



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Organizational and other matters

Fifteenth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Summary

In the present report, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment describes the work it undertook in 2021.

Following a brief introduction, the Subcommittee provides an update on developments relating to the system of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including visits, the increase in the number of States parties and in designated national preventive mechanisms, and details concerning the operation of the Special Fund established by the Optional Protocol (sect. II).

The Subcommittee provides substantive information concerning developments in its working practices and comments on any issues it has faced when undertaking its work during the year under review (sects. III and IV).

The Subcommittee concludes the report by reflecting on future challenges and describing its plan of work (sects. V and VI), taking into consideration the limitations imposed by the coronavirus disease (COVID-19) pandemic.

The follow-up advice of the Subcommittee to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic was adopted by the Subcommittee on 31 May 2021.¹

A statement on the 2020 review of the process of strengthening the human rights treaty body system, which was discussed at the forty-fifth and forty-sixth sessions of the Subcommittee and adopted, together with the present report, by the Subcommittee at its forty-sixth session, is contained in an annex to the present report.

¹ CAT/OP/12.



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I. Introduction

1. Reflecting article 16 (3) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and in accordance with rule 33 of its rules of procedure, the Subcommittee prepares an annual report on its activities as a public document. Pursuant to these provisions, the Subcommittee, in the present report, addresses its activities from 1 January to 31 December 2021. The Subcommittee considered and adopted the report at its forty-sixth session, which was held in a hybrid format from 7 to 11 February 2022.

II. Year in review

A. Participation in the Optional Protocol system

2. As at 31 December 2021, a total of 91 States were a party to the Optional Protocol and 13 States were signatories. In 2021, Latvia acceded to the Optional Protocol on 10 December.

- The pattern of regional participation was as follows:

African States	23
Asia-Pacific States	13
Eastern European States	20
Latin American and Caribbean States	15
Western European and other States	20

- The regional breakdown of the 13 signatory States was as follows:

African States	8
Asia-Pacific States	1
Eastern European States	1
Latin American and Caribbean States	1
Western European and other States	2

B. Organizational and membership issues

3. During the reporting period, the Subcommittee held three one-week sessions. The forty-third session (8–12 February 2021) and the forty-fourth session (14–18 June 2021) were held online as a result of travel restrictions necessitated by the coronavirus disease (COVID-19) pandemic. The forty-fifth session (8–12 November 2021) was held in person in Geneva.

4. The membership of the Subcommittee changed in 2020.² In accordance with rule 9 of the rules of procedure of the Subcommittee, the seven newly elected members of the Subcommittee – Massimiliano Bagolini, Marie Brasholt, Mario Luis Coriolano, Jakub Julian Czepek, Hamida Dridi, Marco Feoli Villalobos and Aisha Shujune Muhammad – assumed their duties as members upon taking their solemn oath at the forty-third session.

5. Also at its forty-third session, the Subcommittee elected Suzanne Jabbour as its Chair and elected the following members as Vice-Chairs and members of the Bureau: Carmen Comas-Mata Mira (Vice-Chair for visits); Daniel Fink (Vice-Chair for external relations); Ms. Muhammad (Vice-Chair for national preventive mechanisms) and Abdallah Ounnir (Rapporteur). Elections for the Chair and Vice-Chairs were held online using a platform that

² See www.ohchr.org/EN/HRBodies/OPCAT/Pages/Membership.aspx.

ensured the full confidentiality of the voting. It was the first time that a treaty body held online competitive elections.

6. The Subcommittee also designated Nora Sveaass as Rapporteur for reprisals for a term of two years.

7. Further to the resignation of Sofia Vidali, who resigned from the Subcommittee for personal reasons, Greece nominated Vasiliki Artinopoulou to replace Ms. Vidali for the remainder of her term of office, in accordance with the procedure pursuant to article 8 of the Optional Protocol. As no States parties responded negatively to the nomination within the six-week period after having been informed thereof by the Secretary-General, Ms. Artinopoulou commenced her term of office on 3 March 2021.

8. On 19 March 2021, Mr. Coriolano passed away. Argentina nominated Maria Andrea Casamento to replace Mr. Coriolano for the remainder of his term of office, in accordance with the procedure pursuant to article 8 of the Optional Protocol. As no States parties responded negatively to the nomination within the six-week period after having been informed thereof by the Secretary-General, Ms. Casamento commenced her term of office on 9 June 2021.

