



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

MOTIONS

Death Penalty

SPEECH

Thursday, 12 February 2015

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Thursday, 12 February 2015
Page 660
Questioner
Speaker Plibersek, Tanya, MP

Source House
Proof No
Responder
Question No.

Ms PLIBERSEK (Sydney—Deputy Leader of the Opposition) (10:24): I rise to second the motion. Over the last several months, the government and opposition have worked closely and very hard on diplomatic efforts calling on the Indonesian government to show these two men clemency. As the foreign minister said, our consular staff, many private individuals, business leaders and people with long connections to Indonesia have been part of that diplomatic efforts behind the scenes to urge clemency.

Of course these two young men know they have done the wrong thing. They know they have broken the law and they deserve to be punished. Indeed, they should be. But, reports suggest that they have made significant and successful efforts to rehabilitate themselves. The head of Kerobokan Prison has attested that both Mr Chan and Mr Sukumaran have made exemplary efforts to rehabilitate themselves. They have, by all reports, become model prisoners and taken a leadership role within the prison, facilitating education courses for other prisoners including English language classes, painting classes, drawing, music, dance fitness and basic computer skills. They have helped coordinate fundraising activities, both to improve the prison facilities and also to support the victims of Typhoon Haiyan. Both Mr Chan and Mr Sukumaran have demonstrated genuine remorse.

About 3,800 years ago, the Stele of Hammurabi was erected. It was the first written codification of law. It appeared in Babylon thousands of years ago and it includes a section that says: 'If a man destroy the eye of another man, they shall destroy his eye. If one break a man's bone, they shall break his bone. If one destroy the eye of a free man, or break the bone of a free man, he shall pay one mina of silver, and if they do that to a slave they shall pay half that price.'

That is the basic 'eye for an eye, tooth for a tooth' law that has influenced the Old Testament and earlier legal codes in countries around the world. But that is from 3,700 years ago. We have moved on a great deal from an eye for an eye, and a tooth for a tooth. One of the reasons we have done so is because we have understood that the people who are most hurt by crimes should not be the ones making the decisions about the punishment. We need to have a principled and methodical approach to punishments of serious crimes.

I, perhaps, have a particular view on remorse and redemption because of experiences in my own life. In 1988 my husband left prison after being charged and convicted of a similar crime to these young men, and I imagine what would have happened if he had been caught in Thailand instead of Australia. That crime was committed when he was coming back Australia. I did not know him at the time; this is 30 years ago. I think about what the world would have missed out on. It would have missed out on the three beautiful children we have had together. It would have missed out on a man who has spent the rest of his life making amends for the crime that he committed.

I have another perspective on this. In 1997 I lost my brother to a violent crime in Port Moresby. I know that if I had been the one making the decision about the punishment of the person who committed that crime, I could not have thought of a punishment bad enough. That is why we do not make decisions about punishment on the basis of how we feel but on the basis of universal, consistently applied rules. I think it is important to say that when it comes to the death penalty there has been, for many years in Australia, a bipartisan rejection of the death penalty. Our former Prime Minister Gough Whitlam said:

Capital punishment is just as barbaric and inexcusable in the hands of States as it is in the hands of individuals. As we know, it barbarises and unsettles the executioners themselves.

That is why, in 1973, the Whitlam government abolished the death penalty under federal law.

That was one step. There have been successive steps by both sides of the House in reducing Australia's exposure to the death penalty. I was part of the Labor government that passed the Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010, which prevented the death penalty from being reintroduced by any state or territory, now and into the future. Former Justice Michael Kirby said:

... the death penalty brutalises the state that carries it out ...

... it is a leftover from an earlier and more barbaric time.

I think that these words are just as important today as they were when Gough Whitlam and Michael Kirby uttered them.

