

PAPER

**SPILOVER TORTURE FROM THE MILITARY/WARRING SPHERE
INTO THE PRIVATE SPHERE: MAKING VISIBLE A SILENCED HUMAN
RIGHTS VIOLATION AND VICTIMIZED PERSONS' 'BODY TALK'**

By

Jeanne Sarson and Linda MacDonald, June 2, 2011©

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Contact Information:

Email: twin2@eastlink.ca or flight@ns.sympatico.ca

Phone: 1-902-895-2255

Website: www.nonstatetorture.org

SPILLOVER TORTURE FROM THE MILITARY/WARRING SPHERE INTO THE PRIVATE SPHERE: MAKING VISIBLE A SILENCED HUMAN RIGHTS VIOLATION AND VICTIMIZED PERSONS' 'BODY TALK'

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Introduction

Spillover violence, particularly sexualized atrocities, has occurred historically during conflict and pre- and post-conflict. Spilling over onto as many as 200,000 girls and women, so-called 'comfort women', imprisoned in the rape camps 'justified' as necessary for meeting the so-called sexual needs of the armed forces of Japan, from the 1930s until after WWII (Amnesty International, 2008). Mass individual and gang rapes spilled over onto an estimated 100,000 women and girls with the fall of Berlin, (Enzensberger, 2000) delivering a social message that such raping was normalized post-conflict behavior. Massive raping was repeated, spilling over onto women and girls as a weapon of war, during the conflict of Bosnia and Herzegovina, as revealed by Bosnian women when they began breaking their silence in 1992 (Mischkowski & Mlinarevic, 2009).

In the 90s, NGOs and the Women's Caucus for Gender Justice pushed back at such spillover 'norms', determined to have sexualized violence recognized as a crime and calling for gender justice to be part of universal justice (Copelon, 2000). This norm of raping women and girls in the so-called public sphere – in the conflict and pre- and post-conflict sphere – has become visibilized and recognized as genocide, crimes against humanity and torture. It is the specific reality of child torture that we address in this paper. Children suffer torture during conflict and in peacetime, torture inflicted by State actors such as police personnel (Quiroga, 2009). However, the torture of children we discuss is pedophilic torture and we raise the issues (a) of the potential that warring ordeals or military experiences can give rise to the infliction of spillover pedophilic torture in the private sphere, (b) that girls predominately suffer pedophilic non-state torture (NST), and (c) that it is essential to recognize NST as a specific and distinct criminal offence and a human right violation of torture.

Spillover into the private sphere of pedophilic torture against girls by perpetrators with warring or military experiences

For us, raising this question began to emerge 18 years ago, when faced with the reality that pedophilic torture victimization was occurring in the ‘so-called’ private or domestic sphere perpetrated by non-state actors, some who had military or warring experiences. Some of these torturers were also parents and extended inter-generational family members who were connected to like-minded others. For some women, so tortured as girls, they believed the horrors of war were contributing factors that led to the pedophilic torture they suffered in childhood.

For instance, Hope remembers when she was a girl her grandfather speaking about her father and stating that “he had lost his son to the war”. Hope described that her father had been a Canadian soldier responsible for picking up the fragmented remains of dead soldiers’ bodies off the battlefields of WWII, as well as recovering the wounded. She believed these horrific ordeals contributed to her father’s infliction of all forms of non-state pedophilic torture against her. The sexualized tortures she suffered included being “trained” to endure oral rape without gagging. She believed that she was an infant when the oral raping began because, as she grew older, not only was she exposed to the oral raping of other infants, she spoke of an awareness of having sensory memories of being orally raped when she was preverbal. As well, she stated her father “sold” her and forced her into adult-pedophilic ‘pornography’. Sexualized torturing ordeals included physical and psychological tortures such as being hung in a cage with a rope around her neck, being dehumanized and animalized when forced on all fours and fed like a dog, and being degraded when forced to drink urine (Sarson & MacDonald, 2009).

‘E’, from England, states that her mother was harmed as a child during WWII. She believes this contributed to her mother’s pedophilic NST of her (Sarson & MacDonald, 2009). She also speaks of how both parents trafficked her for pedophilic pornography; as well, they participated in organized pedophilic groups who tortured her from the time she was a very young infant. Included in this group of pedophilic torturers were family and non-family military perpetrators.

