



OPCAT Country Status Ratification and Implementation Africa

20 April 2010

Introduction

The OPCAT Country Status includes information on ratification processes and national implementation (e.g on National Preventive Mechanisms or NPMs) in States Parties and Signatories to the OPCAT. It also contains updated information on States considering the signature or ratification of, or accession to, the OPCAT.

Information about OPCAT implementation comes primarily from field missions and in-country contacts of APT staff. Prison population and number are approximations based on reports by the International Centre for Prison Studies. Prison population figures generally, but do not always, include pre-trial detainees. Background information is derived from a variety of sources.

The content of this OPCAT Country Status paper is constantly changing; the latest version is always available at www.appt.ch. The APT invites you to provide additional information, updates and comments. To give us information or ask questions about a particular country or African region please contact Audrey Olivier, OPCAT Coordinator (aolivier@appt.ch) or Jean-Baptiste Niyizurugero, Africa Programme Officer (jbn@appt.ch).

Africa - Summary

Countries	Signed	Ratified	OPCAT Implementation status
Benin	24.02.2005	20.09.2006	An article was included in the revision of the criminal procedure code which provides for visits to places of deprivation of liberty (thus, by the NPM). The conditions of operations of the NPM will be established by decree. SPT visit in May 2008.
Burkina Faso	21.09.2005		OPCAT ratification bill was adopted by the Parliament in December 2009. Deposit is pending with the UN. A reformed Human Rights Commission is considered as an eventual option for the NPM.
Congo	29.09.2008		Congo signed the OPCAT during the UN Treaty event in September 2008. The APT has no information on OPCAT ratification and/or NPM establishment.
Cameroon	15.12.2009		The APT has no information on OPCAT ratification and/or NPM establishment.
Gabon	15.12.2004		The APT has no information on OPCAT ratification and/or NPM establishment.
Guinea	16.12.2005		The APT has no information on OPCAT ratification and/or NPM establishment
Ghana	06.11.2006		Ratification is under consideration by the Ministry of Justice and expected in 2010. Various NPM proposals are being examined, including the designation of the Ghana Commission on Human Rights and Administrative Justice (CHRAJ) as the NPM.
Liberia		22.09.2004	The renewed independent national human rights commission could play the NPM role, with some adjustments to its mandate. SPT visit planned in 2010.
Madagascar	24.09.2003		OPCAT ratification under consideration. Ongoing process on the establishment of a National Human Rights Commission which could eventually be designated as NPM.
Mali	19.01.2004	12.05.2005	NPM designated (NHRC) The National Human Rights Commission (NHRC) was designated as the NPM. In November 2009, the mandate of the NHRC was anchored in law.
Mauritius		21.06.2005	NPM designated (NHCR) The National Human Rights Commission (NHRC) was designated as the NPM. SPT first visit in October 2007.
Nigeria		27.07.2009	NPM designated (NEW) A National Committee on Torture was established in September 2009, which also assumes the NPM mandate.
Senegal	04.02.2003	18.10.2006	NPM designated (NEW) In February 2009, the law creating the National Observer of Places of Deprivation of Liberty as NPM was adopted. Designation of the mandate-holder is still pending.
Sierra Leone	26.09.2003		Some national NGOs are engaging in dialogue to promote the ratification of the OPCAT. The recently created National Human Rights Commission could play the NPM role.
South Africa	20.09.2006		Evaluation and discussions on OPCAT ratification and implementation are ongoing. Processes have so far led to the establishment of an Ad Hoc Committee to promote OPCAT ratification and NPM establishment.
Togo	15.09.2005		A draft law on OPCAT ratification was discussed by the Parliamentary Committee on External Affairs on 23 November 2009. It is likely to be discussed by the whole Parliament in the near future. An OPCAT Working Group was established in June 2009 to promote prompt OPCAT ratification and implementation.

