

## Report on Q-CAT conference at Friends House, Saturday 3<sup>rd</sup> November 2018 Preventing Torture – Effective Action

The conference was attended by Q-CAT supporters from around our Yearly Meeting and people from a number of other organisations. In this Briefing we are happy to share the main points made by our speakers. Each presentation was followed by discussion, and in the final session “What we can do next?”, it was agreed that it is of the utmost importance to raise awareness among Friends and highlight the fact that Q-CAT’s work is an official part of Britain Yearly Meeting. We are already building on the contacts made with our speakers to arrange further events, and will also have a presence at Yearly Meeting 2019.

The day was opened by Richard Carver of Oxford Brookes University (notes on this session provided by David Mellor)

Richard Carver introduced his book with Lisa Handley ‘Does Torture Prevention Work?’ which sets out the results of a major research programme investigating the main measures available to States to prevent torture. His presentation established a framework for a most informative day. (*Richard Carver and Lisa Handley (eds) Does Torture Prevention Work? Liverpool University Press, 2016*)

Their book gives the findings of a team of twenty researchers who had reviewed evidence in sixteen very different States. They looked at factors known to influence the incidence of torture and its prevention. As existing methods are extremely limited and misleading they devised a new methodology and methods of estimating the amount of torture.

Four main sets of preventive measures were identified: monitoring of places of detention by visits; complaints mechanisms; state jurisdiction over the crime of torture and the prosecution of torturers; and finally, laws, rules and procedures that govern the arrest, detention and interrogation of suspects. These are within the overall umbrella of the United Nations Convention against Torture, in the follow up agreements and protocols including National Preventive Mechanisms, and other international agreements.

Their research showed that across the world the volume of torture had fallen over the previous thirty years, although there were wide variations between states. Unfortunately, there is no certainty that any improvements will continue to be sustained. Most torture occurs in police stations, by police who are often poorly paid and trained, desperate to show results and to get convictions. Torture primarily does not relate to high profile threats to national security. Improved training is held to be a key factor in improvements.

The research confirmed that **detention practice** (the fourth set of measures) has by far the strongest impact on the incidence of torture, and safeguards in the first hours and days after arrest contribute crucially to lessening the risk of torture; particularly that individuals are held only in lawful, documented places of detention; that their families and friends are promptly notified of their arrest; that they have prompt access to a lawyer and medical examination by an independent doctor; and that they are brought promptly before a judge. But these can be rights which are least well regulated. There has been a widespread rethinking of police interviewing following abandonment of confession evidence.

Juan Mendez, former UN Rapporteur on Torture, advocated new UN guidelines on police interviews, and these are now being developed. Amnesty International's 12-point programme, focusing on when people are first taken into detention, is also highly relevant.

Other measures are far less effective. Complaints procedures "basically do not work", but still should be fed more into the prosecution process. Very good monitoring processes are important particularly when suspects are taken into custody, as yet they don't seem to be particularly effective.

In general, the gap between law and practice is a key factor wherever practice lags behind the law, particularly regarding detention and prosecutions - **the law on its own does not guarantee prevention**. Many States are slow in making progress, and "only Norway has got it right". In the UK, Richard commended Northern Ireland for "non-police oversight mechanisms", but commented that "the UK does a pretty bad job, although it is one of the best". In all countries political factors are critical, particularly at times when conflict has ended, or there are changes in the political system.

Richard's final points were that progress on torture prevention is part of this bigger picture. The core problem is that criminal justice systems are not working well; and can only be tackled by structural reform, training and capacity building; and monitoring should be used to keep track of progress.

This is ground breaking work, and it is hard to underestimate this significance of the research in developing a new standard methodology, the achievement of the research team in carrying it out, and the findings, which suggest priorities for change. This was an inspiring opening for the day, to show us new ways of looking at the issues.

<https://www.ucl.ac.uk/global-governance/news/2017/nov/does-torture-prevention-work>

**Our second speaker, Professor Ray Bull, Professor of Criminal Investigation, University of Derby, has provided us with the following synopsis of his presentation:**

### ***An Important Development on How Best to Interview Suspects***

In the light of psychological research, a growing number of countries/organisations have decided to adopt a model/approach of investigative interviewing that does not rely on a coercive or oppressive approach. Indeed, in 2016 the United Nation's 'Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (Law Professor Juan E. Mendez) submitted his report that was then transmitted by the UN Secretary-General to the UN General Assembly. In this report its summary stated that : "*The Special Rapporteur...advocates the development of a universal protocol identifying a set of standards for non-coercive interviewing methods and procedural safeguards that ought, as a matter of law and policy, to be applied at a minimum to all interviews by law enforcement officials, military and intelligence personnel and other bodies with investigative mandates.*"

When mentioning this "universal protocol" the UN Special Rapporteur noted that "*Encouragingly, some States have moved away from accusatorial, manipulative and confession-driven interviewing models with a view to increasing accurate and reliable information and minimizing the risks of unreliable information and miscarriages of justice*" and that "*The essence of an alternative information-gathering model was first captured by the PEACE model of interviewing adopted in 1992 in England and Wales...investigative interviewing can provide positive guidance for the protocol...*".

In 1990 in England the government and the Chiefs of Police asked some highly experienced police investigators to form a working party to develop up-to-date training on interviewing/interrogating. Following their deliberations they recommended what they called the 'PEACE' model/approach. During this time a senior London detective set up a different small working party of detectives and psychologists (including Stephen Moston and myself) who produced in 1991 an (unpublished) overview of aspects of psychology that might be useful to the improving of such interviewing/interrogating. This overview was made available to the national team of detectives who were developing 'PEACE'. Once that team of detectives had written their guidance documents they sent drafts of these to myself asking if they had 'got the psychology correct?' They indeed had.

