

Appendix 34: Non-state torture¹

(See General Recommendation 19)

All forms of violence against women and girls (VAWG) that may entail severe pain or suffering (whether physical or mental) violate the right to be free from torture or cruel, inhuman or degrading treatment.² CEDAW General Recommendation 19, 7 (b) states “*the right not to be subjected to torture...*”,³ and is reinforced by other human rights instruments.⁴

Discrimination exists for women/girls who suffer torture by non-state actors in the private/domestic sphere when this form of gender-based violation is not socio-legally recognized as a specific crime and a distinct violation of their human rights.⁵ Gender-based aspects of non-state torture are identified in UN reports and statements;⁶ therefore, we make the following points:

- a. **Women/girls so tortured must be recognized as a specific vulnerable group.** This information is specific to women who report having suffered acts of ‘classic’ non-state torture (NST) beginning in their earliest childhood, for many lasting into their adulthood, that was/is inflicted by non-state actors

¹ This section was specifically submitted by J. Sarson and L. MacDonald who have professionally focussed, for 20 years, on the provision of grassroots support for mainly women who report torture victimization by non-state actors and on activism to gain recognition that non-state torture occurs and is a specific violation of human rights.

² The European Court of Human Rights, interpreting Article 3 of the European Convention on Human Rights has for example held that rape is a “*specially grave and abhorrent form of ill-treatment*” and that the “*specially cruel act of rape the victim was subjected to amounted to torture*”. See, *Aydin v. Turkey*, European Court of Human Rights, Application No.29289/95, judgment of 25 September 1997.

³ CEDAW General Recommendation No. 19 Violence against women (eleventh session, 1992) <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>

⁴ See UN instruments: United Nations (1948) Universal declaration of human rights, Article 5. <http://www.un.org/en/documents/udhr/index.shtml>; United Nations (1966) International covenant on civil and political rights (1966). Article 7. <http://www2.ohchr.org/english/law/ccpr.htm>; United Nations (1984) Convention against torture and other cruel, inhuman or degrading treatment or punishment, Article 1 <http://www2.ohchr.org/english/law/cat.htm>; United Nations (1993) Declaration on the elimination of violence against women, Article 3(h) <http://www.un.org/documents/ga/res/48/a48r104.htm>

⁵ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm> Article 1

⁶ Nowak, M. (2008) *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. http://www2.ohchr.org/english/bodies/chr/special/sp_reportshrc_7th.htm; and Nowak, M. (2010) *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Study on the phenomena of torture in the world, including an assessment of conditions of detention*. http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.5_en.pdf; and Coomaraswamy, R. (1996) *Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms*. (E/CN.4/1996/53 item 9 (a) of the provisional agenda). <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/92C5879A99079B76C125739C002F9F11?opendocument>; and United Nations (2007) ‘Press release: United Nations independent experts call on States to strengthen the protection of women from violence’, UNHCHR <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/92C5879A99079B76C125739C002F9F11?opendocument>

such as parent(s), grandparent(s), other family members and like-minded others in the private/domestic sphere.

- b. **Classic torture.** The word 'classic' is a term borrowed from the literature that refers to the acts of torture perpetrated by State actors because the torture tactics of non-state torturers generally mimic and adapt the torture tactics of State torturers. For example, a form of State physical torture is water torturing or water boarding. Water torturing equipment is in the home, adapted using a bath tub or a barrel filled with water which the non-state torturer uses to submerge a woman/girl under until she is unconscious.
- c. **Other examples of classic torture** which are inflicted include:
1. Electric shocking
 2. Beatings, burning, cutting, whipping
 3. Immobilization tortures, tied, hung, caged
 4. Suffocation/choking tortures
 5. Sexualized tortures: Rapes, group rapes, repetitive raping, hand/object/animal rapes
 6. Reproductive tortures including forced impregnation and abortions and/or live deliveries which women report were murdered or 'disappeared'
 7. Forced drugging
 8. Nutritional deprivation
 9. Psychological tortures: Humiliation, degradation, dehumanization, animalization, terrorization, horrification
 10. Forced nakedness
 11. Sleep deprivation
 12. Witnessing the torture of others
 13. Forced powerlessness
 14. Home-based organised human trafficking to like-minded others is generally present and can be within house, inter-group, national and international.
 15. Home-based organised exploitation into the criminal adult-child-infant pornographic business including supplying a demand for torture/snuff recordings is also reported.⁷
- d. **Invisibilisation.** Women so harmed report (a) there is a lack of socio-legal recognition of NST as a specific crime, (b) NST is minimized and misnamed as abuse or assault, therefore their ability to hold perpetrators legally accountable for NST is impossible, (c) protection and redress was/is impossible when NST is made invisible, (d) they remain misunderstood and/or maltreated as mentally ill versus their dignity upheld by recognizing them to be victims of NST, and (e) there exists a severe failure to provide NST-informed care required by those who have so suffered.

