

Advancing Torture Prevention in West Africa: Challenges and Ways Forward

Analytical Report



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Background

In the context of the 20th anniversary of the adoption of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Regional Conference “Advancing Torture Prevention in West Africa: Challenges and Ways Forward” was held on the 17th and 18th January 2023 in Dakar, Senegal. The Ministry of Justice and the National Observer of Places of Deprivation of Liberty (ONLPL) of Senegal, accompanied by The Association on the Prevention of Torture (APT) and the Office of the High Commissioner for Human Rights (OHCHR), organized the Conference with the aim of promoting the ratification of the OPCAT in the West Africa and the exchange of experiences related to the implementation of the Optional Protocol.

Fifty-nine (59) participants attended the two-day Conference, where representatives of fifteen countries¹ of the West Africa region met alongside National Preventive Mechanisms (NPMs), National Human Rights Institutions (NHRIs), civil society organizations (CSOs), the UN Subcommittee on Prevention of Torture (SPT) and the Committee on Prevention of Torture in Africa (CPTA).

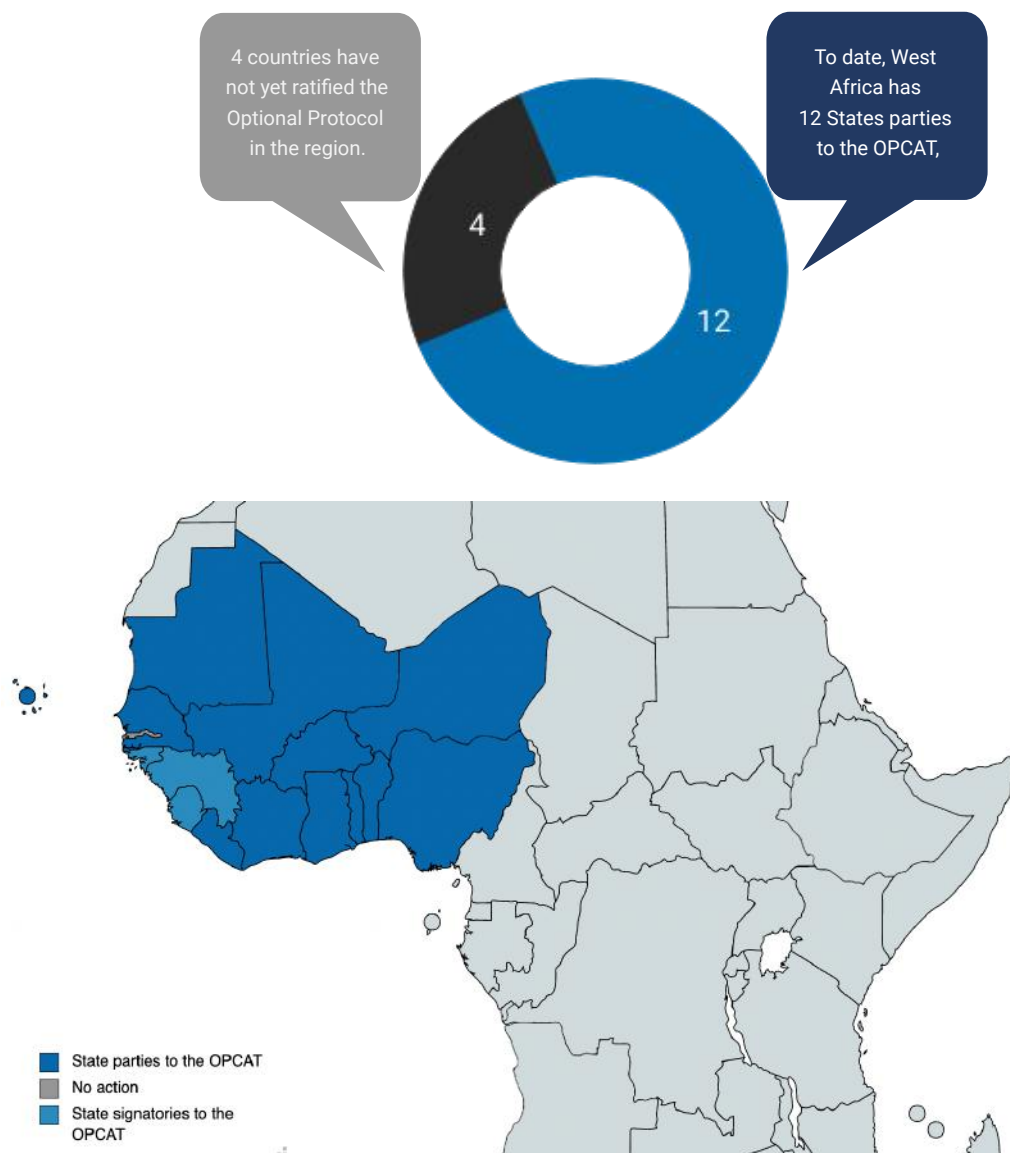
Based on the discussions among participants regarding the advantages and challenges for the OPCAT ratification, the good practices of States when implementing the Protocol, the impact of the NPMs currently working in the region and the challenges to their effective functioning, the present report lays out the key points mentioned throughout the Conference. With the purpose of serving as a tool for any State seeking to ratify the OPCAT and implement its provisions effectively, as well as for those States parties looking at different types of NPM models, the report draws on the experiences of States, NPMs and civil society in West Africa and proposes ways of overcoming the challenges faced in the process of putting the Optional Protocol into practice.



¹ Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Guinea, Guinea-Bissau, The Gambia, Ghana, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Togo. Unfortunately, two confirmed representatives of Sierra Leone were not able to attend due to a last minute impediment. The Senior Human Rights Advisor (SHRA) in Sierra Leone took part in the Conference.

Background

At the first OPCAT Conference in West Africa in 2012, only six States had ratified the Protocol and only two national preventive mechanisms had been established. Ten years later, 12 West African countries² are States parties to the OPCAT and seven national preventive mechanisms have been established or designated.³ As the adoption of the OPCAT marks its second decade, the report builds on the developments on torture prevention at the international, regional, and national levels in the past 20 years to advocate for the universal ratification of the OPCAT and to shed light on the lessons learned from the establishment of NPMs in West Africa during the past decade. Looking at the next ten years as the transition from NPM establishment to ensuring their effective functioning, the report tackles the challenges remaining before such transition by drawing on the good practices shared in Dakar.



² Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Ghana, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal and Togo.

³ (1) Burkina Faso's National Human Rights Commission, (2) Cabo Verde's National Human Rights Commission, (3) Mali's National Human Rights Commission, (4) Mauritania's National Preventive Mechanism, (5) Niger's National Human Rights Commission, (6) Senegal's National Observer of Places of Deprivation of Liberty, (7) Togo's National Human Rights Commission.

1. Twenty years after the adoption of the OPCAT: milestones in West Africa and beyond



The uniqueness of the torture monitoring system established with the adoption of the OPCAT back in 2002 is based on the two layers of preventive bodies that the Optional Protocol envisages.⁴ At the international level, the OPCAT establishes the Subcommittee on Prevention of Torture (SPT) as the first treaty-body in the United Nations human rights system with a preventive mandate. The SPT conducts visits to States parties to monitor any place where persons may be deprived of their liberty, examines their treatment, and makes recommendations to States parties to protect detainees against torture and ill treatment (OPCAT, Art 11).

As this treaty-body seeks to work in cooperation with States parties, it engages with them through constructive dialogue and collaboration rather than condemnation.⁵ In light of this, the SPT has also an advisory function, as it assists and advises States parties on the establishment of National Preventive Mechanisms (NPM), which function as preventive bodies at the national level. NPMs are the other layer of the torture monitoring system. They conduct regular visits to national and local places of detention and have day-to-day contact with authorities, complementing the work of the Subcommittee.

Besides establishing a two-tier torture monitoring system, the developments during the last 20 years since the adoption of the OPCAT show progress at all levels and in all areas. Since 2002, a torture prevention system has consolidated at the international, regional and national levels, accompanied by multiple soft law instruments guiding practice on torture prevention. Additionally, the triangular relationship established by the Protocol among the SPT, the NPMs and the States has also been strengthened. Most importantly, the adoption of the OPCAT has led to the harmonization of laws, concepts and practices in West Africa with OPCAT provisions, which have in turn provided for the open access and monitoring of all types of places of detention across the region, further contributing to torture prevention and the improvement of detention conditions.

Based on the above, this chapter will expand on each of the milestones achieved in West Africa and beyond on the 20th anniversary of the OPCAT, according to the views shared by participants in the first day of the Conference.

⁴ Judy McGregor (2017) *The challenges and limitations of OPCAT national preventive mechanisms: lesson from New Zealand*, Australian Journal of Human Rights, 23:3, DOI: 10.1080/1323238X.2017.1392477, p. 353.

⁵ <https://www.ohchr.org/en/treaty-bodies/spt/introduction-committee>

1.1. “Preventing torture” is one of the State legal obligations within its ending-impunity framework

It is always worthy to recall, with reference to the international and regional instruments, this specific obligation upon States to prevent torture. Torture is a clearly forbidden, and an absolutely prohibited practice, and prohibiting torture is a clear State obligation. Such prohibition was consolidated by its non-derogable nature regardless of the emergency or exceptional situation by art. 4 ICCPR and the common Art. 3 of Geneva Conventions. However, preventing torture is a sui generis obligation that has evolved and crystallized through an implementation process of the prohibition obligation. States’ practice showed that it is nevertheless inevitable to realize effective torture-prohibition without torture-prevention. According to the interpretation of International Covenant on Civil and Political Rights by the Human Rights Committee in its General Comment No. 31, “In general, the purposes of the Covenant would be defeated without an obligation integral to article 2 to take measures to prevent a recurrence of a violation of the Covenant.” In fact, regarding the practices of torture and other ill treatment, the prevention side of the prohibition obligation was articulated into the international standards through forms of legal guarantees and rights that individuals must enjoy when they are in contexts where those practices may occur.

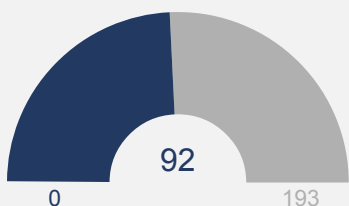
Without trying to give a strict definition of the prevention obligation, international and regional instruments gave to the States parties liberty to develop laws, policies, practices and mechanisms to tailor their proper preventing response in accordance with their proper national context and character. In sum, preventing torture consists of a combination of measures taken by the States parties to reduce risks of torture and ill-treatment; through a process that involves continuous implementation and enhancement, resulting in a more effective legal system, improved adherence to the rule of law and governance, and increased judicial independence. International practice shows different strategies and approaches to torture prevention, but most of them started with the process of the ratification of the OPCAT.

However, when confronted with challenging circumstances or events such as terrorism, transnational crime, or pandemics-related restrictions, the re-emergence of torture practices can occur, undermining the progress made thus far. Moreover, in numerous instances, individuals who have been deprived of their freedom and subjected to torture may not recognize that they are victims, as they may perceive beatings and ill-treatment as part of their punishment and, consequently, fail to report them.

In the context of West Africa, countries are facing a number of additional challenges to comply with the preventing obligation. The Sahel is experiencing challenges related to the fight against terrorism and other related phenomena of transnational crimes and trafficking of all kinds, which requires the implementation of a security system equipped with means and training to counter these phenomena without engaging in practices prohibited by international or regional law that can bring down all the efforts made. The pandemic-related emergency exacerbated the situation. During the last three years, there have been restrictions on rights and freedoms related to COVID-19, and sometimes, in contradiction with the international legal framework binding on States. Reports on human rights violations during 2020, showed that: (i) law enforcement officers excessively used force to ensure implementation of the self-isolation measure; (ii) some countries closed doors and frozen visits to places of deprivation of liberties to NGOs and also to NPMs; and (iii) and in all countries, from the first days of the lockdowns, a significant increase of violence against women; persons with disabilities, and violence against vulnerable persons.

1.1. A torture prevention system at the international, regional, and national levels

One of the most salient achievements of the OPCAT has been the consolidation of a torture prevention system through which international, regional, and national monitoring bodies have had the possibility to access detention facilities, interview detainees, promote the implementation of guidelines and legal instruments related to torture prevention, and engage with different actors of the penal chain as well as with State authorities.



At the international level

At the international level, the number of States that have ratified the OPCAT to date represent half of the world's countries. In other words, there are currently **92 States parties to the OPCAT**, which have manifested their commitment with torture prevention and accepted that the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility. In the last ten years, the number of OPCAT ratifications in West Africa has doubled, going from 6 to 12 States parties. This figure represents the important commitment that countries in the region have made on preventing torture and ill treatment.