Our opposition to the death penalty and the legal changes we have made over time are based on that simple respect for the sanctity of human life and a rejection of that code of thousands of years: an eye for an eye, a tooth for a tooth. This belief is a moral one. It reflects the kind of world we want to live in. It is a belief that all people, all humans, should have inherent dignity simply by virtue of being human. 'To take a life when a life has been lost is revenge, not justice,' said Desmond Tutu. He was talking about the power of restorative justice, the possibility that offenders can be rehabilitated, a justice that punishes but can restore offenders to being productive members of society. This is the kind of justice that Australia advocates for everyone everywhere.

Regardless of where an offence occurs, regardless of whether they are Australian citizens, we oppose the death penalty, and this opposition has been bipartisan for many years now. The best expression of that recently has been this letter, signed by so many members of parliament on both sides. The letter to the Indonesian Ambassador to Australia says:

We do not seek to minimise the serious nature of their crime, given the damaging effects of illicit drugs on our societies. We do believe Mr Sukumaran and Mr Chan should be punished. Indeed, we have the highest respect for Indonesia's sovereignty and political independence.

Australia abolished the death penalty some years ago and opposition to the death penalty has strong bipartisan and broad public support. We note that the international trend is overwhelmingly away from capital punishment and towards the imposition of lengthy prison sentences for serious crimes, where prisoners can reflect on their mistakes and endeavour to demonstrate remorse and to make amends through rehabilitation and community service.

... ..

Mr Sukumaran and Mr Chan have demonstrated genuine remorse and have become model prisoners, working constructively at Kerobokan not only on their own rehabilitation and reform, but also for that of other prisoners. By reason of their good behaviour, demonstrated rehabilitation and education of other prisoners, both Mr Chan and Mr Sukumaran come within the Constitutional Court's recommendation.

Also, we believe it is significant that both Mr Chan and Mr Sukumaran were only apprehended as a result of the Australian Federal Police providing information to Indonesian Police. Their crime, serious as it was, was intended to impact on Australians in Australia, not Indonesia.

Over many years now Indonesian and Australian Federal Police have exchanged intelligence and engaged with each other to address international crime and terrorism. We are committed to ensuring that international police cooperation and intelligence sharing continues in the interests of Indonesia, Australia, and all other nations in the region.

The fact is that the 2010 legislation preventing the reintroduction of the death penalty was supported by both sides of politics. This letter, the bipartisan support then and the bipartisan support for the consular efforts that have gone to help Mr Sukumaran and Mr Chan show that Australia is united in renouncing the death penalty now, here in Australia and around the world.

Our strong stance is also reflected in our international obligations. Australia has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, which is aimed at eliminating the death penalty. Our view is reflected in the preamble:

... abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights ...

As a nation, we should continue to use our diplomatic powers and efforts to constructively engage with other nations to help eradicate the death penalty. We have a particular challenge in this area. We must continue to build our agency-to-agency links wherever we have those established with other nations.

The work that the Australian Federal Police does with the Indonesian police is vital for both countries, and our cooperation should remain strong. It is important that we work with all other nations to prevent serious transnational crimes such as the crime that these young men have been convicted of. However, we must also make sure we take a principled approach to the death penalty to ensure that we are not involved in the imposition of the sentences in other nations. Building the capacity to cooperate to prevent transnational crime while ensuring that we do not become a party to the imposition of the death penalty needs to be a focus of our engagement with other nations. Progress requires long-term constructive engagement through our diplomatic channels and through our agency-to-agency cooperation. Of course, this process will not happen overnight, but I believe it is important that we continue our work to prevent transnational crimes but without compromising our stance against the death penalty.

I remain hopeful, even in these difficult times, that the Indonesian government and the Indonesian President will show clemency to these young men and provide them with a stay of execution. I think that all Australians would join me in calling on the Indonesian government to show that mercy.

Honourable members: Hear, hear!

The SPEAKER: The debate must now be adjourned, and I am anticipating a motion from the Minister for Foreign Affairs that the motion be referred to the Federation Chamber to allow other people to speak on the motion and that it then be brought back to this chamber.