

<p><b>Institution:</b> University of Bristol</p>
<p><b>Unit of Assessment:</b> 20 - Law</p>
<p><b>Title of case study: The Optional Protocol to the UN Convention on Torture - Direct impact on international, regional and national torture prevention</b></p>
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)</p> <p>University of Bristol research into international, regional and national mechanisms for preventing torture is at the root of important changes in the operation and working practices of the key bodies involved. The UN Subcommittee on Prevention of Torture, the domestic legislation and policies adopted by national governments and the work of organisations set up by individual states to prevent torture have all been deeply and directly affected by Bristol's insights. The AHRC, which funded the research from 2006 to 2009, described the impact of the Bristol project as "dramatic". In the AHRC's judgment, it not only improved institutional processes but actually reduced the probability of torture taking place around the world.</p>
<p><b>2. Underpinning research</b> (indicative maximum 500 words)</p> <p>The Subcommittee on Prevention of Torture (SPT) is a human rights treaty body established under the provisions of the Optional Protocol to the Convention Against Torture (OPCAT), which was adopted by the United Nations (UN) in 2002 and came into force in 2006. OPCAT obliges states to set up National Preventive Mechanisms (NPMs) – independent, national bodies for the prevention of torture at the domestic level. The SPT, which comprises 25 independent experts from various regions of the world, provides guidance to states on the establishment of NPMs and advises the NPMs themselves. Members of the SPT and the NPMs visit places of detention, from prisons to mental health institutions, to check that those who are detained are not suffering torture or cruelty. The international human rights community has become increasingly interested in the role of NPMs, and their effectiveness has been questioned.</p> <p>AHRC-funded research [5] [1] led by Professors Murray (appointed 2003) and Evans (appointed 1988) of the University of Bristol Law School was <i>the</i> pioneering study of OPCAT, and examined the factors that determine the effectiveness of NPMs. It considered how states should decide which institutions to appoint as NPMs, how those institutions are likely to operate, and how they have started to interact with the SPT. Key to this project was the innovative interaction between the research team and the research participants, which included national bodies and NGOs and involved joint work packages at the UN and domestic levels.</p> <p>The OUP monograph [1] was based on this research and the researchers' comments on draft legislation and other advice which had been given during the lifetime of the AHRC project. It identifies key factors that have shaped the operation of national visiting bodies since OPCAT came into force in 2006, including looking in detail at the background to the adoption of the Protocol and at how the SPT carried out its mandate in its first few years. It examines the range of places of detention that could be visited by these bodies, and the expectations placed on the bodies themselves. The book also locates OPCAT within the broader system of torture prevention in the UN and elsewhere and identifies a range of trends arising from the different geographical regions. Finally, the book is able to draw lessons for other new human rights treaties such as the UN Convention on the Rights of Persons with Disabilities and the Convention on Enforced Disappearances, which have similar provisions concerning national mechanisms. This monograph remains the only academic treatment of OPCAT and established the research team as the leading academics in the field.</p>

Murray's article [2] gives further detail about the normative criteria that should be considered when establishing an NPM. This provided the framework for proposed draft guidelines for such mechanisms. The paper identifies the particular practical issues that arise with regard to the composition and operation of these institutions; in this sense, the piece offers an insider's view of the system. It therefore goes beyond a technical analysis of the legal terms into the 'real life' of an NPM. It remains the only scholarly work in this field. Evans [3] put forward arguments for why the SPT had to change the way in which it operated in the light of its expansion to 25 members and 50 states' parties. The arguments flowed from the AHRC research and 20 years of research in torture prevention all conducted at Bristol University. The paper drew on work Evans had previously conducted collaboratively [4] into the European system for torture prevention, which explored what made those mechanisms most effective.

### 3. References to the research (indicative maximum of six references)

#### Outputs

[1] Murray, R, Steinerte, E., Evans, M and A Hallo de Wolf, *The Optional Protocol to the UN Convention against Torture*, Oxford University Press, 2011. Peer-reviewed monograph. Can be supplied on request.

[2] Murray, R., "National Preventive Mechanisms Under the Optional Protocol to the Torture Convention: One Size Does Not Fit All", *Netherlands Quarterly of Human Rights*, **26**, (pp. 485-516), 2008. Listed in REF2

[3] Evans, M., 'The OPCAT at 50', in G Gilbert, F Hampson, C Sandoval (eds) *The Delivery of Human Rights: essays in Honour of Professor Sir Nigel Rodley*. Routledge, 2011 pp. 85 – 113. Listed in REF2

[4] Evans, M., and Morgan, R., *Preventing Torture: A study of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, Oxford University Press, 1997. Peer-reviewed monograph. Can be supplied on request.

