

# PREVENTING TORTURE

## The Role of National Preventive Mechanisms

### A PRACTICAL GUIDE

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Professional Training  
Series No. 21



UNITED NATIONS  
HUMAN RIGHTS  
OFFICE OF THE HIGH COMMISSIONER



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# Foreword

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The Optional Protocol to the United Nations Convention against Torture is unique in many ways: it is the only exclusively preventive international human rights treaty and the first instrument entrusting national bodies – namely National Preventive Mechanisms (hereinafter mainly referred to as NPMs) – with a role in the implementation of that international treaty. Owing to their regular visits to places of detention at national and local levels, day-to-day contact with authorities, and intimate knowledge of the context, NPMs have a key role to play in preventing torture and complementing the work of international bodies. To do so, the NPMs must be equipped not only with a strong legislative mandate but also with the necessary human and financial resources. Fully cognisant that the establishment of a NPM is not meaningful unless it is enabled to perform its functions effectively, the drafters of the Optional Protocol explicitly stipulated legal obligations for the States parties concerning the independence, mandate and budgetary resources of such mechanisms. The unique interplay between NPMs and the United Nations Subcommittee on Prevention of Torture reinforces the potential of both to spare countless human beings from the horrors of torture and ill-treatment.

Moreover, the Subcommittee is an important complement to the work of the United Nations Committee against Torture, the Special Rapporteur on Torture, and the Voluntary Fund for Victims of Torture, which are the key United Nations mechanisms established to prevent, prohibit and combat this scourge.

This *Guide* draws on the decade-long expertise of the Subcommittee on Prevention of Torture in guiding and advising on NPMs. It summarizes the Subcommittee's documents and recommendations in a simple, practical guide to assist States – both States parties to the Optional Protocol, and those considering becoming a State party – to establish or strengthen their NPMs. It also builds on the experience of OHCHR staff in the field, many of whom have been and continue to be instrumental in supporting NPMs with human rights expertise on the ground.

I hope that this *Guide* will be a useful and practical tool for States, NPMs and other actors for the purpose of preventing and eliminating torture and ill-treatment in every corner of the Earth.



Zeid Ra'ad Al Hussein  
High Commissioner for Human Rights

The obligation to establish National Preventive Mechanisms (NPMs) set out in the Optional Protocol to the Convention against Torture (the OPCAT) fundamentally changes how torture and ill-treatment is to be challenged and addressed.

It had long been recognized that impartial, independent scrutiny of the treatment of those in detention plays a vital role in achieving this end, and mechanisms for doing so have long existed in various parts of the world and in a number of States. However, there was no comprehensive system and no recognized approach to how such mechanisms might best be established and operate. Moreover the mandates of many of the mechanisms which did exist was often limited and vulnerable to change. Seen as a global system of prevention, it was partial, fragmented and weak. The OPCAT has transformed this.

For States parties the system is now comprehensive, cohesive and strong. Clear guidance exists on the establishment and operation of NPMs, backed by legal obligations and linked to the international system of NPMs and the UN Subcommittee on the Prevention of Torture (the SPT), which is the international preventive mechanism guiding and guarding the system as a whole. This *Guide* sets out and explains the essential elements of this system and the work of NPMs, and is itself an important contribution to the fight against torture.



Sir Malcolm Evans  
Chair of the Subcommittee on  
Prevention of Torture

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# ABBREVIATIONS AND ACRONYMS

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<b>CAT</b>	Committee against Torture
<b>CSO</b>	Civil society organization
<b>LGBTI</b>	Lesbian, gay, bisexual, transgender and intersex
<b>NGO</b>	Nongovernmental organization
<b>NHRI</b>	National Human Rights Institution
<b>NPM</b>	National Preventive Mechanism
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OPCAT</b>	Optional Protocol to the Convention against Torture
<b>SPT</b>	Subcommittee on Prevention of Torture
<b>UNVFVT</b>	United Nations Voluntary Fund for Victims of Torture



# INTRODUCTION

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*“The National Preventive Mechanisms represent the most significant single measure which States can take to prevent torture and ill-treatment occurring over time.”*

Ms. Aisha Shujune Muhammad, Vice-Chair,  
United Nations Subcommittee on Prevention of Torture

Among the many measures taken to prevent torture, the establishment of National Preventive Mechanisms (NPMs) has recently gained prominence. While monitoring bodies have existed in the past, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted in 2002, in force in 2006)<sup>1</sup> has introduced a particular model of preventive monitoring. It combines monitoring at international level (by the Subcommittee on Prevention of Torture (SPT) )<sup>2</sup> and at national level (by NPMs) through unannounced visits to places where individuals are deprived of liberty. Each of these mechanisms and the interplay between them has the potential for reducing incidences of torture and ill-treatment in the States parties to the Optional Protocol. Given that visits by the SPT are unlikely to be frequent, NPMs play a particularly important role in translating the political will to prevent torture and ill-treatment into practical action “on the ground”, as the frequency of their visits will complement the periodic visits undertaken by the SPT.

The States parties to the Optional Protocol<sup>3</sup> are obliged to set up, designate or maintain NPMs within one year of ratification or accession to the Protocol. Compliance with the Optional Protocol includes not only the establishment of NPMs but also ensuring their effective functioning. NPMs should be able to exercise their mandates so as to contribute effectively to the prevention of torture and ill-treatment. This includes the States’ legal obligation of ensuring that members of NPMs have the relevant expertise, that these mechanisms have (i) sufficient financial and human resources, (ii) unrestricted access to all places where persons are, or may be, deprived of liberty, and (iii) the ability to work without threats or sanctions being made against them or against those who work with them or provide them with relevant information.<sup>4</sup> Above all, NPMs should enjoy true functional independence. Recommendations made by NPMs need to be considered by the relevant authorities and other addressees and acted upon. NPMs should have clear and effective strategies in this regard.

This *Guide* seeks to respond to key questions frequently asked about NPMs, and to explain the four core functions of the mechanisms – visiting, providing advice, enhancing cooperation and educating – which are key to their effective functioning. The *Guide* is complemented by checklists and other guidance, which offer practical tools to aid their performance.

<sup>1</sup> Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199, entered into force on 22 June 2006 available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>.

<sup>2</sup> The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter “the Subcommittee on Prevention of Torture” or “SPT”) is a treaty body established by article 5 of the Optional Protocol. According to article 11 of the Optional Protocol, it has the mandate to visit the places of detention and make recommendations to States parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.

<sup>3</sup> There are 88 State parties and 14 Signatories of the OPCAT as of 29 May 2018. The latest information is available at: [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-9-b&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9-b&chapter=4&clang=_en).

<sup>4</sup> Articles 18, 19, 20, 21 of the OPCAT.

This *Guide* aims to assist both States planning to establish or seeking to strengthen their NPMs, as well as the staff of the NPMs themselves. It should also be useful to experts and professionals involved in the prevention and combating of torture, civil society organizations and the general public.

The publication builds on the recommendations of the SPT relating to NPMs, which are contained in the SPT's reports on country visits undertaken as part of its mandate,<sup>5</sup> as well as key SPT documents on NPMs: SPT guidelines on National Preventive Mechanisms (CAT/OP/12/5), SPT analytical assessment tool for National Preventive Mechanisms (CAT/OP/1/Rev.1) and the SPT NPM matrix. These documents are annexed to the *Guide*.

The *Guide* was developed in the context of the Office of the United Nations High Commissioner for Human Rights (OHCHR) Treaty Body Capacity Building Programme, established by General Assembly Resolution 68/268 to support States parties in building their capacity to implement their treaty obligations, in this case, their obligations under the Optional Protocol.

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<sup>5</sup> <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/Outline.aspx>.



## FREQUENTLY ASKED QUESTIONS

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## FREQUENTLY ASKED QUESTIONS



### Question 1: What is a National Preventive Mechanism?

National Preventive Mechanisms (NPMs) are bodies established in accordance with the Optional Protocol to the Convention against Torture (OPCAT). According to OPCAT article 3, States parties should set up, designate or maintain at domestic level one or several visiting bodies for the prevention of **torture**<sup>6</sup> and other **cruel, inhuman or degrading treatment or punishment**<sup>7</sup> (“National Preventive Mechanisms”).

**National Preventive Mechanisms (NPMs) are independent visiting bodies established at domestic level, composed of one or more bodies, for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.**

<sup>6</sup> The Convention against Torture defines “torture” as any act by which severe pain or suffering, whether physical or mental, intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (article 1 of CAT).

<sup>7</sup> The Convention against Torture refers to acts of “cruel, inhuman or degrading treatment or punishment”, which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (article 16 of CAT).

The mandate and powers of NPMs should comply with the provisions of the Optional Protocol. The most relevant of these provisions are articles 3, 4, 17-23, 29 and 35, although other provisions of the Optional Protocol are also of importance for NPMs. Their mandates should be clearly set forth in constitutional or legislative texts setting out their composition and spheres of competence. The main objective of NPMs is to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman or degrading treatment or punishment. NPMs make recommendations to the relevant authorities (such as ministries, police headquarters, prison headquarters, and management in places of deprivation of liberty) on improving the treatment and condition of persons deprived of their liberty, and submit proposals and observations on existing or draft legislation.

The mandate's character is preventive; NPMs do not undertake investigations or adjudicate on complaints concerning torture or ill-treatment, even if they encounter such cases while carrying out their visiting function. The legislation establishing NPMs should oblige the competent authorities and other stakeholders to examine recommendations of the NPMs, and to enter into dialogue with them regarding their implementation.

**A NATIONAL PREVENTIVE MECHANISM IS NOT AN INVESTIGATIVE BODY. The mandate of an NPM differs from other bodies working against torture in its preventive approach: it seeks to identify patterns and detect systemic risks of torture, rather than investigating or adjudicating complaints concerning torture or ill-treatment.**



## Question 2: Why establish a National Preventive Mechanism?

### → TO FULFIL LEGAL OBLIGATIONS RELATING TO TORTURE PREVENTION

According to articles 3 and 17 of the OPCAT, States parties to the Optional Protocol should set up, design or maintain NPMs within one year of their ratification or accession.<sup>8</sup>

More broadly, there is an absolute prohibition of torture in international law, with no exceptions. Moreover international law also includes a legal obligation on States to prevent torture. According to article 2 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a State party is obliged to adopt effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. This obligation extends to the prevention of other acts of cruel, inhuman or degrading treatment or punishment under article 16 of the Convention.

The obligation to prevent torture and ill-treatment reinforces the prohibition of torture. At the same time, it remains an obligation in its own right, and failure to take appropriate preventive measures would be a breach of obligations under the Convention.

The States parties to the Optional Protocol should:

- ▶ at national level, publicly promulgate the body designated as the NPM;
- ▶ at international level, notify the SPT promptly of the body designated as the NPM.

<sup>8</sup> The obligation to set up, designate or maintain the National Preventive Mechanism may be postponed by up to three years if a declaration has been made in accordance with article 24 of the OPCAT. This period may be postponed for another two years by the Committee against Torture, after due representation made by the State party and consultations with the Subcommittee on Prevention of Torture.



## → TO EFFECTIVELY PREVENT TORTURE

Preventive monitoring contributes to the decrease of acts of torture and ill-treatment. Such acts are more likely to occur in places that are not subject to independent and external scrutiny. Through its visits to places where there are or may be persons deprived of their liberty, NPMs conduct such critical examination. Monitoring conditions of detention and the identification of shortcomings in relevant rules, procedures and practices, as well as recommendations aimed at addressing these shortcomings, help promote institutional reform and good practices that reduce the risk of torture and ill-treatment.



### Question 3: What are the functions of National Preventive Mechanisms?

The key function of NPMs is their **visiting function**, namely carrying out visits to places of detention. According to article 4 of the Optional Protocol, the visiting mandate of NPMs must extend to all places where people are, or may be, deprived of their liberty, for example in the sense of their not being free to leave.<sup>9</sup> The purpose of such visits is to regularly examine the treatment of persons deprived of their liberty.

NPMs also have an **advisory function** that includes providing recommendations to State authorities (opinions, proposals, reports); submitting legislative proposals; reviewing rules concerning both detention (interrogation rules, instructions, methods and practices) and personnel-related issues regarding those involved in the custody, interrogation and treatment of persons deprived of their liberty (including, for example, law enforcement; civil, military or medical personnel; and public officials); and contributing to States parties reports or presenting their own reports to human rights mechanisms and following up their recommendations.

**The educational function** of NPMs includes participation in training and development of educational and awareness-raising programmes in schools, universities and professional circles; and examination of the curricula of educational institutions to ensure that education and information on the prohibition of torture is included in the training of law enforcement personnel, civil or military personnel, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subject to any form of detention.

**The cooperation function** embraces engagement through meaningful dialogue with the State party authorities and other relevant stakeholders concerning prevention of torture and ill-treatment. Further, NPMs establish and maintain contact both with other NPMs, with a view to sharing experiences and reinforcing effectiveness, and with the SPT, through regular meetings and the exchange of information.



### Question 4: Where and when do National Preventive Mechanisms conduct visits?

NPMs should have unrestricted access to all places, including any suspected places where persons are or may be deprived of their liberty, either by virtue of an order given by public authorities or at their instigation or with their consent or acquiescence, within the jurisdiction of the States parties. The jurisdiction of States parties extends to all places over which they exercise effective control. These include all places in the territories of the States parties, as well as those not situated within their territories but still within their powers or effective controls. They also include those places in which

<sup>9</sup> Article 4 para 2 defines deprivation of liberty as “any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority”.

persons are de facto detained, for example individuals who in practice are unable to leave of their own free will and over whom the States exercise a regulatory function.

The preventive approach underpinning the Optional Protocol means that the interpretation of “places where the persons are or may be deprived of their liberty” should be as extensive as possible in order to maximize the preventive impact of the work of NPMs.

The Optional Protocol does not contain any lists of places of deprivation of liberty and purposefully adopts a broad, open-textured approach.

#### **CHECKLIST: ILLUSTRATIVE EXAMPLES OF PLACES OF DEPRIVATION OF LIBERTY (NON-EXHAUSTIVE LIST)**

- police stations
- pre-trial detention centres
- remand prisons
- prisons
- juvenile detention centres
- border police facilities and transit zones at land crossings, international ports and airports
- immigration and asylum seekers’ detention centres
- psychiatric institutions
- security and intelligence service facilities
- detention facilities under military jurisdiction
- places of administrative detention
- means of transport for the transfer of detainees
- social care homes provided by the State or subject to State regulations or licensing
- unofficial places of detention (such as those operating secret detentions)

#### **→ NPMS AND CROSS-BORDER MONITORING OF PERSONS IN DETENTION**

There might be occasions when States parties to the Optional Protocol (sending States) enter into arrangements under which those detained by the States are held in facilities located in other States (receiving States). In these cases, the SPT recognizes that sending States should ensure that such agreements provide for NPMs to have the legal and practical capacities to visit those detainees in accordance with the provisions of the OPCAT and the SPT guidelines on National Preventive Mechanisms. In addition, NPMs of the receiving States should also have the capacity to visit those in detention based on such agreements, as a natural consequence of fulfilling their mandates. After undertaking such visits, the NPMs of the sending States and/or the NPMs of the receiving States should be able to present their recommendations and enter into preventive dialogue with the authorities of both the sending and receiving States. Agreements entered into between the sending and receiving States should provide for the NPMs’ collaboration and permit variations in the terms thereof, in the light of the recommendations made. The two NPMs should liaise on the conduct of such visits and consider making joint visits and recommendations.<sup>10</sup>

<sup>10</sup> Ninth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/57/4, Annex: Compilation of advice provided by the Subcommittee in response to the request of the National Preventive Mechanisms (Compilation of advice by SPT to NPMs), p. 22.





### Question 5: What are the main types of National Preventive Mechanism?

The Optional Protocol does not prescribe that NPMs take any particular or specific form. Rather, it leaves it to each State party “to maintain, designate or establish one or several preventive mechanisms for the prevention of torture at the domestic level”.<sup>11</sup> States can either establish new bodies or designate existing NPMs, including decentralized units. No preferred model exists as such; the key is that the mechanism shall comply with the requirements of the Optional Protocol by allowing it to perform its independent visiting mandate and other functions. Entities designated as NPMs include, for example, national human rights institutions, including the Ombudsperson,<sup>12</sup> the “Ombudsman plus model”,<sup>13</sup> national human rights commissions,<sup>14</sup> and consultative commissions.<sup>15</sup> Similarly, a “one-size-fits-all” legislative approach does not exist, since such legislation should take into account the specificities of each national context. The SPT and others experienced in the establishment of NPMs (such as other NPMs or civil society organizations) can offer valuable practical guidance on the approaches that might work well in the context in question.<sup>16</sup>

Where organizations designated as NPMs also perform other functions, it is often preferable that the NPMs’ functions be located within separate units or departments, with their own staff and separate budgets.



© UN Photo/Marco Dormino

<sup>11</sup> Article 17 of the Optional Protocol.

<sup>12</sup> For example, in Azerbaijan, Croatia, Luxembourg, Norway, Sweden and Ukraine.

<sup>13</sup> The “Ombudsman plus model” is the term used to describe situations in which the mandate of the Ombudsman has been expanded to include NPM functions and is sometimes also used to describe cases where other bodies are invited to work with the Ombudsman’s Office in fulfilling the NPM mandate, as is the case, for example, in Denmark, Moldova, and Serbia.

<sup>14</sup> For example, in the Maldives, Mauritius and New Zealand (the latter being one of the NPM’s bodies).

<sup>15</sup> For example, in Mali.

<sup>16</sup> See, for example, the Compilation of advice by SPT to NPMs, p. 21.



