

# Risky dis/entanglements: Torture and sexual violence in conflict

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## Abstract

Conflict-related sexual violence has become increasingly recognized in international spaces as a serious, political form of violence. As part of this process, distinctions between the categories of ‘sexual violence’ and ‘torture’ have blurred as scholars and other actors have sought to capitalize on the globally recognized status of torture in raising the profile of sexual violence. This move, while perhaps strategically promising, even already fruitful, prompts us to heed caution. What might we inadvertently engender by further pursuing such positioning? While torture and sexual violence have both been widely framed within the academic literature as *strategic* in recent decades, only torture, and not sexual violence, has emerged from elements of this literature as (potentially) *legitimate*, despite the slippages between them as categories of violence. This article offers one avenue for thinking through what an invigorated focus on sexual torture as a category of violence might unwittingly render possible, and thus for reflecting on the possible stakes of collapsing the categories of sexual violence and torture. Ultimately, we argue that we should perhaps resist the urge to frame sexual violence as torture and instead cleave to the sticky signifier of ‘the sexual’, despite the ways in which it has served to normalize, perpetuate and obfuscate grievous harms throughout history.

## Keywords

Conflict-related sexual violence, consent, gender, legitimacy, sexual torture, torture

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## Introduction

A member of an armed group forces a civilian prisoner to rape his daughter and son; a soldier sodomizes and mutilates several women during a village raid; a commander impregnates a young girl kept as his sexual slave; a doctor applies electric shocks to the testicles of a suspected terrorist. Such acts can be understood as sexual violence, sexual torture or simply torture, depending on the definition employed. They all target body parts associated with sexuality. All are likely to meet accepted definitions of both torture and sexual violence. All surely cause massive harm to victims/survivors. While such atrocities have occurred in war throughout history, their specificity as ‘sexual’ and their status as *particularly* egregious and unacceptable acts that accompany armed conflict have been firmly established in the global policy architecture in recent years (Crawford, 2017; Eriksson Baaz and Stern, 2013; Hirschauer, 2014; Kirby, 2012). This long-overdue attention has ushered in increased efforts to understand, theorize, categorize and distinguish between the forms, logics, acts and effects of sexual violence. Among other developments, it has led to the existence of deliberate and explicitly politically strategic efforts on the part of feminist scholars to merge the categories of sexual violence and torture, as well as an increasing understanding in international spaces that many harmful acts fall into both. Indeed, many advocate for recognizing (particular forms of) sexual violence as torture — either in labelling as ‘sexual torture’ those acts that fulfil the definitions of both categories (such as those noted earlier) (Edwards, 2011: 224–226; Hayes, 2010: 137; Henry, 2011: 74–75), or in re-conceptualizing *all* sexual violence as torture (MacKinnon, 2006; Pearce, 2003). The stakes of these efforts to position (some/all) sexual violence as torture lie in their attempts to gain recognition for sexual violence as a serious and extraordinary form of *political* violence by taking advantage of the recognized profile of torture (Edwards, 2011: 257). This move, while perhaps strategically promising, even already fruitful, prompts us to heed caution. What might we inadvertently engender by further pursuing such positioning?

While torture and sexual violence have recently both been widely framed within the academic literature as *strategic*, only torture, and not sexual violence, has emerged from elements of this literature as (potentially) *legitimate*. Torture largely remains both prohibited and taboo as a modern form of violence in academic scholarship, global policy arenas and among people more generally; nonetheless, its use in the US-led Global War on Terrorism has prompted an academic debate about its instrumental — and even moral — value as strategy in this US context (which we term the ‘torture as strategy’ debate). This resurgent debate includes deliberations about the potential legitimacy of torture as a mode of political violence (e.g. Levinson, 2004). While it has incurred considerable critique (both within the instrumental logic in which it is framed and from scholars appalled by its ethical depravity and political ramifications), this debate nonetheless persists. Despite the many ways of framing it in both policy and academic conversations, sexual violence, on the other hand, is consistently cast as firmly illegitimate and indefensible in modern (read: ‘civilized’) warfare — regardless of the particular military context or theatre of war. Hence, despite the existing intermeshings, even the collapse, of the categories of sexual violence and torture in academic debate, important lines of distinction remain.

In this article, we consider the conditions of possibility, as they emerge from the ‘torture as strategy’ debate, for positioning one form of violence (torture) as possibly legitimate and even morally just, while another (sexual violence) remains illegitimate, despite the slippages between them as categories of violence. Our aim is to offer one avenue for carefully thinking through what an invigorated focus on sexual torture as a category of violence might unwittingly render possible, and thus for reflecting on the possible stakes of collapsing the categories of sexual violence and torture.

We develop our line of query in four sections. First, we trace associations between rationality and legitimacy and present the basic line of reasoning through which torture is positioned as (potentially) legitimate within the ‘torture as strategy’ debate. Second, we offer a brief outline of our methodological approach. Third, we discuss the categories *sexual violence/rape*, *sexual torture* and *torture*, as well as their intermeshings and overlaps. Fourth, while keeping in mind the conditions of possibility for disposing torture as a legitimate form of violence identified in the first section, we trace in broad strokes some of the limits of these categorizations as they emerge in scholastic conversations around conflict-related sexual violence, sexual torture and torture as strategy. We are thus able to see how associations with pleasure/cruelty, the body, emotion, the private sphere and irrationality work in distinguishing between forms of violence (or even between sex and violence) and, ultimately, must be seemingly erased in order for violence to be positioned as legitimate and/or just. To conclude, we suggest that in categorizing sexual violence *as* torture, or delineating certain forms/acts of (sexual) violence as sexual torture, we lamentably may open up space for framing such violence as a potentially legitimate tactic of warring.

### **Framing torture as ‘legitimate’**

Our reasoning rests on the recognition that, deeply engrained into post-Enlightenment Western thinking, there is an association between rationality, the mind, public space and masculinity, and that these interlinked signifiers are positioned in binary opposition to irrationality, the body, private space and femininity. For Descartes (1960), the body is merely physical matter, an inert object that exists in space and obeys the laws of physical science; the mind, in contrast, is a thinking substance that transcends physical space (Crossley, 1995: 44). In this ‘Cartesian duality’, the mind has the capacity for thought, reason and rationality; the body emerges as a realm both separated from the mind and devoid of reason — it is ‘merely the crude container of the mind’ (King, 2004: 31). The assumption of a dichotomous relationship between the rational mind and irrational body not only has ‘dominated the structure of our thinking and social practices since the Enlightenment’ (Prokhovnik, 2002: 4; see also Pin-Fat, 2013), but moreover is deeply gendered, with the rationality of the mind associated with masculinity and the irrationality of the body with femininity (Prokhovnik, 2002: 1; see also Grosz, 1994; King, 2004: 31).

This divide between mind/rationality/masculinity and body/irrationality/femininity further maps on to the gendered spatial imaginary of the public–private divide. As multiple feminist scholars have argued, the distinction between ‘public’ and ‘private’ spaces and forms of violence is neither fixed nor inevitable, but fluid, contingent, politically

formulated and, importantly, *gendered and gendering*, with private space frequently associated with the feminine and public space with the masculine (Massey, 1994; Pateman, 1988). Moreover, the public sphere emerges in Western thought as a space in which the rational mind is exercised in political debate; the private, in contrast, is a space of 'passion or desire', in which 'rationality [has] no place' (Evans, 2001: 220). Many have convincingly argued that the association of 'the sexual' (and, indeed, of women, who make up the majority of the victims of such violence) with the private, domestic sphere, as well as with the 'irrationality' of the (sexual) body, has long contributed to the exclusion of sexual violence from the recognized category of 'public', 'political' violence (Bunch, 1990; Charlesworth et al., 1991; Hirschauer, 2014; Pearce, 2003).

While the interwoven gendered dichotomous relationships between mind/rationality/public and body/irrationality/private have been widely recognized, we seek to make an additional connection to this chain of signifiers by linking ideas about the 'legitimacy' and 'illegitimacy' of particular enactments of violence in order to interrogate the conditions of possibility through which, within particular debates, torture is rendered as potentially legitimate in the context of war and international politics. The literature on torture is large and diverse, and we divide it into three main subsections: the 'torture as strategy' literature, which weighs the morality of torture from the assumption that it 'works' as a method of strategic violence; literature which argues that it does not 'work'; and critical scholarship, which rejects the question of torture as strategic violence at all. We focus on the 'torture as strategy' literature, and argue that within this body of work, (particular instances of) torture come to be framed as falling into the mind/rationality/masculinity/public side of the dichotomy. That is, 'legitimate' torture is cast by its proponents as contained, proportionate and deliberately and clinically deployed in the pursuit of a rational political aim; violence driven by desire, emotion or irrationality, according to such lines of reasoning, cannot be legitimate in the context of armed conflict.<sup>1</sup> Let us explain.

