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HUMAN RIGHTS
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Ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

A toolkit

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About the toolkit

The 75th anniversary of the Universal Declaration of Human Rights celebrated in 2023 is an occasion to renew the ground-breaking commitments made by States when they adopted the text in 1948. The Declaration has inspired the norms and standards that are embodied in the core human rights treaties and their optional protocols. These instruments aim to realize the rights contained in the Declaration, by making human rights legal entitlements with legally binding obligations for States.

Ratifying these instruments is an essential means to translating the human rights enshrined in the Declaration into reality on the ground, while conveying a message of commitment to the international community.

Human Rights 75 is an initiative led by UN Human Rights and its partners. It seeks, among others, to promote universality and renewed commitment, including through a campaign to advocate for the ratification of the core human rights treaties and their optional protocols. Thus, this year, States are called upon to formally re-commit to the protection and respect of human rights by ratifying outstanding human rights instruments.

This toolkit presents the benefits of ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), answers questions on its content and application, and provides a simplified version of the provisions of the Optional Protocol.

Why Ratify?

The *Optional Protocol* creates a double-tier system of prevention of torture. At the national level, it requires the State party to establish a national preventive mechanism (NPM), while at the international level, it creates the Subcommittee on Prevention of Torture (SPT).

Ratifying the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*:



1. Establishes a collaborative and constructive relationship with the Subcommittee on Prevention of Torture in relation to the improvement of conditions in places of detention. In addition, the reports of its visits are confidential, unless the State party agrees to publish them.



2. Provides for the possibility of receiving a grant from the OPCAT Special Fund to support the establishment and effective functioning of the national preventive mechanism.

3. Assists in the implementation of existing obligations to prohibit and prevent torture and ill-treatment under international and regional human rights treaties and international customary law.

4. Strengthens the prevention of torture and ill-treatment in the State party by taking concrete steps, such as the establishment of a national preventive mechanism, to protect persons deprived of liberty.



5. Contributes to building safer societies and restoring trust within the community. Transparency and independent monitoring of all places of detention reduce the risks of abuse.

Why Ratify?



6. Helps to reduce recidivism and facilitates social reintegration by providing safeguards that persons deprived of liberty are treated with dignity.

7. Enhances international credibility by taking a strong stand against torture - one of the most serious violations of a person's fundamental rights.

8. Strengthens international cooperation in torture prevention through exchanges with other States parties and their national preventive mechanisms.



Frequently Asked Questions



Does the Optional Protocol include a reporting procedure?

No. The Optional Protocol does not include a reporting procedure.

Are States obliged to establish a national preventive mechanism prior to ratification?

No. The Optional Protocol requires the establishment of a preventive mechanism within one year of ratifying the OPCAT. However, States may request postponement of this obligation for up to three years.

Can a State party obtain assistance for implementing the Optional Protocol, including establishing a national preventive mechanism?

Yes. OHCHR and the Subcommittee on Prevention of Torture can assist States in different ways. For example, prior to ratification, the Subcommittee on Prevention of Torture can provide advice and clarifications in relation to the provisions of the OPCAT, cooperate with the national authorities on the implementation of the provisions, consider the national legal framework and decisions, and comment on draft legislation on the national preventive mechanism.

Frequently Asked Questions



The Subcommittee on Prevention of Torture and OHCHR continue their engagement after ratification, providing advice, confidentially or not, including through dedicated SPT regional teams and country rapporteurs and through practical workshops or seminars which can be organized at the request of the State party. They can also provide technical assistance in the establishment of national preventive mechanisms. Moreover, civil society organizations, such as the Association for the Prevention of Torture, provide support to States and national preventive mechanisms.

Does the Optional Protocol create new obligations?

Yes. While the Optional Protocol does not create new substantive rights or obligations, it requires States to establish a national preventive mechanism.

Does the ratification of the Optional Protocol have financial implications?

Yes. The establishment and effective functioning of a national preventive mechanism requires financial and human resources.

Does the OPCAT prescribe a specific form of national preventive mechanism?

No. The Optional Protocol does not prescribe any form of national preventive mechanism. It leaves it to each State party the decision to establish a new body or to assign the mandate to an existing one. The key requirement is for the mechanism to be able to carry out its independent visiting mandate and other functions.

Simplified Version

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)



Entry into force: 22 June 2006, in accordance with article 28(1).

Registration: 22 June 2006, No. 24841

Status as of June: Signatories: 76. Parties: 92.

Objective of the Protocol (Art. 1): *The objective of the Protocol is to establish a system of regular visits by independent international and national bodies in places of detention to prevent torture and ill-treatment.*

Subcommittee on Prevention of Torture – establishment (Art. 2): *The Subcommittee on Prevention of Torture is established to carry out preventive functions.*

National Preventive Mechanism (Art. 3): *Each State Party sets up, designates, or maintains one or several visiting bodies to prevent torture and ill-treatment.*

Visiting mandate (Art. 4): *Each State party allows visits by the Subcommittee and the national preventive mechanism to all places of detention (e.g., places which persons are not permitted to leave by order of an authority).*

Subcommittee on Prevention of Torture – composition (Arts. 5 to 10): *The Subcommittee consists of 25 members, serving in their individual capacity, independently and impartially. Members are elected by States parties from their nationals to serve for a period of four years with a possibility for one re-election. Members should have proven expertise in various fields related to treatment of persons deprived of their liberty.*

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Subcommittee on Prevention of Torture - mandate (Arts. 6 to 16): The Subcommittee visits places of detention and makes recommendations to the States parties on the protection of persons deprived of liberty and the establishment or strengthening of national preventive mechanisms. The Subcommittee maintains direct contact with national preventive mechanisms and provides them with training, assistance, and advice. The States parties ensure an unrestricted access to all places of detention, information about persons deprived of liberty, and their treatment. Any reprisals for communicating with the Subcommittee are strictly prohibited. Recommendations of the Subcommittee are confidential unless the State party consents to their publication.

National preventive mechanisms (Arts. 17 to 23): Each State party maintains, designates, or establishes an independent national preventive mechanism within one year after the Optional Protocol enters into force. They guarantee the functional independence of the mechanism, expertise and independence of its personnel, and necessary resources. The mechanism is granted the power to regularly examine treatment of persons deprived of liberty, make recommendations to improve their treatment and conditions, and submit legislative proposals. The mechanism has access to all places of detention, information about persons deprived of liberty, and their treatment. Any reprisals for communicating with the mechanism are strictly prohibited. The authorities examine recommendations from the mechanism and discuss their implementation with it. State parties publish and disseminate annual reports of the mechanism.

Declaration (Art. 24): Upon ratification, State parties may make a declaration postponing either the obligations to receive a visit of the Subcommittee or to establish a national preventive mechanism for up to three years.

Financial provisions (Art. 25): The expenditures of the Subcommittee are borne by the United Nations.

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Special Fund (Art. 26): *A Special Fund is set up to help finance the implementation of recommendations, made by the Subcommittee, made after a visit to a State party as well as of educational programmes of national preventive mechanisms.*

Final provisions (Arts. 27 to 37): *The Protocol is open for signature by any State that has signed the Convention against Torture and subject to ratification or accession to any State that has signed or acceded to the Convention. The Protocol enters into force on the thirtieth day after the date of deposit of the instrument of ratification or accession. No reservation is possible to the Protocol.*

