



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

Distr.: General  
17 February 2023

Original: English

---

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

**Summary record of the 6th meeting**

Held at the Palais Wilson, Geneva, on Thursday, 9 February 2023, at 3 p.m.

*Chair:* Ms. Jabbour

**Contents**

Event on the 20-year anniversary of the Optional Protocol and the 15-year anniversary of the Subcommittee (*continued*)

---

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Subcommittee at this session will be reissued for technical reasons after the end of the session.



*The meeting was called to order at 3.10 p.m.*

**Event on the 20-year anniversary of the Optional Protocol and the 15-year anniversary of the Subcommittee** *(continued)*

1. **The Chair** said that the Optional Protocol and the Subcommittee remained unique within the United Nations human rights system, 20 and 15 years, respectively, since their establishment. The anniversaries provided an opportunity to celebrate the achievements made to date, to discuss the many challenges that lay ahead and to strengthen exchanges and synergies among all actors in the field of torture prevention. Speakers from a large range of organizations, some of whom would be connecting remotely, would be participating in the discussions, which it was hoped would continue beyond the anniversary encounter.

2. **Ms. Al-Nashif** (United Nations Deputy High Commissioner for Human Rights) said that the adoption of the Optional Protocol and the subsequent establishment of the Subcommittee had represented a major shift in global efforts to prevent torture. Since 2007, the Subcommittee had completed many visits and had made concrete recommendations to State authorities and national preventive mechanisms to address concerns identified during those visits. Overall, the level of engagement and cooperation by States parties was positive. Over the past 15 years, the Subcommittee had had to suspend only four visits, two of which had later been resumed once the difficulties with the State party had been resolved. That was a remarkable achievement. The Optional Protocol had also introduced an innovative approach to building national capacity to prevent torture by requiring States parties to establish independent national preventive mechanisms tasked with undertaking regular visits to all places of deprivation of liberty.

3. Despite those achievements, much remained to be done to unlock the full potential of the Optional Protocol to prevent torture globally. With less than half of the States Members of the United Nations being parties to the Optional Protocol, the treaty body capacity-building programme had recently organized regional seminars to facilitate peer-to-peer exchanges and encourage further ratifications. However, ratification was, of course, only a means to an end; many States parties still had significant work to do in order to fully uphold the principles of the Optional Protocol, including by ensuring that their national preventive mechanisms could operate effectively and independently with adequate resources. The Subcommittee provided critical guidance and support towards that end. Even at the height of the coronavirus disease (COVID-19) pandemic, when the Subcommittee had not been able to conduct visits, it had continued to issue advice to States, including, for example, on how to minimize the impact of COVID-19 in places of deprivation of liberty.

4. The Subcommittee's achievements were all the more commendable given the difficult conditions in which it operated. As the Chair had stressed at the General Assembly in 2022, the international community should honour its commitment to the prevention of torture and ill-treatment by ensuring the necessary financial support for the work of the Subcommittee. There was also a critical need to increase contributions to the Special Fund established by the Optional Protocol. Given that torture and ill-treatment were unfortunately still very much a reality, it was important to advocate compliance with the Optional Protocol and a strengthening of the work of all United Nations anti-torture mechanisms. As the international community would be marking the seventh-fifth anniversary of the Universal Declaration of Human Rights in 2023, it was especially appropriate for States to recommit to the noble endeavour of eradicating the crime of torture.

*Round table: "Achievements and challenges for the Subcommittee, national preventive mechanisms and other stakeholders in the field of prevention of torture"*

5. **Ms. Muhammad** (Moderator) said that the Subcommittee differed from the other human rights treaty bodies in that, rather than reviewing State party reports, it undertook visits to places of deprivation of liberty in States parties and issued its own reports. There were now 91 States parties to the Optional Protocol and 75 national preventive mechanisms.

6. **Mr. Fink** said that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment was an absolute right that admitted no exceptions. Recent attempts to reduce that absolute prohibition had been successfully thwarted. International and

national visiting bodies now monitored a variety of facilities where persons might be deprived of their liberty. The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Principles on Effective Interviewing for Investigations and Information Gathering (Méndez Principles) facilitated the reporting of acts of torture. Since its creation, the Subcommittee had carried out over 90 visits, and the national preventive mechanisms had conducted thousands. However, despite those positive developments, the use of torture and cruel, inhuman and degrading treatment or punishment was still widespread and major challenges remained.

7. The first challenge facing the Subcommittee was the frequency of its visits to States parties. Ideally, it should be able to revisit States parties to assess the improvements made in response to its previous post-visit recommendations within a reasonable time frame. Currently, however, the Subcommittee was able to conduct a maximum of 10 visits a year, on which basis each of the 91 States parties to the Optional Protocol would be visited only once every 9 or 10 years. Thus, as the Subcommittee had decided to align itself with the eight-year review cycle recommended as part of the treaty body strengthening process, it would need to increase the number of visits it carried out each year, and, if it was to do so, it must be provided with the necessary financial and human resources.