Military veterans, both male and female, composed the group that Kelly described as her torturers. Her suffering started when she had been placed in a Sunday night to Friday paid-for-care home beginning when she was approximately eighteen months old and lasting until the age of seven. Taken out of care at age seven, she was returned to the home twice when she was approximately 10 or 11. Kelly described the pedophilic torture she suffered began with fondling, progressed to being raped in every orifice of her body, being pied on, forced to eat excrement, being locked in a root cellar, electric shocked with cattle prods, burnt with candles, had a hot metal rod inserted into her

vagina and being chronically drugged. Degradations never stopped. Kelly speaks of being trafficked for the making of pedophilic-adult pornography and described how she was forced into a pretend “marriage ritual” (Sarson & MacDonald, 2009). Such pedophilic torture involving ritual drama is a common theme of testimonies we hear; as well, media has written of pedophilic torture and a ‘marriage’ ritual drama (Appleby, 2006).

And Sara grew up in a family system that involved all forms of NST. She speaks of how her brother and two other soldiers – one male, one female – tortured her, ripping her vagina apart, then sewing her vagina up with black thread because this was a skill they had been taught to do in the military – “to patch a person up” (Sarson & MacDonald, 2009). This theme of doing at home what one was taught to do in the military was also spoken of by a Western European woman. Her military father, as a tactic of his torture routine, would pseudo-drown her into unconsciousness in the bathtub then resuscitate her to achieve his ‘fix’ of having control over life and death. She wrote that his military expertise included resuscitation training.

POWERPOINT IMAGE: Military (Army) pedophilic torture and men with rifles – A drawing shared by a woman from Western Europe, May 2011.



Just as State torturers turn normal everyday objects or equipment into torture tools, (Forrest, 1996) so to do non-state torturers. The tools for torturing that are available to non-state torturers in the home are unlimited. One woman shares her collage of 128 torture tools that were used against her. These tools are not unique to her victimization. We hear similar disclosures from women in the industrialized countries of Australia, New Zealand, Western Europe, the United States and, of course, Canada.

Two described examples of how these homemade furnishings were transformed into homemade torture tools are:

1. *The radiator* which was used for the infliction of immobilization, sexualized, psychological and relational tortures is

Figure 1: Homemade torture tools; shared with consent of “E”, November 9, 2010.

described:

I was forced naked, restrained with chains or tied with rope to the cold radiator for many hours, then suddenly violently beaten with a bat, electric shocked with a metal rod and raped. Knives, plastic toys, cutlery, and other implements were forced in my vagina, anus and mouth. I was smeared with food, pee, poop or blood and was shouted at for many hours. These tortures were inflicted on me regularly from when I was a very very little girl until I was twenty.

2. *The banister railings* became implements useful for the perpetration of water torture and sexualized torture as described:

I was forced to lie on the parquet floor with my arms up above my head...my wrists were tied with rope to the stair rails. My uncle [a soldier] raped me and suddenly threw water from a bucket over my face...even today I can still feel the pain from the water in my chest, head and throat and not being able [to] breathe...I was five years old.

POWERPOINT IMAGE: Military pedophilic torture and the “bad stick” – A photo shared by a woman from Western Europe, January 2011.

The results of a 2009, 10 question web survey on NST that involved pedophilic ritualisms, such as Kelly described, and involved family/groups with military perpetrators are listed in the accompanying text box (figure 2). Interestingly, information related to human trafficking and the military indicates that girls and women are predominate victims and where there are military bases there in an increase in human trafficking (Talleyrand, 2000).

Is there other supporting evidence that pedophilic NST occurs and girls are the predominate victims?

We speak now from a Canadian perspective. Canada has been invisibilizing NST inflicted in the private sphere for over a decade. The Canadian government was informed that NST was occurring in Canada by the Canadian Panel on Violence

Web survey, pedophilic NST, ritualisms & military connections

- 90% (142 out of 157) of survey respondents were female
- 62% (96 out of 155) indicated their victimization occurred between 1946-1975
- 37% (57 out of the 155) stated victimization was after 1976 into the present
- 62% (96 out of 155) indicated perpetrators were military members, veterans, or civilian military employees
- 77% (120 out of 155) indicated perpetrators were male & female officers & other ranks
- 63% (97 out of 154) were trafficked, within their own country, or into one or more other countries.

