

A Response to the *Good Practices Questionnaire*

Of the UN Working Group on Discrimination Against Women in Law and Practice (WGDAW) (wgdiscriminationwomen@ohchr.org)

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PREFACE

As Canadian women and activists we have been advocating for the Canadian government to specifically criminalize non-State torture in the *Criminal Code of Canada*, thus, uphold the human and legal right of women and girls not to be subjected to torture by non-State actors. This human right was distinctly expressed, for instance, in article 5 of the *Universal Declaration of Human Rights*, supported by articles 2 on equality and 7 on non-discriminatory legal equality before the law. Presently in Canada only State torture is specifically criminalized under section 269.1; non-State torture is misnamed as an assault for example.

Following are our responses to the four WGDAW questions. The information shared reflects the legal evolution we are presently activity engaged in, in Canada. We share this present legal situational information because if successful it will, in our opinion, be a “good law” for women nationally as well as have an international impact on the promotion of full human rights and legal equality for women and girls—a UN based goal set to occur in 14 years by the year 2030. The present Canadian political and legal situation occurred when a Member of Parliament introduced his private Members [Bill C-242 An Act to amend the Criminal Code \(inflicting torture\)](#) into the House of Commons. This has taken us 23 years of activism; prior to this we have been repeatedly confronted by governmental rejection or excuses as to why torture inflicted by private actors in the domestic or private sphere not be distinctly criminalized. *Bill C-242* presents a potential this may change, thus, we do not want to miss this opportunity to expose what is occurring in Canada at this very moment and are therefore submitting the following responses to the WGDAW questions.

THE WGDAW QUESTIONS AND OUR RESPONSES

1. Has there been a law—whether legislation or case law—that has eliminated or substantially reduced discrimination against women and supported women’s empowerment in your context? Please provide the name/title of the legislation or

case, the country and or region in which this law came into being, and the date the law was passed or the date of the case decision.

The present situation in Canada: First Reading of *Bill C-242 An Act to amend the Criminal Code (inflicting torture)* was delivered by the [Member of Parliament \(MP\) Peter Fragiskatos](#) during our 42nd session of Parliament on December 3, 2015; it proceeded and passed at second reading 21 of April 2016 and the Speeches at Second Reading can be accessed on this [Government of Canada website](#). It is now before the [House of Commons Standing Committee on Justice and Human Rights](#). We have applied to present and have supported persons who have survived non-State torture to apply to appear to give their testimonies. We presently understand the Committee may meet within the month.

2. What specific impacts for women have resulted from this law or case on a social, legal and/or political level? Please provide documents and/or links to specific and measurable outcomes where possible.

If *Bill C-242* passes with Standing Committee support it returns to the House of Commons to be voted on by the Members of Parliament; if passed it then proceeds to the Senate. We would welcome the opportunity to keep WHRI Chair Alda Facio updated as we continue to advocate for *Bill C-242* to become a “good law” for women who have survived severe the torture pain and suffering that was intentionally inflicted against them but has been legally dismissed as a violation of their human rights not to be subjected to torture; a definition that is found in article 1 of the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) with the discriminatory aspect discussed in the [UN Committee against Torture General Comment No. 2](#), paragraph 18.

3. Were you involved in the developmental stages and/or implementation of this legislation or case? If so, please explain your involvement in as much detail as possible.

We began this specific human rights work of the need for torture perpetrated against women and girls by non-State actors to be recognized as a specific criminal human rights violation in 1993. It was in August of that year that a woman sought our help to exit the family based operators of non-State torture and human trafficking into which she detailed being born into. Her life-threatening non-State torture ordeals made us aware that in Canada, globally, and at the United Nations level, the human right to be protected from torture had been operationalized as a human right that applied to men and war and their

right to be protected from torture inflicted by State actors. This discriminatory human rights injustice has motivated us to persevere, to expose the reality that non-State torture is a human right violation and a legal crime inflicted against women and girls by non-State actors in the domestic or private sphere.