8. The second challenge lay in establishing and maintaining relationships with national preventive mechanisms. There was an obvious need for the personnel of newly established mechanisms to receive training, and the Subcommittee should be more active in that area. There was also a need to help national preventive mechanisms to better understand the preventive nature of their mandate. The Subcommittee was, of course, in contact with the national preventive mechanisms, but unfortunately it lacked the resources necessary to deepen those relationships. It therefore called on States parties to provide supplementary resources for the Special Fund in order to allow the Subcommittee to enhance the support it provided to national preventive mechanisms.

9. The third challenge was ensuring cooperation among the numerous actors in the field of torture prevention. The Subcommittee, United Nations bodies and regional bodies with a visiting mandate in the field of torture prevention had a duty to intensify their efforts to coordinate calendars, working methods, recommendations and follow-up. The Subcommittee and civil society organizations should also engage in exchanges more frequently, as such organizations had an important role to play in promoting ratification of the Optional Protocol and the implementation of recommendations.

10. **Mr. Rasmussen** (Denmark) said that there was much to celebrate on the anniversary of the adoption of the Optional Protocol and the establishment of the Subcommittee. Of course, the Convention against Torture was at the origin of all that had been achieved in the field of torture prevention. There were now more than 170 States parties to the Convention, and the Convention against Torture Initiative, of which Denmark was one of the core States, was working to assist the 20 States that had not yet ratified it in taking the necessary steps. Denmark had for many years been actively engaged in international torture prevention efforts; it led resolutions before the Human Rights Council and at the General Assembly and provided support to civil society organizations and the United Nations system.

11. The Subcommittee and the national preventive mechanisms contributed significantly to the prevention component of the Convention. However, there remained three key areas in which improvements were needed. First, it was essential to ensure that national preventive mechanisms understood their unique preventive mandate and adhered to it to the fullest extent possible. Their role was not to reactively determine whether there had been a breach of the Convention against Torture, but rather to proactively make recommendations to prevent torture from occurring in the first place. Second, the recommendations made by national preventive mechanisms should be more precise and easier to implement by the national authorities. Third, the torture prevention system comprising the Committee against Torture, the Subcommittee and the national preventive mechanisms should be strengthened.

12. **Mr. Gomis** (National preventive mechanism of Senegal), speaking via video link, said that the national preventive mechanism was currently reviewing the national legislative framework for the implementation of the Optional Protocol. Since its establishment 10 years

previously, the mechanism had undertaken a range of activities that served to advance a national culture of torture prevention and public awareness of its existence had grown progressively. The mechanism had initially faced difficulties in terms of acceptance, particularly by the defence and security forces, and had also lacked infrastructure and resources. For its first two years, it had had to operate without a budget allocation from the State, relying instead on support from civil society. However, the State had since made significant efforts, and the mechanism had recently moved into high-quality new headquarters.

13. **Mr. Jarray** (National preventive mechanism of Tunisia), speaking via video link, said that the national preventive mechanism of Tunisia had been the first preventive mechanism established in the Middle East and North Africa Region. The mechanism was now in its seventh year of operation and had conducted a variety of activities, including several hundred preventive visits. It had published manuals for prisoners and on Tunisian prison law, had carried out communication campaigns and a survey on public perceptions of terrorism, had conducted targeted visits to places of confinement during the pandemic, had recently created its own research and training centre, and had made a substantial contribution to the development 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 and other Cruel, Inhuman or Degrading Treatment or Punishment (Abidjan Rules). It had also encountered some difficulties, such as resistance to change on the part of law enforcement officers. Efforts had been made to strengthen the independence of the national preventive mechanism and introduce innovations with a view to ensuring the highest standard of monitoring of places of deprivation of liberty and thus contributing to the eradication of torture.

14. **Ms. Fuentes Julio** (Chile) said that, since the restoration of democracy in 1990, Chile had been a strong international advocate of the Convention and, subsequently, the Optional Protocol. It was now 50 years since the military coup in Chile. The National Commission on Political Prisoners and Torture had reported that, during the military dictatorship, some 29,000 persons had been tortured. Chile was convinced that the Optional Protocol contributed to the upholding of the "Nunca Más" commitment, the promise made by many Latin American countries to never again allow campaigns of human rights violations such as those committed during the military dictatorships to take place. Chile also attached great importance to torture-related issues brought before the Human Rights Council.

15. Chile had ratified the Optional Protocol in 2008, and its national preventive mechanism had started work in 2020. It was essential to raise awareness of the mechanism among other public authorities, civil society and all stakeholders involved in the deprivation of liberty. The mechanism engaged in exchanges with the Association for the Prevention of Torture (APT), the Subcommittee and the Office of the United Nations High Commissioner for Human Rights as well as with other national preventive mechanisms in the region. It had participated in discussions on reforms that could have an impact on the prevention of torture and the functioning of the police, for example, and organized training and awareness-raising activities on the prevention of torture and ill-treatment in places of deprivation of liberty for the police. Between January and September 2022, the mechanism had visited 46 places of deprivation of liberty. In the short time since its establishment, the mechanism had already achieved a good deal, including developing visit protocols and a strategic plan. She called on States that had not already yet done so to ratify both the Convention and the Optional Protocol.