The accepted international definition of torture requires that it is perpetrated with intent: this is a *deliberate* form of violence (Sussman, 2005: 5) perpetrated in the pursuit of a particular, instrumental *aim* (Blatt, 1992; Harries, 2009: 41; Peel, 2004: 11). While multiple potential aims are recognized in the literature (see Harries, 2009; Onuf, 2009; Wisniewski, 2010: 7–8), most 'torture as strategy' literature, as well as that which argues that it does *not* in fact 'work', frames torture (including sexual torture) as something primarily intended to cause its victim to divulge some desired piece of information (e.g. Bagaric and Clarke, 2007; Derschowitz, 2002, 2003, 2004; Elshtain, 2004; Harel and Sharon, 2008; Meger, 2016; Parry, 2004: 153; Posner, 2004; Sussman, 2005; Walzer, 2004). This instrumental understanding of torture underpins debate around its legitimacy and morality, in which some scholars contend that (non-sexual) torture, while abhorrent and undesirable, can nonetheless be justified in exceptional circumstances in an international system characterized by non-state violent actors such as transnational terrorist networks (Meisels, 2008).

Most often, 'torture as strategy' scholarship argues for the potential morality of torture through the 'ticking time bomb' scenario: a thought experiment in which a prisoner with knowledge of an imminent, large-scale terrorist attack will disclose information necessary to prevent it only if tortured. Harel and Sharon (2008: 242–243), for example, argue

that while torture must never be permitted by law or principle, in ‘ticking time bomb’ circumstances its use to ‘prevent massive loss of innocent lives’ ‘may be permissible or even mandatory’. It is thus not only possible, but *morally right*, to ‘defend a categorical prohibition on torture while also allowing that torture may be necessary when circumstances are extreme’ (Harel and Sharon, 2008: 249). This idea — that torture should remain subject to a blanket legal ban but should nonetheless be used extra-legally in exceptional circumstances — is advocated by multiple scholars (e.g. Allhoff, 2005; Bellamy, 2006; Elshain, 2004; Miller, 2005; Parry, 2004; Posner, 2004; Walzer, 2004). In a slightly different vein, Dershowitz has argued that because torture *is already being used* by US personnel under the radar and therefore with impunity, it would be better to legally regulate it by requiring that a ‘torture warrant’ be granted for its use (Dershowitz, 2002: 131–163; see also Dershowitz, 2003, 2004). Such arguments rely upon a belief that *torture works* as a rational and effective way to gather information (Bagaric and Clarke, 2007: 12–13, 54–61; Dershowitz, 2002: 137; Krauthammer, 2004: 314).<sup>2</sup>

According to this line of reasoning, contemporary enactments of torture *can* be framed as (potentially) legitimate — but, as we argue later, only when they are seemingly abstracted from associations with bodily pleasure and irrationality. This is not to say that actual instances of torture are devoid of cruelty/pleasure or irrationality on the part of the torturer. The infamous photos of US soldiers’ torture of prisoners at Abu Graib, for instance, cast serious doubt on claims of rational, distanced torture in the Global War on Terrorism. Indeed, scholars across multiple disciplines have charted the pleasures found in the perpetration of violence, including the violence of war. In disciplines such as psychology and criminology, for instance, the notion that serial killers, in particular, enjoy killing prevails (e.g. Myers et al., 2006). Scholars studying war and militarism have also addressed the melding of pleasure/cruelty/desire with military violence (see, e.g., Crane-Seeber, 2016; Dyvik, 2016; Higate, 2012; MacKinnon, 1993). Bourke, notably, points: to the ‘spiritual resonance’ and ‘seductive beauty’ of killing in battle; to the ‘intense feelings of pleasure’ that it engenders; and to servicemen’s narrating of killing as a ‘turn on’ (Bourke, 1999: 13, 2–3, 20, 335). These are the stuff of many a Hollywood movie and war novels, as well as of personal accounts of warfare. Similarly, one could point to preceding logics of torture that rested on dehumanization, such as those that underpinned the violence of slavery and colonialism, which celebrated or at least encouraged cruelty; these logics clearly persist in thinly shrouded forms, and serve to erect a binary between civilized and uncivilized warring (see, e.g., Blakely and Raphael, 2017; Turner, 2018).<sup>3</sup> Torture’s role in previous forms of governing also did not refuse or expunge pleasure on the part of the torturers or spectators of torture; indeed, as Mavelli (2016) explains, the intentional, public inflicting of suffering was part of the production of sovereign rule. Despite this, and following Bourke’s observation that a comprehensive reflection on killing and its pleasures is often expunged from dominant understandings of modern war (Bourke, 1999: xiv; see also McSorley, 2013; Scarry, 1985: 63–64), we suggest that *‘torture as strategy’ narratives that seek to present torture as legitimate do so by rhetorically detaching it from any association with the irrationalities, unruly bodily experiences and terrible pleasures that characterize the tangled swamp of wartime violence* (Herzog, 2009). Or, in other words, we hold up to critical scrutiny the discursive removal of such

associations that are required in the framing of (some instances) of torture as rational and just.

The connection between reason, rationality and legitimacy in modern warring and the use of force has a long history in political thought (see Evans and Carver, 2017) and is grounded in ideas about international law and sovereign authority in the modern liberal state (Weber, 1965; Wolff, 1969). The associations between rationality and legitimacy, as they are being evoked in the ‘torture as strategy’ line of argument, are thus anchored with the weight of a long history of ideas. Further, ideas about principles of right that are discernible by the rational liberal subject underpin modern secular just war theory, which holds that the violence of war is only morally justifiable when it is limited and restrained, targeted at specific and rationally selected targets, and carried out in the pursuit of reasonable political aims (Elshaint 1987: 150; see also Johnson, 1981; Walzer, 1992). In making distinctions between legitimate and illegitimate violence in the context of war, then, ‘legitimacy’ relies upon the understanding that an act is rational and pursued for intended political aims (and is thus associated with the public and with masculinity).<sup>4</sup> As Cohn (1987) has further compellingly demonstrated, the language of rationality can serve to make even highly *irrational* forms of violence, such as nuclear war, appear reasonable and restrained (see also McSorley, 2013).

## A brief note on methodology

The sites we interrogate include academic work that focuses on sexual violence, torture and/or sexual torture from across the interrelated disciplines of International Relations, political science and political philosophy, and international legal studies. Clearly, however, scholarship does not take place in hermetically sealed spaces; rather, it is both shaped by and influences wider discussions and events. For example, academic debates are informed and underpinned in important ways by international jurisprudence as this provides the basic scaffolding through which scholars approach categories of violence. We therefore refer to some key judgments and legal definitions for the purposes of providing background and context, yet we neither claim to cover all relevant jurisprudence nor include a critical reading of international law in our analysis.<sup>5</sup>

Academic debates around conflict-related *sexual violence* have been increasing across multiple disciplines since the Yugoslav wars and the Rwandan genocide, and the subsequent International Criminal Tribunals for the former Yugoslavia (ICTY) and for Rwanda (ICTR). While our reading has included the wide field of scholarship on conflict-related sexual violence, we highlight the explanatory framework of ‘rape as weapon of war’, which corresponds snugly with moves in the global policy arena to recognize sexual violence as a security issue (e.g. Hirschauer, 2014). Likewise, literature on *sexual torture* has also become a burgeoning field, both within feminist theory and more broadly. As noted earlier, we see an increasing move in the policy/advocacy arena towards framing sexual violence as sexual torture (see Edwards, 2011; McKinnon, 2006) — notably also in terms of offering a language for paying attention to sexual violence against men (Dolan, 2018; Touquet and Gorris, 2016). Further, as we noted earlier, while literature on *torture* is significant and multiple, we focus in this article on the ‘torture as strategy’ literature because of its influence beyond the academic realm — in public and media

discourse (e.g. Goldman and Craighill, 2014; Gutting and McMahan, 2015) and in the political sphere (Merica, 2017) — and because it allows us to interrogate the role of rationality (etc.) in mediating between strategicness and legitimacy in this particular site.

While our arguments emerge from a wide reading, we do not pretend to adequately represent the wealth of growing bodies of increasingly diverse and nuanced scholarship here. In this sense, our material is not representative of all relevant scholastic conversations about these forms of violence; instead, we sought to paint a picture of some dominant lines of debate. In our reading of relevant texts, we have noted what distinctions between, and the collapse of, these categories within trends of scholastic conversations can tell us about how categories of violence become imaginable as viable in warring. Our reading of these sites comprises three main and interrelated moves: (1) we paid attention to the points of convergence and difference between the categories of sexual violence and torture and considered their limits (What underlying assumptions, for instance, rendered them intelligible? What is included/excluded? What is seemingly erased<sup>6</sup> and how?); (2) we explored the conditions of possibility for rendering torture potentially legitimate within a particular scholastic site (the ‘torture as strategy’ debate); and (3) we considered these conditions of possibility as they might apply to discussions of sexual violence and torture. We do so in order to explore the *impossibility* of sexual violence being rendered legitimate within the limits of overarching storylines about sexual violence, most particularly the notion of rape as a weapon of war. Ultimately, through this threefold method of reading, we asked: how/why can one form of violence (torture) be seemingly rendered plausible as a legitimate strategy, even just, and another (rape/sexual torture) be seen as a monstrous blight on modern warfare that is both morally reprehensible and absolutely not ‘ok’ under any circumstances — especially when the lines of distinction between these forms of violence are blurry at best? What do our answers to these questions imply for the call for recognizing sexual violence as torture?

