

## What are the objectives of the Asia-Pacific roundtable?

The objective of the roundtable is to **define a strategy** for increasing the number of OPCAT States Parties in Asia-Pacific and ensuring its effective implementation in the region by:

- Taking stock of the situation of the OPCAT in Asia-Pacific: progress, obstacles, challenges and opportunities.
- Identifying the actors, arguments and approaches that can convince decision-makers in the region to ratify the OPCAT and ensure it is implemented effectively.

## Overview of the situation of the OPCAT in Asia-Pacific

Asia Pacific is a vast and diverse region, which despite important progress remains underrepresented in terms of OPCAT ratification and implementation globally. Of 61 States Parties worldwide, there are three from Asia-Pacific (Maldives, Cambodia and New Zealand) as well as two State Signatories (Timor Leste and Australia).

The Maldives and New Zealand designated existing institutions as National Preventive Mechanisms (an NHRI and five independent bodies respectively) and both NPMs are in their fourth year of functioning. Cambodia designated an inter-ministerial committee as NPM on a temporary basis and is currently considering how to bring it in line with OPCAT requirements.

In a number of other countries including Australia, Indonesia, Japan, Mongolia, Nepal, the Philippines and South Korea, a variety of different actors (governmental, non-governmental, parliamentarians, NHRIs) are actively working towards OPCAT ratification and implementation. However, a regional dynamic for the prevention of torture and other ill-treatment (hereinafter "torture") through the OPCAT, as witnessed in other regions, is yet to be achieved in Asia-Pacific.

## Overview of the progress and challenges of the OPCAT in Asia-Pacific five years after its entry into force

### 1. Progress

There has been important progress related to the OPCAT in Asia Pacific, especially in the development of **expertise and functioning** of OPCAT systems on the ground. The Maldives and New Zealand NPMs have led the way in developing **methodological tools and procedures** for their preventive work. In 2010, two **Asia-Pacific experts were elected to the SPT**, bringing the perspective from the region to the OPCAT's international expert body for the first time.

The OPCAT is also achieving results: the Maldives Government has highlighted that it has translated into **real on the ground progress**. The New Zealand NPM has been able to **identify risk factors** that would not have otherwise come to light. In both countries, there is good progress in developing **constructive dialogue** between NPMs and the authorities. The SPT has visited the Maldives and Cambodia. The Maldives agreed to the publication of the **SPT's visit report**, demonstrating a spirit of cooperation.

Asia-Pacific also provides examples of **open, transparent and inclusive processes** for the designation of the NPMs, as recommended by the SPT. Australia, for example, is currently conducting thorough consultations on OPCAT implementation. **Good**

**practices** from Asia-Pacific have been shared in the region and further afield (i.e. experts from New Zealand, the Philippines and the Maldives have shared experiences in Australia, Cambodia and Europe respectively). And a number of Asia-Pacific actors are active in **promoting OPCAT ratification** in the region and internationally.

## 2. Challenges

Despite this progress ratifications in the region remain low, which begs the question: why is this the case? One reason is the limited **awareness and understanding** of the OPCAT. In particular, many actors are not aware that it assists states to better implement existing obligations (rather than entailing new substantive obligations, which they may be reluctant to take on). Torture prevention is often **not prioritised** by decision-makers, and governments are **reluctant to invest** in it.

Significantly, many countries in the region do not have a tradition of external oversight and there is reluctance to **open up all places of detention to outside scrutiny**. Authorities tend to be **wary of the role of the SPT**: often because they are not aware of the SPT's confidential methodology and advisory role. Finally, progress in some countries has **not multiplied into a region-wide dynamic** for torture prevention through the OPCAT. There is no regional human rights mechanism to play a galvanising role – the ASEAN Intergovernmental Commission Human Rights (AICHR) is yet to take up torture prevention as a priority.

## 3. Opportunities

A major opportunity for the OPCAT in Asia-Pacific is that its **cooperative approach** fits directly with the culture of consensus and avoidance of confrontation that characterises many societies in the region. There is also an **increasing practice of detention monitoring** in a number of Asia-Pacific countries, including by NHRIs (e.g. in the Philippines), civil society (e.g. in Nepal), independent visiting boards (e.g. in Japan) and international organisations (e.g. ICRC), paving the way for the OPCAT. There is **strong expertise** in the region, as well as important regional and international actors (including the Asia Pacific Forum of NHRIs, SPT, OHCHR and UNDP) which can be called upon to promote and support OPCAT in Asia-Pacific.

## Proposed concrete ways forward for discussion

### Possible ways forward for discussion:

- A first step could be to ensure a critical mass of OPCAT States Parties and strong NPMs in order to stimulate momentum. Priority could be given to encouraging states close to ratifying and strengthening existing OPCAT systems in the region.
- A message could be developed to convince actors (including governments and civil society) that OPCAT is not only needed in the Asia-Pacific context but also relevant and suited to its cultures and societies. Further know-how on the OPCAT could be developed in the region.
- A regional conference on OPCAT in Asia-Pacific could be held to raise the profile of the OPCAT and kick-start a dynamic for the prevention of torture in the region.

### Questions for discussion:

1. What are the obstacles to ratification of the OPCAT in Asia-Pacific and how can we overcome them?
2. Which arguments can convince decision-makers in the region to ratify?
3. Who are the potential actors and allies for ratification campaigns and how can they be brought on board?
4. How to ensure the legitimacy, independence and effectiveness of National Preventive Mechanisms in the region?