16. **Mr. Essaiem** (Committee for the Prevention of Torture in Africa), speaking via video link, said that an event had recently been held in Dakar to celebrate the twentieth anniversary of the adoption of the Optional Protocol. In Africa, 53 States were parties to the Convention against Torture, which, in the absence of a corresponding African instrument, served as a primary source of law at the regional level. In addition, 25 States in the region were parties to the Optional Protocol and a further 8 were signatories. Regrettably, however, torture continued to be practised in Africa, as it did in the rest of the world.

17. The Committee for the Prevention of Torture in Africa was committed to strengthening the Optional Protocol system. The Committee not only monitored the number of States parties to the instrument and its implementation at the regional level but also sought

to promote related soft law instruments, including the Abidjan Rules, albeit with limited resources. The Abidjan Rules established a system for reporting cases of torture and other ill-treatment and monitoring the responses provided. The Committee would also be working with APT to disseminate the Méndez Principles.

18. **Ms. Bernath** (Association for the Prevention of Torture) said that, having played a key role in the development of the Optional Protocol, APT was proud to celebrate the twentieth anniversary of its adoption and the fifteenth anniversary of the establishment of the Subcommittee. In her remarks, she would focus on three unique features of the Optional Protocol that might help to unlock its full potential.

19. First, the Optional Protocol was focused on prevention. It was a major achievement that so many States had become parties to the instrument, thereby allowing the Subcommittee and national preventive mechanisms to conduct visits to any places where persons were or might be deprived of their liberty. Over 100 States had now signed the Optional Protocol, and there were over 70 national preventive mechanisms conducting regular visits to places of detention. A preventive visit involved viewing a place of detention as a system rather than addressing individual cases.

20. Second, the Optional Protocol was a pragmatic and solution-oriented instrument geared towards the practical implementation of the absolute prohibition against torture and ill-treatment. That approach allowed the Subcommittee to devote its visits to identifying specific sources of risk. In that connection, the Subcommittee had an interesting role to play in promoting the Méndez Principles. Moreover, visits provided an opportunity to examine the situation of vulnerable groups. In her view, there was scope for the Subcommittee to develop thematic analyses and guidance on major risk areas such as, for example, overcrowding and immigration detention. In view of the global trend towards the construction of ever more prisons, the Subcommittee could proactively formulate a set of recommendations on prison construction from a torture prevention perspective.

21. Third, the Subcommittee's mandate included an advisory component, which was based on a tripartite relationship between the Subcommittee itself, national preventive mechanisms and States parties. The Subcommittee could provide assistance both in designating or establishing a State party's national preventive mechanism and in strengthening its capacity and mandate once it was already operational. The Subcommittee and national preventive mechanisms were in direct contact, and the efforts made during the COVID-19 pandemic to strengthen that cooperation should be maintained.

22. Through its emphasis on dialogue and cooperation, the Optional Protocol had made a unique contribution to ending torture worldwide. For that reason, the Subcommittee, other treaty bodies, national preventive mechanisms and civil society organizations needed to work towards the goal of universal ratification and effective implementation. However, torture could not be eradicated through dialogue and cooperation alone; efforts to ensure accountability and redress for victims and survivors also had a role to play. Only through action on multiple fronts would it be possible to keep the promise made in the Universal Declaration of Human Rights, namely, that no one should be subjected to torture or other forms of ill-treatment.

23. **Sir Malcolm Evans** (former member of the Subcommittee on Prevention of Torture), speaking via video link, said that the Subcommittee was to be commended for having recently resumed its visit programme with such energy and intensity; after all, the very essence of the Optional Protocol was to bring together those deprived of their liberty, those responsible for them and those tasked with enhancing their safety and security. In that connection, it was important not to take the Subcommittee's achievements for granted. When he had become a member in 2009, some commentators had considered it unlikely that the Subcommittee would be able to conduct three visits per year, that States parties would establish national preventive mechanisms that were compliant with the Optional Protocol, and that the Special Fund would ever be workable, but all of them had been proved wrong. He took particular pride in the knowledge that hundreds – if not thousands – of visits were now conducted by national preventive mechanisms each year, reaching many thousands of detainees, and he remained humbled at the power of international law, which had enabled the Subcommittee to achieve what it had with minimal obstruction and difficulty.

24. Although the Subcommittee had become an established part of the treaty body system, it should not abandon the agility and flexibility that had served it so well in its early years. Despite the inadequacy of the resources at its disposal, the Subcommittee needed to work towards the establishment of further national preventive mechanisms that were compliant with the Optional Protocol and provide them with support; ensure that its recommendations were implemented in a timely manner, placing greater emphasis on follow-up and dialogue; take an ambitious yet realistic approach to its own visiting potential; and work with the Committee against Torture, the special procedure mandate holders and similar mechanisms at the regional level in order to maximize cohesion and effectiveness. The Subcommittee's procedures could and indeed should evolve if it was to adapt. The challenge was to remain focused on the ultimate goal of the Optional Protocol system, namely, the prevention of torture and other forms of ill-treatment.

