

Do states have to report under the Optional Protocol?

Unlike existing human rights treaties, States Parties to the OPCAT will not have to regularly report to the international or national preventive bodies. However, the latter may request State Parties to provide information on matters related to the protection of detained persons.

What needs to be done now?

The Optional Protocol entered into force on 22 June 2006.

All States Parties to the UN Convention against Torture should seriously consider ratifying the OPCAT as soon as possible.

National Institutions and others promoting the human rights of people deprived of their liberty need to be informed of their potential role as national preventive mechanisms under the OPCAT.

National debates on the prevention of torture should be encouraged in light of the entry into force of the OPCAT.

Civil Society should actively promote and be engaged in the process of the ratification and implementation of the OPCAT, including proposing experts for international body and participating in the design of the national preventive mechanisms.

For further information

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Founded in 1977 by Jean-Jacques Gautier and based in Geneva, Switzerland, the Association for the Prevention of Torture (APT) is an independent non-governmental organisation committed to prevent torture and other forms of ill-treatment. The APT supports national implementation of standards that prohibit torture and develops training programmes and other activities for professionals in contact with detainees. Its specificity lies in the promotion of preventive control mechanisms such as visits to places of detention. The APT therefore played a central role in the realisation of the Optional Protocol to the UN Convention against Torture.



The Optional Protocol to the UN Convention Against Torture: Frequently Asked Questions

What is the Optional Protocol?

On 18 December 2002, the UN General Assembly adopted the Optional Protocol to the UN Convention against Torture (OPCAT). The aim of the OPCAT is to prevent torture and other forms of ill-treatment by establishing a system of regular visits to places of detention carried out by independent international and national bodies.

Who can ratify?

Only States that have ratified or acceded to the UN Convention against Torture can ratify or accede to the OPCAT.

Why is it needed?

Despite the fact that torture and other forms of ill-treatment are prohibited under international law, these abuses still continue to be widespread. Persons deprived of their liberty are most at risk as they are cut off from the outside world and solely dependent upon the authorities for their most basic needs and rights. The OPCAT offers a novel approach as no other international treaty provides for concrete steps to prevent these violations from occurring within places of detention worldwide.

How do visits prevent torture and other forms of ill-treatment?

Practical experience has shown that visits to places of detention are one of the most effective means to prevent torture and to improve conditions of detention. Visits not only have a deterrent effect but they also enable experts to examine, at first hand, the treatment of persons deprived of

their liberty and their conditions of detention. Many problems stem from inadequate systems which can be improved through regular monitoring. The visiting experts are able to make recommendations for improvements and to establish constructive dialogue with the authorities concerned in order to help them resolve problems observed.

How will the Optional Protocol work?

The OPCAT will establish a system of regular visits to places of detention carried out by complementary international and national independent expert bodies. Upon ratifying or acceding to the OPCAT, States Parties will be accepting unannounced visits to places of detention by these bodies.

An International Sub-Committee

The first body within this system of visits will be a new international body, a “Sub-Committee” to the Committee against Torture. This body will initially consist of 10 independent, multi-disciplinary experts, who will conduct regular visits to places of detention in all States Parties.

National preventive mechanisms

The second part of this system will be visits conducted by national bodies. When the OPCAT enters into force, within one year of ratifying or acceding to it, States Parties must have in place one or several national preventive mechanisms. No particular type of national mechanism is specified, therefore Human Rights Commissions, Ombudsmen, Parliamentary Commissions, or NGOs, could be designated to carry out this function. States Parties must ensure that these national bodies function without any interference from the State authorities.

What will the preventive bodies do?

Both the international and national bodies will conduct regular visits to any place of detention and can hold private interviews with persons of their choice.

Following their visits, these bodies will make recommendations for improvements in the treatment and the conditions of detention of persons deprived of their liberty. In order to establish an atmosphere of co-operation, the recommendations of the Sub-Committee will be confidential, unless the State Party concerned gives its consent for the publication of the report or fails to co-operate with the visiting experts. Confidentiality is not a requirement for the national visiting bodies.

Competent authorities will be expected to enter into a dialogue on the implementation of the recommendations. Both national and international will also work closely together, exchanging information and advice. The national mechanisms will publish public annual reports of their activities.

What places will be visited?

Places of detention are broadly defined by the Protocol and should include: police stations; security force stations, all pre-trial centres; remand prisons; prisons for sentenced persons; centres for juveniles; immigration centres; transit zones at international ports; centres for detained asylum seekers; psychiatric institutions and places of administrative detention.