



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

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Organizational and other matters

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

Summary

The tenth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment surveys the work undertaken by the Subcommittee during 2016.

Following a brief introduction, in section II the Subcommittee provides an update on developments relating to the Optional Protocol to the Convention against Torture system, including visits and the increase in States parties and in designated national preventive mechanisms, and details concerning the operation of the Special Fund established under the Optional Protocol.

In section III, the Subcommittee highlights areas of cooperation between the Subcommittee and other international and regional bodies and civil society, and summarizes the work that they have undertaken together.

In section IV, the Subcommittee provides substantive information concerning developments in its working practices, including preliminary thoughts on a range of substantive and procedural issues.

In section V, the Subcommittee reflects on the year under review, on the compliance of States parties with their obligations under article 17 of the Optional Protocol and on its plan of work.

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Contents

	<i>Page</i>
I. Introduction	3
II. Year in review	3
A. Participation in the Optional Protocol system.....	3
B. Organizational and membership issues.....	3
C. Visits conducted during the reporting period.....	4
D. Dialogue arising from visits, including publication of the Subcommittee's reports by States parties and national preventive mechanisms	5
E. Developments concerning national preventive mechanisms	5
F. Special Fund established under the Optional Protocol	7
III. Engagement with other bodies in the field of torture prevention	7
A. International cooperation	7
B. Regional cooperation	8
C. Civil society	8
IV. Issues of note arising from the work of the Subcommittee during the period under review	8
A. Elections	8
B. Development of working practices	8
V. Reflections on the year under review	10
A. Tenth anniversary of the Optional Protocol.....	10
B. Concerns about cooperation.....	10
C. Compliance with article 17 of the Optional Protocol.....	11
D. Looking forward	11
E. Plan of work.....	12

I. Introduction

1. Article 16 (3) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment shall present a public annual report on its activities to the Committee against Torture. Pursuant to that provision, the tenth annual report, covering the Subcommittee's activities from 1 January to 31 December 2016, was considered and adopted by the Subcommittee at its thirty-first session, and is being submitted to the Committee against Torture at its sixtieth session.

II. Year in review

A. Participation in the Optional Protocol system

2. As at 31 December 2016, 83 States were party to the Optional Protocol. In 2016, three States ratified or acceded to the Optional Protocol: Cabo Verde (1 April), Ghana (23 September) and the Central African Republic (11 October).

3. The pattern of regional participation was as follows:

African States	21
Asia-Pacific States	9
Eastern European States	19
Latin American and Caribbean States	15
Western European and other States	19

4. The regional breakdown of the 16 signatory States was as follows:

African States	10
Asia-Pacific States	1
Eastern European States	0
Latin American and Caribbean States	1
Western European and other States	4

B. Organizational and membership issues

5. During the reporting period, the Subcommittee held three one-week sessions in Geneva: the twenty-eighth session (15-19 February), the twenty-ninth session (13-17 June) and the thirtieth session (14-18 November).

6. At the sixth meeting of States parties to the Optional Protocol, held on 27 October 2016, 12 members were elected to fill the vacancies arising in respect of members whose terms of office would expire on 31 December 2016. The terms of office of the newly elected members commenced on 1 January 2017 and will expire on 31 December 2020.

7. The membership of the Subcommittee remained unchanged throughout the year. All members attended all sessions, with the exception of Dame Lowell Goddard and Aneta Stanchevska, who, for personal reasons, did not attend the thirtieth session.

8. The Bureau of the Subcommittee remained unchanged, its mandate running until the thirty-first session (February 2017). The Chair was Sir Malcolm Evans. The Vice-Chairs were: Enrique Andrés Font, Visits; Suzanne Jabbour, External Relations; Paul Lam Shang Leen, National Preventive Mechanisms; and Aisha Shujune Muhammad, Jurisprudence and Subcommittee Rapporteur.

9. The heads of the regional teams remained unchanged: Africa, Hans-Jörg Bannwart; Asia and the Pacific, Dame Lowell Goddard (at the thirtieth session, June Caridad Pagaduan Lopez served as acting head); Europe, Mari Amos; and Latin America, Felipe Villavicencio Terreros. The regional teams examine the implementation of the Optional Protocol within their region, reporting to the Subcommittee in plenary, with recommendations as appropriate.

