

<b>Institution:</b> Oxford Brookes University		
<b>Unit of Assessment:</b> 14, Geography and Environmental Studies		
<b>Title of case study:</b> Effective torture prevention? Detention safeguards and the reduction of torture		
<b>Period when the underpinning research was undertaken:</b> 2012–2019		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b>  Dr Richard Carver	<b>Role(s) (e.g. job title):</b>  Reader in Human Rights and Governance	<b>Period(s) employed by submitting HEI:</b> [text removed for publication]
<b>Period when the claimed impact occurred:</b> 2014–present		
<b>Is this case study continued from a case study submitted in 2014?</b> N		
<b>1. Summary of the impact</b>  <p>The best protection against torture is provided by safeguards when people are first arrested. The research that established this has changed practices worldwide and protected thousands from torture.</p> <p>Dr Richard Carver's research into torture prevention focused on the protection of people in police custody, and has challenged previous assumptions by the United Nations (UN), regional human rights bodies and non-governmental organisations (NGOs) about the most effective way to prevent torture. Previous policy was based on monitoring detention places, and investigating and prosecuting torturers. These aspects are important, but Dr Carver's research showed that by far the best protection is to have effective safeguards in place when people are first arrested.</p> <p>As a result of these findings, UN anti-torture bodies and two prominent international NGOs have changed their approach. The research has also shaped policy and practice in the Republic of Georgia, Uruguay, Ethiopia and the United Kingdom, leading to greater protection for thousands of people previously at risk of torture.</p>		
<b>2. Underpinning research</b>  <p>In 2012, the Association for the Prevention of Torture (APT), a Geneva-based NGO, appointed an independent research team directed by Dr Carver to conduct a three-year international study. Their aim was to determine whether existing torture prevention measures work, and what can be done to reduce the risk of people being tortured. Dr Carver was selected for his previous work on determining the effectiveness of national human rights institutions, as well as his research into the incidence of torture. The research has produced a book: <i>Does Torture Prevention Work?</i> (Liverpool University Press, 2016) [R1], co-authored by Dr Carver and Dr Lisa Handley, visiting research academic at Oxford Brookes University (OBU).</p> <p>The study looked at the impact of torture prevention mechanisms across 16 countries over a 30-year period (1985–2014). The research team included more than 20 country specialists, with collaboration from academic institutions, as well as human rights groups and individual researchers. No other UK academic institutions were involved in this international study.</p> <p>The study was the largest of its kind and has been praised for its innovation. It used both quantitative and qualitative methods to find the impact of four types of preventive measures on the incidence of torture. It looked at existing international laws in the field of torture prevention, as well as recommendations often made by the UN, regional human rights bodies, NGOs and so on.</p> <p>The study found that legal reforms on their own had very little impact on reducing torture. The creation of independent complaints mechanisms was also found to have no significant positive</p>		

impact. However, when legal obligations were translated into practice, some of the preventive measures worked. **The most important example of this was that safeguards for people in their first hours in police custody had a considerable impact on reducing the incidence of torture.** The most important safeguards were:

- ending unofficial and undocumented detention
- notifying a third person of arrest and detention
- prompt access to a lawyer
- a right to independent medical examination.

Other types of preventive measure – such as investigation and prosecution of torturers, and the creation of independent monitoring mechanisms – also had a positive impact. But the finding that detention safeguards were the most effective prevention measure was echoed in all the statistical analysis undertaken, and a series of qualitative case studies were researched that reached the same conclusions [R1, R3 & R4].

**This finding represents a significant change of emphasis in international agendas on torture prevention.** It would not have been particularly surprising to human rights activists, for example those providing legal representation or medical services to people in police custody. However, international and regional torture prevention bodies have previously emphasised the use of monitoring and complaint mechanisms along with investigation and prosecution, but not detention safeguards. [See, for example, Nigel S Rodley, “Reflections on Working for the Prevention of Torture,” *Essex Hum. Rights Rev.* 6, 2009.] Given this prior consensus, shared by APT, evidence of change at the international policy and country level was vital to validate the impact of the research.

