



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

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment
Fifty-second session**

Summary record of the first part (public)* of the 9th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 6 February 2024, at 10 a.m.

Chair: Ms. Jabbour

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* The summary record of the second part (closed) of the meeting appears as document [CAT/OP/52/SR.9/Add.1](#).

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The public part of the meeting was called to order at 10.10 a.m.

Informal meeting with States parties to the Optional Protocol *(continued)*

1. **The Chair**, welcoming the representatives of the States parties to the Optional Protocol to the meeting, said that the effective fulfilment of the Subcommittee's mandate was intrinsically linked to close collaboration between the Subcommittee, national preventive mechanisms and States parties. The annual meeting with States parties was an opportunity to enhance that collaboration and to reflect on both the significant progress made by the Subcommittee over the previous year and the ongoing challenges it faced.

2. In 2023, the Subcommittee had conducted visits to the Philippines, Georgia, Guatemala, the State of Palestine, Croatia, Madagascar, Kazakhstan and South Africa. The visits had proved invaluable by highlighting issues surrounding prison conditions and overcrowding and the urgent need for certain States parties to establish national preventive mechanisms. The members of the Subcommittee were committed to safeguarding the rights of all persons held in places of deprivation of liberty and were attentive to the problem of reprisals during their visits. All States had a responsibility to protect individuals under their care from retaliation. The Subcommittee was seeking to engage with States that had not yet ratified the Optional Protocol in order to increase the rate of ratification, which had recently been slow.

3. Looking ahead to the elections to the Subcommittee in November 2024, she wished to remind States parties of the importance of nominating and electing independent experts with the requisite experience. The Subcommittee had a particular need for medical and mental health professionals able to conduct monitoring in places of deprivation of liberty.

4. Significant progress had been made in the drafting of the general comment on article 4 of the Optional Protocol, due to be published in late 2024. The purpose of the general comment was to provide clarity as to what constituted a place of deprivation of liberty. Once finalized, States parties would be encouraged to refer to the general comment to ensure that national preventive mechanisms had comprehensive access to all places of deprivation of liberty. In addition, the general comment would emphasize the need for States parties to support national preventive mechanisms in eliminating impediments to their mechanism's independence and to provide their mechanism with the resources required to effectively oversee places of deprivation of liberty.

5. The Special Fund established pursuant to article 26 of the Optional Protocol played a crucial role in supporting collective torture prevention efforts and had awarded grants to 18 projects in 2022. However, the Fund was currently experiencing a shortfall in funding; the number of projects for which implementation was pending the availability of resources demonstrated the urgent need to reduce that shortfall. The Fund's sustainability would be seriously threatened should the lack of resources persist in 2024. Accordingly, she urged States parties to make up the shortfall in order to guarantee the Fund's continuity.

6. The wider United Nations system was facing its own constraints in parallel. Liquidity issues posed a threat to the entire system and required immediate attention. It was vital for States parties to commit to action that would safeguard the integrity of the United Nations system as a whole. States parties' fulfilment of their obligations to the United Nations was not only a duty, but also part of their collective responsibility to strengthen their commitment to human rights.

7. The Subcommittee was mindful of the ongoing treaty body strengthening process and was working to ensure its effective integration into the wider United Nations human rights system. While the Subcommittee was mandated to conduct unannounced visits to States parties, it was also committed to the eight-year visiting cycle to facilitate States parties' cooperation with the Subcommittee. She hoped that States parties would continue to support the process, which would culminate in the adoption of the biennial General Assembly resolution on the human rights treaty body system in December 2024.

8. **Mr. Ounnir**, speaking as head of the regional team on Africa, said that the regional teams were one of the cornerstones of the Subcommittee's work and acted as its permanent link with States, national preventive mechanisms and civil society. The teams reviewed the

situation with respect to torture prevention and the status of the national preventive mechanism in each country in their region. They put forward proposals on States parties to be considered for visits, discussed the allocation of financial support through the Special Fund, suggested action to be taken regarding countries struggling to fulfil their obligations under the Optional Protocol and participated in the Subcommittee's work on the draft general comment and the role of national human rights institutions in torture prevention. Each team held an annual webinar for national preventive mechanisms in its region.

