

UPDATE REPORT

Addressing a Gap: Adding Non-State Torture as a Form of Violence Inflicted against Women and Girls to the White Ribbon Campaign

Jeanne Sarson & Linda MacDonald 2012



16 DAYS OF ACTIVISM

Visit: <http://16dayscwgl.rutgers.edu/>

16 DAYS OF ACTIVISM:

- Focuses from November 25, the International Day Against Violence Against Women to December 10 which is International Human Rights Day.
- The 16 day period includes these significant dates:
 - November 25: The International Day Against Violence Against Women
 - November 29: International Women Human Rights Defender Day
 - December 1: World AIDS Day
 - December 3: International Day of Disabled Persons
 - December 6: the Anniversary of the Montreal Massacre
 - December 10: International Human Rights Day

UPDATE REPORT

Addressing a Gap: Adding Non-State Torture as a Form of Violence Inflicted against Women and Girls to the White Ribbon Campaign

Jeanne Sarson & Linda MacDonald, 2012

OUR CONTRIBUTION TO THE 2012 16 DAYS OF ACTIVISM IS THIS UPDATE REPORT ON GENDER-BASED NON-STATE TORTURE VICTIMIZATION

This year we direct our attention to all the men and boys whose efforts are to reduce and prevent gender-based violence via the WHITE RIBBON CAMPAIGN. As the largest global effort of activism by men and boys to address gender-based violence and men's roles, the White Ribbon Campaign originated in Canada in 1991 following the misogynistic murder of 14 women in what is now known as the Montreal Massacre.

In 2011 the White Ribbon Campaign Canada published the report, *Engaging Men and Boys to Reduce and Prevent Gender-Based Violence*.¹ This report was circulated globally via the 16 Days website. On the Canadian White Ribbon website it asks: What forms of violence against women concern you? It also challenges all to speak out against it and to reflect on personal beliefs, use of language, and actions. Therefore, for our 16 Days of Activism contribution we submit to the White Ribbon Campaign Canada and others this Update Report on gender-based violence, specifically as it relates to identifying the human right violation of non-state torture victimization. Non-state torture was not mentioned in the White Ribbon Campaign Canada report therefore is a gap that needs addressing. Of particular focus is naming acts of 'classic' torture perpetrated by non-state actors in the domestic or private sphere. Naming non-state torture will promote insights about what constitutes classic non-state torture victimization as well as introducing the need for non-state torture victimization to be added to socio-legal and awareness-building educational interventions. We share this information to ask men to be part of the solution, given that the authors of this Canadian report quoted Garin² as stating that one reason men do not become involved is because of their perception that they are part of the problem versus part of the solution. Thus, we repeat, we want men to be part of the solution that is why this Update Report will be forwarded to the White Ribbon Campaign.

The following information is based on our almost 20 years of supporting persons, mainly women but also a few men and transgendered persons, who Self-identified as having survived torture in the domestic or private sphere. We are contacted not only by Canadians but by persons from various industrialized countries. The non-state torture they speak of suffering occurred during their childhood, or extended from childhood into their adulthood, or occurred when they were adults. We advocate for their equality and their human right not to be subjected to torture. We work for the specific criminalization of non-state torture in Canada.³

WHAT IS CLASSIC NON-STATE TORTURE VICTIMIZATION?

The term *classic* torture has generally referred to torture perpetrated by State actors such as government police forces or the military. However, these same acts are also perpetrated by parents, other family members, spouses, guardians, like-minded others such as human traffickers, exploiters, pornographers, pedophilic rings, gangs, and those who derive their pleasures from torturing. Examples of classic torturing are listed in the sidebar (figure 1). It needs to be remembered that these acts are generally inflicted simultaneously, over a limited period of time or can be inflicted repeatedly over years of victimization.

WHO COMMITS NON-STATE TORTURE?

It can be fathers and mothers, uncles and aunts, grandparents and other family members, spouses, guardians, like-minded others such as human traffickers, exploiters, pornographers, pedophilic rings, gangs, and those who derive their pleasures from torturing. Yes, women have been identified as perpetrators however based on our professional experiences men are the dominate perpetrators. Non-state actors hold jobs in mainstream society. They can be politicians, pilots, nurses, social workers, care givers of the elderly, professors, lawyers, doctors, fishers, farmers, work in the media, be military personnel, police, clergy, nuns, therapists, psychologists; in other words, there are no social or class limitations as to who a perpetrator might be.

