

Muted response by Canberra as Australian woman faces death penalty in Indonesia

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In early October last year, Schapelle Corby, a 27-year-old Australian beauty-school student, was arrested at Bali's Denpasar airport after 4.1 kilograms of marijuana were found by Indonesian customs in her body-board surfing bag. Under Indonesian law, the penalty for marijuana dealing is the same as for heroin dealing.

Corby was charged with drug trafficking and faces execution by a 12-man firing squad if the court finds her guilty. If she is convicted on the lesser charge of importing the marijuana for her own personal use, she faces a 20-year jail sentence and \$150,000 fine. A three-judge court heard the final arguments in the defence case last week and is expected to hand down its verdict in May.

From the outset, Corby, who has no criminal record or any history of drug abuse, has denied any knowledge of the drug, arguing that it must have been planted in the unlocked bag. She had travelled from Australia with her 17-year-old half-brother and two friends and planned to holiday with her sister Mercedes, who is married with two children. Mercedes and her Balinese husband have been on an extended visit to the popular tourist island.

The Corby case raises a number of basic legal and political questions, not the least of which is the muted response of the Howard government to the plight of an Australian citizen. Government assistance to the young woman has been minimal, with any help provided only after growing public alarm over Corby's treatment.

Denpasar public prosecutor Wiswantanu has demanded the young woman's execution. He has successfully prosecuted six foreigners for importing drugs, one of whom received the death penalty. Wiswantanu told the court that the only way he would accept Corby's innocence was if the defence could prove that the drugs were not in her body-board bag when it was checked in at Brisbane airport, or provide visual evidence of someone placing them there. It is extremely difficult for Corby's lawyers to provide such evidence.

While both the Indonesian and Australian governments claim to have boosted security measures in the aftermath of the September 11 terrorist attacks on the US and the October 2002 Bali bombing, the Corby case has exposed the fact that these measures are largely cosmetic.

X-ray machines at Bali customs do not keep photographs of the bags they scan, nor is there closed circuit television (CCTV) coverage of the baggage handling area. In Australia, Qantas staff did not individually weigh or X-ray Corby's bag at Brisbane airport before placing it on her flight to Sydney. Her bag was not X-rayed before it was loaded onto the connecting flight to Bali.

Brisbane airport has CCTV in the check-in area and some of the baggage-handling areas, as does Sydney. But, while video records should have been available to provide evidence of the original size of the body-board bag, the CCTV tapes were erased on November 2.

Qantas officials claim the tapes were destroyed before they received any request for copies from Corby's lawyers. Defence lawyers have angrily disputed this, saying that they asked for access to the footage on October

14, a few days after their client's arrest, when a Qantas security official flew from Sydney to Denpasar to discuss the case. In the last week of October, after the defence team was informed by Qantas security that the tapes would be destroyed within a week, another request was made. This was also ignored.

Australian Foreign Minister Alexander Downer, when questioned on ABC radio, arrogantly declared that he had no control over such issues, stating: "I'm not the minister for tapes." He also made clear that, apart from some limited assistance to Corby's lawyers and private talks with Indonesian foreign affairs officials, there would be no political intervention by Canberra.

Notwithstanding the lack of important evidence, the most obvious question the prosecution must answer is: why would Corby, or anyone else for that matter, smuggle 4.1 kilograms of marijuana from Australia into Bali? Although the drug is illegal in Indonesia, it can be easily procured and is far cheaper than in Australia. It is well known that marijuana is generally smuggled out of Bali.

Even if Corby were trafficking the drug, as claimed by the prosecution, what would be the point of bringing it to Bali? To purchase more than four kilograms of marijuana in Australia at the current wholesale price would cost approximately \$36,000. Anyone smuggling this quantity into Bali would be risking his or her life for a tiny fraction of the purchase price.

Moreover, as family and friends have explained, Corby was a student, worked long hours to pay for her Bali holiday and had no access to the sort of money required to purchase four kilograms of marijuana in Australia.

No serious attempt was made to hide or disguise the marijuana from Indonesian customs officials. It had been placed inside a large transparent plastic bag, about the size of a pillow, in Corby's unlocked body-board bag and at the front, close to the zipper. Indonesian customs officials said the drugs had an overpowering smell.

If Corby had been attempting to smuggle the drug, one would assume she would have, at the very least, locked the bag and made some attempt to hide it more effectively, including sealing off its pungent odour.

Immediate requests by Corby and her travelling companions for the plastic bag to be fingerprinted were ignored by Indonesian customs officials and police, who claimed that it was "too late" because too many people had touched the bags.

While none of the customs officials wore gloves when they handled the evidence, Corby's lawyers insisted that only the external plastic bag was contaminated. The inner bag, which contained the drugs, had not been removed from the outer bag and only the bottom of it had been handled.

Immediate and repeated requests by Corby and her lawyers for fingerprinting of the inner bag, however, were ignored and on February 3 it was brought into the court and handled by a range of individuals, including a testifying customs officer, the prosecutor, and one of the judges.

Corby's lawyers also asked the Australian Federal Police (AFP) to carry out forensic testing of the marijuana and plastic bags, in a bid to determine their origins. When official AFP requests for access were rejected by the Indonesian police, neither the AFP, nor the Howard government, issued a protest.