(Sarson & MacDonald, 2009)

Figure 2: Web survey

Against Women in 1993 (a, b). But a patriarchal divide (figure 3) has existed in the application of Canadian law, whereby, acts of torture committed in the private/domestic sphere that are the same or similar to acts of torture inflicted by State actors in the public sphere have been and are misnamed and trivialized as another form of crime (Sarson & MacDonald, 2009). Misnamed as an aggravated assault or bodily injury for example; misnamed as another crime means no data is collected therefore the crime of NST is perceived not to exist.

Acts accepted as torture when inflicted by State Actors in the Public Sphere		Similar Acts inflicted by Non-State Actors in The Private Sphere not accepted as torture
<ul style="list-style-type: none"> • Electric shocking • Beaten, burned, cut • Immobilization tortures, tied, hung, caged • Water tortures • Suffocation/choking tortures • Sexualized tortures: Rapes, gang rapes, repetitive raping, hand/object rapes • Forced drugging • Nutritional deprivation • Psychological tortures: Humiliation, degradation, dehumanization, animalization, terrorization, horrification • Forced nakedness • Sleep deprivation • Witnessing torture others • Powerlessness 	P A T R I A R C H A L D I V I D E	<ul style="list-style-type: none"> • Electric shocking • Beaten, burned, cut • Immobilization tortures, tied, hung, caged • Water tortures • Suffocation/choking tortures • Sexualized tortures: Rapes, gang rapes, repetitive raping, hand/object rapes • Forced drugging • Nutritional deprivation • Psychological tortures: Humiliation, degradation, dehumanization, animalization, terrorization, horrification • Forced nakedness • Sleep deprivation • Witnessing torture others • Powerlessness

Figure 3: Patriarchal divide

Submitting its Final Report, the Canadian Panel identified torture as one form of relational violence women, from all regions of Canada, were being subjected to. So horrific were some of the stories that Patricia Freeman Marshall, Co-chair of the Panel, spoke of hearing about levels of victimization that included “years of terrorism in relationships” and degrees of torture that her only point of reference was to “torture in a prisoner of war camp” (Cox, 1992). When the Panel reported the existence of the torture of women within Canadian relationships, this disclosure also revealed that, within the socio-cultural fibre of Canada, pedophilic non-state torture occurred because some of the women spoke of being tortured when extremely young.

In addition to the above information, the Canadian Heritage, Human Rights Program, that prepares country reports for presentation to the Committee on the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), received a shadow report detailing the testimonials of Canadian women who reported a history of

pedophilic NST (Sarson & MacDonald, 2008). Subsequently, one young woman submitted a communication identifying a form of pedophilic NST victimization to the Special Rapporteur on violence against women, its causes and consequences (Ertürk, 2009). Therefore, the Canadian government has been well informed of the existence of pedophilic NST victimization that has/is occurring within Canada.

Tragically, the revelations of pedophilic NST in these above reports are today being further validated by the evidence gathered by special police units and researchers working with internet pedophilic pornographic crime. Najat M'jid Maalla, the UN Special Rapporteur on the sale of children, child prostitution and child pornography referenced reports that stated an Australian Federal Police study found 21 percent of pedophilic pornography included rape, bondage and torture; an American study revealed violence, torture and bondage present in 26 percent of the pedophilic pornography images (2009). Humiliation and degradation, urination and excrement and bestiality were present. In Canada, the Royal Canadian Mounted Police Child Exploitation Unit stated 20 percent of pedophilic images viewed involved torture and bondage (Caswell, Keller, & Murphy, 2006).

In addition, media reports reveal that the manufacturing of pedophilic sexualized violence images occurs in Canada and some is interfamilial and homemade. One Canadian report that assessed 4,110 pedophilic images taken from 15,662 websites hosting child pornography showed (Canadian Centre for Child Protection, 2009):

- 111 (2.7%) children suffered bestiality, bondage, and torture (the women referred to in this paper generally speak of having endured years of such repetitive tortures during their childhood)
- Some children were forced to inflict sexualized harms against each other (this is also a common theme that the women victimized by NST speak of suffering)
- Necrophilic images (women inform us they were consistently drugged; their ordeals also involved pseudo-necrophilia raping as well as necrophilic themes of horror involving the killing of and the use of dead animals during their ordeals of torture victimization)
- Children with demeaning words written on their bodies (some women express that this occurred to them; this is a form of objectification)
- Children degraded, defecated and urinated on (women constantly disclose these dehumanizing ordeals)
- Weapons being used (in physical torture weapons are used to inflict pain but also to terrorize, dominate and control; the women also speak of being raped or forcedly aborted with weapons)
- These violent assaults were mostly inflicted on children under 8 years old

- Girls were in 83% of the pedophilic images
- Where known, 9.8% of the violent images involved newborns and toddlers and these images were becoming increasingly prevalent, (again, women speak of having very young memories and of being witness to the NST of infants)

POWERPOINT IMAGE: Non-public photo shared by a woman from Western Europe.

