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Commission on the Status of Women

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**Follow-up to the Fourth World Conference on Women and
to the special session of the General Assembly entitled
“Women 2000: gender equality, development and peace
for the twenty-first century”: implementation of strategic
objectives and action in critical areas of concern, and
further actions and initiatives**

Statement submitted by Canadian Federation of University Women, a non-governmental organization in consultative status with the Economic and Social Council

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



Statement

We, members of the above-mentioned non-governmental organization (NGO), mindful of Economic and Social Council resolution 1996/31, in which the Council calls for NGOs to support the purposes and principles of the Charter of the United Nations, including achieving the human equality of women and men, through our participation in the fifty-seventh session of the Commission of the Status of Women, with its thematic focus on the elimination and prevention of all forms of violence against women and girls, with the priorities of prevention and the development of support services for victimized women and girls of all ages, call upon all United Nations bodies, member States and civil society to acknowledge fully that women and girls endure acts of violence that are manifestations of torture perpetrated by non-State or private actors.

Article 5 of the Universal Declaration of Human Rights specifically states that no one shall be subjected to torture. Torture constitutes a criminal attempt to destroy and dehumanize another human being by the intentional and purposeful infliction of severe pain and suffering physically and mentally, as stated in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This fundamental non-derogable human right not to be subjected to torture has been re-emphasized in other United Nations human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women (General Recommendation No. 19, item 7 (b)); the International Covenant on Civil and Political Rights (article 7); and article 3 (h) of the Declaration on the Elimination of Violence against Women.

General comment No. 2 regarding the Convention against Torture, concerning implementation of its article 2 (CAT/C/GC/2), states that torture perpetrated by non-State actors or private individuals is prohibited. Expert members also acknowledged that such acts perpetrated against women and girls have been historically and discriminatorily made invisible (see CAT/C/SR.1076). Countering this, in 1999, the then-Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment was asked by the Commission on Human Rights to examine manifestations of torture directed disproportionately or primarily against women (see E/CN.4/1995/34, paras. 15-24). In his 2008 and 2010 reports, the former Special Rapporteur on Torture repeatedly addressed acts of sex/gender-based torture, including classic torture perpetrated within families or by other private individuals, female genital mutilation and torture that occurs in human trafficking. In a 2010 presentation sponsored by the NGOs Women's UN Report Network and Worldwide Organization for Women, and by the NGO Committee on the Status of Women-Geneva, he also stated that acid burning and widow burning are forms of sex/gender-based tortures. The present Special Rapporteur on Torture has reinforced female genital mutilation as a form of sex/gender-based torture.

In 1996, the then-Special Rapporteur on violence against women, its causes and consequences wrote in her report that acts of torture inflicted during some ordeals of domestic/family violence are comparable to acts of classic torture inflicted by State actors. Examples of classic non-State torture, such as electric shocking, cutting, burning, severe beatings or deprivations of many kinds are similar to those perpetrated by State actors and are described in some NGO reports. In her 2009 report, the Special Rapporteur on the sale of children, child prostitution and child pornography, identified research that exposed that some children suffer acts of

paedophilic torture. Her comments reflect that of the 2009 study by the organization Canadian Centre for Child Protection that identified that newborns, infants, toddlers and older children can suffer paedophilic torture; girls were identified as the predominant victims of sexualized violence.

Subjecting another human being to acts of torture is considered a gross violation of human rights. To understand fully that forms of non-State torture inflicted against women and girls constitute gross violations of their human rights requires, firstly, acknowledging and naming its occurrence. Acknowledging and naming acts of non-State torture works towards eliminating the human rights discrimination that has made invisible women and girls who suffer forms of non-State torture victimization.

