



Canadian Federation of University Women  
Fédération Canadienne des Femmes Diplômées des Universités

331 Cooper Street, Suite 502, Ottawa, Ontario, K2P 0G5

Tel: 613 234 8252; Fax: 613 234 8221

[www.cfuw.org](http://www.cfuw.org)

August 14, 2012

Liane Venasse,  
Manager, Human Rights Program,  
Department of Canadian Heritage  
[liane.venasse@pch.gc.ca](mailto:liane.venasse@pch.gc.ca)

**Re: Submission to the Government of Canada UPR Process**

Dear Ms. Venasse:

Please accept the attached document as submission to the Universal Periodic Review from the Canadian Federation of University Women (CFUW).

We ask that our submission on non-state actor torture (NSAT) be considered under the issue of violence against women and girls. CFUW believes that Canada must exercise due diligence by initiating into Canadian policies, practices and all appropriate measures to ensure that no person is subjected to torture by non-state actors or private individuals, as per the recommendations in the report of the Committee against Torture and its Concluding Observations to Canada. In doing so, Canada must respect the priority of gender-sensitive frameworks on the United Nations agendas, given that women and girls are disproportionately affected by extreme forms of violence such as NSAT. CFUW's recommendations include both amending the Criminal Code of Canada to specifically criminalize torture committed by private or non-state actors and taking broader steps to address violence against women and girls, such as conducting research into the incidence, causes, nature and effects violence against women and girls, with particular attention to NSAT, while also providing supports to address the social conditions that led to such violence.

We further make the formal request that CFUW be included in Canadian Heritage's non-government organization list for consultation in the Universal Periodic Review. Please include Robin Jackson, Executive Director, [executivedirector@cfuw.org](mailto:executivedirector@cfuw.org) or 613-234-8252 e.102, as the organizational contact.

CFUW is a non-partisan, voluntary, self-funded organization of close to 9,000 women university graduates, students and Associate Members in 110 Clubs across Canada that works to improve the status of women and human rights, education, social justice, and peace. CFUW holds special consultative status with the United Nations (ECOSOC) and belongs to the Education committee of the Canadian Sub-Commission to UNESCO. CFUW is the largest of the 61 affiliates of the International Federation of University Women (IFUW).

Sincerely,

National President

CFUW submits the following recommendations:

1. That NON-STATE ACTOR TORTURE is added to the Government of Canada's UPR Report under the issue of violence against women/girls, and
2. That the Government of Canada within the next twelve months makes an amending Act to the *Criminal Code of Canada* to specifically criminalize torture committed by private or non-state actors.

These recommendations are based on the UPR process of upholding:

1. The UN Charter which identifies the fundamental human rights of dignity, worth and equality of women and men, and
2. The *Universal Declaration of Human Rights* article 5 that states no one shall be subjected to torture.

References and the rationale that support these recommendations are as follows:

### ***Specific UN References***

1. The *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT),
2. The May-June 2012 report of the Committee against Torture and its Concluding Observations to Canada, supporting that Canada criminalize non-state actor torture. The Committee stated that:
  - a. Canada has the obligation to implement and incorporate the CAT in full in the domestic law,
  - b. Canada bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the CAT for consenting to or acquiescing in acts of torture or ill-treatment committed by non-State officials or private actors (p. 6),
  - c. Canada should strengthen its efforts to exercise due diligence to intervene to stop acts of torture committed by non-State officials or private actors, (p. 7), and
  - d. That the Committee regrets that Canada has not incorporated all provisions of the CAT into domestic law and that the provisions of the CAT cannot be argued independently as the basis for a legal claim in courts other than through domestic legal instruments. The Committee considers that incorporating the CAT into Canadian law would not only be of a symbolic nature but that it would also strengthen the protection of persons so tortured by allowing them to invoke the provisions of the CAT directly before the courts as well as give prominence to the CAT by raising awareness of its provisions among members of the judiciary and the public at large (p. 2).
3. Committee against Torture *General Comment No. 2 Implementation of article 2 by States parties* (CAT/C/GC/2), with particular attention paid to paragraph 18. This paragraph makes it clear that when States know non-state torture is occurring, which Canada has already acknowledged,<sup>1</sup> Canada becomes complicit in its continuation. Legislative action must be taken to prevent its occurrence by incorporating all provisions of the CAT into domestic law.

---

<sup>1</sup> CEDAW/C/SR.855 (A), para. 46.

**Other Human Rights Treaties Canada that Apply**

The following human rights instruments all stipulate that no one shall be subjected to torture:

1. General Recommendation 19, 7(b), Violence against women (11<sup>th</sup> session), of the Committee on the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW),
2. The *International Covenant on Civil and Political Rights* (ICCPR) article 7, and
3. The *Declaration on the Elimination of Violence against Women*, article 3(h).

**CFUW References**

1. *A Shadow Report: Canada Fails to Establish Non-State Actor Torture as a Specific and Distinct Criminal Human Rights Violation*, submitted to the Committee against Torture by CFUW. Available at [http://www2.ohchr.org/english/bodies/cat/docs/ngos/CFUW\\_Canada\\_CAT48.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/CFUW_Canada_CAT48.pdf)
2. Canadian Federation of University Women (2011). Criminalization of non-state actor torture (p. 167). *The Policy Book 1964 – 2011*. Available at [http://www.cfuw.org/Portals/0/Advocacy/Policy%20Book%202011\\_Links.pdf](http://www.cfuw.org/Portals/0/Advocacy/Policy%20Book%202011_Links.pdf)

**Expertise**

This submission is based on the Office of the United Nations High Commissioner UPR process which states that written submissions should include first-hand information. Jeanne Sarson and Linda MacDonald have spent almost 20 years providing support to mainly women who report having endured non-state torture victimization that occurred in infancy or in early childhood, and for many women continued into their adulthood, or that occurred in adulthood such as when surviving spousal non-state actor torture victimization. Jeanne and Linda are internationally published authors. They bring this first-hand expertise with them as members of the CFUW/FCFDU working for the human rights of women and girls.

This submission was prepared by Jeanne Sarson and Linda MacDonald as members of CFUW's International Relations Committee.