When the victimization is inflicted within a family system, we are repeatedly told that the perpetrators are excellent manipulators who blend into the mainstream. They may appear to be the 'perfect' community volunteer and attach themselves to good causes as a cover. Or, as stated, they can be gang affiliated, organized pedophilic rings, human traffickers, exploiters, and pornographers who manufacture 'torture porn' and snuff images.

CAN CATEGORIES OF GENDER-BASED NON-STATE TORTURE BE DEFINED?

For the longest of centuries all forms of gender-based violence were considered relational patriarchal norms or 'family business'. Jumping into the present, this patriarchal worldview is no longer excusable.

Examples of Acts of non-state classic torture:

- Electric shocking
- Beaten, burned, cut
- Immobilization tortures, i.e., tied, hung, caged,
- Water tortures, i.e., held under water in a bathtub, bucket, sink, or out-of-doors in a lake or brook
- Suffocation & choking tortures, i.e., hooded with a plastic bag over her head, being sat on, or objects placed over her face
- Sexualized tortures: Rapes, gang rapes, repetitive raping, hand/object rapes
- Reproductive tortures, i.e., forced impregnation & abortions, harms to organs
- Animal-human cruelty, i.e., bestiality, killing of pets
- Forced drugging
- Deprivations, i.e., nutritional withholding of food and drink, extremes of heat & cold, forced into dark spaces for prolonged periods of time, denied access to toileting, sleep deprived
- Psychological tortures, i.e., humiliations, degradation, animalization, terrorization, horrification, derogatory putdowns
- Forced nakedness
- Witnessing the torturing of others
- Forced to harm others
- Powerlessness

DEHUMANIZATION is the goal of torturers.

Figure 1: Classic non-state torture

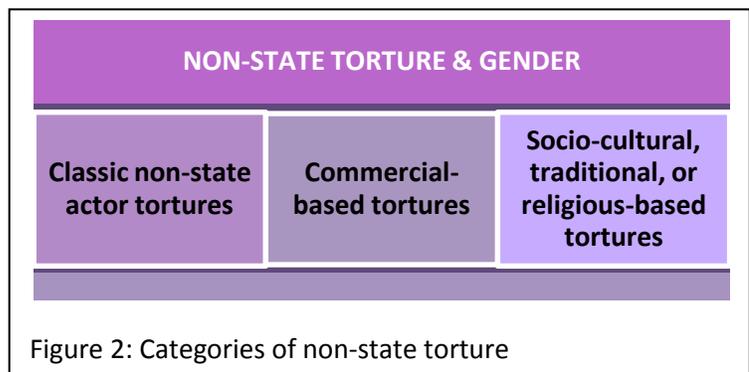
Within the human rights framework torture victimization has been applied with gender-based discrimination. It has been upheld as solely a human right of warring men for example who needed protection from such atrocities. This patriarchal perspective operationalized how the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) was enacted by States parties. In Canada, for instance, section 269.1 of the *Criminal Code of Canada* only criminalizes torture that is perpetrated by State actors.⁴ Even though the *Universal Declaration of Human Rights*, Article 5 stated that no one shall be subjected to torture and that the rights listed in the Declaration applied equally to women and men.

In recent years this gender-based discrimination has been gradually challenged. The Committee against Torture *General Comment No. 2: Implementation of Article 2 by States Parties* provides the foundation for addressing States due diligence responsibilities “to take actions that will reinforce the prohibition against torture through legislative, administrative, judicial, or other actions that must, in the end, be effective in preventing it” (para. 2) whether perpetrated by State or non-state actors.⁵

Additionally, paragraph 18 makes it,

clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State’s indifference or inaction provides a form of encouragement and/or de facto permission. The Committee has applied this principle to States parties’ failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking.

Thus categories of gender-based tortures are emerging.⁶ Figure 2 presents three categories. Classic torture has previously been discussed. Human trafficking and exploitation are forms of commercial-based tortures and includes forced involvement of victimized persons in torture porn and snuff. As well, there is a demand for pedophilic torture images. Children, particularly the girl child, suffer commercialized sexualized trafficking.