*Round table: "Policies of prevention and pursuit of synergies in torture prevention"*

25. **Ms. Comas-Mata Mira** (Moderator) said that the issue of torture had grown in prominence over the years, leading to an increased interest in monitoring activities in places of detention. While such activities were carried out by a wide range of civil society organizations, public authorities and international bodies, the Subcommittee and national preventive mechanisms were set apart by their focus on prevention. In recognition of that unique role, the second round table would address policies of prevention and the pursuit of synergies in torture prevention.

26. **Ms. Romero** said that the Subcommittee had developed a unique, preventive approach to addressing torture and other cruel, inhuman or degrading treatment or punishment. That approach was predicated on the recognition that a State's practice was as fundamental to the preventive endeavour as any legislative, administrative, judicial and other measures that it adopted. Through visit reports and recommendations, the Subcommittee aimed to help States parties and national preventive mechanisms to understand their obligations under the Optional Protocol. To ensure that the guidance provided was as practical as possible, priority was accorded to the most pressing and relevant issues in respect of which progress could most readily be made. In its work with national preventive mechanisms, the Subcommittee emphasized the importance of interdisciplinary work with a view to ensuring that all relevant perspectives were taken into account. By working together, professionals from diverse backgrounds were better able to tackle the systemic factors that contributed to torture.

27. The Subcommittee's work was guided by a number of key considerations. First, the Subcommittee considered the overall situation in a State party, including with regard to human rights and the rule of law. Second, broader regulatory and policy frameworks were taken into account, as were the institutional arrangements that gave effect to them. Third, the Subcommittee examined the procedural safeguards in place to protect persons deprived of liberty at every stage of their detention. Fourth, emphasis was placed on investing in training for those who worked in places of detention. Fifth, the Subcommittee considered that conditions of detention played a critical role in effective prevention and that special attention should be paid to the situation of vulnerable groups, including women, minors, and persons with disabilities.

28. To advance the cause of torture prevention, the Subcommittee needed to cooperate with national preventive mechanisms, civil society organizations, regional organizations and international bodies, including other treaty bodies, the special procedures of the Human Rights Council and United Nations agencies. Although procedures for cooperation with other bodies, in particular the Committee against Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), had been improved, there was an urgent need for further progress in that area. The Subcommittee also needed to deepen its ongoing dialogue with civil society organizations, which had an important role in ensuring transparency and accountability, complementing the work of the national preventive mechanisms.

29. **Mr. Rosales** (Argentina) said that, tragically, during the brutal dictatorship of 1976–1983, the crime of torture had been common and widespread in his country. Since the restoration of democracy, the prevention of and fight against torture had constituted a priority

of Argentine domestic and foreign policy. Within the framework of the Human Rights Council, for example, Argentina had played an active role in promoting the Méndez Principles, as evidenced by the statement that it had delivered at the forty-ninth session on behalf of 39 States.

30. The country's national preventive mechanism, the National Committee for the Prevention of Torture, had been fully operational since 27 December 2017. The National Committee was a public body tasked with the monitoring, oversight and inspection of places of deprivation of liberty. In addition to the National Committee, Argentina had local mechanisms for the prevention of torture. The National Secretariat for Human Rights and the National Committee were working together to promote such mechanisms in provinces that did not yet have one. In June 2020, the Federal Human Rights Council had signed an agreement to establish and operationalize the local mechanisms. Of the country's 24 administrative areas, 17 currently had such a mechanism.

31. In addition to the National Committee, there were multiple external monitoring bodies that received and filed complaints with the courts and inspected and recorded situations that occurred in detention contexts, such as the Prisons Commission of the Office of the Chief Public Defender, the Office of the Ombudsperson for the Prison System and the Unit for the Prosecution of Institutional Violence of the Public Prosecution Service. The Unit for the Prosecution of Institutional Violence, which had been established to improve mechanisms for investigating cases of institutional violence and prosecuting the perpetrators, intervened in cases of enforced disappearance and police violence. Its tasks included, inter alia, taking witness statements; working with victims of institutional violence, their family members and witnesses; and advising prosecutors. The Unit also investigated practices that violated human rights in places of deprivation of liberty; carried out scheduled and unannounced monitoring visits to federal correctional facilities; filed complaints in cases of institutional violence; and operated a telephone helpline for persons deprived of liberty.

32. **Mr. Brzozowski** (National preventive mechanism of Poland), speaking via video link, said that 2023 also marked the fifteenth anniversary of the designation of the Commissioner for Human Rights as the national preventive mechanism of Poland, whose policy on torture prevention was based on consistency, visibility and flexibility, among other pillars. The preventive mechanism monitored the situation of detainees on an ongoing basis, engaged in dialogue with the various authorities at all levels and provided anti-torture training. In the past few years, the COVID-19 pandemic, social protests and recent mass migration flows had forced the mechanism to be adaptable and expand its monitoring to additional places of deprivation of liberty, including those where migrants in an irregular situation were being held, such as the forest on the border with Belarus.

