

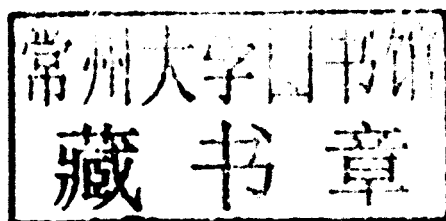
OXFORD

THE OPTIONAL  
PROTOCOL TO THE  
UN CONVENTION  
AGAINST TORTURE

*Rachel Murray,  
Elina Steinerte, Malcolm Evans,  
and Antenor Hallo de Wolf*

# The Optional Protocol to the UN Convention Against Torture

RACHEL MURRAY  
ELINA STEINERTE  
MALCOLM EVANS  
ANTENOR HALLO DE WOLF



OXFORD  
UNIVERSITY PRESS

# OXFORD

UNIVERSITY PRESS

Great Clarendon Street, Oxford OX2 6DP

Oxford University Press is a department of the University of Oxford.  
It furthers the University's objective of excellence in research, scholarship,  
and education by publishing worldwide in

Oxford New York

Auckland Cape Town Dar es Salaam Hong Kong Karachi

Kuala Lumpur Madrid Melbourne Mexico City Nairobi

New Delhi Shanghai Taipei Toronto

With offices in

Argentina Austria Brazil Chile Czech Republic France Greece

Guatemala Hungary Italy Japan Poland Portugal Singapore

South Korea Switzerland Thailand Turkey Ukraine Vietnam

*Oxford* is a registered trade mark of Oxford University Press  
in the UK and in certain other countries

Published in the United States

by Oxford University Press Inc., New York

© Rachel Murray, Elina Steinerte, Malcolm Evans, Antenor Hallo de Wolf, 2011

The moral rights of the author have been asserted

Database right Oxford University Press (maker)

Crown copyright material is reproduced under Class Licence

Number C01P0000148 with the permission of OPSI

and the Queen's Printer for Scotland

First published 2011

All rights reserved. No part of this publication may be reproduced,  
stored in a retrieval system, or transmitted, in any form or by any means,  
without the prior permission in writing of Oxford University Press,  
or as expressly permitted by law, or under terms agreed with the appropriate  
reprographics rights organization. Enquiries concerning reproduction  
outside the scope of the above should be sent to the Rights Department,  
Oxford University Press, at the address above

You must not circulate this book in any other binding or cover  
and you must impose the same condition on any acquirer

British Library Cataloguing in Publication Data

Data available

Library of Congress Cataloging in Publication Data

Data available

Typeset by SPI Publisher Services, Pondicherry, India

Printed in Great Britain

on acid-free paper by

CPI Antony Rowe, Chippenham, Wiltshire

ISBN 978-0-19-960219-3

1 3 5 7 9 10 8 6 4 2

## *Foreword*

This book by Bristol University's OPCAT team is a welcome contribution to our understanding of a unique advance in the field of protection against torture and other cruel, inhuman, or degrading treatment or punishment. The authors are well placed to examine how OPCAT has built on existing international human rights law concerning prevention of torture, whilst marking a historic departure in UN human rights treaties: the first treaty instrument with a primary focus on implementation and work in the field rather than the traditional emphasis on monitoring through a reporting system. OPCAT's central concept involves a system of visits at the international and national level for the prevention of torture and other forms of ill-treatment. This concept is analysed in detail, with attention to each of the component parts of the OPCAT system:

- the Subcommittee on Prevention of Torture (SPT), as a new generation of UN treaty body focused on preventive operational work;
- the National Preventive Mechanisms (NPMs), arguably the most important new feature, as independent mechanisms that States Parties are obliged to develop and maintain at national level to carry out regular visits to all places of deprivation of liberty; and
- the various international bodies already carrying out similar work at the universal or regional level.

In its sequence of chapters, the book considers OPCAT within the context of international law relating to torture and other forms of ill-treatment and examines the key issues as they have emerged over time: during the drafting stages, the eventual adoption of OPCAT, and through the first years after its entry into force. It is important that these developments are viewed from a variety of perspectives; the team brings research to bear on the complex challenges posed by OPCAT, demonstrating the range of ideas about how torture and other ill-treatment may be prevented in practice and exploring the variety of models that might be developed in future.