Rebecca's 'prostituted' ordeals:

Severely and repeatedly beaten

Severely and repeatedly kicked

Fingers, toes and limbs twisted

Sat on making breathing difficult

Forcibly impregnated

Raped by one person

Raped by family/group

Raped with a weapon (gun/knife) or other objects

Near drowned when held under water in a tub, toilet, bucket/stream

Chocked

Suffocated by object placed over one's face

Porn pictures taken

Porn/snuff films made/used

Forced to watch others being harmed

Threatened to be killed

Called derogatory names

Put down as a non-human

Having my whole body having sperm put all over it

Being told to not move as being violently raped

Having to stand against a wall, with legs together, and anally raped

And lots more that my mind cannot cope with remembering

Figure 3: How can it not be called torture?

The perpetration of FGM,⁷ and widow and acid burning,⁸ are acts that have been declared torture by Special Rapporteurs against Torture. These forms of torture have been for centuries absorbed into a socio-cultural context, considered traditions, or had religious applications applied to justify the atrocities women and girls suffer.

UNDERSTANDING THE DEMAND SIDE OF EXPLOITATIVE VIOLENCE

The White Ribbon Campaign Canada report included a brief section on the 'demand' of "trafficking, prostitution and the consumption of pornography." This paragraph made reference to men's "reasons for purchasing and consuming sex" (p. 16). It needs to be remembered that boys and are exposed to and do consume the attitudes that pornographic images discharge, therefore the impact on children needs attention.

Four missing points:

1. *Forgetting the children.* This statement of "purchasing and consuming sex" in the White Ribbon Campaign did not address the reality of children, particularly gender-based violence directed against the girl child. When the demand side involves children this is never sex it is always a criminal act. The results of the Canadian Centre for Child Protection Survey of 4, 110 internet images showed torture victimization being inflicted against children (2.7%).⁹ Children also suffered degradation, bestiality, being urinated and defecated on, had weapons used against them, and were forced to inflict sexualized harms against each other. There were also necrophilic images. Of the 4, 110 images viewed girls were the predominate victims (83%). Most images were of children under eight years of age. Infants were also victimized. Special units of the RCMP have reported that 20% of the pedophilic images viewed involve torture.¹⁰ There is a demand side for the victimization of children, including non-state torture, which must always be addressed in discourses with goals of reducing and preventing gender-based violence.

2. *Torture is not sex.* Figure 3 shares the voiced ordeals of one woman who describes the torture she endured when "prostituted".¹¹ Harms that began when she was a child. If men are to challenge men's discriminatory attitudes and behaviours that contribute to such gender-based violence there must be honest discourse as to what

violence means and how patriarchy has sexualized and commercialized the torture victimization of girls and women.

3. *Impunity and pleasure.* The absence of a definite law that criminalizes non-state torture contributes to its ongoingness. There is a need to comprehend that the infliction of severe physical and mental torture pain is intentional and purposeful. For those who seek domination, dehumanization, and destructive brutalization of another human being there is also misogynistic pleasure. These realities need to be spoken of if we are to truly and deeply confront how to eliminate all forms of violence against women and girls.
4. *Torture is a specific and distinct criminal human rights violation.* Torture victimization is not abuse nor is it an assault—it is torture. It must not be minimized, trivialized, or invisibilized and misnamed as another crime as presently occurs in many countries including Canada. When there is no specific law on non-state torture this crime can be deemed not to exist, no data is then available, and reparation specifically attuned to the impact of non-state torture victimization is not available and will not develop.

CLASSIC NON-STATE TORTURE: IS IT A WORLDWIDE FORM OF UNNAMED GENDER-BASED VIOLENCE?

Our contacts have been with persons from industrialized countries, besides Canada, these have included New Zealand, Australia, Israel, the United Kingdom and other Western European countries, and the United States. Reading the media and other reports clearly discloses that women around the world can and do suffer non-state torture victimization. Nour Miyati, an Indonesian domestic worker was allegedly tied up for months, gangrene set in and she required several fingers and toes to be amputated, and food was withheld from her as she suffered other injuries.¹² Kusuma, working as a maid in Saudi Arabia, speaks of how her injuries included being beaten with iron bars and wooden sticks and burnt with a hot iron or a heated knife; and Soma, another worker, was repeatedly raped and gang raped by her employers son and his friends (the women's names are pseudonyms).¹³ Fifteen year old Sahar Gul of Kabul, made the news in 2011 when it was discovered she had been kept locked in the basement toilet for six months, beaten and bruised, had her fingernails pulled off, her fingers broken, her hair pulled out, burnt with a hot iron, and for instance, electric shocked all in an effort to be forced into prostitution by her husband and his mother.¹⁴ Clearly for White Ribbon Campaigns around the globe, gender-based non-state torture victimization is a reality that requires specific acknowledgement and addressing educationally and in a socio-legal context.