#### Grant

[5] Murray, R (PI) and Evans, M (Co-I), "Evaluating the effectiveness of the national institutions under the optional protocol to the UN convention on torture", AHRC, 36 months, 01.06.2006-31.12.2009, £381,553. Funded after peer review.

### 4. Details of the impact (indicative maximum 750 words)

The AHRC project had a direct impact in changing how OPCAT was implemented in the international arena (by influencing the work of the SPT and the development of the OPCAT Contact Group, a coalition of key NGOs in the field of torture prevention), in diverse domestic arenas (including the UK government), and through the research team providing comments on draft and existing domestic legislation. This was because the research programme was designed in close collaboration with the SPT, national preventive mechanisms, governments, UN Office of the High Commissioner for Human Rights and NGOs. The AHRC itself described the research project as having a "dramatic impact" and "A project which has made important advances in reducing the likelihood of torture around the world" [a, p 27].

#### International arena

The research team was used as a platform and resource by those involved in implementing OPCAT at all levels - national, regional and international - to develop their ideas and agenda.

First, the research team had considerable impact on the SPT, the UN body which has operational oversight of the implementation of OPCAT and an advisory function which involves providing assistance and advice to both States parties and NPMs. The research team wrote the NPM Guidelines which are now used extensively by the SPT, governments and others as a benchmark for the establishment and operation of NPMs at the national level [e]. These guidelines drew upon

work already carried out by members of the team [2]. The research team also have standing – including being invited to attend and making formal statements - at the SPT’s sessions in Geneva. The team provided the Subcommittee with briefings on states that it then used as background information for its visits to these countries. In its second annual report [b] in 2009, the Subcommittee stated: “*The SPT has remained in close contact with Bristol University’s OPCAT Project and has exchanged ideas and views on a number of issues central to the SPT’s work. The project team has been involved in organizing regional activities and has provided a critical external academic perspective concerning aspects of the SPT’s work, for which the SPT is very grateful*” (para 59).

Secondly, during the AHRC-funded project [5], the researchers established the “OPCAT Contact Group”, comprising relevant civil society organisations (such as the Mental Disability Advocacy Centre and Penal Reform International) and including the “Bristol OPCAT Group” [b, Annex VI]. The Contact Group subsequently obtained standing before the SPT, which generally operates in private, underlining the privileged position of this group. This influence has continued. So, for example, in his statement to the 67<sup>th</sup> Session of the UN General Assembly (2012), the SPT Chair (by then, Evans) drew particular attention to the support of the OPCAT Contact Group as one of the key civil society bodies which had assisted in the “*quite remarkable*” amount of change within the first six years of OPCAT [d]. The research team has drawn on the Contact Group’s access to the SPT to make recommendations on the Subcommittee’s annual reports – indeed, as a result of one such intervention, the SPT amended the format of its annual reports in line with the researchers’ recommendations [i] [c, para 1]. Even more importantly, the SPT adopted the research conclusions by changing the nature and structure of its visiting programme to include national preventive mechanism advisory visits (the first of which were conducted in 2012) [e]. In its fourth annual report in 2010 [c], the SPT noted that it had “*...continued to benefit from the essential support provided by civil society actors, both the OPCAT Contact Group (present during the Subcommittee’s November session) and academic institutions (in particular the Universities of Bristol ...), both for the promotion of the Optional Protocol and its ratification, and for Subcommittee activities*” (para 39).

Thirdly, one of the researchers (Evans) was made a member of the Subcommittee in 2009 and was subsequently appointed as Chair in 2011. This appointment reflects the visibility and influence that the AHRC-funded research programme had obtained. By acting as its Chair, the recommendations of the research team have a direct and powerful influence on the operation of the SPT [d][e].

