

HONG KONG: MOVES TO ABOLISH DEATH PENALTY

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During the recent international conference on the Bill of Rights Ordinance in Hong Kong, organised by the University of Hong Kong 19-22 June 1991, the international participants attending the conference took part, in a unique way, in adding their voices to the protection of human rights in that Territory.

A member of the Legislative Council of Hong Kong (the Hon Kingsley Sit) had given notice of his intention to introduce a motion into the Council on 26 June 1991 to reinstate the use of the death penalty in Hong Kong. Mr Sit cited community concerns about an increase in violent crimes. Since 1966, sentences of death in Hong Kong have been commuted by the Governor of Hong Kong to life imprisonment. By way of contrast, sentences of death are regularly carried out in the People's Republic of China (PRC). Hong Kong will be returned to China on 1 July 1997.

In response to Mr Sit's motion, the Hon Martin Lee QC MLC, another member of the Council, tabled an amendment. Mr Lee, a leading critic of the United Kingdom's failure to provide self-determination for the people of Hong Kong had taken an active part during the international conference on human rights, voicing particular concern about the right to self-determination denied by the Joint Declaration agreement between the PRC and the United Kingdom.

Mr Lee's motion proposed the amendment of Mr Sit's

motion. Reciting the "importance of Hong Kong maintaining the highest standards of a modern humane community", it provided:

"This Council urges the Government to strengthen the capability of the police force to fight crime and calls for legislative measures to be introduced into this Council which would abolish the death penalty and replace it with life imprisonment."

The debate in the Legislative Council of Hong Kong took place on 26 June 1991. Circulated to all members of the Council was a letter signed by many of the participants who had attended the conference. The letter read:

"We are people of many countries in Hong Kong to speak at the International Conference on the Bill of Rights. We believe that the death penalty is incompatible with human rights and that its reinstatement would be against the best interests of the people of Hong Kong."

Signed:

Peter Bailey, former Deputy Chairperson, Australian Federal Human Rights Commission;

Professor Theo van Boven, former Director, UN Human Rights Centre;

Professor Kevin Boyle, Director, Human Rights Centre, University of Essex;

Andrew Byrnes, Lecturer, Faculty of Law, University of Hong Kong

Professor Rosemary Cairns Way, Assistant Professor of Criminal Law, University of Ottawa;

Dato' Param Kumaraswamy, Commissioner (Malaysia) of the International Commission of Jurists, Geneva;

Rajeev Dhavan, Advocate, Delhi;

Professor Yash Ghai Sir Y K Pao, Professor of Public Law, University of Hong Kong;

Dr Nihal Jayawickrama, Senior Lecturer, Faculty of Law, University of Hong Kong;

*The Honourable Justice Michael Kirby,
Commissioner, (Australia) International
Commission of Jurists, Geneva;*

*Professor Richard Lillich, University of
Virginia Law School;*

*Professor Manfred Nowak, Faculty of Law,
University of Vienna;*

*Professor Torkel Opsahl, University of Oslo,
Norwegian Institute of Human Rights;*

*The Honourable Mr Justice Sarmiento, Supreme
Court of the Philippines;*

*Professor Derek Roebuck, Head, Department of
Law, City Polytechnic of Hong Kong;*

*Professor Raymond Wacks, Head, Department of
Law, University of Hong Kong; and*

*The Honourable Madam Justice Bertha Wilson,
former Judge of the Canadian Supreme Court."*

Before the vote was taken, the Hong Kong Secretary for Security told the Council that, in the event that the majority of members of the Council voted in favour of abolition of the death penalty, the Administration would consider bringing forward legislation to achieve that end, so as to remove provisions for the death penalty from the laws of Hong Kong.

When the vote was taken in the Council, the result of Mr Lee's motion was:

<i>"Abstentions:</i>	<i>5</i>
<i>Noes</i>	<i>12</i>
<i>Ayes</i>	<i>24"</i>

Legislation pursuant to the resolution is now awaited. If it comes forward and is passed, it will be one of those rare occasions when an international conference may have played some practical part in local lawmaking by reason of the coincidence of its concerns with proposals for law reform in the local legislature.