10. The Subcommittee's permanent and ad hoc working groups met at each session during 2016. Further information on the meetings is provided in section IV below. Meeting in subgroups and working groups facilitates discussion of a broad range of issues in a focused and participatory fashion.

11. At its twenty-eighth session, the Subcommittee met with representatives of the Convention against Torture Initiative, was briefed by the Omega Research Foundation on the importance of documenting the equipment in use in places of detention, and met with representatives of Defence for Children International, who presented the organization's practical guide on monitoring places where children are deprived of liberty.

12. At its twenty-ninth session, the Subcommittee held an informal meeting with the States parties and signatories to the Optional Protocol. The meeting was attended by 27 States: Argentina, Belgium, Brazil, Burkina Faso, Chile, Costa Rica, Czechia, Denmark, Ecuador, Estonia, France, Ghana, Guatemala, Honduras, Lithuania, Maldives, Mexico, Morocco, New Zealand, Nicaragua, Panama, Peru, the Philippines, Poland, the Republic of Moldova, Switzerland and the United Kingdom of Great Britain and Northern Ireland. The Subcommittee was briefed in plenary on the objectives and perspectives of a proposed initiative referred to as the "Grenoble project".

13. At its thirtieth session, the Subcommittee held a joint meeting, in plenary, with the Committee against Torture to discuss the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) together with Penal Reform International and the Association for the Prevention of Torture.

14. During its thirtieth session, the Subcommittee held, on 17 November, a conference to celebrate the tenth anniversary of the entry into force of the Optional Protocol. This drew together a broad range of stakeholders, including States parties and other States Members of the United Nations, national preventive mechanisms, United Nations mechanisms and other intergovernmental bodies, non-governmental organizations (NGOs), former members of the Subcommittee, academics and others interested in the Optional Protocol and the prevention of torture and ill-treatment (see para. 53 below).

C. Visits conducted during the reporting period

15. At its twenty-ninth session, the Subcommittee confirmed the new approach to visits adopted at its twenty-sixth session, namely, that in order to maximize their preventive potential, visits would not be limited to a single aspect of prevention, but would focus on all those issues the Subcommittee deemed it appropriate to address. The Subcommittee would, however, continue to identify particular objectives for each visit, reflecting what it considered to be most appropriate in the specific circumstances. The Subcommittee undertook its strategic planning at its twenty-ninth and thirtieth sessions in accordance with this approach.

16. The Subcommittee undertook 10 official visits in 2016 in accordance with its mandate under articles 11-13 of the Optional Protocol: to Benin (11-15 January), Cyprus (25-29 January), Chile (4-13 April), Tunisia (12-14 April), Romania (3-12 May), Ukraine (19-26 May but suspended on 25 May and resumed from 5-9 September), Mozambique (5-9 September), Kazakhstan (20-29 September), Mauritania (24-28 October) and Mexico (12-21 December).

17. The Subcommittee suspended its visit to Ukraine on 25 May after it was denied access to places of detention in several parts of the country where it suspected people were deprived of their liberty by the Security Service, despite repeated attempts to gain such access. Given the seriousness of this breach of the Optional Protocol, the delegation

concluded, in consultation with the Subcommittee Bureau and in accordance with established practice, that the integrity of its visit had been compromised to such an extent that it had to be suspended.

18. The visit was recommenced and concluded after the Subcommittee received assurances and guarantees from the State party that were sufficient to permit the Subcommittee to conclude that all places where persons might be deprived of their liberty could be accessed by the delegation in accordance with its mandate under article 11 (a) of the Optional Protocol, reflecting its practice as set out in paragraph 3 of its statement on the obligations of States parties to facilitate the visits of the Subcommittee (CAT/OP/24/1).

19. Further information on each of the above-mentioned visits is available in the press releases issued following each visit.

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

20. The substantive aspects of the dialogue arising from visits are confidential. Reports are made public only with the consent of the recipient. By the end of 2016, the Subcommittee had transmitted a total of 51 visit reports to States parties and national preventive mechanisms, including 12 within the reporting period to Azerbaijan, Benin, Brazil, Chile, Guatemala, Italy, the Netherlands (State party and national preventive mechanism), Nicaragua, the Philippines and Turkey (State party and national preventive mechanism). A total of 24 visit reports have been made public following requests from States parties or national preventive mechanisms under article 16 (2) of the Optional Protocol, including two in 2016, namely, the reports addressed to the State party on the visit to Netherlands and on the visit to Italy. While fully respecting the principle and right of confidentiality provided for in the Optional Protocol, the Subcommittee believes that publication of its visit reports reflects the spirit of transparency on which preventive visiting is based and allows for better implementation of the respective recommendations; therefore, it encourages report recipients to authorize their publication.