9. In accordance with the procedure pursuant to article 8 of the Optional Protocol, Ms. Artinopoulou and Ms. Casamento assumed their duties upon taking their solemn oath at the forty-fourth session.

10. In the light of the various changes in membership, the Subcommittee decided to restructure the membership of its regional teams and standing working groups. As at 31 December 2021, the heads of the regional teams were as follows: for Africa, Gnambi Garba Kodjo; for Asia and the Pacific, Nika Kvaratskhelia (replacing June Caridad Pagaduan Lopez); for Europe, María Luisa Romero (replacing Mr. Fink); and for Latin America, Juan Pablo Vegas (replacing María Dolores Gomez). The composition of the regional teams is available on the Subcommittee website.³ The regional teams met at the forty-third, forty-fourth and forty-fifth sessions. The teams examine the implementation of the Optional Protocol within their region, reporting to the Subcommittee in plenary session, and make recommendations as appropriate.

11. As at 31 December 2021, the heads of permanent working groups on jurisprudence, on health aspects of torture prevention and on the Special Fund established by the Optional Protocol were Mr. Ounnir, Zdenka Perović (replacing Marija Definis-Gojanovic) and Ms. Jabbour (replacing Malcolm Evans), respectively. The standing working groups teams met at the forty-fourth session.

12. The Subcommittee's permanent working groups on jurisprudence, on health aspects of torture prevention and on the Special Fund established by the Optional Protocol met online at the forty-fifth session.

13. From 8 to 12 February 2021, the Subcommittee held its forty-third session. The session was held online, from 4 to 6 p.m. each day, using various platforms, only one of which permitted simultaneous interpretation. At that session, the Subcommittee held online elections for the Chair and the Bureau. Regional teams met without interpretation at various times during the day to facilitate the participation of members and other participants from different time zones. The Subcommittee also met with other stakeholders.

14. From 14 to 18 June 2021, the Subcommittee held its forty-fourth session. The session was held online from 12.30 to 2.30 p.m. and from 4 to 6 p.m., using various platforms, only one of which permitted simultaneous interpretation. Regional teams and working groups met at various times during the day to facilitate the participation of members and other participants from different time zones. The Subcommittee also met with other stakeholders. A tribute was made and a minute of silence was held to recognize the passing of Mr. Coriolano.

15. From 8 to 12 November 2021, the Subcommittee held its forty-fifth session in person in Geneva. The Subcommittee held a joint meeting with the Committee against Torture to

³ See www.ohchr.org/EN/HRBodies/OPCAT/Pages/ContactRegionalTeams.aspx.

discuss issues of common interest. It also held meetings with representatives of the Convention against Torture Initiative; and representatives of the Association for the Prevention of Torture, on the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles). In addition, it held an online meeting with representatives of the Office for Democratic Institutions and Human Rights and of Penal Reform International. The Subcommittee continued its established pattern of cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

C. Visits conducted during the reporting period

16. Given the travel limitations related to the COVID-19 pandemic, the Subcommittee was only able to undertake one visit. In October 2021, the Subcommittee undertook its visit to Bulgaria, which had been postponed from 2020 as a result of the pandemic. It was planned in accordance with its mandate under articles 11 to 13 of the Optional Protocol.

D. Dialogue arising from visits, including publication of the Subcommittee's reports by States parties and national preventive mechanisms

17. The substantive aspects of the dialogue arising from visits are confidential. Reports are made public only with the consent of the recipient.⁴ By the end of 2021, the Subcommittee had transmitted a total of 96 visit reports to States parties and national preventive mechanisms, including within the reporting period to Cabo Verde and Sri Lanka (to the State party in both cases).

18. A total of 63 visit reports have been made public following requests from States parties or national preventive mechanisms under article 16 (2) of the Optional Protocol, including four in 2021, namely the reports addressed to the State party arising from the visits of the Subcommittee to Switzerland and the United Kingdom of Great Britain and Northern Ireland, and the reports addressed to the national preventive mechanisms of Senegal and Switzerland. While fully respecting the principle of and right to confidentiality provided for in the Optional Protocol, the Subcommittee welcomes the increasing number of visit reports that are being published, believing that this reflects the spirit of transparency on which preventive visiting is based and facilitates better implementation of the respective recommendations. The Subcommittee encourages the recipients of reports to request their publication.

