

Institution: University of Bristol
Unit of Assessment: 20 - Law
Title of case study: International human rights - Strengthening the UN treaty body system and steering the African Commission
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>Through their research on the implementation of soft law in international human rights, Evans and Murray, directing Bristol's Human Rights Implementation Centre (HRIC), have made significant direct contributions to UN treaty body strengthening and the African Commission on Human and Peoples' Rights. Specifically, over the past five years, they have had a direct impact with international reach and significance on the UN's strengthening of the human rights treaty bodies; influencing recommendations made in high level UN reports; and influencing the strategic direction of the African Commission. Evans was subsequently appointed vice-Chair and then Chair of the Meeting of Chairs of Treaty Bodies, which steers all UN human rights treaty bodies.</p>
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>There has been a considerable shift in recent years by the international human rights legal community towards considering not only the development and interpretation of human rights standards but also how those standards are received, followed-up and ultimately implemented by states. Professors Murray and Evans (who have held posts at Bristol since 2003 and 1988, respectively), have provided supporting research and policy work to facilitate the understanding of these issues. Firstly, this has occurred at the level of the African Commission on Human and Peoples' Rights, and secondly at the level of the UN in terms of its treaty body strengthening process. Murray and Evans, in their individual capacities as well as through leading a research team under the HRIC (in this REF period: Steinerte, Long, Hallo de Wolf, Mottershaw), have played a key role in both these processes.</p> <p>In an edited collection [1]-[3] and individual publications [4] [5], they note that little scholarship has been devoted to analysing the African Commission as an operational system in practice. They have filled that gap. Evans and Murray contributed three chapters to [1] covering issues from state reporting mechanisms [1], evidence and fact-finding by the Commission [2], and the role of Special Rapporteurs [3]. A further unique aspect to this collection is that it included (in line with the HRIC's approach) work of NGOs, advocates and members of the Commission itself. The distinctive voice of Evans/Murray's chapters derives from their insistence that implementation is a two-way process between the Commission and states; that the operation of the Commission sometimes does not meet that basic aim (for example, regarding reporting mechanisms, they note "<i>its principal function appears to be as a device to encourage States' attendance at the sessions</i>").</p> <p>This and other publications also developed the distinctive argument that national bodies have a key role to play in bringing about compliance with international standards, rather than simply feed into international-level processes [5]. This research also showed that this entails changes to how the UN and regional treaty bodies themselves structured their own work.</p> <p>In 2008-12, Murray and Evans were awarded an AHRC grant to examine the implementation of soft law through the African Commission's Robben Island Guidelines ([6]), which enabled them to build on this work through a mix of publications (eg [4][5]), events and policy papers. This was a pioneering project examining how effective state appointed monitors were at a time when regimes were themselves being accused of carrying out atrocities against their citizens. The tracking of one</p>

soft law document in a number of states, accompanied by the high profile events involving key stakeholders in the UN and Africa systems, provides a unique perspective on the use and implementation of treaty body decisions. As part of this research, the team also produced a policy paper ([4]) on what role the African Commission's Committee on the Prevention of Torture in Africa (CPTA) should play with respect to implementation of the Robben Island Guidelines. Uniquely, this paper and the subsequent article [4] suggested a strategy the Committee could adopt regarding monitoring the implementation of the Robben Island Guidelines.

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

Outputs

- [1] Evans, M. and Murray, R., "The reporting mechanism of the African Charter on Human and Peoples' Rights", in Evans, M. and Murray, R. (Eds), *The African Charter on Human and Peoples' Rights, 2nd ed., The System in Practice, 1986-2006*, Cambridge: Cambridge University Press, 2008. Peer-reviewed. Can be supplied on request.
- [2] Murray, R., "Evidence and fact finding by the African Commission", in Evans, M. and Murray, R. (Eds), *The African Charter on Human and Peoples' Rights, 2nd ed., The System in Practice, 1986-2006*, Cambridge: Cambridge University Press, 2008. Peer-reviewed. Can be supplied on request.
- [3] Murray, R., "The special rapporteurs in the African system", in Evans, M. and Murray, R. (Eds), *The African Charter on Human and Peoples' Rights, 2nd ed., The System in Practice, 1986-2006*, Cambridge: Cambridge University Press, 2008. Peer-reviewed. Can be supplied on request.
- [4] Long, D. and Murray, R. 'Ten Years of the Robben Island Guidelines and Prevention of Torture in Africa', 12(2) *African Human Rights Law Review* (2012) 311-347. Published in a refereed journal. Can be supplied on request.
- [5] Mottershaw, E. and Murray, R. 'National Responses to Human Rights Judgments: The Need for Government Coordination and Implementation', 6 *European Human Rights Law Review* (2012) 639-653. Listed in REF 2.

