

The concept of preventive monitoring, the role of the SPT

The European NPM Project
APT, CE, CPT, SPT

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Prevention of torture and CIDT

A theoretical approach intended to be global

- Prevention of torture consists of any means or activity that has the potential to reduce or eliminate the *risk* that persons deprived of their liberty may be submitted to torture or other cruel, inhuman or degrading treatment or punishment as defined in the CAT.
- Such means or activities include the mitigation of conditions and practices in places of detention that, although not in themselves fulfilling the criteria of TCIDT, may degenerate, if left uncorrected, into substandard treatment according to international treaty law and soft law norms.

The *role* of the SPT is to (OPCAT § 11):

- Visit places of deprivation of liberty, observe and recommend necessary changes
- Cooperate with the State Party, offer advices in the establishment of the NPM
- Maintain contact with the NPMs;
 - offer them training and technical assistance;
 - advice and assist them in their evaluation of the needs and the means necessary..
- Cooperate with other bodies, e.g. the CPT

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Implementation of the SPT's tasks in relation to the NPM

- *The CE project:*
 - Establishing contact with the NPM
 - Offer them training and technical assistance
 - Advice and assist them in their evaluation of the needs and the means necessary.

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Technical assessments of the SPT & NPM

- Legislation, Torture as a crime:
- Definition of torture in accordance with the CAT?
- Adequate penal sanctions?
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General safeguards in the legislation

- Reliance on confession for conviction?!
- Separation of investigation functions from custodial functions
- Separation of remand prisoners from convicted prisoners
- Complaint bodies: Independence /institutional affiliation; their mandate and powers. Procedures, the processing and referral to exam. in accordance with the Istanbul Protocol, compilation (national register) and analysis
- The right to have a lawyer from the very beginning of the criminal investigation.
- The right to notify the family about the whereabouts
- The right to be examined by a doctor; The sufficiency of the format for the medical examination
- The right to maintain silence
- Other functioning national visiting bodies; their mandates and powers

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Legislation cs. the OPCAT

- Mandate, powers and independence
- Broad definition of places of deprivation of liberty
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Development of the NPM

- Transparent and inclusive process involving civil society and other actors involved in prevention of torture
- Transparent process of selection and appointment of members based on relevant criteria, gender balanced and with representatives of ethnic minority groups
- Adequate ring-fenced financial and human resources including budgets for necessary training of members and staffs

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Preventive functions combined with handling complaints?

- The preventive work is forward looking and based on cooperation between the visiting body and authorities
- Handling of complaints are backward looking and based on inquiry and possible litigation not necessarily fertilizing full transparency and willingness of cooperation from all actors, which may have spin off effects on the preventive work if it is done by the same body.
- If one common budget: Actions in one line have implications for the other

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The NPM:

- The work programme covers all potential and actual places of deprivation of liberty and the periodicity of visits should ensure effective monitoring of safeguards for the protection of rights of all persons deprived of their liberty
- Observations from visits should be systematized and analysed to identify good practices and gaps in protection
- Feed-back on specific and generic issues with recommendations for necessary changes should be provided to the individual institutions and to the responsible higher authorities
- Follow-up visits to institutions to ensure that recommendations are implemented and to prevent reprisals to interlocutors should be incorporated in the work plan of the NPM

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The visit to an institution: focuses for scrutiny:

- Available information about the institution, official statistics, complaints,
- Reports from (other) all monitoring bodies, e.g. the NHRI, the CPT, judges, public prosecutor, HR commissions of the Parliament, NGOs etc.
- The monitoring of other bodies; the institutional book-keeping of observations and recommendations, as well as the implementation of the latter.
- The complaint system, on-the-ground practices for lodging /receiving complaints,
- The practice of informing about all rights of all persons deprived of their liberty (PDL)
- The fulfilment of the basic rights of all persons deprived of their liberty

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The visit to an institution, the registers

- The recording of custody, the main register: its format and the practice of its use
- Other registers, *accountability of staffs*:
 - Register of confiscated items
 - Register of disciplinary sanctions
 - Register of incidents
 - Register of use of restraints
 - Register of staffs' use of firearms
 - Medical:

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Medical registers

- Individual files
- Daily activities, number of consultations by diagnosis
- Inspections, incl. kitchen, sanitation, punishment cells
- Transfers to hospitals
- Forcible procedures, e.g. body searches for drugs, HIV testing
- Incidents of traumas, incl. accidents, inter-prisoner violence and possible TCIDT
- Death in custody
- Transmissible diseases
- Stock of medicine