WHAT CAN BE DONE?

1. Include non-state torture victimization in educational and awareness-building interventions. When presenting Linda and I first offer those attending to consider completing the *Questionnaire: What are your thoughts?*¹⁵ This provides room for people to think about what they believe constitutes abuse or torture, to re-consider their beliefs and attitudes, and opens

the discourse for including non-state torture as a form of violence that is inflicted against women and girls.

2. Introduce the emerging concepts of various categories of non-state torture victimization in educational sessions.¹⁶ It makes people think globally about how acts of gender-based torture are manifested.
3. The Canadian Federation of University Women (CFUW), a non-governmental organization with the mandate to work to improve the status of women and girls, adopted into policy in 2011, the need for the criminalization of non-state torture in Canada.¹⁷ They followed this with a shadow report submitted to the Committee against Torture in Geneva.¹⁸ A breakthrough was achieved. The Committee's Concluding Observations given to Canada stated:¹⁹
 - a. There is an obligation by States parties to implement the Convention against Torture in full at the domestic level (para. 4).
 - b. That all provisions of the Convention need to be incorporated into the domestic legal order or domestic law, as this would not only be of a symbolic nature but would strengthen the protection of persons by allowing them to invoke the provisions of the Convention directly before the courts, to give prominence to the Convention, as well as to raise awareness of its provisions among members of the judiciary and the public at large (para. 8).
 - c. The State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in acts of torture or ill-treatment committed by non-State officials or private actors. The State party should strengthen its efforts to exercise due diligence to intervene to stop acts of torture or ill-treatment committed by non-State officials or private actors, and provide remedies to victims (para. 20).
 - d. In reference to data collection the State party should compile statistical data relevant to the monitoring of the implementation of the Convention obligations at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, ... [involving] domestic and sexual violence as well as on means of redress, including compensation and rehabilitation, provided to the victims (para. 23).

The Committee's Concluding Observations can be applied to all States parties that have ratified the CAT. Civil society, the White Ribbon Campaign, and NGO groups can evaluate country laws to see whether torture by non-state actors is included in national laws. If no law exists groups can advocate for its creation at a national and at an international United Nations level. For example, the White Ribbon Campaign Canada is a member of the UN Women Global Civil Society Advisory Group with responsibilities to advocate, as Michelle Bachelet states, "on gender equality and women's empowerment."²⁰ This would include addressing all forms of gender-based violence as well as women's right to legal justice and equality before the law.

Women and girls need to have equal right to invoke the provisions of the CAT directly before the courts when they have suffered torture by non-state actors.

4. Attend to how the media speaks and writes about sexualized violence against children. Media articles do use statements such as, “Mr. X arrested for sex crimes against a child”. Pedophilic violence is never about sex, it is always a crime such as an assault or torture. Calling pedophilic-based crimes sex lends supports to perpetrators who call what they do sex. Additionally, when children are old enough to read newspapers or pay attention to TV reports hearing statements such as ‘sex with children’ sends a very wrong message to them. Contact the reporter who writes such words and ask them not to call pedophilic crimes sex. When contacting one reporter he responded that he had never thought about these connections before and would change his wording.
5. Contact government representatives urging them to socio-legally address all forms of gender-based violence that are manifestations of torture by non-state actors. We plan to send this Update Report to the Status of Women and to the Public Health Agency of Canada as they were the sponsors for the White Ribbon Campaign Canada report, *Engaging Men and Boys to Reduce and Prevent Gender-Based Violence*.
6. Promote the United Nations *Declaration on Human Rights Education and Training*,²¹ including the dissemination of this Declaration and the *Universal Declaration of Human Rights* (UDHR). In the past two years we have disseminated over a 1000 UDHR to university student classes and to others. Article 5 of the UDHR states no one shall be subjected to torture—no one means women as well as men—it means girls as well as boys. Let’s make this a reality!
7. Access resources for 16 Days of Activism: <http://16dayscswgl.rutgers.edu/2012-campaign/2012-take-action-kit> and <http://16dayscswgl.rutgers.edu/campaign-calendar/submit-your-2012-16-days-events>

Endnotes

¹ Minerson, T.H., H. Carolo, Dinner, T., & Jones, C. (2011, April). Issue Brief: *Engaging men and boys to reduce and prevent gender-based violence*. Status of Women Canada.