Grant

- [6] R. Murray (Principal Investigator) and M. Evans (Co-Investigator), *An examination of the role of soft law in international human rights law: The Robben Island Guidelines on the Prevention of Torture in Africa*, AHRC, 01.10.2008-30.09.2012, £543,827.

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

The HRIC provides an international focus for developing expertise, advice and scholarship on the role of national, regional and global institutions in the implementation of human rights. The specific impact of Murray and Evans' research can be seen clearly in the direct impact on the work of the African Commission (Strand A) and of the UN Office of the High Commissioner for Human Rights (OHCHR) (Strand B).

Strand A: Direct impact on the work of the African Commission

The research and resulting outputs [4], conducted under the AHRC award [6] has directly impacted on developments at the African Commission. The impact has been achieved through reports on events, production of policy papers and direct advice to key stakeholders [a][b]. For example, drawing upon their research in this area (in particular [1]-[4]) and connections with key stakeholders, in November 2011, the research team organised a high-level seminar attended by representatives from governments, the African Union, the African Commission, UN treaty bodies

and civil society organisations. The event examined the way in which cases decided by the African Commission could be implemented domestically in the state concerned because of a lack of information about the outcomes (drawing on [1] and [3]). The event and resulting report resulted in national human rights institutions, such as Kenya [f], adapting their strategy; and in a change of policy by the African Commission itself, including the need to revisit its Memoranda of Understanding and engagement with other actors [d]. It also led to Amnesty International working with INTERIGHTS to promote effective implementation of the Commission's decisions on Botswana and Sudan, and the Commission is now following up on their intervention. Amnesty also took up Murray's advice to join an amicus brief in support of a request (by a Nigerian NGO, Socio-Economic Rights and Accountability Project) for an advisory opinion before the Court [h].

Key recommendations from the research team's paper [4], originally published as a policy paper, on what role the African Commission's Committee on the Prevention of Torture in Africa (CPTA) should play with respect to implementation of the Robben Island Guidelines (RIG) have been used by the Commission and others to direct their further approach. In particular, the principal recommendation of that research concerning the development of guidance notes and/or authoritative statements was picked up and replicated in the Commission's Johannesburg Declaration. That Declaration states that '*The CPTA should issue authoritative comments on specific provisions of the RIG and provide legal guidance and interpretation to facilitate the effective national implementation of RIG by all stakeholders*' – a direct echo of the HRC's advice [c]. Until then, the CPTA had not adopted authoritative guidance on the RIG. The Declaration is the first of its sort and is now used by the Commission and other actors to direct the work of the CPTA [c, h].