As the number of States parties grows, the SPT as treaty-body charged with overseeing the implementation of the Protocol grows in parallel. The Subcommittee is now the largest UN treaty body, composed of 25 experts. It has conducted 81 country visits, 80% of which have been carried out in the last ten years. **In West Africa, 12 visits have been conducted.** As a result of the growing number of visits, States have been provided with expert advice and specific recommendations on different issues. For instance, the reports of those visits conducted in West Africa provide recommendations on how to establish NPMs,⁶ implement alternative sanctions to relieve prison overcrowding,⁷ amend criminal legislation⁸, avoid the systematic use of pretrial detention⁹, and improve detention conditions.¹⁰

Nonetheless, in West Africa, only 8 out of the 17 SPT reports addressed to either the State or the NPM following a visit have been made public. In other words, more than a half of the SPT reports drafted remain confidential, as they can only be made publicly available once the addressee requests their publication. The low number of SPT reports from West Africa that have been published remains a challenge, as making reports public would expand information sharing across States parties, NPMs, civil society and human rights mechanisms present in the region. As a result, such exchange of information would further contribute to building the capacity of NPM staff and State authorities.

⁶ Visit to [Mauritania](#) from 24 to 28 October 2016: comments and recommendations addressed to the national preventive mechanism (CAT/OP/MRT/2)

⁷ Visit to the Niger undertaken from 29 January to 4 February 2017 (CAT/OP/NER/1)

⁸ Visit to Togo conducted 1 to 10 December 2014: findings and recommendations for the State party (CAT/OP/TGO/1)

⁹ Ibid

¹⁰ Visit to Benin undertaken from 11 to 15 January 2016: observations and recommendations addressed to the State party (CAT/OP/BEN/3)



At the regional level

The Abidjan Rules

The Abidjan Rules are a set of new Standard Operating Procedures (SOPs) seeking to facilitate access to the CPTA for potential victims of torture and ill treatment.

The torture prevention system has been further strengthened through the work of the Committee for the Prevention of Torture in Africa (CPTA) at the regional level. Born in 2002, the same year as the OPCAT was adopted, the CPTA has the mandate of conducting visits to Member States of the African Union, with the objective of promoting and facilitating the implementation of the Robben Island Guidelines (RIGs), monitoring and evaluating the situation of torture, and providing advice or technical support to national actors.¹¹ Since the CPTA also promotes the implementation of the OPCAT by encouraging the establishment of effective NPMs in Africa, and considering that the RIGs provide further detail as to how states can prevent torture, the CPTA appears as a key ally of the Subcommittee and NPMs in the region. For instance, there exists a potential for such body to continue promoting the ratification and implementation of the Optional Protocol as its work has been mainly focused on advocacy initiatives involving promotional visits to States, the organization of panels, participation in roundtables, the publication of booklets and newsletters, and a database containing information on ratification and laws that criminalize torture.¹²

As opposed to the SPT, visits by the CPTA require the consent of the State and they are not part of a system of regular visits to places of detention.¹³ Therefore, regional efforts on torture prevention require a more coordinated approach among the SPT, the CPTA and NPMs in the region. The recent adoption of the [Abidjan Rules](#) (2022) represents a step forward in that direction. The Abidjan Rules comprise a set of new Standard Operating Procedures (SOPs) seeking to facilitate access to the CPTA for potential victims of torture and ill treatment. In addition, by encouraging contributions from a wide array of actors, these Rules promote the establishment of a formalized network on torture prevention comprising State and non-State actors, NHRIs, civil society, NPMs and the CPTA.¹⁴



¹¹ Rules of Procedure of the Committee for the prevention of Torture in Africa (CPTA), [Article 6a](#).

¹² CPTA (2019), [Annual workplan](#). See also [Africa Torture Watch, Newsletter – Ninth Edition \(April 2021\)](#).

¹³ University of Bristol, [Policy paper on the possible future role and activities of the Committee for the Prevention of Torture in Africa \(CPTA\): 10 Years of the Robben Island Guidelines and the OPCAT – a time for synergy](#).

¹⁴ Commissioner Hatem Essaïem (Chairperson of the Committee for the Prevention of Torture in Africa), [Explanatory Note by the Chair](#).

The Addis Ababa roadmap

The Addis Ababa roadmap provides a framework for the UN Special Procedures and the African Commission on Human and Peoples' Rights to strengthen cooperation.

The roadmap outlines specific actions to build synergies, develop joint action, and ensure systematic information sharing.



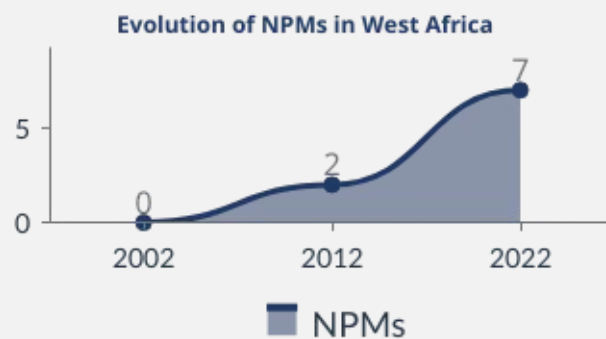
At the regional level

Nevertheless, as participants highlighted during the Conference, cooperation between these international and regional monitoring bodies remains at its early stages. The asset of having a body like the CPTA that supports torture prevention efforts at the regional level still needs to be exploited. For instance, emphasizing on the training and educational role of the CPTA, paired with the oversight made by NPMs and the SPT, can continue advancing torture prevention work in the region.¹⁵ Participants mentioned joint visits as another option for advancing cooperation, an alternative already identified in previous conferences,¹⁶ as well as establishing a clear cooperation framework on how the CPTA can interact with the two-tier system provided by the OPCAT, in a document similar to the [Addis Ababa roadmap](#). In this respect, the Chairperson of the CPTA, Mr. Hatem Essaiem, mentioned that “a new roadmap, similar to the Addis Ababa roadmap, is needed with specific actions to achieve better cooperation between the SPT and CPTA”.



At the national level

Advances in the torture prevention system have also been recorded at the national level, as the last decade has witnessed the establishment or designation of 6 more NPMs in West Africa, which now make a total of 7 out of the 77 NPMs currently established worldwide. These developments show a clear strengthening of the torture prevention system, as it now comprises a wider network of States parties and NPMs, a more proactive Subcommittee and a regional body willing to join efforts in order to progress on torture prevention.



¹⁵ <http://www.bristol.ac.uk/media-library/sites/law/documents/relationshipprobenislandguidelinesandopcat.pdf>

¹⁶ University of Bristol, [Policy paper on the possible future role and activities of the Committee for the Prevention of Torture in Africa \(CPTA\)](#).

1.2. Consolidation of a triangular relationship: SPT – NPMs – States

During the Conference, participants also mentioned the reinforcement of dialogue and cooperation with the SPT as one of the achievements of the last years. For example, according to the representatives of Togo and Gabon, the improvement in the dialogue with the Subcommittee has been one of their positive experiences. The triangular relationship between the Subcommittee, national preventive mechanisms, and States parties, as defined by the OPCAT text, seems to have quickly developed in the last two decades.

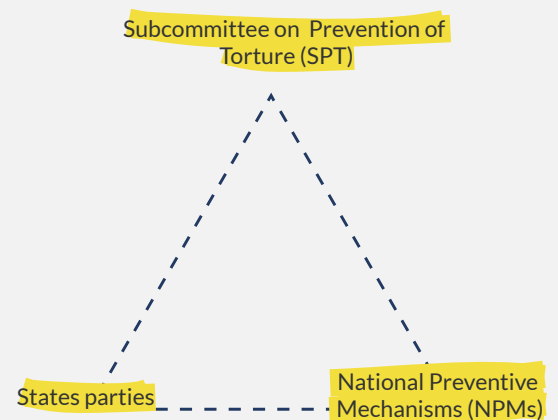
In this respect, the establishment of [regional teams](#) and a country rapporteur within the Subcommittee represents a useful and direct point of contact that States and NPM can use to maintain communication with the SPT.

Each SPT member is assigned two or three countries for which they act as rapporteurs. As country rapporteurs, members can communicate constantly with States parties and their NPMs both during SPT sessions and outside of session, which ultimately enhances consultation. Despite the great potential that country rapporteurs have for enhancing communication and cooperation, it is also relevant to mention that certain challenges remain in that regard. For instance, certain NPMs and State officials mentioned during the Conference the difficulties they have faced when trying to find out their country's SPT rapporteur.¹⁸

Moreover, the Subcommittee has been issuing advices to States parties and NPMs periodically to provide guidance in regard to various issues, including the conditions of detention during the COVID-19 pandemic ([CAT/OP/12](#)) and the undertaking of on-site visits by NPMs during this same context ([CAT/OP/10](#)). Alongside these documents, the Subcommittee has made available a set of texts providing their views on topics such as the rights of persons institutionalized and treated medically without informed consent ([CAT/OP/27/2](#)), the prevention of torture of women deprived of their liberty ([CAT/OP/27/1](#)), and many other issues. All of these serve as tools to guide the practice of State authorities and NPMs.

Through its visit reports and advisory services, the SPT has been instructing States on the establishment of their NPMs and the implementation of OPCAT. For instance, in 2018, the Subcommittee provided Mauritania with technical advice on the gaps in the legal framework that could affect the mechanism's independence.¹⁹

In this same vein, the NPM advisory visits conducted by the Subcommittee from 2012 and until 2016 provided NPMs with advice on reinforcing their independence and building their capacities.²⁰ As a result of this, the SPT-NPMs-States triangular cooperation has increased over time, allowing monitoring bodies and State authorities to exchange concerns and recommendations over torture prevention.



¹⁸ Please see the Annex to find out about the current country rapporteurs for West Africa.

¹⁹ Visit to Mauritania from 24 to 28 October 2016: comments and recommendations addressed to the national preventive mechanism ([CAT/OP/MRT/2](#)), paras. 25-34.

²⁰ The first NPM advisory visit conducted by the SPT was Honduras in 2012, while the last visit was carried out in Cyprus in 2016.

1.3. Harmonization of concepts, practices, and laws with OPCAT provisions



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Another milestone achieved in West Africa in the last 20 years has been the harmonization of concepts, practices, and laws with international law provisions on the prevention and prohibition of torture and ill treatment. For instance, the representative of Cabo Verde's NPM indicated that ratifying the OPCAT has elicited the harmonization of national laws with international law. From the amendment of the Criminal Code and the Criminal Procedural Code to the approval of a legislation that clarifies the role and competencies of all entities involved in the process of executing and supervising sentences, ratification²¹ has paved the way towards a more protective legal framework in the country.

According to the representative of Mauritania, the developments in the country following the ratification of the UN Convention against Torture (UNCAT) and the OPCAT are also an example of such harmonization. In 2015, the State party passed the Law No. 033/2015, which prohibited torture and all forms of cruel, inhuman or degrading treatment; arbitrary detention and the extraction of confessions under torture.

Several other participants manifested that the OPCAT provides an opportunity for States to harmonize their national legislation on torture and detention. Mr. Gnambi Garba Kodjo, former member of the SPT, further supported this idea. According to him, the OPCAT also represents an opportunity for setting common understandings on certain practices, such as what is considered as incommunicado detention.

²¹ Cabo Verde's legislative Decree 6/2018 of October 31 regarding the Code of Execution of Sentencing Penal Sanctions (CESPC) or Código de Execução das Sanções Penais Condenatórias. This Decree further clarified the role and competencies of all entities involved in the process of executing and supervising the fulfillment of the sentence.

1.4. Access and monitoring of all types of places of detention

A fourth main success following the adoption of the OPCAT identified during the Conference was the positive impact of having a broad interpretation of “detention centers” under the Protocol, which has allowed NPMs to access different types of detention facilities. Due to this broad interpretation, representatives of Cabo Verde and Togo’s NPMs shared that they have had the opportunity to visit **border and airport detention centers, pre-trial detention facilities, psychiatric hospitals, juvenile justice centers, centers for the elderly, religious centers, military prisons and gendarmerie brigades**. Consequently, national mechanisms have been able to vigilantly monitor detention conditions and the treatment of different groups of detainees, which has contributed to ensuring the protection of all persons deprived of their liberty under any circumstances.

