

Impact case study (REF3)

Institution: University College London		
Unit of Assessment: 25b - Area Studies		
Title of case study: Changing INGO Policy Design and Government Practice on Torture Prevention in Chile		
Period when the underpinning research was undertaken: 2010-2015		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Dr Par Engstrom	Role(s) (e.g. job title): Associate Professor of Human Rights	Period(s) employed by submitting HEI: July 2012-present
Period when the claimed impact occurred: 1 August 2013 - 31 December 2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact (indicative maximum 100 words)		
<p>Dr Engstrom's research on torture prevention in Chile evaluated specific policy interventions, such as legal safeguards, independent monitoring and criminal sanctioning, that can reduce the risks of torture to vulnerable groups. His identification of effective preventative measures changed the strategic priorities of the leading international non-governmental organisation in this area, the Association for the Prevention of Torture (APT), as well as shaping its advocacy and capacity-building strategies. This led to the introduction of a new law in Chile in 2016 which defined the offence of torture and to the introduction of the National Torture Mechanism in Chile in 2019, as well as contributing to the creation of a National Human Rights Institution in Tunisia in 2019.</p>		
2. Underpinning research (indicative maximum 500 words)		
<p>Engstrom has conducted, published and disseminated research in the field of human rights and torture prevention since 2010. This involved research and resultant publications relating to the international relations of human rights in the Americas (R1), as well as country-level analysis of the place of Brazil in the Inter-American Human Rights System that set contemporary developments in the broader context of the emergence of international human rights since the 1970s (R2). His research into the politics of the death penalty and state repression in Argentina (R3) fed into new work on the implementation of the UN's Universal Period Review recommendations relating to torture prevention, which was facilitated by funding from the Foreign and Commonwealth Office between 2011 and 2012. This research established his expertise in the field and led directly to a commission in 2014 from the Association for the Prevention of Torture (APT), a Geneva-based international NGO, to conduct research for a major global study on the impact of torture prevention interventions. Engstrom proposed the specific case of Chile to the APT because of its emblematic status for assessing the potential impact of torture prevention policies. Engstrom thus designed his research to measure the effectiveness of a wide range of possible prevention mechanisms in order to contribute to policy efforts to reduce the incidence of torture in Chile. It led to three research outputs: two research and policy reports (R4, R5), and, most significantly, a book chapter that provided the first systematic overview of the record of torture incidence and prevention in Chile between 1985 and 2014 (R6). The research consisted of a comprehensive political and socio-legal study of the evolution of torture and other ill-treatment in Chile from 1985 to the present day. It drew on both qualitative (stakeholder interviews and participatory workshops) and quantitative (judicial records, content analysis, official statistical information) data through a mixed method research design to establish a contextualised picture of measures which contribute to lessening the risk of torture and other ill-treatment.</p> <p>Three main interconnected findings emerged from Engstrom's research, confirming that while torture prevention often works, some prevention mechanisms are more effective than others:</p> <p>The creation of legal safeguards: the research shows that safeguards applied in the first hours and days after a person is taken into custody are particularly important for torture prevention, including family notification and access to an independent lawyer and doctor (R4). Crucially, the research indicates that what matters most is not formal law but actual practice in</p>		

police stations and detention centres. Through the deployment of systematic multi-source process tracing, the research established the positive effects of a series of legal changes in Chile that have improved the protection of prisoners' rights, notably by requiring that detainees in police centres must be presented to a judge within 24 hours. The research also demonstrated that Chile's criminal justice reforms in recent decades have had significant preventive effects, particularly as a result of crucial institutional changes in the form of oral proceedings and guarantees that are monitored and enforced by new judicial actors (prosecutors, public defenders, the Procedural Guarantees Judge).

Effective independent monitoring bodies: the research also explains the negative impact of several institutional obstacles to effective torture prevention in Chile (R4, R5, R6), including the limited civilian control over the country's security forces, particularly over the *Gendarmería* (responsible for Chile's prison system), as well as the limited effective control over police repression of public protests. Engstrom's research highlighted Chile's lack of adequate and autonomous mechanisms for torture reporting, and for monitoring detention centres and prisons, as well as the pressing need to establish independent monitoring bodies of such facilities.

The criminalisation of torture: the research also demonstrates the importance of the investigation and prosecution of torturers for reducing the risks of torture (R6). Until 2016, torture was not criminalised in Chile. As a result, few cases of torture have been prosecuted or punished in Chile. Most allegations and investigations of abuse are classified as lesser crimes ('torment', 'illegitimate punishment', 'mistreatment' or 'unnecessary violence'). Moreover, the research reveals how a very limited understanding of what constitutes torture permeates Chilean society, including among the country's political and judicial elites. Engstrom's research also shows the impunity effects of Chile's military justice system that continues to have authority to investigate crimes against civilians committed by the armed forces and the country's national police, the *Carabineros*.