Shaded boxes: States Parties to the OPCAT

Unshaded boxes: States that have signed the OPCAT or are due to sign it in the near future

Africa

Benin

Ratification: 20 September 2006 - **NPM establishment:** due to have taken place before 29 September 2007

Updated on 08 April 2010

Background information

Population: 7,862,944
Area (sq km): 112,620
Number of prisons: 8
Prison population: 5,834

The police, under the Ministry of the Interior, have primary responsibility for enforcing law and maintaining order in urban areas; the gendarmerie, under the Ministry of Defence, performs the same function in rural areas.

Consideration by international and regional human rights mechanisms

African Commission on Human and People's Rights examined Benin in May 2000.

SPT visited Benin from 18 to 26 May 2008 [SPT press release](#). The visit report has not yet been made public.

Benin report was examined by the HRC in the context of the **UPR** (May 2008) [Report of the Working Group](#)

CAT examined Benin in November 2007 [CAT Concluding observations](#)

NPM designation processes

▪ 2006

A few months after ratification, more precisely on 6 December 2006, the Cabinet reiterated the commitment of Benin towards OPCAT implementation, designating the Ministry of Justice as the leading agency for the establishment of the NPM.

▪ 2007

In July 2007, a consultative national seminar was jointly organised by the APT and the Ministry of Justice, and gathered 30 key national actors including representatives from various ministries and NGOs. This inclusive consultation reviewed the obligations and implications of the OPCAT and assessed the national situation in Benin in relation to prevention of torture and other forms of ill-treatment (current visiting mechanisms in place, gaps, needs...) and came up with a range of recommendations which served as a "[roadmap](#)" to guide the authorities in establishing an effective NPM.

The seminar set up an **Ad Hoc Working Group** comprising 9 people to follow up on the implementation of the seminar recommendations, to assist the Ministry of Justice to draft the NPM legislation. They are also to advocate for the adoption of the legislation by Parliament and for the appointment of competent NPM members. Their first meeting was held in July 2007 under APT facilitation, in which the members discussed a preliminary draft of the NPM law.

To date, the draft law has not been adopted, despite the recommendations of international bodies and the SPT visit to the country:

- In its concluding observations of November 2007, the CAT recommended the Benin government adopt a designation law for the NPM and accelerate its process of establishment. The CAT also highlighted the need for open and permanent access to places of detention for NGOs.
- The draft NPM legislation was considered by an inter-ministerial body which deals with issues related to legislation and codification.

▪ 2009

In the context of the revision of the criminal procedure code, an article was included which provides for visits to places of deprivation of liberty (including by the NPM). The conditions of operation of the NPM will be established by decree.

Africa

Benin

Ratification: 20 September 2006 - **NPM establishment:** due to have taken place before 29 September 2007

Updated on 08 April 2010

NPM options	<p>The roadmap adopted in the July 2007 seminar foresees the establishment, by law, of a new domestic body to serve as a NPM. To ensure the independence of the mechanism, it is recommended, among others, that the legislation on the NPM should include:</p> <ul style="list-style-type: none"> • An appropriate procedure for the appointment of expert members • A powerful mandate for the NPM, and • An appropriate procedure for approval of budgets and resources necessary for implementation. <p>The proposal presented by the Working Group to the Ministry of Justice envisages the creation a new collegial body, the National Observatory for Prevention of Torture, comprising 5 members, who would be selected through a public tender.</p>
Legal framework	<i>No NPM establishment law adopted yet</i>