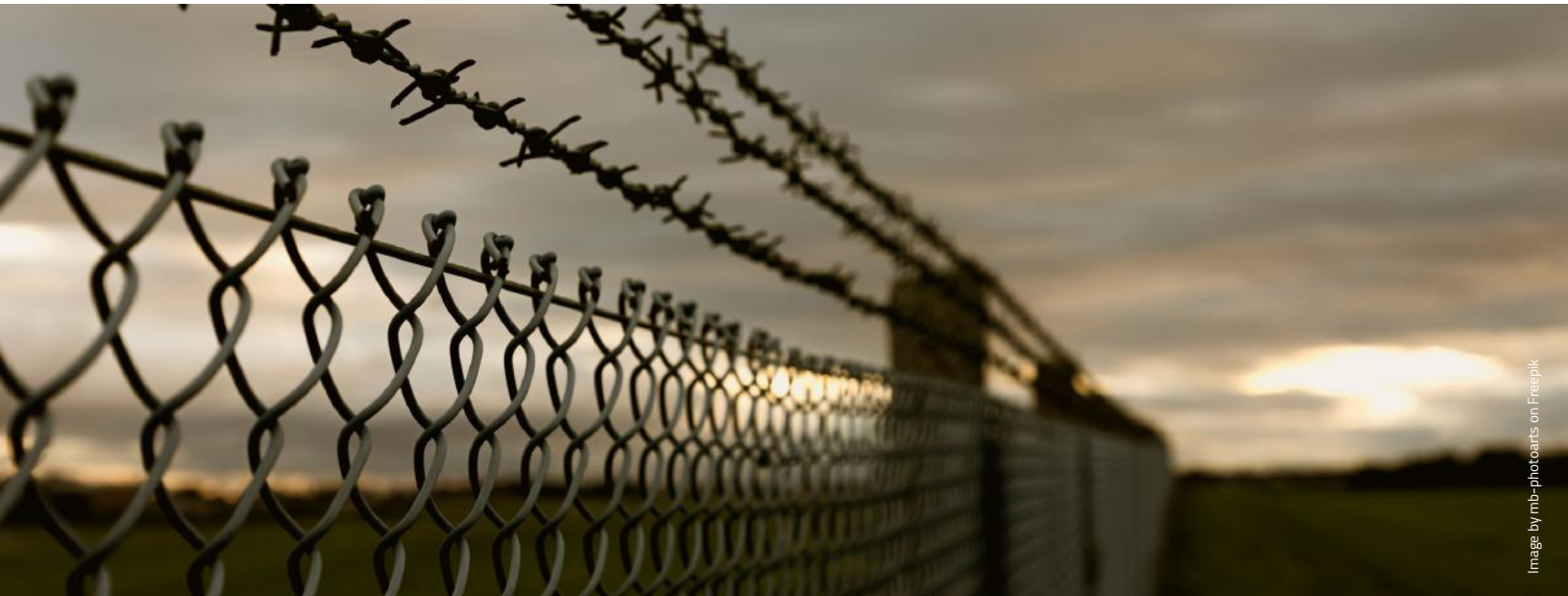


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1.5 Emergence of soft law instruments guiding practice on torture prevention

Following the adoption of the Optional Protocol, many 'soft law' instruments complementing the approach on torture prevention set out by the OPCAT have emerged, providing States with more detailed guidance on how international and regional standards on the prevention of torture and other forms of ill treatment should be applied. In 2015, the United Nations General Assembly expanded the Standard Minimum Rules for the Treatment of Prisoners by adopting the [“Nelson Mandela Rules” \(2015\)](#), which offer guidance on numerous issues such as the provision of health care for prisoners and the use of solitary confinement. Such Rules also recognize the key role played by independent monitoring mechanisms like NPMs, and therefore, represent an important document to complement the provisions set out by the OPCAT.²² Another important instrument recently adopted are [the Principles on Effective Interviewing for Investigations and Information Gathering or “Mendez Principles”](#) (2021), which offer a new framework to address the heightened risk of torture and ill treatment during interrogations and first hours of custody. As the “Mendez Principles” are being regularly referred to and used not only by State authorities but also by independent monitoring mechanisms, they constitute another relevant ‘soft law’ instrument that further supports the preventive system established by the OPCAT.

²² APT (July 2019) [The Nelson Mandela Rules: A guide on the way to torture prevention](#).

In the African continent, different regional guidelines have been adopted since 2002. Starting with the [Robben Island Guidelines or RIGs](#) (2002), conceived as a 'home-grown' instrument with the purpose of promoting political consensus in the region around torture prevention.²³ [The Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, also known as "Luanda Guidelines" \(2014\)](#), are also an essential contribution to torture prevention efforts in the region. By expanding on the measures needed to protect and promote the rights of people subject to arrest, police custody and pretrial detention, this Guidelines provide additional details on how to prevent the risk of torture faced by pre-trial detainees. Finally, the adoption of the [Rules on the establishment and operation of the Alert and Reporting Mechanism to the African Commission on Human and Peoples' Rights on situations of Torture](#) or "Abidjan Rules" (2022), which defined a system on the identification and transmission of information relating to torture to the CPTA, will further strengthen torture prevention efforts in the region.

The emergence of these 'soft law' instruments at the international and regional level appears as another milestone achieved since the adoption of the OPCAT. In particular, as the system established by the Optional Protocol based on regular visits to places of detention has been fueled by these series of guidelines and rules adopted in the last two decades.

²³ Murray and Long (2012) Ten years of the Robben Island Guidelines and prevention of torture in Africa: For what purpose?, African Human Rights Law Journal 12, <http://www.scielo.org.za/pdf/ahrj/v12n2/02.pdf>.

Chapter 2

Working towards universal ratification

Despite the many positive developments outlined above, several challenges remain regarding the ratification of the OPCAT and its effective implementation in West Africa. Before Côte d'Ivoire's ratification on March 1st this year, the last OPCAT ratification in the region occurred in 2016, when Ghana became a State party. Hence, such context poses concerns over the obstacles that those who are not yet parties to the Optional Protocol still face.

With this mind, the Conference was also a platform for States to share the advantages and challenges linked to the ratification of OPCAT, as a way to promote the ratification by the four remaining countries in the region who have not yet ratified the Optional Protocol,²⁴ and ultimately, start moving towards universal ratification. Therefore, the following chapter will explore the benefits of ratifying the OPCAT identified during the Conference, as well as challenges and the ways to overcome them.

2.1. The advantages of ratifying the OPCAT



- Dialogue at the center of prevention.

Ratifying the OPCAT strengthens dialogue, collaboration, and synergies among independent monitoring mechanisms, the State, its national human rights institutions (NHRIs), and civil society organizations (CSOs).

The cooperative approach provided by the OPCAT allows the Subcommittee to engage and advise State authorities (as State party) on how to implement OPCAT provisions. The Subcommittee conducts country visits²⁵ and OPCAT advisory visits²⁶ to improve the prevention of torture and ill-treatment and drafts a report following the mission. The reports of the visits drafted by the SPT remain confidential until the State party requests their publication. Such reports are then used as the basis for State authorities, NPMs and the SPT to engage in an ongoing constructive dialogue, which in turn enhances their cooperation. During these visits, NHRIs, civil society and other stakeholders also have the opportunity to engage with the Subcommittee as visits normally include meetings with a broad range of State entities and civil society groups.

The relevance of this dialogue was highlighted by different participants during the Conference. Both the Vice-Chair of the SPT and a representative of Le Collectif des Associations Contre l'Impunité au Togo (CACIT) reminded participants that dialogue with State authorities is essential in the field of torture prevention and in line with the OPCAT collaborative approach.

²⁴ Guinea, Guinea-Bissau, The Gambia and Sierra Leone.

²⁵ During SPT country visits, the Subcommittee visits various places of deprivation of liberty, speaks in confidence with persons held in detention and other persons involved in work relating to such places. The SPT also meets with senior state officials, national human rights institutions (NHRIs) and non-governmental organizations (NGOs), as well as with others who have information relevant to the SPT's mandate. Click [here](#) for additional information.

²⁶ OPCAT advisory visits seek to help States parties in fully implementing their obligations set out in the Optional Protocol. These are short visits, focusing on high-level talks with senior government officials of the relevant ministries and bodies, as well as civil society representatives and any other relevant entities. Click [here](#) for additional information.



- Ensuring accountability and transparency

Since the OPCAT requires States parties the establishment of NPMs as independent visiting bodies with the mandate of regularly conducting visits to places of detention and making recommendations to State authorities, its ratification also contributes to the accountability and transparency of the penal system. And as these mechanisms are allowed to visit any place where persons could be deprived of their liberty, having an NPM contributes to the elimination of any secrecy around detention facilities. Moreover, SPT and NPM visits ensure transparency, as they monitor the functioning of the penal system and the implementation of criminal justice policies in line with international human rights standards.



- Improvement of the State party's image and credibility

Alongside the positive impact of ratification in the transparency of the penal system and the accountability of State authorities, several participants agreed that ratifying the Protocol has improved -or would improve- the country's image and credibility among their peers but also with respect to the general public. They highlighted that being a State party to the OPCAT has given citizens a sense of security and increased their trust in justice institutions.



- Impact on the behavior of State authorities

Despite not being a State party to the OPCAT yet, a representative of Guinea-Conakry also mentioned the impact that the OPCAT ratification would have on the views and behavior of prison officials. The fact that the SPT and NPMs are able to access any place where persons are deprived of their liberty through announced or unannounced visits deters law enforcement officials from using abusive practices, increases transparency and promotes accountability for acts of torture and ill treatment.²⁷



- Improvements in the national legal frameworks related to torture and detention

Ratifying the OPCAT has also brought about significant changes in the legal frameworks of States parties regarding torture and detention. Aware of its obligations under the OPCAT, a representative of Gabon shared how the country has taken substantial steps to improve the situation of detainees. The institutionalization of using alternative sentences to relieve overcrowding being one of its most relevant advances. In Mauritania, the definition of torture was laid out in Law n°033-2015 right after the ratification of the Optional Protocol. Additionally, representatives from Côte d'Ivoire, Niger and Togo also considered that the improvement of the legal framework on detention is one of the most important advantages of ratification.



- Benefiting from the OPCAT Special Fund

Another advantage of ratifying the OPCAT identified during the Conference was the possibility of receiving grants from the **OPCAT Special Fund**. Established with the aim of promoting the implementation of recommendations made by the SPT after a visit to a State Party and financing education programmes developed by NPMs, the Special Fund supports torture prevention projects. Projects can contribute to the establishment or strengthening of NPMs through activities focused on the capacity building of members, on the adoption of methods of work or the drafting of recommendations and visit reports. Since its establishment in 2011, the Fund has supported the implementation of **120 projects in 30 different countries, including 29 projects in six countries of West Africa (Benin, Mali, Mauritania, Niger, Senegal and Togo)**.

Beside States parties and NPMs, civil society organizations and NHRIs can also benefit from the support of the Special Fund. For instance, Le Collectif des Associations Contre l'Impunité au Togo (CACIT) has benefitted from the Fund since 2019, using grants to train judges and different actors of the penal chain in Togo.



Image from: <https://www.apt.ch/en/what-we-do/torture-prevention>



- Enhanced conditions of detention

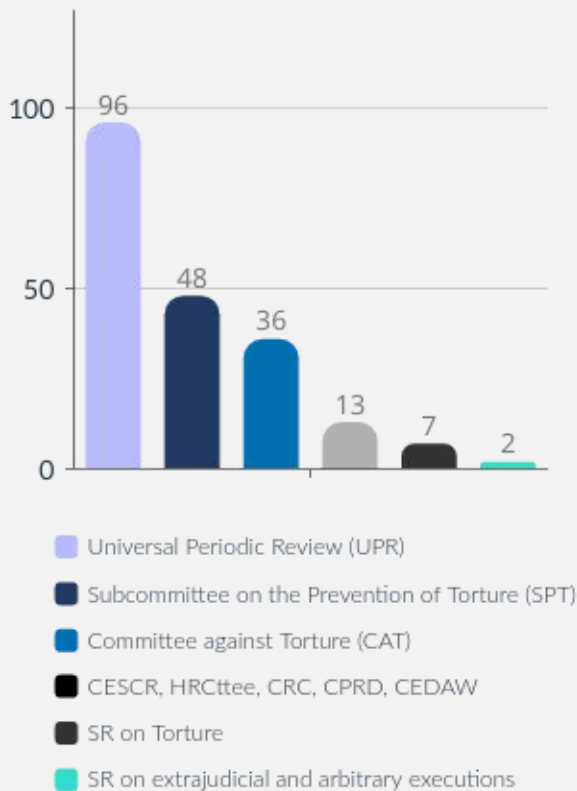
Ultimately, ratifying the OPCAT contributes to the improvement of conditions of detentions. Recommendations issued by the SPT and by the NPM have provided States in the region with useful observations to improve the conditions of detainees. For instance, the NPM in Togo played a key role during the COVID-19 pandemic in improving sanitary and health conditions in detention centers, as it was the only body that conducted visits between 2020 and 2022. The expert from Burkina Faso also mentioned that recent recommendations made by the NPM guided the review of the regulations linked to the provision of food to persons in custody, highlighted the poor hygiene conditions of certain detention facilities, and asked for an increase in the staff in the Houses of Arrest and Correction. In Senegal, SPT recommendations served as the basis for the National Observer of Places of Deprivation of Liberty (NPM) to acknowledge that closed traditional Quranic schools - daaras fell within its mandate.²⁸ And in Mali, the OPCAT ratification led to the development of a guide on prisoner's rights used by the Penitentiary Administration. Other representatives pointed out the improvement of conditions of detention as a key advantage of OPCAT ratification.

