

Non-State Torture of Women and Girls: Reclaiming their Human Right

Jeanne Sarson, BScN, M.Ed. & Linda MacDonald, BN, M.Ed.

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Non-State Torture: Coining the Term

In 1993 women began disclosing to us that they had been tortured as children or as adults. Parents, other family members, and their friends, guardians, a spouse, and others were identified as torturers. Social-professional acknowledgement that named and defined what constituted acts of torture perpetrated against women and against them as children, within intimate relationships, was lacking in the literature. It took years before the term *non-state actors* developed to differentiate “everyday” persons from *state actors* who are representatives of a state or a government (Amnesty International, 2000). State actors are, for example, police or public officials and military personnel. Both—state and non-state actors—do perpetrate acts of violence against women within intimate relationships (Boon, 2015; Mines, 2007; Yamamoto & Wallace, 2007), including torture (Sarson & MacDonald, 2009; 2019a; 2021). Capitalizing on this differentiation in terminology whereby everyday individuals are identified as non-state actors, we coined the term *non-state torture (NST)* (Sarson & MacDonald, 2009; 2011; 2014; 2016; 2018a; 2018b; 2019a; 2021; Sarson, Gordon, & MacDonald, 2019).

Back in 1993, NST was not acknowledged as a distinct form of violence committed against women and girls. We needed to establish, if indeed, the women’s disclosures constituted acts of torture. Researching the

literature on state torture, Kooijmans, the first UN Special Rapporteur on torture, listed many acts of torture (1986), and literature on torture crimes is ongoing (Amnesty International, 2001; Jones et al., 2018; Nowak, 2010). State torture acts include *physical tortures*, for example, electric shocks, severe beatings including to the soles of the feet called *falanga* (Marcussen, 2009), whippings, and being cut, burnt, and hung. Nutritional, sleep, light, and or heat deprivations and water tortures were routine. *Sexualized torture* involved being vaginally and anally raped and gang/group raped, also with objects, impregnations, and forced abortions. *Psychological tortures* meant ordeals of forced nakedness, degradations, dehumanization, humiliation, and terrorization. Women from many countries had experienced and continue to detail acts of NST that were and are the same as or similar to those listed as acts of state torture. Their telling led to developing our patriarchal divide model (Sarson & MacDonald, 2009), illustrating the almost identical acts of torture women describe, that we coin as NST, that are recognized by the UN as acts of state torture.

Violence Against Women Considered Taboo

Article 5 of the Universal Declaration of Human Rights (UDHR) states that no one—including women—should be subjected to torture (UN, 1948); however, when delegates were formulating the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (UN, 1979),

Radhika Coomaraswamy, a previous UN Special Rapporteur on violence against women (VAW), explained to us that the founding delegates "thought [addressing VAW]...was too taboo and sensitive and [...] [that] all lawyers thought [...] VAW was a crime issue [...] not an international human rights issue" (personal communication, December 10, 2021). From Rashida Manjoo, also a previous UN Special Rapporteur on VAW, we learned that the delegate from Pakistan was against including all forms of VAW in the CEDAW (Manjoo, 2018).

Ignoring UDHR article 5 invisibilized the NST of women and granted non-state torturers impunity. When the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN CAT) was adopted (UN, 1984), torture committed by non-state actors against women was again invisibilized by upholding only the human rights of men to be protected from state torturers (Méndez, 2018). Pushing back at this patriarchal discriminatory oppression, women attending the 1993 Vienna World Conference on Human Rights said, "how being female [...] makes many women vulnerable to routine forms of torture, terrorism, slavery, and abuse that have gone unchecked for too long" and husbands, boyfriends, or fathers were the perpetrators of VAW and girls within family relationships (Bunch & Reilly, 1999, p.18).

Ratifying the UN CAT in 1987, Canada defined section 269.1 on torture in its Criminal Code to mirror the UN CAT (Department of Canadian Heritage, 2011), incorporating a state-centric discriminatory perspective. Only public or police officers, military personnel, or persons who tortured with the consent of an official can be charged with torture crimes (Justice Laws Website, 2021), sabotaging women's human and legal right to be "equal before the law and entitled without discrimination to equal protection of the law" (UN, 1948). Without a law that visibilizes non-state torturers, Canadian legal politics falsifies the reality that violence perpetrated against women and girls includes NST, thereby repeatedly damaging truth-telling knowledge on VAW and preventing the delivery

of NST-informed health services including by nurses.