Africa

<u>Burkina Faso</u>	
Signature: 21 September 2005 - Ratification: under consideration <i>Updated on 9 April 2010</i>	
Background information	<p> <u>Country population:</u> 13,902,972 <u>Area (sq km):</u> 274,200 <u>Prison population:</u> 2 800 <u>Number of prisons:</u> 11 </p> <p> <u>Consideration by international human rights mechanisms</u> Burkina Faso's report to the HRC in the context of the UPR was examined in December 2008 Report of the Working Group </p>
OPCAT ratification and NPM designation processes	<ul style="list-style-type: none"> • 2008 <p>A group of national NGOs led by ACAT-Burkina undertook discussions on NPM options but focused initially on the ratification of the OPCAT. They initiated meetings with key authorities including the Parliament, the Ministry of Justice, Ministry of Interior, Ministry of Foreign Affairs and Ministry of Human Rights in order to advocate for the ratification of the OPCAT.</p> <p>The Government's intention to ratify the OPCAT was made public during the examination of Burkina Faso's report at the Universal Periodic Review of the Human Rights Council in December 2008, as it indicated that "<i>measures will be soon taken to ratify the OPCAT</i>". The APT also took the opportunity of its presence in Burkina Faso in December 2008 to hold bilateral meetings with interested stakeholders to promote prompt ratification.</p> <ul style="list-style-type: none"> • 2009 <p>An OPCAT ratification bill was examined and adopted by the Cabinet in 2009. The APT was informed that the ratification bill was adopted by the Parliament in December 2009.</p> <ul style="list-style-type: none"> • 2010 <p>Burkina Faso has yet to deposit its instrument of ratification with the United Nations. It is expected to join the States Parties to the OPCAT in 2010.</p>
NPM options	<ul style="list-style-type: none"> • 2009 <p>Reforming the existing National Human Rights Commission to make it compliant with the Paris Principles and eventually designating it as the National Preventive Mechanism is one of the options being considered by the relevant stakeholders.</p>
Legal framework	<i>No NPM establishment law adopted yet</i>

Africa

Gabon

Signature: 15 December 2004 - **Ratification:** under consideration

Updated on 03 December 2008

Background information	<p>Population: 1,424,906 Area (sq km): 267,667 Prison population: 2,750</p> <p><u>Consideration by international human rights mechanisms</u></p> <p>Gabon's report to the HRC in the context of the UPR was considered in May 2008 Report of the Working Group</p> <p>HRC considered Gabon in October 2000 HRC Concluding observations</p>
OPCAT ratification and NPM designation processes	<p>▪ 2007</p> <p>During the 41st session of the African Commission on Human and Peoples' Rights, held in Ghana in May 2007, the APT met with the Vice-Prime Minister of the Republic of Gabon and the Deputy Secretary General of the National Human Rights Commission. Both authorities expressed an interest in OPCAT ratification and implementation.</p>
NPM options	<p>Gabon is currently focusing its attention on OPCAT ratification. As far as the APT is aware, no NPM option is currently under consideration.</p>
Legal framework	<p><i>No NPM establishment law adopted yet</i></p>

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Africa

Ghana

Signature: 06 November 2006 - **Ratification:** under consideration

Updated on 15 October 2009

Background information

Population: 22 409 572
Area (sq km): 239 460
Prison population: 12 736
Number of prisons: 47

Consideration by international and regional human rights mechanisms

African Commission on Human and People's Rights examined Ghana's report in April 2001

Ghana's report to the HRC in the context of the **UPR** was examined in May 2008

[Report of the Working Group](#)

So far, Ghana has not presented its initial report to the UN Committee against Torture. Ghana ratified the UNCAT in 2000.

Ghana has extended an **open invitation to the Special Procedures** of the Human Rights Council (April 2006)

OPCAT ratification and NPM designation processes

▪ 2006

In June 2006, the Commission on Human Rights and Administrative Justice (CHRAJ) in collaboration with the APT held a roundtable conference on the ratification and implementation of the OPCAT. The conference provided the first formal forum on the OPCAT in Ghana and gathered government officials, civil society organizations and Ghana Prisons and Police services. The CHRAJ followed up on this initiative and consequently Ghana signed the OPCAT six months after the national roundtable.