33. The mechanism made every effort to ensure that its reports and recommendations were a notable contribution to public debate. For example, its ad hoc reports on the situation of arrested protesters and on foreign nationals detained after entering Poland from Belarus had been extensively discussed in parliament and the media. In addition, the mechanism had conducted 11 thematic visits between February 2020 and August 2021 to ascertain the extent to which the recommendations of the Subcommittee and CPT were being implemented. It had thus been able to identify cases of ill-treatment that sometimes amounted to torture or inhuman treatment.

34. The mechanism found strength in cooperating with many actors, including civil society organizations and external experts. Obtaining relevant information on detainees through those partners had been particularly significant in the context of the crisis at the Polish border. However, some partners expected the mechanism to intervene in individual cases despite its role being limited to monitoring; therefore, precise planning was necessary to prevent misconceptions of its mandate and guarantee its independence.

35. **Ms. Zamparutti** (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Torture) said that a policy of cooperation and complementarity between the Subcommittee and CPT might be among the best ways of preventing torture. Moreover, reciprocity, while respecting confidentiality, was crucial to their mutual strengthening, and duplication of visits and activities should be avoided. In that connection, the two bodies should inform one another of their programme of visits and

perhaps develop common follow-up approaches, and CPT, as a bearer of institutional memory, could provide information to feed into the decision-making of the Subcommittee's regional team. Coordinated public messaging would also be useful. The two bodies had more in common, such as their vision and attachment to the human rights system and the rule of law, than they had differences and both would stand to gain by formalizing their consultations. After all, dialogue was the cornerstone of their work.

36. **Mr. Staberock** (World Organisation against Torture (OMCT)) said that OMCT saw the Optional Protocol as a tool for enlightenment that, in shedding light on conditions of detention and the situation of victims, was vital to the eradication of torture. Nevertheless, discussions on torture prevention tended to be somewhat abstract, as the perspective of survivors of torture was rarely included. Furthermore, meaningful prevention required current and prospective States parties to recognize that torture was an issue, not simply a theoretical problem, and State compliance could be improved if the Subcommittee systematically published its visit reports. As the example of Latvia showed, it had taken the publication of reports by CPT for the authorities to finally undertake the reforms needed to address the well-known problems in the prison system. Similarly, the continued arbitrariness of COVID-19 response measures at prisons in many parts of the world illustrated how essential it was to involve civil society in order to realize the promise of transparency conveyed in the Optional Protocol.

37. Lastly, anti-torture efforts tended to be artificially siloed. Preventing torture was ineffective without also fighting impunity, and national preventive mechanisms could play a role on that front without exceeding their mandates by, for example, referring cases for investigation. The mechanism of Poland, for instance, had the power to initiate litigation, while that of Tunisia produced reports on matters of impunity. Working in silos made the movement easier to disregard; therefore, all relevant actors should unite against torture.

38. **Ms. González Pinto** (former member of the Subcommittee on Prevention of Torture), speaking via video link, said that there were three components to an effective torture prevention policy, namely, a comprehensive legal framework based on international human rights norms, effective enforcement of the framework, and mechanisms to monitor the framework and its enforcement. The definition of torture must be in line with the Convention against Torture, and the relevant national legislation was considered to be lacking if it failed to cover torture committed by individuals with the consent of public officials, if it distinguished between minor and serious torture or if it allowed for the use of confessions obtained under torture. The policy must also pay particular attention to persons belonging to vulnerable groups.

39. Good practices in the enforcement of torture prevention policies included authorizing access to places where people were or might be deprived of their liberty, including places located outside a State's territory but over which the State had effective de jure or de facto control; ensuring that individuals who reported cases of torture were not subjected to reprisals and had access to effective remedies; strengthening prevention during the crucial period following arrest; providing training in the Méndez Principles; ensuring that solitary confinement was used as a last resort in extraordinary circumstances only and for the shortest possible period; and using forensic methods and other, rights-based scientific alternatives to achieve the desired results in law enforcement and counter-terrorism activities.

40. The components of the tripartite torture prevention apparatus – the Subcommittee, national preventive mechanisms and States parties – should coordinate their efforts in a transparent manner while maintaining confidentiality so as to build their credibility and should forge dialogue with civil society. Similarly, the Subcommittee, the Committee against Torture and the Special Rapporteur on torture should liaise constantly, rather than only during sessions, and should set annual goals concerning the exchange of confidential information, visits, strategies for follow-up to recommendations, joint statements and resource optimization.

*The meeting was suspended at 4.55 p.m. and resumed at 5.05 p.m.*



*Round table: "Status and roles of national preventive mechanisms in the prevention of torture"*

41. **Ms. Brasholt** (Moderator) said that the national preventive mechanisms had grown into a worldwide network of institutions that carried out thousands of visits and made recommendations to States parties. While their activities could improve the treatment of persons deprived of liberty and living conditions in places of deprivation of liberty, there was concern about their independence, the sufficiency of the resources allocated to them and the fact that some were geared towards the handling of individual cases rather than towards prevention.

