



The Hon. Tony Abbott MP
Prime Minister of Australia
Parliament House
CANBERRA ACT 2600

By fax: +61 2 6277 8562 and +61 2 9977 8715

Re: Australia's commitment to the absolute prohibition against torture

26 November 2013

Dear Prime Minister,

We write to you regarding your statement on 15 November 2013 during your press conference in Colombo, Sri Lanka, concerning the use of torture. You said that the Australian Government deplores any use of torture, but that “we accept that sometimes in difficult circumstances, difficult things happen.”

Your statement condones the use of torture. The use of torture is prohibited in all circumstances. There is no exception for “difficult circumstances” or any other reason. Your statement gives cover to those in Sri Lanka and elsewhere who engage in torture and other ill-treatment. We urge you to immediately retract this statement.

Torture is immoral and illegal. The right to be free from such mistreatment is among the most fundamental and unequivocal human rights. Torture is prohibited under both Australian law (Criminal Code, Div 274) and international law treaties to which Australia is a party (including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the Geneva Conventions of 1949). Australia is also a state party to the Rome Statute of the International Criminal Court, which includes torture among grave crimes in violation of international law.

The prohibition against torture is absolute and non-derogable, which means that there are no limitations on the right to be free from torture and that the right cannot be suspended in times of war, when national security is threatened, or during other public emergencies. Even in “difficult times,” such as situations of armed conflict, torture of detainees constitutes a war crime and may constitute a crime against humanity if committed as part of a widespread or systematic attack against a civilian population.

In relation to Sri Lanka, your statement wrongly suggested that torture was confined to the country's three-decade long civil armed conflict. However, there is considerable evidence that torture by Sri Lankan state officials has continued beyond the end of the civil war in May 2009. Human Rights Watch has documented at least 50 cases of rape and sexual violence, accompanied by other forms of torture and cruel, inhuman and degrading treatment by Sri Lanka's security forces against persons in custody since the conflict's end. Other human rights organizations, lawyers and journalists, both in Sri Lanka and outside, continue to report the use of torture, particularly of persons with suspected links to the Liberation Tigers of Tamil Eelam. In November 2012, Australia acknowledged that Sri Lanka's use of torture and other ill-treatment extended into peacetime. At the United Nations Human Rights Council's Universal Periodic Review of Sri Lanka, the Australian government called on Sri Lanka to "take action to reduce and eliminate all cases of abuse, torture or mistreatment by police and security forces."

Condoning any use of torture not only betrays Australia's own principles, laws and international treaty obligations, but provides an excuse to other governments to use torture to pursue their own national security objectives. The prohibition on the use of torture is central to the protection of human rights of all people around the world, including the human rights of Australians.

Torture is a deliberate act that humiliates and degrades people and destroys lives, families and communities. We urge you to make a strong public statement that the Australian government always deplores the use of torture, which cannot be justified in any circumstances.

Yours sincerely,



Emily Howie
Director, Advocacy and Research
Human Rights Law Centre



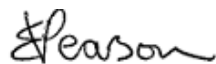
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