19. In conformity with established practice, the recipients of reports are requested to submit a written reply within six months of their transmission, giving a full account of the action taken and that will be taken to implement the recommendations contained in the reports. During the reporting period, the Subcommittee received four such replies, namely from Senegal (from the national preventive mechanism), Switzerland (both from the State party and the national preventive mechanism) and the United Kingdom (from the State party), all of them having been made public at the request of their recipient.

20. As at 31 December 2021, 50 replies to Subcommittee reports have been received from States parties or national preventive mechanisms, and 39 of those replies have been made public. Information about Subcommittee reports and replies is available on the Subcommittee website.

E. Developments concerning national preventive mechanisms

21. The Subcommittee has continued to engage in dialogue with States parties and signatories at its sessions as well as between sessions, concerning the designation or

⁴ Data concerning visit reports, including those that have been made public, are available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/CountryVisits.aspx.

functioning of their national preventive mechanisms and the other relevant issues. During 2021, considering the impact of the pandemic and the changes in the Subcommittee, the Subcommittee engaged with all States parties of and signatories to the Optional Protocol.

22. In accordance with its mandate under article 11 (b) (i) and (ii) of the Optional Protocol, the Subcommittee established and maintained direct contact with national preventive mechanisms, both during sessions and intersessionally. During 2021, considering the impact of the pandemic and the changes in the Subcommittee, the Subcommittee engaged with all national preventive mechanisms, as well as with other relevant bodies performing national preventive mechanism functions.

23. The Subcommittee and its members have continued to receive invitations to attend numerous national, regional and international meetings, mostly online, concerning the designation, establishment and development of national preventive mechanisms in particular and on the Optional Protocol in general. The Subcommittee is grateful to the organizers of those and all other events to which it has been invited. The Subcommittee would also be grateful if all invitations to official events and discussions could be made through the Subcommittee secretariat in the Office of the United Nations High Commissioner for Human Rights (OHCHR).

F. Substantial non-compliance with article 17

24. At its twenty-seventh session, the Subcommittee decided to identify States parties whose establishment of their national preventive mechanism was substantially overdue and to record them on a list.⁵ The list is revised at each session of the Subcommittee, and States parties will be removed from the list once the threshold for such removal is met, namely that the Subcommittee has received notification of the official designation of the national preventive mechanism and copies of the documentation providing for its establishment and effective functioning. As at 31 December 2021, the following 14 States parties were listed: Belize, Benin, Bosnia and Herzegovina, Burkina Faso, Burundi, Democratic Republic of the Congo, Gabon, Ghana, Liberia, Mongolia, Nauru, Nigeria, Philippines and South Sudan.

25. This remains a matter of great concern to the Subcommittee, particularly since some of these States parties still appear to be making little if any progress towards fulfilling their obligations.

G. Special Fund established by the Optional Protocol

26. Support provided through the Special Fund established pursuant to article 26 (1) of the Optional Protocol is directed towards projects aimed at establishing or strengthening national preventive mechanisms, thereby contributing to the implementation of the relevant recommendations made by the Subcommittee following a visit to a State party or supporting educational programmes of national preventive mechanisms. In 2021, grants amounting to \$449,019 were awarded through the Special Fund to support 17 torture prevention projects in 13 States parties during their implementation in 2022. The Subcommittee has assisted in the assessment of project proposals and recommendations for grants. The awarded projects are aimed at providing key support to some newly established national preventive mechanisms and strengthening the existing ones. They are also aimed at enhancing the knowledge and capacity of members and staff of the national preventive mechanisms in monitoring places of detention, increasing visibility of mechanisms and improving collaboration with relevant stakeholders on torture prevention.

27. The Subcommittee greatly appreciates the contributions made to the Special Fund during the reporting period by Czechia (\$9,380), Denmark (\$200,609), France (\$60,975), Germany (\$116,279) and Portugal (\$11,947). Nevertheless, it remains mindful of the fact that further contributions will be necessary to support projects during the 2022–2023 grant cycle and beyond. The Special Fund is an essential tool for supporting and complementing the implementation of Subcommittee recommendations aimed at the prevention of torture

⁵ See www.ohchr.org/EN/HRBodies/OPCAT/Pages/Article17.aspx.

and ill-treatment. The Subcommittee therefore urges States to continue to provide the Special Fund with the financial support it requires.

