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Violence against Women as Torture and
Positive State Obligations to Prevent –
How much Diligence is Due?

Author: Kerstin Schinnerl

Supervisor: Prof. Aoife Nolan

Abstract

Violence against women committed in the private sphere (such as domestic abuse or rape) is a global phenomenon of pervasive prevalence. Feminists have analogised these forms of violence to torture and have criticised the state actor requirement contained in the definition of torture in human rights law, as it seemingly leads to an exclusion of privately inflicted suffering from the scope of protection. This thesis is concerned with examining the applicability of the torture definition to privately committed violence against women and discusses how these private acts can be attributed to states under human rights law. In particular, it examines the concept of “consent or acquiescence” (as contained in the definition of torture of the UN Convention against Torture) and the doctrine of “due diligence” (as developed in the jurisprudence of various human rights bodies) and explores the extent of positive state obligations to prevent harm by private actors, in particular violence against women.

Table of Contents

1. Introduction	1
2. The Prohibition of Torture in International Human Rights Law	4
2.1 Provisions in International and Regional Instruments	4
2.2 Concepts and Definitions of Torture	8
2.2.1 <i>Pain or Suffering</i>	8
2.2.2 <i>Purpose</i>	11
2.2.3 <i>Public Officialdom – Consent or Acquiescence and Due Diligence</i>	13
2.3 The Traditional Understanding of Torture	16
3. Violence against Women and the Traditional Conceptualisation of Torture – Feminist Critiques	17
3.1 Applicability of the Torture Definition to Violence against Women.....	17
3.1.1 <i>Pain or Suffering</i>	18
3.1.2 <i>Purpose</i>	20
3.1.3 <i>Public Officialdom – The Public/Private Dichotomy</i>	23
3.2 Violence against Women as Torture – The State-Actor Requirement as the Major Stumbling Block	25
4. The Role of Non-State Actors under the Torture Prohibition	28
4.1 Responsibility of the State for Private Harm under the Torture Prohibition....	29
4.2 Direct accountability of private individuals? Developments in International Criminal Law.....	32
5. The Extent of Positive State Obligations – The Duty to Prevent Violence against Women.....	36
5.1 The Duty to Prevent under the Concept of Due Diligence.....	37
5.2 The Duty to Prevent under the Concept of Consent or Acquiescence	45
6. Conclusion.....	51