

## PERSONAL EXPLANATION

**HON. GEORGE W. GEKAS**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 30, 1995*

Mr. GEKAS. Mr. Speaker, on Friday, June 30, 1995, I was unavoidably detained and missed a record vote on approval of the House Journal. Had I been present, I would have voted "aye" on Rollcall No. 465.

## THE SPECIAL OLYMPICS WORLD GAMES

**HON. BARBARA B. KENNELLY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 30, 1995*

Mrs. KENNELLY. Mr. Speaker, tomorrow, the eyes of the world will turn to Connecticut as the Special Olympics World Games open in New Haven. More than 7,000 athletes from 140 countries will compete in such sporting events as basketball, gymnastics, cycling, sailing, powerlifting, and golf.

Since the first World Games in 1968, the Special Olympics have highlighted the skill and determination of these very special athletes. Their dedication is inspirational and their skills impressive.

The people of my home State of Connecticut have opened their hearts and homes to athletes, coaches, and families from around the world. Every town in the State is hosting a delegation. These games are expected to draw thousands of international visitors, ambassadors, and heads of state. For the first time, the President of the United States will open these games. We owe our special thanks to Tim Shriver and former Governor Lowell Weicker, who have heightened the visibility of these 1995 World Games.

I look forward to the next 2 weeks—let the Games begin.

## CALLING FOR A CONSTITUTIONAL AMENDMENT TO ABOLISH THE DEATH PENALTY

**HON. HENRY B. GONZALEZ**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 30, 1995*

Mr. GONZALEZ. Mr. Speaker, I rise today to introduce a joint resolution proposing a constitutional amendment to prohibit capital punishment within the United States. I believe that the death penalty is an act of vengeance veiled as an instrument of justice. Not only do I believe that there are independently sufficient moral objections to the principle of capital punishment to warrant its abolition, but I also know that the death penalty is meted out to the poor, to a disproportionate number of minorities, and does not either deter crime or advance justice.

At a time when South Africa's highest court, in the first ruling of the new multiracial Constitutional Court, has just abolished the death penalty—on grounds that it is a cruel and inhumane punishment that does not deter crime but which does cheapen human life—as part

of the post-apartheid quest for democratic government and a just society in that country, we should live up to no lower of a standard in our continuing effort to uphold democracy and justice in our own land.

Violent crimes have unfortunately become a constant in our society. Every day people are robbed, raped, and murdered. We are surrounded by crime and yet feel helpless in our attempt to deter, to control, and to punish. The sight of any brutal homicide excites a passion within us that demands retributive justice. We have difficulty comprehending that which cannot be understood. Mr. Speaker, we will never comprehend the rationale of violent crime, but the atrocity of the crime must not cloud our judgment and we must not let our anger undermine the wisdom of our rationality. We cannot allow ourselves to punish an irrational action with an equally irrational retaliation—murder is wrong, whether it is committed by an individual or by the State.

Violence begets violence. I cannot help but wonder if the vigilante executions that are becoming more frequent in our country, whereby citizens arm themselves and mete out capital punishment for crimes such as "tagging" as happened in California and recently in my own district in San Antonio, and knocking on one's front door and acting disorderly as happened in Louisiana, and numerous other incidents where property crimes are met with a lethal response, are a direct result of the atmosphere of violence embraced by our Federal and State governments as a proper response to problems. Indeed, I wonder whether the overall escalation of violence in our society perpetrated by criminals can be traced to the devaluation of human life as exhibited by our governments.

The United Nations Universal Declaration of Human Rights states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The death penalty is torture, and numerous examples exist emphasizing the cruelty of the execution. Witness Jimmy Lee Gray, who was executed in 1983 in the Mississippi gas chamber. During his execution he struck his head repeatedly on a pole behind him and had convulsions for 8 minutes. The modernization to lethal injection serves only as an attempt to conceal the reality of cruel punishment. Witness the execution by lethal injection of James Autry in 1984. He took 10 minutes to die, and during much of that period he was conscious and complaining of pain.

Despite the obvious mental and physical trauma resulting from the imposition and execution of the death penalty, proponents insist that it fulfills some social need. This simply is not true. Studies fail to establish that the death penalty either has a unique value as a deterrent or is a more effective deterrent than life imprisonment. We assume that perpetrators will give greater consideration to the consequences of their actions if the penalty is death, but the problem is that we are not always dealing with rational actions. Those who commit violent crimes often do so in moments of passion, rage, and fear—times where irrationality reigns.

Rather than act as a deterrent, some studies suggest that the death penalty may even have a brutalizing effect on society. For example, Florida and Georgia, two of the States with the most executions since 1979, had an increase in homicides following the resumption

of capital punishment. In 1984 in Georgia, the year after executions resumed, the homicide rate increased by 20 percent in a year when the national rate decreased by 5 percent. There can be no disputing the other evidence—murders have skyrocketed in recent years, as have State executions. The government cannot effectively preach against violence when we practice violence.