The research found that actual practice in torture prevention varied according to place. Geographical dummy variables were used in some of the regression models in the study, showing that European and South American countries were less likely to torture than those in other geographical regions (Africa, Western and Central Asia, and Eastern and Southern Asia). However, the effectiveness of the various preventive measures was consistent in all places – that is, Europe and South America tortured less because the most effective preventive measures were applied more consistently [R1, R5].

One interpretation of the findings is that the risk of torture varies according to carceral geographies (the spaces and practices of detention). In other words, risk was found to be highest outside official custody, where no legal safeguards apply. The next highest risk is in police custody, and then in prison [R4]. This does not correspond to the common geographical emphasis of detention monitoring, which tends to focus on the prison system.

A follow-up study in Georgia in 2019 used the data analysis from the main study to develop an assessment model for national preventive mechanisms (NPMs) working against torture [R2].

### 3. References to the research

1. Carver, R. and Handley, L. (2016). *Does Torture Prevention Work?* Liverpool: Liverpool University Press. ISBN: 9781781383308
2. Carver, R. and Handley, L. (2019). *Does the Georgian NPM Work?* Tbilisi: Open Society Georgia Foundation. [available on request]
3. Carver, R. and Handley, L. (2020). Effective Torture Prevention. In: Sir M. D. Evans and J. Modvig (Eds.), *Research Handbook on Torture*. Cheltenham: Edward Elgar. ISBN: 9781788113953
4. Carver, R. (2020). Ensuring fair treatment of persons in police custody: theory and reality. In: R. Alleweldt (Ed), *Fair Treatment of Persons in Police Custody*. Berlin: Springer Verlag.
5. Carver, R. and Handley, L. (2020). Evaluating national preventive mechanisms: a conceptual model. *Journal of Human Rights Practice*, 12(2), 387–408. DOI: [10.1093/jhuman/huaa030](https://doi.org/10.1093/jhuman/huaa030)

#### 4. Details of the impact

The reach and significance of Dr Carver's research in relation to influencing and changing policy and practice at national and international levels in particular geographical areas is described below. Other beneficiaries of the research, beyond the people at risk of torture, include NGOs and civil society. Changes in NGO strategies resulting from the research are identified, and influences on civil society in terms of anti-torture activities are described.

##### **Influence on the policy and practice of the UN and other intergovernmental anti-torture bodies**

The finding that detention safeguards have the most impact on reducing the risk of torture is different from the previous understanding of most intergovernmental bodies working on the issue. The main UN treaty bodies have in the past emphasised the prosecution of torturers (Committee Against Torture, CAT) or the formation of independent monitoring bodies (Subcommittee for the Prevention of Torture, SPT). Following the publication of *Does Torture Prevention Work?*, the chairs of both these bodies have publicly stated the importance of the research, for example by speaking at the expert panel meeting in New York, as part of the US launch of the book in 2016 (<http://cendep.blogspot.com/2016/10/cendep-at-un-and-importance-of.html>)

An internal peer review process (before external review) involving several key human rights stakeholders from the UN increased interest in the emerging findings on detention safeguards. Even before the findings were published, Dr Carver and Dr Handley were invited to address the relevant UN committees and the Council of Europe's European Committee for the Prevention of Torture (CPT). They also consulted closely with the then UN Special Rapporteur on Torture, Professor Juan Méndez. He launched an initiative at the UN General Assembly to formulate an international protocol on investigative interviewing by police, coinciding with the launch of the book in New York. This initiative is now near completion. While not solely prompted by the research findings, it was influenced by them, and it also emphasises the importance of police procedure in the prevention of torture [S4].

Both the CAT and SPT have mentioned the Carver/Handley research in their reports. For example, Jens Modvig, CAT Chair, stated when addressing the 71st session of the General Assembly Third Committee (October 2016): 'An effective implementation of fundamental legal safeguards, such as the right to a lawyer, to medical examination and to inform relatives, has recently been highlighted by an important independent research project undertaken under the auspices of the Association for the Prevention of Torture as being the most effective measure to prevent torture and therefore reinforces prior findings of the Committee against Torture in that regard.' [S1] The main channel of influence is likely to be the advice that intergovernmental bodies offer to national mechanisms. One national example cited below is Uruguay.