9. The regional team on Africa was currently working with 11 States parties that had established a national preventive mechanism, 13 that had not yet done so and 5 States that were signatories to the Optional Protocol. In the case of States parties that had established a mechanism, the team's role was to check that the mechanism was able to carry out its mandate in the best possible conditions. The team was working tirelessly to help the remaining States parties to establish mechanisms and to encourage signatory States to ratify the Optional Protocol. Of the 15 countries on the list of States parties whose compliance with their obligation under article 17 of the Optional Protocol to designate or establish one or several independent national preventive mechanisms was substantially overdue, 9 were from Africa. The team was sparing no efforts to secure the removal of those States parties from that list.

10. The regional conferences organized by the Office of the United Nations High Commissioner for Human Rights in Dakar, Marrakesh and Yaoundé had been a useful opportunity for the team to work with States and their national preventive mechanisms. Its work with States had shown the positive influence of good examples in encouraging other States parties to effectively uphold their obligations under the Optional Protocol. State-sponsored activities were vital for dissemination of the principles of the Optional Protocol and thus for torture prevention efforts throughout the region.

11. **Mr. Feoli Villalobos**, speaking as head of the regional team on the Americas, said that the team was due to visit Honduras in the first half of 2024 and the Plurinational State of Bolivia in the second half. In 2023, it had conducted visits to Ecuador and Guatemala and had worked closely with their national preventive mechanisms. The report on the visit to Ecuador had been delivered to the Government, while the report on the visit to Guatemala would be finalized in the coming weeks. The team continued to work with the authorities of Argentina to follow up on the Subcommittee's 2022 visit to that State party.

12. The history of violence and deep inequalities in Latin America had led to an increase in imprisonment rates and the control that States were able to exercise in places of deprivation of liberty over the past 30 years. An additional issue was the tendency for States in the region to overestimate the extent to which punitive approaches and the criminal justice system would help to resolve the problems faced. Accordingly, the team sought to use its country visits to focus on supporting States parties facing such issues, which undermined the rule of law and States' ability to ensure fulfilment of the fundamental rights of persons deprived of liberty.

13. In his experience, the work of the regional team was almost always supported by the States parties in the region. Nonetheless, the team had a duty to express its concerns regarding the current situation in those States parties, their criminal justice systems and conditions in places of deprivation of liberty.

14. **Mr. Kvaratskhelia**, speaking as head of the regional team on Asia and the Pacific, said that the Asia and the Pacific region did not receive enough attention within the Optional Protocol system. The current situation in the region was uncondusive to the protection of human rights. Fundamental freedoms were under threat as a result of complex geopolitical situations, armed conflicts, humanitarian crises and political instability. Many countries lacked properly functioning State authorities and suffered from acute economic and social problems. Even in such times of hardship, it was essential for States to uphold the absolute prohibition of torture and maintain the torture prevention system in place.

15. There were 13 States parties in the region and one signatory State. Eight States parties had established a national preventive mechanism. Of the five States parties that had yet to do so, four remained on the article 17 list. The team was committed to working with those States parties to facilitate the establishment or designation of their mechanism. It was doing its utmost to motivate other States to ratify the Optional Protocol and stood ready to provide

advice and assistance throughout the ratification process. States parties might support the team's efforts by exploring opportunities for regional conferences and sharing their experiences with States that were not yet a party to the Optional Protocol.

16. While some national preventive mechanisms in the region were discharging their functions effectively and independently, others lacked independence, resources and visibility and faced problems in obtaining unfettered access to places of deprivation of liberty and information on detainees. Many were in need of capacity-building. The team was most concerned about the lack of constructive dialogue with States parties and their failure to implement the recommendations made by national preventive mechanisms.