### **Categories of violence? Slippages, contractions, collapse**

Our discussions stem from the understanding that categories of violence do not fall unproblematically or apolitically into neat, predefined or mutually exclusive categories that are pinned down in any final sense. Understanding, theorizing and categorizing the forms, logics, acts and effects of violence, as well as violence writ large, is a vast and fraught endeavour as violence is a slippery concept (Zalewski and Runyan, 2013: 296–298). In exploring how violence is categorized, we begin from the accepted international legal definitions as these definitions generally underpin (whether explicitly or implicitly) the operationalization of torture and sexual violence in academic texts, but are not often subjected to critical analysis within them. Indeed, it may be comforting to scholars of conflict-related violence to think that because torture and rape/sexual violence are defined in international law, we *know what they are* and therefore can argue, for example, for acts to fall into particular categorizations without subjecting these categorizations themselves to critical scrutiny; however, these seemingly solid definitions slip and slide about in multiple ways. That is, as is widely recognized by critical (legal) theorists (see Kairys, 1982), even legal categories of harm are not encased by ‘hard lines, as though they located and mirrored some inevitable ontological reality’ (Pin-Fat, 2010: 121).

Indeed, while some of the distinctions drawn may take on the temporary *appearance* of ‘hard lines’, upon a closer look, we see that the lines that we rely on to distinguish between these categories are (more or less) fluid and shifting, even in legal contexts, and, as such, require constant interrogation. In light of this, let us then briefly query prevailing legal definitions of torture and sexual violence.

The dominant international definition of torture, the *UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, defines torture as characterized by three key attributes: it involves ‘severe pain or suffering’, and is perpetrated in the pursuit of a particular aim (e.g. to obtain a confession), by or with the consent of a ‘person acting in an official capacity’ (UN General Assembly, 1984). Under the Elements of Crimes Annex of the 1998 Rome Statute, where we find the dominant international legal definitions of rape and sexual violence, rape is defined as (various forms of) penetration of the body of the victim, and sexual violence more broadly as acts ‘of a sexual nature’, which is/are perpetrated by ‘force, or by threat of force or coercion’, by ‘taking advantage of a coercive environment’ or ‘against a person incapable of giving genuine consent’ (International Criminal Court, 2002: 8, 10).

While we clearly cannot represent the full range of legal complexity here, we make two points in the following to demonstrate that ‘hard lines’ (Pin-Fat, 2010) between torture and sexual violence do not exist even in legal spaces and, thus, to underline our argument that the ground beneath scholarship on torture and sexual violence must be regarded as shifting and subjected to critical analysis. First, torture and sexual violence overlap: International Criminal Court (ICC) definitions delineate the *act* of rape/sexual violence but not the *crime*, and these acts can be tried as a war crime, a crime against humanity, an element of genocide or, importantly for our present purposes, a constituent act of torture (Edwards, 2011; Weiner, 2013). International bodies including the ICTR, ICTY, the European Court of Human Rights and the United Nations’ (UN’s) Committee Against Torture have all recognized sexual violence *as* torture in cases where victims/survivors have been raped in detention to coerce them into disclosing information (Edwards, 2011: 224–226; Hayes, 2010: 137; Henry, 2011: 74–75). This overlap is reflected in the category of ‘sexual torture’, discussed later. Second, the slipperiness and permeability of the categories are also evident in the degree of clarity as to the *content of the acts* that fall within these definitions. The ICC’s definition of rape does quite mechanically delimit which bodily actions (can) qualify as rape; however, its definition of sexual violence as acts ‘of a sexual nature’ relies upon assumptions about what a ‘sexual nature’ comprises (and does not comprise) that are not clearly delineated, but assumed known.<sup>7</sup> Similarly, the definition of torture omits *any* specification of the acts that qualify, and instead focuses only on the *effects* and the *circumstances* of these acts (Blatt, 1992). This is, of course, necessary: any attempt to formulate an exhaustive list of acts that constitute torture would be both impossible and decidedly undesirable as the creative ways in which people harm each other will surely always surpass our imaginations. Notwithstanding its inevitability, however, this uncertainty has important implications, both for judgments in international courts, which have been inconsistent on whether particular harmful acts constitute torture (Harries, 2009: 39; Ní Aoláin, 2004; Parry, 2004: 147–149), and for political manoeuvrings that seek to disqualify certain acts (such



as the use of ‘enhanced interrogation techniques’) from the category (Birdsall, 2016; Lang, 2009: 8; Wisnewski, 2010: 200–226).

Beyond the legal sphere — as we might identify from the examples that introduced this article — there are similarly many points of convergence between the delineated categories of sexual violence and torture as they appear in the literatures that we interrogate. In particular, when we look more closely at the *harms of these forms of violence to the victim* as they emerge from the literature, striking overlaps and parallels appear, even in cases that do not obviously correspond to both categories. Most notably, scholars have identified both torture (e.g. Scarry, 1985; Sussman, 2005) and conflict-related sexual violence (Agger, 1989)<sup>8</sup> as an attack upon the humanity and the subjectivity of their victims: as violence that ‘destroys a person’s self and world’ (Scarry, 1985: 35). Several have explicitly made this connection between torture and sexual violence (Seifert, 1996: 40; Sussman, 2005). In particular, scholars have approached both forms of violence as embodied experiences that *destroy* the subject, however temporarily, by forcing victims to feel complicit in their own violation (Luban, 2007; Parry, 2004: 153; Scarry, 1985: 47–48; Sussman, 2005: 30).<sup>9</sup> Parallels also emerge in understandings of the long-term physical and psychological effects of torture and sexual violence on individuals, including social and interrelational difficulties such as family breakdown (Dolan, 2009; Dorfman, 2004: 6; Edwards, 2011: 220; Henry, 2011: 3; Wisnewski, 2010: 82), and the degradation of social norms and even civilization itself (Dorfman, 2004: 9; Meger, 2016: 69; Wisnewski, 2010: 72). Finally, others have discussed the ways in which these forms of violence are similarly implicated in the *production* of disempowered gendered and raced subjectivities in the targeted groups (Briggs, 2015; Eriksson Baaz and Stern, 2009: 514; Puar, 2005).

Given these seemingly organic overlaps, through what logics do apparent, often ‘common sense’, distinctions between these categories persist? Feminist scholars have compellingly argued that the categories of torture and of sexual violence have historically been differentiated by the (presumed) gender of their victims: that the category of torture was developed based on the experiences of men, and excludes similar violence more commonly faced by women (Bunch, 1990; Charlesworth et al., 1991; Edwards, 2011: 51–71; Pearce, 2003: 537). While sexual violence perpetrated against women is commonly recognized as such, that perpetrated against men may be ‘hidden’ under the label of torture, obscuring the sexual character of their harms (Dolan, 2014, 2018; Charman, 2018; Sivakumaran, 2007). This division, feminist scholars have argued, largely centres around the gendered notion of the public–private divide. Violence understood to occur in the (masculinized) public sphere, perpetrated by someone acting in ‘official’ capacity, comes to be classified as ‘torture’ and as political. Sexual violence, on the other hand, has long been understood as belonging in the (feminized, irrational) ‘private’ sphere regardless of the actual location in which the act takes place (e.g. in the field, road, marketplace, home) or who is perpetrating the act. Sexual violence has thus had a long history of being seen as *apolitical*, being motivated by private desires and therefore irrelevant to studies of conflict and of the international (Hirschauer, 2014: 5). While the newly found recognition of sexual violence as a weapon of war (further discussed later) certainly challenges and even successfully refutes the notion of wartime rape as apolitical and private, these connotations still linger and arguably undermine its consideration

as fully political to the same degree as torture (see Eriksson Baaz and Stern, 2018). Moreover, scholars have argued that torture is treated with comparatively greater seriousness than sexual violence in international discourse because of its association with the masculine: in Copelon's words, 'history teaches us' that violence against women is likely 'to be treated as of secondary importance' (Copelon, 2000: 234; see also Edwards, 2011: 66, 69; MacKinnon, 2006: 21).