These bodies also hold frequent training events. These have included an international seminar hosted by the Danish MFA, the CPT, DIGNITY and the Convention against Torture Initiative (CTI) in 2018 – 'it brought together over twenty members states of the Council of Europe who had the opportunity to familiarize themselves with Carver's research findings' [S2]. Dr Carver gave the keynote speech and the key resource material for the seminar was a CPT discussion paper 'Combating Torture During Police Custody and Pre-Trial Detention', citing the research findings [S11, pages 5 and 10]. Furthermore, Vice President, European Committee and CAT Chair in their joint statement said: 'The UN Committee against Torture has benefitted from the evidence, which due to Carver's research is now at hand, sustaining the efforts to ensure implementation of the fundamental legal safeguards' [S2].

##### **Influence on the policy and practice of national level anti-torture mechanisms**

At the end of the research period (2014), only two countries in the study had national preventive mechanisms (NPMs) under the Optional Protocol to the UN Convention Against Torture (OPCAT): the United Kingdom and Georgia.

The chair of the UK NPM describes the research as having influenced the mechanism's work, allowing 'those working in field to focus on what works – outcomes and not merely outputs'. He states that he has 'relied on this publication as a member of the Ministerial Independent Advisory Panel on Deaths in Custody and as the Human Rights Advisor to the Northern Ireland Policing

Board' [S6].

The Georgian NPM, impressed by the multi-country study, invited Dr Carver and Dr Handley to conduct an independent assessment of its work, funded by a grant from the Open Society Foundation. This assessment used an evaluation tool derived from the underlying research and, according to an NPM head (Georgia), 'outlined some critical areas to be concentrated on to increase the efficiency of the NPM' [S5].

Several other countries in the study established NPMs after the end of the research period. The Association for the Prevention of Torture (APT) has been an important channel for communicating the research findings to new NPMs in countries such as Chile and the Philippines (with summaries of the findings circulated in Spanish and Tagalog), and the SPT has also been an important influence [S4]. This dissemination of the findings to NPMs also applies to countries *outside* the study. For example, the South-Eastern Europe group of NPMs, under the leadership of the Croatian NPM, has established a training programme for monitoring of police custody, based on the research findings (through the influence of APT and the Ludwig Boltzmann Institute for Human Rights, BIM – see below) [S9]. Also, in Uruguay, the research findings are explicitly used as the basis for monitoring police custody, as a direct result of the SPT's engagement with the research [S3].

Ethiopia is included within the study but is still not party to the OPCAT. The findings of the study have been taken up at a sub-national level by the Arba Minch University (AMU) law school, which provides legal aid services across the Southern Nations, Nationalities and Peoples region, one of the most populous areas of the country. AMU, which is in formal partnership with OBU, has modified its legal aid strategy to emphasise the provision of duty lawyers within police lockups, in line with the research findings.

### **Influence on NGO strategy**

Several leading NGOs working against torture changed their strategic priorities as a direct result of the research. The first was APT, which commissioned the research. It rewrote its strategic plan to reflect the finding that torture was best prevented by safeguards immediately after arrest. This has since been evidenced by multiple training events stressing the importance of detention safeguards. As discussed above, APT's role as a mentor and coordinator of NPMs makes this shift in priorities particularly influential [S4].

DIGNITY is a Copenhagen-based international NGO that focuses on both legal and medical aspects of anti-torture work. Senior figures in its management are the chair of CAT and vice-president of the CPT, which is how they learned of the research. Dr Carver was invited to Copenhagen for several days of consultation with management and staff of DIGNITY, as part of reformulating its strategic plan. Based on the research findings, DIGNITY's priority in its preventive work 'has shifted from a predominant focus on the prison sector to include an increased focus on the police sector, notably on monitoring the treatment and conditions of persons in police custody, including on the implementation of fundamental legal safeguards' [S2].

The BIM, based in Vienna, established a department focused on torture prevention in 2004 to support the work of the UN Special Rapporteur on Torture. In 2016 it set up a research programme on the procedural rights of suspects, strongly influenced by the international research project 'Does Torture Prevention Work?', and especially the finding that access to procedural safeguards from the first hours of custody is the most effective way to prevent torture. The Carver/Handley research provided a scientific basis for and reinforced the importance of procedural safeguards – not only as components of the right to a fair trial, but also as a measure to prevent torture and other forms of ill-treatment [S9].

