

Australian government challenged to advocate for its citizen on death row in Thailand

Written by Amy Maguire, Senior Lecturer in International Law and Human Rights, University of Newcastle



A Thai court has sentenced Australian man Antonio Bagnato to death for the murder and kidnapping of a Hells Angels member. AAP/Facebook

Australian national Antonio Bagnato, 28, has been [sentenced to death](#) in Thailand. Bagnato was convicted of the kidnapping and murder of Wayne Schneider in December 2015 in Pattaya.

Schneider was a former Hells Angels member and allegedly a major drug trafficker. His body was found buried in a shallow sand grave by the side of a road. His injuries, including a broken neck and severe facial bruising, were consistent with a severe beating.

Bagnato and Schneider were former partners in a boxing gym in Sydney. Both were under [Australian police inquiry](#)

. Bagnato was subject to an arrest warrant for the 2014 murder of Bradley Dillon in Sydney.

Bagnato was arrested in Phnom Penh, having fled to Cambodia following the murder. Evidence accepted by the court in support of Bagnato's guilt included eyewitness sightings at the scene of Schneider's abduction, GPS data from Bagnato's rental car and DNA from the crime scene.

Thai police claimed that Bagnato's motive for the murder was a conflict with Schneider over a multimillion-dollar [international drug syndicate](#) .

The [last execution conducted in Thailand](#) was in 2009. Statistics from January 31 2015 showed 649 prisoners under sentence of death in Thai prisons.

Australia's recent interactions with capital punishment

Bagnato's case will renew focus on capital punishment in Australia, although it has received

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less attention than that of Andrew Chan and Myuran Sukumaran. The news of Bagnato's death sentence comes only days after the 50th anniversary of [Ronald Ryan's hanging](#) in Melbourne, the last execution carried out in Australia.

Chan and Sukumaran [were executed](#) in Bali in April 2015, having been convicted of drug offences. The Australian government [advocated strongly](#) but in vain for clemency. Australia temporarily withdrew the [ambassador to Indonesia](#) in protest at their execution.

The Australian government's most significant response to Sukumaran and Chan's deaths was the launch of a [parliamentary inquiry](#) into Australia's advocacy for the abolition of the death penalty. This inquiry sought to put into global practice Australia's long-established and [unequivocal opposition](#) to capital punishment.

In submissions to the inquiry, human rights advocates argued that Australia must centralise the [human rights basis](#) for opposition to the death penalty.

[Submissions](#) also called on the government to broaden its advocacy beyond cases involving Australian nationals and oppose the death penalty globally and in all cases.

The inquiry [report](#), A World Without the Death Penalty, made 13 detailed recommendations. These included calls to review extradition law and Australian Federal Police guidelines to limit the risk of death sentences abroad for Australian nationals.

The report also recommended the development of a whole-of-government [strategy for abolition](#).

The government is yet to respond to the inquiry, but has committed to doing so in March. No justification has been offered for the delay in response, although the report was delivered just prior to the 2016 federal election being called.

It is symbolically important for the government to respond to (and ideally implement) the recommendations prior to the second anniversary of Sukumaran and Chan's deaths.

Abolitionist advocacy in Thailand

With many hundreds under sentence of death, but no executions carried out since 2009, Thailand presents as an important [site for abolitionist advocacy](#). This state of affairs is arguably a moratorium on capital punishment, regardless of the motives behind it.

Ideally, a moratorium acts as a step on the path to formal abolition in law and practice. From the point of view of human rights law, such progress would be motivated by a commitment to the [right to life](#) and the [prohibition on torture](#).

However, more pragmatic considerations have led to the [decline of capital punishment](#) in various jurisdictions. For example, in several US states lethal injection drugs have become unavailable and botched executions have tarnished the practice.

The challenge of advocacy for Bagnato

The Australian government has not issued a formal response to Bagnato's death sentence. His case certainly presents a challenge to Australia's commitment to abolitionist advocacy.

While Bagnato has been convicted of murder, Chan and Sukumaran were sentenced to death for drug crimes. Sukumaran and Chan spent many years in prison and were widely regarded as having rehabilitated themselves over that time.

Comparatively little is known in Australia about Bagnato. It is unlikely that he will attract significant public sympathy in Australia or in Thailand. The crime he has been convicted of was brutal and he remains under suspicion for other charges of murder and drug offences. He has crossed national borders in an attempt to avoid apprehension more than once.

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In such a case, the best approach for the Australian government is to state publicly that there is a massive and important distinction between the crime and the sentence. It is possible to be simultaneously revolted by the crime of murder and determined not to see it punished by execution.

One reason for Australia to take this course of argument is to avoid charges of [hypocrisy](#), on the basis of selective abolitionist advocacy.

A more principled reason for Australia to advocate for clemency for Bagnato is that commitment to abolition is necessarily global and universal. If we oppose the death penalty only for “sympathetic” individuals, we undermine the ethical basis for opposition to the practice.

The Australian government is now obliged to respond by calling on Thailand to commute Bagnato’s death sentence. This call ought to become a feature of official relations between our countries until Thailand progresses on the path to an official moratorium and, ideally, formal abolition.

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