

<p><b>Institution:</b> Middlesex University</p>
<p><b>Unit of Assessment:</b> Law</p>
<p><b>Title of case study: Human Rights Litigation, Advocacy and Training</b></p>
<p><b>1. Summary of the impact</b> The European Human Rights Advocacy Centre (EHRAC), led by Leach, has combined research and litigation over ten years, to achieve access to justice for individuals in the former Soviet Union. It has mentored and trained lawyers and non-governmental organisations; raised awareness about human rights violations; and improved the functioning of the European Court of Human Rights (ECtHR). Impact on public policy is evidenced by: (i) justice for individuals; (ii) compensation secured through the ECtHR; and (iii) consequential changes in national law and policy. To date, EHRAC’s impact includes 98 ECtHR judgments against Russia, Georgia and Ukraine, on behalf of 1,100 victims.</p>
<p><b>2. Underpinning research</b></p> <p>Two strands of research underpin EHRAC’s impact: i) analysis of the evolution of the jurisprudence and practice of the ECtHR, especially as applied to post-conflict and transitional societies; ii) articulation of theoretical and practical approaches to addressing large-scale human rights violations in Europe, including assessment of challenges related to the effective domestic implementation of European norms.</p> <p><b>(i) Evolution of the ECtHR’s jurisprudence and practice in post-conflict and transitional societies</b></p> <p>Research undertaken by Leach analysing the performance of the ECtHR with respect to the conflict in Chechnya appeared in several journals, notably the <i>European Human Rights Law Review</i> [1]. This corpus of work identified problems of evidence-gathering, and the lacunae in norms of accountability which are accentuated during internal conflict and states of emergency. This research informed Leach’s successful Nuffield Foundation project (2008-09), which examined the effectiveness of the European Court’s investigative fact-finding procedure (an exceptional procedure in which the Court holds in-country witness hearings, because of the absence of any prior effective domestic proceedings, for example during states of emergency). The research scrutinised the rules of evidence applied by the ECtHR, in particular the standard of proof (‘beyond reasonable doubt’), as well as the conduct and experience of past fact-finding missions. These themes were developed in a 2010 article in the <i>Netherlands Quarterly of Human Rights</i> [2]. These and other developments assessing the Court’s practice and procedure were discussed extensively in Leach’s 2005 book <i>Taking a Case to the European Court of Human Rights</i> [3], a substantially revised third edition of which was published by Oxford University Press in 2011. This book in particular is widely recognised as being crucial for anyone contemplating engaging with the ECtHR. In his role as someone closely involved with the ECtHR system, Leach has also published influential research identifying reforms to the Court’s practice in the <i>European Human Rights Law Review</i> [4]. His research findings have since been utilised to inform EHRAC’s extensive programme of strategic litigation before the ECtHR (covering more than 300 cases), including litigation related to conflict in Chechnya, South Ossetia and Nagorno-Karabakh.</p> <p><b>(ii) Theoretical and practical approaches to large-scale human rights violations in Europe</b></p> <p>Leach’s article in <i>European Human Rights Law Review</i> (2005) [4] analysed the ECtHR’s ‘pilot judgment procedure’ (PJP). This had been introduced in 2004 as an effective new mechanism for responding to large-scale human rights violations in Europe and for managing the ECtHR’s backlog of 150,000 cases. These challenges were further investigated in other books and articles in 2010 [5]. This phase of research was made possible by Leach’s success in attracting a Leverhulme Trust research grant, 2009-10 (£65,433 – for research in Italy, Poland and Slovenia); it examined: i) the rationale for the ECtHR’s use of the PJP; ii) de-facto constitutional change, with the Court moving away from individual justice towards enforcing legislative change; iii) the domestic implementation of changes introduced with the aim of ending systemic human rights abuses. The work has been supported by a number of competitively won research grants [6].</p>

## Impact case study (REF3b)

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

Research publications are in outlets with well respected, rigorous peer review systems. Research grants were competitively won, after having gone through peer review.

- (1) P. Leach, 'The Chechen Conflict: Analysing the Oversight of the European Court of Human Rights' [2008] *EHRLR* 732-761 (also published in Russian in *Comparative Constitutional Review* 1 (74) 2010, 143-168).
- (2) P. Leach, C. Paraskeva & G. Uzelac, 'Human Rights Fact-finding – the European Court of Human Rights at a Crossroads', *Netherlands Quarterly of Human Rights*, 28(1), March 2010, 41-77.
- (3) P. Leach, *Taking a Case to the European Court of Human Rights*, Oxford University Press, 2005 (now in its third edition: 2011, 619 pp, ISBN 9780199585021).
- (4) P. Leach, 'Beyond the Bug River – A new dawn for redress before the European Court of Human Rights' [2005] *EHRLR* 148 (also published in Russian in *Sravnitelnoe Konstitutsionnoe Obozrenie* (Comparative Constitutional Review), No. 3 (52) 2005 94-104, Institute for Law and Public Policy, Moscow).
- (5) P. Leach, H. Hardman, S. Stephenson, 'Can the European Court's Pilot Judgment Procedure Help Resolve Systemic Human Rights Violations? Burdov and the Failure to Implement Domestic Court Decisions in Russia', *Human Rights Law Review*, 10(2) (2010), 346-359.
- (6) Research grants received: Leach, Nuffield Foundation, (2008-9) £75,772; Leverhulme Trust Research Grant (2009-2010) £65,433.