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The medical service in brief

- Easy, equal and free of charge access to health care of
- the same quality as for citizens outside the institution,
- not filtered by non medical staffs and
- void of bribery
- Medical confidentiality respected

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The staffs, all categories

- Training
- Instructions
- Supervision
- Salary and working conditions

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Safeguards against corruption

- A fair salary so that staffs do not depend on additional income, e.g. from bribery
- A clear anti-corruption policy of authorities
- Supervision and control of officers and staffs at all levels
- Clear rules for and supervision /control of shops
- Prohibition to carry money on the compound
- Immediate sanctions against those who accept bribery
- Equal conditions and sufficient resources to fulfil all basic needs of all inmates to prevent that basic services and "privileges" become objects in a black market

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Self management by prisoners

- Terms of reference
- Criteria of qualifications
- Appointment procedures,
- Supervision and control by staffs

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Supervision of officers by superiors

- Visibility on the compound
- Clear rules in writing for the conduct of officers
- Countersigning of all entries in registers
- Check of the prohibition of carrying money

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Security for staffs

Sufficient to be in control at all times in all places?

- Total number of guards per 100 inmates?
- Number of guards on duty day and night?
- Communication and call systems
- Regulations for carrying arms
- Auxiliary staffs on call in cases of emergencies

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Security for inmates

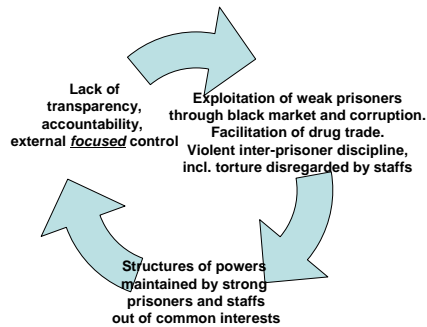
Protection against violence, extortion and sexual assaults from fellow prisoners:

- No responsibilities for discipline and security to inmates
- Possibility for inmates to bypass trusted prisoners and address the management directly
- Call system from cells available to all inmates to alert guards around the clock

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The control of the market place



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Special needs for vulnerable groups:

- Minors in conflict with the law,
- Children accompanying their imprisoned mothers,
- Persons from ethnic minority groups
- Women
- Persons with mental or physical disabilities.

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Material conditions

- Cells, space
- Beds and beddings
- Ventilation, temperature, light
- Water and sanitation
- Food, availability, quantity and quality
- Physical exercise outside the cell
- Recreational facilities, library
- Reference: e.g. *UN Standard minimum rules for the treatment of prisoners*

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Discipline

- Rules
- Information to inmates
- Practices
- Registration of all cases:
 - Infraction
 - Inquiries
 - Sanctions
 - Appeal

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Use of restraints

- Rules
- Practices
- Registration of all cases

Accountability, safeguards against impunity:

- All officers wear a means of clear identification, e.g. a name badge
- Smooth procedures for lodging complaints directly to the complaint-body without control or filtering by staffs
- Supervision and oversight of officers by superiors
- Clear line of commands for officers to report transgressions by colleges, incl. superiors
- A clear policy for dealing with cases of credible allegations of ill-treatment, incl. immediate suspending of implicated officers

Visits by family members

- Clear policy for allowing visits
- Protection against extortion and bribery through supervision of controllers at the entry
- Clear policy for search to control entry of drugs, money, phones and arms
- Easy access to lodge complaints

Communication by phone and mail

- Clear rules known by staffs and inmates
- Protection against extortion and bribery through supervision of staffs who are to control /supervise communications

Education, vocational training and work

- Should be right based and available
- Clear rules for assignment to training and work and for the remuneration
- Assignment entered to the individual files
- Book keeping of the remuneration

The dialogue between the SPT / NPM and authorities

- On the spot, problems that need immediate remedy
- CAVE: Risk of reprisals, particularly in police stations
- The report from the individual visit
- Correspondences and meetings (NPM) to clarify further recommendations and to help authorities to find solutions
- The annual report (NPM), thematic reports

The dialogue and synergy between the SPT and the NPM

- Structural problems for the NPM: Powers, budgets, +
- Training! Workshops and participation in visits of the NPM, constructive feed-back
- Exchange of information about legislation and institutions and responses from authorities.
- Coordinating the work and setting priorities
- Standards to be used for recommendations
- Ensuring implementation of recommendations (NPM)
- Safeguards against reprisals to persons interviewed by the SPT and NPM: follow-up visits by the NPM