42. **Mr. Kvaratskhelia**, noting that some States parties had yet to establish or designate a national preventive mechanism, said that, while the Optional Protocol did not impose a set structure, States parties were required to ensure that national preventive mechanisms were functionally and operationally independent and had the necessary financial and human resources to discharge their functions and that their mandate, powers and immunities were reflected in national law. Where the body designated as the national preventive mechanism performed other functions, the torture prevention functions should be assigned to a separate unit with its own staff and dedicated budget. Most importantly, national preventive mechanisms should be able to make unannounced visits to all types of places of deprivation of liberty as well as recommendations to the relevant authorities.

43. Prevention was not about inspections, investigations or oversight, or about determining whether and how often a State party had been in breach of the Convention against Torture, though the Subcommittee's visit reports always included a section on the situation with regard to the use of torture and ill-treatment in the given country. Rather, the Subcommittee's unique function was to explore, using a well-defined methodology, whether the legal framework, institutional structures and related processes and practices posed a risk of torture and ill-treatment and, relying on interdisciplinary expertise, to issue practical recommendations to minimize such risks. At its core, prevention was aimed at preserving the dignity of detainees, as well as the dialogue with States parties.

44. The Subcommittee stood ready to advise and assist States parties and support national preventive mechanisms as that tripartite cooperation, further strengthened by the involvement of civil society and other stakeholders, was a tried and tested methodology for preventing torture and ill-treatment. Nevertheless, little progress would be made in the domain without true commitment and constructive dialogue.

45. **Mr. Zniber** (Morocco), recalling that the Permanent Mission of Morocco had organized a side event on the role of national preventive mechanisms at the forty-ninth session of the Human Rights Council, said that the Moroccan preventive mechanism had been established in September 2019 as a separate unit within the National Human Rights Council that enjoyed financial autonomy and had its own support team. It was empowered to monitor the situation and treatment of persons deprived of their liberty through regular announced and unannounced visits, including confidential interviews with detainees and personnel, to formulate recommendations and to present proposals on harmonizing national legislation with the international human rights instruments to which Morocco was a party. As at July 2022, the national preventive mechanism had conducted 34 visits to 25 places of deprivation of liberty in 8 regions, and the corresponding visit reports had been transmitted to the relevant officials. A dashboard had been developed to track the implementation of its recommendations and its nine follow-up visits had revealed a rate of satisfactory completion ranging from 56 per cent to 95 per cent, depending on the facility. The mechanism reported annually to the King of Morocco.

46. **Ms. Gerelmaa** (Mongolia) said that the process of determining the most suitable model for the national preventive mechanism of Mongolia had involved lengthy debate in the legislative and executive branches, eventually culminating in the adoption of the 2020 National Human Rights Commission Act. The Commissioner responsible for the prevention of torture had been appointed in mid-2022. The mechanism's independence, mandate and budget were guaranteed by law. Under the vision for a torture-free Mongolia, the mechanism was developing short- and medium-term strategies and aspired to become a model at the

regional and international levels. However, although the issue was on the Government's agenda, the mechanism remained understaffed.

47. The national preventive mechanism had already visited and reported on 23 places of deprivation of liberty, where it had interviewed more than 400 detainees, and had issued 10 recommendations to ministries and agencies. In addition, the mechanism had been working closely with the judicial and law enforcement authorities to provide torture prevention training for more than 1,700 employees. It also provided information to public servants and the general public.

48. The Government was committed to continually monitoring the alignment of national laws on human rights with international standards and strengthening the national preventive mechanism's capacity to promote the implementation of the Subcommittee's recommendations and foster partnerships with regional organizations. It remained eager to cooperate in order to ensure the successful implementation of the Convention against Torture and the Optional Protocol and achieve a world without torture.

49. **Ms. Simonnot** (National preventive mechanism of France), speaking via video link, said that, since its inception in 2007, the Subcommittee had helped to establish 77 national preventive mechanisms around the world. Every State should have such a mechanism in order to ensure that the 10 million persons deprived of liberty across the globe were treated with dignity. In France, the Government had decided to confer the mandate upon a completely new institution, which, in addition to torture prevention, was responsible for monitoring respect for all the fundamental rights of detained persons.

50. The national preventive mechanism made 150 visits each year and could arrive unannounced at any time to any of the country's 5,000 places of detention, where its multidisciplinary teams had free access to all facilities and relevant documents and could conduct confidential interviews with inmates and prison staff. The teams took the time needed to analyse the context in which violations of rights occurred and propose appropriate recommendations. Problematic situations could be resolved through dialogue with local actors, such as the individual prison administrations, as well as central authorities, such as the office in the Ministry of Justice established specifically to address the mechanism's questions and recommendations.