The empty echo of the death penalty asks for simple retribution. Proponents advocate that some crimes simply deserve death. This argument is ludicrous. If a murderer deserves death, I ask you why then do we not burn the arsonist or rape the rapist? Our justice system does not provide for such punishments because society comprehends that it must be founded on principles different from those it condemns. How can we condemn killing while condoning execution?

In practice, capital punishment has become a kind of grotesque lottery. It is more likely to be carried out in some States than others—in recent years more than half of the Nation's executions have occurred in two States—Texas and Florida. My home State of Texas led the Nation in 1993 with 17 executions, more than three times the number of executions in the State with the second highest rate. The death penalty is far more likely to be imposed against blacks than whites—the U.S. Supreme Court has assumed the validity of evidence that in Georgia those who murder whites were 11 times more likely to receive the death sentence than those who kill blacks, and that blacks who kill whites were almost 3 times as likely to be executed as whites who kill whites. It is most likely to be imposed upon the poor and uneducated—60 percent of death row inmates never finished high school. And even among those who have been sentenced to die, executions appear randomly imposed—in the decade since executions resumed in this country, well under 5 percent of the more than 2,700 death row inmates have in fact been put to death.

It cannot be disputed that most death row inmates come from poverty and that there is a definite racial and ethnic bias to the imposition of the death penalty. The statistics are clear, as 92 percent of those executed in this country since 1976 killed white victims, although almost half of all homicide victims during that period were black; further, black defendants are many times more likely to receive the death sentence than are white defendants. A 1990 report of the General Accounting Office found that there exists "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty." \* \* \* In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty." Similar statistics can be found in my area of the country with regard to individuals of Mexican-American descent; in fact, similar practices once prevailed with regard to women. The practice was to tell the murderer to leave town if he killed a Mexican-American or a woman, as the feeling was that the murder must have been justified. We may have moved beyond that point, but not by much. It is as much a bias in favor of the "haves" and at the expense of the "have-nots" as anything else.

Racial and ethnic bias is a part of our Nation's history, but so is bias against the poor. Clearly, the ability to secure legal assistance

and to avail oneself of the best that the legal system has to offer is based on one's financial status. The National Law Journal stated in 1990, "Indigent defendants on trial for their lives are being frequently represented by ill-trained, unprepared court-appointed lawyers so grossly underpaid they literally cannot afford to do the job they know needs to be done." The American Bar Association has admitted as much.

The legal process has historically been replete with bias, as well. We have a history of exclusion of jurors based on their race; now, the Supreme Court has sanctioned the exclusion of multi-lingual jurors if witnesses' testimony will be translated—this is particularly significant in my area of the country, in San Antonio. Further, we have executed juveniles—children, actually, as well as those with limited intelligence. Only four countries besides the United States are known to have executed juvenile offenders in the past decade: Bangladesh, Pakistan, Iraq, and Iran. That's some company to be in.

There are moves on in Congress to speed up the execution process by limiting and streamlining the appeals process. But when the statistics show how arbitrarily the death penalty is applied, how can we make any changes without first assuring fairness? If the death penalty is a fair means of exacting retribution and punishment, then isn't fairness a necessary element of the imposition of capital punishment? There are no do-overs in this business when mistakes are made.

The imposition of the death sentence in such an uneven way is a powerful argument against it. The punishment is so random, so disproportionately applied in a few States, that it represents occasional retribution, not swift or sure justice. My colleagues, I implore you to correct this national disgrace. Nearly all other Western democracies have abolished the death penalty without any ill effects; let us not be left behind. Let us release ourselves from the limitations of a barbaric tradition that serves only to undermine the very human rights which we seek to uphold.

The evolution in thinking in this area has progressed in nearly all areas of the world except in this country, where the evolution halted and even began reversing itself in recent years as the Federal Government has moved to execute Federal prisoners and States such as Texas have accelerated State executions. But among our country's most highly-educated and high-trained legal specialists, the evolution has been restarted. Former Supreme Court Justices Lewis Powell and Harry Blackmun came to the conclusion in recent years that capital punishment constitutes cruel and unusual punishment. Congress should pursue the line of thinking espoused now by these legal scholars in recognizing that capital punishment is unconstitutional and that this should be declared in a constitutional amendment. I urge my colleagues to join me in this effort.

#### RESTRICTIONS ON TRAVEL TO NORTH KOREA NEEDED

**HON. JAY KIM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KIM. Mr. Speaker, I rise today to introduce legislation that would limit congressional

travel to North Korea until the President certifies to Congress that North Korea does not have a policy of discrimination against Members and employees of the Congress in permitting travel to North Korea on the basis of national origin or political philosophy.

