



Thematic Session N°3
NPM Effectiveness: How to make it work?
Thursday 10 November 2011, 14:00 - 16:30

What are the objectives of thematic session N°3?

- To review the role of National Preventive Mechanisms (NPMs) in order to reinforce their impact
- To examine the factors that contribute to an NPM's effectiveness and how these can be ensured
- To mobilise a variety of potential actors on torture prevention who could assist NPMs in being more effective

Why is thematic session N°3 relevant to the OPCAT Global Forum?

The ultimate purpose of NPMs under the OPCAT is to prevent torture and other ill-treatment (hereinafter "torture") at the domestic level. Within the OPCAT system, their purpose is also to assist the state authorities in strengthening the protection of persons deprived of their liberty, and in implementing human rights standards in this field. There are currently 37 existing NPMs, taking different forms (ranging from new bodies to various existing institutions) in response to national contexts and needs. The majority can be considered operational (i.e. conducting visits to places of detention, producing reports and recommendations), and good practices and lessons can already be drawn in relation to their daily functioning. However NPM effectiveness is a different matter: it is about whether NPMs are capable of accomplishing their purpose and are producing the intended results, within their available resources. It is an issue that cannot be overlooked, as it goes to the heart of the OPCAT's impact on the ground. With the benefit of experience from the first few years of NPM operations, the time is thus ripe for assessing what makes NPMs effective and how this can be ensured in the future.

What are the main issues to be discussed?

1. Indispensable elements for NPM effectiveness

Conditions for NPM effectiveness can be drawn from the OPCAT text, in particular:

- NPM independence (functional, personal and institutional) enshrined in law
- Sufficient resources (human, financial and logistical) for NPMs to carry out their mandate
- Multidisciplinary of NPM staff and members
- Powers and guarantees for effective operations, in particular unhindered access to all places of detention, persons and information
- NPM representatives should enjoy specific immunities and protections

2. Practical elements to ensure NPM effectiveness

Experience has demonstrated that the above-mentioned elements may not be sufficient, and in practice a number of other factors need to be present to guarantee a NPM's effectiveness. Some of these are discussed below.

The need for the NPMs' organisational **structure to be tailored to the national context** (geographical and political), as a means to ensure both their legitimacy and effectiveness, has been understood by most States Parties to the OPCAT. To be effective, NPMs also need to be **strategic** in the use of their resources and in the planning of their work. But few NPMs have devised strategic action plans, or articulated their vision, mission and priorities (to respond to the need to do less, but better).

NPMs need to adopt a **holistic approach** to preventing torture, which goes beyond visits to places of detention and recommendations, and should be reflected in the **NPM's**

working methods. The OPCAT provides a powerful basis for NPMs to comprehensively analyse the factors that impact on the treatment and conditions of persons in detention in their countries, including within broader legislative and regulatory frameworks, public policies and institutional practices. In practice, however, few NPMs have adopted a holistic approach, due to challenges such as: difficulties in adapting existing working methods, a lack of understanding of the approach, a strong focus on torture acts rather than situations of ill-treatment, and a lack of multidisciplinary expertise and therefore diversity of perspectives within the NPM team.

The OPCAT seeks to achieve positive change through **cooperative dialogue** between NPMs and authorities. In practice, the ability to engage in such dialogue varies among countries and NPMs. Some NPMs have faced resistance in exercising their full powers (e.g. to access places of detention, information and persons), while others have not received systematic responses from relevant authorities to their communications. At the same time, there are authorities that remain unaware of their obligations under the OPCAT. Other authorities have taken the positive step of designating their own OPCAT portfolio holders, who take part in regular meetings with NPMs.

NPMs rarely rely on **non-traditional human rights actors** (such as unions, victims associations, parliamentarians, firms etc) who could support their aims and contribute to enhancing their effectiveness. In particular, NPMs could better engage with current and former **persons deprived of their liberty**, for their input on NPM working methods and ways to be more effective. Only a few NPMs have started to include former persons deprived of their liberty in monitoring places of detention. Ensuring **protection against reprisals** is also essential to contribute effectively to the prevention torture.

Finally, few tools have been developed so far to **assess NPM effectiveness**. External evaluation is an issue frequently raised by NPMs as well as other actors working with them. Some have suggested an NPM accreditation system that could highlight shortcomings and encourage institutional improvements - this could, for example, be a peer review system, or conducted by the SPT.

3. Ways forward

To ensure that NPMs are effective, it is suggested that:

- **Communities of practice** amongst similar NPMs (new bodies, formal collaboration with civil society, several bodies, NHRIs etc) could be established to exchange good practices, challenges, tools and practical solutions.
- The **SPT** could elaborate **specific guidelines** on NPM effectiveness and engage in **continuous dialogue** with NPMs and state authorities to ensure that their respective obligations in relation to torture prevention are well known, respected and implemented.
- NPMs could build **strategic alliances** and **communities of support** at the national, regional and international levels to strengthen their effectiveness.
- NPMs could engage in **strategic planning** and regularly revise their working methods, as recommended by the SPT.
- The **OPCAT Special Fund** could finance the implementation of SPT recommendations relating to making NPMs more effective.

Six questions for debate

1. Are the main elements of NPM effectiveness mentioned above relevant? Are there other aspects of NPM effectiveness that have been overlooked?
2. What are the obstacles (legal, political, social, institutional, individual etc) to ensuring NPM effectiveness? How to concretely overcome them?
3. Would an accreditation process for NPMs have an impact on their effectiveness? Should it be a peer procedure or administered by the SPT?
4. What is the SPT concrete role in relation to NPM's effectiveness?
5. What are the obligations of the state and NPMs in relation to their effectiveness?
6. With whom should NPMs engage (and how) to be more effective?