The London-based Freedom from Torture (formerly the Medical Foundation for the Care of Victims of Torture) also invited Dr Carver to contribute to an internal discussion on strategy, which has resulted in a new analysis and theory of change driving the organisation's programming. In 2020, Executive Director said: 'Ever since your study we have been thinking very deeply about strategies for torture prevention and over the past year or so we have built an analysis and theory of change which we are driving through into programming now' [S10i]. This is reflected most strongly in their Strategy 2019-20 accountability goal – 'To expose torture in order to strengthen



prevention efforts and secure justice and international protection for survivors' [S10ii, page 13]. Freedom from Torture is one of the largest torture rehabilitation centres in the world and the only organisation in the UK dedicated to the treatment and rehabilitation of torture survivors, treating 1000+ people each year.

### Encouragement of anti-torture activity in civil society

In the United Kingdom, aside from its influence on the work of the NPM, the research has helped to stimulate civil society activity against torture. The publication of the research was a direct catalyst for the formation of the UK Torture Prohibition Network, a group of scholars, activists and NGOs working in the field [S7]. The inaugural conference of the network in November 2017 featured a keynote speech by Dr Carver and a discussion about strategies to implement the findings. The network played a crucial role in coordinating the submission of civil society testimony to the UN Committee Against Torture in its periodic review of the UK's performance in 2019.

Another organisation for which the research was a catalyst to further action was Quaker Concern for the Abolition of Torture (Q-CAT), which organised a conference in November 2018 with Dr Carver as keynote speaker. Subsequently Q-CAT stepped up its engagement with government partners on a variety of issues related to torture and ill-treatment [S8].

### 5. Sources to corroborate the impact

1. Committee Against Torture (CAT), Statement by Jens Modvig, Chair, at the 71st session of the General Assembly Third Committee, Item 68 (a & c), October 2016. Available [here](#)
2. DIGNITY, Danish Institute Against Torture, 'Affidavit concerning our cooperation with Dr Richard Carver' by Therese Maria Rytter, Vice-President, CPT, Director, Legal Department, DIGNITY & Jens Simon Modvig, Chairperson, CAT, and Director, Health Department, DIGNITY, May 2020
3. Uruguayan NPM – including i) Wilder Tayler, Ombudsman of Uruguay and former Vice-Chair, SPT, Letter, May 2020 and ii) Equipo Técnico Interdisciplinario MNP (2019), Las Garantías En Los Primeros Momentos De Detención En Las Unidades Policiales Uruguayas (R1 cited on page 9; 3i confirms that 'the four guarantees idea, based on your research [R1], constitute now a core concept of the monitoring in police stations in Uruguay')
4. Association for the Prevention of Torture (APT) – including i) Barbara Bernath, Secretary General of APT, Letter, May 2020 and ii) APT Strategic Plan 2020-2023
5. Nika Kvaratskhelia, Head of the National Preventive Mechanism, Office of the Public Defender of Georgia
6. John Wadham, Chair of the UK's National Prevention Mechanism
7. UK Network for the Prohibition of Torture, statement from Dr Lutz Oette, SOAS, joint convenor
8. Quaker Concern for the Abolition of Torture (Q-CAT) – including i) statement from Convenor, Juliet Morton and ii) Briefing No 56 February 2018 & Briefing No 60 January 2019
9. Ludwig Boltzmann Institute for Human Rights – including i) statement from Giuliana Monina, Head of Programme Line, Senior Researcher and Project Manager and ii) Guidebook, *Strengthening the rights of suspects and accused in criminal proceedings – the role of National Human Rights Institutions*, December 2019 (R1 referenced six times, see footnotes)
10. Freedom from Torture, London – including i) two email correspondence with Director of Policy and Advocacy, later Chief Executive of Freedom from Torture (December 2015 and May 2020) and ii) Strategy 2019-21 document
11. Discussion paper, 'Combating Torture During Police Custody and Pre-Trial Detention' (2018) prepared by Kozma, J & Rachlew, A. in cooperation with DIGNITY, available [here](#)