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**Use and application of United Nations standards
and norms in crime prevention and criminal justice**

Statement submitted by International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status with the Economic and Social Council**

The Secretary-General has received the following paper, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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** Issued without formal editing.



Addressing gender- based violence as torture inflicted by non-state actors

Submitted by the International Association of Democratic Lawyers (Chair of the Alliance of NGOs on Crime Prevention and Criminal Justice Working Group on Gender-based violence as a form of non-state torture)

At the November 2021 Thematic Discussions of the Commission on Crime Prevention and Criminal Justice on the implementation of the Kyoto Declaration, two members of the Alliance of NGOs on Crime Prevention and Criminal Justice and ACUNS, Jeanne Sarson and Linda MacDonald, made a statement on the issue of gender-based violence as torture inflicted by non-state actors. This written statement is submitted by the Alliance as a follow up to that presentation, in connection with a side event organized on Thursday 19 May 2022, sponsored by Finland and co-sponsored by Honduras. The aim is to recommend a declaration that addresses torture by non-State actors as a model strategy to promote global awareness to end non-State torture crimes against women and girls.

The 1993 Vienna Declaration and Programme of Action ([A/CONF.157/23](#)) affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person and must be eliminated. Subsequently, [OHCHR Resolution 1994/45](#) advanced on the global recognition that women are human beings with human rights equal to men and that women, including girls of all ages, suffer extensive forms of violence “simply” because they are women or girls, thus indicating that violence against women can manifest as torture inflicted by non-State actors. Furthermore, [Human Rights Council Resolution 8/8](#) drew attention to violence against women that manifest as torture perpetrated by non-State actors (paras. 3(e), 6,(j)). Other UN resolutions stress that all acts of torture need to be specifically criminalized under domestic law and that gender-based manifestations of torture be included in the Special Rapporteur reports on torture ([A/RES/65/205](#) paras 2, 30) and that strengthening crime prevention and criminal justice responses calls for the elimination of violence against women within the family and the community, whether perpetrated by non-State actors or condoned by the State ([A/RES/65/228](#)). In 2013, a Resolution on Taking action against gender-related killing of women and girls was adopted by the General Assembly ([A/RES/68/191](#)). The resolution, inter alia, urged Member States to improve the prevention of gender-related killing of women and girls and the provision of legal protection and appropriate remedies to victims of such crimes, also taking into account the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power ([A/RES/40/34](#), annex). The following resolution [A/RES/70/176](#), among others, encourages Member States to criminalize, prosecute and punish rape and other forms of sexual and gender-related violence against women and girls committed in all situations, including situations of conflict, taking into account international standards, and urges, where appropriate, relevant stakeholders to support the development and strengthening of the capacities of national institutions, in particular law enforcement, judicial and health systems, and of local civil society networks to provide sustainable assistance and access to justice to women and girls affected by gender-related violence (para. 8).

The Working Group on torture inflicted by non-state actors, established under the umbrella of the Alliance of NGOs on Crime Prevention and Criminal Justice, is in the process of documenting research towards a model strategy to promote global awareness to end non-State torture crimes against women and girls. This includes analysing definitions of torture by non-state actors against women and girls, reports of existing domestic laws and international regulations and connections with the international framework of standards and norms as well as the Kyoto Declaration.

Research demonstrates that torture is inflicted by non-State actors, including traffickers in persons, as a criminal means to threaten the lives of women and girls.

The updated [Model Strategies and Practical Measures in crime prevention and criminal justice responses to violence against women and girls](#) stresses States' due diligence obligations to promote and protect their human rights and fundamental freedoms, taking measures to prevent, investigate, and punish non-State torturers, to eliminate their impunity, and to provide protection to women and girls.

The working group identified gaps and needs for more explicitly addressing gender-based violence in existing international instruments:

- As early as 1986, UN authorities referred to torture as the “plague of the second half of the twentieth century” ([E/CN.4/1986/15](#), para. 2).
- In terms of both scale and severity, domestic violence was one of the predominant sources of humiliation, violence and death worldwide, and claimed a similar number of lives as armed conflict. In 2017 alone, approximately 78,000 individuals (64 per cent female and 36 per cent male) were killed by intimate partners or family members, a gruesome “tip of the iceberg” pointing towards a far greater number of victims that are beaten, raped, threatened and humiliated in their own homes every day in fact represented one of the predominant sources of humiliation, violence and death worldwide.
- Yet even in 2019, unlike war, however, domestic violence was still widely considered to be a “private matter”, a social taboo to be dealt with at the discretion of the perpetrator or the family in the perceived legal “black hole” of the home ([A/74/148](#), para. 61).
- Nils Melzer observed in 2021 that in spite of the significance of accountability for the prohibition of torture and ill-treatment itself and for key values of the international legal order across the world, the vast majority of those responsible for perpetrating, instigating or consenting or acquiescing to torture or ill-treatment were still not being held to account. Many national legal systems still did not adequately guarantee or effectively implement accountability for torture and ill-treatment, and some even established legal and practical obstacles to accountability ([A/73/207](#), para. 24).
- In addition, by 2021 the UN Secretary General also addressed the disproportionate negative impact of the COVID-19 pandemic, armed conflict and non-State actors on the rights of women and girls. This combination made women and girls even more vulnerable to various forms of torture in addition to being killed ([S/2021/312](#), para. 1). For example, women and girls were exposed to forced marriage, rape and other forms of sexual violence including sexual slavery and trafficking for sexual violence and or exploitation including forced prostitution, forced pregnancy, forced abortion, enforced sterilization, serious neglect, female genital mutilation, honour crimes and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys.
- Finally, in [S/2021/312](#) (para. 3) the SG also noted that a number of parties to armed conflict also continued to use sexual violence as a cruel tactic of war, terror, torture and political repression in order to advance their strategic objectives, including those of propelling population flight and controlling contested territory and natural resources.

Therefore the Working Group of the Alliance invites Member States to consider a declaration that addresses torture by non-State actors as a model strategy to promote global awareness to end non-State torture gender-based crimes. In particular, the Working Group calls on States:

- *To take in account* that as long as a substantial part of the world's population is oppressed, abused and even murdered by their own family members or within their homes, the promises of the Universal Declaration of Human Rights and the 2030 Agenda for Sustainable Development would remain a far cry from reality;

- *To achieve* the Sustainable Development Goals to eliminate violence against women and girls (5.1–5.2), to end forced labour, slavery, and trafficking (8.7), and the exploitation and torture of children (16.2);
- *To recognize* the States' obligation to broaden the scope of the definition of torture in their domestic criminal codes;
- *To reconsider* describing domestic violence as torture in order to explain both the purpose of abuse and its full pattern.

The Alliance is ready to continue to be of assistance to Member States for the development of a draft declaration as a further contribution to addressing gender-based violence.