▪ 2007

In 2007, the CHRAJ organised bilateral meetings with key officials from the Ministry of Foreign Affairs and Attorney General's Office to promote prompt OPCAT ratification. On the occasion of the UN Day in Support of Victims of Torture (26 June 2007), the CHRAJ organised a second national roundtable on OPCAT, with the participation of most of the relevant stakeholders, apart from the Attorney General's representatives. At the end of the national consultation, a press statement urging the government to ratify the OPCAT and to improve conditions of detention in Ghanaian prisons was published and disseminated.

▪ 2008

Ghana's report was examined by the Universal Periodic Review of the Human Rights Council in **March 2008**, and on this occasion, the then Minister of State at the Ministry of Justice, Mr Ambrose Dery, informed the Council that "*steps are underway to ratify the Optional Protocol to the Convention against Torture*". In addition, the Ministry of Justice committed on that occasion to ratify the international instrument in 2008.

In **April 2008**, the CHRAJ organised a third consultative workshop to initiate the discussions on the most appropriate NPM options for Ghana. The workshop attracted a high level of participation from the authorities and civil society organisations, as well as the media. The OPCAT workshop ended with the recommendation to create a **Working Committee** to discuss an Action Plan for the ratification and implementation of the OPCAT. The initial institutions which were represented in the Working Committee included the Ghana Bar Association, Ghana Journalist Association, Centre for Democratic Development, Amnesty International and the Legal Section of the Ministry of Foreign Affairs.

On **26 June 2008**, the CHRAJ and AI-Ghana presented a petition and a signatures collection of high-profiled personalities urging the government to ratify the OPCAT.

▪ 2009

Following an OPCAT advocacy mission to Ghana in **September 2009**, the APT was informed that progress has been made towards OPCAT ratification. Inter-ministerial consultations are currently ongoing and supported by the Attorney General's Office. An OPCAT Working Committee which comprises representatives from civil society organisations, the Ministry of Foreign Affairs and the Commission on Human Rights and Administrative Justice (CHRAJ) is following up on the APT visit and exploring possible NPM options.

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Africa

Ghana

Signature: 06 November 2006 - Ratification: under consideration

Updated on 15 October 2009

NPM options

The Working Committee established after the April 2008 seminar is mandated to undertake a factual inventory of national bodies which conduct visits to places of detention. The Working Committee members have to consider a wide range of issues, including: the scope of jurisdiction, number of members and staff, functional independence, office locations, budget and working methods etc. The organisations that are taken into account include the **CHRAJ, AI-Ghana** (which organizes reactive visits) and **Ghana Prisons Fellowship** (which organizes humanitarian visits). On the basis of the inventory, the Working Committee might be in condition to draw some recommendations on the most appropriate NPM options.

- a) The first option to be considered is the designation of 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 in the sense of the OPCAT. The CHRAJ is not provided with any legal mandate to have total access to registers, information, facilities and detainees, but they do have such access in practice. In past years, the CHRAJ has focused its visits on police stations, prisons, centres for minors, refugee camps and psychiatric institutions. They do not visit immigration facilities nor military detention facilities due to resource constraints; not because of a 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 compliant with the OPCAT, in particular to aspects related to its financial independence, its monitoring methodology and its legal mandate. The CHRAJ claims to have independent specialised mechanisms for carrying out preventive visits to places of detention, and demonstrated long-established records of independence, as well as credibility from the local and international public.

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.

- b) The second option to be considered is the designation of the **CHRAJ with civil society organisations**.