Two separate, but interrelated, moves have emerged in academic spaces that counter this historical marginalization of sexual violence. First, the category 'sexual torture' has gained traction to refer to acts that fulfil the accepted (legal) descriptions of *both* sexual violence and torture, that is, acts that are 'of a sexual nature' *and* that involve severe suffering, and are perpetrated in the pursuit of a particular aim, with the involvement of an official actor (Blatt, 1992; Canning, 2016: 443; Oosterhoff et al., 2004: 71). In such work, sexual torture most commonly emerges as a *method* by which torture is carried out (e.g. Aswad, 1996: 12; Blatt, 1992; Peel, 2004; Pettitt, 2014). What distinguishes 'sexual' from 'non-sexual' methods of torture is, generally speaking, the *body part* targeted. That is, 'sexual torture' emerges as an act that has the same *purpose* and *meaning* as non-sexual forms of torture but targets parts of the body coded as 'sexual'. According to this reasoning, electric shocks administered to the earlobes, or the gums, feet or fingers, is torture; electric shocks administered to the testicles is *sexual* torture (see Agger, 1989: 311; Dolan, 2018). Forced feeding of prisoners on hunger strike is torture; forced 'rectal feeding' — where a 'nutrient enema' is forced into a hunger-striking inmate's rectum — is rape (Mowlabocus, 2014). Moreover, in these accounts, sexual violence emerges as a particularly effective method of torture: 'rape is a cheap form of torture which can leave little evidence while being brilliantly effective' (Pearce, 2003: 540; for discussion, see Kirby, forthcoming). (Such a notion, of course, builds on gendered assumptions about the effects of rape (see Stern and Zalewski, 2009).

Second, some feminist work has sought to define *all* sexual violence as torture. This approach expands the legal definition of torture by including violence perpetrated by private actors, arguing that rape is political even without the involvement of an official actor. MacKinnon (2006: 22), for example, argues that the purpose of all rapes is maintaining male dominance: rape is 'neither random nor individual', but rather 'systematic and group-based', 'defined by the distribution of power in society'. Furthermore, she suggests that states are 'typically deeply and actively complicit' even in 'private' rapes: 'The abuse is systematic and known, the disregard is official and organized, and the effective governmental tolerance is a matter of law and policy' (MacKinnon, 2006: 25; see also Bunch, 1990: 490–491). Like the positioning of sexual violence as a *method* of torture, the political stakes of moves to position sexual violence *as* torture lie in seeking to capitalize on the recognized profile of torture as an extraordinary form of *political* violence (Edwards, 2011: 66; McGlynn, 2008: 77; Pearce, 2003: 535). While there is disagreement about the strategic wisdom of these moves (McGlynn, 2008; Meger, 2016: 116), they have widely been celebrated as 'a feminist triumph that should not be underestimated' because of the ways in which they have increased recognition of violence against women as a serious and political form of harm (Edwards, 2011: 257).

Hence, the overlaps and points of collapse between these categories invite us to think about torture and sexual violence not as two separate forms of harm, but as something of

a continuum, with acts more easily identifiable as one or the other at each extreme and a far greater collection of violence in the centre, which blurs the idea of a division between the two. How and why one then distinguishes between them can be seen, therefore, not only as an exercise in categorization (or, at worse, semantics), but as deeply political. If we as scholars of violence in International Relations treat the lines of (legal) categorizations *as though they were 'hard'*, we may remain blind to the political and ethical implications of *how* these categories are open to slippage, to reinterpretation and to challenge. Also, vitally for our purposes here, we may miss how we can understand the closely woven relationship between the categorization and the legitimization of violence, whereby the logics inherent to one categorization could lapse into another.

In the sections that follow, we explore the work that *pleasure/cruelty* (and the attendant notion of *consent*) and *rationality* do in distinguishing between forms of violence, and in ultimately enabling some to emerge as (potentially) legitimate. As we shall see, these work both through their discursive erasures and their presence, albeit in different ways. While we focus on the premises in the particular debate about torture as strategy presented earlier, we follow these logics as they may apply also to discussions of sexual violence and sexual torture.

### **Erasing pleasure, cruelty and the body? Rationality as a condition of possibility for the legitimacy of violence**

As discussed earlier, the place of pleasure in studies of violence is complex: while it is recognized in some sites, it remains, as Bourke (1999) has convincingly argued, mostly written out of our scholastic conversations on war, except in reference to more 'barbaric' warring that takes place in supposedly 'uncivilized' places or by deviant individuals.<sup>10</sup> How, then, might pleasure/cruelty and its chain of related signifiers (emotions, the body, the private sphere, etc.) and the attendant notion of consent — both its presence and its seeming erasure — work in different ways in delineating sexual violence, sexual torture and torture? We focus on pleasure (etc.) because in studying how forms of violence are rendered intelligible and distinguished from each other, pleasure/cruelty<sup>11</sup> and consent (to be further explained later) acted as a distinct line of demarcation between forms of violence. Lines of demarcation lie, among other things: in the characterization of whose pleasure is at stake; in the role that pleasure plays, in either its presence or its absence; and in how complete the erasure of the idea of pleasure might be in relation to both perpetrator and victim/survivor.

One might argue that pleasure and its string of associations have been successfully erased from dominant accounts of wartime sexual violence that have recast it as a rational strategy (cf. Eriksson Baaz and Stern, 2018). The past decade has seen the establishment of conflict-related rape framed as decidedly political, a strategy or weapon of war, in contrast to its previous framing as integrally tied to the heterosexual bodily urges and cruel pleasures of warring men. While there are many different ways of explaining wartime sexual violence, and, indeed, the 'rape as a weapon of war' narrative has been criticized for being both reductionist and universalizing (Eriksson Baaz and Stern, 2013; Hoover Green, 2016; Kirby, 2012), this framing remains dominant in the policy arena, as

the 2018 Nobel Peace Prize attests. As Eriksson Baaz and Stern explain, the ‘weapon of war’ discourse is held together by four nodal points: the assumption of ‘strategicness’; a rational, culpable perpetrator who acts with conscious intent; the idea that rape can be stopped; and the gendered understanding that a woman’s sexual ‘purity’ represents the sanctity and the borders of her collective, making an attack against her an attack on her collective as a whole (Eriksson Baaz and Stern, 2013: 44–62; see also Hirschauer 2014: 187; for a discussion of how bodies and body parts come to be framed as weapons, see Kirby, forthcoming). Hence, the strategic analysis of torture is echoed to a certain extent in the framing of wartime rape as a ‘weapon’, which seeks to stop sexual violence by refuting it as inevitable and inherent in masculine heterosexuality and by building on an idea of the rationality of the agent of rape, be it either the perpetrator or commander.

Despite this widespread *strategic* framing, however, we could find no academic debate over the potential *legitimacy* of conflict-related sexual violence to parallel that around torture. Indeed, such a debate — which might ask (hypothetically!), for example, whether sexual violence is the most effective way to destroy the morale of ISIS and, therefore, may be morally justifiable in order to end conflict in Iraq and Syria and prevent future terrorist attacks — is largely unimaginable in academic (as well as in public or political) discourse. Kirby (forthcoming) offers a compelling argument that framing rape as a weapon of war — ‘weaponization’ — has led, among other things, to its being framed as a rational weapon, much like other weapons (cf. Eriksson Baaz and Stern, 2013: 51, 58). While we agree with Kirby on this insightful point, we suggest that pleasure, the irrational and so on continue to haunt<sup>12</sup> efforts to frame conflict-related rape as a rational tactic of warring. Hence, we suggest that despite the firm move towards foregrounding the rationality of the perpetrator, persistent associations with pleasure/cruelty, emotions, the sexual and the body arguably unsettle the status of rape as a rational weapon of war (Eriksson Baaz and Stern, 2018) and firmly separate it from the possibility of being considered legitimate or just.

In order to trace how this might occur, we first turn our attention to the question of *consent*. Consent remains an important question in dominant framings of sexual violence — an open question in relation to peacetime sexual violence, and one that is firmly and pre-emptively answered in the negative in accounts of wartime rape. However, it does not seem to be at play at all in framings of torture, even as something pre-emptively answered. Debates around sexual violence in peacetime often place consent, in particular, the lack of it, at the heart of their definitions, as a line between what is legal, moral or accepted, and what is not. In popular discourse and legal judgments, consent is the hinge around which a particular act is understood as ‘sex’ or, alternatively, as ‘violence’ (Dowds, 2018: 6). Consent thus figures as a kind of ‘dividing line’ used to distinguish ‘good’ from ‘bad’ (Wertheimer, 2003), ‘pleasurable’ from ‘unpleasurable’ (Jones, 2002), and morally acceptable from morally unacceptable and/or criminal sex, that is, rape (Hurd, 1996). The continuing attachment of definitions of sexual violence to the notion of consent maintains and (re)produces a connection between sexual violence and sexual *pleasure*. Simply put, the *possibility* of consent enables questions about desire and (female) sexual autonomy that acknowledge that both individuals might choose freely to engage in sexual relations, which would render the act in question ‘sex’ instead of ‘rape’.