As the SPT and the emerging NPMs have struggled to fulfil the different but equally important elements of their mandates as set out in OPCAT—to carry out visits regularly, to cooperate and to engage directly with their counterparts at other levels—they have faced serious challenges deriving not only from the difficult work of torture prevention but also from the contexts in which they must operate. OPCAT provides for considerable powers to be accorded to the visiting bodies, both in relation to the visits themselves and their wider preventive role in improving the system of safeguards within each state through recommendations for legislative and policy improvements. In addition, the SPT has faced obstacles in the form of deficiencies in the support provided by the UN, especially as regards the mandated work with NPMs. Similarly, the NPMs have been confronted with

numerous challenges including a frequent lack of ring-fenced resources to take on their preventive role, deficiencies in their legal mandate, and limitations on their independence.

As the enlarged SPT and developing NPMs continue to demonstrate commitment to the preventive mandate, they will benefit, as in the past, from the significant support of the key organizations forming the OPCAT Contact Group, including Bristol University's OPCAT team. The group has provided much needed support to the SPT in its creative and determined search for opportunities to work directly with NPMs, including in regional meetings across the world organized by the APT, Bristol University, the Council of Europe NPM Project, Penal Reform International, and the OSCE.

The book's contribution of an academic perspective on the issues at stake provides an opportunity at this crucial stage in OPCAT's development to step back and consider both its origins and its future possibilities. It also reminds us of the imperative to maintain an open, but constructively critical, stance towards the variety of models emerging in the many different settings in which the vision of OPCAT will be translated over time into a working reality.

Dr Silvia Casale

Former Chairperson of the Subcommittee on Prevention of Torture (SPT)

And former Chairperson of the European Committee on the Prevention of Torture (CPT)

## *Preface*

This book arises out of research funded by the Arts and Humanities Research Council (AHRC) of the UK to examine OPCAT and the role of its National Preventive Mechanisms (NPMs) in particular. The three-year study enabled us to interview some 150 individuals, from international and regional treaty bodies, national governments, NHRIs, national NGOs, and civil society organizations of nearly thirty countries. We have covered all regions of the world and selected countries that have ratified OPCAT and already had established or were in the process of establishing their NPMs. We visited countries that had only signed OPCAT and were preparing for ratification and also those that had decided not to ratify the instrument at all. We of course interviewed the SPT members and spoke with the staff of the Office of the High Commissioner for Human Rights (OHCHR) and interviewed representatives of international civil society. The project team hosted a range of high profile seminars in the UK, in Bristol, Cape Town, Prague, and elsewhere, bringing together key policy stakeholders to discuss implementation of OPCAT. In September 2006 we established the OPCAT Contact Group, a gathering of civil society organizations that all work on aspects of OPCAT's monitoring and implementation. The OPCAT Contact Group has gained standing before the SPT and has participated in all but one sessions of the treaty body, providing assistance and support to the SPT. It now comprises Amnesty International (AI), Association for the Prevention of Torture (APT), International Federation of Action by Christians for the Abolition of Torture (FIACAT), Human Rights Implementation Centre (HRIC), International Disability Alliance (IDA), Mental Disability Advocacy Centre (MDAC), World Organisation against Torture (OMCT), Penal Reform International (PRI), Rehabilitation and Research Centre for Torture Victims (RCT), and World Network of Users and Survivors of Psychiatry (WNUSP). Throughout the course of the project we also participated in numerous events surrounding the implementation of OPCAT, provided expert advice to various States on the aspects of its implementation, and produced a number of policy papers and other academic articles.

As a result, our research findings are driven very much by what those we spoke to were saying was relevant in the actual application and implementation of OPCAT in States and by the SPT. This book reflects those findings and therefore does not purport to provide a comprehensive analysis or description of OPCAT. It takes as its starting point the background to the drafting of OPCAT and discussions that took place prior to its adoption and is then structured around the observations we have picked up, from visits to States, participation in the UN SPT sessions, hosting of events, and other activities. These observations may not have been what we initially thought would be the focus of OPCAT on the ground but they do reflect the reality faced by those at the national, regional, and international levels as they go about implementing OPCAT.

OPCAT had not entered into force when this project was conceived. It entered into force in June 2006 just as this project commenced, and so in some ways this has been a common, and at times shared, journey. Our understandings and perceptions have of course evolved as the practice under OPCAT has evolved, and to that extent we are examining a constantly 'moving target', with all the challenges that that brings. However challenging this has been, it pales in comparison to the challenge which the SPT now faces: as this book is completed it is preparing to meet for the first time as an expanded body of twenty-five members—making it, remarkably, the largest of the UN human rights treaty bodies. It is hoped that the publication of this book at this time will provide a timely opportunity to reflect on the experience of the 'old' SPT in a fashion which can help inform the thinking of the 'new' as OPCAT steps into its next phase of development.