Broadening the geographic perspective, the evidence from the Canadian Centre for Child Protection is important. It replicates the pedophilic NST women speak of enduring, that was inflicted by torturers some of whom were veterans, others who were active military members or as “E” mentioned, her mother had been harmed when growing up in WWII. All these perpetrators functioned within the context of organized like-minded violent family/groups. According to the women so victimized, parent(s), other family members, caregivers and like-minded others were not only torturers, they also trafficked them to pedophilic pornographers. “E”, for example, remembers her mother taking her to a studio where pedophilic pornographic images were manufactured. These same exploitative harms were specifically spoken of by Kelly, Sara and, as already mentioned by Hope, as well as by other women from the industrialized countries previously identified. Reflecting back to the web survey mentioned earlier, 82% (126 of 155) of the respondents indicated that guns, knives, and pornography including ‘snuff’ – meaning sexualized torture-killing images – were some of the most frequently used physical and psychological tools of the perpetrators.

It has taken years for many women to disclose they suffered pedophilic NST. It is not for want of trying. Over and over we listen to how they, as children, tried to run away from home, even as preschoolers, only to be returned home, or how they tried to tell but their voices were rejected and disbelieved by social systems. Or, they re-enacted their victimization and horrification in school. For example, some women, as girls, were so horrified they became suddenly “mute” or began stuttering. Other women said they were sent to school after being orally raped and when they vomited in class they believe teachers could smell the semen that they had been forced to swallow, yet no action was taken to protect them as children. In Canada, the reality of pedophilic NST was/is socio-legally negated by a legal existing provisions perspective that does not identify NST victimization as a specific crime, therefore, it remains invisibilized, regardless of whether the perpetrators are military personnel, veterans, or not.

What we can or cannot say based of women’s testimonials:

1. **We can say:** Some military personnel came from family systems that engaged in inter-generational NST victimization and have re-perpetrated pedophilic NST.

2. **We can say:** Some pedophilic NST spillover victimization has been inflicted by military personnel, by veterans and others who experienced the horrors of war; girls appear to be the predominate victims.
3. **We can say:** Some military personnel, veterans, and others with connections to warring or the military have engaged in pedophilic torture, human trafficking, and pedophilic pornography that were reported to have included “snuff” images.
4. **We cannot say:** that military personnel are more or less likely to perpetrate spillover pedophilic NST – all we can say is that it has happened in the past and can be happening today.

Body Talk: Flashbacks and Re-Remembering – From Destruction to Re-connection to/with/for Self

Pedophilic non-state torturers/families/groups do what they do:

1. For the pleasure of seeing the child they torture destroyed and suffering
2. To exert domination and power and control over the tortured child/adult
3. For financial gains earned via pedophilic human trafficking and exploitation
4. To gain prestige and a sense of positional power among like-minded others
5. For validation of their behaviors, group-think with like-minded companionship and group bonding

Our paper is focused on pedophilic NST. However, this specific category of perpetrators generally do not stop their victimization – they harass, stalk, hunt and assault as long as they can get access to the women they victimized as girls. The perpetrators focus begins with pedophilic sexualized torture but it does not end because a girl grows into a woman. This is one reason it takes so long for women to find a way to be safe, before they can tell, even then, they are seldom believed or the crimes committed against them are misunderstood. Seldom do they receive the informed protection, safety and security, or supportive holistic care required.

We have come to realize there appears to be no limits to the torture brutalities the individual/family/group can conceive and perpetrate. Powerlessness and destruction of the victim is what they seek – so they assess – they watch for the dissociative responses – they watch for the terror to appear in the eyes of the child – with dissociative responses they hope the child will ‘forget’. Torture-pain to force dissociative responses is compounded when chemical drugging cocktails are added. Drugging is a common tactic. It is our experience that if given respect, if treated with humanity and dignity, those so victimized and traumatized will re-remember. It is very painful work – “double torture” as one woman called re-remembering and moving through the flashbacks that are accompanied by cellular torture-pain memories. It is painful work

coping with the cellular “body talk” memories as shown in the following examples (Figure 4).

