

Institution: University of East London
Unit of Assessment: 22
Title of case study: Development, implementation and practice of the legal right to rehabilitation for torture survivors
<p>1. Summary of the impact</p> <p>Research conducted at UEL has influenced both domestic and international legal policy, leading to the codification of legal obligations to address a fuller range of torture survivors' needs. It has also influenced the design, development and delivery of services for torture survivors around the world, and has led to a new interest in interdisciplinary research on the subject amongst legal and clinical practitioners. The research has engaged and encouraged interest amongst nation states, United Nations and European Union officials, service providers, and clinical and legal professionals globally in working towards a shared understanding of the subject, and has improved implementation of international human rights law.</p> <p>2. Underpinning research</p> <p>The body of research underpinning the impacts described here dates back to 1998, when Dr. Nimisha Patel (Reader in Clinical Psychology; joined UEL in 1996) began an interdisciplinary (clinical and legal) exploration of the conceptualisation of torture from a psychological and broader health perspective and within a human rights framework. The research employs conceptual, legal qualitative and systematic review methodologies.</p> <p>Patel's work in linking clinical and legal approaches to human rights identified a divide between the emphasis on justice in legal discourses and the trauma-centred discourses predominating in therapeutic healthcare, exemplified by the use of the terms 'victims' (legal) and 'survivors' (clinical). Firstly, Patel identified that the psychologisation and pathologisation of distress related to torture reinforced inequalities and endorsed human rights violations [1]. This led her to seek potentially more just alternatives through greater recognition of the contexts in which torture takes place [2], using a human rights framework that reorients therapeutic practices through the politicisation of torture, and affirms a moral stance [3, 4].</p> <p>Secondly, in the legal domain, the work focussed on gaps in the otherwise impressive international legislation and United Nations mechanisms. Those gaps notably included an absence of understanding of what 'rehabilitation' and 'justice' mean to torture survivors [5]. Through examination of international law, Patel found that descriptions of rehabilitation omitted the concept of reparation, as developed in her work, and she demonstrated the necessity for the (re)definition in law of rehabilitation in order to support practice which afford full rehabilitation for those who have experienced torture and who are vulnerable to perpetrating regimes. Rehabilitation services must be appropriate, accessible and delivered in safe and stable environments [6]. Patel's work thus brought together reoriented clinical and legal perspectives in a human rights framework, providing, for the first time, an integrated, interdisciplinary analysis of the right to rehabilitation.</p> <p>Since 2009, Patel has also addressed the question of how to measure the implementation by member States of the right to rehabilitation under international treaties. Patel is first author of a Cochrane Collaboration systematic review conducted in 2013 which assessed, firstly, beneficial and adverse effects of psychological, social and welfare interventions versus no treatment for the reduction of psychological distress in torture survivors; and secondly, the quality and generalisability of studies evaluating effects of these treatment approaches on torture survivors [7].</p> <p>Recognising the diversity of personal experiences of torture and the paucity of accounts by survivors, Patel has conducted and analysed data from over 250 qualitative interviews with them during 2006-2011 in a UK-based human rights organisation with adult torture survivors from over 100 countries, men and women, with experiences of torture ranging from multiple rape in armed conflict to brutal beatings, burning, electric shock, sexual torture and solitary confinement in detention. She found that notions of justice after torture are constructed differently amongst survivors of torture, and that there exist many barriers to rehabilitation and reparation, including fear of intimidation and retaliation against self and/or family members [2, 5].</p>

3. References to the research

- [1] Patel, N. (2003) Clinical Psychology: Reinforcing inequalities or facilitating empowerment? *International Journal of Human Rights*, 7,1, 16-39, DOI: 10.1080/714003792
- [2] Patel, N. (2011) Justice and Reparation for torture survivors. *Journal of Critical Psychology, Counselling and Psychotherapy*, vol.11, no.3, 135-147. Submitted to REF2 (Patel output 1)
- [3] Patel, N. (2007) The Prevention of Torture: Role of Clinical Psychology, *Journal of Critical Psychology, Counselling and Psychotherapy*, vol. 7, no.4: 229-246. Available on request.
- [4] Patel, N. (2008) Developing psychological services in the NHS for refugee survivors of torture. In S. Fernando and F. Keating (eds.) *Mental Health in a Multi-ethnic Society*. Routledge: London. Available on request.
- [5] Patel N (2011) The psychologisation of torture. In M. Rapley, J. Moncrieff & J. Dillon (eds.) *De-Medicalising Misery: Psychiatry, psychology and the human condition*. London: Palgrave Macmillan. Submitted to REF 2 (Patel output 3)
- [6] Smith, E., Patel, N. and MacMillan, L. (2010) A Remedy for Torture Survivors in International Law: Interpreting Rehabilitation, Discussion Paper, The Medical Foundation for the Care of Victims of Torture. Available at: <http://bit.ly/H5G8pz>. Submitted to REF 2 (Patel output 2)
- [7] Patel, N., Kellezi, B. and Williams, AC de C. (2011) Psychological, social and welfare interventions for psychological health and well-being of torture survivors [Protocol]. *Cochrane Database of Systematic Reviews*, 10, Art.No: CD009317. DOI: 10.1002/14651858.CD009317

4. Details of the impact

The research outlined above – and Patel's subsequent expertise in legal and clinical understanding of, and evidence for, the right to rehabilitation, and of the capacity for nation states to be held accountable under international law – has helped shape domestic and international law, as well as policy and practice around the world.

