



**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**  
**Forty-first session**

**Summary record of the second part (public)\* of the 3rd meeting**

Held via videoconference on Friday, 19 June 2020, at 2 p.m. Central European Time

*Chair:* Sir Malcolm Evans

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\* The summary record of the first part (closed) of the meeting appears as document CAT/OP/41/SR.3.

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*The public part of the meeting was called to order at 3.30 p.m.*

### **Closure of the session**

1. **The Chair** said that the session had been held exclusively via videoconference – a first for the United Nations human rights treaty body system. Much of the Subcommittee’s time had been taken up by the meetings of the regional teams, which had been scheduled according to the time zones in which members resided, thus maximizing their ability to communicate with each other and with stakeholders. The Subcommittee had held group meetings with national preventive mechanisms and an online meeting with States parties; those exchanges had been informative and useful. It had also reflected at length on the impact of the coronavirus disease (COVID-19) pandemic on persons deprived of their liberty. Those reflections had focused on the situations in which national preventive mechanisms had found themselves and on the manner in which they and the State authorities had responded. The Subcommittee had been greatly encouraged to note that many national preventive mechanisms had shown considerable innovation in exercising their mandate in extremely challenging circumstances, and it commended them for their commitment.

2. The pandemic had highlighted many problems in criminal justice systems around the world, including prison overcrowding, delays in the administration of justice and the holding of accused persons in pretrial detention for prolonged periods. Those problems, in turn, had led to increased tensions between detainees and those holding them in custody, which had sometimes resulted in violence or deaths. Such outcomes were tragic and avoidable, and the Subcommittee had begun to reflect on different approaches and standards that would help prevent their recurrence.

3. As State authorities had long been aware of the rapidity with which infectious diseases could spread among overcrowded detainees, overcrowding had inevitably raised concerns during the pandemic. The response in some countries had been impressive. The Subcommittee had learned of excellent practices and innovative measures to reduce prison populations and promote social distancing, thus alleviating the impact of the virus. At the same time, excellent work had been done to mitigate the impact of additional restrictions on movement within places of detention; for example, measures had been taken to enable detainees to maintain contact with the outside world, including with families and lawyers. However, in some countries the authorities had been quick to impose restrictions but slow to implement mitigation measures; there had also been cases in which new restrictions had served as a pretext for additional ill-treatment. In that context, it was essential that Governments should include detainees and places of detention in their thinking as they moved to ease restrictions and return, where possible, to normality.

4. During the session, the Subcommittee had reflected on its future role. The fact that it had been prevented from exercising its visiting mandate had underscored the importance of its work with States parties to establish truly effective national preventive mechanisms. Accordingly, the Subcommittee had reviewed the public list of States parties that were not in compliance with their obligation to designate or establish a national preventive mechanism – an obligation that should be fulfilled, at the latest, one year after the entry into force of the Optional Protocol for the State concerned – and had decided to redouble its efforts to encourage those States to comply with their obligations. The list now included Belize, Benin, Bosnia and Herzegovina, Burkina Faso, Burundi, the Democratic Republic of the Congo, Gabon, Liberia, Mongolia, Nauru, the Niger, Nigeria, the Philippines and South Sudan. Several of those countries had been on the list for a considerable time. The Subcommittee had been delighted to learn that Chile and Rwanda had established and designated, respectively, their national preventive mechanisms. Yet it remained concerned that some national preventive mechanisms had not received the proper support or had been prevented from operating effectively, as in the case of Brazil. The Subcommittee would continue to raise such concerns with States parties on a bilateral basis so as to ensure that Optional Protocol-compliant national preventive mechanisms were able to fulfil their mandate of preventing ill-treatment in places of detention.

5. The Subcommittee had also decided that the time had come to deepen its understanding of what might constitute a place of detention, considering that the pandemic

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had changed its conception of what types of places fell within that category. To that end, the Subcommittee was undertaking preparatory work for the drafting of a general comment on article 4 of the Optional Protocol, concerning the definition of places of deprivation of liberty. The Subcommittee believed that a clear understanding of places of deprivation of liberty was a core building block of its own work and that of national preventive mechanisms. A general comment establishing the scope of obligations under article 4 would thus be of benefit to States parties and, ultimately, to detainees.

6. In recent months, the Subcommittee had received abundant information concerning the response to its advice to States parties and national preventive mechanisms relating to the COVID-19 pandemic (CAT/OP/10). It had initiated a process of reflection on the work that had been done during the pandemic, with the aims of learning from the experience, informing future best practice and strengthening the Optional Protocol system. In the short term, it would produce a brief update to the advice, taking into account new information and ideas. It would also consider whether the new practices that had emerged could be effectively adopted in the context of preventive visiting and preventive safeguards against torture and ill-treatment.

7. The Subcommittee would continue to engage in a range of activities. On 26 June 2020, it would participate in a webinar co-hosted by the Office of the United Nations High Commissioner for Human Rights and the Association for the Prevention of Torture to mark the occasion of United Nations International Day in Support of Victims of Torture. It would attend online meetings with States parties and national preventive mechanisms to assist them in their work and further their knowledge and understanding of the Optional Protocol system. It would continue to liaise bilaterally and confidentially with States parties on relevant matters, notably the establishment and effective functioning of national preventive mechanisms. Above all, the Subcommittee was eager to resume its programme of visits as soon as possible, considering that the essence of its mandate was to go into places of detention and engage directly with persons deprived of their liberty.

8. Lastly, he said that the list of decisions taken by the Subcommittee at the current session would be adopted intersessionally. After the customary exchange of courtesies, he declared the forty-first session of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment closed.

*The meeting rose at 3.50 p.m.*