

Ending Non-State Torture of Women and Girls: A Critical Area of Concern

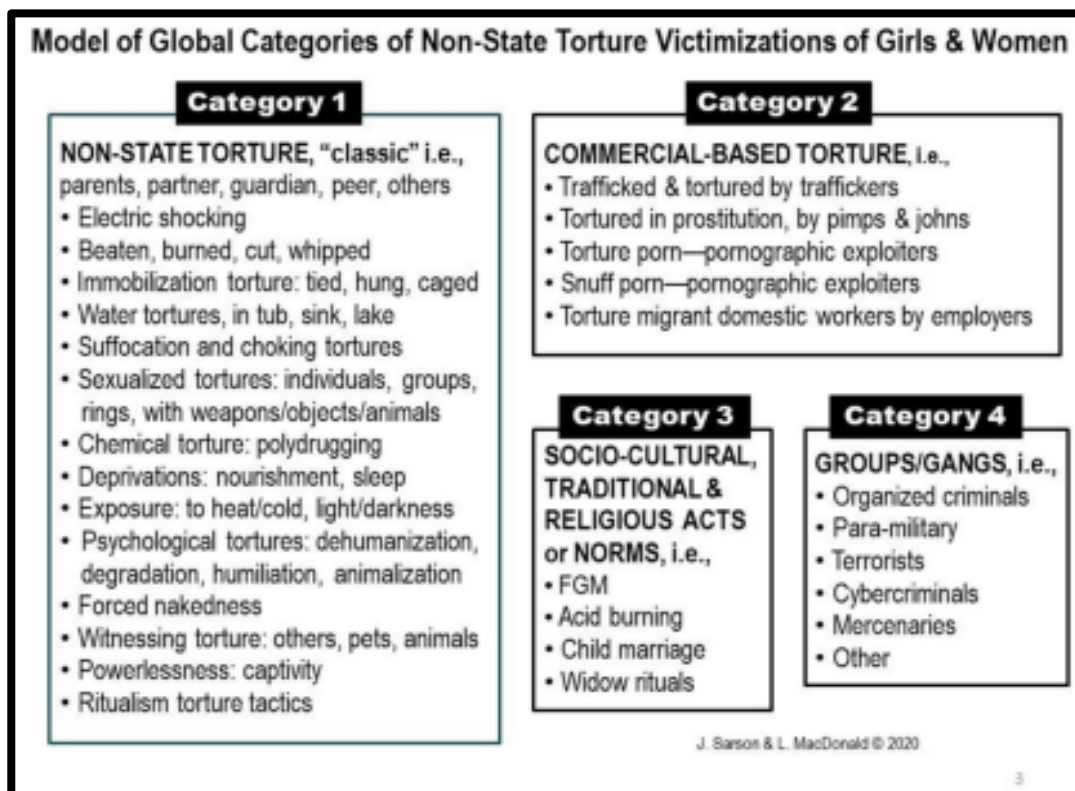
The focus of this statement is to identify *non-State torture* or torture perpetrated by non-State actors as a critical area of concern and a specific form of violence perpetrated against women and girls in their private and community lives. Non-state actors means organizations and individuals who are not affiliated with, directed by, or funded through the government. Non-state Torture (NST) occurs in public or private relationships, is perpetrated within families, in human trafficking, prostitution, pornographic exploitation, by violent groups and gangs, can be committed during migration, displacement, or humanitarian and civil unrest. NST is often dismissed as part of socio-cultural, traditional, or religious acts or norms.

Such torture is not identified in the Beijing Declaration, although violence by “private persons” is (para. 124 (b)). Strategic objective D.1 calls Governments to uphold the Declaration on the Elimination of Violence against Women (para. 124 (a)), that defines violence against women similar to that of the Beijing Declaration.(1) The Declaration on the Elimination of Violence against Women(2) contains Articles that can be specifically applied to ending non-State torture victimizations perpetrated against women and girls, which is the objective of this paper.

- *Article 3 (h): Women are entitled to . . . [t]he right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment . . .*
- *Article 3 (d): Women are entitled to . . . [t]he right to equal protection under the law.*

Model of Global Categories of Non-State Torture

The following diagram shows Model of Global Categories of Non-State Torture into which Non-State Torturers ‘Fit.’(3)



Category 1 discusses acts of non-State torture identified as “classic” torture because non State torturers

inflict similar acts of torture as State torturers, often referred to as “classic” torture. Rarely do State Members criminalize non-State torture as a specific torture crime in their criminal or penal codes. A global “Patriarchal Divide” has discriminatorily dismissed that non-State torturers perpetrate torture crimes predominately against women and girls therefore function with impunity.(4)