## EXAMPLES OF NATIONAL PREVENTIVE MECHANISMS<sup>17</sup>

### **ARMENIA: THE HUMAN RIGHTS DEFENDER'S OFFICE**

In 2008 Parliament designated the Human Rights Defender's Office as the National Preventive Mechanism through an amendment to the 2003 Law on the Human Rights Defender. Article 6.1 of the Law, introduced in 2008, states that the Human Rights Defender is recognized as an independent NPM under the Optional Protocol. The law and subsequent amendments provide no further detail on the functioning of the NPM. The tasks and powers of the NPM therefore derive from the Optional Protocol, in particular articles 19 and 20, and have been further elaborated on in relevant internal regulations.

*SPT visit report to Armenia (CAT/OP/ARM/2)*

### **BRAZIL: THE NATIONAL SYSTEM TO PREVENT AND COMBAT TORTURE**

The National System to Prevent and Combat Torture comprises variety of institutions and bodies, including the National Committee to Prevent and Combat Torture, the National Mechanism to Prevent and Combat Torture, the National Penitentiary Department, the National Council on Criminal and Prison Policies, and local committees to prevent and combat torture at State level. The role of the National System is to integrate all these bodies and institutions and to hold an annual meeting. The National Committee was established in 2014 and became operational in 2015.

*SPT visit report to Brazil (CAT/OP/BRA/3)*

### **DENMARK: PARLIAMENTARY OMBUDSMAN**

The Parliamentary Ombudsman is the designated authority in Denmark to carry out special supervision of the conditions afforded to persons deprived of their liberty. In order to ensure that the Parliamentary Ombudsman has the necessary authority to carry out inspections of private institutions in accordance with the mandate of the OPCAT, the Ombudsman Act was amended to include persons deprived of their liberty in private institutions, and to provide that these institutions have a duty to pass on information, hand over documents and prepare written statements to the Ombudsman.

In addition, the Act stipulates that "if it is deemed necessary, and against due proof of identity, the Parliamentary Ombudsman has access at any time to inspect without warrant private institutions, where persons are or may be deprived of their liberty. If necessary, the police will assist in the execution thereof." The NPM has also concluded agreements with the Danish Institute for Human Rights (NHRI) and DIGNITY (NGO) on formal collaboration with civil society organizations in order to strengthen the Ombudsman's monitoring activities.

### **GERMANY: THE NATIONAL AGENCY FOR THE PREVENTION OF TORTURE**

The Federal Agency for the Prevention of Torture and the Joint Commission of the Länder for the Prevention of Torture together form the two pillars of the National Mechanism for the Prevention of Torture, which was established in 2010. The Federal Agency is responsible for facilities run at federal level (detention facilities operated by the Federal Armed Forces, Federal Police and the German Customs Administration), and the Joint Commission of the Länder is responsible for facilities under the jurisdiction of the States/Länder (police, judiciary, detention facilities in psychiatric clinics, establishments of custody pending deportation, nursing homes, and youth welfare establishments).

*SPT visit report to Germany – NPM report (CAT/OP/DEU/2)*

<sup>17</sup> The National Preventive Mechanisms included hereunder are presented only as illustrative examples of different models and not as endorsement by the SPT or OHCHR. More information about different NPMs is available at <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx>.



## NEW ZEALAND: THE HUMAN RIGHTS COMMISSION AND FOUR MECHANISMS

In New Zealand the Human Rights Commission was designated as the Central National Preventive Mechanism with a **coordinating role**, and four NPMs were designated to inspect and monitor specific categories of places of detention, namely:

- ▶ the Ombudsman – in relation to prisons, premises approved or agreed under the Immigration Act 1987, health and disability places of detention and youth justice residences;
- ▶ the Independent Police Conduct Authority – in relation to people held in police cells and otherwise in the custody of the police;
- ▶ the Children’s Commissioner – in relation to children and young persons in residences;
- ▶ the Inspector of Service Penal Establishments – in relation to Defence Force Service Custody and Service Corrective Establishments.

*SPT visit report to New Zealand (CAT/OP/NZL/1)*

## SENEGAL: THE NATIONAL OBSERVATORY OF PLACES OF DEPRIVATION OF LIBERTY

In 2011 the Council of Ministers approved the implementing decree of the legislation establishing the National Observer of Places of Deprivation of Liberty, which established a new institution as NPM. In 2012 the Council of Ministers approved the appointment of a former magistrate and technical adviser to the Ministry of Justice as the National Observer.

*SPT visit report to Senegal – NPM report (CAT/OP/SEN/2)*

## TUNISIA: THE NATIONAL COMMISSION FOR THE PREVENTION OF TORTURE

The NPM is a recently-created specialized institution, established in 2013, through a transitional process during which a number of independent human-rights-related bodies were created. The Law No. 2013-43 establishing the NPM was produced through a participatory process involving experts from civil society and the public administration.

In November 2013 the Parliament issued a public call for candidates for membership of the NPM. Owing to lack of applications, the call for candidates was renewed several times throughout 2014 and 2015. In March 2016 the 16 members of the NPM were elected by the Parliament.

OHCHR Tunisia and the SPT, as well as other stakeholders, provided continuous support for the establishment of the NPM and thereafter in respect of its effective functioning in accordance with OPCAT.

*SPT visit report to Tunisia – NPM report – (CAT/OP/TUN/R.2)*



## Question 6: What is the relationship between the Subcommittee on Prevention of Torture and National Preventive Mechanisms?

The Optional Protocol envisages exchanges of information and collaboration between the Subcommittee and NPMs.<sup>18</sup> Once NPMs are established, the Subcommittee establishes and maintains direct contact with them.<sup>19</sup> The SPT provides such advice and assistance via regular e-mail correspondence and other forms of contact between itself and each NPM, through SPT country rapporteurs with responsibility for liaising with the NPMs concerned. The SPT has also created a section on its public web page where it publishes (on an anonymous basis) answers to some of the many queries which it has received from NPMs, as a way of providing more general practical advice on NPM-related practices.<sup>20</sup>

The Subcommittee supports and advises NPMs through:

- ▶ offering training and technical assistance, with a view to strengthening their capacities;
- ▶ assisting in the evaluation of their needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and ill-treatment; *and*
- ▶ making recommendations and observations to States parties, to strengthen the capacity and mandate of NPMs.

To fulfil its advisory functions, the Subcommittee has developed guidelines on National Preventive Mechanisms (CAT/OP/12/5) and an analytical assessment tool for National Preventive Mechanisms (CAT/OP/1/Rev.1) and a NPM assessment matrix for NPMs.

The Subcommittee also gives strategic guidance to the Special Fund,<sup>21</sup> established under article 26 of the Optional Protocol, which provides financial grants for projects aimed *inter alia* at establishing or strengthening the effective functioning of NPMs. Project proposals should be focused on implementing the Subcommittee's recommendations in this regard, contained in the publicly-accessible visit report.<sup>22</sup> NPMs may themselves apply for a grant (see the section on Technical Assistance – OPCAT Special Fund for more details).

Under the Optional Protocol, NPMs should cooperate with the Subcommittee. The Optional Protocol explicitly recognizes the obligation of States parties to grant NPMs the right to have contact with the Subcommittee, to send it information and to meet with it.<sup>23</sup> Most NPMs provide the Subcommittee with their **annual reports**, which the Subcommittee then publishes on its website.<sup>24</sup>

<sup>18</sup> Article 20 (f) of the Optional Protocol.

<sup>19</sup> Article 11(b) of the Optional Protocol.

<sup>20</sup> See, <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx>.

<sup>21</sup> <http://www.ohchr.org/opcatfund>.

<sup>22</sup> SPT reports are confidential until the State parties or NPMs agree to make them public.

<sup>23</sup> Article 20(f) of the Optional Protocol.

<sup>24</sup> <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/AnnualreportsreceivedfromNPM.aspx>.





**Question 7: Where can States obtain technical assistance to establish or ensure the effective functioning of National Preventive Mechanisms?**

The establishment and effective functioning of NPMs requires expertise and resources. States can request technical assistance from the OHCHR Treaty Body Capacity Building Programme (TBCBP), OHCHR field presences and the OPCAT Special Fund. OHCHR and SPT members have, at the request of States, conducted national training courses on the ratification of the Optional Protocol, the Convention against Torture, on NPMs and related matters. OHCHR field presences have provided advice on legislation establishing NPMs, the selection process for members, collaboration with the authorities and civil society, and other issues. Additionally, the OPCAT Special Fund annually provides limited grants for projects implementing recommendations contained in the SPT public visit reports, aimed at the establishment or strengthening of existing NPMs (see the section on Technical Assistance – OPCAT Special Fund for more details).

States and other entities are encouraged to financially contribute to the OPCAT Special Fund to support national torture prevention activities world-wide. The Fund relies entirely on voluntary contributions.<sup>25</sup>



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<sup>25</sup> <http://www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/Governance.aspx>.



## **KEY CRITERIA FOR AN EFFECTIVE NATIONAL PREVENTIVE MECHANISM**

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## KEY CRITERIA FOR AN EFFECTIVE NATIONAL PREVENTIVE MECHANISM

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*“As a matter of principle, I will encourage national authorities to grant National Preventive Mechanisms the necessary independence and unrestricted access to all places where persons may be deprived of their liberty. For there really is no better deterrent to torture than a strong national will to combat and prevent such abhorrent abuse.”*

Mr. Nils Melzer, Special Rapporteur on Torture

The effective functioning of NPMs is a **continuing obligation** of States parties to the Optional Protocol. The effectiveness of NPMs should be subject to regular assessment by both the State party and the NPM itself, taking into account the views of the SPT.

Below are key criteria, which need to be met to ensure the effective functioning of NPMs:

- ▶ Independence (mandate, operational, financial)
- ▶ Expert and independent members
- ▶ Effective and continuously re-assessed strategy
- ▶ Fulfilment of key functions



## → FUNCTIONAL INDEPENDENCE

Guaranteeing the functional independence of NPMs and the independence of their personnel are legal obligations of States parties to the Optional Protocol.<sup>26</sup> The Optional Protocol also provides that States parties give due consideration to the Paris Principles,<sup>27</sup> as a further source of guidance regarding guarantees of independence,<sup>28</sup> when establishing NPMs. Functional independence includes the legislative mandate, and operational and financial independence.

### Legislative mandate

NPMs should have their mandate set out in a constitutional or legislative text. Such texts should specify their mandate, powers, selection process, terms of office, funding and lines of accountability.<sup>29</sup>

The legislative mandate should grant NPMs powers that include visiting rights, access to information, submission of recommendations, and providing for contact with the Subcommittee.<sup>30</sup>

#### CHECKLIST: MINIMUM POWERS INCLUDED IN THE LEGISLATIVE MANDATE<sup>31</sup>

- the power to freely select the places of deprivation of liberty in which the visits are to be carried out;
- the power to regularly examine the treatment of persons deprived of their liberty in those places;
- the power to select the timing of such visits and determine whether they are to be announced or unannounced;
- the power to choose the persons to be interviewed;
- access to all information, including personal and sensitive information, premises and persons necessary for pursuing its mandate;
- the power to make recommendations to the relevant authorities and other addressees;
- the power to submit proposals and observations concerning existing or draft legislation; *and*
- the right to have contact with the Subcommittee.

### Operational independence

NPMs should have operational independence. They should not be placed under the institutional control of an executive branch of government, such as a ministry, cabinet or executive council, president or prime minister. The law should explicitly provide that the executive branch does not interfere with the mandate and operations of NPMs (for example, by issuing instructions to their staff, changing their mandate, etc.).

<sup>26</sup> Article 18 (1) of the Optional Protocol.

<sup>27</sup> Principles relating to the status of national institutions for the promotion and protection of human rights, UN General Assembly resolution A/RES/48/134 (Annex), 20 December 1993 (<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>). The Paris Principles are a set of international standards that frame and guide the work of National Human Rights Institutions (NHRIs). As NPMs, NHRIs are funded by the State but are independent of it. NHRIs must comply with the Principles, which identify their human rights objectives and provide for their independence, broad human rights mandate, adequate funding, and an inclusive and transparent selection and appointment process. The Principles are broadly accepted as the test of an institution's legitimacy and credibility.

<sup>28</sup> Article 18 (4) of the Optional Protocol.

<sup>29</sup> See also NPM assessment matrix for NPMs, SPT, paras 55-90.

<sup>30</sup> Articles 19 and 20 of the Optional Protocol.

<sup>31</sup> See, for example, SPT visit report Gabon (CAT/OP/GAB/1), 20 May 2015, para. 17; SPT visit report Honduras (CAT/OP/HND/1), 10 February 2010, para. 264, SPT visit report Armenia (CAT/OP/ARM/1), 22 May 2015, para. 27, SPT visit report Germany (CAT/OP/DEU/1), 16 December 2013, para. 36.

NPMs should not be required to exercise additional mandates that could conflict with or compromise the OPCAT mandate, such as the adjudication of complaints, prosecution or an administrative mandate (such as administration of prisons).

### **Relationship between National Preventive Mechanisms and National Human Rights Institutions**

Where National Human Rights Institutions (NHRIs) are designated as NPMs, the Subcommittee may recommend that such NPMs operate within them as separate organizational units, with their own discrete Heads exercising operational autonomy. For example, NPMs should not become sections of legal departments, since this would diminish their independence and visibility. Ultimately, the organizational structure should reflect the Optional Protocol's requirements, including operational autonomy as regards their resources, work plans, findings, recommendations and direct (and, if need be, confidential) contact with the SPT.

Coordination between NHRIs and NPMs can be beneficial, given the complementarity of their work. For example, complaints received by NHRIs in relation to a specific place of detention may inform the preventive work of NPMs, while NPMs' work can also be of value to those engaged in the investigation of complaints or other allegations.<sup>32</sup>

### **Relationship between National Preventive Mechanisms and Civil Society Organizations**

Civil Society Organizations (CSOs) play an important role in the prevention, monitoring and combating of torture, and assisting victims in many countries. CSOs comprise different actors, including non-governmental and professional organizations (medical or bar associations, etc.), and communication and collaboration between NPMs and CSOs has been crucial in torture prevention. The SPT recommends that NPMs "establish sustainable lines of communication" with CSOs.<sup>33</sup> From the point of view of maintaining impartiality, NPMs should always be careful to preserve their independence. For example, when CSOs invite NPMs to cooperate in projects, NPMs should, if possible, be involved at the planning stage, and prevention should remain at the heart of any joint activity to ensure that NPMs do not exceed their mandate.<sup>34</sup>

### **Financial independence**

States parties have a legal obligation to make a specific allocation of the resources necessary to allow NPMs to function effectively and independently and carry out all OPCAT-related tasks. Financial autonomy is a fundamental prerequisite for independence. The legislation providing for the establishment of NPMs should also include provisions regarding the source and nature of their funding, and specify the process for the allocation of annual funding to the NPMs.

The steps in budgetary allocation may be as follows:

- 1. NPMs draw up their own annual budgets according to their work plan.**
- 2. The global amount of funding under these draft budgets is submitted to the relevant authority and/or the Parliament. If NPMs are established within existing institutions (e.g., Ombudspersons and NHRIs), their budgets should be drafted and submitted separately from those institutions.**
- 3. The heads of the NPMs present their budgets.**

<sup>32</sup> Compilation of advice by the SPT to NPMs, p. 21.

<sup>33</sup> analytical assessment tool, para. 30.

<sup>34</sup> Article 18(1) and (3) of the Optional Protocol.

#### **4. NPMs are entitled to determine their own spending priorities within their overall allocated budgets.**

Bearing in mind the requirement for independence, NPMs should also be free to raise funds from other sources such as private or foreign donor agencies. Such funds should not disqualify the institutions from receiving public funds; on the contrary, governments that create such institutions have a continuing legal obligation to fund them.

### **→ MEMBERSHIP**

#### **Expertise and independence**

The **members** of NPMs shall collectively have the **expertise and experience** necessary for the effective functioning of such mechanisms.<sup>35</sup> Their teams should embody a diversity of professional backgrounds and experience,<sup>36</sup> as well as take into account gender balance and representation of ethnic, minority and indigenous groups.<sup>37</sup> Relevant expertise includes legal, medical, psychological, child-related and gender expertise, and any other related expertise so as to allow NPMs to carry out their activities in accordance with the Optional Protocol, in an informed and inter-disciplinary fashion.

NPMs should choose their own **staff** without external interference. Their staff should have relevant expertise and experience, including legal and health-care expertise, and the diversity of background, capability and professional knowledge necessary to enable NPMs to fulfil their mandates. In order to cover any shortages in human resources or gaps in expertise, NPMs should be able to engage external expertise, consider setting up internship programmes, or partner with universities and civil society or similar institutions such as social care homes.

Members should be personally and institutionally **independent** of State authorities. They should not hold positions or have personal connections that would entail a real or perceived conflict of interest when undertaking the mandates of NPMs. For example, prosecutors, prison professionals, persons with political affiliations or close personal relations with governments, as well as judges or defence attorneys, may run into such real or perceived conflicts of interest and would therefore be unsuitable for membership of NPMs.

**The terms of office**, which may be renewable, should be sufficient to foster the independent functioning of NPMs, including security of tenure and appropriate remuneration, to attract persons with accumulated experience in the field of prevention of torture, and to build up institutional knowledge. For example, some States favour a five-year period of office, which may be sufficient to allow members to be effective but not be overly concerned about their future prospects.<sup>38</sup> Others favour longer terms that are fixed and non-renewable. The positions should be adequately remunerated.

NPMs should also have exclusive authority to develop their own **rules of procedure** in order to ensure their operational autonomy.

**RULES OF PROCEDURE** should address the following issues:

- ▶ Budgets for all activities
- ▶ Decision-making processes

<sup>35</sup> Article 18(2) of the Optional Protocol.

<sup>36</sup> See, for example, SPT visit report Sweden (CAT/OP/SWE/1), 2008, para. 36.

