

## National Preventive Mechanisms: Drafting effective annual reports

April 2012

The annual report represents an important communication tool for the National Preventive Mechanisms (NPMs). This is recognised by the Optional Protocol to the UN Convention against Torture (OPCAT), which provides for the obligations for States Parties to “publish and disseminate the annual reports of the national preventive mechanisms” (Article 23). This obligation is formulated as an obligation of the State Party rather than as an obligation of the NPM itself. However, the OPCAT text is silent in relation to the objectives, content and structure of the NPM annual reports. This paper attempts to fill this gap by setting out recommendations and practical advice on how to make the most out of an NPM annual report. They are inspired from published NPM annual reports, APT’s experience working with NPMs as well as SPT specific guidelines on NPMs

### 1. The NPM annual report: a tool for advocacy

An NPM annual report represents an important communication tool and serves several important purposes:

- making the NPM visible and ensuring it is accountable;
- informing relevant actors and the public about the activities and the functioning of the NPM;
- identifying and analysing key issues related to torture prevention;
- proposing recommendations;
- measuring progress (or lack of progress) in torture prevention; and
- establishing and sustaining on-going dialogue with the authorities.

### 2. Target audience of the NPM annual report

Being an essential advocacy document, NPM annual reports are primarily addressed to **national actors**, including non-specialised audiences.

The target audience of the annual report may be broad, ranging from:

- “**receivers**” of the recommendations made by the NPM, including relevant authorities in charge of places of detention and parliamentarians, who have the power and duty to implement the recommendations and can bring changes at the policy level;
- the “**constituency**” of the NPM, including persons deprived of their liberty and professional unions; and
- actors with a **specific interest in torture prevention**, including civil society organisations, media and the public in general.

The OPCAT does not establish a reporting procedure; therefore, the **Subcommittee on Prevention of Torture** is not the primary target audience of the NPM annual report.

### 3. Content of the NPM annual report

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The content of the annual report will depend on different factors:

- whether other substantial information has already been made public by the NPM, including through public visits reports and thematic reports;
- whether this is the first annual report of the NPM;
- strategy and objectives that the NPM intends to achieve with the annual report (which could differ from one year to another).

Regardless of the above, an NPM annual report should always:<sup>1</sup>

- a) Include a **short introduction** of the OPCAT and the NPM's functions in the specific country;
- b) Contain updated information on the **functioning and operations** of the NPM during the period considered, in particular on the:
  - internal organisation of the NPM including human, financial and logistical resources and working methods;
  - NPM's activities (balanced quantitative and qualitative information)
  - accounts of cooperation with the authorities and other actors;<sup>2</sup>
  - challenges to the effective execution of the NPM's mandate;
  - Strategic short and longer term plans, including priorities that have been set.
- c) Provide substantive **analysis of torture prevention issues**, including the most important findings and the accounts of current challenges to the protection of the rights of persons deprived of their liberty. When **visit reports are published** regularly, the NPM may synthesise key issues in relation to different places of detention, or it may analyse cross-cutting thematic issues. When **no visits reports are made public**, the annual report should include information about the main issues encountered during visits.
- d) Include key **recommendations for change**;

In addition to the above, **subsequent annual reports** should systematically include follow-up information on:

- NPM operations (budget, activities, working methods etc);
- The level of implementation of NPM's recommendations and obstacles for implementation;
- Outstanding issues from previously published annual reports; and
- Changes observed related to the reasons for failures and successes in effecting change.

After several years of operations (for instance 5 years), the NPM could consider drafting an evaluation of its work and impact on the situation of torture and other forms of ill-treatment. This analysis could be included in its annual report.

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<sup>1</sup> SPT, *Self analytical tool for NPMs, a preliminary guide by the SPT regarding the functioning of an NPM*, UN. DOC CAT/OP/12/8, 18 October 2011, §38.

<sup>2</sup> See Chapter V, OPCAT Implementation Manual, for further information on the analysis of the NPM functioning and SPT, SPT self-assessment for NPMs, §22

Finally, the following elements should be taken into consideration while drafting the NPM annual report:

- confidential information collected should be privileged and no personal data should be published without the express consent of the person concerned.<sup>3</sup>
- the tone of the report should reflect the constructive approach promoted by the OPCAT; and
- the above-mentioned issues could be reflected in the structure of the NPM annual report.

#### 4. Format of the annual report

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The format of the NPM annual report varies depending on the type of NPM:

- If the designated NPM is **(part of) an existing institution** – such as a National Human Rights Institution – the NPM annual report should be published as a **separate report**, or at the very least, should have a **separate chapter** in the institution's general annual report.<sup>4</sup> The NPM report, or NPM chapter, should cover all aspects of the NPM's work and mandate, as detailed in the section 3 of this paper.
- If the designated NPM comprises **several institutions**, the NPM annual report should be a consolidated annual report of all the institutions. It could compile the information related to the functioning of each institution in relation to their NPM work and could strive to adopt a cross-cutting approach regarding thematic issues. Compilation of activities and results of each institution should be avoided.
- If the designated NPM formally involves **civil society organisations** in its daily work, they should be consulted on the content of the annual report.

