

Double standard on the death penalty?

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We don't have the death penalty in any state in Australia and wherever an Australian may be sentenced to death we always plead for clemency. [*Alexander Downer, Foreign Minister*]

We don't want any Australian to face the death penalty in Indonesia, actually, no matter what their crime. [*Alexander Downer, Foreign Minister*]

I feel for anybody who is under the sort of stress she is under. I just hope justice is done and she's treated fairly and decently and we have to have faith in the Indonesian justice system because that is the system that is trying her. [*Prime Minister John Howard*]

It takes real guts to do the right thing in difficult political circumstances. [*Tony Abbott, Minister for Health and Ageing*]

While Schapelle Corby awaits the continuation of her trial in a Bali prison cell, Australians can only imagine the anxiety that is overwhelming her. To be held in a foreign country, under a foreign legal system, awaiting news of her fate are all just cause for high levels of distress.

It is, of course, impossible for us to comment on the specific details of her case, or to discern what actually took place on that fateful trip from Australia to Indonesia. And thus we defer to legal bodies and systems in other countries to try cases and determine punishment for crimes which occur in their jurisdiction according to their own penal laws. So then, it is good to hear the Prime Minister and Foreign Minister stating publicly Australia's opposition to the death penalty, which is a feature of Indonesian law.

One of the functions of law is to keep society functioning in an orderly fashion. As such it is simply a feature of law that where laws are transgressed, there is punishment that must be meted out. No one is disputing that.

For the lay observer reading the above comments by Mr Howard and Mr Downer, a question comes to mind. Why is it that the Government appears to feel this way and speak so openly about its opposition to the death penalty, yet at the same time seems not to be experiencing the same qualms about sending Iranian Christian converts back to a country which has the death penalty for apostasy as part of its constitution?

Where there is a crime, punishment should follow. Most people would agree that a healthy society requires a legal framework within which to operate. Schapelle Corby is facing her accusers. It is up to her and her legal team to prove her innocence. If she is innocent, we must trust that she will be dealt with in a manner which reflects her innocence. If she is guilty of the charges brought before her, then we must trust that punishment will be handed over that befits the crime.

If an Australian faces accusations of involvement in a particular crime in Australia, then under our current legal and constitutional system the accused has the opportunity to mount a defence. If they are charged, they can often appeal the decision, and set out to disprove the charges again. If they continue to be found guilty, then they must face the penalty for their crime. So far, so good.

In the case of Amir Mesrinejad, an Iranian asylum seeker who has converted to Christianity, there have been no criminal convictions brought against him. He has no criminal record. He has committed no crimes while in Australia. He is seeking asylum because he has a well-founded fear of persecution if he were to be deported to the country from which he came – Iran. In Iran, converting from Islam to any other religion is a crime punishable by death, the same penalty that Mr Howard and Mr Downer have expressed their opposition to in recent days.

There are continual reports coming out of Iran of Christian converts being persecuted for their faith. But would these reports stand up in an Australian court of law? They don't have to. Think about it for a moment. If converting from Islam to another religion is punishable by death, and you were one of those people who had converted from Islam to another religion, it is simply an extension of logic that you would therefore hold grave fears for your life if you were to return to that country. The United Nations Convention of Refugees calls it a 'well-founded fear of persecution' – and it is one of the five reasons people may seek out the protection of another country. Australia is a signatory to the Convention, so Australia has an obligation to provide this protection to those who call upon its conditions.

- These asylum seekers are not asking the Government to overlook any crimes that they may have committed - there are criminal checks carried out on all those seeking asylum in Australia.
- They are not asking the Government to go out of their way to make special exceptions in their cases - Australia is a signatory of the 1951 UN Convention on Refugees.
- They are asking the Government to save them from the death penalty – the same death penalty that they publicly are condemning in relation to Schapelle Corby.

The idea that we, Australia, take innocent people who come to our shores seeking our protection, lock them up, take years often to determine the genuineness of their claim, all in the name of deterring other people from following suit, is horrendous.

If punishing the guilty happens to deter others from committing the same acts, then so be it.

But punishing the innocent to deter the guilty (eg people smugglers) is reprehensible. They have fled from torture and persecution the likes of which we will hopefully never experience. Those who come to us to extend the protection we have promised to extend.

Granted, there are some cases where asylum seekers have been found not to have genuine claims for protection. And we trust the Government to act on those cases accordingly. But there are genuine cases of life and death, when it is the Government's responsibility to do all it can to offer life and protection to those who are genuine in their claims for protection.

In Deuteronomy we hear God speaking to Israel, saying

“See, I set before you today life and prosperity, death and destruction. For I command you today to love the Lord your God, to walk in His ways, and to keep His commands, decrees and laws... This day I call heaven and earth as witnesses against you that I have set before you life and death, blessings and curses. Now choose life, so that you and your children may live and that you may love the Lord your God, listen to his voice, and he will give you many years in the land he swore to give to your fathers, Abraham, Isaac and Jacob.”

‘Life’, in this context, meant a vibrant relationship of trust in God. There is a deep connection between this view of ‘life’, and the joyous, thankful protection of physical life generally seen in the Bible. The Government's hunch about Schapelle is right; and so perhaps God's call to them is that they too should ‘choose life’: by honouring God, by pleading for Schapelle, and by doing justice for our long-term detainees.

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Sources/Further Reading:

- ‘PM Howard has sympathy for Corby’ *The Age*, April 14 2005 found online at: <http://www.theage.com.au/news/National/PM-Howard-has-sympathy-for-Corby/2005/04/14/1113251732021.html>
- Don't Push For Death Penalty, *The Age*, April 14 2005 found online at: <http://www.theage.com.au/news/National/Dont-push-for-death-penalty-Downer/2005/04/14/1113251723093.html>

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