28. Given the focus of the Fund on the establishment and strengthening of national preventive mechanisms, and in response to increasing demand from the field, OHCHR developed and launched in 2018 a practical guide on the role of national preventive mechanisms in preventing torture.⁶ The guide was prepared in close collaboration with the Subcommittee. Following the publication of Russian and Spanish versions in 2019, and of a French version in 2021, the Arabic version has been prepared during the current reporting period, for issuance in the early 2022. Training materials accompanying the guide are expected to be issued in 2022.

H. Advice relating to the COVID-19 pandemic

29. Following the issuance of the advice of the Subcommittee relating to the COVID-19 pandemic⁷ and the receipt of responses from national preventive mechanisms, building on its ongoing dialogue with national preventive mechanisms since the spread of the pandemic, the Subcommittee synthesized parts of its findings into a protocol for national preventive mechanisms undertaking on-site visits during the COVID-19 pandemic.⁸ Although national preventive mechanisms enhanced their non-visit activities, such as advocacy work, they were advised not to halt monitoring altogether, but rather to adapt their approach. The protocol was aimed at facilitating the work of national preventive mechanisms and at encouraging them to continue or to restart on-site, safe and effective visits during the pandemic. Owing to the quickly evolving situation, the Subcommittee requested that national preventive mechanisms send their comments and observations to the Subcommittee in order to review and update the protocol, as appropriate. The protocol contained recommendations regarding the planning, conduct and follow-up of visits.

30. Based on the responses received from States parties and national preventive mechanisms to its above-mentioned advice, building on its ongoing dialogue with all stakeholders, the follow-up advice of the Subcommittee to States parties and national preventive mechanisms relating to the COVID-19 pandemic⁹ was published in June 2021 and widely disseminated. It contained a summary of measures taken by States parties with the objective of reducing the population in places of deprivation of liberty, intensifying care for persons with health risks and introducing new means of communication with the outside world. The Subcommittee also expressed concerns and pointed to the lack of political will to implement its recommendations. It also made new recommendations with regard to the administration of vaccine programmes and the consolidation of positive measures related to COVID-19.

III. Engagement with other bodies in the field of torture prevention

A. International cooperation

1. Cooperation with other United Nations bodies

31. The Chair of the Subcommittee was unable to discuss the fourteenth annual report of the Subcommittee¹⁰ with the Committee against Torture in plenary session at the Committee's seventieth session, which was held online from 26 to 28 April 2021.

32. In accordance with General Assembly resolution 70/146, the Chair of the Subcommittee, together with the Chair of the Committee against Torture and the Special

⁶ See www.ohchr.org/Documents/Publications/NPM_Guide_EN.pdf.

⁷ [CAT/OP/10](#).

⁸ [CAT/OP/11](#).

⁹ [CAT/OP/12](#).

¹⁰ [CAT/C/70/2](#).

Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, presented the thirteenth annual report of the Subcommittee to the Assembly at its seventy-sixth session in an online meeting.

33. As a member of the meeting of the Chairs of human rights treaty bodies, the Chair of the Subcommittee participated in several informal online meetings of the Chairs during the year. At the thirty-third meeting of the Chairs of human rights treaty bodies, which was held online from 7 to 11 June 2021, the Subcommittee was represented by its Chair.

34. On 26 June, the United Nations International Day in Support of Victims of Torture, a joint statement was issued by the Subcommittee on Prevention of Torture, the Committee against Torture, the United Nations Voluntary Fund for Victims of Torture and the Special Rapporteur on torture, on protecting civic space critical to ensuring redress and accountability for victims of torture.¹¹ A webinar was held on the same topic.

35. The Subcommittee continued to cooperate systematically with other mechanisms, including by transmitting to the Committee against Torture suggestions for it to consider that concerned States parties to the Optional Protocol, the reports of which are to be considered at forthcoming sessions of the Committee, and issues for it to consider raising with States parties under the simplified reporting procedure.

36. During its forty-fifth session, the Subcommittee met with the Committee against Torture, and they decided to strengthen their cooperation. Following the meeting, a joint press release was issued on the worrying situation of the prisons in Ecuador.¹²

37. The Subcommittee also continued its cooperation with the regional offices of OHCHR, the United Nations country teams and the Office of the United Nations High Commissioner for Refugees.

38. The Subcommittee continued to cooperate with the treaty body capacity-building programme, particularly in support of the work of national preventive mechanisms.