<sup>37</sup> Article 18(2) of the Optional Protocol.

<sup>38</sup> See, also, *Assessing Effectiveness of National Human Rights Institutions*, p. 12 (OHCHR, International Council on Human Rights Policy, 2005).

- ▶ Employment and dismissal of staff
- ▶ Prevention of conflict of interest
- ▶ Employment of external experts (establishing qualifications and terms of reference)
- ▶ Information-sharing within NPMs
- ▶ Communication with other actors – national and international, including the SPT
- ▶ Communication with the press and media
- ▶ Data protection and confidentiality

### Selection process

Members of NPMs should be selected through an open, transparent and inclusive process. The selection process should be prescribed in the law governing the NPMs.

As regards the members of such mechanisms, legislation should specify the following:

- ▶ the selection process of members (method and criteria of appointment);
- ▶ the period of office of members; *and*
- ▶ any grounds for dismissal of members (and appeal procedures).

As regards members and staff of NPMs, legislation should also specify:

- ▶ privileges and immunities of members and staff, which are necessary for the independent exercise of their functions; and
- ▶ protection against reprisals against members or staff, their families or any persons who have communicated with NPMs.

**The selection process** should involve consultations with a broad variety of civil society groups, such as non-governmental organizations, social and professional organizations, and universities, as well as other experts. The selection process may be led by special appointment bodies, parliamentary committees or independent judicial commissions or similar bodies.



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## STEPS PRIOR TO SELECTION

- ▶ Advertise publicly the vacant post(s) in NPMs;
- ▶ Consult civil society organizations and other stakeholders; and
- ▶ Encourage candidatures of persons from different backgrounds, professions and areas of expertise, taking account of gender balance and adequate representation of ethnic, minority and indigenous groups.

## Privileges and immunities

Under the Optional Protocol, States are obliged to accord members and the staff of NPMs the privileges and immunities necessary for the independent exercise of their functions.<sup>39</sup> These privileges and immunities protect the independent exercise of NPMs' mandates.

### CHECKLIST: IMMUNITIES

During the exercise of their mandates and in connection with NPMs' work, the following should be ensured:

- Immunity from personal arrest and detention
- Immunity from seizure of personal baggage
- Immunity from seizure or surveillance of papers and documents
- Absence of interference with communication

During and after the exercise of their mandates:

- Immunity from legal action in respect of words spoken or written, or acts done, in the course of the performance of NPMs' duties

In addition to these immunities, confidential information collected by NPMs should be privileged.<sup>40</sup> Legislation by States parties should not permit search or seizure, or otherwise compel disclosure, of confidential information held by NPMs or of the sources of such information.

## Protection against reprisals

The relevant legislation (such as the legislative act establishing NPMs) should guarantee the prohibition of ordering, applying, permitting or tolerating any sanctions against any persons or organizations for having communicated with the NPMs any information, whether true or false, and no such persons or organizations shall be otherwise prejudiced in any way.<sup>41</sup>

<sup>39</sup> Article 35 of the Optional Protocol. See the SPT guidelines on National Preventive Mechanisms, providing that States ensure that both the members of the NPMs and their staff enjoy such privileges as are necessary for the independent exercise of their functions. While it is accepted that essential basic security measures are to be complied with for the benefit of all concerned, it is equally important that those working for NPMs not be in any way restricted in their work and that they not feel that they might be subject to any form of pressure. Routine body searches and pat-downs contravene the spirit of the Optional Protocol. Members of the mechanisms and their staff should only be subject to or exempt from searches in the same manner as other authorities with similar or equal privileges and immunities as those granted to members of NPMs by the Optional Protocol and ought to include freedom from such searches. (CAT/OP/12/5), para. 26.

<sup>40</sup> Article 21 of the Optional Protocol.

<sup>41</sup> Article 21 (1) of the Optional Protocol; please see also the Guidelines against Intimidation or Reprisals ("San José Guidelines") (HRI/MC/2015/6), the Policy of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on reprisals in relation to its visiting mandate (CAT/OP/6/Rev.1).



The strongest guarantee of effective monitoring mechanisms is the ability of their members to do their work without threats or sanctions against them. At the same time, an important element is protection against reprisals for detainees and their close contacts or representatives who communicate with the monitoring bodies. Fear of reprisals is a major obstacle to effective monitoring work.

All persons communicating with NPMs, whether detainees, patients, employees of detention facilities, psychiatric hospitals and similar facilities, members of civil society, State representatives, and others, should be confident that any information provided remains confidential and that they will be not subjected to any retaliation for providing such information.

## → STRATEGY AND CONTINUOUS ASSESSMENT

In order to maximize their effectiveness and impact, NPMs should develop long-term and short-term strategies. NPMs should monitor and assess their activities and the outcomes thereof on an ongoing basis. Such strategies should be subject to periodic evaluation and improvement, and may also include other partners, including the SPT.

**Such assessments** may take into account the following activities and factors:

- ▶ Existing problems and challenges
- ▶ Good practices
- ▶ Criteria for the selection of planned activities as well as for those calling for immediate responses
- ▶ Criteria for the composition of working groups, visiting and outreach teams
- ▶ Budgets and resources
- ▶ Strategies and working methods for implementing activities
- ▶ Cooperation with other actors
- ▶ Recommendations to authorities and other appropriate bodies
- ▶ Follow-up activities
- ▶ Information management (systematization of observations, recommendations, responses, information on implementation)

**The Subcommittee has published the SPT analytical assessment tool for National Preventive Mechanisms and the NPM assessment matrix for NPMs to facilitate self-evaluation of mandated activities. These tools reflect the principles set out in previously-issued documents and guidelines and the prevailing thinking in the field.**

**Please see these documents in the Annexes.**

### Information management

NPMs should ensure that important, concrete and contextual observations arising from their visits to institutions and stemming from other reliable sources, as well as their recommendations and responses from the authorities and other addressees are appropriately categorized, filed and systematically processed for planning, strategy development and dialogue with authorities and other addressees.

## → VISITING FUNCTIONS

*"I believe that the National Preventive Mechanisms are hugely important, they are the main treasure and the essence of the system established by the OPCAT."*

*Mr. Mykola Gnatovskyy, Chair of the Committee on the Prevention of Torture of the Council of Europe (CPT)*

In accordance with the provisions of articles 4 and 19 of the Optional Protocol, NPMs shall have the power to conduct visits to any place under the jurisdiction or effective control of the States parties where persons are or may be deprived of their liberty, in order to regularly examine the treatment of persons in those places and to make recommendations to the relevant authorities.

### **I. Access to places where persons are or may be deprived of their liberty**

In order to fulfil this mandate, NPMs shall have access to all places where they believe persons may be deprived of their liberty. Consistent with a preventive approach, a broad understanding of the meaning of "places of deprivation of liberty" should be adopted (please also see Question 4).

NPMs should be able to choose freely the places of deprivation of liberty in which visits are to be carried out, to determine whether the visits will be announced or unannounced, and have unrestricted access to all parts of the premises and facilities.

The visits should be primarily unannounced in order to help ascertain the real situation of persons deprived of their liberty. They should also be carried out at various times of the day, including during the night.



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Article 4 of the Optional Protocol:

- 1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.**
- 2. For the purpose of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.**

**The Subcommittee has interpreted the scope of article 4 of the Optional Protocol as follows:**

*Article 4 contains two paragraphs that must be read together and that place within the scope of the Optional Protocol any public or private custodial setting under the jurisdiction and control of the State Party, in which persons may be deprived of their liberty and are not permitted to leave, either by an order given by any judicial, administrative or other authority or at its instigation or with its consent or acquiescence.*

*The preventive approach underpinning the Optional Protocol means that as extensive an interpretation as possible should be made in order to maximize the preventive impact of the work of the National Preventive Mechanism.*

*The Subcommittee therefore takes the view that any place in which persons are deprived of their liberty, in the sense of not being free to leave, or in which the Subcommittee considers that persons might be being deprived of their liberty, should fall within the scope of the Optional Protocol, if the deprivation of liberty relates to a situation in which the State either exercises, or might be expected to exercise, a regulatory function. In all situations, the National Preventive Mechanism should also be mindful of the principle of proportionality when determining its priorities and the focus of its work.*

[\(CAT/OP/C/57/4\)](#)

## **II. Access to persons**

NPMs should have access to all persons, without the presence of the authorities, whose accounts they may consider necessary in undertaking their mandates. They should be able to decide for themselves which persons they should interview, including (i) persons deprived of their liberty from all areas and units, (ii) administrative and other staff of the visited institutions, and (iii) their visitors, such as members of civil society and others, including organizations working with persons at heightened risk (such as migrants, ethnic and cultural minorities, and persons with disabilities). They should also be able to decide when, where and how such persons are to be interviewed.

## **III. Access to information**

NPMs should seek and be able to obtain prompt, regular and unhindered access to all information relating to persons deprived of their liberty during their visits, including registers, case records, personal files, incident registers, medical records and all other information necessary for pursuing their mandates,

as well as personal and sensitive information. Such access does not require the consent of the persons deprived of liberty concerned,<sup>42</sup> nor can such access be limited to only some members of NPMs (such as limiting access to medical files to members of NPMs with a medical background).

#### IV. The principle of confidentiality

Confidential information collected by the NPMs shall be privileged.<sup>43</sup> NPMs cannot publish any personal data without the express consent of the person(s) concerned. The principle of confidentiality should be strictly observed. This principle should be given the widest possible interpretation in order to reflect the preventive spirit of the Optional Protocol. The principle of confidentiality extends to a broad range of persons including, but not limited to, persons deprived of their liberty, their families, lawyers, members of NGOs and State officials.

The confidentiality obligation should not prevent NPMs from disseminating information, provided that such information does not include personal data or information that would allow identification of a person, unless there is express consent. For example, where information relating to systematic allegations of torture or other crimes is gathered, its existence can be reported in general terms. However, particular care must be taken to assess whether the sharing of information relating to a particular situation or crime might inevitably lead to the disclosure of personal data or to the identification of a person who has not given express consent for their personal data to be revealed (see also Protection against Reprisals).

NPMs should establish **policies for working with external experts and specialists**. Such policies should include the responsibility of external experts for keeping confidential any data acquired in the course of their work with the NPMs, and for not using the data for any external purpose, in order to maintain the relationship of trust between persons deprived of their liberty and the NPMs.

#### V. Protection against reprisals for providing information to NPMs

Preventing and addressing reprisals against persons who have provided information to NPMs is an important part of NPMs' mandates. While NPMs do not have a mandate to investigate allegations of reprisals, they should:

- 1. systematically remind States of their obligations to ensure the prohibition of reprisals in all places of detention, including informing the staff of all places of detention accordingly, and setting up investigative mechanisms to address allegations of reprisals; and**
- 2. monitor fulfilment of these obligations.**

NPMs should develop **strategies for preventing reprisals**. Reprisals may take different forms, including threats against detention centre staff, detainees, persons interviewed during visits and others who may provide information both before or after visits. The strategies should also address reprisals that may be made against members and staff of the NPMs, and should include, *inter alia*:

- ▶ Policies for the collection of information through group and private interviews. Whenever sensitive information is obtained during private interviews, a number of additional private interviews should be conducted to preserve the anonymity of the sources of this information.

<sup>42</sup> According to rule 9 of the Nelson Mandela Rules, the information in the prisoner file management system "shall be kept confidential and made available only to those whose professional responsibilities require access to such records".

<sup>43</sup> Article 21 (2) of the Optional Protocol.

- ▶ Obligations to inform management, staff and detainees in places of detention that reprisals are explicitly prohibited by the Optional Protocol and, correspondingly, that the authorities shall ensure absolute prohibition of reprisals.
- ▶ Distribution of information about NPMs, including the absolute prohibition of reprisals, and information on how to convey information to the NPMs in confidence.

### Monitoring and follow-up of allegations of reprisals

NPMs should monitor cases of particular concern and follow them up, including through intensified monitoring of places where reprisals have or are likely to have occurred. If appropriate, NPMs should recommend and monitor the transfer of detainees or others at risk to other institutions. Follow-up activities by NPMs should include, as appropriate:

- ▶ contacting and following up with family members;
- ▶ collaborating with other actors, such as non-governmental organizations, in interventions and the provision of assistance;
- ▶ sharing information with international monitoring bodies; and
- ▶ providing recommendations to the relevant authorities.

Each case of alleged reprisals should be:

- ▶ analysed, verified and followed-up by NPMs; *and, if appropriate,*
- ▶ brought to the attention of the relevant authorities in an anonymous manner, unless the consent of the detainee concerned is obtained.

NPMs should request the authorities to investigate allegations of reprisals through disciplinary or criminal investigation and, if relevant,

- ▶ **victims** and **witnesses** should be protected, and where relevant, compensated;
- ▶ alleged **perpetrators** should be prosecuted and, when found guilty, punished appropriately.

Well-founded concerns about reprisals should be considered for inclusion in the reporting of NPMs and give rise to a recommendation for the improvement of institutional practices, with a view to protecting and compensating the victims and preventing recurrences.<sup>44</sup>

## VI. Conduct of visits

### Planning

NPMs should collect **data and background information on all places of detention**.<sup>45</sup> They should actively seek information on all places of detention, and archive all relevant information on places of detention and the treatment of persons.

NPMs should establish transparent and clear criteria for selecting places of detention to be visited, bearing in mind the following:

- ▶ that all places of detention be visited regularly;
- ▶ the type, size, security level, and nature of human rights concerns; *and*
- ▶ the need for inclusion of urgent and follow-up visits.

<sup>44</sup> CAT/OP/1/Rev.1, paragraph 37 (f).

<sup>45</sup> According to article 20(1), States parties to OPCAT undertake to grant to NPMs “access to all information concerning the number of persons deprived of their liberty in places of detention [...], as well as the number of places and their location.”

## CHECKLIST: COMPOSITION OF VISITING TEAM

- Language(s) relevant for the visit
- Relevant experience and skills (such as legal, social, medical and psychological professionals; child-related, gender and asylum-seeker specialists)
- Gender balance and sensitivity
- Representation of ethnic, minority and indigenous groups, if relevant

### Visitation methodology

NPMs should develop guidelines, policies, practices and tools for their visits to various types of places of detention. A list of useful resources and tools can be found in the Annex to this *Guide*.

NPMs should also establish workplans or programmes which, over time, encompass visits to all locations under the jurisdiction and control of States where persons are or may be deprived of their liberty, in accordance with articles 4 and 29 of the Optional Protocol.<sup>46</sup>

**The guidelines and policies** should address, inter alia, the following issues:

- ▶ **selecting the focus of a visit:** the Subcommittee has recommended that NPMs develop criteria for selecting the facilities to be visited, which will ensure that all such facilities are visited periodically; these criteria should be based on the type and size of the institutions and the severity of the human rights issues of which the NPMs are aware, while not excluding any types of institutions or any geographical areas from the scope of their work;<sup>47</sup>
- ▶ **conducting private interviews;**
- ▶ **identifying and engaging with groups of detainees that may be at heightened risk (such as members of ethnic minorities, indigenous persons, and LGBTI persons);**
- ▶ **ensuring that information from all available sources is collected in advance, during and after their visits;**
- ▶ **cross-checking, testing and assessing observations and ensuring that recommendations are based on rigorous analysis and are well grounded;**
- ▶ **providing feedback or debriefing with the representatives of places of detention at the end of their visits; and**
- ▶ **maintaining the confidentiality of interviews with detainees and of other sources of information.**

These guidelines and policies should also provide guidance in response to individual cases of torture and ill-treatment.

### Methodology for conducting interviews

During interviews, the members of NPMs should introduce themselves to persons deprived of their liberty and explain their mandate, placing particular emphasis on its preventive nature. The interviewers should also obtain the consent of the interviewees and make it clear that the interviews are confidential, voluntary and can be concluded at any time at the interviewees' request.

Ideally, the interviewers would provide the interviewees with brochures describing the NPMs' mandates and working methods, explaining the concept of informed consent and providing contact information. They should also indicate that any form of reprisal could be reported to the NPMs.

<sup>46</sup> CAT/OP/12/5, para. 33.

<sup>47</sup> CAT/OP/HND/3, para. 18.

In this context, NPMs should develop **codes of conduct for visiting teams** that include the following:

- ▶ addressing detainees and staff;
- ▶ observing cultural and any other relevant sensitivities;
- ▶ conducting individual or group interviews (including how and when to conduct such interviews);
- ▶ handling security and safety issues;
- ▶ ensuring confidentiality;
- ▶ managing internal debriefings in order to coordinate and cross-check data collected;
- ▶ ensuring that monitors do not exceed their mandate during the visit;
- ▶ participating in reporting and follow-up;
- ▶ clarifying the roles of external experts and other stakeholders participating in visits, including their tasks, limitations, output, and responsibility for keeping information confidential.

### Joint visits

The Subcommittee encourages synergies and collaboration between NPMs and other monitoring mechanisms,<sup>48</sup> as well as with CSOs, including the conduct of joint visits, when possible.<sup>49</sup> Joint visits to places of deprivation of liberty should not be undertaken with law enforcement agencies or prosecutors' offices, as they are incompatible with the need to ensure the functional independence of NPMs from States bodies.

#### ▶ Visit reports

Visit reports should be produced following every visit conducted by the NPMs. These reports should focus on prevention and identifying the concerns that exist, and proposing solutions in the form of practical recommendations. The reports should be prepared as speedily as possible, thus helping officials in charge of the institutions visited to make the connection between the visits and the reports. With respect to their content, the reports should be written to enable readers, including those unfamiliar with the institutions visited, to form a realistic picture of the situation. For example, in the context of visits to prisons, the reports may describe the places visited, giving details of, for example, the dimensions of cells, lighting, toilet facilities and ventilation, regime, and so forth.