17. He was pleased to report that the team had visited every State party in the region at least once. The team's current focus was addressing the slow pace of States parties' implementation of the recommendations made by the Subcommittee after its visits. The team was seeking to engage in constructive dialogues with States parties to guide them through that process. The Subcommittee's visits had brought to light the issue of prison overcrowding, which was the result of unreasonably strict criminal and drug policies. Visiting teams had received reports of torture and ill-treatment and had found that fundamental safeguards against those practices were lacking.

18. The team also worked through informal channels, organizing bilateral meetings with national preventive mechanisms, multilateral public and private events and regional webinars. It was exploring further opportunities for conferences and other experience-sharing events, and he hoped that such cooperation would be enhanced in the future.

19. **Ms. Artinopoulou**, speaking as head of the regional team on Europe, said that she was pleased to report that Slovakia had ratified the Optional Protocol in September 2023 and that two European States parties had notified the Subcommittee of their establishment of a national preventive mechanism. The overall situation of torture prevention in Europe was good; national preventive mechanisms were experienced and functioned well. One challenge, however, was the increasing number of cases in which European States parties were outsourcing detention to other States, mostly through bilateral agreements. It was essential to address the questions that that practice raised in respect of the extraterritorial application of the Optional Protocol, particularly in relation to aspects such as jurisdiction, the role of national preventive mechanisms, the safeguarding of the rights of persons deprived of liberty and monitoring procedures.

20. The team continued to improve its engagement with national preventive mechanisms and would hold its annual webinar for European mechanisms in June 2024. The webinars were very interactive and provided an opportunity to share views and experiences and address the challenges faced by European mechanisms. The team was working to strengthen cooperation with other regional and international bodies, and Subcommittee members had participated in in situ dialogues in Latvia and Slovakia organized by the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe. Those dialogues had been a useful opportunity to meet with State authorities and the national preventive mechanisms.

21. The Subcommittee's first-ever visits to Albania and Greece would be undertaken in the first and second halves of 2024, respectively. The team was certain that those visits would help increase the Subcommittee's visibility in Europe.

22. **Mr. Czepek**, speaking as rapporteur on reprisals, said that confidentiality and trust were cornerstones of the Subcommittee's work and it was essential for the Subcommittee to be aware of the issue of reprisals in order to fulfil its visiting mandate. The Subcommittee had been one of the first United Nations bodies to focus so directly on the issue and had adopted its policy on reprisals several years previously. It was crucial for States parties to take steps at the national level to combat and prevent reprisals. The effectiveness of visits by the Subcommittee and national preventive mechanisms would be reduced if detainees selected for interview feared that they might subsequently face reprisals. He wished to encourage States parties to implement effective legal mechanisms to prevent reprisals and adopt adequate and effective measures to combat reprisals where they occurred.

23. **Mr. Castellero Correa** (Panama) said that the Panamanian national preventive mechanism had been established in February 2017 as part of his Government's efforts to meet its international obligations and enhance work to prevent torture and ill-treatment in places of deprivation of liberty. The Subcommittee's 2017 visit to the country had been an opportunity for stakeholders to learn how to improve their practices. While the Government had since been working tirelessly to improve its torture prevention system, significant challenges persisted. Reprisals were a major issue, and the Government was taking measures to ensure that individuals who reported cases of torture would receive protection. Efforts were being made to improve detention facilities and provide adequate training to staff, with a view to complying with the recommendations made by the Subcommittee after its visit. He wished to reiterate his Government's commitment to the Optional Protocol and to thank the Subcommittee members for their support.

24. **Mr. Last** (United Kingdom) said that he would be interested to know whether the Subcommittee still conducted separate advisory visits on national preventive mechanisms, Optional Protocol advisory visits and follow-up visits to places of detention in States parties in addition to its regular visits and, if so, how many it had carried out.

25. Combating reprisals remained a high priority for the Government of the United Kingdom of Great Britain and Northern Ireland. He wondered whether the Subcommittee might be able to share examples of cases where post-visit reprisals had been successfully addressed, either by the Subcommittee itself or through national preventive mechanisms, and any good practices that it had developed in that connection.