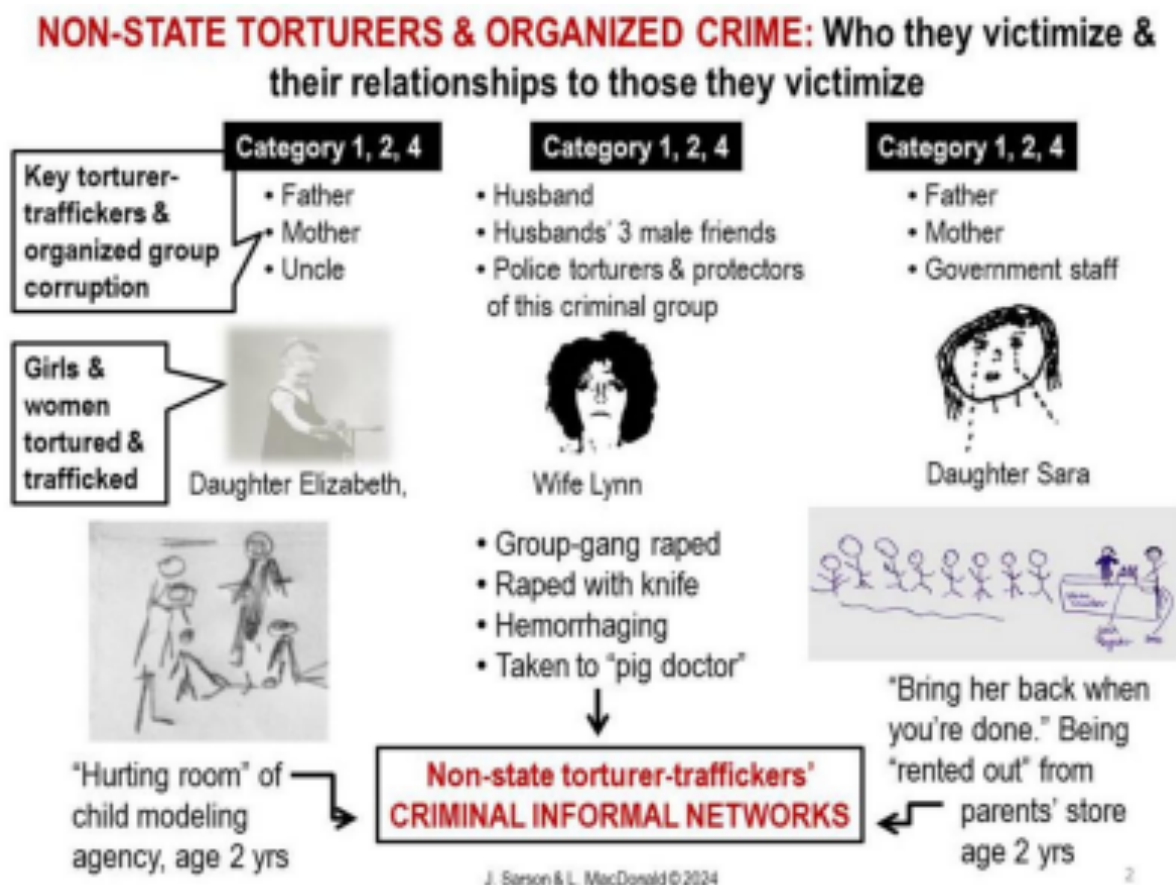
Category 2 refers to non-State torturers who destructively gain financially or in other ways by non-State torturing women and girls they prostitute, traffic, and pornofied. Employers who enslave and torture migrant women workers, they too gain financially and in other ways.

Category 3 includes forms of violence UN Special Rapporteurs on Torture have declared manifest as torture. This category is identified in the Beijing Declaration (para. 124 (a)).

Category 4 mentions perpetrators of non-State torture often referred to as “conflict related,” particularly in connection to sexualized torture victimizations.(5)

Applying the Model of Global Categories of Non-State Torture

The following figure applies Categories 1, 2, and 4 to girls and a woman’s lived ordeals. Informal or formal organized criminal networks occur in categories 2 or 4 and State actor involvement is a reoccurring reality.



Women frequently cope by drawing stick figures when detailing the non-State torture victimizations they suffered as daughters.(6) For example:

- Elizabeth’s “Hurting room” drawing explains being trafficked by her mother to a “modelling agency.” She and other children suffered non-State torture when forcedly subjected to pornographic crime scene victimizations.
- Sara’s stick drawing explains being trafficked—“rented”—to a line of non-State torturing buyers. Her father would say, “Bring her back when you’re done.”

- Lynn's spouse and three men held her captive, tortured and trafficked her into prostitution for four and one-half years before she escaped.

NST is a Critical Concern

The Beijing Declaration(7) opens the critical area of violence against women with this definition:

Violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering . . . including threats of such acts, coercion or arbitrary deprivation of liberty . . . in public or private life . . . encompasses but is not limited to . . . violence occurring in the family . . . within the general community . . . perpetrated or condoned by the State, wherever it occurs (paras. 113 (a), (b), (c)).

It then proceeds to identify endless forms of violence perpetrated against women and girls. Explaining that violence against women and girls is the result of patriarchal domination that promotes women and girls' human inequality. This causes both a global power imbalance and discrimination to exist between men and women that impact all aspects of women and girls' lives and survival.

Strategic objective D.1, paragraph 124 (e), calls on Governments to implement the Universal Declaration of Human Rights, enacted 47 years prior to the Beijing Declaration. Article 5 says no one—no woman or man—is to be subjected to torture; Articles 6 and 7 declare all human beings—women and men—as equal before the law and entitled without discrimination to equal protection of the law. This is the intent of this paper, to work to eliminate the non-State torture of women and girls including eliminating discrimination in law and practice.

Recommendations

The action to be taken by State Members and the United Nations is to enact a Declaration on the Elimination of Torture Perpetrated by Non-State Actors.

References

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- 3) Jones, J., Sarson, J., & MacDonald, L. (2018). How non-state torture is gendered and invisibilized: Canada's non-compliance with the committee against torture's recommendations. In: *Gender Perspectives on Torture: Law and Practice*. Center for Human Rights & Humanitarian Law Anti-Torture Initiative, Washington, DC, pp. 33-56. <https://www.wcl.american.edu/impact/initiatives-programs/center/documents/gender-perspectives-on-torture/>
- 4) Sarson, J. & MacDonald, L. (2022, October). *What is non-state torture (NST)* [Video]. YouTube <https://www.youtube.com/watch?v=n2PSGv-UhDs&t=65s>
- 5) United Nations Security Council. (2024). *Conflict-related sexual violence (S/2024/292)*.
- 6) Sarson, J., & MacDonald, L. (2021). *Women unsilenced our refusal to let torturer-traffickers win*. FriesenPress.
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