Abstract (UK)

Psychological suffering has posed difficulties for international human rights advocates and adjudicators working on the prohibition of torture, inhuman and degrading treatment. A systematic survey of the relevant international caselaw reveals a vast variation in how psychological suffering is found to violate (or not) the prohibition. When singled out in cases brought before the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), and the UN Committee Against Torture (CAT), psychological suffering has never been specifically categorised as torture. What is more, psychological suffering is often excluded altogether from the purview of the prohibition, categorised instead as 'lawful sanctions' or as falling below the 'minimum level of severity' threshold, and therefore not found to be a violation. The doctrinal scholarship offers scant explanations for this categorisation and exclusion as evident in interpretive practice. Through the use of caselaw analysis and interviews, numerous inter-related reasons are revealed for these practices: that socio-political standards recognising the significance of psychological suffering are selectively applied or altogether overlooked; that procedural pragmatism encourages caution and conservatism regarding categorisation; that scientific expertise documenting health impacts have not compelled adjudicators in all cases; and, that interpretation still depends on sense-centric reasoning (intuitionimpression-empathy) potentially undercutting scientific expertise and perpetuating preconceptions associating severe suffering with the physical.