



An open letter to:  
*Senator the Honourable Marise Payne*  
*Minister for Foreign Affairs*  
*Department of Foreign Affairs and Trade*

*Senator the Honourable Linda Reynolds CSC*  
*Minister for Defence*  
*Department of Defence Ministers*

10 December 2020

**RE: Australia-Japan Reciprocal Access Agreement**

Dear Senator Payne and Senator Reynolds CSC,

We write to express our concern about the recent official reporting of the negotiations surrounding the Reciprocal Access Agreement (RAA) between Australia and Japan.<sup>1</sup> There has been no public guarantee to date that Australian military personnel would not be subject to the death penalty in Japan. It was reported that the governments agreed to work towards a final agreement and resolve the death penalty issue on a 'case-by-case' basis. This approach would be a clear breach of the Australian government's 2018 Strategy for Abolition of the Death Penalty if members of the Australian Defence Force *could* be executed in some cases, even if there was some kind of implicit understanding that this will not transpire. Such understandings are much harder to enforce in circumstances where governments change over time and the goodwill that ensured at the time of the agreement has dissipated for some reason. We appreciate that much of the negotiations between governments cannot be disclosed. What little is made public then becomes even more important in reinforcing Australia's principled stance against the death penalty to its own citizens and to the international community.

[The Australian government's 2018 Strategy](#) is unequivocal in its principled stance against the death penalty 'in all circumstances for all people'. The Strategy firmly puts Australia as one of the most progressive abolitionist countries alongside the European Union states because of its outward-looking policy of pursuing abolition in other countries.

We urge the Australian government to enter into an RAA only if there is a clear legally binding commitment that Australia Defence Force members will not face the death penalty in Japan. Any legal assurance cannot rest on a commitment to exercise discretion in order to ensure that the death penalty is not applied: it must be an absolute and legally irrevocable.

We also urge the Australian government to ensure that the official statements and dialogues reinforce Australia's principled position against the death penalty. The Prime Minister was [silent](#) on Australia's 2018 Strategy when asked about the RAA between Australia and Japan. A policy of its kind needs to be repeatedly reinforced and acted upon, whenever relevant, for it to be truly effective.

Yours sincerely,

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Simone Abel  
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**Endorsed by:** CrimeInfo (Maiko Tagusari, Director; Mari Nakagawa, Chief Research Officer); Anti-Death Penalty Asia Network (Chew Chuan Yang, Executive Director)

**Signed by:** Please click [here](#) for signatories.

<sup>1</sup> This letter summarises the key points made in [the Conversation article](#) published on 20 November 2020 and the [East Asia Forum article](#) published on 1 December 2020.