Visit reports should focus on the most important issues, that is the reporting of torture and ill-treatment, gaps in policies, regulations and practices, and the appropriateness of conditions under which detainees are living, and should highlight any systematic lack of protection of detainees' rights. Good practices should be noted and filed for systematic analysis. Cases of torture and ill-treatment should be analysed to identify gaps in the protection of persons deprived of liberty.

### CHECKLIST: ISSUES TO BE COVERED BY THE VISIT REPORTS

- Concerns regarding the treatment of detainees, including cases of alleged torture and ill-treatment
- Gaps in policies, regulations and practices
- Appropriateness of conditions of detention
- Lack of protection of rights of detainees
- Good practices

<sup>48</sup> See, for example, SPT visit report Germany (CAT/OP/DEU/2), 29 October 2013, para. 21.

<sup>49</sup> See, for example, SPT visit report Brazil (CAT/OP/BRA/3), 24 November 2016, para. 89.



The recommendations included in visit reports should propose practical and verifiable corrective measures. Recommendations should be:

- well-founded (based on international, regional and national norms and practices);
- preventive (identifying and addressing systematic gaps and practices, including root causes);
- feasible and practicable; *and*
- focused, precise, and non-complex.

The visit reports should be submitted to the relevant authorities and other bodies concerned (depending on the types of places of detention visited), published and disseminated. They should also be shared with the facilities visited.

### ► **Implementing visit recommendations**

NPMs should set up procedures for regular follow-up of their recommendations. According to the OPCAT, competent State authorities shall examine the recommendations of NPMs and enter into dialogue with them on possible implementation measures.<sup>50</sup>

The follow-up steps should include:

- constructive dialogue with relevant authorities, including the directors or managers of the places of detention and the supervising authorities of places visited, as well as other relevant institutions (ministries, legislative bodies, health authorities, etc.);
- regular monitoring of implementation of the recommendations;
- follow-up visits and other engagements;
- publication of thematic, visit and annual reports, which would provide information on the implementation of recommendations;
- dialogue and cooperation with relevant actors, national and international, including civil society.

NPMs should set up systems for following up their recommendations, which should be undertaken, as far as possible, in conjunction with authorities and designated focal points in relevant ministries. Ideally focal points would be identified in relevant ministries to follow up the NPMs' recommendations and to engage with them accordingly.

## ➔ **ADVISORY FUNCTIONS**

In addition to formulating recommendations aimed at improving the treatment and conditions of persons deprived of their liberty and preventing their torture and ill-treatment, NPMs exercise a more general advisory function with regard to legislative and other proposals, opinions, recommendations and reports on any issues within the mandate of the NPMs, including the review of rules and instructions concerning the treatment of persons deprived of their liberty.

### **Legislative proposals**

NPMs should have the power to make proposals and provide guidance on draft and existing legislation in the light of the States' obligations under the Optional Protocol, the Convention against Torture, and other international human rights norms and standards. States parties should inform NPMs of any draft legislation that may be under consideration, which is relevant to their mandates and allows the NPMs to make proposals or observations on any existing or draft policies or legislation. NPMs should actively seek development of procedures to ensure that they are systematically alerted to legislative proposals. The State authorities shall examine any proposals or observations received from the NPMs. In the case of federal States, these obligations would apply to all their constituent administrative units.

<sup>50</sup> Article 22 of the Optional Protocol.

## EXAMPLES OF NPM WORK REGARDING LEGISLATIVE PROPOSALS

**The United Kingdom of the Great Britain and Northern Ireland** NPM members work actively to strengthen government policy relevant to the detention settings they monitor and to their own work and mandate. For example, in 2016 the NPM submitted comments to the Law Commission's consultation on Mental Capacity and Deprivation of Liberty.

For more information: [Monitoring Places of Detention, Seventh Annual Report of the United Kingdom National Preventive Mechanism](#)<sup>51</sup>

In **Hungary**, the State has to submit to the National Preventive Mechanism, ex officio, all draft bills relating to detention conditions during the preparatory stages of the legislative process. For example, as regards the new Act on criminal proceedings, the NPM was able to submit a written opinion and also to participate, on request, in the professional consultations on the Act. In 2016 the NPM was requested by State authorities to review 212 draft bills, including an amendment to Act CCXL of 2013 on the execution of punishments, criminal measures, certain coercive measures and confinement for administrative offences.

For more information: [Comprehensive Report by the Commissioner for Fundamental Rights on the activities of the OPCAT National Preventive Mechanism in 2016](#)

### Opinions, recommendations, proposals and reports

NPMs may submit to Governments, Parliaments and any other relevant authorities all opinions, recommendations, proposals and reports on any matters concerning persons deprived of liberty and any other issues within the mandates of the NPMs.

### Review of detention rules, methods and practices

NPMs should systematically review rules on detention, such as interrogation rules, instructions, methods and practices, and arrangements for the treatment of persons deprived of their liberty, with a view to preventing torture or ill-treatment.

NPMs should examine rules and instructions issued concerning the duties and functions of personnel involved in the custody, interrogation, placement and treatment of persons deprived of their liberty, such as law enforcement personnel, civil or military personnel, medical personnel, other public officials and employees in charge.

### → COOPERATIVE FUNCTIONS

NPMs should establish **strategies for cooperation and communication** with national, regional and international actors on the prevention of torture, including implementation of the recommendations of NPMs and on any urgent action procedures, including the follow-up of cases of suspected torture and of possible reprisals.

These strategies should also cover the means of addressing and resolving any operational difficulties encountered during the exercise of their mandates, including the visits, with respect to cooperation and communication.

NPMs should consider establishing and maintaining contacts with other NPMs in their respective regions, with a view to sharing experiences and reinforcing effectiveness.

<sup>51</sup> See, <https://www.gov.uk/government/publications/uks-national-preventive-mechanism-annual-report-2015-to-2016>.



## NPM NETWORKS

In 2013 NPMs in South-East Europe established a network for fostering greater cooperation, exchanges of experience and other joint activities to enhance the effectiveness of NPMs in the region. Representatives of the NPMs of Albania, Croatia, Montenegro, Slovenia, Serbia and the Former Yugoslav Republic of Macedonia (in the presence of and with the agreement of one of the Ombudsmen from Bosnia and Herzegovina) adopted a Declaration on Cooperation and its initial defined objectives. The network was later enlarged to include Austria, Bulgaria and Hungary. The network also has thematic working groups, for example on legal and healthcare issues.

Other sub-regional networks for exchanging experience and fostering collaboration exist in the Nordic countries (Finland, Sweden, Norway and Denmark). The Swiss, German and Austrian NPMs also have a network and meet annually.

## EUROPEAN NPM PROJECT

A European NPM Project was set up in 2009 as a two-year joint project of the Council of Europe and the European Union to promote peer-to-peer networks dedicated to NPM issues. The objectives of the Project were (i) to create an active network of NPMs in Europe; (ii) to promote cooperation between the SPT, the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and NPMs, particularly in relation to standards and working methods; and (iii) to promote ratification of the OPCAT and the establishment of OPCAT-compliant NPMs where they did not exist. It also established a European NPM Newsletter, a bi-monthly review of information relevant to the work NPMs in the Council of Europe region. Since 2016 the Newsletter has been produced by ACCESS.

NPMs should establish and maintain contact with the Subcommittee through regular meetings and information exchanges. The Optional Protocol also requires the Subcommittee to maintain direct, and if necessary confidential, contact with the NPMs and offer them training and technical assistance to strengthen their capacity.<sup>52</sup>

## CHECKLIST: THE RELEVANT ACTORS

- State authorities (ministries, law enforcement personnel)
- Professional groups (medical staff, journalists)
- Parliament and the judiciary
- CSOs/NGOs, especially those working with groups with heightened risks
- Subcommittee on Prevention of Torture
- Other regional torture prevention mechanisms, such as the Committee for the Prevention of Torture of the Council of Europe (CPT) and the Committee for the Prevention of Torture in Africa (CPTA)
- Universities
- Trade unions
- Other NPMs
- Other international and regional actors (such as the International Committee of the Red Cross, the African Union, the Council of Europe, the European Union, the Organization of American States, the Association of Southeast Asian Nations, the Arab League, and the Organization for Security and Cooperation in Europe)

<sup>52</sup> Article 11 (b) (ii) of the Optional Protocol.

## → EDUCATIONAL AND COMMUNICATION FUNCTIONS

The educational and communication function of NPMs includes educational, training and awareness-raising programmes. NPMs should publicize their opinions, findings and other relevant information to increase public awareness of the prevention of torture and ill-treatment.

NPMs should contribute, if possible, to informing all those in places of deprivation of liberty about the Optional Protocol, the concept of prevention of torture and ill-treatment, the NPMs' mandates, and the corresponding obligations of the respective authorities, including the detention authorities.

In order to increase their institutional visibility, NPMs should develop strategies for making their mandates and work known to the general public and develop simple, accessible procedures through which the general public can provide them with relevant information. NPMs could, for example, produce and distribute further material on their mandates and activities in various languages to a wide range of audiences, including detention personnel, detainees, civil society at large, and professional associations such as those of lawyers and the judiciary.

### INTERACTIVE PROGRAMMES ON COMMUNITY RADIOS

#### **A project by the Senegalese National Preventive Mechanism, supported by the OPCAT Special Fund**

The National Preventive Mechanism, the National Observer of Places of Deprivation of Liberty (ONLPL) and OHCHR hosted two interactive programmes on community radios on the theme "National Observer of places of deprivation of liberty" in 2015 and 2016. During the broadcast, interventions by the public included questions relating to the nature of the fundamental rights of persons deprived of liberty as well as how they are guaranteed. ONLPL used this opportunity to remind the public of the legal framework relating to police custody and to stress the absolute nature of the prohibition of torture. In addition, the broadcast detailed the legal remedies available to victims of torture. ONLPL also used the programme to highlight that the effectiveness of its mandate depends on the ability to make unannounced visits without hindrance by the State authorities.

NPMs should assist schools, universities and professional bodies in:

- ▶ formulating teaching programmes on the prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- ▶ carrying out research; *and*
- ▶ taking part in the delivery of educational programmes.

NPMs should examine the curricula of educational institutions for professionals who may be involved in the custody, interrogation or treatment of any persons subjected to any form of detention, to ensure that education and information on the prohibition of torture is fully included in the training.

### CHECKLIST: THE RELEVANT PROFESSIONALS

- Law enforcement personnel, civil or military
- Medical personnel
- Public officials
- Judiciary
- Members of Parliament
- Professional associations (lawyers, judiciary)

## Annual reports

NPMs should produce annual reports that include:

- ▶ accounts of current challenges to the protection of the rights of persons deprived of their liberty and to the effective execution of the NPMs' mandates, and strategic short-term and longer-term plans, including with respect to the setting of priorities;
- ▶ analysis of the most important findings and recommendations and the responses to them by the authorities and other addressees;
- ▶ follow-up on issues from previously-published reports;
- ▶ consideration of thematic issues;
- ▶ accounts of cooperation with other actors on the prevention of torture;
- ▶ an overview of all their other activities and outcomes; *and*
- ▶ an overview of their structures and of the resources made available to them and spent.

The States parties to the Optional Protocol have a legal obligation to publish and widely disseminate the annual reports of NPMs,<sup>53</sup> which should be presented to and discussed in Parliament and transmitted to the SPT.<sup>54</sup>

### IMPLEMENTATION OF NPMS' RECOMMENDATIONS

#### EXTRACT FROM THE SLOVENIAN NPM ANNUAL REPORT

"Implementing NPM recommendations is a commitment of the State Party to the Optional Protocol. According to article 22 of the Optional Protocol, the competent authorities of the State Party must address NPM recommendations and establish a dialogue with it on possible measures to realize the recommendations. The success of implementing recommendations arising from NPM visits is annually presented in the Ombudsman's Annual Report and in a separate publication in the form of a synthesis of our findings and recommendations and responses from the competent authorities in the report to visits to individual institutions. Thus from a total of 600 recommendations issued by the NPM after 67 visits in 2015, 211 have already been realized; 286 have been accepted, and 51 rejected, and the institutions visited or ministries have not taken a position on 52 of these recommendations."

INSTITUTIONS VISITED	RECOMMENDATIONS					TOTAL
	Number of locations	Realised	Accepted	Rejected	No data available	
police stations	23	84	52	8	2	146
Aliens Centre	1	3	6	3	/	12
psychiatric hospitals	3	29	22	4	1	56
social care institutions	21	29	84	2	/	115
special social care institutions	5	15	25	10	37	87
prisons and the juvenile correctional facility	7 + 1 twice	45	59	15	/	119
residential treatment institutions	4	3	32	1	12	48
entry and reception centre for refugees/migrants	1	3	6	8	/	17
<b>TOTAL</b>	<b>67</b>	<b>211</b>	<b>286</b>	<b>51</b>	<b>52</b>	<b>600</b>

For more information: [Annual Report of the National Preventive Mechanism for 2015](#).

<sup>53</sup> Article 23 of the Optional Protocol.

<sup>54</sup> The annual reports of the NPMs are available on the SPT website: <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/AnnualreportsreceivedfromNPM.aspx>.

## Thematic and visit reports

NPMs can establish policies on publicizing visit reports (or parts thereof), and thematic reports, including the main findings and recommendations.

### EXAMPLE OF AN NPM THEMATIC REPORT

In December 2016, **the Norwegian NPM** – the Parliamentary Ombudsman – published its first thematic report under its OPCAT mandate, on “Women in prison”. The report is a summary of the NPM’s findings on female inmates made during its visits to high security prisons between 2014 and 2016. The report addresses key issues relating to the conditions of women in prison, including physical conditions, security, regime activities, health services and contact with families in Norway.

For more information: [Norwegian Parliamentary Ombudsman Annual Report 2016](#).

## Reports to/from human rights bodies

NPMs should contribute to the reports submitted by States to the United Nations<sup>55</sup> Treaty Bodies and regional bodies pursuant to the States’ reporting obligations under relevant treaties, and to the Universal Periodic Review (UPR) of the Human Rights Council.<sup>56</sup> NPMs can also submit their own reports, expressing opinions on issues relevant to prevention of torture and ill-treatment, in accordance with their independent status.

**The Committee against Torture (CAT)** receives information from NPMs at various stages of the reporting process under the Convention against Torture and may meet with them during the session at which it examines the report of the country concerned. Since 2015, the Committee has offered NPMs the opportunity to attend private plenary meetings. NPMs can engage in the following stages of the reporting process:

- ▶ submission of written information for the list of issues prior to reporting;
- ▶ submission of written information for the examination of the States parties’ reports;
- ▶ participation in briefings and NPMs’ briefings with the Committee; *and*
- ▶ submission of written information concerning the follow-up to the recommendations made in the Committee’s concluding observations.<sup>57</sup>

In addition to the Committee against Torture, NPMs can also engage in the reporting procedures of other United Nations treaty bodies by submitting written information or participating in NGO/NHRI briefings with them.<sup>58</sup>

<sup>55</sup> Human Rights Committee (HRCttee), Committee on Economic, Social and Cultural Rights (CESCR), Committee against Torture (CAT), Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Discrimination against Women (CEDAW), Committee on the Rights of the Child (CRC), Committee on Migrant Workers (CMW), Committee on the Rights of Persons with Disabilities (CRPD), Committee on Enforced Disappearances (CED).

<sup>56</sup> See, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>.

<sup>57</sup> More information about the procedure, deadlines and participation in the Committee’s sessions can be found on the web page of the Committee against Torture: [www.ohchr.org/EN/HRBodies/CAT/Pages/NGOsNHRI.aspx](http://www.ohchr.org/EN/HRBodies/CAT/Pages/NGOsNHRI.aspx).

<sup>58</sup> More information about NGO and NHRI participation in the reporting process can be found on the OHCHR website: <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>.



## EXAMPLES OF NPM SUBMISSIONS TO THE UNITED NATIONS TREATY BODIES

Submission by the Norwegian NPM of supplementary information to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) Pre-Sessional Working Group in March, in relation to Norway's 9th Periodic Report and the examination of Norway by CEDAW in October 2017:

[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NOR/INT\\_CEDAW\\_IFN\\_NOR\\_26505\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NOR/INT_CEDAW_IFN_NOR_26505_E.pdf).

Submission by the NPM of Switzerland (Commission nationale de prévention de la torture) to the Committee against Torture (CAT) in relation to Switzerland's 7th periodic report in March 2015:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fNHS%2fCHE%2f21161&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fNHS%2fCHE%2f21161&Lang=en).

Submission by the NPM of Paraguay (Mecanismo nacional de prevención de la tortura) to the Committee against Torture (CAT) in relation to Paraguay's 7th periodic report in August 2017:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1132&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1132&Lang=en).

NPMs should promote and follow up on recommendations from the United Nations and regional bodies, relevant to their mandate, at the national level.

### Public awareness

As observed, NPMs should develop strategies for making their mandates and work known to the public in order to ensure public understanding of their roles and responsibilities, and emphasize their preventive focus (see example of interactive programmes on community radios, in the text box on page 30).

NPMs should also establish simple, accessible and confidential procedures through which the public might provide them with relevant information.

The strategies of NPMs have included the conduct of public campaigns, production of promotional materials and the development of web pages.



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## EXAMPLES OF NPMs' NATIONAL PUBLIC AWARENESS ACTIVITIES ON THE OCCASION OF THE OPCAT's TENTH ANNIVERSARY (2016)

*Torture in Costa Rica? Myths and Realities* was a high-level forum held in collaboration with the NPM in June 2016 in **Costa Rica**. The Forum generated an important discussion addressing the subject of torture and ill-treatment in Costa Rica.