Advancing women's and girls' equality and human dignity requires facilitating their legal empowerment with respect for the rule of law. They require the right to speak their truths, the right to complain and the right to be heard. The right to truth has been considered a fundamental stand-alone non-derogable right and is closely linked to the rule of law (see E/CN.4/2006/91). This carries a duty and obligation of the State to protect and respect women's and girls' human right not to be subjected to torture inflicted by non-State actors, to provide them with access to just equitable laws, judicial protection, effective investigations, remedies and reparations, and to eliminate impunity. Effective remedies include the development of support services that are informed on the impact of specific forms of non-State torture victimization, recovery and social reintegration and inclusion.

Under article 1 of the Convention on the Elimination of All Forms of Discrimination against Women, States parties agree to take all appropriate constitutional, legislative, administrative and other measures to bring about the advancement of women (and of girls) and to eliminate the sex/gender-based discrimination that impairs or nullifies the recognition, enjoyment or exercise by women of their basic equality and their human rights and fundamental freedoms in all fields of life. There is absolutely no doubt that manifestations of non-State torture gravely impair or nullify all areas of victimized women's and girls' lives. A failure to acknowledge that women and girls suffer sex/gender-based manifestations of torture perpetrated by non-State or private actors constitutes discrimination and a violation of their equality, their human dignity and their human rights and their fundamental freedoms in all fields of life.

Forms of non-State torture that meet the defining elements in article 1 of the Convention against Torture exist on the continuum of the many forms of sex/gender-based violence and discrimination that occur throughout all societies and systems. For instance, acts of classic non-State torture perpetrated by non-State actors against women or girls have been underacknowledged, trivialized or misnamed as another criminal human rights violation, such as assault or abuse, or been deemed "acceptable" customs, traditions or ritualistic or religious-based practices. Because all forms of violence against women and girls, including non-State or private actor torture, have structural roots in all societies, millions of women and girls suffer acts of sex/gender-based non-State torture globally.

We therefore call upon the Commission on the Status of Women, at its fifty-seventh session focusing on the elimination of all forms of violence against women and girls to reaffirm women's and girls' inherent dignity, worth and human equality and their right to the acknowledgement that they suffer many forms of sex/gender-

based torture perpetrated by non-State actors; and to reaffirm women's and girls' non-derogable human right not to be subjected to all forms of torture that is perpetrated by non-State or private actors.

We also call upon the Commission on the Status of Women to urge member States to increase women's and girls' capacities to claim their human right not to be subjected to acts of non-State torture. The above-mentioned general comment No. 2 of the Convention against Torture imposes obligations on States parties to take actions that will reinforce the prohibition against torture through legislative, administrative, judicial or other actions that must, in the end, be effective in preventing it, whether perpetrated by State or non-State actors.

Hence, there is the need to recommend the criminalization of torture perpetrated by non-State actors, because:

- Criminalization strengthens the deterrent effect
- Naming and defining the human rights crime of non-State torture alerts everyone — perpetrators, victims and the public — to the special gravity of the crime of torture
- Such emphases helps to address the gravity of non-State torture crimes
- It enables State parties to be responsible for the tracking of crimes of non-State torture
- It enables and empowers the public to monitor and, when required, to challenge the actions or inactions of the State when they violate the Convention against Torture
- When State parties do not impose the specific offence of torture by non-State actors as punishable under its criminal law, actual or potential loopholes for impunity occur that encourage and enhance the danger of perpetuating such privately inflicted harms

We furthermore invite all sectors of society to undertake efforts to promote human rights education and training, in accordance with General Assembly resolution 66/137, including the human right entitlement of women and girls not to be subjected to sex/gender-based manifestations of torture inflicted by private individuals or non-State actors.

Note: The statement is endorsed by the following non-governmental organizations in consultative status with the Council: Canadian Voice of Women for Peace, International Federation of University Women, International Federation of Women in Legal Careers, International Federation of Women Lawyers, International Network for the Prevention of Elder Abuse, International Women's Rights Action Watch Asia Pacific, National Council of Women of Canada, Pacific Women's Watch (New Zealand), Tandem Project, United States Federation for Middle East Peace, Women against Rape and YWCA of Canada.