As I am the only Korean-American ever to serve in Congress and am also a member of the House International Relations Subcommittee on Asian and Pacific Affairs, Speaker of the House NEWT GINGRICH and International Relations Committee Chairman BENJAMIN GILMAN encouraged me to lead a special, bipartisan assessment mission to North Korea. This would be the first Republican-appointed congressional mission to North Korea in 40 years.

The United States Congress will be required to approve of any further assistance or technology transfers to North Korea. Congress will also play an important role in determining the pace and scope of future diplomatic and trade relations between Washington and Pyongyang. Therefore, it is important for Congress to have an accurate and complete assessment of the situation in North Korea conducted by a select group of its own Members. A dialogue with North Korea's leaders and a first-hand examination of the implementation of the recently achieved Agreed Framework regarding North Korea's nuclear developments would clearly benefit the congressional decisionmaking process and ensure that as accurate and complete information as possible would be available to Congress. Without question, the nuclear crisis on the Korean Peninsula is one of the most important national security concerns of the United States today.

Regrettably, the North Korean Government has rejected the dates I have proposed for this bipartisan mission. Initially, Pyongyang indicated that the dates I had proposed were inconvenient for the North Korean Government. Yet, North Korea invited a minority Democratic Member of Congress to Pyongyang for one of the same periods of time I had proposed. This incident coupled with North Korea's latest rejection confirms to me that North Korea is afraid of allowing me and this special delegation into North Korea.

I believe Pyongyang is afraid because I am of Korean origin and am fluent in Korean. I know the culture and the people. I would be able to talk directly to the people and accurately read the expressions on their faces. I would be able to see and understand things—some very subtle—that other Americans would miss. In other words, the North Korean regime knows it cannot mislead or fool me.

While I believe my national origin is, in large part, the reason for North Korea's rejection, Pyongyang has also cited my fair and legitimate questioning of some of North Korea's actions, including its human rights record. It is telling that North Korea has rejected this mission knowing that it has the endorsement of the new Republican leadership of the House of Representatives. Thus, I also believe that my political philosophy—a philosophy different from that of the Member who was invited to North Korea—was a factor in North Korea's decision. I have carefully chosen the words political philosophy because I am not convinced that party affiliation alone is a determining factor for North Korea. I am aware that the recent request of a ranking Democratic member of the Senate Foreign Relations Committee to meet with North Korean officials was

also rejected. Many of his views about the situation in Korea are similar to mine.

Unfortunately, I do not believe that North Korea realizes that its policy of picking and choosing the Members of Congress with whom it will cooperate is perceived by my colleagues here in Congress as an insult to the United States and to the United States Congress. We cannot cede to North Korea the right to determine which Members of Congress should represent Congress in a bilateral dialog. All U.S. Representatives and Senators are equal in their respective Chambers. No one of us has more constitutional rights than the other. We cannot allow North Korea to create different classes of Members of Congress.

Furthermore, the way that the North Koreans have chosen to snub Congress should make us even more suspicious about Pyongyang's true level of sincerity towards their other interactions with the United States, including the commitments they claim to have made in the recent nuclear agreement. I can no longer see how some in the Clinton administration can be so confident that North Korea will comply in both letter and spirit with the recent nuclear deal when Pyongyang sends the opposite signal through its disgraceful treatment of Congress.

It is ironic that in his reply to me, the Minister-Counselor of the North Korean Mission to the United Nations in New York—the channel which is used to communicate with Pyongyang—claims that his country wants harmony and reconciliation between North Korea and the United States. As the only Korean-American in Congress, I am in the unique position to communicate best with North Koreans and assess the sincerity of this claim.

Yet, in the same letter North Korea rejects the very mission that the new Republican leadership in Congress has approved to explore this subject. Actions speak louder than words and North Korea's actions appear to be very illogical and self-destructive. It appears that North Korea has thrown away an exceptional opportunity to further the reconciliation process it claims to want.

Those of us closest to the Korean issue in Congress have patiently put up with North Korea's insulting behavior. But, enough is enough. North Korea is politically and economically bankrupt. Without question, Pyongyang needs better relations with the U.S. Congress far, far more than the Congress needs a dialog with Pyongyang. Thus, until the President can certify that North Korea has reversed its discriminatory policy towards Congress, the legislation I am introducing today would preclude any official congressional travel to North Korea. It would ensure that the U.S. Congress maintains the dignity and respect it deserves.

Mr. Speaker, I invite my colleagues to co-sponsor this responsible legislation and join me in sending a strong, clear message to North Korea.