The **Croatian** NPM, in collaboration with the Ludwig Boltzmann Institute of Human Rights (BIM), hosted a conference within the framework of the South-East Europe NPM Network to discuss the revised UN Standard Minimum Rules for the treatment of Prisoners (the Nelson Mandela Rules), the follow-up of NPM recommendations, and the role of monitoring bodies in the "refugee crisis" (29-30 November 2016).

The National Agency for the Prevention of Torture in **Germany** issued a press release on 22 June 2016, and participated in the Association for Prevention of Torture's campaign highlighting the positive changes that the OPCAT and the work of NPMs have achieved. The National Agency organized an international workshop on the significance and development of the OPCAT and the Convention of the Rights of Persons with Disabilities, in relation to persons with psychosocial disabilities (2 December 2016, Berlin).

In **Norway** the NPM participated in a human rights seminar on the legal safeguards and guarantees in psychiatric health care (19 October 2016, Oslo) to help create a new and positive dynamic relating to the consideration of this subject-area in Norway.

In **Serbia** the NPM held a press conference on "UN OPCAT: 10 years of prevention of torture and ill-treatment" (27 October 2016). The press conference highlighted the importance of the OPCAT, the SPT and NPMs in the prevention and eradication of torture, and the need to strengthen the organizational, functional and financial independence of the Serbian NPM and the continued participation of civil society and external experts in its work.

In **Tunisia**, *l'Organisation contre la torture en Tunisie* (OCTT) placed a tent in Habib Bourguiba Avenue, in Tunis, to directly engage with people and distributed documents relating to the prevention of torture and the OPCAT. Arabic radio stations broadcasted information on the OPCAT.

### → TECHNICAL ASSISTANCE – THE OPCAT SPECIAL FUND

#### Requesting technical assistance

The States parties to the Optional Protocol can seek technical assistance from OHCHR for establishing or strengthening their NPMs. They can request assistance through **OHCHR field presences** or the **OHCHR Treaty Body Capacity Building Programme**,<sup>59</sup> or submit a proposal for a grant **to the Special Fund of the Optional Protocol to the UN Convention against Torture** ("OPCAT Special Fund").

The OPCAT Special Fund was established pursuant to article 26 of the Optional Protocol to the United Nations Convention against Torture in 2011. The Special Fund supports projects implementing recommendations of the SPT contained in the SPT public visit reports, which focus on the establishment or strengthening of NPMs.

<sup>59</sup> For questions relating to the Fund, contact should be made with [opcatfund@ohchr.org](mailto:opcatfund@ohchr.org).

**As of 2017, the projects supported by the Special Fund should focus on the establishment and effective functioning of NPMs.**

Applications to the Special Fund may be submitted by institutions of States parties to the Optional Protocol, which have been visited by the Subcommittee and their NPMs, and which have agreed to the publication of the Subcommittee's visit report.<sup>60</sup> Applications may also be submitted by NHRIs that comply with the Paris Principles and by NGOs, provided that the proposed projects are implemented in cooperation with eligible States parties or NPMs.

#### **ELIGIBILITY CRITERIA FOR A GRANT UNDER THE OPCAT SPECIAL FUND**

- ▶ Project proposal implements SPT recommendations contained in the visit report
- ▶ The SPT visit report is published
- ▶ Project proposal focuses on the establishment and/or strengthening of NPMs

#### **ELIGIBLE ENTITIES**

- ▶ State authorities
- ▶ NPMs
- ▶ NHRIs
- ▶ NGOs and CSOs
  - NGOs and CSOs must have an agreement with the authorities entrusted with the implementation of SPT recommendations in the countries concerned

More information on the Fund and on the Call for Applications is available at <http://www.ohchr.org/opcatfund>.

#### **Results achieved**

The projects supported by the Fund have been instrumental in implementing the Subcommittee's recommendations. Since its first call for applications in 2012, the Special Fund has provided grants for more than 47 technical cooperation projects in 13 countries worldwide. These projects resulted in **legislative changes**, for example bringing laws in line with international human rights standards on torture prevention (including revised codes of criminal procedure, prison acts and laws prohibiting abusive body searches on persons deprived of their liberty), as well as laws to establish NPMs on torture. They also supported **institutional changes**, such as establishing or strengthening the effective functioning of NPMs on torture or other relevant institutions, establishment of registers of detainees, and operational changes resulting from the enhanced knowledge and skills of judicial, law enforcement and medical personnel. Finally, they resulted in **changes in people's lives** including, in one case, a reported decrease in violence against children in detention facilities. The projects also contributed, by developing and distributing manuals, to increasing the awareness of persons deprived of their liberty in relation to their rights.

The Special Fund has proven to be a unique tool for supporting implementation of SPT recommendations. It can also serve as an incentive for the publication of the Subcommittee's visit reports and for enhancing the transparency and efficiency of torture prevention.

<sup>60</sup> The SPT visit reports are available on the SPT web page: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/CountryVisits.aspx?SortOrder=Chronological](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/CountryVisits.aspx?SortOrder=Chronological).

The Fund relies entirely on voluntary contributions from Governments, intergovernmental or non-governmental organizations, private sector organizations and the public at large. Demand for support from the Fund is expected to grow with the increase in frequency of SPT visits.

The minimum sum required on an annual basis to guarantee a functioning Fund designed to support an average of 20 projects per year, with a reasonable level of funding per project (up to US\$20,000), is approximately US\$500,000. Contributions are therefore required to sustain and consolidate the Fund, in order to enable the Fund to engage with States and provide them with the technical assistance for implementing activities aimed at preventing torture.

States and other donors can support torture prevention activities through their contributions to the OPCAT Special Fund and, in so doing, sustain projects addressing real gaps and needs in torture prevention. Information on how to contribute to the Fund is contained in the Annex 6 of the *Guide*.<sup>61</sup>

For questions relating to the Fund, contact should be made with [opcatfund@ohchr.org](mailto:opcatfund@ohchr.org).

### **The United Nations Voluntary Fund for Victims of Torture (UNVFVT)**

While the OPCAT Special Fund provides technical assistance for torture prevention projects, **the United Nations Voluntary Fund for Victims of Torture** provides direct assistance to victims of torture and their family members. It aims at healing the physical and psychological consequences of torture on victims and their families, and thus restoring their dignity and role in society.

Many civil society organizations supported by UNVFVT, which are helping victims to claim their right to redress, have developed professional skills for identifying and documenting torture. Many of these organizations, including rehabilitation centres and medical facilities, cooperate with NPMs on the ground, including in the sharing of expertise and specialized skills that are essential both for the prevention of torture and for the rehabilitation of its victims.

Both Funds, the UNVFVT and the OPCAT Special Fund, encourage such collaboration since prevention and assistance to victims are two sides of the same coin.



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<sup>61</sup> Information is also available on the OPCAT Special Fund web page: <http://www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/Contribute.aspx>.





## ANNEXES

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# ANNEX 1: SAMPLE RESOURCES AND TOOLS

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## → RESOURCES:

- ▶ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- ▶ SPT guidelines on National Preventive Mechanisms (CAT /OP/12/5)
- ▶ The compilation of SPT advice to NPMs, as set out in the annex to its 9th Annual Report (CAT/C/57/4)
- ▶ Guidelines against Intimidation or Reprisals (“San José Guidelines”)
- ▶ The Policy of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on reprisals in relation to its visiting mandate (CAT/OP/6/Rev.1)
- ▶ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”)
- ▶ Principles relating to the Status of National Institutions (“The Paris Principles”)
- ▶ United Nations Standard Minimum Rules for Treatment of Prisoners (“The Nelson Mandela Rules”)
- ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)
- ▶ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“The Havana Rules”)
- ▶ United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)

## → TOOLS:

- ▶ SPT analytical assessment tool for National Preventive Mechanisms (CAT/OP/1/Rev.1)
- ▶ NPM assessment matrix for NPMs
- ▶ Non-exhaustive list of illustrative questions for interviews with persons deprived of liberty in police stations/prisons
- ▶ Guide to the establishment and designation of NPMs (APT, 2006)
- ▶ Human Rights and Prisons: Manual on Human Rights Training for Prison Officials (OHCHR, 2005)
- ▶ Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules, Essex Paper 3 (Penal Reform International, 2016)
- ▶ Monitoring Police Custody: A Practical Guide (APT, 2013)
- ▶ Monitoring Places of Detention: A Practical Guide (APT, 2004)
- ▶ Monitoring Immigration Detention: A Practical Manual (APT, 2014)
- ▶ National Human Rights Institutions as NPMs: Opportunities and Challenges (APT, 2013)
- ▶ Membership of National Preventive Mechanisms: Standards and Experiences (APT, 2013)
- ▶ National Preventive Mechanisms - Drafting Effective Annual Reports: Briefing paper (APT, 2012)
- ▶ Workbook on Women in Detention: Putting the UN Bangkok Rules on Women Prisoners into Practice (Penal Reform International, 2017)
- ▶ Practical Guide: Monitoring Places where Children are Deprived of Liberty (Defence for Children International Belgium, 2016)
- ▶ UNODC Handbook for Prisons Leaders (United Nations, 2010)
- ▶ UNODC Handbook on Women and Imprisonment (United Nations, 2014)
- ▶ UNODC: Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms (United Nations, 2017)

# ANNEX 2:

## SPT GUIDELINES ON NATIONAL PREVENTIVE MECHANISMS

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### → Introduction

1. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Optional Protocol”) provides considerable detailed guidance concerning the establishment of a National Preventive Mechanism (“NPM”), including its mandate and powers. The most relevant of these provisions are Articles 3, 4, 17-23, 29 and 35, although other provisions of the Optional Protocol are also of importance for NPMs. It is axiomatic that all NPMs must be structured in a manner which fully reflects these provisions.
2. It is the responsibility of the State to ensure that it has in place an NPM which complies with the requirements of the Optional Protocol. For its part, the SPT works with those bodies which it has been informed have been designated by the State as its NPM. Whilst the SPT does not, nor intends to, formally assess the extent to which NPMs conform to OPCAT requirements, it does consider it a vital part of its role to advise and assist States and NPMs in fulfilling their obligations under the Optional Protocol. To this end the SPT previously set out ‘Preliminary Guidelines’ concerning the ongoing development of NPMs in its First Annual Report. It had the occasion to further amplify its thinking in subsequent Annual Reports and also in a number of recommendations set out in its visit reports. In the light of the experience it has gained, the SPT believes it would be useful to issue a revised set of Guidelines on National Preventive Mechanisms which reflect and respond to some of the questions and issues which have arisen in practice.
3. These Guidelines do not seek to repeat what is set out in the text of the Optional Protocol but to add further clarity regarding the expectations of the SPT regarding the establishment and operation of NPMs. Section I sets out a number of ‘basic principles’ which should inform all aspects of the work of an NPM. This is followed in Section II by guidelines addressed primarily to States on a number of issues relating to the establishment of NPMs, while Section III contains guidelines for both the State and the NPM itself on the practical functioning of an NPM.
4. As it gains further experience the SPT will seek to expand these Guidelines, addressing particular aspects of the work of NPMs in greater detail.

#### **I. Basic principles**

5. An NPM should complement rather than replace existing systems of oversight, and its establishment should not preclude the creation or operation of other such complementary systems.
6. The mandate and powers of an NPM should be in accordance with the provisions of the Optional Protocol.
7. The mandate and powers of an NPM should be clearly set out in a constitutional or legislative text.
8. The operational independence of an NPM should be guaranteed.
9. The relevant legislation should specify the period of office of the member(s) of an NPM and any grounds for their dismissal. Periods of office, which may be renewable, should be sufficient to foster the independent functioning of the NPM.
10. The visiting mandate of an NPM should extend to all places of deprivation of liberty, as set out in Article 4 of the Optional Protocol.
11. The necessary resources should be provided to permit the effective operation of an NPM in accordance with the requirements of the Optional Protocol.
12. An NPM should enjoy complete financial and operational autonomy when carrying out its functions under the Optional Protocol.
13. The State authorities and the NPM should enter into a follow-up process with a view to implementation of any recommendations which the NPM may make.
14. Those who are involved, or with whom an NPM is involved, in the fulfilment of its functions under the Optional Protocol should not be subject to any form of sanction, reprisal or other restriction as result of having done so.

15. The effective operation of an NPM is a continuing obligation. The effectiveness of the NPM should be subject to regular appraisal by both the State and the NPM itself - taking into account the views of the SPT - with a view to its being reinforced and strengthened as and when necessary.

## → II. Basic issues regarding the establishment of an NPM

### A. The identification or creation of the NPM

16. An NPM should be identified through an open, transparent and inclusive process involving a wide range of stakeholders, including Civil Society. This should also apply to the process for the selection and appointment of members of the NPM, which should be in accordance with published criteria.
17. Bearing in mind the requirements of Articles 18 (1) and (2) of the Optional Protocol, members of an NPM should collectively have the expertise and experience necessary for its effective functioning.
18. The State should ensure the independence of an NPM by not appointing to it members who hold positions which could raise questions of conflicts of interest.
19. Members of NPMs should likewise ensure that they do not hold or acquire positions which raise questions of conflict of interest.
20. Recalling the requirements of Articles 18 (1) and (2) of the Optional Protocol, an NPM should ensure that its staff have between them the diversity of background, capabilities and professional knowledge necessary to enable it to properly fulfil its NPM mandate. This should include, *inter alia*, relevant legal and healthcare expertise.

### B. Designation and notification

21. An NPM should be established within one year of the entry into force of the Optional Protocol for the State concerned, unless at the time of ratification a declaration has been made in accordance with Article 24 of the Optional Protocol.
22. The body designated as an NPM should be publicly promulgated as such at national level.
23. The State should notify the SPT promptly of the body which has been designated as an NPM.

## → III. Basic issues regarding the operation of an NPM

### A. Points for States

24. The State should allow the NPM to visit all, and any suspected, places of deprivation of liberty, as set out in Articles 4 and 29 of the Optional Protocol, which are within its jurisdiction. For these purposes the jurisdiction of the State extends to all those places over which it exercises effective control.
25. The State should ensure that the NPM is able to carry out visits in the manner and with the frequency that the NPM itself decides on. This includes the ability to conduct private interviews with those deprived of liberty and the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol.
26. The State should ensure that both the members of the NPM and its staff enjoy such privileges and immunities as are necessary for the independent exercise of their functions.
27. The State should not order, apply, permit or tolerate any sanction, reprisal or other restriction imposed on any person or organization for having communicated with the NPM or for having provided the NPM with any information, irrespective of its accuracy, and no such person or organization should be prejudiced in any way.
28. The State should inform the NPM of any draft legislation that may be under consideration and which is relevant to its mandate; and it should allow the NPM to make proposals or observations on any existing or draft policy or legislation. The State should take into consideration any proposals or observations on such legislation received from the NPM.
29. The State should publish and widely disseminate the Annual Reports of the NPM. It should also ensure that it is presented to, and discussed in, the national legislative assembly or Parliament. The Annual Reports of the NPM should also be transmitted to the SPT which will arrange for their publication on its website.

## **B. Points for NPMs**

30. An NPM should carry out all aspects of its mandate in a manner which avoids actual or perceived conflicts of interest.
31. An NPM, its members and its staff should be regularly required to review their working methods and undertake training in order to enhance their ability to exercise their responsibilities under the Optional Protocol.
32. Where the body designated as an NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget.
33. An NPM should establish a work plan or programme which, over time, encompasses visits to all, or any, suspected places of deprivation of liberty, as set out in Articles 4 and 29 of the Optional Protocol, and which are within the jurisdiction of the State. For these purposes the jurisdiction of the State extends to all those places over which it exercises effective control.
34. An NPM should plan its work and its use of resources in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency that ensures an effective contribution to the prevention of torture and other cruel, inhuman or degrading treatment or punishment.
35. An NPM should make proposals and observations to the relevant State authorities regarding existing and draft policy or legislation which it considers to be relevant to its mandate.
36. An NPM should produce a report following each visit as well as an Annual Report and any other form of report that it deems necessary. When appropriate, reports should contain recommendations addressed to the relevant authorities. The recommendations of an NPM should take account of the relevant norms of the United Nations in the field of the prevention of torture and other ill-treatment, including the comments and recommendations of the SPT.
37. An NPM should ensure that any confidential information acquired in the course of its work is fully protected.
38. An NPM should ensure that it has the capacity to engage - and does engage - in a meaningful process of dialogue with the State concerning the implementation of its recommendations. It should also actively seek to follow-up implementation of any recommendations which the SPT has made in relation to the country in question, liaising with the SPT when doing so.
39. An NPM should seek to establish and maintain contacts with other NPMs with a view to sharing experience and reinforcing its effectiveness.
40. The NPM should seek to establish and maintain contact with the SPT, as provided for and for the purposes set out in the Optional Protocol.



# ANNEX 3: NON-EXHAUSTIVE LIST OF ILLUSTRATIVE QUESTIONS FOR INTERVIEWS WITH PERSONS DEPRIVED OF LIBERTY IN POLICE STATIONS/PRISONS

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## → Background to the arrest

Describe the circumstances of the arrest:

- ▶ When and where did it take place?
- ▶ Who made the arrest? How many persons were involved? Were they in uniform? Were they police officers, military or personnel of some other description?
- ▶ Did they handcuff you?
- ▶ Did they tell you why you were being arrested?
- ▶ Did they inform you about your rights and, if so, which rights?
- ▶ Did they take you straight to the police station? How did they take you here?

## → Arrival at the police station/prison

- ▶ When did you reach the police station/prison?
- ▶ Where were you taken on arrival? (to an office, a cell, etc.)
- ▶ With whom did you speak when you arrived?
- ▶ Were you informed of your rights? If so, which rights?
- ▶ Did you sign a document of any kind? Did you make any confession, orally or in writing?
- ▶ Were you questioned? If so, by whom?
- ▶ Were you able to contact a family member? - or a lawyer?
- ▶ Were you taken to a doctor? Were you medically examined?
- ▶ Were you brought before a magistrate or judge?
- ▶ How were you treated while being arrested, questioned or held at the police station/prison? If you were ill-treated, did you report it? To whom? What was the outcome?

