adherence to the United Nations 'Safeguards guaranteeing protection of the rights of those facing the death penalty', which enumerates the minimum standards to be applied in countries which still impose the death penalty (see Economic and Social Council resolution 1984/50 of 25 May 1984);
* increase transparency in the application and imposition of the death penalty, including by reporting the numbers of people sentenced to death and executed.