

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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15 September 2014

Senator the Hon George Brandis QC Attorney-General
PO Box 6100
Senate, Parliament House
Canberra ACT 2600

Dear Attorney,

Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

We, the undersigned organisations, are writing to urge the Australian Government to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and implement a National Preventative Mechanism (NPM) without delay.

We welcomed Australia's signing of OPCAT in 2009. Now in ratifying OPCAT the Australian Government will demonstrate, nationally and internationally, its commitment to safeguarding the human rights of people deprived of their liberty in all places of detention, including prisons, police lock ups, juvenile detention centres, immigration detention centres, mental health facilities and forensic disability units.

The aim of OPCAT is to strengthen the protection of persons deprived of their liberty through non-judicial means of a preventative nature. We strongly support this goal and believe that independent monitoring by autonomous bodies under OPCAT will serve to strengthen a culture of human rights within Australian detention facilities.

Since Australia signed OPCAT in 2009, a National Interest Analysis has been conducted and in 2012 the bipartisan Joint Standing Committee on Treaties completed an inquiry into Australia's ratification of OPCAT. We strongly support the recommendation of the Committee that the Australian Government work in collaboration with the States and Territories to ratify OPCAT and implement a NPM as soon as possible.

In supporting the recommendation of the Committee, we point to the importance of the accountability mechanism provided by the Subcommittee on Prevention of Torture (SPT). The Committee identified that the SPT has proven to be a valuable and successful mechanism in exercising oversight and providing support for State Parties as they implement OPCAT.

Ratification of OPCAT would provide the opportunity for the SPT to lend its expertise to Federal, State and Territory jurisdictions in aligning existing mechanisms to meet the requirements of OPCAT, particularly the establishment and implementation of a NPM. Australian jurisdictions have monitoring bodies already in existence and ratification of OPCAT would allow cooperation with the SPT to modify these institutions under guidance to form a NPM.

The Australian Government has stated its intention to postpone the implementation of a NPM. We do not support this intention as delayed implementation of a NPM would render Australia's ratification of OPCAT symbolic rather than effective, potentially compromising Australia's stated commitment to human rights.

In light of the consultative processes already undertaken by the Australian Government and the initiation of a collaborative approach between the Federal, State and Territory Governments to reform existing inspection bodies, there exist no reasonable obstacles to Australia's immediate ratification of OPCAT and the implementation of a NPM.

OPCAT, the SPT and the NPM bodies safeguard the human rights of people in custodial settings and provide independent oversight of places of detention. The transparency and accountability offered by OPCAT and its mechanisms provide Australia with the opportunity to act as regional and global model for best practice on human rights in places of detention.

In the lead up to Australia's review before the UN Committee against Torture in Geneva in 2014, we call on the Australian Federal, State and Territory Governments to commit to ratifying OPCAT in full and implementing a NPM without delay.

Yours sincerely,

The undersigned organisations

Act for Peace
ActionAid
Afghan Australian Development Organisation
Amnesty International
ANTaR
Association for the Prevention of Torture
Association for Services to Torture and Trauma Survivors
Asylum Seekers Centre
Asylum Seeker Resource Centre
Australian Churches Refugee Taskforce
Australian Council for International Development (representing over 140 member organisations)
Australian Lawyers Alliance
Australian Lawyers for Human Rights
Australian Tamil Congress
Castan Centre for Human Rights Law
Centre for Peace and Conflict Studies
Children with Disability Australia
ChilOut
Civil Liberties Australia
Companion House Assisting Survivors of Torture and Trauma
Consumers Health Forum of Australia
Disability Discrimination Legal Service
Domestic Violence Legal Workers' Network
Edmund Rice Centre
Equality Rights Alliance (representing 62 member organisations)
Federation of Community Legal Centres Victoria
Forum of Australian Services for Survivors of Torture and Trauma
Foundation House
Human Rights Law Centre
Human Rights Watch
Hunter Community Legal Centre
Islamic Relief Australia
Jesuit Refugee Service
Kingsford Legal Centre
Mahbobas Promise
Medical Association for Prevention of War
Melaleuca Refugee Centre Torture and Trauma Survivors Service of the Northern Territory Inc
Mental Health Carers ARAFMI Australia
National Association of Community Legal Centres
National Child Rights Taskforce
National Childrens and Youth Law Centre
National Congress of Australia's First Peoples
Oxfam Australia
People with Disability Australia
Phoenix Centre Support Service for Survivors of Torture and Trauma
Public Health Association of Australia
Public Interest Advocacy Centre Ltd
Queensland Advocacy Incorporated
Queensland Program of Assistance to Survivors of Torture and Trauma
Refugee Council of Australia
Save the Children
SCALES Community Legal Centre
Service for the Treatment and Rehabilitation of Torture and Trauma Survivors
Settlement Council of Australia
Sisters Inside
Survivors of Torture and Trauma Assistance and Rehabilitation Service Inc
TEAR Australia
UN Association of Australia
Uniting Church in Australia Assembly
Womens Electoral Lobby
Women's Law Centre
Women's Legal Services Australia

Women with Disabilities Australia
YWCA Australia

Copy to:

Mr Simon Corbell MP, ACT Attorney-General
Hon Bradley Hazzard MP, NSW Attorney-General
Hon Johan Wessel Elferink MLA, NT Attorney-General
Hon Jarrod Bleijie MP, QLD Attorney-General
Mr Jon Rau MP, SA Attorney-General
Ms Vanessa Goodwin MLC, TAS Attorney-General
Hon Robert Clark MP, VIC Attorney-General
Hon Michael Mischin MLC, WA Attorney-General

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