2. Cooperation with other relevant international organizations

39. The Subcommittee continued its cooperation with the International Committee of the Red Cross.

B. Regional cooperation

40. The Subcommittee continued its cooperation with regional organizations, including the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, building on the reciprocal exchange of letters to give effect to article 31 of the Optional Protocol in order to strengthen complementarity and subsidiarity. Several meetings were held at the levels of Chairs and the Bureau, as well as of the secretariat.

C. Civil society

41. The Subcommittee continued to benefit from the support of civil society, including the Association for the Prevention of Torture and a number of academic institutions, such as the Human Rights Implementation Centre at the University of Bristol. The Subcommittee also benefited from its contact with civil society organizations in preparation for visits, and it thanks those organizations for their work in promoting and supporting the Optional Protocol, despite the fact that only one visit was concluded in 2021.

¹¹ See

www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?NTID=STM&MID=Sub_Committ_Torture.

¹² See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27890&LangID=E.

D. Informal working group on COVID-19

42. The informal working group on COVID-19 was created at the thirty-second meeting of the Chairs of human rights treaty bodies, which was held in July 2020. Since then, the working group, consisting of one or two appointed members from each of the treaty bodies, with good support of the secretariat, has met on the first Friday of each month to discuss and exchange information on ongoing human rights work and the impact of COVID-19 on the work of the treaty bodies themselves, as well as the impact of the pandemic on the global human rights situation. One of the most important activities initiated by the working group was the holding of five joint webinars of the treaty bodies in the Americas, Europe, anglophone Africa, the Middle East and North Africa, and Asia and the Pacific on issues pertaining to mental health. The webinars were the first events of their kind in the history of the United Nations. During the webinars, participants discussed the ways in which the pandemic affected mental health and the type of services and protection to be provided in order to prevent serious illness. As a part of the webinars, the mental health of persons in particularly vulnerable situations was discussed, and both stakeholders and other relevant professionals in the region participated, both as presenters and as participants. Members of the working group also contributed substantially to the webinars. The Subcommittee delegated Marina Langfeldt and Ms. Sveaass to participate in the working group.

IV. Developments relating to working practices

A. Visits

43. At its forty-third, forty-fourth and forty-fifth sessions, the Subcommittee examined the possibility of undertaking the visits postponed from 2020. In particular, it considered whether to continue its visit to Argentina, which was initiated in March 2020 but had to be abandoned owing to the COVID-19 pandemic, and to prepare the other visits already announced. Even though the adoption of a visiting protocol to facilitate the task of members of the Subcommittee delegation and the enhancement of the “do no harm” principle provided the bases for relaunching the visiting programme, the ongoing pandemic situation, both in many countries of origin of members of the Subcommittee and in countries to be visited, together with reduced air travel options, made it impossible to start visits until September 2021. In October 2021, the Subcommittee was able to undertake a visit to Bulgaria, its first visit since an improvement in pandemic conditions. While visiting different places of deprivation of liberty, members of the delegation were able to test the protocol that was adopted intersessionally. Even though it has proved well-conceived, it will be amended to provide adequate protection for all members of a delegation and for all persons to be visited.

44. At its forty-fifth session, in November 2021, the Subcommittee discussed the priorities of the visiting programme, owing to the evolution of the pandemic and the situations in States parties that had ratified the Optional Protocol. A list of countries to be visited in the first months of 2022 was made public,¹³ namely Argentina, Ecuador, Lebanon, Tunisia and Turkey, as well as Brazil, for high-level talks with Brazilian authorities.

45. The Subcommittee continues to stress the point it made in its eleventh annual report¹⁴ – that is, that the inability of the Subcommittee to undertake a minimum of 10 visits per year significantly diminishes the preventive impact of the Optional Protocol and undermines the proactive nature of the system of prevention that it establishes. It is imperative that the Subcommittee be allocated the resources necessary to enable it to have a secretariat of adequate size and to resume its full visiting programme.

¹³ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27879&LangID=E.

¹⁴ [CAT/C/63/4](#).

B. Meeting time

46. The necessity of holding its forty-third and forty-fourth sessions online has had an impact on the ability of the Subcommittee to conduct its business efficiently. Simultaneous interpretation was only available for two or four hours each day, and the time periods during which it was offered made it difficult for all members to participate. Consequently, the Subcommittee expects that at its forty-seventh session, to be held in June 2022, it will be able to meet for two weeks, in order to allow it to catch up on work that is outstanding.

