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November 25, 2007

Mr. Bill Casey, M.P.
Room 646S, Centre Block
House of Commons
Ottawa, ON K1A0A6

Hello Bill,

Re: “Existing Provisions” Argument that nullifies Torture by Non-State Actors

Thank you for sharing with us a copy of the letter you received from The Honourable Rob Nicholson, Minister of Justice, dated June 22, 2007 outlining his “existing provisions” argument as the way to legally address torture by non-state actors in Canada. In July, 2007, we unexpectedly received a letter from a woman from Quebec, enclosing the letter she had received from Minister Nicholson. She had written him to state she had endured torture, specifically ritual abuse-torture, growing up and was asking for law reform. The response she received was the exact same letter Minister Nicholson had sent you. We strongly disagree with this “existing provisions” position.

Torture is a different form of violence than assault or abuse. Our position reflects that:

1. Torture is the most horrific violence a human being can suffer and survive. Civil society knows this intuitively by contemplating, for a moment, the scenario that one is presented with a forced choice of enduring abuse or torture – which form of victimization would one choose? Although neither is justifiable, we propose that abuse would be chosen before torture. There is a difference.
2. The Special Rapporteur of the United Nations (UN) Human Rights Council on violence against women, its causes and consequences, Yakin Ertürk, and Manfred Nowak, Special Rapporteur of the United Nations Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, issued a statement on November 24, 2007, that speaks of torture inflicted on women by non-state actors in the private sphere and the accountability of states to respond (statement attached). And on November 25, 2007, UN Secretary-General Ban Ki-moon denounced all forms of violence against women as “one of the most heinous, systematic and prevalent human rights abuses in the world.”¹ Canadian society is not exempt from heinous crimes such as non-state torture.

¹ UN News Service. (2007, November 26). Ban Ki-moon pledges system-wide UN campaign to fight violence against women. [On-line]. Available:

Canada has signed and ratified various international United Nations instruments that hold that Canada has national obligations to condemn and prevent torture whether inflicted by the state or a private person. And unless torture in the private sphere is named directly, addressing the consequences for redress and protection remains undeveloped, which is the present situation in Canada. In 1993, the Canadian Panel on Violence Against Women² informed the government of Canada that torture of women and children was occurring in the private sphere, torture and horror that the co-Chair related to torture in prisoner-of-war camps.³ On receipt of this information Canada failed to directly name and criminalize torture in the private sphere. In written communication in 2007, Ministers of Justice at the federal and provincial levels continue to nullify the need to specifically address acts of non-state torture by using the “existing provisions” argument; meaning that torture by non-state actors is minimized to various forms of assaults, for example.

3. The “existing provisions” argument continues to be maintained in spite of the fact we have forwarded, to various sections of government, written correspondence describing case examples of spousal and intergenerational family/group ritual abuse-torture which involves child torture. Our latest written document, *Non-State Actor Torture in Canada: A Shadow Report*, which is a comprehensive response to the final report of the Standing Senate Committee on Human Rights in relation to the *Convention on the Rights of the Child*, has been forwarded to the Standing Senate Committee as well as the Continuing Committee of Officials on Human Rights, Human Rights Program of the Department of Canadian Heritage. It describes clearly how one young woman was five years old when the *Convention* was adopted and eight when the Canadian Panel submitted its report, however, because Canada failed to take direct action this young woman’s cries for help were never understood. Instead, when she attempted to report to health professionals and the police she was disbelieved, hospitalized, medicated, placed in foster care, attempted to run away at various times in her childhood but was always returned home. In her youth, when she ran, she says she was stalked, harassed, and assaulted by the family group. She believed there was no escape. She also says she “has been left so many times contemplating suicide because it seemed there was absolutely no help or understanding for me in this society.”⁴ A lack of due diligence by the Canadian government to act to address non-state actor torture in the private sphere, we suggest, has resulted in social neglect, a lack of support, redress, and protection for this young woman at all stages of her growth and development.

<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/92C5879A99079B76C125739C002F9F11?opendocument>

² Canadian Panel on Violence Against Women. (1993). *Changing the landscape: Ending violence ~ Achieving equality*. Ottawa: Minister of Supply and Services Canada.

³ Cox, W. (1992, March 23). Panel hears horror stories of violence against women. *The Chronicle-Herald The Mail-Star*, p. B13.

⁴ Sarson, J. & MacDonald, L. (2007, August 17). Non-state actor torture in Canada: A shadow report (pp. 55-5). [On-line]. Available: <http://www.ritualabusetorture.org/shadowreport.pdf>

4. As clearly expressed by Maher Arar, who endured state torture in a Syrian jail, a result of Canadian governmental errors, "For someone who has been tortured, acknowledgement of torture is really the beginning of the healing process... I was very ... disturbed when I used to hear the word 'mistreatment.' I was boiling."⁵ His statement holds true for the many persons, whom we have spoken with since 1993, who have endured or are struggling not to be revictimized by perpetrators of non-state torture in the private sphere.
5. Canada is not a torture free zone for persons victimized by torturers in the private sphere (pamphlet attached); it must become so. The first step begins with specifically criminalizing such acts, from here all other interventions flow, such as the development of investigative skills by the police and assessment and care by health workers, the provision of adequate safety, education of child protection workers, the collection of correct statistical information about family and relational violence, and the development of effective recovery interventions. As well as creating the Canadian culture that holds torturers responsible for the acts of torture and horror they inflict.

Also, we hope you are open to several friends and co-activists from the Toronto area joining us for our upcoming meeting, weather permitting. Madeleine Gilchrist, of the NGO Canadian Voice of Women for Peace, has worked diligently in Geneva to ensure that the complaint we submitted against Canada to Yakin Ertürk, Special Rapporteur of the United Nations Human Rights Council on violence against women, its causes and consequences does not get lost in the confusion of the UN reorganization and Kelly Watt, a published author. Kelly is presently doing investigative work for her autobiography about being a child victim of non-state actor torture, specifically of ritual abuse-torture. She is also an activist working to have non-state actor torture criminalized. She presented with us at the Commission on the Status of Women 2007 session at the UN Headquarters in New York.

We look forward to meeting with you and Lorne, December 4, 2007 at 10:00 am for further discussion. If, for any reason, there is a change you can contact us while in Ottawa from November 29th on, at Linda's cell number: 902-956-2117.

Sincerely,

Jeanne Sarson and Linda MacDonald

⁵ Tyler T. (2007 October 27). Torture is not 'mistreatment,' Arar says Canada's denial of his ordeal made healing process more difficult. Toronto Star. [On-line]. Available: <http://www.thestar.com/printArticle/271057>