21. In conformity with established practice, recipients of reports are requested to submit a written reply within six months of their transmission, giving a full account of action taken, and that will be taken, to implement the recommendations they contain. During the reporting period the Subcommittee received such replies from Chile, Italy, Kyrgyzstan, Nicaragua and the Philippines. The Subcommittee considers the replies from the following States parties to be overdue: Cambodia (two reports), Ecuador, Honduras, Liberia, Maldives (two reports), Mali, Nauru, Nigeria, Peru, the Republic of Moldova, Senegal and Togo. It considers the replies from the national preventive mechanisms of the following States parties to be overdue: Honduras, the Netherlands and the Republic of Moldova.

22. During the reporting period the Subcommittee held advance preparatory meetings with each of the States parties scheduled for a visit and, in accordance with established practice, invited each State party visited to meet with it at the subsequent session in order to discuss how best to advance the post-visit dialogue.

E. Developments concerning national preventive mechanisms

23. Of the 83 States parties to the Optional Protocol, 57 have officially notified the Subcommittee of the designation of their national preventive mechanisms, information concerning which is listed on the Subcommittee website.

24. In 2016, the Subcommittee received no new official notifications of designation of national preventive mechanisms. At the end of 2016, the one-year deadline for the designation of a national preventive mechanism provided for under article 17 of the Optional Protocol had not yet expired for three States parties: Cabo Verde, the Central African Republic and Ghana.

25. As at 31 December 2016, 23 States parties had not complied with their obligations under article 17 of the Optional Protocol. This is a matter of great concern to the Subcommittee, particularly since some States parties still appear to be making little progress in fulfilling their obligations. At each Subcommittee session, the regional teams review progress towards the fulfilment of each State party's obligation, making appropriate recommendations to the plenary on how the Subcommittee can best advise and assist the States parties concerned, in accordance with its mandate under article 11 (b) (i) of the Optional Protocol.

26. At its twenty-seventh session the Subcommittee decided to identify those States parties that appeared to be making little real progress on the establishment of their national preventive mechanism. At its twenty-eighth session, with a view to making its concerns public, the Subcommittee sought information from the following States parties on the measures they were taking to establish their respective national preventive mechanisms: Argentina, Benin, Bosnia and Herzegovina, Burkina Faso, Cambodia, Chile, the Democratic Republic of the Congo, Gabon, Lebanon, Liberia, Nigeria and Panama.

27. At its twenty-ninth session, and after analysing responses received, the Subcommittee identified the following States parties in which the designation of a national preventive mechanism was more than three years overdue: Argentina, Benin, Burkina Faso, Cambodia, Chile, the Democratic Republic of the Congo, Gabon, Lebanon, Liberia, Nigeria and Panama. It decided to make public this decision (CAT/OP/29/1) and to post the list on its website.¹ At its thirtieth session, and after having sought relevant information, the Subcommittee added Nauru to the list. The list will continue to be revised at each session of the Subcommittee. A State listed as not in compliance with its article 17 obligations will be eligible for removal from the list once the official designation of its national preventive mechanism has been received and verified.

28. The Subcommittee has continued to engage in dialogue with States parties and signatories at its sessions concerning the designation or functioning of their national preventive mechanisms. At its twenty-eighth, twenty-ninth and thirtieth sessions, it held meetings with the Permanent Missions of Bolivia (Plurinational State of), Bosnia and Herzegovina, Chile, Ghana, Nicaragua and the Republic of Moldova. Between sessions, the secretariat also met with State representatives from Nauru.

29. At the twenty-ninth session, the Subcommittee held an informal meeting with States parties and signatories to the Optional Protocol, during which States parties were updated on the recent activities of the Subcommittee, discussed the working methods of the Subcommittee, its resources and the Special Fund established under the Optional Protocol, and considered the future direction of the Subcommittee's work.

30. The Subcommittee established and maintained direct contact with national preventive mechanisms themselves, in accordance with its mandate under article 11 (b) (ii) of the Optional Protocol. During its sessions in 2016, the Subcommittee met or had videoconferences with the national preventive mechanisms of Ecuador, Greece, Luxembourg, Portugal, Romania, Spain, Switzerland and Ukraine. It also met with representatives of the Australian Human Rights Commission.