Influence on domestic law and professional practice: Within the UK, the legal influence of the research has been felt particularly as a result of its use as the basis of an expert witness statement provided by Patel in a 2011 strategic litigation case heard in the Court of Appeal. The case, which challenged Westminster Council's refusal to accommodate a homeless mental health service user who had claimed asylum from his native Iran, redressed a gap in the previous case law under the National Assistance Act of 1948, which focused exclusively on obligations to support those with physical, rather than mental health problems. Patel's research and professional expertise on the nature of rehabilitation was used to elucidate a legal question on the nexus between the provision of care and attention and housing for vulnerable populations such as torture survivors. The subsequent ruling changed domestic law relating to the provision of support for homeless torture survivors. It also led to changes in the legal obligations of Local Authorities across the UK, making it their statutory duty to provide accommodation to those in need of "care and attention" due to mental health problems or traumatic experiences such as torture. An appeal by Westminster Council was overturned, and the Court of Appeal judgment upheld by the Supreme Court in 2013 [a]. This high-profile case was, moreover, covered in numerous practitioner and professional media outlets, thereby contributing to their engagement with and understanding of the important clinical and legal issues relating to it. Thus, for example, it was covered in August 2011 on the web-pages of Community Care, which has 300,000 online users among social care professionals, and Freedom from Torture, one of the UK's leading organisations for the rehabilitation of torture survivors. The story also featured in the *Solicitor's Journal*, the main independent print and online journal for the legal profession with a print readership of 25,000 and 251,059 web visitors in the year to October 2013 [b].

Influence on International law: The reach of the research impacts has been very significantly expanded through influential contributions to discussion, debate and policy formulation among international policy-makers. Here, some of the most significant and far-reaching impacts have arisen from Patel's invited provision of expert consultation to the United Nations Committee Against Torture, most notably in her role as the key clinical consultant to the UN Committee for the Convention Against Torture. In that role, Patel provided evidence in person during several consultation meetings held between February 2011 and December 2012 and, on 15th September 2011, submitted substantial written comments on the Working Document on Article 14 of the UN Convention Against Torture. These presentations of important facets of the research insights

outlined above [particularly in 2 and 6] supported the Committee's landmark legal development of General Comment 3 (CAT/C/GC/3), adopted by the UN General Assembly in December 2012, and its interpretation of Article 14, which sets out an enforceable right under international law to reparation - including rehabilitation - for torture victims. General Comment 3 was subsequently used by the UN Human Rights Council to develop a supporting, legally-binding resolution in the form of the UN Human Rights Resolution, which likewise addresses torture survivors' right to rehabilitation, and which was adopted by the UN General Assembly in March 2013 [c, pp. 64-67].

Patel commented directly on the penultimate version of this General Comment, providing detailed suggestions for specific wording: "the final legislation in the form of the General Comment 3...has taken many of Dr Patel's ideas and research on board and in this landmark legislation in international law, considerable aspects have originated from Dr Patel's own writing, comments and recommendations for specific wording" [d]. Moreover, the approach to rehabilitation in the General Comment "includes very concrete clinical experiences and defines conditions that are based on clinical practice and research, more than legal aspects and concerns. This is very much thanks to Dr. Patel's active contribution, both during preparations by providing her own research and experiences orally in meetings, and to her direct comments to the drafts....The working group took into consideration many consultative submissions from around the world, and Dr Patel's...work and contributions of psychological knowledge is evident in the final UN General Comment 3 on the right to rehabilitation" [d]. Patel's 2010 paper (co-authored with two human rights lawyers) on the right to rehabilitation [7], which analyses the definition of rehabilitation from a legal and clinical point of view, paying special attention to the importance of making rehabilitation available, accessible and affordable, was especially influential. The document, which also discusses the problems encountered in establishing rehabilitation as a form of reparation in relation to the needs and conditions of the person subjected to torture, "had a very important impact on the discussions within the UN Committee's working-group" [d].

Describing her broader contribution to the development of that General Comment as "highly valuable", a member of the UN Committee against Torture notes the specific impact of Patel's work on integrative conceptualisation of the right to rehabilitation research [especially 2] on: 1) The [Committee's] definition of torture victim, including family – not just individuals; 2) the importance of victim participation and victim's voice in the judicial process; 3) the focus on creating a context of safety and a climate of trust as basis for rehabilitation; 4) the emphasis on services as accessible and affordable; 5) the discussion of methods in rehabilitation for torture survivors; and 6) standards for evaluation of rehabilitation services, for holding states to account [d]. Her comments and analysis were especially valuable in the context of those aspects of the legislation dealing with torture survivors' clinical needs and the provision of direct care to them. Here, "[Patel] pointed to the need for multidisciplinary measures, and provided important comments in relation to the evaluation of outcome, concretely the need to discuss the terms, effectiveness and quality in relation to rehabilitation" [d]. The substantial written comments submitted by Patel on the Working Document on Article 14 of the UN Convention Against Torture (15 September 2011) presented a "fresh and detailed analysis" of critical questions relating to States' monitoring, reporting and capacity to be held accountable for their obligations under the UN Convention Against Torture" [d].