While these debates dominate conversations about sexual violence in national contexts and domestic legislation, they appear less prevalently in discussions about wartime rape (cf. Dowds, 2018). Notably, while the role and the significance of consent has shifted across the definitions developed by and judgments passed at the ICTY, the ICTR and the ICC (Dowds, 2018; Hayes, 2010: 140–142), contemporary international rape law *both requires and presumes* lack of consent (Hayes, 2010: 143–144). The contexts of war, genocide and/or detention have been interpreted as coercive environments to the extent that consensual sexual relations are rendered impossible (Dowds, 2018: 6–7; Green et al., 1994; Halley, 2008: 8). Similarly, non-consent is largely assumed in the literature in relation to ‘sexual exploitation’ perpetrated by UN peacekeepers against local women, even in cases where the ‘victims’ of such abuse claim to have consented to sexual relationships (cf. Simic, 2009). This basic premise — that war constitutes a coercive environment in which consensual sex is impossible — resonates in academic accounts of wartime rape in which armed men use force to rape unwilling victims, whether these accounts are of rape as: war booty (cf. Card, 1996); ‘recreational’ or ‘opportunistic’ (Enloe, 2000; Meger, 2016); ‘sexual gratification’ (Cohen, 2016); ‘sexual satisfaction’ (Aranburu, 2010: 614); practice (Wood, 2018); or a strategic weapon of war (Card, 1996). Importantly, in such discussions, because of the resonances with discussions about sexual violence in domestic/peacetime settings, and because of the ways in which dominant understandings of (hetero)sexual desire provide the lexicon through which we can make sense of such violence (Eriksson Baaz and Stern, 2018), the possibility of mutual consent and therewith of desire and pleasure lingers as a spectral whisper (s/he — the perpetrator or the victim/survivor — wanted it, chose it, agreed to it ...), even if only in its denial.

The consent/pleasure of the perpetrator of sexual violence appears as assumed, plausible or impossible, depending upon the specifics of the violent act and the frame of understanding that one espouses. In some renderings, such as those that position wartime rape as opportunistic or as sexual gratification, the question of the consent of the perpetrator, and, indeed, of his/her desire and pleasure, remains a non-issue, being assumed and therefore beyond the need for critical assessment (e.g. Meger, 2016: 59–61). In accounts that frame wartime sexual violence as a strategic weapon of war, there is a little room for critically questioning the consent and pleasure of soldiers commanded to rape by their superiors; in relation to the blurry category of victims/survivors/perpetrators forced to perform sexual acts on themselves or others, consent and pleasure retreat still further. Yet, as Eriksson Baaz and Stern (2018) have argued, while questions of the sexual (desire, eroticism and pleasure) are seemingly erased from (some of) these storylines, lest they lead us ‘back’ towards evoking an assumption that wartime sexual violence is rooted in biology and is therefore inevitable, the persistent stickiness (Ahmed, 2004) of the sexual leaves clearly evident traces. Indeed, *sexual* violence is seen as a particular form of violence that is recognizable because of its status as *sexual* — a form that wields its harms through evocations of gender and ideas about sexuality. Regardless of how one understands the reasons for rape, it tends to be framed in the literature on conflict as the very *worst* thing that can happen to a woman (or a man), as a ‘fate worse than death’ (cf. Halley, 2008) and as a mark of brutality and uncivilized warring (Eriksson Baaz and Stern, 2013) — as persistently connected to bodies, emotions and the private sphere.

Despite feminist assertions that the motivation for rape ‘has nothing to do with sexuality’, but is rather about power and misogyny (Seifert, 1996: 36), these evocations of desire, eroticism, pleasure, the private and the body abide, separating sexual violence from other forms of violence. They also abide in the very real ways in which this violence affects its victims/survivors, irrespective of how we theorize it.

Certainly, when one is referring to the victim/survivor, the possibility of consent/pleasure is faint and hardly detectable: that s/he would welcome the (brutal) attack of the perpetrator seems preposterous, even monstrous as an assertion. Nonetheless, this insinuation remains, if again only in the *denial* that such consent/pleasure is possible: ‘The task is not to investigate how women enjoy being raped — we assume that they do not’ (Diken and Laustsen, 2005: 122). (A similar statement regarding torture resounds as unconscionable.) Reflecting a similar impulse, feminist work has fought to reframe victims/survivors of sexual violence from ‘fallen women’ who invited sexual interaction to blameless victims of human rights violations, for example, in the case of the so-called ‘comfort women’ of the Second World War (Ahmed, A.F., 2004; Hein, 1999). Here, the act is defined in *opposition* to it being consensual: it was *not* an expression of bodily pleasure and desire; it was a political violation of rights. The hushed possibility of consent, of desire and therewith complicity remains, poised to unravel any tidy sense that the act in question was violence, for if the act is *possibly* consensual, then questions of the sexual — fleshy pleasure, desire and eroticism, even if mixed with danger, brutality and pain — are ushered in and unsettle any firm ontological distinction between sexual violence and consensual sex. That is, despite the strategic framings of sexual violence (as torture, as weapon) that increasingly shape how it is interpreted in international discourse — as well as those that also frame it otherwise, as, for example, emerging out of dominant gender norms (e.g. Davies and True 2015) — it remains tethered to pleasure and to the private sphere as a ‘space of passion or desire’ (Evans, 2001: 220). Ironically, then, it is perhaps this (discursive) adherence that prohibits any framing of sexual violence as possibly legitimate.

If this is so, how, then, do we make sense of the ways in which pleasure, desire and so on inform discussions about torture? The question of pleasure does occasionally arise in relation to torture, in particular, around acts easily understood as blurring the boundaries between sexual violence and torture, most commonly found in the literature around US military torture at Abu Ghraib (e.g. Das, 2008: 290). Much of the public outcry about Abu Ghraib was related to the apparent enjoyment of the torturers represented in the leaked photographs, which showed personnel smiling and giving the ‘thumbs up’ gesture next to detainees who were naked, restrained and/or forced to simulate sex acts (Butler, 2007: 959; Kozol, 2012: 30). In particular, these representations emerged in relation to US Private Lyndie England, who was portrayed as a deviant, feminine lunatic whose desires hailed from private sources (unrequited love, unwed pregnancy, ‘compliant personality’ depression, female hysteria) — and, thus, as the opposite of what the US military embodied in its idealized representations (Britain, 2006; Enloe, 2004).

Furthermore, we would do well to recall that the idea of taking pleasure in perpetrating torture is one that is fairly widespread in lay understandings of the term, where it is associated with the idea of excessive and imaginative methods of violence. It is this notion that is seemingly removed in efforts to recast torture as clinical, rational and best

executed by trained professionals (Luban, 2007: 253). This pleasure/cruelty is firmly centred on the perpetrator; insinuations of consent/complicity/desire on the part of the victim/survivor remain blatantly absent.<sup>13</sup> Similarly, in discussions of torture as strategy more specifically, whether someone was *forced* to torture someone else or actively consented to doing so does not appear as an area of scrutiny or a line of argument, except perhaps in discussions addressing sexual torture.<sup>14</sup>

Importantly, the discourse that positions torture as strategic violence advocates its *non-sexual* forms, and such arguments often draw explicit distinctions between ‘legitimate’ torture and ‘illegitimate’ (sexual) violence. Derschowitz (2003: 148), for example, calls for clinical, detached forms of torture, which bear no association with pleasure, with sexuality or with parts of the body coded as sexual, specifically, for sterilized needles inserted under the fingernails. He explicitly contrasts his proposals with the unrestrained, *pleasurable* (sexual) torture revealed in the photographs of Abu Ghraib (Derschowitz, 2004: 276–277). Particularly relevant to our discussions here, Luban (2007: 253) notes that the *pretence* of the instrumentality of torture, enshrined in the ‘fiction’ of the ticking time bomb, obfuscates that the torturer (whether using sexual methods or not) is necessarily ‘a cruel man or a sadistic man or a coarse, insensitive brutish man’, thus ‘clinch[ing] the great divorce between torture and cruelty’, which, we may assume, are otherwise inescapably intertwined.<sup>15</sup>

To be clear, we are decidedly not claiming that in order to understand torture, the focus *should* be on questions of consent or pleasure/cruelty and so on. Rather, we are highlighting a disparity between debates about sexual violence, where the idea of pleasure (etc.) and of consent both explicitly arise and persist as haunting presences in relation to both the perpetrator and the victim/survivor, and torture, for which consent does not appear, and pleasure only rarely appears, as explicitly relevant, and only in relation to the perpetrator of such acts. In short, in composite discussions on conflict-related sexual violence, the notion of pleasure/cruelty either persists explicitly or continues to imbue sexual violence with meaning through its erasure in particular ways that are tethered to notions of ‘the sexual’ (Eriksson Baaz and Stern, 2018). In comparison, torture, to the extent that it is more or less successfully framed in the torture as strategy debates, emerges as detached, rational and political, cleansed of associations with pleasure/cruelty/emotions. The difference seems to be the particular stickiness (Ahmed, 2004) to ‘the sexual’ of the continued and palpable association with bodily pleasure — often through cruelty, irrationality and the apolitical private sphere (in relation to both the perpetrator and the victim/survivor).

Surely, as we have seen, pleasure/cruelty is not completely kept at bay in the torture as strategy debate; its erasure or eradication is not fully successful. Yet, without the adherent quality of ‘the sexual’ that sticks to these chains of signifiers, ‘torture’ can emerge in this debate as possibly rational (enough) to be positioned as a legitimate form of violence.<sup>16</sup> As we will recall that in order for violence to be framed as legitimate in international politics more generally (such as in just war theory), it must be seen as rational (McSorley, 2013). Hence, in particular discursive settings, torture can thus take its place as a viable (reasonable, even morally and ethically justifiable) method in a particular strategy of warring, whereas a similar positioning for sexual violence cannot. Compounding this, the (potential) legitimacy of torture is likely further enabled by its

association with male victims who, as ‘presumptive combatants’ (Carpenter, 2006), further tie it to ideas of mind/rationality/masculinity/public, as discussed earlier.