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Cooperation with other monitoring bodies: e.g.: CPT, ACHPR, IACHR

- Exchange of information. NB Confidentiality
- Joint standards?
- Ensuring implementation of recommendations
- The work with the NPM

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Cooperation with civil society

- Access for NGOs to places of deprivation of liberty
- The mandate of the NGOs
- Existence of an ongoing dialogue between the NGO and the NPM:
 - Exchange of information and views,
 - Cooperation in the follow-up of observations, in particular with a view to the implementation of recommendations of the NPM

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The composition of a visiting body, taking into account the kind of institution to be visited

- Lawyers
- Criminologist
- Doctor, evt. a psychiatrist or psychologist
- Expert on policing
- Expert on prison administration
- Expert on problems cs. refugees and asylum seekers
- Expert on minors, women, people with disabilities, minority groups in conflict with the law
- +

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The preparation of the technical training workshop

- Participation of all actors: NPM, APT, SPT, CPT, CE
- All reports from visits undertaken by the NPM must be sent to all participants
- The NPM indicates the
 - most important needs of its visiting teams
 - main problems in all categories of places of deprivation of liberty
- The NPM suggests two institutions to be visited on the basis of the above and on logistic considerations
- All groups of actors decide jointly the programme

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The workshops with the individual NPM

- Day 1: General approaches to visits to institutions based on the NPM own needs assessment and most serious challenges in closed institutions
- Day 2: Preparation of the visits to the identified institutions
- Day 3: Visits to two institutions
- Day 4: Reflections and feed-back from APT, SPT, CPT, CE
- Day 4: Debriefing (APT, SPT, CPT, CE): reflections on lesson learnt from the dynamics of the workshop. Priorities, techniques,
- Drafting of the report: Participation of: NPM, APT, SPT, CPT, CE

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Preparation of the visits to the institutions

- The NPM indicates issues that should be focused on.
- A plan for the visit is agreed upon, e.g.
 - a tour through the whole institution?
 - areas of particular interest /focus,
 - modalities for the interviews with staffs and inmates
 - Intermediate debriefing between the team members during the visit
 - Debriefing with the management?

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Drafting of the report

Inputs from all actors on:

- observations in the field;
 - analytical reflections on good practices, gaps in protection
 - possible recommendations for improvements in protection of inmates
 - Reflections on possible discrepancies between most important field findings and the NPM's pre-visit assessment of main problems in all categories of places of deprivation of liberty
 - possible recommendations for perfection of methodologies of the NPM
- Reflections on workshop methodologies and possible improvements
- Principle responsible for drafting: the APT

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The SPT – NPM cooperation

- Any inquiry from the NPM to the SPT must be answered
- The SPT is working on a policy for the cooperation

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Networking: Interchange, reflection, adjustment and planning

- Workshops for all involved NPMs and APT, SPT, CPT, CE
- Interchange: Best practices, challenges, standards
- Lessons learnt and suggestions for improvement by the NPMs visited
- Lessons learnt as to training modalities and the substance of prevention, by APT, SPT, CPT, CE
- Needs for adjustment of the framework for workshop programme?
- Facilitates contact and cooperation between NPMs and the SPT

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Prevention of torture and CIDT

SPT, NPM, NHRI

- To ensure that national legislation and institutional rules and practices are in conformity with international law and suitable for the protection of the rights of persons deprived of their liberty.
- To identify risks that current treatment and conditions may degenerate to TCIDT, and remedy such risks through critical and constructive dialogue with key stakeholders
- To identify root causes of TCIDT when cases are found; to recommend effective remedy and ensure proper investigation and litigation
- To monitor the implementation of recommended necessary changes in cooperation with authorities and other stakeholders
- To ensure appropriate norms, conditions, training and supervision for all staffs dealing with PDL.
- To propose and implement proper training of all relevant professions and influence the public discourse into orientation and acceptance of human rights for everybody including the right not to be tortured (NHRI, NPM)

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The role of the SPT in the context of the CE project

- To strengthen SPT's cooperation with NPMs in the region
- To give technical inputs based on the NPMs' needs assessment
- To give feed-back on NPMs' priority settings and working methods
- To participate in the planning of & reporting from training workshops together with other actors, thereby strengthening links to the CPT
- To develop the concept and practice of prevention of TCIDT in the region jointly with other actors

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Thank you for your attention



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Selection of NPMs for the workshops

- An NPM that wants a workshop
- The existence of a NPM that is up and running?
- A newly established NPM without experience in visiting institutions?
- ?
- ?
- ?

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