

Submission of the New South Wales Council for Civil Liberties
to the
Joint Standing Committee on Foreign Affairs, Defence and Trade
Inquiry into Australia's Relationship with the Republic of Korea

3 October 2005

South Korea and the Abolition of Capital Punishment

1. The New South Wales Council for Civil Liberties ('CCL') is a not-for-profit non-government organisation committed to monitoring and defending civil liberties in New South Wales, across Australia and in our region of the world. CCL has been a long-standing opponent of capital punishment, and has recently helped to form the federal parliamentary cross-party working group against the death penalty in Australia.
2. This short submission seeks to inform the Joint Standing Committee of a significant vote to abolish the death penalty in South Korea that is expected to occur in the National Assembly in December 2005. If the Bill before the National Assembly is passed, South Korea will become only the third nation in East and South-East Asia to abolish the death penalty.¹ This important vote could encourage other countries in our region to follow South Korea's example.
3. CCL asks the Joint Standing Committee, in its report to the Australian Foreign Minister on Australia's Relationship with the Republic of Korea, to acknowledge this extremely significant development in South Korean politics.
4. CCL asks the Joint Standing Committee to recommend that Australia makes it a priority of our relationship with the Republic of Korea to encourage and help South Korea's legislators, in every way possible, to abolish the death penalty.
5. CCL also asks the Joint Standing Committee to recommend that Australia encourage South Korea to ratify the *Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty*.

¹ Cambodia & Timor Leste have abolished the death penalty.

Capital punishment in the Republic of Korea

6. In May 1980, Kim Dae-Jung was sentenced to death by a military commission for treason. That sentence was later commuted and Kim went into exile in the United States. In 1997, after returning from the US, Kim was elected President of South Korea. In 2000, Kim was awarded the Nobel Peace Prize for his policy of engagement with North Korea.²
7. On 30 December 1997, before President Kim officially took office, 23 convicted criminals were executed. Since then, no one has been executed in South Korea.
8. South Korea retains the death penalty for 103 crimes: "19 crimes, including murder and espionage, under the constitution and 84 crimes under the National Security Law and five other laws".³ There are currently 61 people on death row in South Korea.⁴ Execution in South Korea is by hanging.⁵

The move towards abolishing capital punishment

9. On 22 November 2004, a group of 174 ruling and opposition members of the National Assembly, led by Yoo Inh-tae of the ruling Uri Party, submitted a Bill to abolish capital punishment in South Korea and replace it with life imprisonment without parole.⁶
10. The Bill is expected to be put to a vote in December 2005. "It is the first time a bill calling for the abolition of capital punishment has been submitted to the national assembly... Two previous attempts have failed".⁷
11. The unicameral National Assembly consists of 299 members. This means that if the 174 members who sponsored the Bill also vote for it, then the Bill will pass. However, the success of the vote is not assured.⁸
12. In April 2005, the South Korean National Human Rights Committee lent its support to the Bill.⁹
13. In June 2005, South Korea's Justice Ministry submitted a report to the National Assembly opposing the abolition of the death penalty.¹⁰ The Justice Minister Kim Seung-kyu also opposes abolition.¹¹

² Tore Frängsmyr, "Biography of Kim Dae-jung" in *Les Prix Nobel. The Nobel Prizes 2000*, <<http://nobelprize.org/peace/laureates/2000/dae-jung-bio.html>> .

³ *South Korea, Hands Off Cain*, accessed 2 October 2005, <<http://www.handsoffcain.org/bancadati/schedastato.php?idcontinente=23&nome=south%20korea>>.

⁴ "South Korea's death row inmates number 61", *Yonhap English News*, 25 August 2005.

⁵ "Supreme Court confirms death penalty for serial killer", *Yonhap English News*, 9 June 2005.

⁶ "Presidential Committee Calls for Abolition of Death Penalty", *Yonhap English News*, 6 April 2005.

⁷ "State rights body supports ending death penalty in South Korea", *Agence France Presse*, 6 April 2005.

⁸ "South Korean lawmakers move to scrap capital punishment", *Yonhap English News*, 23 November 2004.

⁹ "State rights body supports ending death penalty in South Korea", *Agence France Presse*, 6 April 2005.

¹⁰ Reuters, *Press Digest: South Korean Newspapers* (27 June 2005).

