

Victoria Canning. *Torture and Torturous Violence. Transcending the definitions of torture.* Bristol University Press

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Torture and Torturous Violence by Victoria Canning, Associate Professor of Criminology at the University of Bristol, is an essay that extends the process of reflection the author began in 2016. On that occasion, she developed the concept of Sexually Torturous Violence¹ (Canning, 2016)

The current text expands the concept to define torturous violence as the infliction of emotional, psychological, sexualised and/or physical violence which mirrors acts usually inflicted as torture but which fall outside of the dominant legislative requirements to be recognised as such. In the book, the author explores in detail the areas of intersection and disjunction between the legal definition of torture and what she calls Experiential Epistemologies, i.e., knowledge elaborated from experience, in this case, that of survivors, therapists and experts with whom the author has been spoken over the years.

“Torturous violence is sustained, psychologically impactful and harms to the same or similar extent as violence which is definably torture. It can be enabled by coercive control, marital rights, relative powerlessness between perpetrator(s) and victim/ survivor(s), and on structurally violent familial or cultural norms” (...). Torturous violence may be the continuous subjection to sustained violence over a period of months or years or one sustained violation by an individual or group which has deep and long-lasting psychological or psychosocial impacts on the survivor”. (...). “This element is particularly relevant to those living in abusive familial settings, in conflict, during flight from conflict or persecution, or when seeking asylum or safety from domestic violence”.

The book is an essay. By using a style more characteristic of anthropology and philosophy than psychological research, weaves together the ideas that are the core of her thesis, sprinkling them with testimonies from interviews. The author focuses the debate on a problem that has been a classic in the philosophy of human rights over the last 30 years: whether it is only States that are responsible for the violation of fundamental human rights.

This debate does not only concern the field of torture, but has also been raised in the field of forced disappearance, extrajudi-

1 Defined as sexual violence that is torturous in nature in relation to its degradative objectives and effects but does not fall under the UN Convention’s definition in relation to either state accountability or obtaining information

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cial executions or genocide, to give just a few examples. Should the death of migrants in the Mediterranean in the face of the passivity of states be a case of enforced disappearance? Are the deaths at the borders where drug traffickers impose their law and extort or use migrants as slaves before disposing of them extrajudicial executions? Are the tortures and massacres of paramilitaries extrajudicial executions? This is a debate that generates heated and passionate controversy. On the one hand, those scholars who consider that there are broad sectors of the population whose suffering is being silenced and made invisible; on the other, those who understand that international conventions and treaties arise from its corresponding international declarations of rights, and especially the universal declaration of human rights, and that these agreements constitute frameworks of competence and duties of the States, designed to limit or control their power and protect citizens.

Professor Canning already warns us that her aim is not to increase the polarisation of a debate that is sometimes too acrimonious, but to focus on a trans-disciplinary view that incorporates the perspective of intersectional feminism on the legal definition of torture in accordance with the convention.

The author argues that there are several realities that particularly concern women that should be considered in the sphere of the definition of torture, and especially intimate partner violence, family violence and the use of gender-based violence in the context of armed conflict.

She basically puts forward three arguments in support of her thesis: (a) situations in which there is a prolongation in time of the acts of gender-based violence or sexual violence: incest, prolonged abuse in childhood, systematic violence and mistreatment for years within the couple, sexual slavery and trafficking

and other forms of violence in which there is, as a common element, deep structural and permanent damage to the identity of the person (b) situations of extreme suffering including forms of feminicide, in which, based on existential epistemologies, she tries to show that the subjective experience of the victims would correspond to that of the victims of torture. Furthermore, she goes on to suggest that in the definition of torture there should be a shift from intentionality as the core criterion for distinguishing torture from cruel, inhuman or degrading treatment, to clinical damage and sequelae (c) forms of suffering in which - as she details in an excellent analysis in chapter six - multiple forms of both external oppression and internal self-censorship combine to generate the silence and invisibilisation of the victims.

It is for these situations that she proposes the concept of torturous violence, i.e. torturing forms of violence. In this sense, the author does not take a maximalist approach by demanding that these forms of violence - and in particular, because of their epidemic importance, family and gender-based violence - be considered as forms of torture, but rather proposes that they be considered as forms of torturous violence.

It is well known that the Committee against Torture (CAT), as the treaty body that interprets the Convention, has avoided pronouncing at length on the matter, understanding that it should be the CEDAW the competent organ. The CAT restricts the consideration of gender-based violence as torture when negligence on the part of the State in the duty to protect can be accredited. In some cases, it is not required that the victim has denounced and asked for protection (as in the case of sexual slavery and trafficking, where the duty to protect would be global and systemic) and in others it is (as in intimate partner violence, where in one way or another

the woman should have asked for protection and this protection would not have taken place or would have been insufficient). But Professor Canning chooses not to enter into this debate, and does not consider the current options and lines of argument within the competent bodies of the UN system.

The concept of torturous violence is actually an interesting and remarkable contribution to the field of torture studies. It sheds light on situations in which, effectively, all the elements of torture are present except for the direct role of the State: annulment of the victim's will, deprivation of control over one's own life, humiliation, denigration and relational patterns of breakdown and destruction

However, the concept is not without elements that might warrant further elaboration. For instance, in the clinical field it is well known that both the suffering and the severity of the events correlate poorly with the impacts. In other words, in the face of potentially devastating situations, there will always be resilient people who are able to cope with the damage and even show forms of post-traumatic growth. This is precisely why, when contemporary scholars emphasise intentionality and purpose, they dissociate pain from suffering and clinical consequences and put the focus on the perpetrator - as is generally the case in almost all criminal offences, not just torture. What is important is not whether or not the abuser succeeds in destroying his victim, but his intentionality and his will to subdue and subjugate her and the actions he puts in place to achieve this.

It is perhaps worth remembering at this point that the concept of Torturous Violence helps to find commonalities between torture and sexual violence, sexualised violence and gender-based violence, and thus opens up very interesting fields of research and mili-

tant action, but that this does not necessarily imply that its use leads to better protection for women. In many countries, specially in the Global North, legislation on gender-based violence is more advanced and provides for more far-reaching forms of restorative and punitive justice than anti-torture legislation (perhaps precisely because in the idea that torture is committed by states, states are concerned that their officials enjoy impunity and dilute criminalisation and minimise punishment for torture). The existence of international conventions specifically aimed at violence against women - and in which the concept of Torturous violence can be useful as a framework for phenomenological understanding - can provide recognition, visibility and actions to seek justice and reparation of greater substance and more specific than an ascription to the field of torture, which, although more conspicuous, can ultimately mean greater lack of protection and accountability. It is worth remembering that there are already around 10 countries that consider domestic violence as a form of torture (the most notable, given the dimensions of the violence, Colombia) and that this has not been shown to have led to a reduction in the numbers of femicide, sexual abuse in childhood or gender violence.

We consider Professor Canning's book to be an important contribution that will help define and deepen the contours of torture and, in this sense, a highly recommended read for reflecting on forms of torturous conduct where there is no direct state responsibility and a valuable read for any activists and academics working in this area.

References

- Canning, V. (2016). Unsilencing Sexual Torture: Responses to Refugees and Asylum Seekers in Denmark. *British Journal of Criminology*, 56(3), 438-455. <https://doi.org/10.1093/bjc/azv079>