Legal framework

No NPM establishment law adopted yet

Africa

Liberia

Ratification: 22 September 2004 - **NPM establishment:** due to have taken place before 22 June 2007

Updated on 09 April 2010

Background information	<p><u>Population:</u> 3,042,004 <u>Area (sq km):</u> 111,370 <u>Prison population:</u> 880 <u>Number of prisons:</u> 12</p> <p>In 2003, a peace agreement ended 14 years of civil war and prompted the resignation of former president Charles Taylor. Democratic elections in 2005 brought President Ellen Johnson-Sirleaf to power. The Ministry of Justice has responsibility for enforcing law and maintaining order within the country and oversees the LNP and the National Bureau of Investigation (NBI). Approximately 15 thousand UNMIL peacekeepers and 1,100 CIVPOL officers had primary responsibility for maintaining security while the Liberia National Police (LNP) and the Armed Forces of Liberia (AFL), which was under the Defence Ministry, were being retired and retrained during the year. Conditions in the majority of prisons and detention centres remain well below minimum standards.</p> <p>The report of the Human Rights Situation in Liberia delivered by UNMIL (May to October 2007) informed about the existence of unauthorised detention facilities. The use of unofficial or private detention is a significant challenge in Liberia. For instance, a visit to Gbartala Magistrates' Court, Bong County in May 2007 found that the court was running an unauthorised detention facility. Several such facilities are also said to exist in other Liberian counties.</p> <p><u>Consideration by international human rights mechanisms</u></p> <p>SPT will visit Liberia in 2010 (SPT programme of work 2010)</p>
NPM designation process	<p>Local NGOs, such as PAP (Prisoners Assistance Programme) are lobbying for the adoption of a legislative enactment to make torture a crime, which was intending to incorporate the set up of an NPM. They met with legislators and other key stakeholders in the context of their campaign for the OPCAT implementation.</p> <ul style="list-style-type: none"> • 2010 <p>Civil society organisations, such as PAP, are proposing an anti-torture bill which would designate the Independent National Commission on Human Rights (INCHR) as NPM. The bill is currently being drafted. Civil society organisations plan to present the draft bill to Congress in June 2010.</p>
NPM options	<p>An independent National Commission on Human Rights (INCHR) was created as one of the objectives of the Comprehensive Peace Agreement. This INCHR is responsible for promoting national implementation of international and regional human rights treaties signed by Liberia. The Commission also has a mandate to make recommendations to the Government on remedial actions that are required in individual cases or systemic reforms required where violations are of a widespread nature. However, as of April 2008, the INCHR Commissioners had not been re-appointed, even if the staff and Secretariat were still being paid to fulfil their functions.</p> <p>In January 2010, the INCHR was still not functional. The Senate rejected the proposed nominees for the Commission. Consequently, Liberia will go through another process of selection of Commission members.</p>
Legal framework	<p>INCHR act</p> <p><i>No NPM establishment law adopted yet</i></p>

Africa

Madagascar

Signature: 24 September 2003 - **Ratification:** under consideration

Updated on 14 April 2008

Background information	<p>Population: 18,595,469 Area (sq km): 587,040 <u>Prison population:</u> 20 294 <u>Number of prisons:</u> 99</p> <p>The Minister for Public Security heads the national police and is responsible for law and order in urban areas. The <i>Gendarmerie Nationale</i>, overseen by the Ministry of National Defence, is responsible for security in all other areas of the island.</p>
OPCAT ratification and NPM designation processes	<p>▪ January 2007</p> <p>On the occasion of a seminar organized by the Ministry of Justice, ACAT-Madagascar and the APT on the implementation of the UNCAT (January 2007), possible actions regarding OPCAT ratification were discussed. As a result, the plan of action adopted at the end of the seminar aimed at guiding the Ministry of Justice in the adoption of legal reforms and other preventive measures, including OPCAT ratification and implementation. However, priority is given to the due implementation of the UNCAT obligations.</p>
NPM options	<p>Discussions to establish a national human rights commission are ongoing and the incipient institution could eventually play the role of an NPM.</p>
Legal framework	<p><i>No NPM establishment law adopted yet.</i></p>