BODY TALK

Category of NST	Flashback & re-remembering	Release of cellular memory
Sexualized tortures		
1. vaginal electric shocking	1. seeing the cattle prods being inserted into her vagina; seeing penises – “rods” – coming at her – “monsters”	1. vaginal electric shocking sensations, pain along her lower spine, urinary incontinence; terror
2. vaginal rape	2. seeing an erect penis coming at her, seeing the gun, knife, objects such as a burning stick or hot light bulb coming at her	2. pain, tearing, burning, bleeding, cutting sensations; bladder infection symptoms that mimic bladder inflections of long ago; emotional terror
3. oral rape	3. seeing perps coming at her, seeing her-Self being surrounded by multi-perps, hearing their groans, their voices, their words, their penises	3. sore mouth/throat; bad taste in mouth; at times actual swollen soft facial tissue, other times it is sensory but not physical; sore jaw joints; sensation of choking, breathing difficulties, suffocating sensations; feeling perps’ body weight on top of her chest; emotionally feeling humiliation, shame, guilt; emotional terror and horror
4. anal rape	4. seeing her-Self animalized by being forced on all fours, seeing her blood	4. diarrhea and incontinence, pain, difficulties defecating post memory; emotional terror
5. multi-perp, multi-orifice raping and object raping	5. hearing perps’ voices saying she would die; seeing their weapons coming at her – penises, guns, knives, ropes, animals and objects; water for water torturing; cages; torture racks	5. pain up her spinal cord and searing pelvic pain; seeing, smelling, and feeling the memory of blood, urine, feces everywhere; tactile memory sensations of the torturers skin and hands on her nakedness; feeling and smelling dirty; horrified and terrified; sinking into unconsciousness – “going to the black” feelings

Water tortures

1. head held under water in bucket, toilet, bath tub, out-of-doors in a brook or lake	1. remembering how she believed she would drown; re-remembering her terror	1. tight chest, asthmatic wheezing sounds, coughing, sore intercostal muscles with pain on breathing; aspiration type responses followed by feverish feelings, coughing feeling her terror
2. caged and hung over side of boat and dragged through the water	2. seeing her-Self in the cage in the water; believing she would drown	2. as above; feeling the water rushing over her

Chemical tortures

1. chemical cocktails by mouth, liquid, injection, or mask	1. made to swallow "candy", drink "Kool-Aid", wine, liquor; remembering how humiliated she was when the perps laughed at her	1. feeling her eyes roll into the back of her head; spontaneous re-enactments of slurred speech, mumbling as if intoxicated, physically losing her balance falling over; feeling dizzy, feeling like a Raggedy Ann doll; can suffer temporary paralysis and blindness; feeling terrified
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Physical tortures

1. burning	1. sees her-Self as a child tied to a chair with cigarettes butted on her skin, sees a hot stick forced into her vagina	1. feels the burning sensation on her skin; smells her flesh burning; feels her vagina pain, blisters develop, watery liquid oozes from her vagina mimicking the torture that happened; pain and terror
2. hanging and swung	2. sees her-Self in this position	2. if hung by her hands she feels the pain in her wrists, her wrists go numb, if hung spread-eagled has terrible hip pain, if hung upside down has severe headache, terrified
3. electric body shocking	3. sees the instrument used to shock her, sees her-Self restrained	3. starts convulsing, frothing at the mouth, feels the electric current in her spine; terrified

Torture to force dissociative responses

1. all forms in combination with horrification and terrorization to intentionally overwhelm her capacity to stay present with her-Self thereby inflicting destruction of her relationship to/with her-Self

1. re-experiencing terror, seeing her-self being tortured and horrified when she was a child, fear she will go crazy

1. in everyday situations loss of time, becomes disorientated, becomes swallowed up by the flashback memory; remembers the feelings of dissociation, terror and horror

2. Questions who am I? What am I? Am I really a person?

Figure 4: Body Talk

These examples provide a brief insight into how unexpressed past victimization and traumatization pain and suffering create present day real body memory pain – real body talk – but as real as the physical body talk pain is experienced it is generally not relieved with pain medication. It is relieved when she has succeeded to process the remembered torture ordeal. And because the flashbacks are of seeing her-Self as the child victim this adds vicarious trauma suffering – she becomes a witness to her own NST history – adding to her sense of loss and grief. It is a painful and difficult process that requires not only personal understanding but also socio-legal space to speak, to be heard and to have legal access to hold the torturers responsible should she so decide.