The length of the annual report also varies according to the structure of the NPM and the context in which it operates. The first annual report is usually longer as it includes detailed information on the functioning of the NPM and the situation of deprivation of liberty. Subsequent annual reports could be shorter and more focused on changes and specific thematic issues. Annexes, while useful, should be kept to a minimum in order to facilitate the reading of the annual report. A longer online version of the annual report, which would contain links to reports, pictures, interviews and media articles should also be considered as a complement to the printed version.

#### 5. Strategic dissemination of the annual report

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As mentioned above, the main target audience of the annual report is **national actors**. Although the State party has the obligation to publish and disseminate the annual report, those tasks are usually performed by the NPM. The NPM should make sure that publication and dissemination of the report are therefore fully covered by their budget. The SPT thus recommends that the NPM adopt a strategy for dissemination of the annual report at the domestic level, which includes dialogue with the relevant stakeholders and in particular the authorities.

##### a) Dialogue with the authorities

NPMs could envisage sending their annual report in advance to the authorities to trigger a dialogue on the content of the report. A meeting could be requested to exchange views on the main issues highlighted by the NPM annual report and discuss ways forward. The authorities are not expected to provide a formal written response.

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<sup>3</sup> See Article 21 (1), OPCAT.

<sup>4</sup> See OPCAT Implementation Manual, Chapter V, section 4.3, p 248.

## b) Suggested activities to disseminate the annual report

- On-line friendly and accessible version of the NPM annual report, available for download;
- Public conference to launch the annual report and debate on the main issues of the report;
- Formal hearing at the Parliament to discuss thematic issues as well as challenges faced by the NPM;
- Media conference, interviews on radio and television to share the content of the report and inform the public about the situation of deprivation of liberty and the risks of torture and ill-treatment;
- Working meetings with unions and civil society organisations to share the content of the report and discuss possible strategies for future actions.

In countries where there are several official languages, the NPM annual report should be made available in all of them.

## c) Other possible activities

The NPM may consider it useful to send their annual reports to **international<sup>5</sup> and regional human rights bodies<sup>6</sup>** as a way of sharing information and encouraging discussion on country situations as well as specific thematic issues. Other NPMs may also be interested in the annual reports.

Although the **Subcommittee on Prevention of Torture** is not the main target audience of NPM annual reports, NPMs could send it a copy of their annual reports. This should be seen as a way of maintaining direct contact with their international counterpart and to contribute to the development of their thinking on specific issues, such as mental health in detention or the use of solitary confinement. The SPT makes NPM annual reports available on its website, although it declines responsibility for their content.<sup>7</sup> The NPM should therefore consider translating their annual report into English, or at least the executive summary.

## 6. Summary: Recommendations

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- ↪ The NPM annual report should be primarily addressed to national actors.
- ↪ If the designated NPM is part of an existing institution, the NPM annual report should be separate or there should be a separate chapter in the general institution's annual report.
- ↪ If the designated NPM comprises several institutions, the annual report should be consolidated.
- ↪ Specific attention should be brought to the tone of the report, which should reflect the constructive approach promoted by the OPCAT.
- ↪ Personal and confidential data collected by the NPM should be privileged.
- ↪ The content of the NPM annual report would depend on its strategy and objectives chosen by the NPM. It should however include information on how the NPM operates, recommendations for change, an analysis of torture prevention issues

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<sup>5</sup> For instance, the UN Treaty Bodies - such as the Committee against Torture- and Special Procedures - such as the Special Rapporteur on Torture.

<sup>6</sup> For instance, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; Council of Europe Commissioner for Human Rights; Inter-American Commission on Human Rights and its Special Rapporteur on the Rights of Persons Deprived of their Liberty, Committee for the Prevention of Torture in Africa and the Special Rapporteur on Prisons and Conditions of Detention in Africa.

<sup>7</sup> See <http://www2.ohchr.org/english/bodies/cat/opcat/annualreports.htm> for further information.

and an evaluation of the level of implementation of the recommendations. Follow-up to observations and recommendations should be systematically included in the annual report. Balance should be sought between quantitative and qualitative information.

- ↪ The NPM should adopt a strategy to disseminate its annual report at the domestic level, including press conference and bilateral meetings with the relevant authorities. The dissemination of the NPM annual report should be part of the broader outreach strategy of the NPM.
- ↪ The NPM should consider translating the annual report or at least the executive summary into English.
- ↪ The NPM annual report should be sent, for informational purposes, to regional and international bodies, in particular the Subcommittee on Prevention of Torture, as well as to other NPMs.