51. The mechanism worked with training academies for the staff of places of deprivation of liberty to foster a culture of respect for human rights. It also had close working relationships with civil society organizations, which often drew its attention to situations of concern. Depending on the urgency of the situation, the mechanism might send letters to the appropriate ministry or, in cases of serious violations, issue urgent recommendations, which had the greatest impact. Drawing on the experience gained from its visits, the mechanism had formulated a set of recommendations applicable to all forms of deprivation of liberty, along the lines of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

52. There remained many challenges to address in France, including prison overcrowding, which the European Court of Human Rights had recently denounced as a structural problem, and the incarceration of children in psychiatric institutions and juvenile detention centres. In response to the Government's apparent reluctance to implement certain recommendations, the national preventive mechanism had begun working in partnership with lawyers, who could use an electronic repository of observations from visits as a basis for bringing legal proceedings on behalf of persons deprived of liberty to uphold their rights. The Subcommittee, CPT, APT and the global community of national preventive mechanisms must work together and strive to increase their impact in order to fulfil their mission of protecting persons deprived of liberty, who still faced risks in engaging with national preventive mechanisms.

53. **Ms. Lemos** (National preventive mechanism of Brazil), speaking via video link, said that Brazil had had a national preventive mechanism since 2015, although the first individual state-level mechanism had been established in 2011. In 2019, the Bolsonaro Government had dismissed all the members of the mechanism and had announced that its work would become unpaid, a situation that had threatened its autonomy and very existence. Following strong mobilization by public institutions and civil society and a visit by the Subcommittee in 2022,

the situation had been reversed. That experience had demonstrated that national preventive mechanisms could not work alone, and that constant coordination with State bodies, civil society and international organizations was required to guarantee their independence and the development of concrete measures to prevent torture in places of detention.

54. The mechanism had nine experts to monitor some 2,000 prison institutions accommodating around 900,000 inmates in the country's 27 states. The experts had visited all the states at least once. In 2022, they had conducted 44 visits to places of detention in eight different states, where they had observed a true humanitarian crisis, with physical and psychological violence, widespread disease, hunger and lack of access to water. Specific recommendations to address the crisis, which the Federal Supreme Court had described as "unconstitutional" and whose victims were disproportionately black and poor, had been issued to local and national authorities.

55. The national preventive mechanism had worked hard to disseminate good practices at the local level, cooperating with state-level preventive mechanisms and public bodies and building partnerships to develop policies and train State officials and civil society actors. The success of torture prevention endeavours depended mainly on the implementation of public policies aimed at achieving a structural and cultural transformation of the manner in which the State and society addressed behaviour considered deviant. In Brazil, that meant decarceration, deinstitutionalization and the replacement of repressive drug policies with public health policies.

56. **Mr. Madrigal-Borloz** (United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity), speaking via video link, said that, as a former Subcommittee member and current special procedure mandate holder, he had observed the inextricable connection between the international, regional and local torture prevention architecture and the notion of human dignity, which formed the basis of a human rights culture. The Subcommittee acted as both a technical guide and a moral authority for national preventive mechanisms, which in turn interacted with State, civil society and other entities to carry out torture prevention work.

57. The independence of national preventive mechanisms was the cornerstone of the system. A key factor determining the effectiveness of that independence was the embedding of the prevention system in a broader context of observance of the rule of law, separation of powers and a conception of democracy as entailing respect for minority rights as well as majority rule. National preventive mechanisms should work with States on law reform, public policy and access to justice. They could make a fundamental contribution to the fight against impunity when they were able to initiate litigation in addition to issuing recommendations.

58. The work of national preventive mechanisms and special procedure mandate holders had many potential synergies. For example, during his country visit to Tunisia, he had had fruitful discussions with the national preventive mechanism regarding the practice of forced anal examinations that were alleged to prove homosexuality. He had seen the important work of the national preventive mechanisms in developing guidance to help those administering places of detention address challenges such as the treatment of lesbian, gay, bisexual, trans and other gender-diverse persons. He hoped that the anniversary event would bolster efforts to ensure that national preventive mechanisms had the strategic, tactical and political capacity to fulfil their functions.

59. **Ms. Lenihan** (Penal Reform International), speaking via video link, said that her organization had a long history of supporting the establishment and reinforcement of national preventive mechanisms. In many countries, such mechanisms had helped to transform the traditional view of places of detention as inaccessible environments and had produced a wealth of information that civil society institutions regularly used to target their interventions. Particularly in large countries, national preventive mechanisms could enhance their impact with an increased focus on strategy and priority setting. While a commitment to maximizing the number of visits was a legitimate purpose, it could sometimes negatively affect the quality of reports and recommendations, especially when members were paid per visit or had received insufficient training.

60. **Ms. Brasholt** said that the remaining part of Ms. Lenihan's statement would be made available online.

61. **Mr. Angaman** (International Federation of Action by Christians for the Abolition of Torture), speaking via video link, said that it could be challenging to set up a national preventive mechanism that met the established criteria with respect to its legal status, independence, level of resources, access to places of detention and ability to conduct confidential interviews and the diversity of its membership. One of the purposes of establishing such mechanisms was to increase synergies between international, regional and national monitoring bodies and human rights organizations from civil society. National preventive mechanisms should be seen as complementary to civil society organizations, which were often able to identify different issues to those observed by the mechanisms owing to their regular presence on the ground. That expertise could benefit national preventive mechanisms when civil society representatives were selected as members. The two types of institutions must exchange knowledge so as to improve the governance of places of detention together.