26. **Mr. Kapustin** (Ukraine) asked how the Subcommittee could effectively address the widespread use of torture and cruel, inhuman or degrading treatment or punishment by the Russian occupying forces in Ukraine since February 2022 and what tools the Subcommittee had at its disposal to respond to the atrocities committed by the Russian occupying forces in the temporarily occupied territories of Ukraine.

27. **The Chair** said that the Subcommittee had a preventive, not a reactive, mandate and could not conduct visits to places of detention in States involved in an armed conflict. It was for other international human rights bodies to investigate allegations of torture.

28. **Ms. Comas-Mata Mira**, speaking as Vice-Chair for visits, said that the Subcommittee had decided to discontinue the practice of identifying visits as being of one type or another in order to allow itself greater flexibility to focus on the issues that it considered to be most pressing in a given country.

29. **The Chair** said that, despite having simplified its visit methodology, the Subcommittee still proactively sought out opportunities to cooperate with other international and national torture prevention bodies on the ground, to lobby for the ratification of the Optional Protocol and to advise States that were in the process of setting up a national preventive mechanism. However, the Subcommittee had only limited resources with which to conduct its work. It was unclear whether, owing to the ongoing liquidity crisis within the United Nations system, the Subcommittee would be able to carry out the eight visits scheduled to take place in 2024 without external funding.

30. **Mr. Czepek**, speaking as rapporteur on reprisals, said that he was heartened to hear that States were aware of the serious problem of reprisals and intimidation. Both preventive and reactive measures were needed to address reprisals and intimidation effectively.

31. **The Chair** said that the Subcommittee's approach to dealing with reprisals and acts of intimidation against persons who had cooperated with its members during visits varied according to the situation at hand. Depending on the circumstances of the case, the Subcommittee might call on State authorities, national preventive mechanisms, United Nations offices or civil society to assist it in protecting victims of reprisals. The Subcommittee could not, however, successfully address all cases of reprisals alone; States must also do their part by putting in place measures to prevent reprisals and acts of intimidation from occurring in the first place.

32. **Mr. Meier** (Switzerland) said it seemed that, for many States parties to the Optional Protocol, establishing or designating a national preventive mechanism and ensuring that those mechanisms functioned effectively remained a challenge. He wondered whether and

how States that had already established or designated a mechanism that was operating effectively could assist States that were experiencing difficulties.

33. He supported the idea of speaking about reprisals more openly. It would be helpful to know whether there were specific steps that States should take to strengthen their legislative framework to combat reprisals and intimidation. He would also like to learn more about the extent of the cooperation between the Subcommittee and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and how the two bodies avoided overlap in their activities.

34. **Ms. Naveiras Torres-Quiroga** (Spain) said that Spain fully supported the work of the Subcommittee and viewed ongoing dialogue between the Subcommittee and States as essential to enhanced cooperation and the implementation of the Subcommittee's recommendations. She hoped that the current liquidity crisis would not prevent the visits planned for 2024 from taking place. The Subcommittee was to be commended on, inter alia, its efforts to train stakeholders on torture prevention and its commitment to gender equality. Going forward, the Subcommittee should continue to promote the universal ratification of the Optional Protocol.