²⁸ Comments of the national preventive mechanism on the recommendations and observations addressed to it in connection with the Subcommittee visit to Senegal undertaken from 5 to 16 May 2019 (CAT/OP/SEN/CNPMRO/1)

2.1. Ratifying the OPCAT: challenges and how to combat them

Using the Conference as a platform to exchange the experiences of West African countries concerning the ratification of the Optional Protocol, participants discussed the main obstacles States had to face when ratifying the OPCAT. The following part of the report lists the main challenges for ratifying the OPCAT and provides readers with potential solutions, based on the experiences shared by participants.

Recommendations linked to the OPCAT and NPMs



Lack of political will

A lack of political will was identified by the majority of participants as a key obstacle to ratification of OPCAT.

One way of countering lack of political will is by referring to recommendations addressed to certain States by international and regional human rights mechanisms. For instance, **202 observations and recommendations on the ratification of the OPCAT and establishment of NPMs have been issued by several international human rights mechanisms to West African countries.** In particular, recommendations received by States in the context of the Universal Periodic Review (UPR) have the potential of encouraging States to ratify the OPCAT or establish an NPM, as these are issued by their peers and most of them have been accepted (supported) by States receiving such recommendations.

Alongside such absence of political will, some participants highlighted the importance of ensuring that authorities have a good understanding of the implications of ratification. Particularly, as there is often a lack of awareness of the advantages and challenges related to OPCAT ratification and confusion from law enforcement agents who might think that the SPT conducts unduly criticism. In this case, sensitizing States through capacity building and permanent contact with State authorities and institutions was also a key factor underscored by participants. Moreover, viewing the SPT as a treaty-body focused on cooperation rather than condemnation or scrutiny is also essential. In connection to this, a representative of The Gambia mentioned their strategy to promote political will as one based on continued engagement and capacity building activities with the Ministry of Justice and the legislative branch, which they hope will soon lead to ratifying the Optional Protocol. Another strategy mentioned during the Conference was to build political will by viewing the OPCAT as a complementary protocol to UNCAT, which all West African states have ratified.



Complexity of legislative processes

Certain representatives also referred to the complexity of legislative processes as one of the obstacles that countries may face during ratification and when designating an NPM. To combat this specific challenge, creating a platform or technical committee where different actors can participate appears as a potential solution. Specifically, as these technical committees can draw on the experiences of other countries and work on the preparation of a first draft law on the functioning and mandate of the NPM. Mauritania's technical committee, established to draft the bill that created the NPM in accordance with the criteria of the Optional Protocol, exemplifies such practice.²⁹

BREAKING DOWN THE MYTHS ON RATIFICATION

1. **For ratifying OPCAT, improving conditions of detention is not a prerequisite:** States do not need to comply with technical requirement for ratifying. Implementation can start after ratification.
2. **Ratifying OPCAT does not undermine state sovereignty:** OPCAT uses a cooperative approach.
3. **Ratifying OPCAT does not protect criminals:** OPCAT is not only related to prison monitoring, it also includes the monitoring of psychiatric centres. Moreover, OPCAT also promotes the monitoring of the working conditions of security agents and staff working in detention centres.

Other challenges highlighted by participants were political crises and states of emergency, alongside the lack of financial and human resources. However, countries in West Africa who are not yet States parties to the OPCAT seem to be moving towards ratification as Côte d'Ivoire recently ratified the OPCAT and representatives of Guinea-Bissau shared that their legislative process is currently progressing. Simultaneously, representatives of Guinea and The Gambia manifested their commitment with the sensitization of State authorities, awareness raising and advocacy to promote ratification

2.3. Implementing the OPCAT: challenges and how to combat them

Since 12 out of the 16 West African countries are already parties to the Optional Protocol, the Conference served as a space for State officials, NHRIs, NPMs and civil society to discuss the current challenges faced regarding the implementation of OPCAT provisions. Issues such as the lack of resources to fund the work of national preventive mechanism, the limited political will to provide NPMs with functional and financial independence, the insufficient capacity of law enforcement officials and NPM members, and the absence of a centralized database on detention centers were amongst the most repeated answers when questioning participants about their constraints for implementation.



1

Financial constraints to fund the NPM and insufficient financial independence

More than half of the States parties to the Protocol present in the Conference indicated that the lack of resources to support the work of their NPM was one of their main constraints. Representatives of Cabo Verde's NPM and CACIT also manifested their concern over the fact that NPMs in Cabo Verde and Togo do not have an independent budget, which prevents them from being fully independent. Especially, as the budgets of both NPMs are tied to that of the national human rights commissions of the countries.

To increase the availability of financial resources, NPMs like Senegal's Observatory have received funding from different partners, including the UN and the European Union, which has been acknowledged by the SPT as an important strategy to increase resources available.³⁰

Another approach shared during the Conference to save resources was Benin's experience when analyzing the type of NPM that would respond to their needs. For Benin, entrusting the mandate of the NPM to the Beninese Human Rights Commission (CBDH) seemed a good alternative to relieving concerns over the State's resources. Similar to Benin's experience, Niger also decided to place the NPM under the National Human Rights Commission mainly for reasons related to budgetary constraints in the State party and to the institutional independence of the Commission.³¹

³⁰ APT (2016), [Putting prevention into practice 10 years on: the Optional Protocol to the UN Convention against Torture](#); Visite effectuée au Sénégal du 5 au 16 mai 2019: recommandations et observations adressées au mécanisme national de prévention ([CAT/OP/SEN/RONPM/1](#)), para. 20.

³¹ Visit to the Niger undertaken from 29 January to 4 February 2017: recommendations and observations addressed to the State party ([CAT/OP/NER/1](#)), para. 18

³² Visite effectuée au Sénégal du 5 au 16 mai 2019: recommandations et observations adressées au mécanisme national de prévention ([CAT/OP/SEN/RONPM/1](#)), para. 22.

1

Financial constraints to fund the NPM and insufficient financial independence

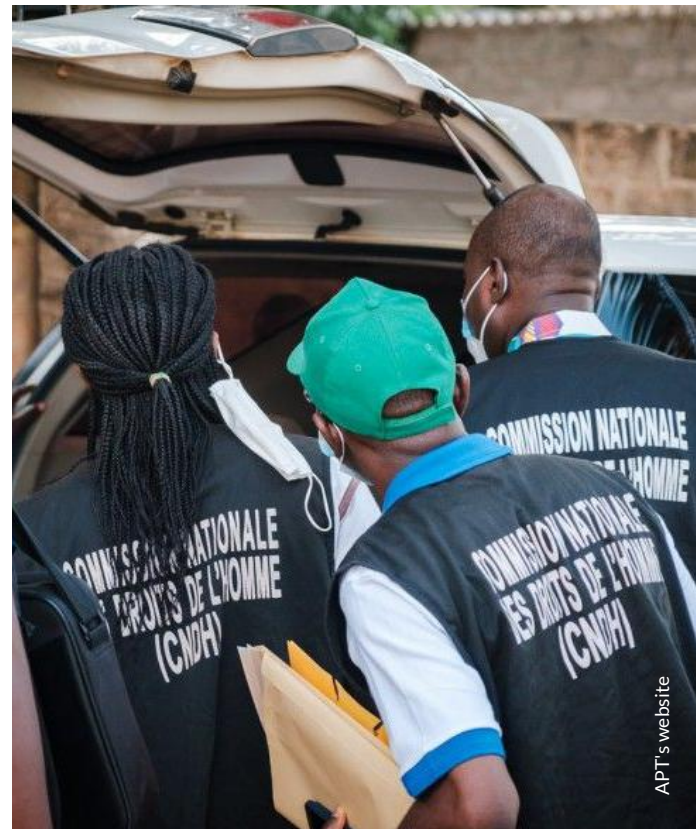
However, to guarantee the mechanism's financial independence, it is essential to ensure that NPMs established within the NHRI, such as national human rights commission, draft and submit their budget separately from these institutions. For instance, Burkina Faso has tried to ensure their NPM's financial autonomy by allocating a separate budget line to the NPM within the Human Rights Commission's general budget. Regarding this issue, the SPT has previously recommended NPMs to ensure that legislative texts define the criteria or the modalities for allocating to the NPM the budget necessary for its operation.³²

Lack of NPM's functional independence

2

Ensuring the functional independence of NPMs and the independence of their personnel are legal obligations of States parties to the Optional Protocol.³³ Nevertheless, as five out of the seven NPMs in West Africa are national human rights commissions designated as national mechanisms,³⁴ States have been struggling with guaranteeing that such NPMs operate within NHRIs as separate organizational units, with their own discrete Heads exercising operational autonomy, as recommended by the SPT.

For instance, Cabo Verde's National Human Rights Commission (NPM) is located under the Ministry of Justice which, according to them, represents a challenge to their functional independence and jeopardizes their respect for the Paris Principles. Specifically, since NPMs should not be placed under the institutional control of an executive branch of government, including ministries, cabinet or executive council, and the president's or prime minister's office.³⁵ To overcome this challenge on the functional independence of the national mechanism, representatives of countries like Mauritania shared how legislation has been used to guarantee total independence. For example, Mauritania's Law 24/2015 mentions that membership in the NPM is incompatible with any other position on the judiciary, legislative or executive.



³² Visite effectuée au Sénégal du 5 au 16 mai 2019: recommandations et observations adressées au mécanisme national de prévention ([CAT/OP/SEN/RONPM/1](#)), para. 22.

³³ Article 18 (1) of the Optional Protocol.

³⁴ Burkina Faso, Cabo Verde, Mali, Niger and Togo.

³⁵ OHCHR (2018), The Role of National Preventive Mechanisms: A PRACTICAL GUIDE Professional Training Series No. 21, p. 15.

On the other hand, a representative of Nigeria manifested that the Government is currently considering options for increasing their NPM's functional autonomy. In 2022, Nigeria restructured their National Committee Against Torture (NCAT) with the support of law enforcement officials and State authorities. Since such restructuring did not necessarily guarantee the functional independence required by the OPCAT, Nigeria is now planning to enhance the independence of the mechanism by adopting a new NPM model that ensures autonomy without endangering cooperation with State authorities.

This experience shared by Nigeria sheds lights on one of the key lessons learned at the Conference: maintaining a constant and constructive dialogue with State authorities is essential for torture prevention, but such cooperation with authorities should not prevent the NPM from being fully independent in its functions. In other words, collaborative – but critical - dialogue between the NPM and the authorities is at the centerpiece of their working relationship, but this is not a synonym of complaisance.³⁶ NPMs should preserve their independence when engaging in dialogues with the authorities and carrying out their operations. The [NPM Guide developed by the Office of the High Commissioner for Human Rights](#) reflects this key point by outlining that NPM "(...) 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."



3

The capacity of law enforcement personnel, State authorities, NPM members and other actors

Some participants pointed out the lack of capacity of law enforcement officials working on detention as one of the obstacles for implementing the OPCAT. For others, the lack of capacity is not only an issue within the penal system but also among other actors like health specialists and State officials.

To tackle this challenge, representatives of Mali's NPM mentioned that national mechanisms are conducting important work through their capacity-building activities for law enforcement actors on the protection of detainees. The representative of Cabo Verde's NPM shared that they are also conducting capacity-building training for new State officials every time there is a change in government.

Additionally, APT has made available a series of tools through their [Torture Prevention Village](#) and [Knowledge Hub](#) to continue building everyone's capacity on torture prevention. Such tools offer a variety of resources, ranging from a campus with different online courses; a virtual café to engage with peers and experts from different regions; and a library of resources, publications and toolkits. Besides the open courses available, the Torture Prevention Village offers an in-depth course that provides participants with a thorough understanding of the best practices for torture prevention and other forms of ill treatment. This course, already completed by Togo's NPM, is delivered through a combination of lectures, case studies, group discussions, and practical exercises to broaden learners' knowledge on detention monitoring.