## → Conditions of detention (police station and prison)

- ▶ How long did you spend in the cell?
- ▶ Did you share the cell with anyone else? If so, with how many others?
- ▶ Were men held separately from women? Were adults held separately from children?
- ▶ Did you receive food and water? How many times?
- ▶ Where was the toilet? What were the arrangements for going there?
- ▶ Where did you wash?

## → Other questions

- ▶ Were you subjected to any disciplinary punishment (if so, please describe)?
- ▶ What was your daily programme? How much time did you spend outside the cell/for sport/leisure activities, etc.?
- ▶ Could you maintain contact with your family (how, with what frequency)?

# ANNEX 4:

## SPT ANALYTICAL ASSESSMENT TOOL FOR NATIONAL PREVENTIVE MECHANISMS

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### → I. Introduction

1. Pursuant to article 2 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a State party is obliged to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. In this framework States parties are obliged to ensure that education and information on the prohibition against torture is fully included in the training of all personnel who may be involved in depriving persons of their liberty.<sup>1</sup> The prohibition of torture should be included in the working regulations of such personnel, and all methods of and processes for taking the liberty and freedom of a person should be reviewed systematically.<sup>2</sup> The same principles apply to other acts of cruel, inhuman or degrading treatment or punishment.<sup>3</sup>
2. In the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment it is stressed that effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures. As one means of prevention, the Optional Protocol establishes a system of regular visits to all places of detention.
3. It is the responsibility of the State party to ensure that it has in place a national preventive mechanism that complies with the requirements of the Optional Protocol (see CAT/OP/12/5, para. 2). Preventive work should be carried out by that mechanism, with its main task to visit places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.<sup>4</sup> The State party shall guarantee the organizational and functional independence of the mechanism and provide it with the resources necessary to enable it to carry out its functions in accordance with the requirements of the Optional Protocol. It shall, however, refrain from supervising the mechanism.
4. A national preventive mechanism should have the capacity to operate in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).<sup>5</sup>
5. The development of National Preventive Mechanisms should be considered an ongoing obligation, with formal aspects reinforced and working methods refined and improved incrementally (see CAT/C/40/2 and Corr.1, para. 28 (n)). Once such a mechanism is established, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment shall maintain direct and, if necessary, confidential contact with the mechanism and offer it training and technical assistance with a view to strengthening its capacities. Upon request from a State party and/or a national preventive mechanism, the Subcommittee will offer further advice and assistance to the mechanism in the evaluation of its needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and ill-treatment. In order to fulfil this advisory function usefully, the Subcommittee must have formed a view about the manner in which the mechanism is addressing core areas of its mandate. For this purpose the Subcommittee has prepared guidelines on National Preventive Mechanisms (CAT/OP/12/5).
6. In order to facilitate self-evaluation of mandated activities, the Subcommittee has prepared the present document, which reflects the principles set out in previously issued documents and guidelines and the prevailing thinking in the field. The Subcommittee urges existing National Preventive Mechanisms and States parties to carry out self-evaluations systematically and periodically and improve their activities to bring them into line with the guidance compiled in the present tool. In addition, National Preventive

<sup>1</sup> Article 10 (1) of the Convention.

<sup>2</sup> Articles 10 (2) and 11 of the Convention.

<sup>3</sup> Article 16 (1) of the Convention.

<sup>4</sup> Article 1 of the Optional Protocol.

<sup>5</sup> Article 18 (4) of the Optional Protocol.

Mechanisms that have been designated but are not yet operational, as well as States parties in the process of ratifying the Optional Protocol and creating such mechanisms, are encouraged to use the present tool and the matrix based thereon for guidance.

## → II. Mandate of the National Preventive Mechanism

7. The effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures, as stated in the preamble of the Optional Protocol.
8. The major function of a national preventive mechanism in discharging its preventive role is to carry out visits, which may be unannounced, to places of detention.<sup>6</sup> The purpose of such visits is to regularly examine the treatment of persons deprived of their liberty in places of detention with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment.<sup>7</sup>
9. In addition to conducting visits, the mandate of a national preventive mechanism should include the following activities:
  - (a) Making recommendations to the relevant authorities, with the aim of improving the treatment and conditions of persons deprived of their liberty and preventing torture and other cruel, inhuman or degrading treatment or punishment of those persons,<sup>8</sup> and engaging in a meaningful process of dialogue with the State party responsible and any other relevant stakeholders concerning the implementation of any recommendations made (see CAT/OP/12/5, para. 38);
  - (b) Publicizing its opinions, findings and other relevant information in order to increase public awareness, especially through education and by making use of a broad range of media;<sup>9</sup>
  - (c) Submitting proposals and observations concerning existing or draft legislation<sup>10</sup> and relevant human rights action plans, and submitting to the Government, the parliament and any other competent body on an advisory basis, either at the request of the authorities concerned or through the exercise of the mechanism's powers under the Optional Protocol, opinions, recommendations, proposals and reports on any matters concerning the situation of detainees and any other issues within the mandate of the mechanism;<sup>11</sup>
  - (d) Performing systematic reviews of interrogation rules, instructions, methods and practices and of arrangements for the detention and treatment of persons subjected to any form of detention in any territory under a State party's jurisdiction, with a view to preventing any cases of torture;<sup>12</sup>
  - (e) Examining rules or instructions issued in regard to the duties and functions of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of detention in order to verify conformity with the Convention, the Optional Protocol and other human rights instruments;<sup>13</sup>
  - (f) Assisting in the formulation of programmes for the teaching of the prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment and carrying out research into human rights and, where appropriate, taking part in the execution of such programmes and research in schools, universities and professional circles;<sup>14</sup>
  - (g) Examining the curricula of education institutions to ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be

<sup>6</sup> Articles 1 and 19 (a) of the Optional Protocol.

<sup>7</sup> Article 19 of the Optional Protocol.

<sup>8</sup> Article 19 (b) of the Optional Protocol.

<sup>9</sup> Paris Principles.

<sup>10</sup> Article 19 (c) of the Optional Protocol; see also CAT/OP/12/5, para. 35.

<sup>11</sup> Paris Principles.

<sup>12</sup> Article 11 of the Convention against Torture.

<sup>13</sup> Article 10 (2) of the Convention against Torture.

<sup>14</sup> Paris Principles.

involved in the custody, interrogation or treatment of any individual subjected to any form of detention;<sup>15</sup>

- (h) Either contributing to the reports that States parties are required to submit to United Nations bodies and committees and to regional institutions, pursuant to their treaty obligations, or presenting its own reports and, where necessary, expressing an opinion on the subject, in accordance with its independent status;<sup>16</sup>
- (i) Following up on the process of implementation of recommendations made by United Nations and regional bodies to the States parties with regard to torture and related issues, providing advice at the national level and providing the recommending bodies with information, as appropriate;
- (j) Considering establishing and maintaining contacts with other National Preventive Mechanisms with a view to sharing experiences and reinforcing effectiveness (see CAT/OP/12/5, para. 6);
- (k) Establishing and maintaining contact with the Subcommittee by regularly exchanging information and meeting with it.<sup>17</sup>

### → III. Organization of the national preventive mechanism

10. The national preventive mechanism is to be given a preventive mandate and powers in accordance with the Optional Protocol, which is to be clearly set forth in a new or existing constitutional or legislative text specifying the composition of the mechanism and its sphere of competence.<sup>18</sup> Such legislation should extend the visiting mandate to all places where people are or may be deprived of their liberty, as set out in article 4 of the Optional Protocol (see CAT/OP/12/5, para. 10).
11. The relevant legislation should specify the period of office, whether determined or open-ended, of the members of the national preventive mechanism and any grounds for their dismissal (*ibid.*, para. 9). In addition, the legal basis should guarantee that the members of the national preventive mechanism and its staff enjoy such privileges and immunities as are necessary for the independent exercise of their functions, and should address the issue of reprisals and other such actions against members of the mechanism, their partners and any person who has communicated with the mechanism.<sup>19</sup>
12. The legislative text should grant the national preventive mechanism at minimum:<sup>20</sup>
  - (a) The power to freely select the places of deprivation of liberty in which visits are to be carried out; to regularly examine the treatment of persons deprived of their liberty in those places; to select the timing of such visits and determine whether they are to be announced or unannounced; and to choose the persons to be interviewed;
  - (b) Access to all information, including personal and sensitive information, premises and persons necessary for pursuing its mandate;
  - (c) The power to make recommendations to the relevant authorities;
  - (d) The power to submit proposals and observations concerning existing or draft legislation;
  - (e) The right to have contact with the Subcommittee.
13. Bearing in mind the requirements of article 18 (1) and (2) of the Optional Protocol, members of the national preventive mechanism should be selected through an open, transparent and inclusive process and collectively have the expertise and experience necessary for the effective functioning of the mechanism. The selection process should preferably be prescribed in the governing national preventive mechanism legislation. The mechanism should ensure that its team has the diversity of background, for example in respect to gender balance and representation of minorities, capabilities and professional knowledge, necessary to enable it to properly fulfil its mandate (see CAT/OP/12/5, paras. 17 and 20). In its activities the mechanism should also take benefit from cooperation with civil society, universities and qualified experts, Parliament and government departments, among others.<sup>21</sup>

<sup>15</sup> Article 10 (1) of the Convention against Torture.

<sup>16</sup> Paris Principles.

<sup>17</sup> Article 20 (f) of the Optional Protocol.

<sup>18</sup> Paris Principles and CAT/OP/12/5, para. 7

<sup>19</sup> See article 21 (1) of the Optional Protocol and CAT/OP/12/5, paras. 26-27.

<sup>20</sup> Articles 19 and 20 of the Optional Protocol.

<sup>21</sup> Paris Principles.

Special attention should be paid to developing relations with civil society members dedicated to working with vulnerable groups.<sup>22</sup>

14. Where an organization designated as the national preventive mechanism performs other functions in addition to those under the Optional Protocol, the national preventive mechanism functions should be located within a separate unit or department with its own staff and a separate budget (see CAT/OP/12/15, para. 32). The relationship between the national preventive mechanism function and the rest of the organization, the working methods and the safeguards applicable to preserve the independence of that function should be clearly set out in the relevant internal regulations.
15. States parties should make available the resources necessary for the effective functioning of National Preventive Mechanisms.<sup>23</sup> A national preventive mechanism should prioritize its own use of resources on the basis of a regular analysis of its practice and experience and in the light of its evaluation of its needs and the means necessary for it to exercise its mandate appropriately. The mechanism should advocate for the provision of the resources necessary for the effective exercise of its mandate, with the assistance of the Subcommittee and/or other relevant actors if necessary.
16. To ensure coherent and transparent functioning, National Preventive Mechanisms should develop policies and rules of procedure for, inter alia:
  - (a) Organization of the office, its work and budgets for all activities described in paragraph 9 of the present tool;
  - (b) Procedures for decision-making;
  - (c) Employment and dismissal of staff;
  - (d) Prevention of conflicts of interest;
  - (e) Employment of external experts, establishing necessary qualifications and terms of reference for their work;
  - (f) Sharing of information within the mechanism;
  - (g) Communication with other national and international actors, including the Subcommittee, and the press;
  - (h) Data protection and issues of confidentiality.

#### → IV. Working strategy of the national preventive mechanism

17. Given the nature of its work, it is almost inevitable that a national preventive mechanism will face challenges such as a reluctance within bureaucracies to change structures and practices, a lack of resources to implement recommendations and other initiatives, and, occasionally, negative public opinion. Some of those challenges will be outside the control of the mechanism and, to some extent, the relevant authorities with whom the mechanism engages. In such situations the mechanism should nevertheless try to find and put forward creative solutions that might address an issue over time in an incremental fashion. It should consider forming partnerships with national and international actors in order to raise awareness of the obligations of the States parties among decision makers and the general public in order to encourage and facilitate change in legislation, policies made by authorities, general attitudes, and conditions and practices in places of detention.
18. The national preventive mechanism should develop concrete long- and short-term strategies in order to achieve the maximum impact on problems and challenges relevant to its mandate in the local context. Activities and their outcomes should be monitored and assessed on an ongoing basis and the lessons learned should be used to develop the practices of the mechanism. Such an assessment could be based on a framework, starting with existing challenges, such as resourcing issues, and an assessment of activities currently being undertaken, moving through a range of additional factors and activities, such as:
  - (a) Criteria for the selection of planned activities;
  - (b) Criteria for the composition of working groups and visiting and outreach teams, among others, including the involvement of specific forms of professional expertise or other input from national/international stakeholders;
  - (c) Analysis of problems and challenges, and of good practices that have been identified;

<sup>22</sup> Ibid.

<sup>23</sup> Article 18 (3) of the Optional Protocol.



- (d) Cooperation with other actors;
  - (e) Resources budgeted;
  - (f) Strategies and working methods to be adopted when implementing activities;
  - (g) Recommendations submitted to authorities;
  - (h) Follow-up action and an assessment of the implementation of recommendations, including dialogue with authorities;
  - (i) Systematization of observations, recommendations issued and the responses received from authorities, including information on implementation, as well as analysis of how and why successes and failures in effective change have occurred;
  - (j) A description of all other national preventive mechanism activities in addition to visiting, output and impact assessments;
  - (k) Resources spent;
  - (l) Consideration of the need to develop alternative strategies or approaches.
19. Working strategies are subject to periodic evaluation and improvement. A national preventive mechanism might wish to include its partners in reviewing and taking stock of its activities. It may also wish to seek input from international stakeholders, such as the Subcommittee.
  20. The work of the mechanism should be understood as an ongoing, context-based process of development that takes into account not only the experience of the mechanism itself but also information and advice from and the experience of other relevant and reliable sources. Members, staff, external experts and other potential contributors should receive ongoing training on mechanism activities and torture prevention, including on methodological, strategic and ethical issues, and should participate in the development of working methods. The involvement of the Subcommittee in such capacity-building activities could be beneficial.

## → V. Implementation of visiting activities

### A. Planning

21. In the framework of its visiting activities the national preventive mechanism should actively seek information in order to ensure that it has data and background information for all places of detention and should keep an archive of all relevant information about places of detention and the treatment of persons held there.
22. The mechanism should ensure that it has criteria for selecting the places to be visited and for deciding on thematic visits that ensure that all places of detention are visited regularly, taking into account the type and size of institutions, their security level and the nature of known human rights problems, while leaving room for flexibility in the allocation of resources to ensure that follow-up and urgent visits can be undertaken. Such criteria should be transparent, clear and published.
23. The composition of a visiting team should take into account the necessary knowledge, including with respect to languages, groups with special needs and vulnerable groups, the experience and skills of members, gender balance and the adequate representation of ethnic and minority groups. The team should have sufficient human and technical resources and time to enable it to properly carry out its tasks.

### B. Visit methodology

24. On an ongoing basis, a national preventive mechanism should develop guidelines for visits to the various categories of places of detention, including instructions for selecting the theme of a visit, for conducting private interviews, for developing policies for dealing with vulnerable groups of detainees and for ensuring that information from all available sources, such as the administration and staff of the institution visited, detainees from all areas and units, other visitors, if appropriate, and outside actors, such as civil society and other monitoring mechanisms, is collected.
25. All facilities within institutions should be visited and existing registries, examples of case records and activities and services for the detainees should be assessed, unless the visit is thematic only. If a visit is thematic, its coverage of the facilities can be only partial.
26. Practices and tools should be developed to cross-check, test and assess observations and to ensure that recommendations are based on rigorous analysis and are factually well grounded (see CAT/OP/12/6, para. 5 (f)). The national preventive mechanism should put in place an effective data management system.

27. There should be a policy that provides for an immediate debriefing with the representatives of the place of detention at the end of a visit.
28. The mechanism should consider developing a code of conduct for visiting teams, covering, among other things, addressing detainees and staff, observing cultural and any other relevant sensitivities, conducting individual or group interviews, including how and when to conduct such interviews, handling security and safety issues, ensuring confidentiality, managing internal debriefings in order to coordinate and cross-check data collected and prepare for the closing of the visit, ensuring that the visitors do not step outside or in any other way exceed the mandate of the mechanism during a visit, and participating in reporting and follow-up.
29. The national preventive mechanism should have clear guidelines for reporting individual cases of deliberate ill-treatment and requesting inquiries, as well as for maintaining the confidentiality of the detainee concerned and any other source of relevant information and protecting such persons against reprisals.

### **C. Visit reports**

30. Visit reports should focus on the most important issues, that is, the reporting of ill-treatment, gaps in policies, regulations and practices, and the appropriateness of conditions under which detainees are living, and should reflect any systematic lack of protection of the rights of detainees. Good practices should be noted and filed for systematic analysis. Cases of deliberate ill-treatment should be examined to identify gaps in the protection of persons deprived of their liberty.
31. Recommendations should be well founded and should reflect, among other things, relevant international norms and practices. In general, recommendations should have a preventive focus, addressing systematic gaps and practices (root causes), and be feasible in practice. They should be relevantly focused, precise and non-complex, so as to avoid confusion in the dialogue about their implementation.
32. The national preventive mechanism should, based on its experience, develop a strategy for the use of its report, which should include the submission of the report to relevant official bodies and the Government as a basis for and dialogue, and possibly its publication and dissemination, for the purpose of alerting the wider society.