35. **Ms. Muhammad**, speaking as Vice-Chair for work related to national preventive mechanisms, said that, regrettably, some States struggled to discharge in full their obligation to maintain, designate or establish an independent national preventive mechanism within one year of having ratified the Optional Protocol. In her experience, States could be hesitant about establishing a national preventive mechanism if other torture prevention mechanisms were already operating in their respective jurisdictions or if they lacked the technical knowledge necessary to set up a mechanism that was compliant with the Optional Protocol. Although the Subcommittee, through its regional teams and country rapporteurs, was always available to provide advice or technical assistance to States that needed it, to date, it had received only a handful of requests for such support. Ideally, States would request input from the Subcommittee in the early stages of establishing or designating a mechanism, especially since, in some quarters, there was still considerable misunderstanding about the nature of the work to be conducted by national preventive mechanisms and their *modus operandi*. Like the Subcommittee, such mechanisms had a preventive mandate: in other words, their work should focus on identifying and minimizing risks of torture and ill-treatment, not on investigating complaints of human rights violations. The Subcommittee normally responded to ad hoc requests for advice or technical assistance by electronic and online means, as it simply did not have the funds to travel to the requesting country to provide training in person. Any assistance that States could offer, financial or otherwise, would be most welcome.

36. **Mr. Czepek**, speaking as rapporteur on reprisals, said that, unfortunately, there was no one-size-fits-all legal solution for addressing reprisals and intimidation as domestic legal frameworks and national practices varied widely from country to country. The Subcommittee could, however, assist States by providing input on proposed legislation to combat reprisals.

37. **The Chair** said that the Optional Protocol encouraged the Subcommittee and the anti-torture bodies established under regional conventions to consult and cooperate with a view to avoiding duplication of effort and achieving the objectives set out in the Optional Protocol. The Subcommittee and CPT were in direct contact through their respective secretariats and focal points and held an annual meeting to coordinate their activities. While the bodies enjoyed good relations, more needed to be done to enhance their cooperation on the ground. As a regional torture prevention body, CPT was able to visit the States parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment every year or every two years, whereas the Subcommittee, as a global torture prevention body, could only visit the States parties to the Optional Protocol once every eight years. Efficient communication was key to addressing any potential overlap in activities; however, the confidential nature of the two bodies' work meant that details of their respective visits could not be disclosed in advance. Unlike CPT, the Subcommittee could rely on the support of national preventive mechanisms – its partners on the ground – in ensuring that States fulfilled their international obligations in the area of torture prevention.

38. **Ms. Aliaga Araujo** (Peru) said that, while Latin America was one of the regions with the greatest number of States parties to the Optional Protocol, it continued to lag far behind

other regions in terms of progress towards improving detention conditions, raising public awareness of the universality of human rights and addressing the excesses that led to the adoption of hard-line policies to combat crime. The Government of Peru considered improving the human rights situation of persons deprived of their liberty and preventing torture and ill-treatment to be national priorities and was grateful to the Subcommittee for its efforts in pursuit of those aims.

39. **Ms. Reyes Guzmán** (Guatemala) said that she wished to thank the Subcommittee for its visit to the country in October 2023. The newly elected Government of Guatemala would continue to cooperate with the Subcommittee and looked forward to receiving its visit report.

40. **Ms. Mngomezulu** (South Africa) asked whether the Subcommittee cooperated and exchanged best practices with torture prevention bodies outside Europe.

41. **The Chair** said that the Subcommittee, through its regional teams, routinely cooperated with torture prevention bodies on every continent.

42. **Ms. Muhammad**, speaking as Vice-Chair for work related to national preventive mechanisms, said that States were required to guarantee the independence of national preventive mechanisms that were part of another institution, such as a national human rights institution or an ombudsman's office, by ensuring that they existed as autonomous units with their own staff and budget. That institutional separation was particularly important given the preventive nature of the work to be performed by such mechanisms and the reactive mandate of the institution to which they were attached.