³⁶ APT Knowledge Hub – NPM Toolkit, Engaging with others; <https://www.apr.ch/en/knowledge-hub/npm-toolkit/engaging-others/dialogue-authorities>

Benefiting from the OPCAT Special Fund is also an option for building the capacity of law enforcement officials and NPM members. For instance, Mauritania's NPM benefitted from a grant in 2020, which improved the capacities of the NPM regarding the monitoring of vulnerable groups in detention. On this same year, *Avocats sans Frontières* received a grant that increased the capacity of 91 members of the police, gendarmerie forces, the National Penitentiary Administration, the National Human Rights Commission, the judiciary, and the bar association in Mali, to prevent and address torture and ill-treatment. Similarly, the Togolese Human Rights Commission benefitted from the Fund in 2019, which allowed the Commission to strengthen the capacity of the national preventive mechanism through training, study visits and the purchase of equipment.³⁷

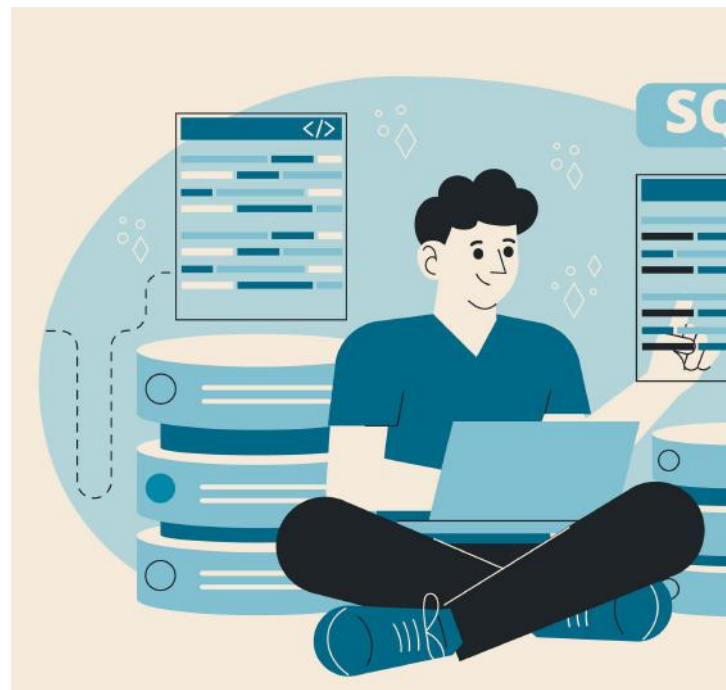
Furthermore, a representative of Senegal proposed the establishment of a regional pool of experts on torture prevention to promote the exchange of experiences, which would further enhance the capacity of different actors in West Africa. Finally, another important strategy to build the capacity of State authorities, NPM members and other actors is to make reports public following an SPT visit as well as NPM annual and visits reports, as it allows States and NPMs from different countries to learn from the others' experiences.

Absence of a centralized database

4

The OPCAT provisions require States parties to grant NPMs access to all information concerning the number of persons deprived of their liberty in places of detention, the number of detention centers and their location. Therefore, effective work in detention monitoring also depends on whether NPMs have access to a centralized database, which can inform the mechanism's selection of places of detention visited.

However, for some States in the region, the lack of a centralized database on detention centers continues to limit their torture prevention efforts. In contrast, other West African countries are currently looking at ways of surmounting such challenges. For instance, Niger's representatives shared that the country has now access to a database on detention centers due to the work done by the NPM, while Burkina Faso's new project on mapping detention centers is in the pipeline, expecting to be launched soon.



³⁷ Report of the Secretary General (8 January 2020), Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([A/HRC/43/24](#))

Several States' representatives also agreed that the fight against terrorism and other security issues in their territories constitutes a major challenge to the ratification and implementation of provisions under the OPCAT. Especially, as counterterrorism and anti-radicalization measures applied in detention facilities might lead to an environment with an increased risk of torture and ill-treatment.³⁸

However, the OPCAT ratification also appears as an opportunity to build trust between States and their populations, which is a crucial element in preventing terrorism. By promoting a culture of human rights and accountability, OPCAT can help prevent radicalization and violence by addressing the root causes of grievances and creating an environment in which individuals are less likely to be radicalized. The role played by NPMs is also essential in this difficult context. By upholding international human rights standards, these mechanisms ensure that safety and security concerns are addressed in a manner which respects the human rights of all persons deprived of their liberty.

Moreover, to leverage their work and provide effective recommendations on how to prevent torture in difficult security contexts, the NPMs can use the [Principles on Effective Interviewing for Investigations and Information Gathering](#) (“Méndez Principles”) as resource. According to Fionnuala Ní Aoláin, UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, by promoting the implementation of the Méndez Principles among law enforcement officials, States can prevent that individuals suffer the double harm of being potential victims themselves, and then being re-victimized by virtue of torture and ill treatment.³⁹



The issue of reprisals in the African continent remains a challenge. As it has been stated by the African Commission's Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals against Human Rights Defenders in Africa, “reprisals are still very much present and manifest in various forms, including systematic harassment, undue restrictions on access to meetings of human rights bodies, various threats, physical violence and other abuses, unjustified restrictions on the activities of civil society organizations, (...) arbitrary arrests and detentions, and repetitive legal proceedings, among others”. Against this background, another challenge when implementing the OPCAT is the risk of reprisals against detainees interviewed by monitoring bodies as well as those affecting members and staff of the NPMs. To counter this risk, while State authorities have the duty to prohibit reprisals through measures such as the adoption of legislative amendments criminalizing them, monitoring bodies also have the responsibility of mitigating the risks.⁴¹

Any monitoring body must observe the principle of “do no harm” to protect any person they have contact with during their visits and follow-up. In-depth preparation prior to conducting interviews is also a key factor for minimizing the risks. During visits, allocating enough time for each place visited, conducting interviews in private, interviewing as many persons as possible to make them less easily identifiable and planning follow-up visits to avoid reprisals is also crucial.⁴² Informing management, staff and detainees in places of detention that reprisals are explicitly prohibited by the Optional Protocol and providing guidance on how to communicate with the NPMs in confidence should also be part of the practice when conducting visits.⁴³ In addition, it is important that legislation, including the legislative act establishing NPMs, prohibits ordering, applying, permitting, or tolerating any sanctions against any persons or organizations for having communicated any information to the NPM.⁴⁴

³⁸ University of Bristol and Outcomes Society Initiative, [The challenges to the preventive monitoring under OPCAT in the context of counter-terrorism and anti-radicalisation measures](#). Outcomes Paper, p.5.

³⁹ UN Special Rapporteur Fionnuala Ní Aoláin (2022), [Ending torture in the context of countering terrorism: the added value of the Méndez Principles – Interview with APT](#).

⁴⁰ Honourable Commissioner Rémy Ngoy Lumbu (October 2022), [Intersession report \(73rd Ordinary Session of the African Commission on Human and Peoples' Rights\)](#).

Chapter 3

Designating an NPM and implementing its mandate: lessons learned in the past two decades



As NPMs in West Africa gain greater experience, the establishment and designation of NPMs has witnessed multiple shifts. In the last twenty years, States parties in the region have moved from an early stage of establishing mainly stand-alone preventive mechanisms to designating national human rights commissions as such. Whether it is based on the needs of prioritizing the independence of the NPM, its cooperation with authorities or saving financial resources, many States parties have either recently designated their NPM or are still in the quest for finding the model that better suits their needs. The following chapter addresses the lessons learned by States parties in West Africa during their processes of designating their NPM and implementing its mandate.

3.1. Designating an NPM

• No “one-size fits all”

The OPCAT does not prescribe any specific model of NPMs. The Optional Protocol gives States parties the liberty of choosing whether to establish new bodies or designating existing entities as NPMs, including decentralized units. During the first decade following the adoption of the OPCAT, West African countries like Senegal started establishing, or thought about establishing, their own specialized institution as NPM. Nonetheless, there was a shift during the second decade. From 2012 onwards, States in the region opted for the designation of NPMs as part of their national human rights commissions (Burkina Faso, Cabo Verde, Mali, Niger, Togo). These national human rights commissions typically act as national human rights institutions in these countries (NHRI).

The reasons for this shift vary across the region. In Benin⁴¹ and Niger, linking the NPM to the functioning of the NHRI was seen as a way of saving financial resources. In Togo, it was the experience of the Austrian NPM, located under the Austrian NHRI, which served as reference to define the best model of NPM. In Burkina Faso, the decision to place the NPM under the NHRI was the result of a participative and inclusive process among State authorities, civil society, and the national human rights commission itself. For others, it has been a way of streamlining communication with the national commission and taking advantage of the cooperation already established by the commission with the different State authorities and national stakeholders.

41 APT (2014). [Serious efforts needed to address reprisals after detention monitoring visits.](#)

42 Ibid

43 OHCHR (2018), The Role of National Preventive Mechanisms: [A PRACTICAL GUIDE Professional Training Series No. 21](#), p. 23-24.

44 Ibid, p. 19.

45 Benin has not yet amended Law No. 2012 creating the NHRI so that it legally carries the NPM mandate.

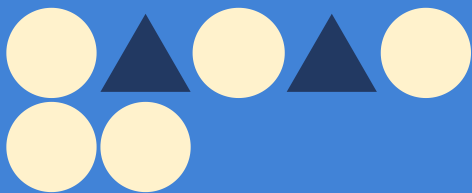
However, NPMs working as part of national human rights commissions in the region have faced downsides from this model. Cabo Verde and Togo's NPMs are lacking financial and functional independence, as NPMs are not provided with an independent budget and frequently depend on that provided to the human rights commission. Other NPMs have had difficulties separating the functions of the NPMs from that of the NHRI particularly when it comes to addressing complaints linked to torture. NPMs, as purely preventative bodies, are not meant to conduct investigations on complaints but rather to refer complaints received during its visits to the appropriate bodies, such as the criminal justice or administrative authorities, the ombudsman, or NHRIs. However, NPMs situated under the mandate of the NHRIs run the risk of managing complaints if there are not clear guidelines separating the preventive function of the mechanism and that of NHRIs.

To avoid such issues, it is preferable to locate the NPM's preventive functions within separate units or departments, with their own staff and separate budgets.⁴⁶ An example of such division in functions was highlighted by an expert from Togo during the Conference. In 2021, two sub-commissions were established within the Togolese National Human Rights Commission. One for promotion, in charge of research and legislation on torture, and another one for prevention, in charge of monitoring places of detention.

Despite the recent trend to designate national human rights commissions as NPMs in West Africa, stand-alone bodies are also present in the region. Senegal and Mauritania have established specialized institutions, such as the National Observer of Places of Deprivation of Liberty (Senegal) and the Mauritanian National Preventive Mechanism (Mauritania). Not being attached to an existing institution has provided the NPMs in these countries a certain level of functional independence, more difficult to achieve when NPMs are tied to an existing entity. However, these NPMs are facing other challenges. For instance, increasing the cooperation among the NPM, State authorities and other stakeholders remains a challenge for Mauritania's NPM.

Based on the above experiences, the main takeaway from the establishment of NPMs in the region is that "no one size fits all". Therefore, those countries who have yet to establish their NPMs should factor-in their different needs as well as priorities to ensure that the mechanism established complies with the requirements of the Optional Protocol and has the mandate to conduct independent visits and other functions.

NPMs in West Africa



5 National human rights commissions:

1. Togo: [Commission Nationale des Droits de l'Homme](#) (2012)
2. Niger: [Commission Nationale des Droits Humains](#) (2020)
3. Mali: [Commission Nationale des Droits de l'Homme](#) (2016)
4. Cabo Verde: [Comissão Nacional os Direitos Humanos](#) (2018)
5. Burkina Faso: [Commission Nationale des Droits Humains](#) (2021)

2 Specialized institutions:

1. Senegal: [l'Observateur national des lieux de privation de liberté](#) (2009)
2. Mauritania: [Mécanisme National de Prévention de la Torture](#) (2016)



• The value of cooperating and consulting with different actors

One of the key lessons learned from the Conference was the added value brought by cooperation with different stakeholders throughout the process of establishment or designation of the NPM. In particular, since the SPT has already recommended States parties in the region to ensure that the institutional framework of the mechanism is subject to a broad, inclusive, and transparent consultation with relevant stakeholders.⁴⁷ Different national monitoring bodies, political parties represented in parliament, and civil society organizations should be part of the conversation, to ensure the model and mandate of the NPM effectively fill the gaps in torture prevention.

In this regard, a representative of Togo shared their experience of adoption of the Law no. 2018-006 that linked the NPM to the NHRI, as they held several consultations with national and international stakeholders. During the process, the Chairman of the monitoring committee in charge of establishing the NPM in Togo visited Vienna to cooperate with the Austrian NPM and learn how the mechanism had been integrated into the Austrian NHRI. A participant from Burkina Faso also mentioned their project of revising the decree on the functioning of the NHRI – to include the NPM’s mandate- with the participation of civil society organizations and other national stakeholders. Benin’s civil society has also been strongly engaged in the process of establishing an NPM in the country. For instance, the NGO Changement Social Bénin conducted a workshop in 2019 to advocate for the establishment of an NPM, which included the participation of the Ministry of Justice, the Ministry of Defense, Benin’s Human Rights Commission, CSOs, and other partners.