### **Risky dis/entanglements: or, why does this matter?**

Our analysis has sought to understand how it is that while both torture and sexual violence have been widely framed within academic literature as *strategic* in recent decades, a debate over the potential *legitimacy* of the deployment of such violence in warfare has emerged only in relation to torture. That is, how is it that despite the overlaps between these forms of harm, and the ongoing ‘taboo’ against both (and despite the existence of much literature arguing *against* the legitimacy of torture), a debate over legitimacy does appear in a subset of the torture literature but remains largely unimaginable in relation to sexual violence? In short, we argued that in the ‘torture as strategy’ debate, a claim to rationality and emotional distance, as opposed to emotion, bodily desires and cruel pleasures, emerges as the condition of possibility through which (particular acts of) torture are positioned as legitimate, even ethical and just. In loosely following the logics set out in this debate in our reading of academic texts that consider conflict-related sexual violence and sexual torture, we saw how ‘the sexual’ remains so tethered to the body, pleasure/cruelty and the irrational that a discursive move to cast it as rational arguably ultimately fails. Its potential as a possibly legitimate political form of violence stands as preposterous and unthinkable. In light of this, what does our analysis tell us about the stakes of collapsing sexual violence and torture into sexual torture or casting all sexual violence as torture as a politically infused move?

Given that, as we have argued, the conditions of possibility for the emergence of torture as ‘legitimate’ include its falling into the categories of mind/rationality/masculinity/public sphere, our discussions point towards a potentially significant risk inherent in attempts to cast conflict rape as (only) strategic, rational violence: successfully further separating rape from questions of pleasure/cruelty and so on might enable a debate over its strategic legitimacy (cf. Kirby, forthcoming). If such a strategic framing were to be truly successful in expunging the associations with pleasure and irrationality from our understandings of sexual violence, would rape become subject to the same strategic debates as torture? That is, despite the significant drawbacks that feminists have identified in the associations between sexual violence and the private sphere, their further successful separation might risk laying the groundwork for sanitizing sexual violence as a legitimate form of harm. In other words, by positioning conflict rape as strategic violence, do we inadvertently open up space for its legitimization (see also Kirby, forthcoming)?

This is a precarious proposition indeed. Years of hard feminist labour have finally succeeded in removing from the global academic and policy lexicon the notion of inevitable or incidental war rape, firmly establishing it as a political act that must be prevented and redressed. This hard-won political ground cannot, and should not, be ceded. Nonetheless, not noting how one logic can lapse into another, with potentially disastrous unintended consequences, appears as an unsavoury alternative.

This danger, we hold, persists alongside the potential political benefits that might emerge through such framing — benefits that also render the flip side to this argument,



for example, that the associations with pleasure/cruelty, the body and so on that are highlighted in categorizing certain acts as ‘sexual’ render these illegitimate, even abominable. Following this line of reasoning, our argument would lead us to propose that perhaps for these very reasons, we should resist the urge to collapse sexual violence or sexual torture into the category of torture, and instead cleave to the sticky signifier of ‘the sexual’, despite the ways in which it has served to normalize, perpetuate and obfuscate grievous harms throughout history.

The disparity between the framings of sexual violence and torture thus leads us to thorny conundrums for scholars and activists working to raise the profile of conflict-related sexual violence by attaching it to the internationally recognized violence of war, whether through the categorization of sexual torture, of rape *as* torture or as rape as a weapon of war. We neither wish to, nor can settle, these questions and the puzzles they pose here. Instead, we hope to invite further pause for reflection — pause that may seem superfluous in the heady rush to prevent, arrest and redress the awful harms of sexual violence and torture in all of their iterations, but that nonetheless may provide the space to identify and ultimately avoid slippery slopes of reasoning that may ultimately cause more harm.

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### Notes

1. The perceived illegitimacy of irrational or desire-driven forms of violence in conflict belies the prevalence of ‘private’ violence across war and peace.
2. Counter-arguments suggest that torture *does not work* as an effective way of gathering reliable intelligence and, therefore, that its use cannot be morally justified (see Blakeley, 2007: 379–381; Langbein, 2004: 97; Luban, 2007: 254; Ramsey, 2006: 114–115, 117; Schultz, 2007; Shue, 1978: 135, 141–143; Wisniewski, 2010: 130–133, 149–158). Such arguments seek to refute the condoning of torture on instrumentalist terms. Its potential rationality *per se*, however, remains.
3. A more critical literature disputes the assumption that torture is primarily conducted for the strategic end of intelligence gathering (e.g. Blakeley, 2007; Luban, 2007; Scarry, 1985: 28, 35–38, 46, 56–57; Sussman, 2005: 2). This literature frames torture as a performance of *power* (Scarry, 1985: 28, 35–38, 46, 56–7; see also Onuf, 2009: 28) or as a way to shore up the stability and legitimacy of elites (Blakeley, 2007). Critics have also noted how Western governments have sought to sidestep their anti-torture commitments post-9/11 by reinterpreting definitions of torture in order that ‘enhanced interrogation techniques’ be excluded from the category (Birdsall, 2016), and by seeking to retain the *appearance* of a commitment to liberal norms even while participating in or enabling torture (Blakeley and Raphael, 2017).

4. A wealth of long-standing scholarship addresses questions of the political legitimacy of violence (see, e.g., Apter, 1997; Crenshaw, 1983; De Haan, 2008; Smith, 1970). We cannot do justice to this literature here.
5. Our claims centre on the debate in academic scholarship. It is lamentably beyond our scope here to fully examine the relationship between torture and sexual violence in international law and/or policy.
6. Like Eriksson Baaz and Stern (2018), we noted erasures in terms of the ‘rubbing out’ (Anderson, 2012: 8) of meaning and in the traces that this rubbing out leaves behind and that haunt new meaning (Gordon, 2008).
7. While not explicitly stated in the legislation, it is usually the involvement of particular body parts, as target or weapon, which delineates whether a particular act is deemed to be of a ‘sexual nature’. For a discussion of how body parts can *become* ‘eroticized’ in the act of sexual violence, see Cahill (2001: 139–140).
8. Scholars of non-conflict-related sexual violence have made similar arguments (e.g. Cahill, 2001; Du Toit, 2009).
9. This complicity is framed in several ways: through confession (Scarry, 1985: 47); through being forced to put one’s intimate sexual thoughts in the service of torturers (Sussman, 2005: 22); and through bodily responses (Scarry, 1985: 48, 53; Sussman, 2005: 21, 23).
10. For a further discussion of connections between sexual violence or torture and racialized ideas about barbarity that reproduce colonial registers, see, for example, Blakely and Raphael (2017), Eriksson Baaz and Stern (2013), Mavelli (2016) and Turner (2018).
11. ‘Indeed, one possible way to define cruelty may be as awareness and enjoyment of the pain intentionally inflicted on others’ (Caputo et al., 2000: 662; see also, e.g., Miller, 1990).
12. Haunting in this sense refers to how ‘that which appears to be not there is often a seething presence, acting on and often meddling with taken-for-granted realities’ (Gordon, 2008: 8).
13. Mavelli (2016) explains that, historically, public cruelty was justified as also providing possible redemption for the victim: suffering gave the tortured a chance to ask for forgiveness from God. Revelling (pleasurably) in the suffering of the tortured by the torturer or by spectators was thus cast as just, in addition to its being a confirmation of the power of the sovereign state.
14. Torturing someone by forcing him/her to (sexually) torture someone else, however, is common practice in many warring contexts, and the resulting harms to the survivors of such acts of violence are devastating (see, e.g., Dolan, 2014; Drummond, 2018).
15. The general paucity of such questions in the debate about torture as strategy, and the apparent ease with which they are brushed aside, is notable. Even in critical literature, explicit references to pleasure rarely arise in relation to (non-sexual) torture, and when they do, they generally appear only as a minor side point (e.g. Elshtain, 2004: 77; Sussman, 2005: 2).
16. It is important to note that there may be other pertinent factors at work here, in particular, the colonial logics through which ‘our’ violence is compared with other violence ‘elsewhere’ (Das, 2008: 287–288). Given the comparisons of ‘rational’ torture with the ‘irrationalities’ of US military actions at Abu Ghraib, however, it is likely that the factors outlined here are also important.

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## References

- Agger I (1989) Sexual torture of political prisoners: An overview. *Journal of Traumatic Stress* 2(3): 305–318.

