

OUR CANADIAN EXPERIENCE IN RELATIONSHIP WITH OUR GOVERNMENT

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In response to

A Call for inputs to the report of the UN High Commissioner for Human Rights on “effective methods to foster cooperation between local government and local stakeholders for the effective promotion and protection of human rights” (HRC resolution 39/7).

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BIO. We are co-founders of Persons Against Non-State Torture campaign and are pioneers in that our work has focused, since 1993, on supporting women recover from years of family-based non-State torture and human trafficking victimizations. As grass root supporters, human right defenders, and independent scholars our work began before ‘classic’ torture by private individuals or groups—by non-State actors—in the private domestic sphere was acknowledged as a specific violation of the human rights of women and girls.

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Four items listed in the OHCHR's call for inputs:

1. Laws, policies and programmes that have been explicitly developed by local authorities to promote and protect human rights.
 2. Effective methods to foster cooperation between local government and local stakeholders for the promotion and protection of human rights, including reference to local governmental programmes.
 3. Ways in which local governments raise awareness about, and contribute to the implementation of the 2030 Agenda for Sustainable Development, and the New Urban Agenda, including by ensuring participation by local stakeholders.
 4. Ways in which local governments are connected with the United Nations human rights system, for example participation in the Universal Periodic Review and the work of the human rights treaty bodies and Special Procedures of the Human Rights Council, and the implementation of their recommendations.
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Preface: This report specifically shares examples of our experiences advocating for the human and legal right of women and girls not to be subjected to torture as listed in article 5 of the UN Universal Declaration of Human Rights. This Declaration is the foundation on which non-discriminatory human rights equality is built. This specifically means that we have been advocating for years that the *Criminal Code of Canada* be amended to directly include naming and criminalizing torture when perpetrated by non-State actors versus only criminalized when perpetrated by State actors.

Responding to the Following Four Items

No. 1 and No. 3 Items: Canada via the Minister on the Status of Women has developed a [Gender-Based Violence Knowledge Centre](#) to gather such information. This is an important initiative. However, we and in working with the [London Abused Women's Centre](#) (LAWC) in the Canadian province of Ontario, have been collecting data of women's Self-reporting having suffered violence that amounts to torture by non-State actors. We have shared this information with the Minister asking for clarity on whether they will record this information truthfully as non-State torture or will the women's reports be not be identified as non-State torture. This is the Government's present position. This is discriminatory and exclusionary and a violation of the women's human rights as declared in the Universal Declaration of Human Rights. It will also be in violation of achieving the Sustainable Development Goal No. 3.

On the following page is an answered questionnaire we received from a Canadian woman identifying the forms of non-State torture (NST) she suffered and survived. She said, "I have escaped abuse and healed from the impact of abuse. I have never escaped nor healed from the impact of torture." These are the many acts of non-State torture she indicated were inflicted against her person.

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|---|--|
| 1. Food/drink withheld, | 24. Raped by one person, |
| 2. Chained or handcuffed to a stationary object, | 25. Raped by a family/group, |
| 3. Savagely and repeatedly beaten, | 26. Raped with a weapon (gun or knife) or other objects, |
| 4. Savagely and repeatedly kicked, | 28. Prevented from using toilet, |
| 5. Hung by one's limbs, | 29. Smearred with urine, feces, or blood, |
| 6. Burnt, | 30. Forced under cold or burning hot water, |
| 7. Cut, | 32. Near drowned when held under water in the tub, toilet, bucket, stream, |
| 8. Whipped, | 34. Drugged with pills, |
| 10. Fingers, toes, and limbs twisted, | 35. Drugged with injections, |
| 12. Fingers, toes, and limbs dislocated, | 36. Drugged by mask, |
| 13. Tied down naked for prolonged periods of time, | 37. Choked, |
| 14. Sat on making breathing difficult, | 39. Pornography pictures taken, |
| 15. Forced to lie naked on the floor/ground without bedding/warmth, | 45. Threatened to be killed, |
| 16. Confined to a dark enclosed space, | 46. Called derogatory names, |
| 17. Placed in crate/box, | 47. Put down, |
| 18. Caged, | 48. Treated as non-human |
| 19. Electric shocked, | |

Figure 1: A woman's answered questionnaire (numbers that are skipped mean the woman did not suffer these acts of non-State torture thus are not listed).