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

Research on human rights accountability with respect to post-conflict and transitional societies informs EHRAC's programme of litigation before the ECtHR (300 cases, on behalf of 1,100 applicants), including: victims of disappearances, extra-judicial executions, unlawful detention, ill-treatment and other violations of the ECHR (arising predominantly in Chechnya but also in South Ossetia, Nagorno-Karabkh and the North Caucasus). Sir Nicolas Bratza (the immediate past President of the ECtHR) has commended EHRAC for having done 'so much to achieve justice and redress for so many who have been the victims of violations of fundamental human rights' [1, below].

The reach and significance of EHRAC's impact can be measured by: the number of cases won (98) and the quality of the decisions achieved. Thus, in 96% of the decisions at least one violation of the ECHR was shown. Impact can also be measured by the extent of financial compensation gained for victims (totalling approximately €6.5 million), and by the legislative and policy changes which have been effected within the domestic polity as a result of key judgments.

The changes resulting from the judgments achieve a wider and more sustained impact than solely for the victims because:

- 1) When a government is found in violation of protected rights it is obliged to undertake to change relevant laws, thereby guaranteeing that the fruits of the promised right can be upheld as part of its administrative mechanisms.
- 2) As the premier court of human rights, the judgments of the ECtHR are cited and used all over the world, not only by other regional human rights courts but also by apex national courts; creating a multiplier effect extending the impact's reach and significance.
- 3) The perspectives gained by Leach through his direct engagement in litigation are reflected in academic writing which disseminates strategy and good practice when that work is taken up by NGOs and other advocates. This same work also forms essential material in achieving the training impacts described below.

The following examples of change have been selected to provide a flavour of EHRAC's work:

**Compensation for victims of Soviet-era repression in Georgia:** In *Kiladze v. Georgia*, EHRAC sought redress over the malfunctioning of Georgian legislation regarding the

granting of compensation to victims of Soviet-era repression [2]. The Court identified a 'legislative void', which resulted directly in the passing of new legislation in 2011 in order to effect compensation payments (for up to 20,000 people). (See Communication from Georgian Ministry of Justice to Genevieve Mayer, in French [3].

**Reinstatement of judges in Ukraine:** In *Volkov v Ukraine* (2013), EHRAC litigated to challenge the applicant's dismissal from the post of judge of the Supreme Court, and won a judgment that, for the first time, resulted in the ECtHR ordering a government to ensure reinstatement [4]. The judgment's rulings on the unacceptability of politicians' control over the appointment and dismissal of judges (through the High Council of Justice) will require amendments to the Ukrainian Constitution, with the introduction of new legislation to follow.

**Capacity-building:** EHRAC has trained more than 850 lawyers and activists across the former Soviet Union [5]. This training, derived from the underpinning research, has empowered lawyers and activists, enhancing the quality of their output; it has also fostered strong networks of people dedicated to working in human rights law.

The **research on the ECtHR's pilot judgment procedure (PJP)** informed and assisted the European Court in developing and codifying standards related to its use. Upon completion of their research, Leach's team disseminated their findings at a collaborative seminar hosted at the Court in Strasbourg in June 2010. Participants included: ECtHR judges (Lech Garlicki, Francoise Tulkens), registrars (Fribergh, O'Boyle), and Head of the Department for Execution of Judgments (Mayer), as well as government representatives. In March 2011, the Court announced the introduction of a new rule (Rule 61 of the Court Rules) to clarify and codify the PJP [6]. Leach's research on the ECtHR's fact-finding processes is cited as a primary source by O'Boyle and Brady (ECtHR Deputy Registrar and Registry Lawyer) in their 2013 article in *European Human Rights Law Review* on investigatory powers of the European Court of Human Rights [7], in which they discuss how the Court is likely to develop its approach to fact-finding).

In keeping with EHRAC's long-term achievements, prominent end-users who can testify to its impact include practitioners within the legal profession [8], the Registrar of the ECtHR [9]; and the body that oversees the impact of its judgments [10].

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

1. Speech by Sir Nicolas Bratza at an EHRAC event at Pushkin House, London on 12 September 2013  
[http://www.mdx.ac.uk/Assets/10%20anniversary%20wishes\\_Bratza%2012.9.13.pdf](http://www.mdx.ac.uk/Assets/10%20anniversary%20wishes_Bratza%2012.9.13.pdf)
2. ECHR, Klaus and Yuri *Kiladze v. Georgia*, No. 7975/06 Judgment of 2.2.2010.  
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97083>
3. Communication from M. Mamuka Longuraskvili, Georgian Ministry of Justice to Genevieve Mayer, Head of Department for Execution of Judgments.  
<http://tinyurl.com/p8w9kyy>
4. ECHR, *Volkov v Ukraine*, No. 21722/11, judgment of 9.1.13.  
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115871>
5. *EHRAC 10 Year Review 2003 – 2013* (p.23)  
<http://www.mdx.ac.uk/Assets/EHRAC%2010%20YEAR%20REPORT%202013%20ENG%2006%20WEB-1.pdf>

6. ECHR, *Rule 61 of the Rules of Court*, 18/03/2011

[http://www.strasbourgconsortium.org/content/blurb/files/Article\\_61\\_Pilot\\_judgment\\_procedure.pdf](http://www.strasbourgconsortium.org/content/blurb/files/Article_61_Pilot_judgment_procedure.pdf)

7. M. O'Boyle and N. Brady (2013), 'Investigatory powers of the European Court of Human Rights', *European Human Rights Law Review*, [2013] 378-391 (pp. 379, 382 and 387)

8. Samantha Knights, [Matrix Chambers] Bar Human Rights Committee of England Wales, corroborating statement available on request.

9. Michael O'Boyle, Deputy Registrar, European Court of Human Rights, Strasbourg, corroborating statement available on request.

10. Lord Frank Judd, former Parliamentary Assembly of the Council of Europe (PACE) Rapporteur on Chechnya, corroborating statement available on request.