Informing international policy discussion, debate and formulation: Patel's co-authored 2010 paper on the right to rehabilitation [7] was the first publication on this topic globally to provide "an integrated clinical and legal analysis and framework for understanding the right to rehabilitation as a form of reparation as it is theorised in law, and practised in law and clinically by practitioners in the field" [e]. As such, its impacts extend beyond the contribution acknowledged above to the development of the UN General Comment, to much more widespread contributions to discussion, debate and understanding among policy-makers and practitioners around the world.

Impacts on health professionals' understanding of torture rehabilitation: According to the Chair of the European Network of Centres for the Rehabilitation of Torture Survivors, Patel's most significant contribution has been her conceptual leadership in the field of the right to rehabilitation, derived especially from the combined legal and clinical understanding explored in her research [5]. Patel was one the first clinical psychologists to research and raise deep concerns about the use of torture in the 'war against terror', and to address the issue of psychologists' complicity in this [in 2, 6]. She has presented the findings of this work in numerous public lectures and conferences

around the world, where “her solid background both in human rights and international law, combined with extensive clinical experience from work with victims of torture, gave her writings an impact and stimulated important discussions among health professionals globally, first of all psychologists and psychiatrists” [d]. Prior to these contributions, the global debate had focussed largely on legal arguments, but Patel’s research “highlighted the ethical and professional dimensions, from a psychological analysis, which impacted on legal and clinical thinking. This led to many efforts by psychologists to challenge professional bodies across Europe and beyond on the ethical codes, and their limitations, for psychologists. Dr Patel was at the forefront of many of these debates and developments” [e].

“Her work on the prevention of torture [particularly 3] “came at a time when the debate in the field was extremely vulnerable to dismissal of efforts of rehabilitation centres. [Patel’s work] was the driving force for organising the first European conference on the prevention of torture and the role of rehabilitation centres – a conference for which she provided conceptual leadership throughout. This conference led to a change in many rehabilitation centres being better able to articulate their work in terms of prevention, and in contributing to domestic and regional prevention strategies which placed multidisciplinary rehabilitation at the core” [e].

Contributions to the expansion and improvement of torture rehabilitation practice: Through these contributions to discussion, debate and policy formulation among national and international policy-makers and healthcare practitioners, the research has led to changes in healthcare practice and especially to improvements in the provision of State services for torture survivors. By articulating many of the debates, challenges and dilemmas faced in this field, Patel’s work has particularly influenced the **adoption of a human rights framework in torture rehabilitation** and enhanced client data collection and use for human rights monitoring purposes. Thus, according to the Chair of the European Network of Centres for the Rehabilitation of Torture Survivors (also President of the German Association of Psychosocial Centres for Refugees and Victims of Torture), her research has “provided a framework which many rehabilitation centres would say they use...I would go so far as to say that this contribution has been beyond the UK and her work has had a major impact across Europe, and much further afield” [e: the author specifically cites the contribution of 1, 2, 3, 4, and 5].

Patel’s research [particularly g] has also contributed to the **development of new evaluation tools for torture rehabilitation services** and improved understanding among rehabilitation service providers of the complexity of, and methods for conducting, evaluations. This has resulted largely from the fact that Patel’s work “has opened up more debates, and emboldened services and practitioners to not be ‘bound by numbers’ and to consider other ways of conducting evaluations. [It] has been of immense influence in the development of new evaluation tools at XENION in Germany, as well as in many other rehabilitation and treatment centres in the German Association and...across Europe” [e].

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

[a] Court of Appeal Judgment in R (SL) v Westminster City Council [2011] EWCA Court: bit.ly/o8iTuy. See particularly para. 40, reference to the ‘intervenor’s; and para.44 where the judge concurs with the Counsel position, using Patel’s core clinical argument that a programme of care is meaningless and inaccessible without the provision of stable accommodation.

[b] Examples of the coverage of the court decision in practitioner and professional media: Community Care: bit.ly/1bnXbgv (10.08.11); Freedom from Torture: bit.ly/19JBASh (10.08.11); Solicitor’s Journal: bit.ly/17zxNAz (15.08.11), bit.ly/1aAdx4J (11.08.11)

[c] For incorporation of torture rehabilitation into the UN Human Rights Resolution adopted March 2013 A/HRC/22/2: bit.ly/15yxZ6p pp.64-67

[d] Letter from Member of UN Committee against Torture (Associate Professor, Department of Psychology, University of Oslo). Available on request.

[e] Letter from Chair of the European Network of Centres for the Rehabilitation of Torture Survivors (also President of the BafF, the German Association of Psychosocial Centres for Refugees and Victims of Torture, Berlin; and Co-Director of XENION, Berlin). Available on request.