No. 2 Item: Canada has House of Commons and Senate Standing Committees to which stakeholders can submit written briefs and/or appear in person to give evidence on specific studies being carried out. We have done both. We have provided written briefs to both Committees. And we have given in-person evidence on three occasions to the Standing Committee on Justice and Human Rights (JUST). Two occasions were: (a) responding to Bill C-242, An act to amend the Criminal Code of Canada (inflicting torture) and (b) the study of human trafficking in Canada and its release of its report [Moving Forward in the Fight against Human Trafficking in Canada](#).

In both occasions (a) and (b) the process has, in our opinion, been exclusionary and discriminatory. For example:

- a) On occasion (a) we were the only two witnesses called in support of Bill C-242 even though there were others including victimized persons who asked to be called. One woman and her husband who asked specifically to appear were not invited thus submitted a brief that in part defined the non-State torture she suffered and survived,¹ as well as writing a victim impact statement after listening to the statements by Governmental Department of Justice witnesses and a criminal lawyer both who opposed the Bill.²

¹ Lane, A., & Holodak, R. G. Jr. (2016, July 11). Brief to: The House of commons standing committee on justice and human rights in view of its study of Bill C-242 an act to amend the criminal code (inflicting torture). Retrieved from <https://www.ourcommons.ca/Content/Committee/421/JUST/Brief/BR8406577/br-external/LaneAlexandra-e.pdf>

² Lane, A. (2016, October 4). Victim impact statement from Alexandra Lane: Re Bill C-242 an act to amend the criminal code (inflicting torture). Retrieved from

b) On occasion (b) we gave [testimony on Tuesday, May 22, 2018](#) asking that the specific population of women we support who are tortured and trafficked by family-based perpetrators be recognized. For additional support that girls and women are tortured when trafficked we shared evidence that, for example, the federal Royal Canadian Mounted Police (RCMP) in their 2013 Domestic Human Trafficking for Sexual Exploitation in Canada described on page 22 the “**torture**” [emphasis added] tactics used by traffickers. This RCMP report focused on Indigenous and non-Indigenous young girls and women between the ages of 14 and 22 years. It is also known that cybercrime trafficking occurs and that this includes the non-State torture of infants. In the recently released JUST Committee [Moving Forward in the Fight against Human Trafficking in Canada](#) report this non-State torture victimized population of women and girls has been discriminatorily excluded; it is also not mentioned that torture is inflicted by human traffickers thus the truth of women’s and girls’ non-State torture victimization is invisibilized, dismissed, denied, disregarded, and not truth-telling.

No. 3 Item: As to contributing to the implementation of the 2030 Sustainable Development Goals (SDGs) Agenda this will not be achieved in Canada specifically in reference to the population of women and girls who have suffered non-State torture inflicted within a family-