### **Domestic arena**

The research team can point to direct impact on policy changes in a number of contexts which can be attributed directly to the events and activities they carried out during the project. For example, at the first Bristol OPCAT conference in April 2007 and subsequently in November 2007, the UK government realised that its proposed NPM would not provide coverage for police cells [k]. As a direct result, after the conference, in 2008 and subsequently the remits of the HM Inspectorate of Prisons (HMIP) and HM Inspectorate of Constabulary were amended to ensure they could visit these particular places of detention [j], thereby increasing the UK’s compliance with its international treaty obligations. The research team developed a close relationship with HMIP and the UK NPM, as illustrated by the adoption of a Memorandum of Understanding between the research team and the UK NPM in 2012. A seminar was co-hosted by the HRIC and the UK NPM in December 2009. One further concrete outcome of that seminar was that the UK NPM recognised that its size and

complexity required that the mandates and methodologies of each of its members should be mapped, a task which the researchers themselves addressed [f]. The regularly updated database of the 18 members of the UK NPM is hosted by the University of Bristol but linked from the NPM and Ministry of Justice websites [g]. This has been used by the NPM members and others and has increased the visibility of the work of the NPM in the UK.

### Development of Legislation

In addition, in this REF period, the research team have been asked, and continue to receive requests, for advice on draft and existing legislation on NPMs in a range of countries (Maldives, Georgia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Paraguay, South Africa, and Montenegro) [for example, [i]-[k]]. In some cases, the research team saw and commented on several drafts of legislation which had a direct impact on the final legislative product. Layla Duisekova, UN Development Programme, wrote to the research team that: “*Your visit at the end of January was a turning point in the NPM law making process*”. Ulugbek Asimov (Kyrgyzstan) wrote to the researchers as follows: “*I would like to congratulate also you on this occasion. To a large extent thanks to your involvement, your invaluable advice, recommendations, letters of support it has been possible to adopt this important piece of legislation*” [i]. Evans and Murray participated in a confidential meeting to prepare Hungary for the operation of the NPM and their contributions are reflected in the recommendations from that meeting [j]. All of this advice draws upon the research described in section 3 above.

### 5. Sources to corroborate the impact (indicative maximum of 10 references)

- [a] AHRC, *Leading the World: The Economic Impact of UK Arts and Humanities Research*, Report of the Impact Task Force, Swindon: AHRC, 2009 <http://www.ahrc.ac.uk/About/Policy/Documents/leadingtheworld.pdf> – corroborates impact of [1]
- [b] UN Subcommittee on the Prevention of Torture, Second Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2009 <http://www2.ohchr.org/english/bodies/cat/opcat/annual.htm> – corroborates impact of [1]
- [c] UN Subcommittee on the Prevention of Torture, Fourth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2010 <http://www2.ohchr.org/english/bodies/cat/opcat/annual.htm> – corroborates significance of OPCAT contact group and research team
- [d] Statement by Mr Malcolm Evans to the 67<sup>th</sup> session of the General Assembly, Third Committee, Item 69(a), [http://www2.ohchr.org/english/bodies/cat/opcat/docs/statements/StatementSPT\\_Chair\\_to\\_UN\\_GA67.docx](http://www2.ohchr.org/english/bodies/cat/opcat/docs/statements/StatementSPT_Chair_to_UN_GA67.docx) - corroborates significance of OPCAT contact group
- [e] Secretariat, Subcommittee for the Prevention of Torture - corroborates use of researchers NPM guidelines
- [f] Monitoring Places of Detention: Second Annual Report of the United Kingdom’s National Preventive Mechanism, 2010-2011, HMIP <http://www.justice.gov.uk/about/hmi-prisons/preventive-mechanism> - researchers’ database of UK NPM bodies
- [g] Ministry of Justice, National Preventive Mechanism: <http://www.justice.gov.uk/about/hmi-prisons/preventive-mechanism> – links to Bristol NPM database
- [h] Letter to Members of the Working Group on Draft Law on the Amendments and Additions to certain legislative acts of the Republic of Kazakhstan on the matter of the establishment of national preventive mechanisms aimed at the prevention of torture and other inhuman or degrading treatment or punishment, June 2012 – corroborates Bristol’s advice.
- [i] Ulugbek Asimov, Kyrgyzstan, – corroborates direct influence of research on Kyrgyzstan law
- [j] Magyar Helsinki Bizottsag, Preparing Hungary for the operation of the National Preventive Mechanism - confidential meeting, 15.05.2012 [CONFIDENTIAL]
- [k] Personal Communication, John Kissane, Former Deputy Head of Human Rights, Ministry of Justice - corroborates remit amendment of UK NPMs.