The UK ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1988.⁸ In 2008 the CAT Committee stated: *"Where State authorities or others acting in official capacity...have reasonable grounds to believe that acts of torture...are being committed*

⁷ See several editorials re demand for snuff, e.g. Frew, C. (1999) 'Perverts murdered woman for snuff movie', *Scottish Daily Record & Sunday*, 13th April 1999 <http://www.thefreelibrary.com/Perverts+murdered+woman+for+snuff+movie.-a060425776>; and Burke, J., Gentleman, A., and Willan, P. (2000) 'British link to "snuff" videos', *The Guardian*, 1st October 2000 <http://www.guardian.co.uk/uk/2000/oct/01/ameliagentleman.philipwillan>

⁸ Foreign and Commonwealth Office (2011) *FCO Strategy for the Prevention of Torture* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35449/fcostrategy-tortureprevention.pdf

by...private actors and...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...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" (para 18).⁹

Unless there is a specific NST law and this law is operationalised, criminal-legal data fails to record acts of gender-based NST therefore NST remains invisible.

Contacts from UK citizens reporting NST have varied from short contacts to years of supportive contact. The loss of quality of life is immeasurable.

Case study:¹⁰

Reports NST victimization that began in her earliest of childhood, lasting into her early adult years. Suffering all and more of the classic forms of torture listed above she managed to get through school and obtain a post-graduate level education by age 22. Unable to practice her profession for very long because of ongoing and increasing disabilities as a consequence of prolonged NST victimization and traumatisation which included chronic overwhelming flashbacks, disorientation, and dissociation. The resulting vulnerability led to being psychologically manipulated, raped and stalked by professionals. She estimates, referring to a House of Commons Library document,¹¹ that based on a loss of 30 years of productivity, her personal and the social financial costs have been £855,830 in loss of salary with Sickness Benefits of approximately £150,000. She has lost other benefits because she has been unable to continue working. Cost of counselling over 18 years has been about £40,000. Difficult birth of a child and health and community support services are un-tabulated costs, complications resulting from unidentified NST victimization. Severe pain and suffering caused by NST is unconscionable; during recovery of Self all the past cellular torture pain memory is re-experienced and re-felt as if happening in the here and now.

Case study:¹²

Reports NST victimization since her earliest of childhood, that also lasted into her adult years and included all and more of the classic forms of torture listed above. Following completion of her schooling she has managed to work. We have no cost analysis for the serious vaginal and pelvic reconstructive surgery she has

⁹ UN Committee against torture (2008) General comment No. 2. (UN Doc CAT/C/CC/2)

<http://www.unhcr.org/refworld/docid/47ac78ce2.html>

¹⁰ Sarson, J. and MacDonald, L. (2011) *Sexualized torture in the domestic/private sphere and 'body talk': A human rights and relational feminist paradigm*. Paper presented at Sexual Violence Conference, Forensic Psychological Services, Middlesex University London, UK.

<http://www.mdx.ac.uk/aboutus/Schools/hssc/psychology/fps/sv-conference.aspx>

¹¹ Bolton, P. (2008) *Teachers' pay statistics*. (SN/SG/1877) House of Commons Library

<http://tinyurl.com/cjl54q8>

¹² Sarson, J. and MacDonald, L. (2011) *Sexualized torture in the domestic/private sphere and 'body talk': A human rights and relational feminist paradigm*. Paper presented at Sexual Violence Conference, Forensic Psychological Services, Middlesex University London, UK.

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undergone as a consequence of sexualised and reproductive NST. Years of therapy have included the most painful work of trying to heal from being held in a state of captivity, forced to give birth as a young teenager to an unregistered infant that was victimized for infant-adult pornography and murdered. This torturer has since died.

Literature with information/research on State inflicted torture and victim impact is increasingly plentiful; however, this is not equally so for NST inflicted in the domestic/private sphere. The following articles provide emerging information/discourse on NST victimization:

1. Amnesty International and REDRESS. (2011) *Gender and torture conference report*.
<http://www.redress.org/downloads/publications/GenderandTortureConferenceReport-191011.pdf>
2. Sarson, J. and MacDonald, L. (2011) *Sexualized Non-State Torture—Inflicted in the Private/Domestic Sphere against Girls/Women: An Emerging "Harmful Practice"*. A paper submitted to the United Nations Joint CEDAW-CRC General Recommendation/Comment on Harmful Practices
<http://www2.ohchr.org/english/bodies/cedaw/JointCEDAW-CRC-GeneralRecommendation.htm>