47. At its forty-fifth session, Subcommittee members also agreed that training should become a standing element of all its sessions. It will therefore be integrated into the programme of each session with an established agenda item. The nature of the training is to be decided in advance.

V. Looking forward

48. The visiting work of the Subcommittee was, in effect, put on hold during 2020 and a large part of 2021 as a result of the COVID-19 pandemic. Despite the start of a new wave of the pandemic in late autumn 2021, the Subcommittee is confident that it is now well-equipped, and its members well-trained, to undertake the planned visiting programme during the ongoing pandemic. The Subcommittee is also aware that the financial outlook for the treaty body system as a whole is precarious and currently unclear as a result of the uncertain state of the 2020 review. In parallel, it will continue advising States parties and national preventive mechanisms on good practices and recommendations regarding the management of the pandemic in places of deprivation of liberty.

49. The Subcommittee remains very concerned that the 2020 review process may not fully engage with the needs of the Subcommittee, given its unique mandate among the treaty bodies. Further to a proposal on the 2020 review of the process of strengthening the human rights treaty body system, which was made by the Chair of the Committee on the Rights of Persons with Disabilities, and endorsed by the Committee itself, the Subcommittee discussed, at its forty-fifth and forty-sixth sessions, how to better reinforce the exercise of its specific mandate, given the unique nature of its mandate among the treaty bodies. It remains very concerned by the fact that the financial support for its work and the staffing for its secretariat continues to be significantly insufficient, as its specific needs were not, and continue not to be, taken properly into account. When adopting the present report at its forty-sixth session, the Subcommittee also approved a statement on its position on the above-mentioned proposal, which is contained in an annex to the present report. The Subcommittee expects that its proposal will be given the adequate visibility in the global proposal of the 10 treaty bodies to strengthen the system.

50. The Subcommittee has fully embraced the task of carrying out work online with national preventive mechanisms and with States parties to the extent that it is compatible with its mandate, and it will continue to do so. The Subcommittee is, however, particularly anxious that it be understood that it is a visiting mechanism, and that visiting places of deprivation of liberty in States parties is at the heart of its mandate. This cannot be done virtually or remotely. There is no place for a “digital shift” – as has been suggested for the treaty bodies as a whole – when it comes to the work of the Subcommittee.

51. Despite the difficulties posed by the COVID-19 pandemic with regard to its work, the Subcommittee appreciates the outstanding work undertaken by many national preventive mechanisms within the Optional Protocol system during the pandemic. The innovative ways in which they have approached their work has been proof of their commitment and their proactive role. That role has even greater importance owing to the increased restrictions and reduced transparency and oversight of places of detention that have resulted from the measures introduced in response to the spread of the coronavirus within most systems of detention. The Subcommittee has been evaluating the responses of States parties and of national preventive mechanisms to the pandemic and will be seeking to distil what lessons can be learned from those responses.

52. On the immediate front, it is imperative that those States parties that have not yet established national preventive mechanisms in accordance with their Optional Protocol obligations – as outlined in detail in the thirteenth annual report of the Subcommittee – do so as a matter of urgency. The experience of the pandemic has once again underlined the crucial role played by national preventive mechanisms within the Optional Protocol system, including as the “front line” in the prevention of torture and other cruel, inhuman and degrading treatment or punishment.

53. Too many States parties have not fulfilled their obligations under the Optional Protocol on time and have therefore been placed on the list of States parties not in compliance with article 17. The Subcommittee will intensify its dialogue with these States parties so as to assist them in establishing their national preventive mechanisms, especially by developing reference documentation for the drafting of national legislation related to the preventive mechanism. Once established, some national preventive mechanisms do not enjoy full independence and sufficient resources to fulfil their mandate. The Subcommittee will therefore develop guidance to support these preventive mechanisms to work towards this objective.

54. At its forty-fifth session, the Subcommittee took note of the launching of the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles) promoted by the Association for the Prevention of Torture. In a post-session press release,¹⁵ the Subcommittee stated that it welcomed the Méndez Principles, as they constituted an essential step in the needed cultural shift towards the respect of human rights at all stages of the criminal justice process. National preventive mechanisms, through their mandate and particularly through their privileged access to all places of deprivation of liberty, including police stations, have an important role to play in the promotion and use of the Méndez Principles. The Subcommittee strongly encourages national preventive mechanisms to familiarize themselves with the Méndez Principles, endorse them and fully incorporate them into their working methods.