As authors of the book, we have therefore gained a unique insight into how OPCAT is operating in its first years and we hope to be able to reflect that here. Elina Steinerte was also a member of the Independent Monitoring Board in HMP Bristol for part of the time that she worked on the research. In addition, during the course of the research and writing of this book one of our team, Professor Malcolm Evans, became a member of the SPT, with effect from November 2009. As a result, it is important to stress that in writing this book the authors have relied solely on information concerning the work of the SPT which is in the public domain, or which is the product of their research interviews. The positions taken and opinions expressed reflect those of the research team and do not represent the views of the SPT, except to the extent that they are a reflection of those public materials. As regards views expressed in this book regarding the composition and work of the SPT itself, Professor Evans, as a member of the SPT, does not associate himself with them, in either a positive or negative fashion, these having been determined by the other members of the research team in order to preserve the independence of the research and its findings and to respect the independence of the members of the Subcommittee.

Rachel Murray  
Elina Steinerte  
Malcolm Evans  
Antenor Hallo de Wolf  
Bristol, February 2011

## *Acknowledgements*

First and foremost we must thank the Arts and Humanities Research Council UK (AHRC) which funded the initial three-year project from which this book stems. Its support has not only enabled us to undertake this research but also provided us with a solid platform upon which to continue to examine and be involved in the monitoring of the implementation of OPCAT.

We would also like to thank the current and previous members of the Subcommittee on Prevention of Torture (SPT) not only for their openness and willingness to engage with us during the lifetime of the project but also beyond. Similarly, the Office of the High Commissioner for Human Rights (OHCHR) staff supporting the SPT, those in the National Institutions Unit, and others who have shared with us documents and their opinions and facilitated our participation in sessions and other events.

The Association for the Prevention of Torture (APT), an NGO synonymous with OPCAT, has provided invaluable support for our work and through the hosting of most of the OPCAT Contact Group meetings enabled us and others to work closely together and acquire information that would otherwise be difficult to come by.

We would also like to acknowledge all the members of the OPCAT Contact Group (Amnesty International (AI), Association for the Prevention of Torture (APT), International Federation of Action by Christians for the Abolition of Torture (FIACAT), Human Rights Implementation Centre (HRIC), International Disability Alliance (IDA), Mental Disability Advocacy Centre (MDAC), World Organisation against Torture (OMCT), Penal Reform International (PRI), Rehabilitation and Research Centre for Torture Victims (RCT), and World Network of Users and Survivors of Psychiatry (WNUSP)), a group of civil society organizations that we brought together when OPCAT came into force and which since then has played a central role in monitoring OPCAT at the UN, regional, and national levels.

During the course of the research we spoke to many individuals, including members of UN committees, staff at the OHCHR, members and staff of regional human rights bodies, government representatives, members of designated and potential NPMs, and other civil society organizations. Their comments have formed the core of this research and we would like to thank them for their willingness to engage with us.



# Table of Cases

African Commission on Human and People's Rights <i>Curtis Francis Doebbler v Sudan</i> , Communication 236/2000 (2002) .....	72
---	----

## EUROPEAN COURT OF HUMAN RIGHTS

<i>A v UK</i> , European Court of Human Rights, No 25599/94, 23 September 1998 .....	72
<i>Amuur v France</i> , Appl no 19776/92, European Court of Human Rights, 25 June 1996 .....	74
<i>Bankovic and others v Belgium and 16 Other Contracting States</i> , Appl No 52207/99, European Court of Human Rights, 12 December 2001 .....	77, 80
<i>Cyprus v Turkey</i> , Appl No 25781/94, European Court of Human Rights, 10 May 2001 .....	80
<i>Gafgen v Germany</i> [GC] No 22987/05 Judgment of 1 June 2010 .....	59
<i>Ilascu and others v Moldova, and Russia</i> [GC] No 48787/99, ECHR 2004-VII .....	77
<i>Loizidou v Turkey</i> (Preliminary Objections), European Court of Human Rights, 23 March 1995, Series A, vol 310 .....	80
<i>Ocalan v Turkey</i> , Appl No 46221/99, European Court of Human Rights, 12 March 2003 ..	73, 80
<i>Orhan v Turkey</i> , Appl No 25656/94, 18 June 2002 .....	73
<i>Plattform "Ärzte für das Leben" v Austria</i> (1991) 13 EHRR 204 .....	71
<i>Refah Partisi (The Welfare Party) and others v Turkey</i> [GC] (2003) 37 EHRR 1 .....	71
<i>Storck v Germany</i> (2005) 43 EHRR 96 .....	72
<i>Tyrer v UK</i> , Series A, No 26, 25 April 1978 .....	72
<i>von Hannover v Germany</i> (2005) 40 EHRR 1 .....	71
<i>X and Y v The Netherlands</i> (1986) 8 EHRR 235 .....	71