The Institute of the Americas was a unit of the School of Advanced Study of the University of London and moved in its entirety to UCL in 2012. The unit's case studies have received approval from Research England to include underpinning research undertaken prior to 2012.

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

- R1. Engstrom, Par, 'Why the Human Rights Regime in the Americas Matters' in Mónica Serrano and Vesselin Popovski (eds.), *Human Rights Regimes in the Americas*, United Nations University Press (2010), (with Andrew Hurrell). *Peer reviewed chapter based on original research and published in collection by academic press.*
- R2. Engstrom, Par, 'Brazilian Foreign Policy and Human Rights: Change and Continuity Under Dilma' in *Critical Sociology* 38:6 (2012), 835-849. *Article in peer reviewed academic journal.* doi.org/10.1177/0896920512440582.
- R3. Engstrom, Par, 'Transnational Justice, Democratization and the Politics of the Death Penalty in Argentina', in Madoka Futamura and Nadia Bernaz (eds.), *The Politics of the Death Penalty in Countries in Transition*, Routledge (2013). *Peer reviewed chapter based on original research and published in collection by academic press.*
- R4. Engstrom, Par, 'Instituciones Nacionales de Derechos Humanos (INDDHH) y la Implementación de las Recomendaciones del EPU Relacionadas a la Prevención de la Tortura', Research Report, Human Rights Consortium, Institute for the Study of the Americas, and Universidad de Palermo, 2012. Available at: [https://www.academia.edu/1907977/Instituciones Nacionales de Derechos Humanos INDDHH y la Implementaci%C3%B3n de las Recomendaciones del EPU Relacionadas a la Preveni%C3%B3n de la Tortura](https://www.academia.edu/1907977/Instituciones_Nacionales_de_Derechos_Humanos_INDDHH_y_la_Implementaci%C3%B3n_de_las_Recomendaciones_del_EPU_Relacionadas_a_la_Preveni%C3%B3n_de_la_Tortura) (with Thomas Pegrarn). *Subject to review by policy stakeholders engaged in the project.*
- R5. Engstrom, Par, 'Incidencia y Prevención de La Tortura en Chile: 1985-2014', Research report and policy brief commissioned by the APT, September 2014, (with Karinna Fernández). *Subject to peer-review by APT research and policy programme and Chilean stakeholders.*

R6. Engstrom, Par, 'Torture Incidence and Prevention in Chile: 1985-2014', in Richard Carver and Lisa Handley (eds.), *Does Torture Prevention Work?*, Liverpool University Press (2016), (with Karinna Fernández). *Peer-reviewed book chapter contributing to an agenda-setting volume.*

Funding relating to research 1-6:

- British Foreign and Commonwealth Office Human Rights and Democracy Programme (HRDP) Award, for 'National Human Rights Institutions (NHRIs) and Implementation of UPR Recommendations Relating to Torture Prevention', 2011-2012. GBP29,655 (with Tom Pegram). *The FCO's HRDP funds are awarded on a competitive basis through a rigorous review process.*
- Association for the Prevention of Torture project grant, for 'Torture Prevention in Chile and Peru', 2014. USD64,600 (with Tom Pegram, Karinna Fernández, and Nataly Herrera). *The funding was awarded on the basis of a robust review process by the APT's international advisory committee.*

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

Torture prevention in Latin America is a key policy objective for both INGOs and national and local governments. In particular, these policy actors have prioritized the development of specific policy interventions that reduce the risk of torture of vulnerable groups. In this context, Engstrom's research impacted the development of policy in the following ways:

Influencing INGO policy design, leading to changes in the law and the establishment of new torture-prevention institutions in Chile and Tunisia

Engstrom's research made central contributions to the research base of the APT to inform its work, leading to several major policy changes in Chile. The APT's Secretary-General explains that Engstrom's findings (**R5, R6**) "formed the basis [of] a major review of APT's strategies and programmatic priorities" (i). APT's 2016-2019 Strategic Plan (ii) "included three interconnected strategies: [...] strengthening of legal and policy frameworks; improving detention practices; [and] strengthening public oversight, particularly the crucial role of NPMs" (i). The APT emphasises that Engstrom's policy recommendations based on his research in Chile had "catalysing impacts in [their] advocacy work in the country" (i).

