



Chris Hayes MP— Grievance Debate World Day Against the Death Penalty

22 October 2019

Mr HAYES: (Fowler—Chief Opposition Whip) (19:08): Recently, I attended a forum in Brisbane in commemoration of World Day Against the Death Penalty, which is observed annually on 10 October. This forum brought together people from various backgrounds—lawyers, academics, journalists and concerned members of civil society—to recommit to the ultimate pursuit of a world free of the death penalty.

I take this opportunity to thank Stephen Keim, SC, Australians Against the Death Penalty and the Julian Wagner Memorial Fund for hosting this great event and providing a platform for a constructive discussion on this very pertinent issue. I also acknowledge my fellow panellists on the night: Cindy Wockner, renowned journalist and author, and Sarah Kowal, a good friend, barrister and clinical supervisor of the Anti-Death Penalty Clinic at Monash University.

To me, capital punishment is the most cruel and inhumane response to crime. My opposition to capital punishment is universal; it's not only when Australian lives are at stake. The death penalty is inevitably associated with miscarriages of justice, the inadvertent execution of innocents and the disproportionate execution of the poor and ethnic and religious minorities. No legal system is free from error.

In 2016 Amnesty recorded 60 cases where prisoners were sentenced to death yet were found to have been not guilty of the crime. In the USA, there are 164 cases where people have been released from death row since 1973 due to evidence of their wrongful conviction. These cases demonstrate the pressing nature of capital punishment. The death penalty represents the violation of the most fundamental and basic human right, the right to life itself.

The most credible research indicates that capital punishment does not deter crime. A 2009 survey conducted by the University of Colorado, which remains one of the most authoritative studies on the issue of deterrence, found that 88 per cent of America's leading criminologists did not believe that the death penalty had any deterrent value on crime. I believe that in modern society we have adequate means to punish people for their crimes, but, importantly, we also have the ability to genuinely assist people with rehabilitation. The international community, quite frankly, has come a long way towards abolishing the practice of capital punishment, with 106 countries now having abolished the death penalty. Another 28 countries retain the death penalty but have not carried out an execution over the last 10 years. Unfortunately, that leaves 56 countries which have actively retained the death penalty.

Last year, I attended the regional parliamentary seminar in Malaysia. It is a forum in which parliamentarians from around the globe come together, united in their opposition to the death penalty. The seminar gave me the opportunity to engage with various stakeholders from the broader international community on positive steps that we can take towards the abolition of the death penalty. At the time, there was great momentum as the Malaysian government had taken the decision, which we thought was significant political leadership, to announce its intention to completely abolish the death penalty in that country and, as a consequence, brought to bear an immediate moratorium. However, such steps were suddenly halted by the cabinet, which recanted its initial decision in favour of setting up a committee to look into alternatives to mandatory death sentences. This change in position is reportedly due to fears on a domestic political level that the government would be seen to be weak on crime if it abolished capital punishment. As a consequence, the Malaysian position is now to change the 11 remaining mandatory capital offences so that they become discretionary.

At the seminar I had the opportunity also to meet with a young woman named Maitreyi Misra, an associate of the National Law University in Delhi. She expressed concern about the manner in which the criminal justice system was operating in India. She noted that most individuals caught up in drug related crime were often from poorer backgrounds and could not afford legal representation. Therefore, they were represented by the state, a body which did not have a vested interest in the outcomes of those matters, as she put it. She also noted a pattern in these cases where individuals were pressured into pleading guilty and persuaded simply to rely on applications for clemency. This was consistent with the feedback I had also received from other quarters and jurisdictions, including a number of the lawyers from Malaysia itself.

In the Philippines, President Rodrigo Duterte urged the return of the death penalty for drug related crimes and plunder, in his address to the nation in July of this year. The Philippines House of Representatives has already started deliberation on bills to give effect to that. This is a major setback, because the Philippines was the first country to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights to abolish the death penalty, back in 2007. This change in the law is in keeping with the President's nationwide campaign against drugs, with extrajudicial executions being the principal human rights concern. According to Human Rights Watch, 27,000 people have been killed extrajudicially in the past two years under Duterte's national war on drugs.

Last October, I had the opportunity of addressing the Philippines Human Rights Commission again on World Day Against the Death Penalty. During that time I was briefed by Commissioner Karen Gomez-Dumpit, who told me about the exercise conducted by the Commission where they reviewed the prosecutions that would otherwise have been considered capital cases and found significant judicial errors in 70 percent of those matters.

In Sri Lanka, President Sirisena has announced an end to the country's 43-year moratorium on capital punishment, issuing death warrants for four drug offenders. It is a move that was inspired by the President's visit to the Philippines earlier this year, where he praised the President Duterte's war on drugs, calling it 'an example to the world'. It is this populist rhetoric that has been employed by other notable world leaders, including President Donald Trump, who is a known supporter of the death penalty and has also publicly praised the efforts of President Duterte.

Despite these disappointing developments internationally regarding the death penalty, there's been a pleasing 30 per cent reduction in the number of executions, as published in a report by Amnesty International in 2018. As Australians, we can be proud of our longstanding bipartisan and principled opposition to capital punishment and Australia's support for the work undertaken by the United Nations on abolition. Most recently, as a member of the United Nations Human Rights Council, Australia has played and continues to play a strong and committed role for the global abolition of the death penalty. I commend the government and the minister in that respect.

Those of us privileged enough to hold public office should continue to build upon these efforts to end the death penalty, particularly in our region. As co-chair of Australian Parliamentarians Against the Death Penalty, I have been fortunate enough to have the opportunity to raise public awareness on this issue in various platforms, including on a global scale. Earlier this year, we corresponded on behalf of the parliament with the ambassador to the People's Republic of China, raising concerns about the death sentence that was handed down on Canadian citizen Lloyd Schellenberg. In March this year, I wrote to the Governor of California, Gavin Newsom, congratulating him on his recent decision enabling a moratorium on the death penalty and providing a reprieve to all of the 730 prisoners.

Phil Robertson, Deputy Director, Asia Division, Human Rights Watch, says:

Abolishing the death penalty is a long-term effort ... where progress will be seen over years rather than months.

While it's the prerogative of each country to walk its own path towards abolition, we must continue to use our various platforms to support, inspire and encourage other nations in their journey towards the abolition of the death penalty.