Africa

<p><u>Mali</u></p> <p style="text-align: right;">Ratification: 12 May 2005 - NPM DESIGNATED (NATIONAL HUMAN RIGHTS COMMISSION)</p> <p style="text-align: right;"><i>Updated on 09 April 2010</i></p>	
Background information	<p><u>Population:</u> 11,716,829 <u>Area (sq km):</u> 1 240 000 <u>Prison population:</u> 4407 <u>Number of prisons:</u> 58</p> <p>Security forces are composed of the army, air force, gendarmerie, national guard, and police. The army and air force are under the control of the civilian minister of defence. The National Guard is administratively under the minister of defence; however, it is effectively under the command and control of the minister of internal security and civil protection. The police and gendarmerie are under the ministry of internal security and civil protection. The police and gendarmes share responsibility for law enforcement and maintenance of order; the police are in charge of urban areas only. The national police force is organised into various divisions. Each district has a commissioner who reports to the regional director at national headquarters.</p> <p><u>Consideration by international human rights mechanisms</u></p> <p>Mali's report to the HRC in the context of the UPR was considered in May 2008 Report of the Working group</p>
NPM designation process	<p style="text-align: center;">▪ 2007</p> <p>After the creation of the National Human Rights Commission (NHRC) which is due to function as the NPM (see "NPM options" below), the Chairperson of the Mali NHRC requested APT assistance to strengthen the functioning of the NHRC as a NPM. Therefore, in March 2007 the APT organised jointly with the NHRC a workshop on the OPCAT with the following objectives:</p> <ul style="list-style-type: none"> • Familiarising NHRC members with OPCAT obligations and implications • Better understanding of the role of the NHRC as a NPM • Identifying needs and priorities for the NHRC to fulfil their mandate as a NPM • Drawing up a plan of action for an effective functioning of the NHRC as a NPM <p>The workshop reviewed the current structure and functioning of the NHRC, identified needs and developed a plan of action to ensure the good functioning of the NHRC as a NPM. This "roadmap" provides concrete steps/measures to be taken to improve the structure of the NHRC, its functioning in terms of monitoring places of detention and its cooperation with other actors including the Subcommittee on Prevention of Torture (SPT). The "roadmap" also contains a provision stating that the APT and the NCHR should consider areas in which the APT could assist the NCHR to fulfil its NPM mandate. Therefore, on 24 May 2007, the APT wrote a letter to the Chairperson of the NHRC with concrete suggestions on follow-up steps to implement the roadmap including a possible training on monitoring places of detention for members of the NCHR Sub-commission on prevention of torture (Sub-commission), which is dedicated to performing the NPM role within the NHRC.</p> <p style="text-align: center;">▪ 2009</p> <p>In late 2009, law n°042 (19 November 2009), which constitutes the new legislative mandate of the National Human Rights Commission, was adopted by the Parliament. The law was completed by decree n°09-641 (30 November 2009).</p>

Africa

<u>Mali</u>	
Ratification: 12 May 2005 - NPM DESIGNATED (NATIONAL HUMAN RIGHTS COMMISSION)	
<i>Updated on 09 April 2010</i>	
NPM options	<p>In March 2006 a Presidential Decree established a National Human Rights Commission (NHRC), and the Decree implied it would also be the NPM. However, the proposed Commission falls short of OPCAT requirements in many respects:</p> <ul style="list-style-type: none"> • More than a quarter of the membership of the Commission would be representatives of various Ministries of government. • For the majority of members, there is no requirement that the individual have expertise relevant to visiting or assessing places of detention. • None of the guarantees and powers in respect of visits required by the OPCAT are expressly provided for, such as right of access to places of detention, right of private interviews with detainees, or protection from retribution for those who cooperate with the Commission. • Rather than enshrining the process of constructive dialogue between authorities (at both the local and national level) and the NPM on implementation of specific recommendations, the Decree simply contemplates that the Commission would inform the government about the conditions of detention of detainees (in French original language: <i>“informer régulièrement le gouvernement sur la situation carcérale des détenus.”</i>) <p>The APT will shortly provide further information on the functioning of the new National Human Rights Commission.</p>
Legal framework	<p>Law n°042 (19 November 2009) on the National Human Rights Commission</p> <p>Decree n°09-641 (30 November 2009)</p>