VI. Plan of work

55. The Subcommittee has already announced its visits to numerous countries, which remain to be undertaken. The Subcommittee will review and endeavour to undertake as many of its previously announced visits as is appropriate in the coming year in the light of the evolving situation regarding the global pandemic. In accordance with its established practice, further announcements concerning future visits may be made after future sessions.

¹⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27879&LangID=E.

Annex

Statement of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the 2020 review of the process of strengthening the human rights treaty body system¹

I. Introduction

1. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment expresses its thanks to the Committee on the Rights of Persons with Disabilities and the Committee's Chair for the proposal on the 2020 review of the process of strengthening the human rights treaty body system.

2. The Subcommittee is supportive of the individual and collective efforts of each and every treaty body to strengthen the effectiveness and coherence of the system, taking into consideration that each one needs to work for the improvement of the global system and of its own mandate, especially when it is substantially different than the others. The improvement of each treaty body is also the improvement of the system as a whole and a strengthening of protection for all the rights holders.

3. The Subcommittee welcomes the proposals and is largely in agreement with the elements contained therein. It is of the view that the minimum level of financial and human resources necessary to allow the human rights treaty bodies system to perform in accordance with the provisions of the treaties is currently lacking.

4. The Subcommittee has a very specific mandate under the Optional Protocol to the Convention against Torture and, unlike other conventional treaty bodies, which consider periodic reports submitted to them by States parties, the Subcommittee has a proactive mandate whereby it visits States parties, in accordance with a programme of regular visits that it establishes under article 13 of the Optional Protocol, and issues corresponding visiting reports. In addition, it undertakes other functions mandated under article 11 of the Optional Protocol.

5. Owing to this specificity, the Subcommittee has not been able to benefit from the same attention that other treaty bodies have previously enjoyed in the context of the strengthening process. As a result, it has not seen its mandate reinforced as it should have been. Therefore, the Subcommittee presents the elements that it considers to be pertinent in supporting its mandate, on the basis of its experience, which comprises country visits, direct engagement with rights holders and human rights mechanisms, and close cooperation with States parties.

6. The Subcommittee sees merit in the proposal for a predictable review cycle with focused reviews. However, as noted in the proposal, it would need to be adapted for the specific mandate, context and needs of the Subcommittee, which has country visits at the core of its mandate.

7. The Optional Protocol sets the objective of establishing a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. However, it does not define the term "regular". The Subcommittee notes that States parties are required to report to the Committee every four years on the measures they have taken to give effect to their undertakings under the Convention against Torture, as indicated in its article 19. The Subcommittee has always considered that its visits should be undertaken with at least the same frequency. However, given the current resource

¹ Discussed at the forty-fifth and forty-sixth sessions of the Subcommittee and adopted, together with the fifteenth annual report of the Subcommittee, at its forty-sixth session, on 11 February 2022.

constraints, this is clearly not possible but remains as the mid-term objective for the Subcommittee.

8. Considering its specific mandate, it would not be appropriate or even feasible for the Subcommittee to establish a multi-year plan as to which countries it would visit, either to advise States parties or support national preventive mechanisms. The Subcommittee must retain the flexibility to decide, depending on the circumstances, which State party is to be visited and when to do so, in accordance with its mandate under the Optional Protocol. Therefore, a multi-year plan cannot include a list of country visits to be undertaken, but only a number of visits, in abstract. Only such an approach will ensure the correct mandated exercise of its preventive functions. However, it could draw from the proposal to establish, given the current resource constraints, an objective basis for calculation of the annual number of visits and meeting time to improve the sustainability and predictability of its work and of the system. A clear formula would facilitate this exercise, as per the below proposal.

II. Subcommittee country visits

9. While it cannot ensure a four-year cycle for its visiting mandate, the Subcommittee would opt for an eight-year cycle as proposed by the Covenant Committees, instead of the 10-year cycle proposed by the Committee on the Rights of Persons with Disabilities. The Subcommittee would thereby plan to carry out 91 visits within an eight-year period under that proposal, as a temporary measure, considering the current situation of 91 States parties and the established 70 national preventive mechanisms.

