

Capital Punishment Update

No. 2, 8 April 2005
produced by the [NSW Council for Civil Liberties](#)
for the federal parliamentary cross-party working group against the death penalty

In Australia

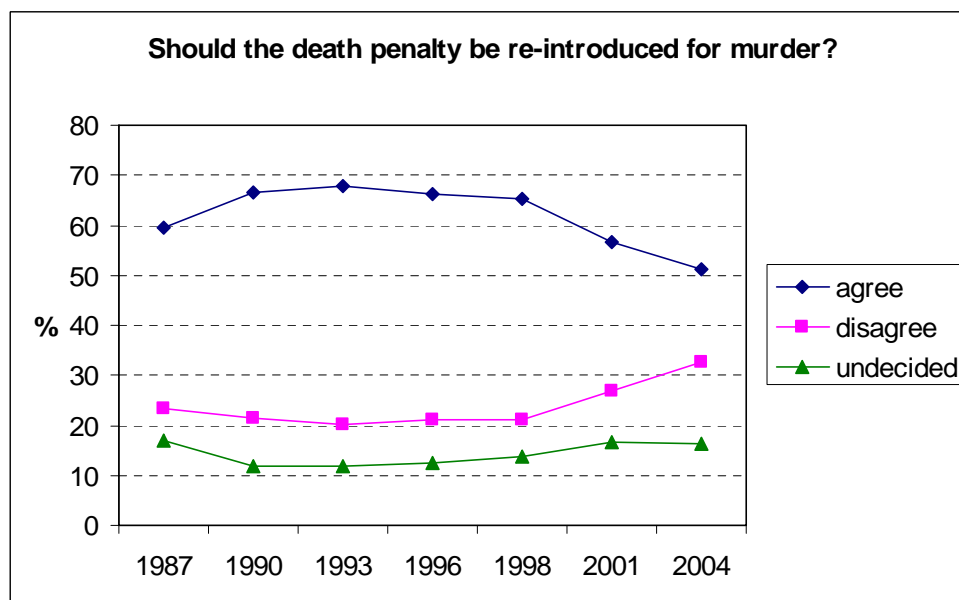
ACT takes a stand against death penalty

7 April 2005: ACT Chief Minister Stanhope is considering refusing to allow police to hand over evidence against a Chinese national who is accused of murdering a student in the ACT in January this year. China does not extradite its own nationals. China has said it will prosecute the matter. Mr Zhang Long could face the death penalty in China. ACT Chief Minister Stanhope is considering whether he should stop police handing evidence to the Chinese if a death sentence is a possibility.

source: David McLennan, 'ACT fights murder trial in China', *Canberra Times* (7/4/05), 6.

Latest figures show public support for death penalty waning

23 March 2005: The Australian Social Science Data Archive has released the *Australian Election Survey 2004*. Support for the death penalty stands at 51.1%, with opposition at 32.7% (16.2% undecided). This is a 5.5% decrease in support from the last AES (2001) and an almost 6% increase in opposition over the 2001 figures.



source: *Australian Election Survey*, ASSDA <<http://assda224-100.anu.edu.au/nesstarlight/>>

Beamish conviction quashed in WA

1 April 2005: The Western Australian Court of Criminal Appeal quashed the murder conviction of Darryl Beamish. Mr Beamish served 15 years in prison for the brutal murder of Jillian Brewer in 1959. Mr Beamish originally received the death sentence, which was later commuted. If Mr Beamish had been executed, justice could never have been done for this innocent man. In a twist to Mr Beamish story, he could have been exonerated by the last man hanged in WA, Mr Edgar Cooke.

source: Kathryn Shine, 'Cleared at last after 44 years', *The Australian* (2 April 2005): <http://www.theaustralian.news.com.au/common/story_page/0,5744,12727976%255E2702,00.html>.

judgment: *Beamish v The Queen* [2005] WASCA 62, <<http://www.austlii.edu.au/au/cases/wa/WASCA/2005/62.html>>.