Africa

<p><u>Mauritius</u></p> <p>Ratification: 21 June 2005 - NPM DESIGNATED (NATIONAL HUMAN RIGHTS COMMISSION)</p> <p style="text-align: right;"><i>Updated on 04 December 2008</i></p>	
Background information	<p><u>Population:</u> 1,240,827 <u>Area (sq km):</u> 2040 <u>Prison population:</u> 2464 <u>Number of prisons:</u> 9</p> <p>The Mauritius Police Force is a national force headed by a commissioner of police who has authority over all security and police forces, including the Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The National Human Rights Commission (NHRC) investigates allegations of police abuses and may report such cases to the Director of Public Prosecutions (DPP).</p> <p><u>Consideration by international human rights mechanisms</u></p> <p>Mauritius received the first visit of the SPT in October 2007: (SPT press release). The SPT submitted its visit report in July 2008, and a high-level Committee is looking into the implementation of the findings, observations and recommendations in the report. So far, the report has not been made public.</p> <p>CAT considered Mauritius in 1999 CAT Concluding observations</p> <p>Mauritius' report to the HRC in the context of the UPR was considered in February 2009 National report</p>
NPM designation process	The Mauritius National Human Rights Commission assisted the APT to promote ratification.
NPM designated	In its report examined by the UPR in February 2009, Mauritius informed the Council that the National Human Rights Commission (NHRC) has been designated administratively as the NPM and they are currently revising their mandate to amend their legislation to be OPCAT compliant. The NHRC has a clear investigate mandate, but is enabled to " <i>visit any police station, prison or other place of detention under the control of the State to study the living conditions of the inmates and the treatment afforded to them</i> ". However, some amendments would be required to comply with the NPM criteria enshrined in the OPCAT.
NPM functioning	<p><u>Internal organisation</u></p> <p>A "temporary" NPM was created under the aegis of the NHRC. The NHRC is also looking at the New Zealand NPM to see how it might involve other institutions in the NPM.</p> <p><u>Resources</u></p> <ul style="list-style-type: none"> ▪ Human resources <p>The NHRC started operating in April 2001 and is composed of a Chairman and three other members. The law states that the Chairman and other members shall be appointed by the President, acting on the advice of the Prime Minister, on such terms and conditions as he thinks fit. Thus the current NPM is composed of 8 individuals: 2 members from the HRC (one being Deputy Chair of the NHRC and also chairing the NPM); 2 members from the Attorney General's Office, 1 member from the Ombudsman's Office; the Chief Police Medical Officer; and 2 members from the NGOs.</p> <ul style="list-style-type: none"> ▪ Financial resources <p>The budget of the NHRC is voted by the Parliament, under the proposal of the government</p> <p><u>Working methods</u></p> <p>The NPM conducted its first visit to a prison on 7 March 2008, following which a report was prepared.</p>
Legal framework	<p>NHRC law</p> <p><i>NPM draft law under consideration by the Ministry of Justice</i></p>