'PEACE' stands for

P Planning and Preparation  
E Engage and Explain  
A Account  
C Closure  
E Evaluation

In our study of 142 interviews with people who may have been involved in committing crime, we examined whether interviewing in a way that is compatible with the 'PEACE' approach bore any relationship to the actual outcomes of these interviews (Walsh & Bull, 2010). Overall we found that better 'PEACE' interviewing was associated with securing a greater number of comprehensive accounts, including exculpatory (excusing) ones as well as admissions/confessions. We also examined how the interviewers attempted to overcome suspects' initial denials of knowing about wrong-doing (Walsh & Bull, 2012b). We assessed the interviews with suspects not only for interviewer tactics and skills/other attributes but also for interviewee movement/'shift' to providing relevant information. It was found that 'shifting' from (i) denying to (ii) providing relevant, incriminating information indicating guilt/admissions/confessions more often occurred when certain tactics and skills/other attributes were present (many of which are recommended by 'PEACE'). In another of our studies (Leahy-Harland & Bull, 2017) focused on taped interviews with serious crime suspects (i.e. suspected murderers/rapists). It examined the strategies used and types of questions asked by police, and suspects' responses to these. We found some significant associations between interviewer strategies and suspect responses. Rapport/empathy and open-type questions were associated with an increased likelihood of suspects admitting the offence, whilst 'negative questions' were associated with a decreased likelihood. Such findings support the effectiveness of the 'PEACE' method.

<https://thepsychologist.bps.org.uk/volume-29/december-2016/united-nations-may-recommend-peace-approach>

**Elizabeth Stubbins Bates, a Junior Research Fellow at Merton College Oxford, shared her work on the obligation to train armed forces in international humanitarian law:**

An affirmative answer to the question "Can training troops in international law help to prevent torture in armed conflict?" requires quite a low bar. Yes, training troops in international law can help prevent torture in international law, and the comprehensive reforms to the British Army's training in international law since 2013 will help compared to the grossly deficient training a decade earlier.

However, we need to understand what training **can change** (soldiers' and officers' understanding of the prohibitions on torture and inhuman treatment) and what it **does not change** or achieve (attitudes about the importance of obeying international law – its normativity - in the context of a broader military and political culture which is deeply suspicious about the many investigations and civil cases, and is deeply wary of human rights law; and of IHL (International Humanitarian Law) norms which are perceived as human rights law).

Soldiers' welfare has been pitted against the obligation to investigate and prosecute torture and wilful killing, and this is a false equivalence. Both obligations can be met. We also need to consider what an emphasis on training hides from the historical record. In this instance, an emphasis on training serves a rhetorical purpose for those political and military officials who want the investigations to stop.

In 2017, the Defence Subcommittee wrote quite openly that there should be no investigations of soldiers who were trained under the old, deficient system because they were not to blame. But in international law, any individual who commits torture or inhuman treatment in armed conflict is criminally responsible, and (under certain circumstances) so might be their commanders. In the same report, the Defence Subcommittee asserted that the reforms to training will solve and prevent similar future violations, but that too is unproven and implausible. Such an assertion ignores the role of the command chain in their knowledge of and failure to prevent torture and inhuman treatment in British military detention across the decades. It is this that is hidden from the historical record when training is considered a panacea and

investigations are secretive and rushed to a close.

<https://www.merton.ox.ac.uk/people/dr-elizabeth-stubbins-bates>

**Our final speaker was Anna Edmundson, coordinator of the UK's National Preventive Mechanism, who outlined the important work done by this organisation.**

National Preventive Mechanisms were set up in several countries following an Optional Protocol to the United Nations Convention Against Torture. The central idea is that a system of regular independent visits to places of detention can serve as an important safeguard against abuses and prevent torture and ill-treatment in places which by their very nature fall outside the public gaze.

The UK signed the Optional Protocol in 2003 and formally designated its National Prevention Mechanism in 2009; its office is now based within the National Inspectorate of Prisons. This means that visits and inspections can be carried out in various detention settings across the UK. Members of the NPM include Prison Inspectorates, Policing Boards and Care Commissions in England & Wales, Northern Ireland, and Scotland.

The powers to inspect, monitor and visit places of detention are formally recognised as part of the UK's efforts to prevent torture and ill-treatment. Members of the public can become involved by becoming Independent Custody Visitors (ICV) who make unannounced visits to police custody suites across the UK to provide feedback on the wellbeing, rights and entitlements of the detainees held there. There are currently over 1,800 ICVs in the UK; when they visit (always in pairs), they must be admitted without delay, and must have access to all parts of the custody area. Discussions with the detainees must focus on whether they have been offered their rights and entitlements, their health and well-being, and confirming whether the conditions of detention are adequate. After their visit they meet with the Custody Sergeant, and copies of their reports are sent to police officers in charge and the office of the local PCC. Through such visits, IVCs have picked up on systemic problems and have successfully lobbied to change practices and procedures to prevent ill-treatment.

In addition to the ICV scheme, the NPM scrutinises the human rights of detention-related practices, ensures detainees are not subject to sanctions, and strengthens the recommendations made to authorities.

<https://www.nationalpreventivemechanism.org.uk/>

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The next Newsletter is planned for early March.  
The next Briefing is planned for mid-April.

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