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GUIDANCE DOCUMENT

MONITORING PLACES OF DEPRIVATION OF LIBERTY

PRISON INSIDER

BHR
Идораи ҳукуқи Инсон ва Рияси Қонуният
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Monitoring places of deprivation of liberty

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Introduction

This toolkit provides general and indicative information on monitoring places of deprivation of liberty. It aims to provide a shorten and adapted version from various international bodies and organisations, including the Association for the Prevention of Torture (APT) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) and books on different issues (Establishing and Designating National Preventive Mechanisms; Practical Guide for National Human Rights Institutions; Practical Guide on the Role of National Preventive Mechanisms against Torture; Visiting a Place of Detention: A Practical Guide; Making Effective Recommendations, etc.). Prison Insider also produced a toolkit of National Preventive Mechanisms good practices in collaboration with the Council of Europe.

It draws upon the main international instruments on detention which establish the minimum standards for the treatment of people in detention. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the General Comment No. 35 of the Human Rights Committee, Article 9, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the "Nelson Mandela Rules", the "Bangkok Rules", the "Beijing Rules", and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

This toolkit does not claim to be exhaustive. It is designed to be a practical tool.

General OPCAT expectations

Core functions of NPM visits to places of detention

Visits carried out by the members of the National Preventive Mechanisms have a variety of functions:

- **Preventive function:** The simple fact that someone from the outside regularly enters a place of detention in itself contributes to the protection of those held there.

- **Direct protection:** In situ visits make it possible to react immediately to problems affecting the incarcerated individuals which have not been dealt with by the officials in charge.

- **Documentation:** During the visits, the different aspects of detention can be examined and their adequacy assessed; the information collected provides a basis for forming a judgement and documenting it and for justifying any corrective measures proposed. The visits also provide an opportunity to document specific aspects of detention which could be dealt with in a thematic study.

- **Basis for dialogue with the detaining authorities:** Visits make it possible to establish a direct dialogue with the authorities and officials in charge of the detention facility. This dialogue, in so far as it is founded on mutual respect, leads to the development of a constructive working relationship, in which the points of view of the officials about their working conditions and any problems they might have identified can also be obtained. In addition, it should be noted that for persons deprived of liberty, having direct contact with outside persons concerned with their conditions is of importance and constitutes a form of protection as well as of moral support.

Ethical principles for monitoring places of detention

Visiting places of detention is a sensitive and complex responsibility. To ensure both ethical integrity and operational effectiveness, it is essential that those carrying out such visits adhere to a set of fundamental principles. The following guidelines—drawn from diverse sources, adapted, and consolidated—are intended to support respectful and effective monitoring practices. Monitoring bodies should develop recruitment strategies, operational protocols, and training programmes that uphold these core values. Regular peer evaluations have also proven valuable in reinforcing and embedding these principles into daily monitoring practices.

- **Confidentiality:** Information obtained from prisoners is not disclosed to third parties without their consent. Respect for the confidentiality of the information provided in private interviews is essential. Visitors should not make any representation using the name of a detainee without his or her express and informed consent. Visitors should make sure that the detainee fully understands the benefits as well as the possible risks

or negative consequences of any action taken on their behalf. Visitors, medical doctors and interpreters are all bound to respect confidentiality.

- **Principle of "do no harm":** Monitoring should not expose a person to the risk of punishment or reprisals. Detainees are particularly vulnerable and their safety should always be kept in mind by visitors, who should not take any action or measure which could endanger an individual or a group. In particular, in cases of allegations of torture or ill-treatment, the principle of confidentiality, security and sensitivity should be kept in mind. Poorly planned or prepared visits, or those not conducted in respect of the methodology or of the following basic principles, can actually do more harm than good.

- **Independence and impartiality**: Members of the monitoring group cannot act in the interests of any party. Biased assessments are prohibited. Visitors must strive to record actual facts, and to deal with both staff and prisoners in a manner that is not coloured by feelings or preconceived opinions. They should not be motivated by self-interest and should be scrupulously honest. In all their dealings they should operate in accordance with the international human rights standards that they are mandated to uphold.

- **Information and consent:** Visitors should explain clearly, to people deprived of their liberty and staff, the objectives and the limitations of their monitoring work and behave accordingly. They should make no promise that they are unlikely or unable to keep, not take any action that they cannot follow through. All interviews and meetings must be voluntary. The person must understand the purpose of the communication and have the opportunity to refuse. Particularly when interviewing incarcerated individuals, visitors should be sensitive to the situation, mood and needs of the individual, as well as to the need to take the necessary steps to protect his or her security. In cases of allegations of torture and ill-treatment, visitors should be aware of the problems of retraumatization.