² Garin, G.D. (2000). “*Report NO. #5702c*.” Washington, DC: Peter D. Hart Research Associates, Inc.

³ Sarson, J. & MacDonald, L. (2009, Winter). Defining torture by non-state actors in the Canadian private sphere. *First Light*, 29-33.

⁴ Department of Justice Canada. (2012). *Criminal Code of Canada* (Torture, section 269.1). Ottawa: Government of Canada. Available <http://laws-lois.justice.gc.ca/eng/acts/C-46/index.html>

⁵ UN doc. CAT/C/GC/2

⁶ Sarson, J. & MacDonald, L. (2011). *Non-state torture—Specifically sexualized non-state torture—Inflicted in the private/domestic sphere against girls/women: An emerging “harmful practice”*. Expert paper presented to the United Nations Joint CEDAW-CRC Committee General Recommendation/Comment on Harmful Practices. Available http://www2.ohchr.org/english/bodies/cedaw/docs/cedaw_crc_contributions/JeanneSarson-LindaMacDonald.pdf

-
- ⁷ Méndez, J. E. (2011, June 1). *Female genital mutilation: Progress-realities-challenges*. Side event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women- Geneva. Available http://www.wunrn.com/news/2011/06_11/06_06/060611_un.htm
- ⁸ Nowak, M. (2010, September 15). *Acid burning attacks-victimization, survivors, support*. Side event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women- Geneva. Available <http://www.violenceisnotourculture.org/resources/%E2%80%9Cstrengthening-protection-women-torture-and-ill-treatment%E2%80%9D-statement-manfred-nowak>
- ⁹ Canadian Centre for Child Protection. (2009, November). *Child sexual abuse images An analysis of websites by cybertip!ca*. Available http://www.cybertip.ca/pdfs/Cybertip_researchreport.pdf
- ¹⁰ Caswell, J., Keller, W., & Murphy, S. (Producers). (2006, July 26). Supervisor of RCMP child exploitation unit, Ottawa, Earla-Kim McColl speaking about child pornography [Television broadcast]. Atlantic Canada: CTV News.
- ¹¹ Mott, R. (2012, November 10). *How can it not be called torture?* Blog. Available <http://rmott62.wordpress.com/2012/11/10/how-can-it-not-be-called-torture/>
- ¹² BBC News. (2008, May 22). Saudi maid verdict 'outrageous'. Available http://news.bbc.co.uk/2/hi/middle_east/7415290.stm
- ¹³ Harrison, F. (2003, November 24). Work is torture for Sri Lanka maids. BBC NEWS. Available http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/3204297.stm
- ¹⁴ Associated Press. (2012, January 4). Child bride's torture shocks Afghans, shows women's rights shortfall 10 years after Taliban. Available http://www.washingtonpost.com/world/asia-pacific/some-find-hope-in-afghan-outcry-over-severe-abuse-of-15-year-old-bride/2012/01/04/gIQA68ZwaP_story.html
- ¹⁵ Sarson, J. & MacDonald, L. (n.d.). *Questionnaire: What are your thoughts?* Available <http://nonstatetorture.org/files/3413/0671/4846/QUESTIONNAIREtorturegeneral.pdf>
- ¹⁶ Sarson, J. & MacDonald, L. (2011, April 8). *Sexualized torture in the domestic/private sphere and body talk: A human rights and relational feminist paradigm*. Paper presented at the Sexual Violence Conference, September 8th, 2011, Middlesex University, London, UK.
- ¹⁷ Canadian Federation of University Women (CFUW). (2011). Criminalization of non-state actor torture. *Policy Book*, p 167. Available http://www.cfuw.org/Portals/0/Advocacy/Policy%20Book%202011_Links.pdf
- ¹⁸ CFUW. (2012, April 8). *A shadow report: Canada fails to establish non-state actor torture as a specific and distinct criminal human rights violation*. Available http://www2.ohchr.org/english/bodies/cat/docs/ngos/CFUW_Canada_CAT48.pdf
- ¹⁹ UN doc. CAT/C/CAN/CO/6.
- ²⁰ UN Women Press Release. (2012, May 17). *UN Women announces members of Global Civil Society Advisory Group*. Available <http://www.unwomen.org/2012/05/un-women-announces-members-of-global-civil-society-advisory-group/>
- ²¹ UN doc. A/C.3/66/L.65