From 2015, APT's advocacy, lobbying and capacity-building activities in Chile were informed by Engstrom's research findings (i), with particular focus on the creation of a Chilean National Torture Prevention Mechanism (NPM) as well as the reform of the country's criminal code to include an explicit legal definition of the offence of torture. The APT advocated for the reform of Chile's criminal legislation, highlighting Engstrom's research findings concerning the potential preventive effects of the criminalisation of torture (**R5, R6**). Drawing on Engstrom's key recommendation (in **R5, R6**), a series of high-profile APT missions to Chile were aimed specifically at lobbying for the creation of an independent monitoring mechanism to prevent torture and ill-treatment; that is, a National Preventive Mechanism (NPM) as stipulated in the Optional Protocol to the United Nations Convention against Torture. As APT's Secretary-General explains, "[**R5, R6**] was presented and discussed at the national level," in August 2015, in "meetings with then-President Michelle Bachelet, the Ministers of Justice, Foreign Affairs, the country's National Human Rights Institute and the Public Defender" with the express intention of lobbying for the creation of an NPM, on the basis of Engstrom's research demonstrating the significant role such a mechanism can have in reducing the risks of torture and ill-treatment (i, iii).

Engstrom's recommendations featured in press releases: the Public Criminal Defense Office reported on the meeting between the National Defender and APT to assess progress towards the creation of the NPM. The National Defender explained that "What has to be generated internally are protocols for action, follow-up, monitoring and control of all the bodies that have to do with people deprived of liberty and, in general, with anyone who may be a passive subject of torture. We are basically talking about both the police and the *Gendarmerie*" (iii). In November 2016, Law 20,968 was adopted, defining the offence of torture in Chilean criminal law. In May 2017, in the context of a visit by an APT delegation, then-President

Bachelet signed the legislative project to create an NPM (iv). APT's Secretary-General explains that the NPM "was one of Dr Engstrom's key recommendations coming out of his Chile research" (5, 6) (i).

The APT delegation also conducted a policy seminar with the National Human Rights Institute, informed by Engstrom's Chile research (iv). Engstrom's research set the terms of these conversations. As the APT explained: "the APT visited Chile to promote the results of the recent independent investigation [of which R6 is a part], commissioned by the APT, to determine the effectiveness of torture prevention measures worldwide" (iv). At this meeting "The Director of the NHRI presented the recent measures taken to reduce the risk of torture in the country. These included the recent criminalization of torture, the reform of the military justice system, and the new NPM law. The investigation [R6] identified that the lack of these measures [is] one of the greatest obstacles to the prevention of torture in Chile" (iv). In the National Human Rights Institute press release announcing that they had been designated as Chile's NPM, the INDH referenced the APT publication (from which R6 is drawn), explaining that: "This found that the most important measure of all to prevent torture is the application of safeguards during the first hours and days after a person's arrest. Also, notifying the family and having access to an independent lawyer and doctor have a significant impact on reducing the risk of torture. Furthermore, the effective and constant investigation of complaints of torture, the prosecution of torturers and the creation of independent monitoring bodies are also key in reducing this crime" (iv). The APT's sustained advocacy work, informed by Engstrom's research, "led to the final adoption of the law designating the Chilean National Human Rights Institution as NPM [in] April 2019" (i).

Furthermore, as a result of Engstrom's research on torture prevention in Chile (R6), and independent monitoring institutions in Latin America more generally (R1, R2), APT commissioned Engstrom to prepare a report highlighting best practice that other countries, specifically Tunisia, could consider. That report *Coherence of Oversight Systems: independent human rights institutions in Latin America* (v) highlighted the importance of independent monitoring bodies and contributed to the creation of an NPM in Tunisia in 2019. APT's Secretary-General explains: "This report contributed to policy debates regarding the establishment of the [country's NPM] as well as the creation of a National Human Rights Institution in Tunisia in 2019" (i).