Strand B: Direct impact on UN OHCHR

A high-level event, held in September 2011 under the AHRC grant [6] and informed by [5] (by that stage accepted for publication), brought together members of UN human rights treaty bodies, representatives of the OHCHR and members of governments, NHRIs and NGOs to discuss the implementation of treaty body concluding observations. The report of this event written by Murray and drawing upon the research insights of Murray and Evans was fed into the broader reform agenda of the UN human rights system and is now cited directly on the OHCHR website. Only a few, select events have informed this agenda; only two citations on the UN website are from academic institutions as having been key in policy formation [a]. A number of the recommendations and conclusions were used in the resulting report from the UN High Commissioner on Human Rights [d]. Very unusually, this refers directly to the Bristol event. For example, over the last few years, there has been a proliferation in the number of recommendations flowing from the examination of state reports, which has made the reports problematic to implement. The Bristol event report recommended that there was a need to '*reduce the number of concluding observations being produced*' ([a], p.7), and this is then repeated in the High Commissioner's recommendation in her June 2012 report to '*reduce the number of recommendations made to states parties in the concluding observations*' ([d], p.55). The process of treaty strengthening reform is a highly political one, and as with many things at the UN, the direct attribution of changes in policy to particular actors, whether these be states, or academic institutions, is unlikely. The Report by the High Commissioner has been immensely significant, determining the path and content of future negotiations. At the level of the UN, it is unusual to find research findings within a report of this nature. The research recommendation supports the production of focused, prioritised and deliverable outcomes through the state reporting process. The Commissioner's report has been used by states, other UN bodies and regional organisations to direct the process of strengthening of the UN treaty bodies [d].

The impact of this event is further corroborated by the Director of the Human Rights Treaty Division at the OHCHR [f]. This notes that *'my colleagues and I have benefitted from these two days of rich discussions among a group of different stakeholders....the ideas generated during the meeting will certainly contribute towards the many different proposals made to date'*. This personalised recognition by a high-level member of the UN secretariat of the role of an academic institution in influencing discussions at the UN is (again) unusual. The terminology used 'will certainly contribute' is evidence of more than mere engagement and that the event has had an impact on the policy of the UN. At a national level, the Foreign and Commonwealth Office [i] have noted that Evans' advice was *"invaluable"* on the UN treaty body consultations and through the UK consultations which helped inform the UK policy. Further, it was noted that the advice Evans *"...provided to the UN High Commissioner for Human Rights' consultation process was also important in kick-starting serious discussion about how to support the treaty body system"*.

Subsequent to the adoption of this report, Evans, as vice-Chair (May 2013) and incoming Chair of the Meeting of Chairs of Treaty Bodies (the influential body which steers the direction of all UN human rights treaty bodies), has played and will continue to play a leading in taking forward this agenda at the UN. Evans was elected to this role by fellow chairs, enabling him to implement the research recommendations further.

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

[a] Treaty Body Strengthening, UN Human Rights website, <http://www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx>. *Links to outcome, documents, reports and statements, including report of event on follow-up to concluding observations of UN treaty bodies at the national level, September 2011; corroborates direct impact on OHCHR*

[b] Report of high-level seminar on follow-up to decisions of the African Commission on Human and Peoples' Rights, national mechanisms, Addis Ababa, November 2011. *Describes the need for national mechanisms to implement cases adopted by the African Commission.*

[c] Johannesburg Declaration and Plan of Action on the Prevention and Criminalization of Torture in Africa:

<http://www.apr.ch/content/files/region/RIG+10%20Seminar%20Outcome%20Document.pdf>

Strategic direction of CPTA in implementing the RIG.

[d] High Commissioner for Human Rights, *Strengthening the United Nations Human Rights Treaty Body System. A Report by the United Nations High Commissioner for Human Rights*, June 2012: <http://www2.ohchr.org/english/bodies/HRTD/index.htm>. *Corroborates impact of [a] regarding number of recommendations in national reports.*

[e] Report of High Level Seminar on the African Union Follow up to Decisions of the African Commission, September 2012,

[www2.ohchr.org/English/bodies/HRTD/docs/Summary_Proceedings_Bristol_Sept11_24.10.2011.p](http://www2.ohchr.org/English/bodies/HRTD/docs/Summary_Proceedings_Bristol_Sept11_24.10.2011.pdf)

df Corroborates impact on policy of the African Commission in following up its decisions.

[f] Director, Human Rights Treaty Division, United Nations. *Corroborates impact of [a].*

[g] Kenyan Human Rights Commission. *Corroborates the impact of [b].*

[h] Amnesty International. *Corroborates the impact of the November 2011 seminar on their work.*

[i] UN Team, Human rights and Democracy Department, Foreign and Commonwealth Office. *Corroborates direct impact of Evans on UK and UN treaty strengthening process.*