



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

**CRIMES LEGISLATION AMENDMENT
(TORTURE PROHIBITION AND DEATH
PENALTY ABOLITION) BILL 2009**

Second Reading

SPEECH

Monday, 22 February 2010

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Georganas, Steve, MP

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Mr GEORGANAS (Hindmarsh) (1.51 pm)—The Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Bill 2009 is just as it appears to be: a bill to make torture a specific offence in the Commonwealth Criminal Code and also to prevent the death penalty from ever being reintroduced in any jurisdiction within the Commonwealth of Australia. I am very pleased to be here supporting this bill today. Both elements of this bill—the torture and killing of another human being—come down to matters of principle. We know that torture takes place. We see the horrendous and horrific pictures beamed through our TVs, the internet and the many media that we have today. We have known this for many, many years.

The stories we hear from refugees who come to this country seeking refuge from these acts of brutality and of systematic brutality perpetrated by many forces—rogues or rogue governments—are enough to shock most of us every time we hear them, even today. We hear of instances of brutality that are inflicted to induce people to communicate all sorts of things, whether they be secrets, information or the betrayal of another human being. We have heard of people being tortured until they betray the confidence of an associate, a colleague or even a member of their family and we have heard of the persecution or execution that can happen as a result of this. We have heard of torture being used as a means of inducing terror and compliance towards a given authority.

For many years, we thought that such practices had been limited to areas and conflict that were removed from our Western sensitivities, practised by powers within countries who never got involved in active participation in the UN or its focus on human rights. We thought it was the tactic of the barbaric, the brutal and people who were nothing like us. The horrors in and around the world that we see every day through the media have changed that perception to an extent, as I said earlier. But nothing could have prepared us, for example, for the events we saw in places like Rwanda and the former republic of Yugoslavia. Previously the tendency of a national leader to engage in torture has always been perceived as evil—and rightly so—as the depths of human potential and even a self-evident rationale to depose that particular leader. I am sure that by far the majority of Australians are disgusted by the horrific act of torture. Whether any person tortured is an Australian citizen or a national of some other country, I would like to think that most of us here in Australia would draw the line at the practice of crushing a person's body and crushing a person's mind by inflicting intolerable pain, terror or the systematic loss of self.

Some people may argue that under particular circumstances within the context of a highly emotive hypothetical situation or within an imaginary context through which all their fears and dreads are brought to the fore such tools of persuasion as torture may be needed, that it may be the lesser of two evils and that, while it may be regrettable, it might even be necessary to avoid even greater pain and destruction. This argument receives alarming support. But when one asks, 'What then is the required level of threat that would legitimise the use of torture?', it is difficult to anticipate a coherent response. If it is that someone's interests are more important than the person subjected to the torture, it is a race to the bottom. I do not believe that torture has any positive outcomes for anyone or has any benefit to anyone.

Jane Mayer, a writer for the *New Yorker* and author of *The Dark Side*, which was released last year, refers to substantial evidence, including from the US military and the FBI, of torture being one of the least effective methods of gaining intelligence and it being more likely to induce false confessions and misinformation through the fear and pain perpetrated on the victim. It may be that the practice of torture says more about those who perpetrate the act than the conflict in which they are involved, the nature of the threat they may be responding to or the information that they seek. It may be that the practice of torture is simply an opportunity for the sadistic to be brutal to a fellow human being.

The bill also deals with the death penalty. The death penalty, also brutal, may also involve other motives. I suspect it may have an economic motive in some countries—it being cheaper to kill and bury than imprison for decades upon decades. The potential for injustice is quite apparent. The irreversibility of the act is obvious. But, apart from a desire to not want to be in a position where an innocent has been put to the sword, there is the principle as well. The principle is this: it is wrong to take the life of another. It is as simple as that. The act of taking another's life is perhaps just as low as the horrendous act that took place that precipitated it.

I am also very glad that jurisdictions throughout the Commonwealth of Australia have removed the death penalty from their list of prescribed penalties and that the community has not been increasing the volume of blood on its hands for some time now. I am very pleased to speak here today in support of this bill which will confirm and restate the principle which we have all spoken to all around the world.

Speaking on this bill, my mind goes to what was said just last year on 25 November here in this House. It was White Ribbon Day, which is held by the UN each year to oppose violence towards women. Violence perpetrated by men against women is evidence of the same disrespect for human dignity as the subjects of the bill we are debating here today. Violence, intimidation, physical and emotional abuse—no-one can justify such actions against another human being. No-one can say it is required, that it is for the greater good or that it will produce some good. No-one can say that this violence is not akin to thuggery and pointless brutality perpetrated by the strong against the weak, the armed against the defenceless or the organisation or rogue state against the individual. Brutality and the disrespect of human dignity must be opposed in all manifestations, on every level, in the name of every cause or in defence of even the very principle of which I speak. (*Time expired*)

The SPEAKER—Order! It being 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour and the member for Hindmarsh will have leave to continue speaking when the debate is resumed.