## UN HUMAN RIGHTS COMMITTEE

<i>Alzery v Sweden</i> , Communication No 1416/2005, CCPR/C/88/D/1416/2005, 10 November 2006 .....	81
<i>Celepli v Sweden</i> , Communication No 456/91, CCPR/C/51/D/456/1991, 26 July 1994 .....	77
<i>GRB v Sweden</i> , Communication No 83/1997, 15 May 1998 .....	71
<i>Higginson v Jamaica</i> , Communication No 792/1998, CC PR/C/74/D/792/1998, 28 March 2002 .....	72
<i>Karker v France</i> , Communication No 833/98, CCPR/C/70/D/833/1998, 26 October 2000 .....	77
<i>Nqalula Mpandanjila et al v Zaire</i> , Communication No 138/1983, UN Doc Supp No 40 (A/41/40) at 121 (1986) .....	77
<i>Osbourne v Jamaica</i> , Communication No 759/1997, CCPR/C/68/D/759/1997 (2000) .....	72
<i>Pryce v Jamaica</i> , Communication No 793/1998, CCPR/C/80/D/793/190 (2004) .....	72
<i>Vjateslav Borzov v Estonia</i> , Communication No 1136/2002, CCPR/C/81/D/1136/2002, 26 July 2004 Zealand, 754/97, 7 IHRR 44 (2000) .....	81
<i>Vuolanne v Finland</i> , Communication No 265/87, 7 April 1989 .....	75

## UN COMMITTEE AGAINST TORTURE

<i>Dzemajl and others v Yugoslavia</i> , CAT/C/29/D/161/2000, UN Committee Against Torture (CAT), 2 December 2002 .....	71
--	----

## INTER-AMERICAN COMMISSION AND COURT OF HUMAN RIGHTS

<i>Ceasar v Trinidad and Tobago</i> , Inter-Am Court of Human Right (SERC) No 123 (2005), 11 March 2005 .....	72
<i>Coard v United States</i> , Case 10.951, Inter-Am CHR, Report No 109/99 .....	80

## INTERNATIONAL COURT OF JUSTICE

<i>Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)</i> , Merits, 26 February 2007, ICJ Reports 2007 .....	77
<i>Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory</i> , Advisory Opinion ICJ Reports 2004 .....	80
<i>Questions Relating to the Obligation to Prosecute or Extradite (Belgium v Senegal)</i> , Provisional Measures, Order of 28 May 2009, ICJ Reports 2009 .....	4

## CASE LAW FROM DOMESTIC JURISDICTIONS

<i>A and ors v Secretary of State for the Home Department</i> [2005] UKHL 71 .....	59
<i>Al-Skeini and others v Secretary of State for Defence, Al-Skeini and others v Secretary of State for Defence (Consolidated Appeals)</i> [2007] UKHL 26 .....	77, 79
<i>Amnesty International v Canada (Attorney General)</i> , 2008 FC 336 (CanLII), 3 December 2008 .....	79, 80, 81
<i>R (Al-Jedda) v Secretary of State for Defence</i> [2008] 1 AC 332	
<i>R (Al-Saadoon and Mufdhi) v Secretary of State for Defence</i> [2009] EWCA Civ 7 .....	77
<i>R (Binyam Mohamed) v Secretary of State for Foreign and Commonwealth Affairs</i> [2010] EWCA Civ 65 .....	59

