C. Banham, *Liberal Democracies and the Torture of their Citizens*. Oxford and Portland, OR: Hart Publishing, 2017, 251 pp., £70 (hardback).

Reviewed by Scott Poynting

Liberal Democracies and the Torture of their Citizens is a comparative study of the differing responses within Australia, the United Kingdom and Canada to the torture of these countries' citizens (and in the case of the UK some leave-to-remain residents) by the United States in the prosecution of its self-styled "war on terror" since 11 September 2001. Specifically, it deals with media, civil society, judicial, parliamentary and executive government responses to the cases of Australian citizens David Hicks and Mamdouh Habib; British citizens Rhuheh Ahmed, Shafiq Rasul, Asif Iqbal, Jamal Udeen Al-Harith, Terek Dergoul, Feroz Abbasi, Moazzam Begg, Richard Belmar and Martin Mubanga; UK residents Bisher Al Rawi, Jamil El Banna, Omar Deghayes, Abdenour Sameur, Binyam Mohamed, Shaker Aamer; and Canadian citizens Maher Arar and Omar Khadr. All of these were Muslim, it scarcely needs pointing out, and most were incarcerated and tortured at the US's Guantánamo Bay base which it occupies in Cuba.

In this book, based on her PhD thesis, Cynthia Banham sets out to "examine the factors that promoted the toleration of torture by liberal democracies, and those that restrained such impulses" (3). Both the restraining and the enabling factors are of clear interest to social movements aiming to resist this almost universally condemned but widely practised (14) crime of the contemporary state. Banham's study is scholarly, empirically rich and detailed, and carefully measured in its conclusions. It is based on a close examination of a wealth of public documents, supplemented by interviews with selected key political and civil society actors, adding originality and insight.

Faced with such a weighty body of evidence from each of the three nation-state cases, I would have looked for similarities – after all, each of them allowed their great and powerful friend, though a "special relationship", to subject its citizens and in some cases residents to unlawful extraordinary rendition, incarceration without due process and torture (sometimes employing proxy states as the torturers). Yet some moved sooner than others to have the victims repatriated, and in some cases more effectively than others. Some victims were eventually compensated; others were not. So, Banham seeks out the differences, since she is looking for what works in empowering (sectors of) civil society to call executive government to account over human rights, and specifically the right not to be tortured. Banham therefore has an eye for the nuances of national histories and culture, distinctions

in legislative provisions and extent of intervention by courts, political conjuncture including electoral cycles, campaigns and alliances, differential effects of human rights NGOs and media treatment.

Britain had far more of its citizens and residents “rendered” and tortured, and saw a larger and more effective campaign for their return and justice, by Banham’s account. The UK government relatively early refused to allow its citizens to be tried before the US military commissions, with their evident lack of due process (subsequently declared to be unlawful). Britain’s human rights activists and lawyers had learned from the state’s denial of human rights, divergence from the rule of law and perpetration of torture during the “Troubles” of Northern Ireland. So, they geared up quickly. Tony Blair’s government was deeply unpopular over its commitment of Britain to the Iraq war, so his government’s closeness to the United States and denials and defences over the torture issue were bundled together in public consciousness and enabled more effective campaigning against the unlawful detention and (less so) the torture. Britain’s Human Rights Act 1998 (HRA), giving domestic effect to the provisions of the European Charter of Human Rights, provided important legal constraint on UK government collusion with the US ally over torture. Now with Brexit, and the threatened scrapping of the HRA, these parameters are liable to change, to the detriment of human rights.

Perhaps as a former lawyer herself, Banham admires the efforts and effectiveness of human rights lawyers such as Gareth Peirce, Clive Stafford Smith and Louise Christian, but the book makes clear that they had recourse to legislative guarantees of human rights that do not apply in Australia, for example. As a former journalist, Banham is attentive to the persistent and committed reporting, on the rendition and torture issues, of the *Guardian*’s Ian Cobain, for instance, while acknowledging that the *Guardian* has a small effect on public opinion compared to, say, the *Daily Mail* and that effective civil society campaigning needs to get the message across in the more popular media that may not be so inclined towards liberal causes.

Canada, for its part, has a Charter of Rights and Freedoms (1982) which was a crucial reference point in legal actions, civil society campaigns and political consideration over the torture of its citizens. Canada’s national self-image as a champion of human rights, and its eagerness to distinguish itself from (yet care not to incur retributions from) its powerful neighbour, are also seen to be pertinent factors. The two Canadian cases are shown to be very disparate. Perhaps with an eye to the public-opinion effects and political consequences of media portrayals, Banham makes much of the likeability of the torture victim and family who champion him. The professional Maher Arar, with the unflagging support of his also professional, articulate (fluent in both English and French) and

media-savvy spouse, Monia Mazigh, won sympathy from the Canadian public with her reasonableness and her demonstrated integration into Canada. Never in Guantánamo Bay, but rendered by the US to Syria for torture and interrogation, Arar was back in Canada in just over a year, exonerated there, and eventually apologized to and compensated, with a public inquiry into his handing over to the US by the Royal Canadian Mounted Police establishing important lessons for the future avoidance of such wrongs. “Child soldier”, Omar Khadr, by contrast, was incarcerated at Guantánamo Bay for ten years from the age of 15, with little public sympathy for years, and reluctance of governments to act because of the perceived support of his family for Al Qaeda and their antipathy to requisite Canadian values.

Banham does comment several times on the opportunism of human rights NGOs over the cases they adopt and the stances they take, given their need to attract donations from the public and to garner political allies for their causes to give them credibility and sway. Yet there does seem to be a conclusion about the likeability of victims and their champions (such as family) that cannot be much of a lesson for social movements. Nor is there much criticism of the concept of likeability, either as ethnocentric or as a prerequisite for human rights.

In the case of the two Australian detainees, David Hicks and Mamdouh Habib, this same factor is brought to the forefront. Hicks’ father campaigned tirelessly and very effectively for his son, and was shown to be a publicly likeable (White, anglophone, “ordinary working man”) support figure, aided ably by dedicated and principled, and very savvy US military defence lawyer Major Michael Mori. Yet Habib’s wife Maha, for all her unswerving loyalty and repeated efforts with the media and politicians on her husband’s behalf, is seen not to be such a sympathetic figure to the Australian public, being an immigrant not of English-speaking background, hijabi and lacking in cultural capital. These constructions of likeability beg to be unpacked. Moreover, Habib was actually released and repatriated to Australia much sooner than Hicks, though for reasons more to do with concurrent cases in US courts and their documenting of torture through disclosure processes. Hicks pleaded guilty in a plea bargain in the US military commission, and the Australian government was keen to be vindicated by the inevitable outcome of the trial, should it proceed. Unlike the UK, the Australian government never opposed the military commissions, nor the mistreatment of Hicks and Habib, of which it was aware and about which it lied. Australia has no bill of rights, and legal challenge in Australia was bereft compared to the UK. The conservative Howard government was securely entrenched for most of the period in question, and made successful electoral play both of the “war on terror” and xenophobic appeals to national security.

Attention to the playing out of national politics is both a strength and a weakness of this book. In describing Australia, the UK and Canada all as liberal democracies, this work largely buys into that concept. Though there are elements of critique of liberalism (for instance, noting “the imperialist logic of liberal political thought”, 17) and there is some exploration of its contradictions, this book is couched broadly within the framework of liberal pluralism. The concept of state crime doesn’t get a look in.

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