31. The Subcommittee and its members have continued to receive invitations to attend numerous national, regional and international meetings on 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. It regrets that its participation must remain conditional on the financial support of others, as it has no budget allocation with which to fund its members' attendance.

¹ See www.ohchr.org/EN/HRBodies/OPCAT/Pages/Article17.aspx.

F. Special Fund established under the Optional Protocol

32. Support provided through the Special Fund established under 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 relevant Subcommittee recommendations made following a visit to a State party. In 2016, grants amounting to \$240,000 were awarded through the Fund to support torture prevention projects in seven States parties. The call for applications for 2017 closed on 1 March 2017. In June 2017, the Subcommittee will provide strategic advice to the United Nations High Commissioner for Human Rights on the selection of the new projects to which grants will be awarded.

33. The Subcommittee is concerned that the Fund remains significantly short of resources. It welcomes that by the end of 2016 contributions had been received from Argentina (\$10,000), Czechia (\$8,000), Germany (\$220,000) and Spain (\$39,000), which enables the Fund to continue to support projects on torture prevention through the 2017-2018 grant cycle. Further contributions are needed in order to sustain the work of the Special Fund beyond 2018. The Subcommittee believes that the Fund provides an essential tool for implementing Subcommittee recommendations on the ground and thereby preventing torture and ill-treatment, and urges States to continue to support the Fund financially.

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

A. International cooperation

1. Cooperation with other United Nations bodies

34. The Chair of the Subcommittee presented the ninth annual report of the Subcommittee (CAT/C/57/4 and Corr.1) to the Committee against Torture, on 28 April 2016, at the plenary meeting of the Committee. The Subcommittee and Committee met jointly in Geneva on 16 November 2016 to discuss issues related to the Nelson Mandela Rules, as indicated in paragraph 13 above.

35. In conformity with General Assembly resolution 70/146, and together with the Chair of the Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, who presented their respective reports, the Subcommittee Chair presented the ninth annual report of the Subcommittee to the General Assembly at its seventieth session, on 18 October 2016.

36. Continuing the Subcommittee's involvement in the annual meetings of the Chairs of the human rights treaty bodies, the Subcommittee Chair participated in the twenty-eighth meeting of the Chairs, held in New York from 30 May to 3 June 2016.

37. The Subcommittee joined the Committee against Torture, the Special Rapporteur on torture and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture in issuing a statement on the occasion of the International Day in Support of Victims of Torture (26 June). The Subcommittee continued to cooperate systematically with other mechanisms, including by transmitting to the Committee against Torture suggestions for it to consider concerning States parties to the Optional Protocol the reports of which are to be considered at forthcoming sessions of the Committee.

38. The Subcommittee continued its cooperation with the Office of the United Nations High Commissioner for Refugees, particularly in the context of its field visits.

2. Cooperation with other relevant international organizations

39. The Subcommittee continued its cooperation with the International Committee of the Red Cross, particularly in the context of its field visits.

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; the first ever joint statement of the Chairs of both bodies was released in June and is available on the Subcommittee website. The Subcommittee also continued to cooperate with regional partners, including the European Committee, the Inter-American Commission on Human Rights, the Council of Europe and the European Commission, through the heads of its regional teams.

41. In this context, the members of the Subcommittee met with the African Commission on Human and Peoples' Rights on 5 September at the Human Rights Implementation Centre, University of Bristol, to discuss common strategies.

C. Civil society

42. The Subcommittee continued to benefit from the support of civil society, particularly the Association for the Prevention of Torture and several academic institutions. It has also benefited from its contact with civil society organizations during visits and thanks them all for their work to promote and support the Optional Protocol. The Subcommittee particularly thanks Penal Reform International and the Association for the Prevention of Torture for facilitating the joint meeting with the Committee against Torture on the Nelson Mandela Rules. Special recognition goes to the Association for its invaluable support to the Optional Protocol and the Subcommittee.