### **D. Follow-up to recommendations for change issued by the Subcommittee and by the national preventive mechanism**

33. The national preventive mechanism should regularly verify the implementation of recommendations, primarily through follow-up visits to problematic institutions, but also based on relevant information from, among others, human rights bodies, governmental institutions and civil society. In order to facilitate effective follow-up, the mechanism should put in place a follow-up strategy that is clear and impact-oriented and develop the practices and tools necessary to implement the strategy.
34. The mechanism should maintain a constructive dialogue with, firstly, those to whom the recommendations are addressed, namely, governmental authorities and the directors/managers of the places of detention concerned, but also with their supervising authorities. The dialogue should involve both written and oral exchanges on the implementation of the recommendations. Those to whom the recommendations are addressed should, on request from the mechanism, develop a concrete policy or plan of action to commence reform where needed. In particular cases it may be appropriate to recommend that authorities immediately put an end to certain practices and initiate a criminal investigation.
35. Visit reports, including recommendations, should, in principle, be published. Exceptions may exist where the national preventive mechanism considers it inappropriate to do so or where there is a legal impediment. Annual reports must be published and should include, in addition to recommendations for change, the outcome of the dialogue with authorities, i.e., follow-up on recommendations mentioned in previous annual reports. The mechanism may also publish thematic reports.
36. The national preventive mechanism should maintain a dialogue with other relevant national and international actors, including civil society, consider all relevant information received from them and advocate for submission of relevant information to the mechanism.

### **E. Prevention of reprisals**

37. The national preventive mechanism should develop a strategy for preventing reprisals and threats by detention centre staff, as well as by fellow detainees, against persons interviewed during visits and

others who may provide sensitive or critical information before or after a visit. Such a strategy should also address threats of reprisal against members and staff of the mechanism. The strategy could include the following guidance:

- (a) The national preventive mechanism should establish a policy setting out the types of information that can be collected during group interviews and the types of information that should be collected in private interviews only. Whenever sensitive or critical information is obtained during a private interview a number of additional private interviews should be conducted to preserve the anonymity of the source of the information;
- (b) The national preventive mechanism should, during talks with management, staff and detainees in places of detention, stress that reprisals are explicitly prohibited in the Optional Protocol, that follow-up will focus on that issue and that detainees subject to reprisals should notify the mechanism. It is advisable to widely distribute to managers, staff and detainees folders containing information about the mandate and working methods of the national preventive mechanism, including references to the absolute prohibition of reprisals, and the address and contact information of the mechanism. National Preventive Mechanisms should ensure that they are expressly permitted, either in law or in practice, to distribute any material about the mechanism to detainees and that detainees may receive and keep such material;
- (c) Cases of particular concern should be followed up and monitored, including after the transfer of the detainees concerned to other institutions; increased attention should be paid to places where reprisals have or are likely to have occurred, and the monitoring of those places should be enhanced;
- (d) Intervention by and assistance from other actors, including non-governmental organizations, may be sought and facilitated; it is essential to ensure that National Preventive Mechanisms share relevant information with international monitoring bodies about possible cases of reprisal;
- (e) Relevant information from other actors, including non-governmental organizations working directly or indirectly with detainees, that gives rise to concerns regarding the possibility of reprisals, should be acted upon immediately;
- (f) Any well-founded concern about reprisals should be analysed, verified to the extent possible and filed. It should be considered for inclusion in the reporting of the national preventive mechanism and should give rise to a recommendation for the improvement of institutional practices with a view to protecting and compensating the victims and preventing reoccurrences;
- (g) With the consent of the detainees concerned, cases of particular individuals at risk of reprisal may be brought to the attention of the authorities and followed up;
- (h) In cases of alleged reprisal, the national preventive mechanism should seek to ensure that a disciplinary or criminal investigation is initiated and that victims are protected and, when relevant, compensated.

## → VI. Issues related to the legislative framework

38. The national preventive mechanism should ensure that the relevant legislative framework encompasses an absolute prohibition of torture and a definition of torture in accordance with the provisions in article 1 of the Convention against Torture, and that the penalties for infractions are commensurate with the gravity of the offence. The term “place of detention” should be defined in national law, bearing in mind the principles set out in the Optional Protocol and the protection of human rights.
39. The mechanism should consider monitoring and analysing systematically the implementation of proceedings against suspected perpetrators of torture and ill-treatment and advocate for, or facilitate the establishment of, a national register of allegations of torture, any investigation or criminal proceedings undertaken and the outcome thereof. Likewise, the mechanism should advocate for the establishment of an independent body with the capacity to assess allegations of torture and ill-treatment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).
40. The national preventive mechanism must be mandated to assess draft and existing legislation against the State party’s international obligations and against other international standards. Therefore, it should propose and advocate for necessary legislative changes and advocate for their implementation with parliamentarians and Government, among others, in conjunction with other relevant actors when appropriate. Such changes should include amendments to the legislation if it is not compliant

with the Convention against Torture, the Optional Protocol and the Paris Principles. The mechanism should develop a system to ensure that it is alerted to relevant legislation and draft laws.

41. Legislation should clearly state the obligation of competent authorities to examine the recommendations of the national preventive mechanism and to enter into a dialogue with it regarding the implementation of its recommendations.

## → VII. Cross-cutting issues

### A. Cooperation and communication

42. The national preventive mechanism should establish: (a) a mechanism for communicating and cooperating with relevant national authorities on the implementation of recommendations, including through urgent action procedures; (b) a means for addressing and resolving any operational difficulties encountered during the exercise of its duties, including during visits; (c) a policy on publicizing reports or parts of reports, including the main findings and recommendations; and (d) a policy regarding the production and publication of thematic reports.
43. The national preventive mechanism should establish a strategy for cooperation with other national and international actors, including the Subcommittee, on the prevention of torture and on the follow-up of cases of suspected or documented torture or ill-treatment and of possible reprisals. A wide range of national actors, such representatives of non-governmental organizations, trade unions, concerned social and professional organizations, trends in philosophical or religious thought, universities and qualified experts, Parliament and government departments, could be included.<sup>24</sup> Special attention should be paid to developing relations with civil society members devoted to dealing with vulnerable groups.<sup>25</sup>
44. The mechanism should establish a strategy for making its mandate and work known to the general public and a simple, accessible and confidential procedure through which the general public might provide it with relevant information.

### B. Systematization of experiences

45. The national preventive mechanism should ensure that important concrete and contextual observations arising from its visits to institutions and stemming from other reliable sources, its recommendations and the responses from the authorities are categorized, filed and systematically processed for use in dialogue with the authorities, in the ongoing planning of work and in the further development of its strategies.

### C. Prioritizing resources

46. While the national preventive mechanism should prioritize the most problematic issues and institutions, it should not exclude from the scope of its work any particular form of institution or geographical area or any national preventive mechanism task other than visiting.

### D. Annual report

47. The annual report of the national preventive mechanism should include:
  - (a) Accounts of current challenges to the protection of the rights of persons deprived of their liberty and to the effective execution of the mechanism's mandate, and strategic short-term and longer term plans, including with respect to setting priorities;
  - (b) Analysis of the most important findings and an account of recommendations and the responses of the authorities thereto;
  - (c) Follow-up on issues outstanding from previously published reports;
  - (d) Consideration of thematic issues;
  - (e) Accounts of cooperation with other actors on the prevention of torture;
  - (f) An overview of all other national preventive mechanism activities undertaken and their outcomes.

<sup>24</sup> Paris Principles.

<sup>25</sup> Ibid.

# ANNEX 5: NPM<sup>1</sup> ASSESSMENT MATRIX FOR NPMs

Introduction					
	Assessment tool paragraph	NO	Partial	YES	Comments
1. Is education and information on the prohibition of torture fully included in the training of any personnel who might be involved in depriving persons of their liberty?	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Is the prohibition of torture, cruel, inhuman and degrading treatment and punishment included in the working regulations of such personnel?	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Does the NPM examine rules or instructions issued regarding the duties and functions of law enforcement personnel (civil or military), medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of detention in order to verify conformity with the UNCAT, OPCAT and other human rights instruments?	9.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Are all methods and processes of taking away the liberty and freedom of a person systematically reviewed by the NPM?	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Has the State Party provided the NPM with the necessary, sufficient and appropriate resources to enable it to carry out its functions in accordance with the requirements of the OPCAT?	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Does the State Party refrain from supervising the NPM?	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Does the NPM have the capacity to operate in conformity with the principles relevant to the status of national institutions for the promotion and protection of human rights (Paris Principles) <sup>2</sup> ?	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Is the development of the NPM considered an ongoing obligation, with reinforcement of formal aspects and working methods refined and improved incrementally? If yes, please provide some examples in the comments field.	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the NPM systematically and periodically carry out self-evaluation? If yes, please indicate the date of the last exercise in the comments box.	6 and 18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. Does this assessment consider existing challenges such as resourcing issues?	18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
11. Does the assessment cover activities currently being undertaken?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
12. Does the assessment review criteria for the selection of planned activities?	18.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
13. Does the assessment review criteria for the composition of working groups, visiting and outreach teams?	18.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
14. Does the assessment review the criteria for the involvement of specific forms of professional expertise or other input from national/international stakeholders?	18.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<sup>1</sup> Following the criteria established by OPCAT, the SPT guidelines on National Preventive Mechanisms, SPT analytical assessment tool for National Preventive Mechanisms.

<sup>2</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>



	Assessment tool paragraph	NO	Partial	YES	Comments
15. Does the assessment include analysis of problems or challenges, or of good practices identified?	18.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16. Does the assessment cover cooperation with other actors?	18.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
17. Does the assessment consider resources budgeted?	18.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18. Does the assessment consider strategies and working methods to be adopted when implementing activities?	18.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19. Does the assessment consider recommendations submitted to authorities?	18.7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20. Does the assessment consider follow-up actions and implementation of recommendations, including dialogue with authorities?	18.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21. Does the assessment consider systematisation of observations, recommendations issued and the responses received from authorities?	18.9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
22. Does the assessment consider implementation ?	18.9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
23. Does the assessment cover analysis of how and why both successes and failures in effective change have occurred?	18.9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
24. Does the assessment cover all other NPM activities besides visiting, output and impact assessments?	18.10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
25. Does the assessment consider resources spent?	18.11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
26. Does the assessment consider the need to develop alternative strategies or approaches?	18.12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
27. Are the working strategies subject to periodic evaluation and improvement?	19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
28. Does the NPM include its partners in review and stock-taking of its activities?	19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
29. Does the NPM seek input from international stakeholders such as the SPT in periodic evaluation and improvement?	19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
30. Has the NPM considered benefiting from the SPT as regards training and technical assistance with a view to strengthening its capacities? If the NPM has concrete needs, please specify in the comments box.	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
31. Can the SPT offer advice/assistance to the NPM on the evaluation of its needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and ill-treatment on request from State Parties or a NPM? If yes, please specify in comments box.	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
32. Does the NPM make recommendations to the relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty and of preventing torture or other cruel, inhuman or degrading treatment or punishment of those persons?	9.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
33. Does the NPM engage in a meaningful process of dialogue with the SPT responsible concerning implementation of any recommendations?	9.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Assessment tool paragraph	NO	Partial	YES	Comments
34. Does the NPM engage in a meaningful process of dialogue with any other stakeholders concerning implementation of any recommendations?	9.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
35. Does the NPM publicize its opinions, findings and other relevant information?	9.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
36. Does the NPM make use of a broad range of media?	9.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
37. Does the NPM submit proposals and observations concerning existing legislation?	9.3 and 12.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
38. Does the NPM submit proposals and observations concerning existing legislation?	9.3 and 12.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
39. Does the NPM submit proposals and observations concerning relevant human rights action plans?	9.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
40. Does the NPM make submissions to the Government, Parliament and any other competent body on an advisory basis?	9.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
41. Does the NPM perform systematic reviews of interrogation rules, instructions, methods and practices as well as arrangements for the detention and treatment of persons subjected to any form of detention in any territory under SPT jurisdiction, with a view to preventing cases of torture?	9.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
42. Does the NPM assist in the formulation of programmes for teaching on the prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment?	9.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
43. Does the NPM carry out research into human rights?	9.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
44. Does the NPM, where appropriate, take part in the execution of such programmes and research in schools, universities and professional fields?	9.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
45. Does the NPM examine the curricula of educational institutions to ensure that education and information on prohibition against torture is fully included in the training of law enforcement personnel (civil or military), medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of detention?	9.7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
46. Does the NPM contribute to the reports which State Parties are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations?	9.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
47. Does the NPM present its own shadow report?	9.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
48. Where necessary does the NPM, with respect to the reports to UN and regional institutions, express an opinion on the subject, in accordance with its independent status?	9.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
49. Does the NPM follow up the process of implementation of recommendations made by United Nations and regional bodies to the SPTs with regard to torture and related issues?	9.9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Assessment tool paragraph	NO	Partial	YES	Comments
50. Does the NPM provide advice at the national level with respect to follow-up of recommendations?	9.9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
51. Does the NPM inform the UN and regional bodies of follow-up of recommendations, as appropriate?	9.9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
52. Has the NPM established or does it maintain contacts with other NPMs with a view to sharing experiences and reinforcing effectiveness?	9.10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
53	9.10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
54. Has the NPM met with the SPT?	9.10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

## Organisation of the NPM

### Factors to evaluate

55. Are the mandate and powers of the NPM clearly set forth in a constitutional or new or existing legislative text, specifying its composition and sphere of competence? If yes, please give links to relevant texts in the comments box.	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
56. Does this same constitutional text or legislation specify that the visiting mandate of the NPM extends to all places where people are or may be deprived of their liberty, as set out in Article 4 of the OPCAT?	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
57. Does the relevant legislation specify the period of office of the members of the NPM (for either a determined or indeterminate period)?	11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
58. Does the relevant legislation specify any grounds for dismissal of members of the NPM?	11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
59. Does the legislation guarantee that both the members of the NPM and its staff enjoy such privileges and immunities as are necessary for the independent exercise of their functions?	11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
60. Does the legislation address the issue of reprisals and other similar actions against NPM members, their partners or any person who has communicated with the NPM?	11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
61. Does the NPM have the power to freely select the places of deprivation of liberty in which visits are to be carried out?	12.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
62. Does the NPM have the power to undertake regular examination of the treatment of persons deprived of their liberty in those places?	12.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
63. Does the NPM have the power to determine the timing of such visits?	12.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
64. Does the NPM have the power to determine whether the visits are to be announced or unannounced?	12.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
65. Does the NPM have the power to select the persons to be interviewed?	12.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
66. Does the NPM have access to all personal and sensitive information necessary for pursuing its mandate?	12.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
67. Does it have access to all premises?	12.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
68. Does it have access to all persons who need contacting in pursuit its mandate?	12.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Factors to evaluate	Assessment tool paragraph	NO	Partial	YES	Comments
69. Does it have the power to make recommendations to the relevant authorities?	12.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
70. Are all these powers set out in the legislation?	12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
71. Are members of the NPM selected through an open, transparent and inclusive process?	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
72. Do members of the NPM collectively have the expertise and experience necessary for its effective functioning?	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
73. Is the selection process prescribed in the governing NPM legislation?	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
74. Does the NPM ensure that its team has the diversity of background (gender, minorities), capabilities and professional knowledge necessary to enable it to properly fulfil its mandate?	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
75. Does the NPM in its activities benefit from cooperation with civil society, universities and qualified experts, Parliament, Government departments etc.?	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
76. Has the NPM created relations with civil society members dedicated to working with vulnerable groups?	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
77. If the NPM performs other functions in addition to those under the OPCAT, are those functions located within a separate unit or department with its own staff and a separate budget?	14	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
78. With respect to the foregoing, is the relationship between those functions and the rest of the organization, the working methods and safeguards applicable to preserving the independence of the NPM function, clearly described in relevant internal regulations?	14	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
79. Has the State made available the necessary resources for the effective functioning of the NPM?	15	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
80. Has the NPM prioritised its own use of resources, on the basis of a regular analysis of its practice and experience, and in the light of its evaluation of its needs and the means necessary for it to exercise its mandate appropriately?	15 and 9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
81. Does the NPM advocate for the provision of the resources necessary for the effective exercise of its mandate, with the assistance of the SPT and /or other relevant actors if necessary?	15	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
82. Has the NPM developed policies and rules of procedure which address the organization of the office?	16.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
83. Do these policies and rules address its work and budgets for all its activities?	16.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
84. Are there policies and procedures for decision-making?	16.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
85. Are there policies and procedures for employment and dismissal of staff?	16.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
86. Are there policies and procedures for preventing conflicts of interest?	16.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
87. Are there policies and procedures for employment of external experts, and for establishing the necessary qualifications and terms of reference for their work?	16.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Factors to evaluate	Assessment tool paragraph	NO	Partial	YES	Comments
88. Are there policies and procedures for sharing information within the NPM?	16.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
89. Are there policies and procedures for communication with other national and international actors, including the SPT, and the press?	16.7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
90. Are there policies and procedures for data protection and issues of confidentiality?	16.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### Working Strategy of the NPM

#### Factors to evaluate

91. Has the NPM formed partnerships with national and international actors in order to raise awareness of the obligations of the State Parties among decision-makers and within the general public?	17	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
92. Are these partnerships designed to encourage and facilitate change in legislation, the policies of the authorities, general attitudes, and conditions and practices in places of detention?	17	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
93. Has the NPM developed long-term as well as short-term concrete strategies for its work in order to achieve the maximum impact on problems and challenges relevant to its mandate in the local context?	18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
94. Do members of the NPM and its staff receive ongoing training on NPM activities and torture prevention, covering <i>inter alia</i> methodological, strategic and ethical issues?	20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
95. Do external experts and other possible contributors receive on-going training on NPM activities and torture prevention, covering <i>inter alia</i> methodological, strategic, and ethical issues?	20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
96. Do members of the NPM and its staff participate in developing working methods?	20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
97. Do external experts and other possible contributors participate in developing working methods?	20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
98. Is the SPT involved in any of the NPM's activities on training and development of working methods?	20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### Implementation of Visiting Activities