Because of this extraordinary lack of assistance in compiling basic evidence, Corby's main defence has rested on attempts to establish that Australian traffickers planted the marijuana in her bag.

Bruce Griffin, a former New South Wales drug squad detective, has testified that some local drug traffickers with airport contacts use the luggage of innocent travelers to move drug shipments between Australian cities. In Corby's case, the marijuana was somehow not removed in Sydney and, instead, mistakenly transported to Bali. Within Australia, there are no inspections of bags or vehicles used by airport personnel with access to Aviation Security Identification Cards.

Last week, John Foster, an Australian remand prisoner, was allowed to travel under escort to Bali to testify in Corby's defence. He told the court that while awaiting trial in Australia he overheard two prisoners discussing how the marijuana shipment of another criminal had been placed in Corby's bag but mistakenly not removed when it reached Sydney. Although Foster named the individual involved, his evidence is hearsay and unlikely to carry much weight in the Bali court.

Together with the problems created by the lack of concrete evidence and highly irregular methods used by the Indonesian police and customs, the Indonesian media is attempting to whip up sections of the population against Corby. There are ongoing calls for her execution, and some of the local media have taken to referring to her as the "Ganja Queen".

In February this year, members of GRANAT, an anti-narcotics group, burst into Corby's trial carrying placards and chanting slogans demanding her execution. One protestor shouted: "There is already one person executed in Bali for 2kg of marijuana. I don't want to see Corby go free for bringing 4.1kg."

Indonesian police have called for the death penalty and told the local media that they want Corby to be a public example. "It's a drug case and it must be the toughest so that it will intimidate others who try to copy her," said police chief Colonel Sugiarto.

While the death penalty has existed in Indonesia since independence was established in the late 1940s, drug crimes were not punishable with execution until 1997. Currently there are 54 people on Indonesia's death row, 31 convicted on drugs charges and 20 of these are foreigners.

Agitation for the execution of drug dealers and traffickers has intensified in the past decade, with Islamic leaders and prominent politicians in the forefront. In 2002, President Megawati Sukarnoputri stated: "For those who distribute drugs, life sentences and other prison sentences are no longer sufficient. No sentence is sufficient other than the death sentence."

Last year, a presidential election year, three foreign drug offenders—an Indian and two Thais—were put to death by firing squad, the first executions of any kind in Indonesia for three years.

In a blatant violation of their democratic rights, the accused were barred access to interpreters and lawyers during the police investigation that preceded the trial. The Indian prisoner was denied a final request that his family be allowed to visit before he was executed and his lawyers were not informed of his death until after it had taken place.

Another eight people found guilty of drug trafficking face execution. Megawati Sukarnoputri rejected their clemency appeals last June and July.

Current Indonesian President Susilo Bambang Yudhoyono, who is presently visiting Australia, made clear during a presidential election debate last year that, if he were elected, there would be no change in Indonesia's execution policies. The death penalty for drug dealers, he declared, "is justice which must be enforced". This, he claimed, was necessary "to give deterrent effects to the perpetrators".

Canberra, with some media support, maintains that it has been assisting

Corby and her lawyers. Justice Minister Chris Ellison declared last weekend that the government "will go into overdrive" if she is sentenced to death.

The reality is, however, that the Howard government has refused to condemn the serious irregularities in the police investigation, the show-trial nature of the court proceedings, or uttered a word of protest against Indonesia's repressive drug laws and death penalty. This is in line with Prime Minister Howard's new-found friendship with Yudhoyono, which is aimed at further cementing Australian capitalism's economic and strategic interests in the Indonesian archipelago.

In a brief interview with a Sydney radio station early last month, Howard said he had "some concerns" about "aspects" of the trial but did not elaborate. Instead, he declared that his government was "aware of its obligations and we'll continue to follow the case to the extent that we can, consistent with the right of Indonesia to run its justice system".

Claims that the Howard government cannot speak out about Indonesia's legal system are bogus and thoroughly hypocritical. Following the Bali bombing, Washington and Canberra pressed the Indonesian government for the arrest of Islamic fundamentalist Abu Bakir Bashir, even before a criminal investigation had begun.

Bashir was eventually charged and found guilty, not over the Bali bombing, but immigration irregularities and a conspiracy to assassinate President Megawati Sukarnoputri. After being released, he was rearrested, again on the urging of the US and Australia, and charged with involvement in the terror bombing of Bali and the Marriott Hotel. On the basis of flimsy evidence, he was sentenced to three years imprisonment for conspiracy over the Bali attack.

In that case, the Howard government did not hesitate to voice its disapproval of the court's verdict. Foreign Minister Downer even directed the Australian ambassador to tell Indonesian officials that the sentence was too light. Labor leader Kim Beazley declared that Bashir should spend the rest of "his miserable life in jail".

When Downer was asked by ABC radio last week whether he was satisfied that nothing more could be done to assist Corby, he replied: "Well, I am not a defence lawyer... In a governmental sense I don't think there is anything more that we can do."

In other words, whatever the trial verdict and sentencing outcome, the Howard government, while nervous about the outcome of Corby's case, is determined that nothing should upset its diplomatic manoeuvres with the Indonesian regime.



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