Such cooperation and dialogue among national stakeholders should also be accompanied by peer-to-peer learning and sharing of experiences among actors throughout the West African region. For instance, Niger consulted Togo’s and Senegal’s NPMs before establishing its national mechanism, which served as a good practice during the process of designation.

⁴⁷ SPT, Visit to the Niger undertaken from 29 January to 4 February 2017: recommendations and observations addressed to the State party ([CAT/OP/NER/1](#)), para. 22.

• Institutionalizing the NPM mandate through a solid legal basis and notifying the Subcommittee

Article 17 of the OPCAT provides that: “Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. (...)” Based on such provision, the Subcommittee maintains a list of States parties whose compliance with article 17 is at least three years overdue. The SPT reviews the list periodically to remove those States that comply with the provision. On June 2022, the Subcommittee decided to list the criteria for the acceptance of the establishment an NPM in accordance to Article 17 of the OPCAT, which comprises:

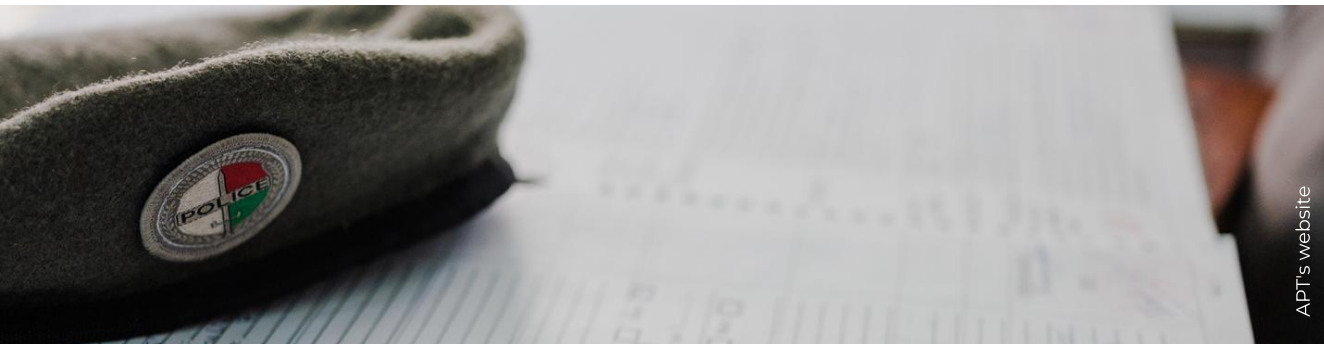
1. The fact of the establishment of the NPM;
2. A copy of the legal instrument establishing the national preventive mechanism, whether by legislation or another act;
3. The name of the head of the national preventive mechanism;
4. The postal address of the national preventive mechanism;
5. The email address and phone number of the NPM.



One of the most salient lessons learned from the Conference was the importance of institutionalizing the NPM mandate through a solid legal basis in order to comply with Art. 17 (see criteria no. 2) and prevent that changes in government endanger the torture prevention efforts done by NPMs. Whether it is a legislative or constitutional text, the adoption of such legal basis remains crucial. During the conference, members of the SPT and CPTA agreed that such institutionalization is not only essential to protect NPMs from political crises, but also to ensure that their mandate, powers, selection process, terms of office, funding and lines of accountability are defined. Moreover, such legal text should grant NPMs with unhindered visiting rights, the power of accessing information, issuing recommendations for State authorities, and maintaining contact with the SPT.⁴⁸ In addition to having a solid legal basis for the NPM mandate, States parties should notify the Subcommittee about the designation or establishment of the mechanism, particularly, when they wish to be removed from the above mentioned list.

However, many NPMs have faced challenges at the moment of formally institutionalizing their mandate. For instance, when national human rights commissions (NHRCs) are designated as national preventive mechanisms, the designation often requires the modification of the text linked to the mandate of the commission, which adds complexity to the process. An example of this situation is Benin, who has already made the decision of designating their Beninese Human Rights Commission (CBDH) as NPM, but has yet to pass the legislative or constitutional text that formally contains such provision.

In other cases, States parties make the formal designation but do not notify the Subcommittee, which prevents them from being removed from the list maintained by the SPT. With these challenges in mind, participants were reminded about the relevance of having a solid legal basis for their NPM's mandate as well as informing the Subcommittee about the designation/establishment, which also contributes to maintaining an on-going conversation among the SPT, the State, and the NPM.



Guidelines on
National
Preventive
Mechanisms
(CAT/OP/12/5)

Para. 7: "The mandate and powers of the NPM should be clearly set out in a **constitutional or legislative text.**"



3.2. Implementing the NPM mandate

• Ensuring expertise and multidisciplinary of the NPM membership

Another takeaway from the Conference was the positive impact of having NPM members with sufficient expertise, experience, and diversity of backgrounds. In particular, the multidisciplinary of their NPMs was highlighted by representatives of Cabo Verde, Mauritania, Senegal and Togo as a positive factor.

For example, the President of Cabo Verde's NPM has experience working in civil society organizations, whereas other commissioners represent the Cape Verdean Bar Association, the Foreign Communities residing in Cape Verde and the Medical Association. In Senegal, the National Observer (NPM) is constituted by a multidisciplinary team of both permanent and external delegates, including lawyers, a magistrate, a human rights expert, a psychiatrist, and an expert in communication. Mauritania's NPM is composed of lawyers, doctors, members of CSOs, and university professors.

Such diversity of backgrounds has contributed to a better functioning of these bodies and thus appears as another important lesson learned. As highlighted by the President of Cabo Verde's Human Rights Commission, "a multidisciplinary team allows the analysis of issues through multiple perspectives, which complement each other", having positive effects in a short period of time.

The capacity of the NPM to address specific needs of groups particularly vulnerable in detention and make relevant recommendations on that regard may also increase when the NPM is gender-balanced and when members and staff represent different ethnic and socio-cultural groups.⁴⁹ An example of such practice is Mauritania's NPM, whose Law No. 0034/2015 requires that at least 1/3 of the members are women.⁵⁰ On a similar note, 4 out of the 7 NPMs established in the region have members who represent women's rights organizations. Consequently, a balance of different fields of professional knowledge and practical experience, as well as gender balance and an adequate representation of ethnic and minority groups, represent a key criteria of the NPM membership. Especially, as such expertise and multidisciplinary impact positively on the functioning of the mechanism.

Diversity of backgrounds in West African NPMs

Out of the 7 NPMs in the region:

All 7 NPMs have lawyers among the membership, often designated by the national bar associations.

7 ▼



5 have members representing academia, including university professors and researchers.

5 ▼



6 have members representing NGOs.

6 ▼



4 NPMs have members who represent women's rights organizations.

4 ▼



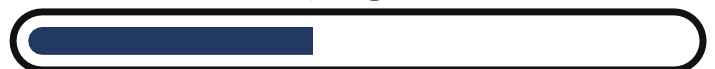
6 have a member belonging to the area of health, in most cases designated by the medical associations.

6 ▼



3 NPMs have representatives of the press and media among their members.

3 ▼



- **Having a clear policy and procedure on how to deal with individual complaints**

The implementation of OPCAT provisions has also represented a challenge for recently established or designated NPMs on how to deal with complaints. As many NPMs in West Africa are part of national human rights commissions, whose mandate normally involves the handling of such complaints, confusion has aroused on many occasions where NPMs have ended up addressing complaints.

The NPM's mandate under the OPCAT is focused entirely on prevention and not on the investigation of individual cases and complaints. For this reason, it is crucial that NPMs develop clear guidelines or procedures to transfer complaints and manage any false expectations about their work. During the Conference, the importance of having such clear guidelines was one of the most striking insights.



In relation to this issue, a representative of Togo's NPM clarified the type of coordination that the mechanism has with the National Human Rights Commission (CNDH). If Togo's NPM witnesses a grave violation of the rights of detainees, it communicates the information to the authorities in charge. For instance, if there is a penal infraction witnessed by the NPM, the mechanism refers it to the CNDH, which in turn transfers the case to the Attorney General responsible for it. A representative of Cabo Verde's NPM also shared how coordination within the Human Rights Commission of the country works. In Cabo Verde, permanent consultation between the team on complaints and the NPM is common practice, but complaints are handled by the Public Prosecutor. Mauritania's NPM is also innovative in this area as its rules of procedure provide guidance on early warnings to report any type of torture or degrading treatment to the relevant body.

Based on these experiences, participants were reminded that NPMs are not investigative bodies and learned about the different practices in the region that prevent these mechanisms from exceeding their mandate.

Chapter 4

From NPM establishment to effective monitoring

As the first NPMs in West Africa were established more than a decade ago and following the recent surge of newly established NPMs, States parties are starting to move towards a new phase in torture prevention efforts: assessing the NPMs' effectiveness. The following chapter draws on the key findings discussed during the Conference in this respect, touching upon the main impact of NPMs in West Africa, listing their good practices and addressing their current challenges.

4.1. Assessing the impact of NPMs in West Africa



- Regular and easier access to places of detention

As torture prevention bodies with the possibility of conducting visits more frequently than any other regional or international monitoring body, NPMs in West Africa have contributed to a more consistent monitoring of conditions of detention.⁵¹ In the cases of Cabo Verde, Mali, Niger and Togo, representatives signaled that having an NPM has facilitated access to detention facilities, including psychiatric hospitals and juvenile justice centers. For Cabo Verde's NPM, being able to conduct unannounced visits as part of the mechanism's mandate has also had a great impact. Particularly, since it has enabled the mechanism to monitor specific events happening in different prisons.



- Enhanced awareness, knowledge, and capacity of law enforcement officials

Besides conducting visits, NPMs also have educational and communication functions, which involve educational, training and awareness raising programmes or activities. In West Africa, such functions are starting to bear fruit as the capacity and knowledge of law enforcement agents has been enhanced thanks to the work of the national preventive mechanisms. For instance, according to a participant from Mali, the different activities conducted by the NPM have improved the capacity and knowledge of law enforcement agents concerning the protection of detainees and the legal instruments surrounding torture prevention. A representative of Niger's NPM shared that they have also had a similar impact by raising awareness among law enforcement actors on torture prevention in the context of migration.

⁵¹ Judy McGregor (2017) The challenges and limitations of OPCAT national preventive mechanisms: lessons from New Zealand, *Australian Journal of Human Rights*, 23:3, 351-367, DOI: [10.1080/1323238X.2017.1392477](https://doi.org/10.1080/1323238X.2017.1392477)



- Closer collaboration with civil society and media

NPMs close cooperation with civil society organizations in the region has also strengthened joint efforts in torture prevention. Of special importance is the practice of NPMs of institutionalizing their relationship with CSOs through advisory committees. For example, Togo's NPM has established a "Comité de veille", which institutionalized a coordinated relationship between the NPM and civil society. Senegal's NPM has also established a "Comité de veille", composed of non-governmental organizations and aimed at providing advice to the NPM.

Conscious of the importance of disseminating the NPM mandate and the approach on prevention, NPMs in the region also seem to have advanced on their cooperation with the media. For example, Togo's NPM has participated in radio and TV programs to raise awareness about the mechanism's mandate and Mauritania's NPM has also participated in TV interviews. Senegal's NPM has also raised awareness on the mandate of the mechanism among population living in rural areas by producing radio emissions on torture prevention.⁵²



- Improvement of detention conditions

Based on the experiences shared by participants, NPMs in West Africa seem to have been contributing to important improvements in conditions of detention. Representatives from the Malian National Human Rights Commission (NPM) shared that the mechanism has contributed to better conditions for civilian and military detainees prosecuted for attempts to destabilize state institutions, ensured that detention centers respect the daily food rations according to the standards of the International Committee of the Red Cross, and that medicines are distributed systematically in prisons. In Mauritania, the concerns expressed by the NPM and other human rights institutions regarding the high rate of overcrowding in the Dar Al-Naiim prison led to the construction of a new building with a capacity of 1,200 inmates.

Moreover, reports from Mauritania's NPM advocating for a change in the conditions of detention of radicalized prisoners, who were detained in a very isolated area, also led to their transfer to Nouakchott and a significant improvement in their conditions of detention.⁵³ And finally, in Senegal, the monitoring work of the National Observer of Places of Deprivation of Liberty (ONLPL) has led to the installation of cameras in certain places of detention, which can help ensure better treatment of detainees and provide evidence in the event of allegations of torture or ill treatment.

⁵² Report of the Secretary General (21 December 2020), Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/HRC/46/42)

⁵³ Additional information provided by Mr. Abdel Malick El Bakaye, President of Mauritania's NPM.

In addition to the impacts mentioned above, participants also highlighted how NPMs have contributed to the dissemination of a uniform message on torture prevention and the fact that they constitute an important source of data on detention centers and detainees.

