



association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture

UN Committee against Torture

APT submission on Ghana

9 August 2013

Submission from the Association for the Prevention of Torture (APT) to the Committee against Torture providing background information and suggested questions and recommendations on torture prevention and the Optional Protocol to the UN Convention against Torture (OPCAT) for **Ghana**, whose List of Issues Prior to Reporting (LOIPR) will be adopted by the Committee during its 51th session in Geneva.

The Association for the Prevention of Torture (APT) is an independent NGO based in Geneva, working for a world free from torture, where the rights and dignity of all persons deprived of liberty are respected.

To achieve this vision we:

- *Promote transparency and monitoring of places of detention*
- *Advocate for legal and policy frameworks*
- *Strengthen capacities of torture prevention actors and facilitate exchanges*
- *Contribute to informed public policy debates*

1. Key facts

UNCAT ratification: 7 September 2000

OPCAT signature: 6 November 2006

OPCAT Ratification: Under Consideration

2. Background information

2.1. Commitment to ratify OPCAT

Discussions on ratification of the OPCAT have taken place since 2006 in Ghana. Several roundtables and workshops have been held to examine in detail the implications of such ratification at the domestic level. In addition, Ghana has publicly committed to ratify the OPCAT on several occasions.

In March 2008, Ghana was examined by the Universal Periodic Review of the Human Rights Council. At the review, the then Minister of State at the Ministry of Justice informed the Council that steps were underway to ratify the Optional Protocol and stated that the process should be accomplished in 2008.

The Committee against Torture examined the initial report of Ghana in May 2011. The CAT encouraged Ghana to accelerate the OPCAT ratification process as well as the designation of the national preventive mechanism.¹

In October 2012, during Ghana's second UPR, several States recommended OPCAT ratification and/or the establishment of a national preventive mechanism. Ghana accepted those recommendations, and indicated that they are in the process of implementation.²

Unfortunately, Ghana has not yet ratified the Optional Protocol and has thus not yet fulfilled its voluntary UPR commitments nor responded to the recommendations of the Committee.

2.2. Initiatives towards OPCAT ratification and NPM establishment

Following a national seminar on the OPCAT held in April 2008, an inter-institutional OPCAT working group was established to undertake a factual inventory of national bodies which conduct visits to places of detention, promote a prompt ratification of the OPCAT and propose options for the establishment of a national preventive mechanism (NPM). The working group institutions include, among others, the Ministry of Foreign Affairs, the Commission on Human Rights and Administrative Justice, Amnesty International-Ghana (which carries out visits to places of detention in response to particular allegations of abuse) and Ghana Prisons Fellowship (which organises visits on humanitarian grounds).

Shortly after an APT visit to Ghana in September 2009, the law on ratification was adopted by the Cabinet, and was submitted to the Parliament in November 2009. However, in 2012 the APT was informed that, due to administrative and procedural

¹ CAT, Concluding Observations on Ghana, 15 June 2011, CAT/C/GHA/CO/1, at para.27.

² Report of the Working Group on the UPR of Ghana, 13 December 2012, A/HRC/22/6, at para.125.

problems, the ratification process would need to be re-initiated at the Cabinet level once more, before an OPCAT ratification law could be sent to the Parliament.

Two NPM options were considered during the above mentioned consultations and roundtables:

Option one: The Commission on Human Rights and Administrative Justice (CHRAJ)

Since 1995, the CHRAJ has been conducting visits to places of detention through an expansive interpretation of their “promotion” mandate. Hence they do not have any legal mandate to conduct preventive visits, as conceived in the OPCAT.

Further, the CHRAJ is not provided with any legal mandate to have total access to registers, information, facilities and detainees, though in practice they are often afforded such access.

In past years, the CHRAJ has focused its visits on police stations, prisons, centers for juveniles, refugee camps and psychiatric institutions. They do not visit immigration facilities or military detention facilities. This mandate is a result of its resource constraints, rather than any lack of access. They notify the authorities in advance of most of their visits.

If the CHRAJ were to be designated as the NPM, some adjustments to its mandate would be required in order for it to be made compliant with the Optional Protocol. Such adjustments would include its financial independence, its monitoring methodology, and its legal mandate. The CHRAJ is also exploring the possibility of creating a specific preventive unit if it were to be designated as the NPM, and amending its constitutional legislation accordingly.

Option two: CHRAJ working together with civil society organisations

As above, but the CHRAJ would formally collaborate with several civil society organisations to offer a wider scope of visits to places where persons are detained. In addition to the above mentioned challenges, this system would require proper division of roles and responsibilities in the implementation of the NPM mandate and especially during and after visits.

3. Suggested questions

In light of the background material above, the APT proposes that the Committee against Torture include the following questions in the List of Issues Prior to Reporting (LOIPR) for Ghana:

Articles 2, 11, and 16

- Please provide information on the need to reinitiate the OPCAT ratification process by the Cabinet and on the expected timeline for the adoption of the OPCAT ratification legislation by the Parliament.
- Please indicate what steps would be taken to designate an effective NPM, what structure the NPM would take and what legal, organisational, financial and structural changes it would require to be effective and independent.