## *Table of Treaties*

Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No 5, 213 UNTS 222, 1950 . . . . .	1, 179, 180
International Covenant on Civil and Political Rights, GA Res 2200A (XXI), 993 UNTS 171, adopted 16 December 1966 . . . . .	1, 77, 143, 179
Vienna Convention on the Law of Treaties, 1155 UNTS, adopted 23 May 1969 . . . . .	70, 78
Hague Convention for the Suppression of Unlawful Seizure of Aircraft (860 UNTS 105), 1970 . . . . .	2
Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (974 UNTS 177), 1971 . . . . .	2
New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (1035 UNTS 167), 1973 . . . . .	2
New York International Convention against the Taking of Hostages Convention (1316 UNTS 205), 1979 . . . . .	2
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, GA Res A/RES/39/46, adopted 10 December 1984 (1465 UNTS 85) . . . . .	2-7, 22-38, 41, 42, 44, 59, 60, 61, 71-72, 77, 78, 79, 100, 132-133, 139-142, 179, 182, 218
African Charter on Human and Peoples' Rights, CAB/LEG/67/3, rev. 5, 21 ILM 58 (1982), adopted 27 June 1981 . . . . .	149
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CETS No. 126, adopted 26 June 1987 . . . . .	10-21, 29, 34, 50, 65, 66, 78, 98, 100, 133-134, 146-148, 156, 164, 168
International Convention for the Suppression of Terrorist Bombings (2149 UNTS 256) 1997 . . . . .	2
European Charter on Regional or Minority Languages (CETS No 148, in force March 1998)	
International Convention for the Suppression of the Financing of Terrorism (2178 UNTS 197), 1999 . . . . .	2
Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/57/199, adopted on 18 December 2003	
Arab Charter on Human Rights, 12 IHRR 893, adopted 22 May 2004 . . . . .	166
International Convention for the Suppression of Acts of Nuclear Terrorism (2445 UNTS 89), 2005 . . . . .	2
Convention on the Rights of Persons with Disabilities, A/61/611, adopted 13 December 2006 . . . . .	29, 158, 180-182

## *Abbreviations*

ACHPR	African Charter on Human and Peoples' Rights
AI	Amnesty International
APF	Asia Pacific Forum
APT	Association for the Prevention of Torture
ASEAN	Association of South East Asian Nations
CAT	UN Committee Against Torture
CEDAW	UN Convention on the Elimination of All Forms of Discrimination Against Women
CERD	UN Convention on the Elimination of All Forms of Racial Discrimination
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
CPTA	Committee for the Prevention of Torture in Africa
CRPD	UN Convention on the Rights of Persons with Disabilities
ECHR	European Convention on Human Rights
ECPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECtHR	European Court of Human Rights
EJIL	European Journal of International Law
EU	European Union
FIACAT	International Federation of Action by Christians for the Abolition of Torture
HMIP	Her Majesty's Inspectorate of Prisons
HRC	UN Human Rights Committee
HRLR	Human Rights Law Review
IAPL	International Association of Penal Law
ICC	International Coordinating Committee of National Human Rights Institutions
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICLQ	International and Comparative Law Quarterly
ICRC	International Committee of the Red Cross
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
IDA	International Disability Alliance
IMB	Independent Monitoring Board
LOIPR	List of Issues Prior to Reporting
MDAC	Mental Disability Advocacy Centre
NGO	Non-governmental organization
NHRI	National human rights institution
NI Unit	National Institutions Unit of the Office of the High Commissioner for Human Rights
NPM	National Preventive Mechanism

OAS	Organization of American States
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights
OMCT	World Organisation Against Torture
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OPCAT CG	OPCAT Contact Group
OSCE	Organization for Security and Cooperation in Europe
PRI	Penal Reform International
RCT	Rehabilitation and Research Centre for Torture Victims
SCAT	Swiss Committee Against Torture
SPT	Subcommittee on Prevention of Torture
UN	United Nations
UNCAT	United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNHCR	United Nations High Commissioner for Refugees
UNMIL	United Nations Mission in Liberia
UNODC	United Nations Office on Drugs and Crime
UPR	Universal Periodic Review
WNUSP	World Network of Users and Survivors of Psychiatry

# *Table of Contents*

<i>Table of Cases</i>	xv
<i>Table of Treaties</i>	xvii
<i>List of Abbreviations</i>	xix
<b>1. The Origins and Background of OPCAT</b>	<b>1</b>
A. Introduction	1
B. The Origins of the Optional Protocol	6
C. The European Convention for the Prevention of Torture	10
1. Drafting the ECPT	10
2. The work of the CPT and some implications for the drafting of OPCAT	18
<b>2. Drafting OPCAT—Towards Deadlock: 1991–2000</b>	<b>22</b>
A. The Return to the UN and its Consequences	22
B. The Principal Points of Agreement Prior to the 2001 Session and Their Place in the Final Text	27
C. The Principal Points in Dispute Prior to the 2001 Session	31
1. The visiting programme	32
2. Restrictions on access to persons in, or to places of, detention	35
3. The aftermath of a visit or mission	36
4. Reservations	37
D. An Assessment of the Overall Situation	38
<b>3. The Text of OPCAT</b>	<b>39</b>
A. The 2001 Session: New Ideas and New Controversies	40
1. The Mexican Draft	40
2. The EU proposals	43
B. The Chair's Compromise Text: The Optional Protocol and What It Requires of States	45
1. The Subcommittee and its visiting mandate	48
2. The National Preventive Mechanisms	53
3. Conclusion	57
C. The 'What' and the 'With What' Questions	57
1. The 'Concept of prevention'	58
2. Standards	63
<b>4. The Scope of OPCAT</b>	<b>68</b>
A. 'Deprived of liberty'	69
B. Public and Private: '... either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence', Article 4(1)	70