- Ahmed AF (2004) The shame of Hwang v. Japan: How the international community has failed Asia's 'comfort women'. *Texas Journal of Women and the Law* 14: 121–149.
- Ahmed S (2004) *The Cultural Politics of Emotion*. New York, NY: Routledge.
- Alhoff F (2005) A defense of torture: Separation of cases, ticking time-bombs, and moral justification. *International Journal of Applied Philosophy* 19(2): 243–264.
- Anderson N (2012) *Derrida: Ethics under Erasure*. London: Bloomsbury Publishing.
- Apter D (1997) *The Legitimation of Violence*. London: Palgrave Macmillan.
- Aranburu XA (2010) Sexual violence beyond reasonable doubt: Using pattern evidence and analysis for international cases. *Leiden Journal of International Law* 23: 609–627.
- Aswad EM (1996) Torture by means of rape. *Georgetown Law Journal* 84: 1913–1943.
- Bagaric M and Clarke J (2007) *Torture: When the Unthinkable is Morally Permissible*. Albany, NY: State University of New York Press.
- Bellamy AJ (2006) No pain, no gain? Torture and ethics in the War on Terror. *International Affairs* 82(1): 121–148.
- Birdsall A (2016) But we don't call it 'torture'! Norm contestation during the US 'War on Terror'. *International Politics* 53(2): 176–197.
- Blakeley R (2007) Why torture? *Review of International Studies* 33: 373–394.
- Blakeley R and Raphael S (2017) British torture in the War on Terror. *European Journal of International Relations* 23(2): 243–266.
- Blatt D (1992) Recognizing rape as a method of torture. *New York University Review of Law and Social Change* 19: 821–865.
- Bourke J (1999) *An Intimate History of Killing: Face to face killing in 20th Century Warfare*. New York, NY: Basic Books.
- Briggs L (2015) Making race, making sex. *International Feminist Journal of Politics* 17(1): 20–39.
- Britain M (2006) Benevolent Invaders, Heroic Victims and Deprived Villians: White Femininity in Media Coverage of the Invasion of Iraq. In: Hunt K and Rygiel K (eds.) *(En)Gendering the War on Terror: War Stories and Camouflaged Politics*. Cornwall: Ashgate.
- Bunch C (1990) Women's rights as human rights: Toward a re-vision of human rights. *Human Rights Quarterly* 12(4): 486–498.
- Butler J (2007) Torture and the ethics of photography. *Environment and Planning D: Society and Space* 25(6): 951–966.
- Cahill A (2001) *Rethinking Rape*. Ithaca, NY, and London: Cornell University Press.
- Canning V (2016) Unsilencing sexual torture: Responses to refugees and asylum seekers in Denmark. *British Journal of Criminology* 56: 438–455.
- Caputo A, Brodsky SL and Kemp S (2000) Understandings and experiences of cruelty: An exploratory report. *The Journal of Social Psychology* 140(5): 649–660.
- Card C (1996) Rape as a weapon of war. *Hypatia* 11(4): 5–18.
- Carpenter RC (2006) *'Innocent Women and Children': Gender, Norms and the Protection of Civilians*. London: Routledge.
- Charlesworth H, Chinkin C and Wright S (1991) Feminist approaches to international law. *The American Journal of International Law* 85(4): 613–645.
- Charman T (2018) Sexual violence or torture? The framing of sexual violence against men in armed conflict in Amnesty International and Human Rights Watch reports. In: Zalewski M, Drumond P, Prügl E et al. (eds) *Sexual Violence Against Men in Global Politics*. London: Routledge, pp. 198–210.
- Cohen DK (2016) *Rape During Civil War*. New York, NY: Cornell University Press.
- Cohn C (1987) Sex and death in the rational world of defense intellectuals. *Signs* 12(4): 687–718.
- Copelon R (2000) Gender crimes as war crimes: Integrating crimes against women into international criminal law. *McGill Law Journal* 46: 217–240.

- Crane-Seeber JP (2016) Sexy warriors: The politics and pleasures of submission to the state. *Critical Military Studies* 2(1/2): 41–55.
- Crawford K (2017) *Wartime Sexual Violence: From Silence to Condemnation of a Weapon of War*. Washington, DC: Georgetown University Press.
- Crenshaw M (1983) *Terrorism, Legitimacy and Power: The Consequences of Political Violence*. Middletown, CT: Wesleyan University Press.
- Crossley N (1995) Merleau-Ponty, the elusive body and carnal sociology. *Body and Society* 1(1): 43–63.
- Das V (2008) Violence, gender, and subjectivity. *Annual Review of Anthropology* 37: 283–299.
- Davies S and True J (2015) Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In. *Security Dialogue* 46(6): 495–512.
- De Haan W (2008) Violence as an essentially contested concept. In: Body-Gendrot S and Spierenburg P (eds) *Violence in Europe*. New York, NY: Springer.
- Dershowitz AM (2002) *Why Terrorism Works: Understanding the Threat, Responding to the Challenge*. New Haven, CT: Yale University Press.
- Dershowitz AM (2003) The Torture Warrant: A Response to Professor Strauss. *New York Law School Law Review* 48(1-2): 275–294.
- Dershowitz AM (2004) Tortured reasoning. In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 257–280.
- Descartes R (1960) *Discourse on Method and The Mediations*. Harmondsworth: Penguin.
- Diken B and Lausten CB (2005) Becoming abject: Rape as a weapon of war. *Body and Society* 11(1): 111–128.
- Dolan C (2009) *Social Torture: The Case of Northern Uganda, 1986–2006*. London: Berghahn Books.
- Dolan C (2014) *Report of Workshop on Sexual Violence against Men*. New York, NY: United Nations.
- Dolan C (2018) Foreword. In: Touquet H, *Unsilenced. Male Survivors of Conflict-Related Sexual Violence in Sri Lanka Speak*. International Truth and Justice Project.
- Dorfman A (2004) The tyranny of terror: Is torture inevitable in our century and beyond? In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 3–18.
- Dowds E (2018) Conceptualizing the role of consent in the definition of rape at the International Criminal Court: A norm transfer perspective. *International Feminist Journal of Politics* 20(4): 624–643.
- Drummond P (2018) Sex, violence, and heteronormativity: Revisiting performances of sexual violence against men in former Yugoslavia. In: Zalewski M, Drummond P, Prügl E et al. (eds) *Sexual Violence Against Men in Global Politics*. London: Routledge, pp. 198–210.
- Du Toit L (2009) *A Philosophical Investigation of Rape: The Making and Unmaking of the Feminine Self*. New York, NY: Routledge.
- Dyvik SL (2016) Of bats and bodies: Methods for reading and writing embodiment. *Critical Military Studies* 2(1/2): 56–69.
- Edwards A (2011) *Violence against Women under International Human Rights Law*. Cambridge: Cambridge University Press.
- Elshstain JB (1987) *Women and War*. New York, NY: Basic Books.
- Elshstain JB (2004) Reflection on the problem of ‘dirty hands’. In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 77–89.
- Enloe C (2000) *Maneuvers: The International Politics of Militarizing Women’s Lives*. Berkeley, CA: University of California Press.
- Enloe C (2004) Wielding masculinity inside Abu Ghraib: Making feminist sense of an American military scandal. *American Journal of Women’s Studies* 10(3): 89–102.

- Eriksson Baaz M and Stern M (2009) Why do soldiers rape? Masculinity, violence, and sexuality in the armed forces in the Congo (DRC). *International Studies Quarterly* 53(2): 495–518.
- Eriksson Baaz M and Stern M (2013) *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond*. London and New York, NY: Zed Books.
- Eriksson Baaz M and Stern M (2018) Curious erasures: The sexual in wartime sexual violence. *International Feminist Journal of Politics* 20(3): 295–314.
- Evans B and Carver T (eds) (2017) *Histories of Violence: Post-war Critical Thought*. London: Zed Books.
- Evans M (ed.) (2001) *Feminism and the Enlightenment*. London: Taylor and Francis.
- Goldman A and Craighill P (2014) New poll finds majority of Americans think torture was justified after 9/11 attacks. *The Washington Post*, 16 December.
- Gordon A (2008) *Ghostly Matters: Haunting and the Sociological Imagination*. Minneapolis, MN: Minnesota University Press.
- Green J, Copelon R, Cotter P et al. (1994) Affecting the rules for the prosecution of rape and other gender-based violence before the International Criminal Tribunal for the former Yugoslavia: A feminist proposal and critique. *Hastings Women's Law Journal* 5(2): 171–241.
- Grosz E (1994) *Volatile Bodies: Towards a Corporeal Feminism*. Bloomington, IN: Indiana University Press.
- Gutting G and McMahan J (2015) Can torture ever be moral? *New York Times Opinionator*, 26 January.
- Halley J (2008) Rape in Berlin: Reconsidering the criminalisation of rape in the international law of armed conflict. *Melbourne Journal of International Law* 9(1): 78–124.
- Harel A and Sharon A (2008) What is really wrong with torture? *Journal of International Criminal Justice* 6: 241–259.
- Harries J (2009) Contextualising torture: Rules and conventions in the Roman digest. In: Lang AF and Beattie AR (eds) *War, Torture and Terrorism: Rethinking the Rules of International Security*. London: Routledge, pp. 39–53.
- Hayes N (2010) Creating a definition of rape in international law: The contribution of the International Criminal Tribunals. In: Darcy S and Powderly J (eds) *Judicial Creativity at the International Criminal Tribunals*. Oxford: Oxford University Press, pp. 129–156.
- Hein L (1999) Savage irony: The imaginative power of the ‘military comfort women’ in the 1990s. *Gender and History* 11(2): 336–372.
- Henry N (2011) *War and Rape: Law, Memory, and Justice*. London and New York, NY: Routledge.
- Herzog D (ed.) (2009) *Brutality and Desire: War and Sexuality in Europe's Twentieth Century*. Basingstoke: Palgrave MacMillan.
- Higate P (2012) Drinking vodka from the ‘butt-crack’. *International Feminist Journal of Politics* 14(4): 450–469.
- Hirschauer S (2014) *The Securitization of Rape: Women, War and Sexual Violence*. Basingstoke: Palgrave Macmillan.
- Hoover Green A (2016) The Commander's Dilemma: Creating and Controlling Armed Group Violence. *Journal of Peace Research* 53(5): 619–632.
- Hurd HM (1996) The moral magic of consent. *Legal Theory* 2: 121–146.
- International Criminal Court (2002) *Elements of Crimes*. The Hague: International Criminal Court.
- Johnson JT (1981) *Just War Tradition and the Restraint of War*. Princeton, NJ: Princeton University Press.
- Jones H (2002) Rape, consent and communications: Re-setting the boundaries? *Contemporary Issues in Law* 6: 23–36.
- Kairys D (ed.) (1982) *The Politics of Law: A Progressive Critique*. New York, NY: Pantheon Books.