Nursing: Building Social Justice Evidence

Within nursing, there continues to be a need to build social justice evidence, from our unique disciplinary perspective. For us, the reasons we share our social justice work here within Witness in the form of an *Invited Commentary* are: (a) to inform the nursing community that on May 2022, the non-governmental organization (NGO) Alliance, of which we are members, with the support of the Governments of Finland and Honduras, held an event during the 31st Session of the UN Commission on Crime Prevention and Criminal Justice. Finally, a recommendation that UN state parties create a *declaration* addressing gender-based violence as torture inflicted by non-state actors as a model strategy to promote global awareness to end non-state torture crimes against women and girls (International Association of Democratic Lawyers, 2022). (b) to encourage nursing's involvement in national and global human rights work, which activists tell us is rare, and (c) to illustrate that as advocates, building scientific NST "evidence" is essential. Nationally, in our early years of advocacy, Canada dismissed that NST existed. This is no longer possible. We have built evidence by testifying during the House of Commons Standing Committee on Justice and Human Rights (JUST) studies on issues wherein NST victimizations against women and girls applied, such as, when JUST studied Bill-C36 on prostitution. Reviewing the JUST 2014 evidence records reveals that one of the "Discussed Topics" was "torture." This recording is an evidence-based tool—no longer is NST denied. In 2016, when JUST members studied Bill C-242 on amending the Criminal Code to include NST, although the JUST opinion was that such an amendment was redundant, there was no denial that NST victimizations occurred (Sarson & MacDonald, 2019b).

Globally, building evidence meant delivering shadow reports on NST to the UN Committee against Torture, including that of the Canadian Federation of University Women in

2012. The Committee recommended Canada incorporate torture by non-state actors in its Criminal Code, which Canada rejected despite recording that NST occurs (Jones et al., 2018).

The Importance of Naming

Advocating for women's human right to name the NST crime perpetrators intentionally committed against them is profoundly expressed by Alexandra Lane (2016). Speaking her truth about the importance of naming, she closed her Victim Impact Statement (VIS) to the JUST Committee by saying:

As a victim it is so simple. Anyone who has been through or cares about someone who has been through non-state torture would say it is a crime.

Unless this crime is named 'torture' I won't be an actual person. I will always be the dirty object with no rights.

Advocating for women to name, to be heard, and to be believed also meant we developed NST victimization-traumatization informed care in our efforts to promote women's healing and recovery (Huron, 2016; Sarson & MacDonald, 2021). In the *Code of Ethics for Registered Nurses*, "advocating for laws, policies and procedures" is about seeking social justice (Canadian Nurses Association, 2017, p.18). Furthering our advocacy for the development on NST knowledge for nursing we submitted a resolution on the "Development of a Position Statement on the Human Right Violation of Non-State Torture" at the Canadian Nurses Association (CNA) Meeting of Members (Sarson & MacDonald, 2017). We considered a position statement would assist nurses to gather basic nursing skills on how to respond to women who disclose NST victimizations. The CNA Board declined to support its passage explaining, in part, that the "UNCAT definition of torture does not include non-state torture" (Carolyn Pullen, personal communication, January 19, 2018). We oppose the CNA's position because it continues to invisibilize the human right violations of women who survive NST.

WITNESS

The Every Woman Treaty

To counter the invisibilization and normalization of VAW in all its forms, Rashida Manjoo recommended establishing a new legally binding treaty on VAW (UNOHC, 2014). This spurred women's rights activists at Harvard's Carr Center for Human Rights to launch the *Every Woman Treaty* campaign in 2015 (Every Woman Treaty, 2018a). By contributing our expertise, NST is included as one distinct form of violence perpetrated against women and girls (Nwadinobi et al., n.d.). In 2021, women's rights activists from 128 countries released the first draft for a global legally binding treaty to end VAWGs (Every Woman Treaty, 2021). United Nations Member States must authorize this as the first legally binding human rights instrument centred solely on addressing VAWGs. For us, contributing to the Every Woman Treaty initiative means gaining social justice to end all forms of VAWGs including NST. Acknowledging the existence of VAWGs (including NST) must no longer be taboo.

See It, Speak It, Write It, Change It: A Nursing Imperative

Nurses face many caring realities but supporting and sharing skills with each other lightens these responsibilities. Today, you can take action by signing the *Every Woman Treaty* (2018b), naming and spreading awareness about NST in your daily life and practice, and contributing to women's dignity by listening to and believing them when disclosing NST. Nurses need to be part of the movement to end the most grievous, long-lasting human rights atrocity on this planet—that of VAWGs including violence that constitutes NST. Join us.

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