The results from these discussions reflect positive developments and impact of NPMs in West Africa with respect to all NPM's functions. Regarding their visiting functions;⁵⁴ NPMs have made access to detention facilities easier and more frequent. Their cooperation function⁵⁵ has also been enhanced due to its increasing cooperation with civil society and media. The educational⁵⁶ and communication functions of the NPMs have also led to improvements in the capacity of detention personnel, as well as increased awareness among the general public, detainees and State authorities. Although there is still work yet to be done in terms of their advisory function,⁵⁷ these developments reflect how NPMs in the region have improved governance in the area of torture prevention driven by dialogue, synergies and capacity building.



Illustration from OPCAT - the torture prevention treaty

⁵⁴ The **visiting function** is the main function of NPMs, as they are provided with the mandate of visiting all places where people are, or may be, deprived of their liberty. (NPM Guide, p. 6)

⁵⁵ The **cooperation function** refers to the engagement and dialogue with the State authorities and other relevant stakeholders concerning prevention of torture and ill-treatment. (NPM Guide, p. 6)

⁵⁶ The **educational function** of NPMs involves the participation in training and development of educational and awareness-raising programmes in schools, universities and professional circles. NPMs should also 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. (NPM Guide, p. 6)

⁵⁷ The **advisory function** includes providing recommendations to State authorities; submitting legislative proposals; and reviewing rules concerning both detention (interrogation rules, instructions, methods and practices) and personnel-related issues. (NPM Guide, p. 6)

4.2. Good practices of NPMs in the region

The positive effects of NPMs highlighted above are the results of a set of good practices shared by participants during the Conference, including the following:



Strategy and continuous assessment

One of the key criteria to ensure the effective functioning of NPMs is the development of long-term and short-term strategies in order to continuously monitor and assess the mechanism's activities and their outcomes.⁵⁸ In West Africa, NPMs like Cabo Verde's National Human Rights Commission and Senegal's National Observer organize their work through annual working plans, which has helped them keep track of activities planned and assess their effectiveness.

Periodic evaluation is also guaranteed by Cabo Verde's NPM through regular meetings. By holding at least four meetings throughout the year, this mechanism ensures its permanent assessment. Drafting an annual activity plan on the activities carried out the previous year, which is then handed to the Ministry of Justice and Labor and to the President of the National Assembly, has also proved to be useful for Cabo Verde's Commission. Mainly, when holding the NPM accountable for its work.

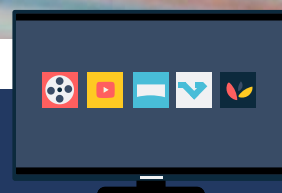
⁵⁸ NPM Guide, p. 20.

Conducting follow-up visits to detention centres

To assess the level of implementation of its recommendations, NPMs in the region have also started to conduct follow-up visits to detention facilities. For instance, a representative of Cabo Verde's NPM identified its follow-up visits as a good practice. Particularly, revisiting detention centers allows the mechanism to observe first-hand how their concerns have been addressed, in order to maintain constructive dialogue with authorities, and ultimately contribute to the improvement of conditions of detention.⁵⁹



APT's website



Broad dissemination of NPM activities and reports

Another good practice identified by participants is the large dissemination of the NPM mandate, the text of the UN Convention against Torture (UNCAT), and other relevant documents through radio and television, which has contributed to the visibility of NPMs. For instance, the mechanisms of Cabo Verde and Togo have used radio and TV to spread the word on torture prevention and increase awareness among the general public. Senegal's NPM also includes an expert in communication among their team. Meanwhile, the NPM of Burkina Faso pointed out that the lack of visibility of the mechanism needs to be countered through a communications strategy. Other participants highlighted how the use of communication tools such as websites or social media have proven effective for NPMs in the region. All these experiences reflect the key role assigned by NPMs to their educational and communication function. Especially, since building knowledge and understanding around issues and instruments linked to torture and ill treatment has the potential to influence public opinion and change the attitudes of stakeholders, decision-makers, and actors of the penal system.⁶⁰

⁵⁹ Ludwig Boltzmann Institute of Human Rights and the Human Rights Implementation Centre of the University of Bristol (2015), [Enhancing impact of National Preventive Mechanisms Strengthening the follow-up on NPM recommendations in the EU: strategic development, current practices, and the way forward](#), p. 48.

⁶⁰ OHCHR, APT and APF (May 2010), [Preventing Torture: An Operational Guide for National Human Rights Institutions](#), p. 93.

Publishing and disseminating the national mechanisms' annual reports also appears as a good practice. The publication of such reports represents an opportunity for different actors, including State authorities and the general population, to hold the NPM accountable and reinforce torture prevention. By sending these annual reports to the SPT, other NPMs, and to relevant regional and international human rights bodies, national mechanisms also ensure constant cooperation and information sharing that can feed into their discussions and follow-up of recommendations. Moreover, publicizing the NPMs' annual reports contributes to public debates on the NPM findings and to maintaining constructive dialogue with authorities and civil society.

• Institutionalizing cooperation with CSOs

As highlighted in the previous section (4.1), the initiative of the Togolese and Senegalese NPMs of strengthening cooperation with civil society through the creation of advisory committees (Comités de vielle) also represents a good practice identified by participants. Civil society organizations have a key role in the prevention, monitoring and combating of torture, as they not only can push authorities for change, but also provide first-hand information on visiting institutions, increase the NPM's visibility and oversee the mechanism's work. However, collaboration between NPMs in West Africa and CSOs had remained mostly ad hoc until now. With the establishment of these advisory committees, NPMs have started to systematize communication and collaboration with civil society, essential for leveraging efforts on torture prevention.



APT's website

• Cooperation with other NPMs

West African NPMs are also increasingly cooperating with their peers in different situations. Whether it is consulting with other mechanisms about their NPM model, conducting joint workshops or study visits, various NPMs have shown important progress in cooperating with their peers.

One example of this cooperation is the joint workshop organized by Burkina Faso's NPM in May 2022, which included the participation of the national human rights institutions of Mali, Niger and Togo. During the workshop, participants shared practices and concrete approaches for the operationalization of an NPM, including its institutional articulation with the NHRI.⁶¹ Another example of peer-to-peer cooperation among NPMs is the internship carried out by five members of Cabo Verde's NPM at the Portuguese Ombudsman's Office (NPM), where NPM members enhanced their skills and knowledge and even conducted joint visits with the Portuguese NPM.⁶² Niger's NPM also visited Togo recently in a study visit to learn more about the functioning of the Togolese national preventive mechanism.⁶³ Additionally, the Conference served representatives of Senegal as a platform to propose the establishment of a regional pool of experts on torture prevention, an option that still needs to be explored.

61 Commission Nationale des Droits Humains du Burkina Faso (March 2022), [Lutte contre la torture: Partage d'expériences pour adopter un modèle à la CNDH du Burkina Faso](#)

62 Comissão Nacional para os Direitos Humanos e a Cidadania de Cabo Verde (2020), [Relatório de atividades da CNDH \(2020\)](#), p. 44.

63 Commission nationale des droits de l'homme (CNDH) du Togo (July 2022), [Voyage d'étude: la CNDH du Niger en visite d'imprégnation du modèle MNP Togolais](#).

- Mapping of places of detention.



Collecting data and background information on all places of detention is one of the main functions of NPMs. Such data serves these mechanisms as a source for selecting the criteria for conducting visits and guaranteeing that all places of detention are regularly visited. This constitutes a good practice identified by participants from Burkina Faso's NPM, which will soon carry out a mapping of all places of detention in the country to better plan and deliver its monitoring actions.



- Use of new technologies

Participants also shared their positive experiences regarding the use of new technologies to conduct meetings, monitoring work and enhance detention conditions. For example, since the COVID-19 pandemic, Cabo Verde's NPM has been using videoconferences to maintain communication with prison staff and has hosted numerous webinars to exchange practices, all of these has improved the mechanism's monitoring functions.

This set of good practices identified by participants elucidates how cooperation with other NPMs, civil society and media remains at the center of torture prevention efforts led by NPMs in the region. The projects of mapping detention facilities and the follow-up visits being carried out are also proof that NPMs in West Africa are moving from their early stage of establishment/designation towards putting its mandate into practice and assessing their effectiveness. Nonetheless, experts also pointed out that work remains to be done in terms of collaboration and advocacy with State authorities and cooperation with international and regional monitoring bodies, as synergies are not being fully exploited. For this reason, the following chapter will expand on the different commitments made by States, NPMs, civil society and monitoring bodies present in the Conference, putting an emphasis on the key role played by cooperation at all levels to continue advancing on torture prevention in West Africa.

Chapter 5

The way forward: exploiting cooperation at all levels

The last session of the Conference was dedicated to taking stock of the two days of exchanges and determining the way forward for States and NPMs in the region.

The main commitment of the representatives of those States who have not yet ratified the Optional Protocol, such as [Guinea-Bissau](#), [Guinea-Conakry and The Gambia](#), was to continue sensitization and capacity building of State authorities and actors of the penal system with the aim of pushing in favor of ratification and the establishment of NPMs in their countries. Participants from The Gambia, for instance, made the commitment of building the capacity of members of the legislative, prison officials and different actors through awareness raising and advocacy activities. During the Conference, a representative of [Côte d'Ivoire](#) affirmed that the State would finalize the ratification process of the OPCAT in the first quarter of 2023. On March 1st, 2023 the country ratified the Optional Protocol, becoming the 12th West African State party to the instrument.

For Mr. Abdallah Ounnir, Vice-President of the SPT, the basic commitment following ratification is the establishment of an NPM in line with the Optional Protocol, characterized by its independence, effectiveness, and cooperative approach. According to him, such process of designation/establishment of the NPM should also bear in mind the political, social, and economic situation of the State party, which would need a specific strategy. Therefore, for those States who have not yet designated an NPM, whose legislation on the NPM mandate is still in the making or do not comply with Art. 17 of the OPCAT, the priority going forward will be enacting or amending the laws that create or designate the NPM. Particularly, as Art. 17 of the Optional Protocol requires States parties to establish the mandate of national preventive mechanisms through a legislative or constitutional text.

An example of this is [Benin](#), whose representative share their plan to amend the Law No. 2012-36 creating the NHRI so that it legally carries the NPM mandate. Representatives of [Burkina Faso](#) committed to review the decree establishing the National Human Rights Commission as NPM, with the participation of civil society and different actors at the national level, while also drawing on the lessons learned from Togo regarding the creation of sub-commissions. Representatives of [Ghana](#) also acknowledged their need of setting up a mechanism composed of experts who can analyze detention conditions and provide effective recommendations, alongside a legislation that outlines its mandate. And finally, representatives of [Nigeria](#), where the National Committee Against Torture (NCAT) was recently reconstituted, mentioned their plan of defining a new NPM model that can be independent while simultaneously guaranteeing close cooperation with law enforcement officials.

In the meantime, participants from countries with well-established NPMs, such as [Cabo Verde](#), [Mali](#), [Mauritania](#), [Niger](#), [Senegal](#), and [Togo](#) shared that they are currently looking at ways of confronting the challenges to their effective functioning.

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For instance, representatives of Cabo Verde, Mali and Mauritania's NPMs have identified that the large extension of their territory is preventing them from visiting remote detention centers. To overcome this issue, Mauritania's NPM envisages the purchase of means of transportation as well as the creation of regional offices, which would monitor remote areas of the country and border crossings.

Both groups of States, those with and those without a well-established NPM, agreed that their way forward needs to involve the sensitization and capacity building of law enforcement officials alongside close cooperation with all stakeholders. Strengthening the links among NPMs, the SPT, the CPTA, the legislative, the parliament, the different ministries, and CSOs was deemed as essential by most of the participants.

For CACIT, such multi stakeholder cooperation will be key when advocating in favor of a new Criminal Procedural Code and penitentiary law in Togo. Meanwhile, experts from [Burkina Faso](#) view cooperation with the Ministry of Justice, the SPT, media and CSOs as the driver for building the capacity of prison officials and increasing the visibility of the NPM. For representatives of [Guinea-Bissau](#), [Guinea-Conakry](#), and [The Gambia](#) the way forward involves the awareness raising of State authorities to promote ratification. On the other hand, the delegations of [Ghana and Nigeria](#) affirmed that establishing an NPM that complies with Art. 17 will also depend on the collaboration among different ministries, the legislative, the judiciary, NHRIs and the SPT. For the representatives of [Mali and Senegal](#), advocacy with the president, the parliament, CSOs, and international actors is also essential when it comes to increasing the NPM's budget.

These different commitments reflect that constructive dialogue among everyone involved in torture prevention remains crucial to advance towards ratification, the designation of an NPM, and overcome the challenges faced by States when implementing the OPCAT. With this in mind, OHCHR and SPT committed themselves to continue supporting States, including in their ratification and NPM establishment processes, with advice, capacity-building, and financially through the OPCAT Special Fund. Similarly, APT will continue to provide advice, tools and support to States in their ratification and NPMs designation processes as well as online and face-to-face capacity strengthening to emerging NPMs.