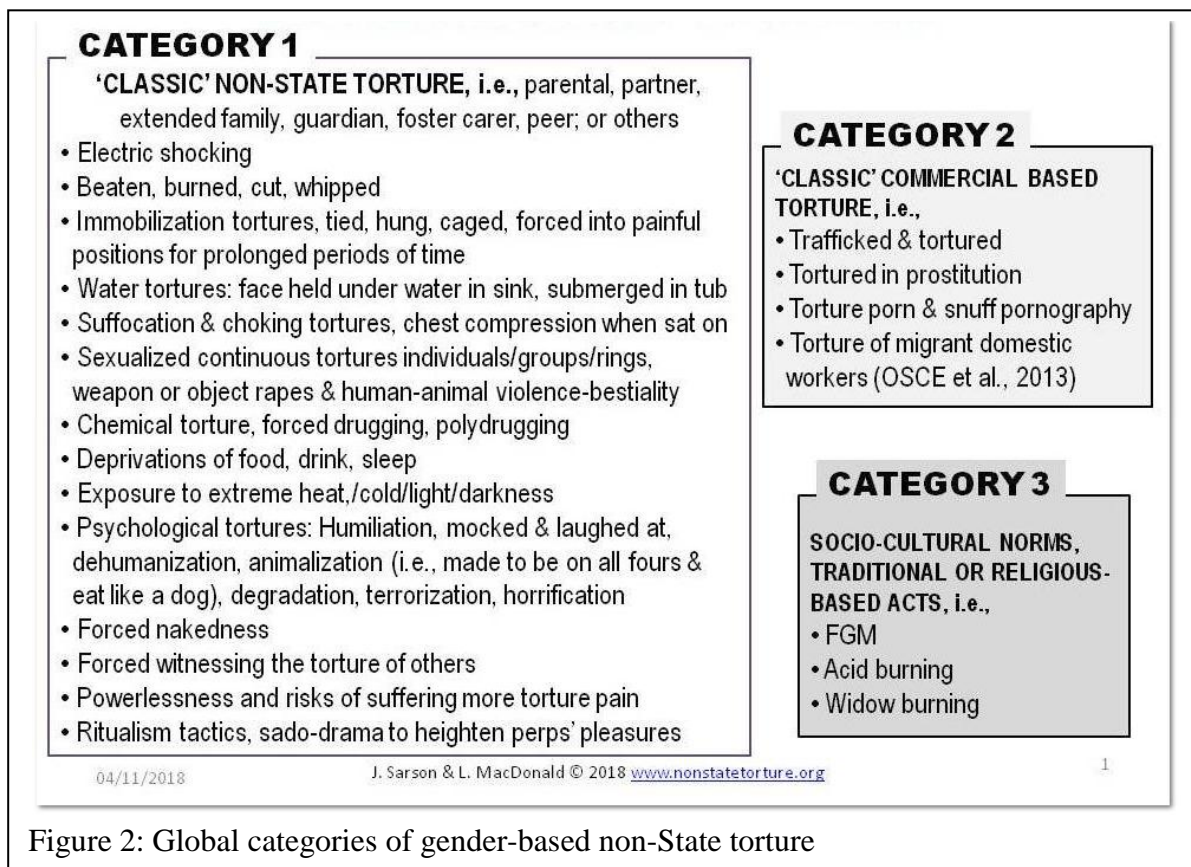


Figure 2: Global categories of gender-based non-State torture

based system, or for others who were tortured by human traffickers, or for women who were tortured by a spouse, or for others as illustrated in figure 2 which lists the global categories of gender-based non-State torture. Specific to our feedback are categories 1 of ‘classic’ non-State torture and category 2 of commercial based non-State torture. The following SDGs will be impossible to achieve in Canada:

- a) **Goal 5.1** End discrimination against all women & girls.
- b) **Goal 5.2** Eliminate all forms of violence against all women and girls in public and private spheres.
- c) **Goal 10.3** Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.
- d) **Goal 16.2** End abuse, exploitation, trafficking, and all forms of violence against and torture of children.

No. 4 Item: We attended the November 2018 UN Committee against Torture – Canada session, delivered [a shadow report](#) including [our response](#) to Canada’s additional submission.³ This experience left us with grave concerns when told that non-State torture shadow reports were beyond the scope of the UN Convention thus ignoring the [List of Issues](#) process and the issues of the previous UN Committee against Torture requested Canada address. Such exclusion, discrimination, and rejection also means ignoring the UN ‘soft law’ resolutions passed in an effort to ensure human rights equality of women and children not to be subjected to torture by non-State actors. Examples of these ‘soft law’ UN resolutions include:

- a) 1994-1995: *UN resolution 1994/45* – focused on integrating women’s human rights into UN mechanisms, to eliminate discrimination and all forms of violence against women;
- b) 2008: *Human Rights Council resolution 8/8* – asking for the Special Rapporteur on torture and States parties to integrate a gender perspective and address non-State actor torture; and,
- c) 2010: *General Assembly resolution 65/205* – promoting the adoption of a gender-sensitive framework to the Convention and to criminalize such acts of torture under national law.

Conclusion

As human right defenders seeking human and legal equality rights for women and girls not to be subjected to non-State torture in the domestic private sphere, we are respectful of the opportunity to engage as civil society members in the provision of this our feedback to the OHCHR based on our experiences. If we do not take responsibility to speak out at every available opportunity then we are grievously abandoning all women and girls so non-State torture violated—a position of silence and neglect we must never be willing to take.