Australia can help South Korea abolish the death penalty

14. In East and South-East Asia most countries retain the death penalty. Only Cambodia and Timor-Leste have abolished capital punishment.¹²
15. If South Korea abolishes capital punishment, CCL believes that there could be a positive flow-on effect across the region. In the Philippines, for example, President Arroyo has declared that she would support abolition if Congress voted for it.¹³ The Philippines Congress might be encouraged by another APEC member abolishing the death penalty. Taiwan is also considering abolishing the death penalty and might be encouraged by South Korea's lead.¹⁴
16. Australia has an important part to play in fostering these moves towards the abolition of capital punishment in our region.
17. Australia has a long-standing policy of opposition to the death penalty. Australia has acceded to the *Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty*.¹⁵ Australia regularly sponsors a resolution at the UN Human Rights Commission calling for the abolition of the capital punishment throughout the world.¹⁶ CCL believes that Australia, as a regional leader in human rights, should do everything it can to encourage and help South Korea's legislators pass the Bill currently before the National Assembly.
18. South Korea has acceded to the *International Covenant on Civil and Political Rights*. CCL believes that Australia should also encourage South Korea to ratify the *Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty*.

¹¹ *Korea Herald* (18 February 2005); quoted in *South Korea, Hands Off Cain* (see n 3 above).

¹² Cambodia abolished the death penalty in 1989. Timor Leste abolished the death penalty after independence. (Note: Hong Kong abolished the death penalty in 1993, but China remains a retentionist state.)

¹³ 'Move to repeal death penalty revived', *Manila Standard* (18 May 2005).

¹⁴ Ko Shu-ling, 'Human rights group chief arrives in Taiwan today', *Taipei Times* (22 March 2005) <<http://www.taipetimes.com/News/taiwan/archives/2005/03/22/2003247311>>.

¹⁵ [1991] ATS 19 (entered into force 11/07/91).

¹⁶ e.g. UN Human Rights Commission, *The Question of the Death Penalty* (20 April 2005) UN Doc. E/CN.4/RES/2005/59.

APPENDIX: MEDIA CLIPPINGS

State rights body supports ending death penalty in South Korea

6 April 2005

[Agence France Presse](#)

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SEOUL, April 6 (AFP) -

South Korea's human rights watchdog said Wednesday it supported a bill before parliament calling for the abolition of the death penalty.

The move by the National Human Rights Commission comes ahead of an expected National Assembly vote on the bill presented by 175 ruling and opposition party lawmakers in December.

The bill calls for those convicted of crimes currently punishable by death to be sentenced to life imprisonment without parole.

It is the first time a bill calling for the abolition of capital punishment has been submitted to the national assembly, which now has 293 seats. Two previous attempts have failed.

"The commission agreed to express its opinion towards parliament on the abolition of capital punishment," commission spokesman Yook Seong-Chul told AFP.

The non-binding decision was supported by eight of the commission's nine members who took part in Wednesday's session, he said.

Currently, 59 people are on death row in South Korea, where no executions have taken place since 1998, when former president Kim Dae-Jung took office.

Kim was once put on the death row on charges of sedition after a popular uprising in his hometown of Kwangju in 1980 that left more than 200 people killed by soldiers.

The execution of 23 convicted criminals on December 30, 1997 sparked a fierce debate on capital punishment in South Korea.

But a survey conducted by the human rights commission in 2003 found that 65.9 percent supported capital punishment while 34.1 percent opposed it.

The justice ministry still supports capital punishment, saying it deters mass murder, rape and other heinous crimes.

"The life of a criminal may be important, but the lives of victims are also important," Justice Minister Kim Seung-Kyu told reporters last week.

Human rights activists say the death penalty is a cruel and inhumane punishment, while justice ministry officials say life imprisonment may be more cruel than the death penalty.

According to Amnesty International, 78 countries maintain capital punishment while 118 countries have abolished it or suspended executions.

South Korean lawmakers move to scrap capital punishment

23 November 2004

[BBC Monitoring Asia Pacific](#)

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Text of report in English by South Korean news agency *Yonhap*.

Seoul, 22 November: Half of the nation's legislators supported a motion to abolish the death sentence submitted to the National Assembly on Monday [22 November], as activists and religious leaders at home and abroad endorsed their move.

Yu In-t'ae of the Uri Party, who was once sentenced to death in 1974 on charges of communist activities before having his sentence commuted, presented the motion signed by some 150 ruling and opposition lawmakers. It calls for the sentence of capital punishment to be abolished and replaced with life imprisonment with no chance of parole or sentence reduction.

Despite the endorsement of a majority of the Assembly, the prospects for the bill remain unclear as it has yet to gain the support of conservative members of the assembly. Many lawmakers of the Grand National Party, in line with senior members of the legal field and right-wing civic organizations, are said to be reluctant to support the move.

Uri Party officials are optimistic about the fate of the motion, pointing out it is supported by more than half of its 151 party members and has been signed by all 10 sitting members of the Democratic Labour Party.

Some lawmakers of the main opposition Grand National Party, which has 121 seats in the 299-member assembly, also support the motion.

Politicians, religious leaders and scholars were to meet in the afternoon to discuss the abolition of the death penalty.

US activist and former lawmaker Robert Cushing, a member of US organization Murder Victims Families for Reconciliation, and Japanese campaigner and lawyer Yasuda Yoshihiro are both to give speeches at the gathering.