- King K (2004) The prisoner of gender: Foucault and the disciplining of the female body. *Journal of International Women's Studies* 5(2): 29–39.
- Kirby P (2012) How is rape a weapon of war? Feminist International Relations, modes of critical explanation and the study of wartime sexual violence. *European Journal of International Relations* 19(4): 797–821.
- Kirby P (forthcoming) *The Body Weaponised: Rape, Martial Entanglement, and the Uncanny*.
- Kozol W (2012) Battlefield souvenirs and the affective politics of recoil. *Photography and Culture* 5(1): 21–36.
- Krauthammer C (2004) The truth about torture. In: Levinson S (ed.) *Torture: A Collection*. New York, NY: Oxford University Press, pp. 307–316.
- Lang AF (2009) Introduction: Rules and international security: Dilemmas of a new world order. In: Lang AF and Beattie AR (eds) *War, Torture and Terrorism*. New York, NY, and Abingdon: Routledge, pp. 1–22.
- Langbein JH (2004) The legal history of torture. In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 93–103.
- Levinson S (2004) *Torture: A Collection*. Oxford and New York, NY: Oxford University Press.
- Luban D (2007) Liberalism, torture, and the ticking bomb. *Virginia Law Review* 91: 1425–1461.
- McGlynn C (2008) Rape as ‘torture’? Catherine MacKinnon and questions of feminist strategy. *Feminist Legal Studies* 16: 71–85.
- MacKinnon C (1993) Turning rape into pornography: Postmodern genocide. *Ms* 4(1): 24–30.
- MacKinnon C (2006) *Are Women Human? And Other International Dialogues*. Cambridge, MA: Harvard University Press.
- McSorley K (2013) War and the body. In: McSorley K (ed.) *War and the Body: Militarisation, Practice and Experience*. London: Routledge.
- Massey D (1994) *Space, Place and Gender*. Cambridge: Polity.
- Mavelli L (2016) Governing uncertainty in a secular age: Rationalities of violence, theodicy and torture. *Security Dialogue* 47(2): 117–132.
- Meger S (2016) *Rape, Loot, Pillage: The Political Economy of Sexual Violence in Armed Conflict*. New York, NY: Oxford University Press.
- Meisels T (2008) *The Trouble with Terror: Liberty, Security, and the Response to Terrorism*. Cambridge: Cambridge University Press.
- Merica D (2017) Trump on waterboarding: ‘We have to fight fire with fire’. *CNN*, 26 January.
- Miller J (1990) Carnivals of atrocity: Foucault, Nietzsche, cruelty. *Political Theory* 18(3): 470–491.
- Miller S (2005) Is torture ever morally justifiable? *International Journal of Applied Philosophy* 19(2): 179–192.
- Mowlabocus S (2014) Rectal feeding is rape — but don’t expect the CIA to admit it. *The Conversation*, 12 December.
- Myers WC, Husted DS, Safarik MR et al. (2006) The motivation behind serial sexual homicide: Is it sex, power and control, or anger? *Journal of Forensic Sciences* 51(4): 900–907.
- Ní Aoláin F (2004) The European Convention on Human Rights and its prohibition on torture. In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 213–227.
- Onuf N (2009) Rules for torture? In: Lang AF and Beattie AR (eds) *War, Torture and Terrorism: Rethinking the Rules of International Security*. London: Routledge, pp. 25–38.
- Oosterhoff P, Zwanikken P and Ketting E (2004) Sexual torture of men in Croatia and other conflict situations: An open secret. *Reproductive Health Matters* 12(23): 68–77.
- Parry JT (2004) Escalation and necessity: Defining torture at home and abroad. In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 145–164.
- Pateman C (1988) *The Sexual Contract*. California, CA: Stanford University Press.

- Pearce H (2003) An examination of the international understanding of political rape and the significance of labelling it torture. *International Journal of Refugee Law* 14(4): 534–560.
- Peel M (ed.) (2004) *Rape as a Method of Torture*. London: Freedom From Torture Medical Foundation for the Care of Victims of Torture.
- Pettitt J (2014) *Rape as Torture in the DRC: Sexual Violence Beyond the Conflict Zone*. London: Freedom From Torture Medical Foundation for the Care of Victims of Torture.
- Pin-Fat V (2010) *Universality, Ethics and International Relations: A Grammatical Reading*. New York, NY: Routledge.
- Pin-Fat V (2013) Cosmopolitanism and the end of humanity: A grammatical reading of posthumanism. *International Political Sociology* 7: 241–257.
- Posner RA (2004) Torture, terrorism, and interrogation. In: Levinson S (ed.) *Torture: A Collection*. Oxford and New York, NY: Oxford University Press, pp. 291–298.
- Prokhovnik R (2002) *Rational Woman: A Feminist Critique of Dichotomy*. Manchester: Manchester University Press.
- Puar JK (2005) On torture: Abu Ghraib. *Radical History Review* 93: 13–38.
- Ramsey M (2006) Can the torture of terrorist suspects be justified? *The International Journal of Human Rights* 10(2): 103–119.
- Scarry E (1985) *The Body in Pain: The Making and Unmaking of the World*. New York, NY: Oxford University Press.
- Schultz W (2007) *The Phenomenon of Torture*. Philadelphia, PA: Philadelphia University Press.
- Seifert R (1996) The second front — The logic of sexual violence in wars. *Women's Studies International Forum* 19(1/2): 35–43.
- Shue H (1978) Torture. *Philosophy and Public Affairs* 7(2): 124–143.
- Simic O (2009) Rethinking 'sexual exploitation' in UN peacekeeping operations. *Women's Studies International Forum* 32: 288–295.
- Sivakumaran S (2007) Sexual violence against men in armed conflict. *European Journal of International Law* 18(2): 253–276.
- Smith RW (1970) The concept of legitimacy. *Theoria: A Journal of Social and Political Theory* 35: 17–29.
- Stern M and Zalewski M (2009) Feminist Fatigue(s): Reflections on Feminism and Familiar Fables of Militarisation. *Review of International Studies* 25(3): 611–630.
- Sussman D (2005) What's wrong with torture? *Philosophy & Public Affairs* 33(1): 1–33.
- Touquet H and Gorris E (2016) Out of the shadows? The inclusion of men and boys in conceptualisations of wartime sexual violence. *Reproductive Health Matters* 24(47): 36–46.
- Turner J (2018) Internal colonisation: The intimate circulations of empire, race and liberal government. *European Journal of International Relations* 24(4): 765–790.
- UN (United Nations) General Assembly (1984) *Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*. United Nations, Treaty Series, vol. 1465.
- Walzer M (1992) *Just and Unjust Wars*. New York, NY: Basic Books.
- Walzer M (2004) Political action: The problem of dirty hands. In: Levinson S (ed.) *Torture: A Collection*. Oxford: Oxford University Press, pp. 61–75.
- Weber M (1965) *Politics as a Vocation* (trans. Gerth HH and Wright Mills C). Philadelphia, PA: Fortress Press.
- Weiner P (2013) The evolving jurisprudence of the crime of rape in international criminal law. *Boston College Law Review* 54(3): 1207–1237.
- Wertheimer A (2003) *Consent to Sexual Relations*. Cambridge: Cambridge University Press.
- Wisniewski JJ (2010) *Understanding Torture*. Edinburgh: Edinburgh University Press.
- Wolff RP (1969) On violence. *The Journal of Philosophy* 66(19): 601–616.

- Wood E (2018) Rape as a practice of war: Toward a typology of political violence. *Politics and Society* 46(4): 513-537.
- Zalewski M and Runyan AS (2013) Taking feminist violence seriously in feminist International Relations. *International Feminist Journal of Politics* 15(3): 293-313.

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