10. Given the current number of States parties to the Optional Protocol and national preventive mechanisms in place, this would equate to approximately 11.5 visits per year. It is estimated that the consideration and adoption of each visit report would require approximately three hours of plenary time. With 11.5 visits per year, two reports per visit (one to the State party and one to the national preventive mechanism), and three hours needed for the consideration and adoption of each report, a total of 69 hours, or 11.5 days of plenary meeting time, would be needed per year for the Subcommittee's visiting activities.

III. Cyclic dialogues

11. In addition to its primary objective of visiting places of deprivation of liberty during country visits, under article 11 (1) (b) and (c) of the Optional Protocol, the Subcommittee also has a mandate to advise and assist States parties and to cooperate for the prevention of torture. While work required under these two mandates are usually woven into the general work done by the Subcommittee and undertaken intersessionally, the growing number of national preventive mechanisms created pursuant to the Optional Protocol and the need to meaningfully and actively engage with them and with States parties has proven that the work undertaken in this regard needs to be substantially strengthened and structured, especially in the current context where post-visit on-site dialogues and/or follow-up visits are not feasible owing to the lack of appropriate financial and human resources. Under this proposal, these cyclic dialogues mitigate the current impossibility of the Subcommittee to fully undertake its mandate of regular visits.

12. Therefore, under the current circumstances, the Subcommittee, through its regional teams, would complement its visiting programme of 91 visits within an eight-year period with thorough cyclic dialogues between visits, as proposed by the Committee on the Rights of Persons with Disabilities. In these dialogues, the Subcommittee would engage with both national preventive mechanisms and States parties (in respect of their national preventive mechanisms) on the protection of persons deprived of liberty against torture and ill-treatment.

13. With 11.5 visits, two reports per visit (one to the State party and one to the national preventive mechanism), and three hours needed for the consideration and adoption of each report, a total of 69 hours, or 11.5 days of meetings in four parallel regional groups, would be needed each year. In addition, approximately three days of Subcommittee plenary session meeting time would be required each year for dialogues with States parties and national preventive mechanisms.

IV. Other mandated activities

14. In accordance with the allocation already provided by the General Assembly in its resolution 68/268 for other human rights treaty bodies, the Subcommittee also needs two weeks of plenary meeting time per year for all other mandated activities, as currently carried out. Such activities include planning its visits; advising States parties and national preventive mechanisms; deliberating on its decisions and adopting the corresponding documentation; meeting with the Committee against Torture, pursuant to articles 10, 16 and 24 of the Optional Protocol; and meeting with States parties of the Optional Protocol and national preventive mechanisms. As noted above, these activities correspond to 10 days of plenary session meeting time per year.

15. In total, for the current 91 States parties of the Optional Protocol and the 70 established national preventive mechanisms, with between 11 and 12 visits per year, the Subcommittee would require the following:

- (a) A total of 11.5 days per year for discussion and adoption of its visit reports;
- (b) A total of three days per year for dialogues with States parties and national preventive mechanisms between visits;
- (c) A total of 10 days per year for all other mandated activities.

16. The Subcommittee therefore requires 24.5 days per year, equivalent to approximately 5 weeks of session time, with the corresponding staff resources necessary to support the visits and the plenary sessions.

V. Corresponding staff

17. With the current number of Optional Protocol ratifications, the Subcommittee would require the support of six Professional staff at the P2/P3 level, in addition to General Service staff, to implement the above proposal with an eight-year visiting cycle and 12 visits per year, taking into consideration that:

- (a) Each visit requires 20 weeks Professional staff time, in addition to the other work to be undertaken, including sessions and intersessional activities with States parties and national preventive mechanisms, among others;²
- (b) A working year is, in real terms, 40 weeks.³

VI. Conclusions

18. The Subcommittee views the proposal contained herein as the minimum to allow it to fulfil meaningfully, under the present circumstances, its mandate under the provisions of the Protocol, consisting primarily of visiting States parties to the Optional Protocol, and advising those States and their national preventive mechanisms on measures to prevent torture and ill-treatment. The proposal would also have the benefit of including the Subcommittee, despite its different mandate, in the global calendar with all other human rights treaty bodies.

19. The proposal would be revised as needed, including with the increase in the number of States parties and with the establishment of new national preventive mechanisms. The Subcommittee considers that supporting States parties and national preventive mechanisms in the exercise of their obligations and ensuring that there is no protection gap for all rights holders under the Optional Protocol is a threshold that should be respected in all circumstances. The proposal reflects this understanding.

² [A/73/309](#), paras. 47–50.

³ *Ibid.*, para. 38, footnote 6.