Achieving Socio-Legal Space: The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Addressing pedophilic NST, including spillover torture with some connection to military and warring, begins first with a general social acknowledgement that NST occurs in the private or domestic sphere, then taking socio-legal responsibility to act on such knowledge. In other words, the continuum of relational violence, at a macro level, has to include NST, as well as neglect, abuse, and homicide/femicide for example (figure 5).

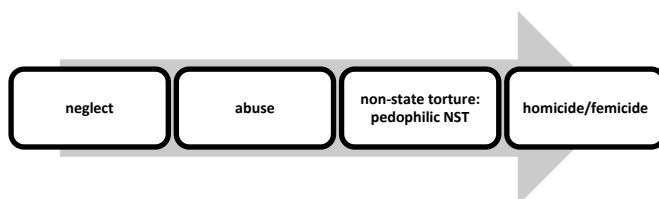


Figure 5: Continuum of Adult-Child Relational Violence

Global and national socio-legal acknowledgment of NST as a specific and distinct crime of torture and a violation of human rights that occurs in the private sphere is addressed by Manfred Nowak, Special Rapporteur on the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT). He stated that (2008):

1. The torture protection framework be applied in a gender-inclusive manner;
2. Acts that constitute torture in the public or private sphere be acknowledged because this reinforces the protection of girls/women from such torture because of the strong legal obligation to specifically criminalize such acts of torture;
3. A socio-legal and gendered framework works to end impunity, especially for sexual violence, by bringing perpetrators to justice and providing torture-informed reparation to victims in a gender-sensitive interpretation of torture;
4. When a girl/woman has suffered NST she must be able to empower her-Self – to heal she requires the socio-legal right to express her torture victimization, to be heard and never be silenced as she speaks her truth, because seeking criminal justice by holding torturers accountable is a fundamental core of any reparation process.

For further clarification on a State's responsibilities, Canada's responsibilities for example to criminalize NST, we visit Mr. Nowak's 2010 report. In it he explains:

1. **Acquiescence of a State occurs** when the State acts with indifference or inaction which suggests a form of agreement, encouragement and/or *de facto* – in fact – gives permission for acts of torture to be inflicted;
2. **Preventing State acquiescence** requires that a State uphold its due diligence obligations by respecting, preventing and protecting citizens from torture victimization whether these acts are perpetrated by the State or by private persons in the private sphere;
3. **A failure to protect** all citizens can occur if domestic criminal law fails to cover all possible cases falling under the definition of torture whether perpetrated by State or non-state actors;
4. **A deficient legal framework** occurs when other existing legal provisions such as aggravated assault, which is in the *Criminal Code of Canada* for example, are used to misname torture crimes, thereby failing to take into account the destructive gravity of torture victimization. Utilizing existing legal provisions, such as an aggravated assault or bodily injury does not equate to being a crime of torture and it is impermissible to minimize and trivialize torture to an assault or another crime. Torture is considered one of the worst, most destructive human rights violations that one person can inflict against another. It must not be trivialized – but this is what is presently happening in Canada.

5. **A culture of impunity** occurs when a deficient legal framework exists, torturers are not held accountable for the offence of torture. They are sentenced under weaker Criminal Code exiting provisions which “fosters a culture of impunity”, (para. 79) and impunity for torturers “is one of the root causes for its widespread practice” (para. 140).
6. **Evaluating a State’s due diligence obligations** requires asking: Has the State lived up to the standard of due diligence obligations not to commit torture by acquiescence, to combat torture by private actors, “above all of women and children” (para. 258). Canada has not lived up to such a due diligence standard.