- **Safety:** Security refers to the personal security of visitors, the security of the incarcerated individuals who are in contact with them and the security of the place of detention. It is important to respect the internal rules of the places visited and to seek advice or request any special dispensation from those in charge. Authorities often invoke security reasons for not allowing visits to specific places or put conditions on interviews with specific incarcerated individuals. It is ultimately the responsibility of the visiting delegation to decide if and how they want to follow this advice. Visitors should refrain from introducing or removing any object without the prior agreement of the authorities. They should display their identity by wearing a badge or other means of identification.

- **Integrity and mutual respect:** Every person – regardless of status – must be treated as a bearer of rights and dignity. Whatever the reasons for deprivation of liberty, incarcerated individuals must be treated with respect and courtesy. Visitors should also always respect the functioning of the authorities and try to identify the hierarchic levels and their responsibilities so as to be able to address any problem at the right

level. While it is clear that one can find individual staff with inappropriate behavior, many problems stem not from individuals but from an inadequate system for deprivation of liberty which fosters inappropriate behavior. Visitors should also take into account the fact that staff working in places of deprivation of liberty are carrying out a demanding job, possibly socially undervalued and poorly paid.

Guidance documents for visits

The following practical documents are intended to guide the monitoring of place of deprivation of liberty.

How to conduct interviews with people deprived of liberty?

Before the interview:

1. Check if the interview can be conducted without the presence of staff
2. Make sure there are no surveillance cameras
3. Check the respondent's category (woman, minor, foreigner, PLHIV, minorities, etc.)
4. Prepare a recording form without indicating the name

Reminder of the ethical principles:

- Confidentiality
- Avoiding harm
- Independence
- Voluntariness
- Impartiality

During the interview:

1. Introduce yourself and explain the purpose of the visit, its format, the privacy rules
2. Make sure that communication is voluntary

a) Keep in mind that interviews should be respectful and objective, avoiding personal interpretations.

3. Use open questions:

   "How did your day go?"

   "How do you evaluate the conditions of detention?"

   "Have you had any complaints or difficulties?"

   "Is there access to a doctor?"

   "Have you had access to a lawyer or relatives?"

4. Record not only words but also behavior (excitement, fear, restraint)

After the interview:

5. Do not promise the impossible *(e.g. immediate release, urgent case review, private messages)*
6. Make sure you leave no traces or records that could be used against the respondent
7. Protect the data – use codes or numbers
8. Take the time to debrief and to recover.

---- **Practices from existing NPMs**

In **New Zealand**, the NPM interviews young people about the things that matter to them. The visiting team tries to talk to everyone, not just a few. When visiting residences, they make themselves available for one-to-one conversations with as many young people as possible. What young people tell them is confidential, unless it is something that could harm them or someone else. They ask them questions about things like their safety and access to healthcare, whether they have a voice in decisions that affect them, whether they are assisted to keep in touch with their loved ones, and whether they have the opportunity to learn more about themselves, their loved ones and the world. The NPM also asks the young people to take them on a tour of the residences so that they can see the quality of the care they receive, the range of activities they participate in, and their living conditions. They also usually have a meal with them to verify the quality of the food. The NPM interviews staff and reviews the young people's written files and records. The NPM interviews the facility staff about their work. They also interview health and education staff based at the facility.[1]

[1] https://www.occ.org.nz/our-work/monitoring/monitoring-work/how-we-monitor/

How to conduct visits in prisons (pre-trial and post-trial detention)?

1. **General information:**

Facility name	
Date of visit	
Number of incarcerated individuals/designed capacity	
Number of - women - minors - foreigners - elderly - other if relevant	
Functional purpose of the facility	
Date of construction of the facility, renovations	

2. **Infrastructure conditions:**

Number of wards and separation between categories of incarcerated individuals (women, elderly, people with contagious disease...)	
Condition of cells (area, number of beds, windows, ventilation)	
Lighting (natural and artificial)	
Temperature, availability of heating	
Sanitary conditions (running water, toilets, showers, hygiene, privacy)	

Access to drinking water and food	
Noise level, sleeping conditions	
Free movement within the facility (or lack thereof)	
Disciplinary isolation zones / solitary confinement (SCHIZO, CTR)	

3. **Safety and discipline:**

Number and nature of complaints of violence	
Isolation (duration, conditions, appeal procedures)	
Number of complaints of isolation, disciplinary segregation (SHIZO)	
Use of handcuffs, other means of restraint, use of physical force, or harassment	
Availability of an incident registration system	
Staff attitudes towards disciplinary rules and implementation	
Existence and effectiveness of complaint and appeal mechanisms	

4. **Connection with the outside world:**

Lawyers visits (frequency and conditions)	
Family visits (frequency and conditions)	

Possibility of telephone calls (frequency,cost, privacy)	
Correspondence/mail (frequency, cost, censorship)	
Possibility to be granted temporary leave	
Access to information and media	

5. **Work and activity:**

Mandatory participation in work / punishment for refusal	
Working conditions (production facilities, safety, remuneration, social protection)	
Compliance with the nature and health condition of the incarcerated individuals	
Access to education and vocational training	
Access to sports and cultural activities	
Access to the open air (facility, duration of the access)	