*Final statements*

62. **Mr. Heller** (Chair of the Committee against Torture), speaking via video link, said that the anniversary was an excellent occasion to celebrate over 15 years of service dedicated to fulfilling the vision embodied in the Optional Protocol, replacing opacity around detention conditions potentially conducive to torture and ill-treatment with transparency and increased scrutiny. The establishment of the Subcommittee, along with an active network of national preventive mechanisms, had been one of the most innovative approaches to torture prevention and protection of the rights of persons deprived of their liberty in recent decades.

63. The activities of the Subcommittee and the Committee were complementary, making possible mutual support that was unavailable to the other human rights treaty bodies. Their close cooperation had already delivered meaningful results and should be further strengthened in the future. The anniversary of the adoption of the Optional Protocol was an opportunity to redouble efforts to promote ratification and thereby expand the unique preventive work of the Subcommittee and facilitate the establishment of additional national preventive mechanisms. It was essential to continue providing States that had not yet ratified the Optional Protocol with the necessary technical assistance. There must also be a renewed impetus to promote implementation of the Convention against Torture and the Optional Protocol, with no effort spared to prevent and eradicate torture and bring the perpetrators to justice.

64. **Ms. Edwards** (United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment), speaking via video link, said that she had been working with the Subcommittee since 2007, when she had spoken at a conference on the Optional Protocol about its potential application to places of detention of refugees and asylum-seekers. She had spoken on the same subject at a panel discussion on the Optional Protocol held in 2011, at which other panellists had discussed access to psychiatric institutions and the importance of diverse skill sets for the members of national preventive mechanisms. She welcomed the more inclusive and expansive approach to torture prevention that had been adopted since those events.

65. As Special Rapporteur, she remained committed to advocating for the strengthening of the Optional Protocol system, especially national preventive mechanisms. She was dedicated to ensuring that they and other bodies, including civil society and parliamentarians, could visit places of detention and advocating an inclusive approach and greater transparency and openness from the national authorities.

66. **Mr. Carbonnier** (International Committee of the Red Cross (ICRC)) said that torture prevention had long been at the heart of the work of ICRC, which had already been visiting prisoners of war for almost 80 years when the Universal Declaration of Human Rights had been adopted in 1948. One year later, the role of ICRC in visiting prisoners of war and civilian detainees had been enshrined in the Geneva Conventions of 12 August 1949. Over time, ICRC had begun conducting similar visits to persons deprived of liberty in contexts other than international armed conflict.

67. It was that long-standing role of ICRC, backed by the force of international law, that had inspired Jean-Jacques Gautier to propose the future Optional Protocol in 1975, after having realized that the methodology developed by ICRC for prisoners of war could be applied to visit ordinary prisons, police stations and other facilities anywhere and at any time. Before the adoption of the Optional Protocol, concerns had been raised about the existence of multiple bodies with overlapping mandates. For example, during armed conflict, States were already explicitly required to permit ICRC visits to prisoners under the 1949 Geneva Conventions. To allay the risk that, in other situations, State authorities might use potential visits by the new preventive mechanisms as a pretext for refusing ICRC visits, the role of ICRC had been expressly reserved in article 32 of the Optional Protocol.

68. Following the adoption of the Optional Protocol, it had become clear that the work of the Subcommittee, the national preventive mechanisms and ICRC was complementary, all serving to increase the protection of persons deprived of their liberty. Together they continued to demonstrate the protective power of preventive visits carried out with the necessary guarantees.

69. Remaining challenges included increasing the number of States parties to the Optional Protocol, ensuring that authorities upheld their obligations to allow visits and acted on recommendations, and promoting respect for all relevant obligations under the Convention against Torture and international humanitarian law. ICRC looked forward to further advancing the torture prevention endeavour, which was directly related to the most important ICRC principle, namely, humanity.

70. **Mr. Baumann** (Switzerland) said that combating torture was a priority for Swiss foreign policy. Switzerland was committed to ensuring that the prohibition of torture and ill-treatment was respected worldwide, at the bilateral and multilateral levels. His Government fully supported the work of the Subcommittee, which made a tangible contribution to torture prevention, and was committed to ensuring that the highest possible number of States ratified and implemented the Convention against Torture and the Optional Protocol. Given the decisive role in the promotion and protection of human rights played by the Subcommittee and other treaty bodies, treaty body strengthening efforts must continue. The treaty bodies' qualified independent experts were the foundation of an effective system and he was proud that one of the Subcommittee's members, Mr. Fink, was a national of Switzerland. It was essential for United Nations, State and civil society actors to continue to cooperate in pursuit of the shared goal of ending torture and ill-treatment.

*The meeting rose at 6.05 p.m.*