Building capacity and shaping government practice in Chile

Engstrom's research also led to a series of capacity-building activities in Chile that have shaped policy. From April to September 2014, Engstrom facilitated a total of 38 policy briefings focusing on his research findings and policy recommendations (R5, R6) in three regions of Chile (Santiago, Valparaiso and Temuco), with elected officials and policymakers from all relevant state institutions, including the Minister of Justice, Members of the Supreme Court, the National Prosecutor, Ministry of the Interior, the police force and prison service, and the Director of the National Human Rights Institute. In September 2014, Engstrom organised a one-day policy workshop at the *Instituto de Estudios Judiciales*, a training school for Chile's national judiciary in Santiago, where he presented his research findings and policy recommendations to 32 representatives from Chile's investigative police, the public prosecutor, the public defender, the UN Office of the High Commissioner for Human Rights, the forensic services, the *Gendarmeria*, the Ministry of Justice, the National Human Rights Institute, and the Ministry of Foreign Affairs. In May 2019, Engstrom conducted a series of follow-up briefings to review policy and institutional developments, focusing on the operationalisation of Chile's NPM, with relevant authorities including the National Human Rights Institute, the Supreme Court Prosecutor, the National Public Defender's Office, as well as Human Rights Units of the Ministries of the Interior, Justice, *Carabineros* and the *Gendarmeria*. In October 2020, Engstrom provided a briefing on his research findings to state and judicial officials in a workshop organised by the regional office in Los Ríos of the National Human Rights Institute.

These briefings influenced institutional practices and new torture prevention strategies in Chile. For example, the former Director of Human Rights of the Chilean Ministry of Foreign Affairs, briefed in 2014, confirmed that Engstrom's research (R5, R6) was of "great relevance" and provided "a very valuable instrument" in his work not only in Chile, but also his work as a

member of the UN Human Rights Committee of the International Covenant on Civil and Political Rights (vi). Similarly, the legal advisory services of the Chilean Congress asserted that Engstrom's research (R6) constituted "a significant contribution to legislative work in our country" and is used directly when the Library prepares "technical reports to support the work of the congressmen" on the topic of torture prevention (vii). The National Public Defender's Office, briefed in 2019, also explained that Engstrom's research (R6) "contributed as input to the evaluation of our institutional practices, as well as to the design of new strategies for the prevention of torture". As well as this, it "allowed us to understand that it is necessary to establish inter-institutional coordination with the incumbent actors, for which reason we are currently working directly with the penitentiary administration" (viii). Chile's National Human Rights Institute also confirmed the impact of Engstrom's research findings in their current work, particularly in strengthening coordination between different institutional actors, capacity-building of state officials, as well as the operationalisation and effective decentralisation of Chile's National Preventive Mechanism. His research (R6) was an important 'common thread' for study and discussion at a 2020 workshop on torture prevention for 'justice officials, members of the Public Ministry, the Investigative Police and other institutional entities' in Los Ríos. This was an important opportunity for participants to debate and discuss national and regional responses to torture, in which Engstrom's research played a central role. As a representative of the National Human Rights Institute explained, "Agreeing with the conclusions of the APT project, [participants] argued that multidimensional mechanisms are needed to prevent torture, in which the Chilean judicial system, and particularly the penal system, has room for improvement" (ix). As this shows, his research has shaped the understanding and treatment of torture prevention in Chile.

Overall, then, since 2014 Engstrom's research on torture prevention has clearly and demonstrably impacted the work of the APT in its efforts as an INGO to shape the policy landscape of Chile and Latin America more generally. It has also allowed him to play a role in developing the capacity of the Chilean state in training its officials in the area of torture prevention and led to a change in law in Chile, the designation of a NPM in Chile in 2019 and the creation of a National Human Rights Institution in Tunisia in 2019.

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

- i. Testimonial letter from Secretary General, Association for the Prevention of Torture (APT), 29 June 2020.
- ii. APT, 'APT Strategic Plan 2016-2019'. Available at: <https://www.apr.ch/en/resources/publications/agenda-change-torture-prevention-apt-strategic-plan-2016-2019>
- iii. Evidence of APT lobbying in Chile for adoption of NPT: press briefings from the Chilean Ministry of Foreign Affairs, National Institute of Human Rights and APT.
- iv. APT and National Human Rights Institute press releases confirming APT role in signing of NPM.
- v. Par Engstrom, *Coherence of Oversight Systems: independent human rights institutions in Latin America* (APT: 2015) <https://www.apr.ch/en/resources/publications/coherence-oversight-systems-independent-human-rights-institutions-latin>
- vi. Testimonial statement from Director of Human Rights, Chilean Ministry of Foreign Affairs (March 2014 – March 2018); Member of the United Nations Human Rights Committee (2019-2022), email communication (original in Spanish), 18 September 2020.
- vii. Email communication from Legal Advisor to the National Congress of Chile (original in Spanish), 8 January 2021.
- viii. Testimonial statement from Public Defender Office of Chile, email communication (original in Spanish), 6 January 2021.
- ix. Testimonial statement from Head of the Regional Office of the National Human Rights Institute in Los Ríos, email communication (original in Spanish), 11 January 2021.