IV. Issues of note arising from the work of the Subcommittee during the period under review

A. Elections

43. The Subcommittee welcomes its 12 newly elected members and congratulates its new and returning members on their election. The Subcommittee expresses gratitude to its departing members: Enrique Andrés Font, Dame Lowell Goddard, Suzanne Jabbour, Miloš Janković, Paul Lam Shang Leen, Víctor Madrigal-Borloz, and Maria Margarida Pressburger. The Subcommittee benefits greatly from the fresh perspectives of its new members, is also aware of the significant loss of experience that the rotation of members entails, and notes the implications for dialogue based on visits being sustained over time. The Subcommittee is currently revising its approach to post-visit dialogue, aiming at swifter and more intensive dialogue within a shorter time frame in order to capitalize on the experience of those members participating in each country visit.

B. Development of working practices

1. Visits

44. Visits are one of the fundamental functions of the Subcommittee. Notwithstanding the financial and human resource constraints within the Office of the United Nations High Commissioner for Human Rights, the Subcommittee and its secretariat have been able to increase the number of visits each year since 2011, from three visits in 2011 to eight in 2015. In 2016, the Subcommittee again expanded its programme, undertaking 10 visits, 1 of which, to Ukraine, took place in two parts. The Subcommittee does not believe that any further expansion of its visit programme is possible, given current levels of resourcing, and that future areas of growth associated with the visiting programme should be focused on enriching and accelerating post-visit dialogue.

45. In 2015 the Subcommittee decided to cease categorizing its visits as particular types. Therefore, in 2016, each visit addressed all aspects of the Subcommittee's preventive mandate, and in particular its two primary responsibilities of visiting places of deprivation

of liberty and advising on the establishment or operation of the national preventive mechanisms, with reports addressed to the Government and/or the national preventive mechanism, as appropriate. During the course of 2016 the new methodology magnified the practical impact of the visits, enabling the Subcommittee to better fulfil its mandate under article 11 (1) (b) of the Optional Protocol.

2. Working groups

46. The working group on medical issues continued its work on a health-care resource tool in the form of a compilation of the recommendations on health care contained in Subcommittee visit reports. It held meetings with the Special Rapporteur on the rights of persons with disabilities, the Association for the Prevention of Torture and Harm Reduction International on issues of mutual interest. It also commenced work in cooperation with other United Nations mechanisms, particularly regarding the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Nelson Mandela Rules.

47. The working group on procedural issues continued to respond to requests for guidance from national preventive mechanisms. The Subcommittee encourages such requests and hopes that the public presentation on its website of the compilation of the resulting position papers will be of general interest. The working group assisted in the development of the Subcommittee position paper on States whose fulfilment of obligations under article 17 of the Optional Protocol have been substantially delayed. The working group also revised the Subcommittee's policy on reprisals (CAT/OP/6/Rev.1) in the light of the Guidelines against Intimidation or Reprisals (San José Guidelines) and commenced work on the revision of the Subcommittee's working methods.

48. The working group on jurisprudence and thematic issues concluded its work on the internal Subcommittee papers on prevention of torture in the transfer of persons deprived of their liberty and on prevention of torture in immigration detention centres. The Subcommittee may review the papers, in the light of its experience, with a view to making them public. The working group also commenced discussion of a new paper (see para. 51).

49. At its twenty-eighth session, the Subcommittee decided to establish a working group on the Special Fund established under article 26 of the Optional Protocol in order to strengthen and facilitate the work of the Fund (CAT/OP/28/2). The initial terms of reference of the working group are contained in the Subcommittee's decision (*ibid.*).

3. Regional teams

50. Regional teams and country rapporteurs have continued to be in frequent dialogue and communication with national preventive mechanisms, facilitating the exchange of information and advice. Owing to the different sizes of, and levels of engagement in, the various regional teams, they have adopted the working methodologies that best suit their needs, which have included increased use of videoconferencing to ensure better outreach and efficiency.

4. Development of Subcommittee position papers

51. The working group on jurisprudence and thematic issues adopted two position papers during the period under review (see para. 48 above). It is currently considering a position paper on the independence of national preventive mechanisms, with a focus on those within ombudsman's offices and national human rights institutions. As in previous years, the Subcommittee welcomes comments and contributions for the development of the position paper.

5. Additional meeting time

52. The Subcommittee has held three one-week plenary sessions each year since it commenced its work in February 2007. The Subcommittee initially had 10 members and there were 34 States parties to the Optional Protocol. There are now 25 members and 83 States parties. As mentioned above, whereas in its early years the Subcommittee undertook 3 visits each year, it now undertakes about 10 per year. In addition, the Subcommittee

liaises on visit follow-up and on the work of national preventive mechanisms in an ever-greater number of States parties each year. As a result, the workload pressure within each session has become unsustainable. Thus, at its twenty-eighth session, the Subcommittee decided to request the Secretary-General to include, as appropriate, in his 2016 report on the implementation of General Assembly resolution 68/268, a reference to the need for the Subcommittee to have, initially, a minimum of one additional week of meetings per year and the necessary support staff and resources (CAT/OP/28/1).

