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**Side-event**

**“Strengthening the protection of women from  
torture and ill-treatment”**

**Statement by Manfred Nowak  
Special Rapporteur on Torture and other cruel, inhuman or  
degrading treatment or punishment**

**Side-event**

**“Acid burning attacks – victimization, survivors,  
support”**

*Side event sponsored by Women’s UN Report Network, Worldwide  
Organization for Women and NGO Committee on the Status of Women-  
Geneva*

15 September 2010, Geneva



## **“Strengthening the protection of women from torture and ill-treatment”**

### **Statement of the Special Rapporteur on Torture, Manfred Nowak**

*Side event sponsored by Women’s UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva*

*Ladies and Gentlemen;*

First, let me thank you for inviting me to be part of this panel and I apologize for not being able to attend this event in person due to other commitments.

From my position as Special Rapporteur on torture and other forms of cruel, inhuman or degrading treatment or punishment, I have tried to ensure that the torture and ill-treatment protection framework is applied in a gender-sensitive manner to ensure that women are effectively protected from any form of violence that may constitute torture and/ or ill-treatment.

In 2008, my thematic report to the Human Rights Council explored the influence of international norms relating to violence against women on the definition of torture, the extent to which the definition itself can embrace gender-sensitivity, and discussing the specific obligations upon States which follow from this approach. Some of these considerations could be applied to the study of acid throwing as a form of violent assault against women.

### **Violence against women and the anti-torture framework**

Gender-specific violence fulfils the requirement of purpose under the Convention against Torture (CAT) definition as it is always discriminatory. Inserting the "powerlessness" element, which lies at the core of the relationship between the torture victim and perpetrator, into the CAT definition would allow for the determination of torture whenever a person is under the effective control of another person, irrespective of whether it occurs inside the context of official detention or control. Applied to situations of “private violence”, this means that the degree of powerlessness of the victim in a given situation must be tested and that, if it is found that the victim is unable

to escape or otherwise forced to stay, the powerlessness criterion can be considered fulfilled.

Society's indifference to or even support for the subordinate status of women, together with the existence of discriminatory laws and a pattern of State failure to punish perpetrators and protect victims, generate the conditions under which women may be subjected to systematic physical and mental suffering, despite their apparent freedom to resist.

Certain types of gender-specific violence, either perpetrated by State actors or in the private sphere, might amount to torture or inhuman and degrading treatment. There is no exhaustive list of forms of violence that may constitute torture or cruel, inhuman and degrading treatment - rather it may encompass different types of so-called traditional practices (such as dowry-related violence, widow-burning, etc.), violence in the name of honour, sexual violence and harassment, as well as slavery-like practices often of a sexual nature.

I have previously focused on several types of gender-specific violence among which domestic violence in the form of intimate partner violence might be of interest for this panel since, often, women victims of acid throwing are attacked by husbands, ex-husbands and/ or partners.

#### *Intimate partner violence*

Women victims of intimate partner violence may be beaten with hands and objects, kicked, strangled, stabbed or burned. Rape and other forms of sexual abuse are also used by intimate partners. Physical violence is usually accompanied by insults, varied forms of humiliation, and threats to kill or harm the victim or her family members (often children). Domestic violence, as well as torture, tends to escalate over time, sometimes resulting in leaving women's bodies mutilated, permanently disfigured or in death.

Women who experience such types of violence often suffer depression, anxiety, loss of self-esteem and a feeling of isolation. Indeed, these women may suffer from the same intense symptoms that comprise the post-traumatic stress disorder identified in victims of torture by public officials as well as victims of rape.

The element of powerlessness in these situations is the intention to keep the victim in a permanent state of fear based on unpredictable violence by seeking to reduce the person to submission and destroy his/her capacity for resistance and autonomy with the ultimate aim of achieving total control.

In the case of women victims of acid attacks, they must go on with their lives with permanent physical injuries and scarring, which remind them of the incident and perpetuate a feeling of shame and embarrassment. Many women survivors of acid attacks seclude themselves in hiding for fear of rejection and stigma from their families and/ or communities.

### **Protection of women: the due diligence test**

While some have attempted to exclude violence against women from the scope of the CAT, I have recalled on several occasions that the language used in article 1 of the Convention concerning consent and acquiescence by a public official clearly extends State obligations into the private sphere. This should be interpreted to include State failure to protect persons within its jurisdiction from torture and ill-treatment committed by private individuals.

Moreover, the Declaration on the Elimination of Violence against Women, adopted by the General Assembly in resolution 48/104, in its article 4 (c) proclaims that States should “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”. Similarly, other universal and regional bodies have been applying the due diligence test.

State acquiescence in domestic violence can take many forms, some of which may be subtly disguised. Laws restricting women’s right to divorce or inheritance, or that prevent them from gaining custody of their children, receiving financial compensation or owning property, all serve to deepen women’s dependency upon men and limit their ability to leave a violent situation.”

States should be held accountable for complicity in violence against women, whenever they create and implement discriminatory laws that may trap women in abusive circumstances. State responsibility may also be engaged if domestic laws fail to provide adequate protection against any form of torture and ill-treatment in the home.

But even if there are national laws against domestic violence in place, law enforcement agencies and the prosecution services may still not consider cases of domestic violence as serious violations and may therefore be reluctant to bring complaints, conduct investigations and prosecute perpetrators.

I argue that the concept of acquiescence entails a duty for the State to prevent acts of torture in the private sphere and the concept of due diligence should be applied to examine whether States have lived up to their obligations.

#### *Justice and rehabilitation of women victims*

Is it important to highlight the central yet debilitating role of stigma associated with victims of sexual and gender-specific violence, including women victims of acid attacks, and the related challenges that women face in terms of access to justice, reparations, and rehabilitation.

In order to access justice, in many parts of the world, women have to overcome a wide range of impediments, including financial and economic constraints, restricted movement, discriminatory laws, etc. In addition, victims of sexual and domestic violence face specific obstacles in all stages of the criminal justice system.

Collecting evidence of gender-based violence is a neglected area in many law enforcement contexts. Courts frequently ignore “soft” evidence such as psychological assessments (“battered woman syndrome”). Another obstacle is the double requirement for a victim, on the one hand to show that the act of violence was traumatizing and, on the other hand, to prove that this does not limit the credibility of the testimony.

Stigma remains one of the main obstacles hindering justice for victims. In this regard, it is interesting to underline the power of naming an act as torture at the individual level.

This has been the case of victims of sexual violence, who have reported feeling more protected from social stigmatization when the crime is defined as torture.

*Ladies and Gentlemen,*

Torture and ill-treatment can occur in different private contexts. There are striking parallels between torture that occurs in the “public” and “private” domains in terms of strategies, process and resulting trauma, and State acquiescence can occur at different levels. To ensure a gender-inclusive approach to torture and ill-treatment, we need to perceive them as a process. Mental trauma does not happen at one point in time but it is something which can be profound and long lasting and requires special attention to the actual context and circumstances from which it resulted. In the case of women victims of acid attacks, they are faced both by physical challenges, that may require long term surgical treatment, as well as by psychological challenges, which require long-term intervention from counsellors at each stage of the physical recovery.

It is crucial to interpret the torture protection framework in the light of a wide range of human rights guarantees, in particular the set of rules that has developed to combat violence against women, which can provide valuable insights into the particular challenges posed by such type of violence as well as the specific needs of the victims. When viewed through the prism of the anti-torture framework, the fight to end violence against women can be strengthened and provided with a broader scope of prevention, protection, justice and reparation for women.

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