



Research project on the implementation of the Optional Protocol to the United Nations Convention Against Torture (OPCAT)

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Research aims and context

- The OPCAT: ‘different’ international human rights treaty;
- Expertise in Bristol: Prof Murray and Prof Evans (+ two researchers);
- Focus of the research project:
 - Implementation of the OPCAT and challenges;
 - National Preventive Mechanisms (NPMs): reasons driving the choice for the NPMs; challenges in setting these bodies up at the national level; interactions with the Subcommittee on the Prevention of Torture (SPT) and other UN/regional actors;
 - Effectiveness of the NPMs: not measurement per se but determining the factors that can potentially influence it.

What has been done- research

- Work with states parties; those that have only signed and those that have decided not to become parties (to see the challenges; the decisions that are made and why);
- Work with the NPMs (to see the challenges and how these entities cope with the provisions of OPCAT);
- Work with the SPT (to see how the new treaty body approaches its mandate);
- Work with other international (like Working Group on Arbitrary Detentions and ICRC) and regional bodies (CPT and the African Commission);
- Methods used:
 - qualitative interviews with government representatives, statutory visiting bodies; NHRIs and NPMs as well as civil society;
 - Participant observations;
 - In-depth questionnaire for the NPMs.

What else?

- Conferences (like regional conference on the OPCAT in OSCE area in Prague November, 2008) and seminars (like seminar on the potential UK NPM in November 2007);
- Establishments of the OPCAT Contact Group (September 2006);
- Advice to and work with the SPT;
- Policy papers (like on relations between the accreditation of the NHRIs and OPCAT provisions);
- Comments on existing legislation (like law on the National Human Rights Commission in Maldives and Ombudsman's Law in Kazakhstan);
- Comments and advice on the proposed amendments to the legislation so as to comply with OPCAT criteria (Georgia and Armenia).

Some Preliminary Findings

- NPMs- no one size that fits all:
 - The basis: OPCAT and Paris Principles requirements;
 - Geo-political, social, cultural and religious context of the country;
 - Must take into account the specifics of the country: like existing visiting bodies; their mandates and expertise.
- ‘added value’ of the OPCAT:
 - OPCAT reach is wider than that of regional instruments;
 - Unique requirement of the OPCAT: NPMs;
 - Warning: avoid duplication.

Some Preliminary Findings: Ombudsman Offices as NPMs

- Ombudsman Offices as NPMs: choice characteristic to the OSCE area states parties to the OPCAT;
- Challenges:
 - Differences of the focus of mandate (proper administration of justice v human rights / prevention of torture and other forms of ill-treatment);
 - Representativeness ('one person' office v multi-disciplinary team; legitimacy and credibility);
 - NPM mandate (complaints handling v preventive mandate).
 - Point of reference (national law v international human rights law);

OPCAT and what it means for the states parties

- Obligations under the OPCAT are obligations of *states* and not of the NPMs;
- The need to view the OPCAT as a system that encompasses the NPMs, their work nationally, interactions with the SPT; work with the SPT:
 - Ensure the necessary legislative basis that is comprehensive reflection of the NPM mandate;
 - Ensure financial resources;
 - Ensure open, transparent process;
 - Ensure meaningful dialogue with the NPM and SPT;
- Interactions with other bodies, like in this region- the CPT.

Role of the OSCE field missions

- OSCE field missions have played a key role in the ratification process and continue to play key role in the implementation of the instrument, in particular- the designation of the NPMs;
- Prospective issues:
 - Building the capacity and effectiveness of the NPMs;
 - Following up NPM recommendations;
 - NPMs and other regional and international visiting bodies: how to ensure consistency in approach? How to approach visits to ensure coordinating, re timing, methodology, etc.?
 - Work with the SPT: supply of information; following up recommendations.

Further steps

- Forthcoming publications (policy papers; academic papers; book);
- Human Rights Centre:
 - Work on specific states and NPMs: e.g. advice on legislation and policies (e.g. UK and others);
 - Work with the NPMs: e.g. development and training, building the capacity and effectiveness; focused seminars;
 - Work with the SPT: e.g. development of working tools;
 - Work with the regional entities: e.g. involvement in ensuring effective operation of the OPCAT.