The way forward also implies better cooperation between international, regional and national monitoring bodies. Another lesson learned from the two days of discussion was therefore the need for the SPT, the CPTA and NPMs to increase the flow of information among them. One way to exploit such collaboration is by using the affiliated status procedure at the African Commission. As such status is currently used by NHRIs to engage with the Commission,⁶⁴ NHRIs also designated as NPMs could use such channels to engage at the regional level. Furthermore, this could also allow the CPTA to ask NPMs about their independence and other matters linked to the Optional Protocol. In turn, closer cooperation between the SPT and the CPTA would be required to ensure information sharing and guarantee that the CPTA, as an ally in the region, supports exchanges between actors for a better implementation of the Optional Protocol in Africa.⁶⁵

⁶⁴ University of Bristol OPCAT Research Team (2008), [Relationship between the African Commission on Human and Peoples' Rights Robben Island Guidelines and the Optional Protocol to the UN Convention Against Torture \(OPCAT\)](#).

⁶⁵ Organisation internationale de la Francophonie (2014), [Les Mécanismes nationaux de prévention de la torture en Afrique francophone : enjeux, défis et perspectives](#).

Chapter 5

The way forward: exploiting cooperation at all levels

Twenty years after the adoption of the OPCAT, West African countries seem to be moving from ratification towards the establishment of well-functioning NPMs. However, lack of political will, limited knowledge among law enforcement officials on the consequences of ratifying the Optional Protocol, and the complexity of legislative processes, remain as obstacles to ratification for the four States in the region who are not yet States parties. For those States with an established NPM, challenges include the lack of financial and functional independence of the NPM as well as the difficulties in balancing counterterrorism efforts with torture prevention, addressing reprisals against detainees and NPM members, and the insufficient capacity among actors of the penal chain.

Despite the many challenges, NPMs in West Africa have shown significant advances in torture prevention. By having workplans that ensure their continuous assessment, the carrying out of follow-up visits, the dissemination of the NPM's work in the media and among the general public, and the increased cooperation with civil society and other NPMs, these mechanisms are setting the stage for a more effective torture prevention work.

Such good practices have already started to bear fruit. A more frequent and easier access to detention centers, enhanced detention conditions, the improvements on the capacity of law enforcement officials and closer cooperation with different stakeholders are among the main outcomes highlighted during the Conference.

Nevertheless, preventing and fighting torture continues to rely on the increased cooperation among stakeholders, together with advocacy and capacity building, for which constructive dialogue remains the backbone. As stated by APT's Secretary General, Ms. Barbara Bernath, at the end of the Conference: "We build capacity through exchange and discussion".



association pour
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de la torture



Conférence régionale : Faire progresser la prévention de la torture en Afrique de l'Ouest: Défis et voies à suivre

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| 53 | OHCHR Geneva | Ms. Ivana MACHONOVA SCHELLONGOVA | ivana.machonovaschellongova@un.org | Human Rights Officer, Manager of the OPCAT Special Fund, Treaty Body Capacity Building Programme |
| 54 | | Ms. Sabine TOLAINI | sabine.tolaini@un.org | Programme Assistant, Treaty Body Capacity Building Programme |

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| 55 | | Mr. Bardia JEBELI | bardia.jebeli@un.org | Human Rights Officer, Subcommittee on prevention of torture (SPT) |
| 56 | OHCHR Guinea | Mr. Patrice VAHARD | vahard@un.org | Representative, Office of the High Commissioner for Human Rights in Guinea |
| 57 | OHCHR Liberia | Mr. Uchenna EMELONYE | uchenna.emelonye@un.org | Representative, Office of the High Commissioner for Human Rights in Liberia |
| 58 | Senior HRA Sierra Leone | Mr. Christian MUKOSA | mukosa@un.org | Senior Human Rights Adviser, Office of the UN Resident Coordinator in Sierra Leone |
| 59 | Senior HRA Gambia | Ms. Yvonne Fungai Tawanda MASARAKUFA | yvonne.masarakufa@un.org | Senior Human Rights Adviser, Office of the UN Resident Coordinator in Gambia |



association pour
la prévention
de la torture



REPUBLIQUE DU
SENEGAL
Un Peuple – Un But – Une Foi
MINISTRE DE LA
JUSTICE



Regional Conference: 20th Anniversary of the Optional Protocol to the United Nations Convention against Torture

Advancing Torture Prevention in West Africa: Challenges and Ways Forward

17-18 January 2023

Dakar, Senegal

Background

The Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT) was adopted by the UN General Assembly in December 2002. It creates a unique preventive system through visits to all places of deprivation of liberty by National Preventive Mechanisms (NPMs) and the UN Subcommittee on Prevention of Torture (SPT).

To mark 20 years anniversary of the OPCAT adoption and its impact in the West Africa, including 11 ratification from the 16 West African countries and 8 NPMs in function, it is timely to organize a regional conference to discuss experience, challenges and opportunities in furthering torture prevention with different stakeholders in the region.

General objective

Building on experiences and expertise of States, National Preventive Mechanisms (NPMs) and civil society organizations in the West African region, this conference aims at promoting further ratification and NPM establishment, learning from existing experience and good practice.

Specific objectives

1. Mobilize West Africa States around torture prevention, including through ratifying and implementing the OPCAT;
2. Promote the effective functioning of NPMs, including through identifying challenges, good practices and strengthening collaboration amongst relevant actors.

Monday 16 January 2023 Informal dinner

| Time | |
|---------------|---------------------------------------|
| 18:00 – 20:00 | Arrival at the Hotel and registration |

Tuesday 17 January 2023 OPCAT ratification and NPM designation

| Time | Topics |
|---------------|---|
| 8:00 – 9:00 | REGISTRATION |
| 9:00 – 9:45 | OPENING CEREMONY Master of Ceremony: NPM Senegal <ul style="list-style-type: none">• <i>Welcome remarks: Madiaw Diaw, Observateur National des Lieux de Privation de Liberté (NPM Senegal)</i>• <i>Welcoming remarks: Ms. Barbara Bernath, Secretary General, APT</i>• <i>Welcoming remarks: Mr. Robert KOTCHANI, OHCHR Regional Representative</i>• <i>Opening statement: M. Ismaila Madior Fall, Ministre de la Justice, Garde des sceaux, Senegal</i> <i>Rapporteur of the conference: NPM Senegal</i> |
| 9:45 – 10:00 | Coffee Break – Group Picture |
| 10:00 – 11:30 | SESSION I: TOWARDS PREVENTION OF TORTURE: UNIVERSAL, REGIONAL AND NATIONAL PERSPECTIVES Moderator: Mr. Anis MAHFOUDH, OHCHR - WARO Interactive session with the panellists |

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| | <ul style="list-style-type: none"> • <i>Mr. Gnambi Garba KODJO, Member of the Subcommittee on Prevention of Torture (SPT): 20 years of the universal system of torture prevention – achievements, opportunities and challenges</i> • <i>Mr. Hatem ESSAIM, Chair of the Committee on Prevention of Torture in Africa: Regional system of torture prevention and its interplay with the universal system</i> • <i>Mr. Abdel Malick El BEKAYE, President, National Preventive Mechanism of Mauritania: Enhancing torture prevention through OPCAT</i> <p>Q&A</p> |
| 11:30 – 12:30 | <p>SESSION II: OPCAT IN WEST AFRICA</p> <p>Moderator: Mr. Abdallah OUNNIR, Vice-Chair SPT</p> <p>Short presentations</p> <ul style="list-style-type: none"> • <i>Mr. Anis MAHFOUDH & Mrs. Ivana MACHONOVA SCHELLONGOVA (OHCHR – CBP) : OPCAT in the context of human rights treaties and obligations of the West Africa States</i> • <i>Mr. Juvenal BABONA, APT & Mr. Paul ANGAMAN (FIACAT, Côte d'Ivoire: Why ratify OPCAT and what does it mean in practice</i> • <i>Mr. Hameth Saloum DIAKHATE, Member: SPT experience in West Africa State parties to OPCAT – challenges and achievements</i> <p>Q&A</p> |
| 13:00 – 14:00 | LUNCH |
| 14:00 – 15:45 | <p>SESSION III: NATIONAL PERSPECTIVES AND EXPERIENCE OF OPCAT RATIFICATION - CHALLENGES AND OPPORTUNITIES</p> <p>Facilitators: Mr. Juvenal BABONA, APT & Mrs. Rania El RAJJI, HCDH</p> <p>Discussion in groups on challenges and opportunities</p> <p>Plenary presentation by the rapporteur of each group</p> |
| 15:45 – 16:00 | Coffee Break |

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| <p>16:00 – 17:00</p> | <p>SESSION IV: TOOLS TO ASSIST IN RATIFICATION AND IMPLEMENTATION OF OPCAT</p> <p>Moderator: Mr. Ralmeg GANDAHO, President, Changement Social Bénin (CSB), Benin</p> <ul style="list-style-type: none"> • <i>Mr. Bardia JEBELI, OHCHR, SPT</i> • <i>Mrs. Jasmine ZIK-IKEORHA, APT</i> • <i>Mrs. Ivana MACHONOVA SCHELLONGOVA, HCDH, OPCAT special fund</i> <p>Q&A</p> |
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Wednesday 18 January 2023| NPMs in actions and ways forward

| Time | Topics |
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| <p>9:00 – 10:30</p> | <p>SESSION V: IMPLEMENTING THE NPM MANDATE – DESIGNATION, EFFECTIVE MONITORING AND COOPERATION</p> <p>Moderator: <i>M. Abdallah OUNNIR, Vice-Chair, SPT</i></p> <p><i>Interactive session with the panellists</i></p> <ul style="list-style-type: none"> • <i>Mrs. Zaida Morais de FREITAS, President, National Preventive Mechanism, Cabo Verde</i> • <i>Mr. Marcus DAKLA, Collectif des Associations Contre l'Impunité au Togo (CACIT) Togo</i> • <i>Mrs. Inès HADONOU TOFFOUN, Director of Human Rights, Ministry of Justice and Legislation, Bénin</i> <p>Q&A</p> |
| <p>10:30 – 10:45</p> | <p>Coffee Break</p> |
| <p>10:45 – 12:30</p> | <p>SESSION VI: NPMs AS DRIVERS FOR CHANGE - WHAT DIFFERENCE THEY MAKE?</p> <p>Moderator: <i>Mrs. Jasmine ZIK-IKEORHA, APT</i></p> |

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| | <p>Discussion in groups</p> <p>Presentation to the plenary</p> <ul style="list-style-type: none"> • <i>Mr. Cyr GOMIS, General secretary NPM Senegal</i> • <i>Mrs. Hadjaratou Zongo SAWADOGO, Director General of Human Rights, Burkina Faso</i> • <i>Mr. Aguibou BOUARE, President, CNDH Mali</i> • <i>Mr. Almoctar Garba ILLOU, President, REPRODEVH Niger</i> |
| 12:30 – 13:30 | LUNCH |
| 13:30 – 15:00 | <p>SESSION VII: BEST PRACTICES FOR REDUCING RISK OF TORTURE IN FIRST HOURS OF DETENTION</p> <p>Moderator: Mrs. Barbara BERNATH, Secretary General, APT</p> <p>Interactive session with the panellists</p> <ul style="list-style-type: none"> • <i>Mr. Ohini Kwao Didi SANVEE, Vice-President, CNDH Togo</i> • <i>Mr. Idrissa SOW, Vice-President, CPTA</i> • <i>Mrs. Uju Agomoh PhD, President, PRAWA</i> • <i>Mrs. Aji Adan Ceesay, Principal State Council, the Gambia</i> <p>Q&A</p> |
| 15:00 – 15:15 | Coffee Break |
| 15:15 – 16:30 | <p>SESSION VIII: A WAY FORWARD</p> <p>Moderator: Mrs. Rania El RAJJI, OHCHR</p> <p>Discussion in groups</p> <p>Presentation of suggestions and commitments to the plenary by participants</p> |

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| <p>16:30 – 16:45</p> | <p>SESSION IX: Recommendations, follow-up strategies and ways forward</p> <p>Moderator: <i>Mr. Anis MAHFOUDH, OHCHR</i></p> <ul style="list-style-type: none"> • <i>Mr. Abdallah OUNNIR, Vice-Président, SPT</i> • <i>Mrs. Barbara BERNATH, Secrétaire générale, APT</i> |
| <p>16:45 – 17:00</p> | <p>SESSION X: Closing session</p> <ul style="list-style-type: none"> • <i>NPM Senegal</i> • <i>Mr. Robert KOTCHANI, Regional Representative of OHCHR</i> |