To promote national and global awareness we have had articles published and more are pending as well as a chapter in a book on women and the law. Here are three publication examples:

- [Torture victimization—Child to adult: Flashbacks and connection with First Responders](#). Sarson, J., & MacDonald, L. *Family & Intimate Partner Violence*, Vol. 6(03), pp.47-56, Winter 2014.
- [Torturing by Non-State Actors Invisibilized, A Patriarchal Divide and Spillover Violence from the Military Sphere into the Domestic Sphere](#). Sarson, J., & MacDonald, L. *Peace Studies Journal*, Vol. 2(2), pp. 16-38, Winter 2009.
- [Defining Torture by Non-State Actors in the Canadian Private Sphere](#). Sarson, J., & MacDonald, L. *First Light*, pp. 29-33, Winter 2009.

Additionally, as members and representatives of various NGOs we have presented shadow reports to the CEDAW Committee in [2008](#) and in [2012](#) to the Committee against Torture which recommended to Canada that torture by non-State actors be incorporated into national law. In 2013, we were asked to write an appendix on non-State torture ([number 34](#)) for the April 2013 UK CEDAW shadow report, [Women's equality in the UK – A health check](#). In 2015, I Jeanne wrote the [CFUW NGO brief](#) that was submitted to the Department of Canadian Heritage in response to the issues identified by the Committee against Torture and to which Canada was to reply. Additionally, we submitted our own independent brief to the Committee against Torture that included consenting to the sharing of confidential testimonies of individuals who had suffered torture by non-State actors.

From 2004-2016, we have presented almost yearly on many parallel event panels during the UNCSW sessions and always on non-State torture victimization as a human rights violation. As well, we also organized and presented various UNCSW NGO parallel event panels such as this on the [Genderization the UN Convention against Torture \(CAT\) & Non-State Torture Victimization](#). In 2014, we were invited to present a side event, [Eliminate Torture in the Private Sphere](#), during the session of the UN Commission on Crime Prevention and Criminal Justice, Vienna, Austria.

Bill C-242 came about when MP Peter Fragiskatos consulted with Megan Walker, Executive Director of the [London Abused Women's Center](#) seeking

issues that confronted the Centre. Megan suggested non-State torture because prior to her meeting with MP Peter Fragiskatos, Megan had sponsored a [workshop](#) where we presented on non-State torture, its consequences, and ways of offering support to women so grievously harmed. Since the workshop we have supported the Centre in its commitment to develop non-State torture trauma informed care when women identify that they have been so harmed which has occurred. This is a first in Canada. MP Peter Fragiskatos then contacted us for our expertise and support; he collaboration with governmental departments and *Bill C-242* took shape.

Prior to this contact we submitted a report, [No One Shall Be Subjected to Torture by Non-State Actors: The Missing Human & Legal Right of All Canadians—Of Women & Girls](#), to our newly elected Liberal parliamentarians. It detailed that the government of Canada has known, at least since 1979, that torture of women was being perpetrated by private individuals or non-State actors; later research contained in governmental reports identified that torture by non-State actors was being perpetrated against children, very young children and infants.

4. Are there individuals/groups/organizations that we can contact who have in-depth knowledge of this legislation or case? If so, please provide names and contact information below, as well as a brief description of who they are and how they are involved with this legislation or case.

You can contact us and the two other individuals listed below for their involvement which has been described in the previous answers to the WGDAW questions.

Contact information is:

Jeanne Sarson | Email: twin2@eastlink.ca | Phone/fax: 1-902-895-6659
Linda MacDonald | Email: flight@ns.sympatico.ca | Cell: 1-902-956-2117

You may wish to contact Megan Walker at:
Email: mwalker@lawc.on.ca | Phone: 1-519-432-2204

You may wish to contact MP Peter Fragiskatos at:
Email: Peter.Fragiskatos@parl.gc.ca | Phone: 1-613-992-0805