C. ‘...are or may be deprived’/‘installations and facilities’	73
D. ‘any place/all places of detention’	73
1. Prisons, police, and pre-trial facilities	73
2. Refugee, asylum, and immigration centres	74
3. Military detention facilities	75
4. Mental health institutions	75
5. Care homes, foster homes, older persons, and other places	76
E. ‘...under its jurisdiction or control’	77
1. Nationally	78
2. Extra-territoriality	79
F. Article 14(2) Objection to a Visit by the SPT	81
G. Some Core Issues	82
1. Different approaches and requirements	82
2. Expertise	83
3. Coordination	85
4. Consistency in standards	87
H. Conclusion	89
<b>5. The Role of the Subcommittee on Prevention of Torture (SPT)</b>	<b>90</b>
A. The Membership of the SPT	92
B. The Interpretation of Its Own Mandate and Rules of Procedure	95
C. Pillar I: Visits to States Parties	97
1. Selection of the countries: criteria, types of visits, and frequency	97
2. Content of the visit: choosing places of deprivation of liberty to be visited	102
3. Preventive approach and visits	103
4. Outcomes of a visit: the ongoing dialogue and follow-up	105
D. Pillar II: work with the NPMs	108
1. SPT as adviser to the NPMs	111
E. Pillar III: Cooperation with Other UN and International and Regional Bodies	112
F. Challenges Noted by the SPT	112
G. Conclusion	113
<b>6. The Role of NPMs</b>	<b>115</b>
A. Introduction	115
B. Visiting Powers and Mandate	117
C. Independence	119
1. Factors within the control of the State	120
2. Factors within the control of the NPM itself	124
D. Accountability and the Relationship with the SPT	128
E. NPMs Should Ensure States Comply with the UNCAT and Other Relevant Legal Standards	132
F. As a Forerunner to SPT Visits; Continuation of CPT Nationally; as a Small SPT on the Ground	133
G. Have Expertise	134
H. Large Expectations and Role Not Always Clear	136

I. Additional Factors for an Effective NPM	136
J. Conclusion	137
<b>7. OPCAT within the Broader UN and Regional Systems</b>	<b>139</b>
A. OPCAT and the Convention Against Torture	139
B. Engagement with Other UN Bodies	143
C. Engagement with Regional and Other Bodies	146
D. Some Common Issues	155
1. Confidentiality	155
2. Standards/norms	156
3. The need for consistency in engagement with NPMs	157
E. Conclusion: The Need for Systematic and Strategic Engagement	159
<b>8. Regional Trends towards Ratification and Implementation of OPCAT</b>	<b>162</b>
A. Reasons For and Against Ratification	162
B. The Added Value of Being Parties to OPCAT	168
C. Trends in the Choices for NPMs	170
D. Some Concluding Thoughts	172
<b>9. Conclusion: Emerging Trends and the Future of OPCAT</b>	<b>174</b>
A. Expansion of Membership of OPCAT	175
B. Expertise on OPCAT	176
C. A 'System' of Prevention Through Visits	177
D. Budget and Financial Resources	178
E. Standards and Accommodating Regional Differences	179
F. Influence and Lessons for Other Treaties	180
G. Conclusion	183
<b>Appendices</b>	
Appendix I: Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	184
Appendix II: Rules of Procedure of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	195
Appendix III: Guidelines of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Visits to States Parties	205
Appendix IV: Preliminary Guidelines for the Ongoing Development of National Preventive Mechanisms	212
Appendix V: Guidelines on National Preventive Mechanisms	214
Appendix VI: The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the	



Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	218
Appendix VII: Members of the Subcommittee on Prevention of Torture (SPT) as at January 2011	222
Appendix VIII: Chronology of States Visited by the SPT	223
 <i>Bibliography</i>	 224
<i>Index</i>	237