In addition, UN Resolution 65/205 of March 28, 2011 urges for example:

7. The Special Rapporteur on CAT to include in his UN reports proposals on the prevention and investigation of torture, gender-based manifestations of torture when submitting country reports as well as information concerning children and juveniles;
8. States to prevent and combat all acts of torture by making torture an offence under domestic criminal law and that such a law must be gender-sensitive, taking into consideration gender-based violence because States can contribute, directly or indirectly, to acts of domestic violence that can constitute torture by the actions, or inactions, it takes;
9. State to assess the effectiveness of its laws, policies and actions because under international law States have due diligence responsibilities to promote human rights, to prevent such violations from existing and to respond effectively to eliminate such violations, “without discrimination” (para. 30). So the State must ask, does its laws, policies and actions meet the standard of “without discrimination”, as defined under article 1 of *Convention on the Elimination of all forms of Discrimination against Women (CEDAW)*. Here the meaning of discrimination in reference to gender-based violence is described as violence “which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions”; and,
10. States to remember “that freedom from torture ... is a non-derogable right that must be protected under all circumstances ... at all time[s] ... and in any place”, (para. 1) in the public or private sphere whether perpetrated by State or non-state actors.

It will be impossible for Canada to comply with the directives of UN Resolution 65/205 when there is not a Canadian law that identifies NST as a crime that occurs.

Reinforcement of the above eleven points are found in the following words of the UN Committee against Torture:

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 ... [CAT] with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission (2007, para. 18).

Freedom from torture is stated as a fundamental human right in article 5 of the UN *Universal Declaration of Human Rights*. This human right belongs to all. It belongs to all women, including the women who, as girls, suffered pedophilic NST. Violence of all forms, within the family and the community, is an endemic human rights violation that harms millions of girls and women worldwide, including in Canada. It repeats itself year-after-year-after-year. Included is the pedophilic NST perpetrated by those with military or warring experiences. Pedophilic non-state torture must stop!

Conclusion: A Canadian Perspective

Speaking here, from a Canadian perspective, amendments to the *Criminal Code of Canada* in relation to UN CAT and torture victimization have not kept pace with UN gender-sensitive evolutions. Therefore, no amendment has been made to Canadian criminal law regarding torture that is inflicted by non-state actors. Canadian law presently only acknowledges, names and criminalizes torture inflicted by State actors under section 269.1 (Department of Justice Canada, 2011). This socio-legal condition was acknowledged by Carole Morency, speaking as a governmental delegate, when Canada presented its national report to the UN Committee of *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) (2009, para. 46) said,

Canada recognized torture as a State-actor offence and prohibited it categorically. What was sometimes referred to as torture by non-state actors was covered by criminal law as simple, aggravated or sexual assault, forcible confinement, kidnapping or trafficking in persons. The sentencing court could take aggravating circumstances into account and grant the victim compensation, such as reimbursement of medical expenses.

Ms. Morency's statement was a result of CEDAW expert Anamah Tan asking the Canadian governmental delegation what if, "as part of its many family violence initiatives, [it] had examined the issue of non-State-actor torture by family members" (CEDAW Committee, 2009, para. 36).

The Department of Justice Canada writes of the need to keep laws up to date (2009). However, the Canadian government's legal existing provisions position violates conditions set out in various UN human rights instruments, UN reports and resolutions including the most recent Resolution 65/205 as described above. Therefore, Canada as a State, by exhibiting indifference and inaction is engaged in a form of encouragement and/or de facto permission for NST victimization – specific to the reality described in this paper the pedophilic NST of girls – to be perpetrated by private actors with impunity.

All Canada needs to do is to introduce a Bill into the House of Commons, *An Act to amend the Criminal Code*, to extend the criminalization of torture to include torture that is committed by non-state actors. Amending the *Criminal Code of Canada* would bring Canada's legislation in line with the expanding application of the UN *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and other UN human rights instruments such as CEDAW.

Reading the titles of the papers to be presented here at the Canadian Peace Research Association (CPRA) 2011 Conference and Annual General Council Meeting, we see many inter-relationships. If peace is to be achieved, pedophilic NST needs to be recognized and prevented. These are our suggestions:

1. It is essential for pedophilic NST to be identified and NST in general to become a categorization of violence;
2. To those involved in human rights and law, our request is that you cast your legal vision to ensure that NST is specifically and distinctly criminalized, this would, of course, include pedophilic NST;
3. UN and human rights agendas, resolutions, and interventions on the elimination of violence against women and girls needs to include NST, including the potential for identifying spillover pedophilic NST victimization;
4. Health, educational services and police investigative/protective services require knowledge of all forms of NST to help to protect and to prevent its ongoingness and to help eliminate a culture of impunity that can and does exist.

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