V. Reflections on the year under review

A. Tenth anniversary of the Optional Protocol

53. As noted above, the tenth anniversary of the Optional Protocol system was marked by a conference held in Geneva on 17 November 2016, during the thirtieth session of the Subcommittee. To open the event, the Director-General of the United Nations Office at Geneva presented a message from the Secretary-General, and the United Nations High Commissioner for Human Rights made an opening statement; the Vice-President of the International Committee of the Red Cross followed with a statement. The panels were composed of representatives of various stakeholders, including States parties (Senegal and Tunisia), national preventive mechanisms (Georgia, Kyrgyzstan and Norway), NGOs (Association for the Prevention of Torture), regional organizations (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) and other United Nations mechanisms and mandate holders (Committee against Torture, Special Rapporteur on Torture, United Nations Voluntary Fund for Victims of Torture). The conference was attended by approximately 150 participants, including representatives of 52 States Members of the United Nations, 11 national preventive mechanisms and 16 NGOs. The Subcommittee is grateful to all participants. It is also thankful to the organizers of the many national events, initiated mainly by national preventive mechanisms, held to celebrate the tenth anniversary of the Optional Protocol throughout the world. More information about the programme of and presentations at the conference is available on the website of the Subcommittee.²

54. The conference was composed of two panel discussions. During the first, high-level international experts made presentations on the past 10 years of the implementation of the Optional Protocol and how it has prevented torture, identifying its added value and lessons learned. The second focused on the cooperative triangular relationship between States parties, national preventive mechanisms and the Subcommittee and the significance of that relationship in the prevention of torture, as well as on achievements, best practices, challenges facing the Optional Protocol system and potential ways forward.

55. The significance of the partnership approach was underlined by the many tenth anniversary celebrations held around the world by States parties, national preventive mechanisms and others. The Subcommittee was not only heartened to receive information concerning these events, but also hopes they will form the basis for similar events in the future, in order to raise awareness of the Optional Protocol and to provide a practical opportunity to consider the functioning of the Optional Protocol system of prevention in the countries concerned. That would become an important and lasting legacy of the anniversary year.

B. Concerns about cooperation

56. Despite the milestones achieved in its work, the Subcommittee has observed a trend in which some States parties question the scope of the Subcommittee mandate. As highlighted in the statement the Subcommittee Chair made to the General Assembly at its seventy-first session, in October 2016, once the Subcommittee has decided upon its visiting programme, States are not in a position to suggest that a visit be cancelled or postponed.

² See www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCAT10.aspx.

Indeed, the Optional Protocol imposes a legal obligation upon States to facilitate visits of the Subcommittee at the time of the Subcommittee's choosing. Further, it is clear from the text of article 4 of the Optional Protocol that, as the Subcommittee also recently explained in advice provided to national preventive mechanisms (see CAT/OP/57/4 and Corr.1, annex), the Subcommittee and national preventive mechanisms should be able to visit any place in which a person is deprived of liberty, in the sense of their not being free to leave, or where the Subcommittee considers that a person might or could be deprived of their liberty, if the deprivation of liberty relates to a situation in which the State either exercises, or might be expected to exercise, a regulatory function. This includes places operated under the authority or regulatory oversight of the State, where third parties might be detaining persons *de facto*. It must be emphasized that such places fall within the scope of the mandates of the national preventive mechanisms as well as that of the Subcommittee, which is particularly important since the Subcommittee has observed, over the past decade, a rise in the number of incidents of torture and ill-treatment with clear correlations to the protection of national security and national boundaries.

C. Compliance with article 17 of the Optional Protocol

57. A further concern regarding cooperation within the Optional Protocol framework relates to State party obligations set out in article 17 of the Optional Protocol. A significant number of States parties have still not fulfilled their obligation to maintain, designate or establish one or several independent national preventive mechanisms within one year of ratification of the Optional Protocol. Therefore, communications were sent to all States parties whose compliance with the obligations set out in article 17 was at least three years overdue, inviting them to provide the Subcommittee with written information on the steps taken to comply with those obligations, and indicating that a list of those not in compliance with their article 17 obligations would be publicized.