6. **Medical care:**

Access to medical staff (general and specialist care, both somatic and psychiatric)	
Frequency and confidentiality of examinations	
Access to medical treatment (cost, regularity)	
Storage of medical documentation	

Protocols for HIV/AIDS, TB (prevention and care)	
Protocols for psychiatry (prevention and care)	

7. **Groups in situation of vulnerability (special needs):**

Women - including pregnant women (sanitary conditions, hygiene products, protection)	
Minors	
Foreigners (language translation, cultural specificities)	
Persons with disabilities (accessibility of infrastructure, access to work and activities)	
Persons living with HIV/AIDS or TB	
Persons living with mental health disorders	
Ethnic/religious/linguistic/ other minorities	

How to record observations and preliminary conclusions?

Date of visit: _____

Name and address of facility: _____

Monitoring Team (NPM Group):

Coordinator: _____

Observer(s): _____

Interviewer(s): _____

Recorder(s) (Secretary): _____

Key observations:

- _____
- _____
- _____
- _____

Brief summary of interviews:

Number of interviews conducted: _____

Categories of respondents: _____

Key topics of complaints: _____

Violations of human rights and risks identified:

- _____
- _____
- _____

- _____

Positive practices (if applicable):

- _____
- _____
- _____

Preliminary recommendations:

1. _____
2. _____
3. _____
4. _____

Points of attention / needs for follow-up action or visit:

_____

_____

_____

_____

How to report on the visits and to issue recommendations?

Post-visit reporting practices may vary, but NPMs usually prepare the following types of reports:

- **Internal visit reports**: based on a standard format, internal reports are important in terms of record keeping and visit follow-up.

- **Visit reports:** detail the findings of the visiting team, as well as analysis, comments and recommendations. A visit report should be submitted shortly after the visit. It should be addressed directly to the person in charge of the place visited. However, copies may also be communicated to higher authorities.

- **Thematic reports:** These reports may cover several places of detention but will focus on one issue (for example, healthcare services in prisons). Thematic reports are usually more analytical comparing to the other two types of reports.

- **Annual reports:** The annual reports of the NPM are considered as an essential tool for transparency, accountability and awareness-raising about the work of the NPM. They can contribute to share and disseminate information on recommendations and their implementation, as well as provide an analysis of findings and specific thematic issues. In addition, they may be used as part of the tools for dialogue with the authorities and may contribute to the process of evaluating implementation and informing any policy reforms. NPMs must treat confidential information as privileged and cannot publish any personal data without the express consent of the person concerned.

---- **Practices from existing NPMs**

In **Slovenia**, the NPM publishes on its website summary tables of all recommendations relating to visits conducted during the year. The full recommendation is indicated in the table, followed, if necessary, by a brief explanation. A keyword is used to specify the type of recommendation (systemic, general, or targeted). The response to the

recommendation, the findings of the monitoring visit and the response to these findings are also added, where appropriate. The "good practices" formulated during the work are also listed in the table[2]. The various general information on the visits carried out during the year and the types of recommendations are also grouped in summary tables.

Several NPMs note that the lack of effective implementation of the recommendations they issue remains one of their main challenges. Depending on the country, recommendations can be followed up in a number of methods:

- drafting a follow-up report to the same facility,
- organising follow- up visits and meetings with the authorities to discuss the recommendations and their implementation (bilateral meetings, round tables, annual meeting with all the relevant Ministries, etc.),
- recourse to “allies”, particularly parliamentarians, and developing a system to classify the state of implementation according to categories such as “not implemented - partially implemented - fully implemented”.

Some NPMs have reported that, if implementation fails, they have recourse to other means, such as:

- issuing public statements,
- appealing to the highest national authorities,
- sending their reports to interested journalists or share them on social networks in order to raise public awareness,
- sending their reports to NGOs and encourage them to follow their recommendations and provide feedback on their implementation.

---- **Practices from existing NPMs**

In **France**, the NPM requests that Ministers explicitly specify which recommendations are accepted and which are rejected. It examines the implementation of recommendations three years after the latest visit. The implemented recommendations are mentioned in the annual report, indicating the follow-up conducted at the end of the three-year period. This report usually indicates the number of 'good practices' that have been complied with, the number of recommendations issued during the visit, and the manner in which they are addressed.

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[2] Human Rights Ombudsman of the Republic of Slovenia, Annual Report for 2019, p.51-52.

Complementary actions

National preventive mechanisms can also complement their visits and recommendations with other actions aimed at preventing ill-treatment and at improving conditions of persons deprived of their liberty such as:

- Organising training seminars for relevant personnel concerned with or in charge of persons deprived of their liberty,

- Public awareness-raising activities,

- Submitting proposals and observations concerning existing or draft legislation (in accordance with article 19 c),

- Direct contact with the SPT (exchanging information, technical assistance, training).