#### Planning

99. In the framework of its visiting activities does the NPM actively seek information in order to ensure that it has data on all places of detention?	21	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
100. Does the NPM keep an archive of all relevant and available information about on places of detention and the treatment of persons held there?	21	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
101. Does the NPM have criteria for the selection of places to be visited?	22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
102. Does the NPM have criteria for decisions on thematic visits?	22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
103. Do these criteria ensure that all places of detention are visited regularly?	22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	



Planning	Assessment tool paragraph	NO	Partial	YES	Comments
104. Do these criteria take into account the type and size of institutions and their level, and the nature of known human rights problems?	22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
105. Do these criteria leave room for flexibility in the allocation of resources to ensure that follow-up and urgent visits can be undertaken?	22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
106. Are these criteria transparent, clear and published?	22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
107. Is the visiting team composed of individuals with the necessary knowledge (i.e. languages and special needs/ vulnerable groups)?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
108. Does the composition of the visiting team take into account the experience and skills of members?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
109. Does the composition of the visiting team take into account the need for a gender balance?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
110. Does the composition of the visiting team ensure adequate representation of ethnic and minority groups?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
111. Does the visiting team have the necessary human resources to enable it to carry out its tasks adequately?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
112. Does the visiting team have the necessary technical resources to enable it to carry out its tasks adequately?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
113. Does the visiting team have the necessary time available to enable it to carry out its tasks adequately?	23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Visit Methodology</b>					
114. Has the NPM developed guidelines for visits to the various categories of places of detention? If yes, please give list in the comments box.	24	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
115. Do these guidelines include instructions for selecting the theme for a visit?	24	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
116. Do these guidelines include instructions for conducting private interviews?	24	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
117. Do these guidelines include instructions for developing policies for handling vulnerable groups of detainees?	24	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
118. Do these guidelines include instructions for ensuring that information is collected from all available sources, such as from the administration of the visited institution, from staff, from detainees from all areas and units, from other visitors if appropriate, and from outside actors such as Civil Society and other monitoring mechanisms?	24	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
119. Are all facilities within institutions visited, bearing in mind the target of the visit?	25	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
120. Are existing registers assessed?	25	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
121. Are examples of case records assessed?	25	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
122. Are activities and services for the detainees assessed?	25	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
123. Have practices and tools been developed for cross-checking, testing and assessment of observations?	26	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Visit Methodology	Assessment tool paragraph	NO	Partial	YES	Comments
124. Have practices and tools been developed to ensure that recommendations are based on rigorous analysis and are factually well-grounded?	26	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
125. Has the NPM put in place an effective data management system to ensure that the data collected is systematized?	26	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
126. Is there a policy which provides for immediate debriefing with representatives of the place of detention at the end of a visit?	27	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
127. Has the NPM developed a code of conduct for a visiting team?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
128. Does this code of conduct cover how to address detainees and staff?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
129. Does this code of conduct cover observation of cultural and any other relevant sensitivities?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
130. Does this code of conduct cover how and when to conduct individual or group interviews?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
131. Does this code of conduct cover handling of security and safety issues?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
132. Does this code of conduct cover how and when to ensure confidentiality?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
133. Does this code of conduct cover management of internal debriefings with a view to coordinating and cross-checking data collection and preparation for the closing of the visit?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
134. Does this code of conduct cover how to ensure that the visitors do not step outside or in any other way exceed the NPM mandate during a visit?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
135. Does this code of conduct cover how to ensure participation in reporting and follow-up etc.?	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
136. Does the NPM have clear guidelines for reporting individual cases of deliberate ill-treatment?	29	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
137. Does the NPM have clear guidelines for requesting enquiries?	29	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
138. Does the NPM have clear guidelines for maintaining the confidentiality of the detainee concerned and of any other source of relevant information?	29	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
139. Does the NPM have clear guidelines for protecting such persons against reprisals?	29	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
140. Do visit reports focus on the most important issues, i.e. reporting of ill-treatment, gaps in policies, regulations, practices, and of the appropriateness of conditions under which detainees are living?	30	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
141. Do visit reports reflect any systematic lack of protection of the rights of detainees?	30	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
142. Are good practices noted and filed for systematic analysis?	30	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
143. Are cases of deliberate ill-treatment examined to identify gaps in the protection of persons deprived of their liberty?	30	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
144. Are recommendations well founded, reflecting relevant international norms and practices?	31	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Visit Methodology	Assessment tool paragraph	NO	Partial	YES	Comments
145. Do recommendations have a preventive focus, addressing systematic gaps and practices (including root causes)?	31	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
146. Are recommendations feasible in practice?	31	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
147. Are recommendations appropriately focused, precise and free from complication so as to avoid confusion in the dialogue about their implementation?	31	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
148. Has the NPM, based on experience, developed a strategy for the use of its report?	32	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
149. Does this strategy include submission to relevant official bodies and the Government for dissemination, dialogue and, possibly, publication for the purpose of alerting wider society?	32	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Follow-up on SPT's and own recommendations for changes</b>					
150. Does the NPM regularly verify the implementation of recommendations?	33	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
151. Does the NPM verify implementation through continuous contacts and, if necessary, follow-up visits to problematic institutions?	33	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
152. Does it verify implementation based on other relevant information from. e.g., Human Rights bodies, governmental institutions and civil society?	33	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
153. Has the NPM put in place a clear 'impact-orientated' follow-up strategy?	33	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
154. Has the NPM developed the practices and tools necessary for implementing the strategy?	33	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
155. Does the NPM maintain a constructive dialogue with the relevant government authorities regarding implementation of recommendations?	34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
156. Does the NPM maintain a constructive dialogue with the directors or managers of the places of detention regarding implementation of recommendations?	34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
157. Does the NPM maintain a constructive dialogue with the supervising authorities of the addressees of the recommendations?	34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
158. Does the dialogue involve both written and oral exchanges?	34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
159. Are addressees of the recommendations required, at the request of the NPM, to develop a concrete policy or plan of action for commencement of reform where needed?	34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
160. Are there instances where the NPM recommends that authorities immediately put an end to certain practices and initiate a criminal investigation?	34	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
161. Are visit reports, including recommendations, published? If yes, please give links to the webpage.	35	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
162. Are annual reports published? If yes, please give links to the webpage.	35	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
163. Does the annual report include recommendations for change?	35	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Follow-up on SPT's and own recommendations for changes	Assessment tool paragraph	NO	Partial	YES	Comments
164. Does the Annual Report include the outcome of the dialogue with authorities, i.e. follow-up to recommendations mentioned in previous annual reports?	35	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
165. Does the NPM publish thematic reports?	35	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
166. Does the NPM have in all aspects of its work a strategy for maintaining a dialogue and cooperation with other relevant national and international actors, including civil society?	36 and 43	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
167. Does the NPM consider all relevant information received from them?	36	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
168. Does the NPM press for submission of relevant information?	36	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Prevention of reprisals against persons interviewed during visits, and against others providing the NPM with information before or after a visit and also NPM members</b>					
169. Has the NPM developed a strategy for the prevention of reprisals or threats from staff, as well as from fellow detainees, against persons interviewed during visits?	37	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
170. Has the NPM developed a strategy for prevention of reprisals against others who may provide sensitive or critical information before or after a visit?	37	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
171. Does the strategy address cases of threat of reprisals against NPM members and staff?	37	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
172. Does the strategy include an NPM policy setting out the types of information that can be collected during group interviews and the types of information that should be collected only in private interviews?	37.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
173. Does the strategy cover a policy on how additional private interviews will be conducted to preserve the anonymity of the source of information whenever sensitive or critical information is obtained during a private interview?	37.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
174. Does the NPM during talks with management, staff and detainees, stress that reprisals are explicitly prohibited in the OPCAT?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
175. Does the NPM, during talks with management, staff and detainees, stress that follow-up will focus on this specific issue?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
176. Does the NPM, during talks with management, staff and detainees, stress that all persons that have been contacting NPM in facility subject to reprisals should notify the NPM?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
177. Is printed information on the mandate and working methods of the NPM widely distributed to managers, staff and detainees?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
178. Does this information cover the absolute prohibition of reprisals?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
179. Does this information include the contact address of the NPM?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Prevention of reprisals against persons interviewed during visits, others providing the NPM with information before or after a visit and also NPM members	Assessment tool paragraph	NO	Partial	YES	Comments
180. Is the NPM expressly permitted (either in law or in practice) to distribute any material on the NPM to detainees and others in the facilities?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
181. Is it expressly permitted (either in law, regulations or in practice) for persons to receive and keep such material?	37.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
182. Are cases of particular concern followed up and monitored, including after transfer of the detainees or personnel concerned to other institutions?	37.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
183. Is increased attention paid to, and enhanced monitoring carried out of, places where reprisals have occurred or are likely to have occurred?	37.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
184. Is intervention by and assistance from other actors, including NGOs, sought and facilitated?	37.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
185. Does the NPM share relevant information with international monitoring bodies on possible cases of reprisals?	37.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
186. Does the NPM act on immediately relevant information from other actors, including NGOs working directly or indirectly with detainees, which gives rise to concerns regarding possible reprisals?	37.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
187. Is any well-founded concern about reprisals analysed, verified as far as possible, and filed?	37.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
188. Is any well-founded concern about reprisals included in the reporting of the NPM?	37.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
189. Are such concerns subject to recommendations for improvement of institutional practices with a view to protection and compensation of victims and prevention of recurrences?	37.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
190. Are cases regarding particular individuals at risk of reprisals brought to the attention of the authorities and followed up?	37.7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
191. Is this done with the consent of the persons concerned?	37.7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
192. In cases of alleged reprisals, does the NPM seek to ensure that a disciplinary or criminal investigation is initiated?	37.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
193. In cases of alleged reprisals, does the NPM seek to ensure that victims are protected?	37.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
194. In case of alleged reprisals, does the NPM seek to ensure that victims are compensated?	37.8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Issues related to the legislative framework</b>					
195. Does the NPM ensure that the relevant legislative framework encompasses absolute prohibition of torture?	38	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
196. Does the NPM ensure that the relevant legislative framework encompasses the definition of torture in accordance with the provisions of the UNCAT, Article 1?	38	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
197. Does the NPM ensure that the penalties for infractions are commensurate with the gravity of the offence?	38	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	



Issues related to the legislative framework	Assessment tool paragraph	NO	Partial	YES	Comments
198. Are places of detention appropriately defined in national law?	38	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
199. Is this definition in keeping with OPCAT principles and protection of human rights?	38	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
200. Does the NPM monitor and systematically analyse implementation of proceedings against suspected perpetrators of torture and ill-treatment?	39	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
201. Does the NPM advocate for, or facilitate the establishment of, a national register of allegations of torture, any investigation or criminal proceedings undertaken, and the outcome thereof?	39	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
202. Does the NPM advocate for the establishment of an independent body with the capacity to assess allegations of torture and ill-treatment according to the Istanbul Protocol?	39	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
203. Is the NPM mandated to assess draft and existing legislation against the State Party's international obligations and other international standards?	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
204. Does the NPM propose and advocate for necessary legislative changes?	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
205. Does the NPM press parliamentarians and government for implementation of the State Party's international obligations?	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
206. Is this done in conjunction with other relevant actors when appropriate?	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
207. Does the NPM propose and press for amendments to the legislation if it is not compliant with the UNCAT, OPCAT and the Paris Principles?	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
208. Has the NPM developed a system for ensuring that it is alerted to relevant legislation and draft laws?	40	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
209. Does the legislation establishing the NPM clearly underline the obligation of the competent authorities to examine the recommendations of the NPM and to enter into a dialogue with it on implementation of its recommendations?	41	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### Cross-Cutting Issues

#### Cooperation and communication

210. Has the NPM established a mechanism for communicating and cooperating with relevant national authorities on implementation of recommendations?	42	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
211. Does this mechanism include urgent action procedures?	42	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
212. Has the NPM established a means for addressing and resolving any operational difficulties encountered during the exercise of its duties, including during visits?	42	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
213. Has the NPM established a policy for publicising reports, or parts of reports including the main findings and recommendations?	42	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
214. Has the NPM established a policy regarding production and publication of thematic reports?	42	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Cooperation and communication	Assessment tool paragraph	NO	Partial	YES	Comments
215. Has the NPM established a strategy for cooperation with other national and international actors, including the SPT on follow-up of cases of suspected or documented torture or ill-treatment and cases of possible reprisals?	43	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
216. Does this strategy encompass cooperation with a wide range of national actors such as non-governmental organizations, trade unions, concerned social and professional organizations, universities and qualified experts, Parliament and Government departments, while also taking due account of trends in philosophical or religious thought?	43	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
217. Is special attention paid to creating relations with civil society members devoted to addressing vulnerable groups?	43	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
218. Has the NPM established a strategy for making its mandate and work known to the general public?	44	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
219. Has the NPM established a simple, accessible and confidential procedure through which the general public might provide it with relevant information?	44	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Systematization of experiences</b>					
220. Does the NPM ensure that important concrete and contextual observations arising from its visits to institutions and stemming from other reliable sources are categorised, filed and regularly processed?	45	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
221. Does the NPM ensure that such observations are shared with the authorities?	45	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
222. Does the NPM ensure that such observations are used for the ongoing planning of work and further development of its strategies?	45	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
223. Does the NPM ensure that its recommendations and the responses from the authorities are categorized, filed and regularly processed?	45	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
224. Does the NPM ensure that its recommendations and the responses from the authorities are used in subsequent dialogue with the authorities?	45	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
225. Does the NPM ensure that its recommendations and the responses from the authorities are used for the ongoing planning of work and for the further development of its strategies?	45	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Prioritizing resources</b>					
226. Does the NPM prioritise the most problematic issues and institutions?	46	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
227. Does the NPM ensure that it does not exclude any particular form of institution or geographical area and any other NPM task (other than visiting) from the scope of its work?	46	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Annual Report					
228. Is a separate Annual Report of the NPM published?	47	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
229. Does the NPM's Annual Report include accounts of current challenges to the protection of the rights of persons deprived of their liberty and to the effective execution of the NPM's mandate?	47.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Annual Report	Assessment tool paragraph	NO	Partial	YES	Comments
230. Does the Annual Report include strategic short- and longer-term plans, including setting of priorities?	47.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
231. Does the annual report include analysis of the most important findings?	47.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
232. Does the annual report include an account of recommendations and the responses of the authorities to them?	47.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
233. Does the annual report include follow-up on issues outstanding from previously published reports?	47.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
234. Does the annual report include consideration of thematic issues?	47.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
235. Does the annual report include accounts of cooperation with other actors on the prevention of torture?	47.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
236. Does the annual report include an overview of all other NPM activities undertaken and their outcomes?	47.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

## ANNEX 6: HOW TO CONTRIBUTE TO THE OPCAT SPECIAL FUND

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Contributions to the Special Fund may be accepted from Governments, intergovernmental or non-governmental organizations, private sector organizations or the public at large, in accordance with the Financial Regulations and Rules of the United Nations.

Demand for support from the Fund will grow as the activities of the Subcommittee on the Prevention of Torture expand. The Fund's increasing visibility is also expected to lead to a rise in the number of applications.

The minimum required on an annual basis to guarantee the Fund's functioning would be some \$500,000, which would enable it to support an average of 10-20 projects per year with a reasonable level of funding per project (for example, \$25,000). More contributions are therefore required to sustain and consolidate this tool, which engages States and provides them with the technical assistance to implement activities aimed at preventing torture.

Contributions to the Special Fund should be marked "Payee: Special Fund established by the Optional Protocol to the Convention against Torture, account CH", and may be made by:

- ▶ bank transfer in United States dollars to the United Nations Geneva General Fund, Account no. 485001802, J.P. Morgan Chase Bank, 270 Park Avenue, 43rd floor, New York, NY 10017, United States of America (Swift code CHAS US 33; bank number (ABA) 021000021);
- ▶ bank transfer in Euros to the United Nations Office at Geneva, Account No. 6161600934, J.P.Morgan Chase AG, Grueneburgweg 2, 60322 Frankfurt am Main, Germany (Swift code CHAS DE FX; bank number (BLZ) 50110800; IBAN DE78 5011 0800 6161 6009 34);
- ▶ bank transfer in Pounds Sterling to the United Nations Office at Geneva, Account No. 23961903, J.P. Morgan Chase Bank, 25 London Wall, London EC2Y 5AJ, United Kingdom (Swift code CHAS GB 2L; bank number (SC) 609242; IBAN GB68 CHAS 6092 4223 9619 03);
- ▶ bank transfer in Swiss Francs to the United Nations Geneva General Fund, Account No. 240 C0590160.0, UBS AG, rue du Rhône 8, Case Postale 2600, CH-1211 Geneva 2, Switzerland (Swift code UBSW CH ZH 80A; bank number 240; IBAN CH92 0024 0240 C059 0160 0);
- ▶ bank transfer in other currencies to the United Nations Geneva General Fund, Account No. 240 C0590160.1, UBS AG, rue du Rhône 8, Case Postale 2600, CH 1211 Geneva 2, Switzerland (Swift code UBSW CH ZH 80A; bank number 240; IBAN CH65 0024 0240 C059 0160 1);
- ▶ cheque payable to the United Nations, addressed to Trésorerie, Nations Unies, Palais des Nations, CH-1211 Geneva 10, Switzerland.

If possible donors are requested to inform the Donor and External Relations Section of OHCHR when a payment has been made (including a copy of the bank transfer order or the cheque) to facilitate effective follow-up in the official recording procedure and for preparation of the Secretary-General's reports.





**PREVENTING TORTURE: THE ROLE OF NATIONAL PREVENTIVE MECHANISMS – A PRACTICAL GUIDE**

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