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To: CAT Secretariat at catgeneraldiscussion@ohchr.org

**Re: Draft Revised General Comment on the implementation of article 3 of the Convention
in the context of article 22.**

I thank the Committee for the opportunity to provide feedback on this revision. My comments are based on 25 years of supporting mainly women who have endured the severe pain and suffering of acts of torture inflicted by non-State actors, many for decades that began in their childhoods. The acts of torture are comparable to the acts of torture inflicted by State actors; realities noted by previous UN Special Rapporteurs Mendez (2016),¹ and Nowak (2008).²

I am listing under the paragraphs of the document points that in my opinion require consideration. I will write my comments in red:

14. States parties should not take measures or adopt policies, such as detention in poor conditions for indefinite periods, refusing to process claims for asylum or unduly prolong them, cutting funds for assistance programs to asylum seekers, which would compel persons in need for protection under Article 3 of the Convention to return to their country of origin in spite of their personal risk of being subjected there to torture and other cruel, inhuman or degrading treatment or punishment **whether perpetrated by State or non-State actors. This addition is suggested to comply with, for example, UN resolutions (1994-1995 Question of integrating the rights of women into human rights mechanisms of the United Nations and the elimination of violence against women; Human Rights Council resolution 8/8 on the CAT; General Assembly resolution 65/205; additionally to comply with the Committee's General Comments No. 2 and 3) that uphold the**

¹ Mendez, J. (2016). *Report of the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* (A/HRC/31/57). United Nations.

² Nowak, M. (2008). *Report of the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* (A/HRC/7/3). United Nations.

human right principle of non-discrimination and to ensure the UN CAT is applied in a gender-sensitive and due diligence manner.

17. The Committee considers that severe pain or suffering cannot objectively be measured. It depends on the negative physical or mental repercussions that the infliction of violent acts has on each individual, taking into account all relevant circumstances of each case, including the **type and** duration of the treatment, the physical, **sexualized**, and/or mental effects, the sex, age, **gender** and state of health and vulnerability of the victim, **i.e., previous ordeals of torture, cruel, degrading treatment, disabilities.**

18. For the purpose of fully implementing Article 3 of the Convention, States parties

...

(d) The referral of the person alleging previous torture to an independent medical examination free of charge **understanding that many forms of torture leave no medical evidence.**

21. States parties should take into account that victims of torture and other cruel, inhuman or degrading treatment or punishment **whether perpetrated by State or non-State actors** suffer physical and psychological **and possibly sexualized victimizations and its consequential** traumas which may require sustained specialized rehabilitation treatment. Once their health fragility and need for treatment has been medically certified, they should not be removed to a State where adequate medical services for their rehabilitation linked to their torture-related **victimization and consequential trauma** are not available or not guaranteed.

30. In this connection, the Committee wishes to draw the attention of the States parties ...

(c) Whether, in the State of origin or in the State of deportation, the person has been or would be victim of violence including gender based/ sexual violence, in public or in private, or gender-based persecution, genital mutilation, **or forms of violence** amounting to torture **when perpetrated by non-State actors** without intervention of the competent authorities of the State concerned for the protection of the victim **according to customary international law and the jurisprudence of the Committee and of other recognized international and regional mechanisms for the protection of the equality of human rights;**