High Court Justice Callinan speaks out against death penalty

22 March 2005: Three major speeches against capital punishment were delivered at the LawAsia 2005 Conference on the Gold Coast.

High Court Justice Ian Callinan delivered a speech explaining that his opposition to the death penalty could be summed up in one sentence: "The criminal justice system is fallible and capital punishment as a result of it is irreversible". Justice Callinan also noted that the reintroduction of the death penalty is only one piece of legislation away.

K.S. Rajah SC (former judicial commissioner of Supreme Court of Singapore) spoke of the recent decision of the Singapore Court of Appeal dismissing Australian Mr Tuong Van Nguyen's appeal against his death sentence. Mr Rajah was hopeful that customary international law had set the "light on the path" for the abolition of the *mandatory* death penalty in Singapore, on the grounds that it breached the constitutional prohibition of cruel and inhuman punishment.

Tony Glynn SC (President of the Australian Bar Association) explained that capital punishment is no deterrent for terrorists. He also noted that in the past Nelson Mandela was described as a terrorist – even by Western nations.

speeches are available at: <www.nswccl.org.au/issues/death_penalty/resources.php>.
judgment: *Nguyen v PP* [2004] SGCA 47, <www.nswccl.org.au/issues/death_penalty/death_row.php>.

Overseas

Indonesia

8 April 2005: Australia Justice Minister, Senator Chris Ellison, has asked the Indonesian Attorney-General, Abdurrahman Saleh, not to seek the death penalty for Ms Shapelle Corby if she is found guilty of drug trafficking in Bali.

source: Matthew Moore, "Minister steps in over Corby and death penalty", *Sydney Morning Herald* <<http://www.smh.com.au/news/World/Minister-steps-in-over-Corby-and-death-penalty/2005/04/08/1112815697431.html>>.

7 April 2005: Ms Schapelle Corby's trial has been adjourned until next week, due to Ms Corby's illness. Ms Corby will have to wait until then to find out if prosecutors will call for the death penalty if she is convicted.

source: *ABC Online*, "Sick Corby's trial adjourned", <<http://www.abc.net.au/news/newsitems/200504/s1340416.htm>>.

4 April 2005: Senator Ellison says that the federal government would "go into overdrive" if Ms Corby is sentenced to death. The Justice Minister says that the PM would make personal representations if necessary.

source: Lachlan Heywood, "PM would oppose Corby's execution", *Courier Mail*, <www.couriermail.news.com.au/common/story_page/0,5936,12742452%255E953,00.html>.

Taiwan

22 March 2005: Taiwan has announced plans to abolish the death penalty in stages. The first stage will see abolition for all but the most serious crimes and will prohibit the execution of juveniles and pregnant women.

source: Ko Shu-ling, 'Human rights group chief arrives in Taiwan today', *Taipei Times*, <<http://www.taipeitimes.com/News/taiwan/archives/2005/03/22/2003247311>>.

United States: Supreme Court halts execution of all juveniles

1 March 2005: The US Supreme Court ruled that execution for crimes committed while a juvenile (under 18 years of age) is unconstitutional – a breach of the Eighth Amendment which prohibits cruel & unusual punishment.

judgment: *Roper v Simmons*, <<http://supct.law.cornell.edu/supct/html/03-633.ZS.html>>

note: in June 2002 the Court banned the execution of the intellectually disabled: *Atkins v Virginia*, <<http://supct.law.cornell.edu/supct/html/00-8452.ZS.html>>.

United States: Colorado Jury Consults Bible

29 March 2005: In a 3-2 decision of the Colorado Supreme Court, Robert Harlan's death sentence was commuted to life because jurors (who delivered the death sentence) consulted the Bible during sentencing deliberations.

source: Kirk Johnson, 'Colorado Court Bars Execution Because Jurors Consulted Bible', *New York Times* (29 March 2005), 1.