58. The list is now posted on the public website of the Subcommittee.³ The list will be reviewed at each Subcommittee session and any necessary adjustments will be made. States will be removed from the list once they are in compliance with article 17. The Subcommittee hopes that this aide memoire on compliance will be of use to States parties, and notes that it has already prompted positive action. Since effective national preventive mechanisms are a cornerstone of the Optional Protocol system, the Subcommittee remains committed to cooperating with the States parties by providing advice and assistance concerning the establishment of such mechanisms, in accordance with the mandate set out in article 11 of the Optional Protocol, and looks forward to developing further ways through which compliance and follow-up may be encouraged, supported and enhanced.

D. Looking forward

59. Owing to the further development of its own "tool box", the Subcommittee is in a better position than ever to assist States in the designation and establishment of independent national preventive mechanisms, and to assist the mechanisms themselves in the implementation of their preventive mandate. At the same time, there is room for still further efficacious engagement and a need to promote synergies among the various torture prevention bodies and mechanisms. This has thus far been hindered by the inadequacy of available human and financial resources.

60. As already highlighted, the Special Fund established under the Optional Protocol is a vital tool for supporting the implementation of Subcommittee recommendations and the work of national preventive mechanisms. It is absolutely crucial that the Fund remain operational and well resourced. While there were some positive developments late in the reporting period, the overall situation of the Fund remains grim, despite efforts made by the Subcommittee and the Office of the United Nations High Commissioner for Human Rights to raise awareness and encourage contributions.

³ See www.ohchr.org/EN/HRBodies/OPCAT/Pages/Article17.aspx.

61. The Subcommittee hopes that the Fund — the only such fund established under a human rights convention — is properly supported, thus reflecting the commitment of States parties and other actors working for the prevention of torture.

62. With the experience gained thus far and supported by the renewed impetus generated by a change in membership, the Subcommittee expects to further develop and refine its working methods in 2017. The Subcommittee anticipates that it will spend more time in the coming year working to fully systematize its working practices and methods, in order to allow it to give greater focus to addressing thematic and procedural issues referred to the Subcommittee by national preventive mechanisms and other stakeholders. It will also be vigorously pursuing the development of new approaches to dialogue with States parties that arises from its own visiting work.

E. Plan of work

63. It is appropriate to conclude by highlighting the programme of future visits announced by the Subcommittee at its twenty-ninth and thirtieth sessions. As in the past, when identifying countries to visit, the Subcommittee engaged in a reasoned process, considering a broad variety of factors, including making optimal use of information received from, among others, the States parties and national preventive mechanisms, making the most effective and efficient use of the resources available and ensuring there is appropriate engagement with the full range of States parties. In addition, the Subcommittee continues to take into careful consideration the dates of ratification or accession, developments regarding national preventive mechanisms, geographic factors, the size and practical complexity of the States to be visited, relevant preventive monitoring at the regional level and other specific or urgent issues. The aim is to ensure that the overall effectiveness of its work is maximized.

64. The Subcommittee has decided that it will no longer produce annual visiting programmes. Rather, it will announce on a periodic basis the next countries to be included in its programme of visits. To that end, it has already announced that visits will, in due course, be taking place to Bolivia (Plurinational State of), Hungary, Mongolia, Panama, Rwanda, Spain and the former Yugoslav Republic of Macedonia. The next group of visits will be announced at the end of its thirty-first session.

65. Lastly, the Subcommittee must reiterate the request for more plenary meeting time, highlighted above. After 10 years of work, the demands on the Subcommittee's time are greater than ever and are set to rise even further as the Subcommittee seeks to intensify its work with national preventive mechanisms and on post-visit dialogue. The organizational work in which the Subcommittee must engage and the number of meetings it holds with States parties and others during plenary sessions continue to grow exponentially, as does the desire of international and intergovernmental organizations to meet and work collaboratively with the Subcommittee. The working relationships with the Committee against Torture, the Special Rapporteur on Torture and the United Nations Voluntary Fund for Victims of Torture continue to deepen, which is most welcome. It is, however, increasingly difficult, if not impossible, to continue along this positive trajectory without additional meeting time and support capacity. The time has come for a step change in support for the Subcommittee and its work in preventing torture.