43. **Ms. Comas-Mata Mira**, speaking as Vice-Chair for visits, said that the Subcommittee's mandate, which was guided by a spirit of cooperation and constructive dialogue, was a cornerstone of the fight against torture and ill-treatment in places of deprivation of liberty throughout the world. It was important for States to cooperate with the Subcommittee at the preparatory stage of its visits, to provide pertinent information in a timely manner and to grant unrestricted access to places of detention, as doing so would enable the Subcommittee to carry out its work effectively. Cooperating effectively during the preparatory phase of visits showed that States were committed to transparency and to upholding human rights principles. The willingness of States to engage in constructive dialogue during visits was crucial to the fulfilment of the Subcommittee's mandate. The purpose of the Subcommittee's visits was not to criticize States but to understand the challenges that they were facing and to make recommendations based on best international practices. Cooperation in that context was not only an obligation under the Optional Protocol but also an opportunity to strengthen national institutions and promote respect for human dignity. States parties also had an important part to play in encouraging other States to ratify the Optional Protocol. The support of States was fundamental to building a robust global framework for the prevention of torture. The Subcommittee was continuing to organize meetings with the authorities of States that had not yet ratified the Optional Protocol to discuss that possibility. Each new ratification was a sign of commitment to the fulfilment of human rights and to the prevention of torture. The more States that ratified the Optional Protocol, the greater the Subcommittee's reach and the greater the pressure that could be exerted on States that still permitted the use of torture.

44. **Ms. Romero**, recalling that conducting visits and advising and assisting States parties was one of the three pillars of the Subcommittee's mandate, said that the Subcommittee's duty to cooperate with States did not end upon the conclusion of its visits. On the contrary, visits enabled the Subcommittee to make a series of recommendations for which prompt implementation was crucial. In follow-up to such recommendations, the first step was to encourage the State party to request the publication of the visit report in accordance with article 16 (2) of the Optional Protocol. Making the report public enhanced the transparency of the process, created greater accountability for the State party and facilitated the sharing of best practices. To date, the Subcommittee had sent 79 visit reports to States parties, of which 26 had not yet been published. States' replies to the reports were also published upon request. Six months after receiving the replies, the Subcommittee initiated a dialogue with the State party's permanent mission and national authorities to learn about the steps being taken to implement its recommendations. To that end, the Subcommittee also liaised with the national preventive mechanism. States that requested the publication of a visit report had access to the

Special Fund established pursuant to article 26 of the Optional Protocol to help to finance, inter alia, the implementation of the Subcommittee's recommendations. The Fund demonstrated the ongoing commitment of the United Nations to supporting national implementation efforts. It was important to stress that the Subcommittee's follow-up process was not perfect or set in stone and that all feedback on it was welcome.

45. **The Chair** said that, for a State party, requesting the publication of a visit report was the first step in showing its commitment to preventing torture. Through publication, it could strengthen its engagement with national stakeholders and promote a dialogue on how best to implement the Subcommittee's recommendations.

46. **Ms. Duncan Villalobos** (Costa Rica), reaffirming her country's commitment to supporting the Subcommittee in the implementation of its mandate and welcoming the high number of ratifications of the Optional Protocol in Latin America, said that she would welcome details of the Subcommittee's cooperation with the other human rights treaty bodies and the special procedures of the Human Rights Council.

47. **Ms. Romero** said that the Subcommittee enjoyed a close working relationship with the Committee against Torture, with which it held a joint meeting every year, usually in November. The two bodies had each appointed a focal point to facilitate coordination efforts. The Subcommittee engaged with other United Nations entities on a case-by-case basis. In the drafting of its general comment on article 4 of the Optional Protocol, it had consulted with and received feedback from several such entities. Moreover, when appropriate, it made other treaty bodies aware of its recommendations to States parties.

48. **Ms. Kozma**, speaking as the Subcommittee's focal point for coordination with the Committee against Torture, said that, in November 2023, the Committee and the Subcommittee had engaged in an extensive dialogue. Although the amount of information that the two bodies could share was limited by confidentiality requirements, a system that enabled exchanges of information in preparation for the Committee's interactive dialogues with States parties and the Subcommittee's visits was in place.

49. **The Chair** said that significant efforts were made to harmonize working methods at the annual meeting of the Chairs of the human rights treaty bodies, the next edition of which would be chaired by the Subcommittee. She was grateful to the representatives of States parties in attendance for their engagement and questions. States parties were the Subcommittee's main allies, and their close cooperation was crucial to the fulfilment of its mandate.

The first part (public) of the meeting rose at 11.35 a.m.