Africa

Nigeria

Ratification: 27 July 2009 - **NPM designation:** National Committee on Torture

Updated on 09 April 2010

<p>Background information</p>	<p><u>Population:</u> 149,229,090 <u>Area (sq km):</u> 923,768 <u>Prison population:</u> 40,193 <u>Number of prisons:</u> 227</p> <p>Nigeria is the largest country in Africa. The country has more than 250 ethnic groups and 500 indigenous languages. It is a multi-religious country, with Islam and Christianity as the two predominant religions.</p> <p><u>Consideration by international and regional human rights mechanisms</u></p> <p>The Universal Periodic Review of the Human Rights Council examined Nigeria's report in February 2009 Report of the Working Group ; Summary of stakeholders information for the UPR and National report UPR.</p> <p>The UN Special Rapporteur on Torture visited Nigeria in March 2007 Report of UN SRT to Nigeria</p> <p>The UN Special Rapporteur on extrajudicial, summary or arbitrary executions visited Nigeria in July 2005 Report of the UN SR Arbitrary executions to Nigeria</p> <p><u>Federal Structure</u></p> <p>Nigeria has a federal system of government with power shared between three tiers: Federal, the (36) States and the (774) Local Government Areas. The Constitution vests each tier of government with powers in its area of jurisdiction. There are also three legal systems in operation in the country: Common Law, Islamic Shari'a and Customary Law (based on tradition and customs). The Supreme Court is the apex court with jurisdiction to hear cases from lower courts, including the Shari'a Court of Appeal and the Customary Court of Appeal.</p>
<p>OPCAT ratification process</p>	<ul style="list-style-type: none"> ▪ 2007 <p>In its report following its mission to Nigeria in March 2007, the UN Special Rapporteur on Torture recommended ratification of the OPCAT as follows:</p> <p><i>"The Optional Protocol to the Convention against Torture should be ratified, and a truly independent monitoring mechanism should be established - where the members of the visiting commissions would be appointed for a fixed period of time and not subject to dismissal - to carry out unannounced visits to all places where persons are deprived of their liberty throughout the country, to conduct private interviews with detainees and subject them to independent medical examinations".</i></p> <ul style="list-style-type: none"> ▪ 2009 <p>Nigeria ratified the OPCAT on 27 July 2009.</p>
<p>NPM designation process</p>	<p><u>Existing monitoring mechanisms</u></p> <p>According to the report of the Special Rapporteur on Torture (see above), there was no regular or systematic mechanism or activities related to independent visits to detention facilities in Nigeria.</p> <p><u>NPM options</u></p> <p>Following Nigeria's ratification of the OPCAT on 27 July 2009, the Chairperson of the Robben Island Committee of the African Commission, Ms Dupe Atoki, published a paper on Nigeria's obligation under the OPCAT (see Nigeria under the OPCAT). The Chairperson of the RIG Committee recalled the requirements for the designation and establishment of an effective NPM and proposed the Nigerian Government consider the designation of new body as a NPM, as the National Human Rights Commission of Nigeria would not comply with the OPCAT criteria.</p> <p><u>NPM designated</u></p> <p>The Nigerian Federal Department of Justice established a National Committee on Torture in September 2009 which also assumes the NPM mandate.</p>

Africa

Nigeria

Ratification: 27 July 2009 - **NPM designation:** National Committee on Torture

Updated on 09 April 2010

NPM functioning

Resources

The Committee comprises 19 representatives from a wide range of sectors (NGOs, Human Rights Commission, prison authorities, legal community, Justice Ministry etc).

Working methods

The Committee has been granted the power to visit places of detention and to examine/investigate allegations of torture.

Legal framework

[Terms of reference of the National Committee on Torture](#)

Africa

Senegal

Ratification: 18 October 2006 - **NPM DESIGNATED: NATIONAL OBSERVER OF PLACES OF DEPRIVATION OF LIBERTY**

Updated on 09 April 2010

Background information

Population: 11,987,121
Area (sq km): 196 190
Prison population: 5360
Number of prisons: 38

Police and gendarmes are responsible for maintaining law and order in the country. The army shares that responsibility in exceptional cases, such as when a state of emergency is announced. The police force contains 10 departments as part of the Directorate General of National Safety. In each of the country's 11 regions, police have at least one police station and at least one mobile safety brigade. Dakar has more than 15 police stations, which are spread throughout the city.

Consideration by international human rights mechanisms

UN Working Group on Arbitrary Detention visited Senegal in February 2009 [Report WG Arbitrary Detention](#) (available in French)

Senegal's report to the HRC in the context of the **UPR** was examined in February 2009 [Report of the Working Group](#)

Africa

Senegal

Ratification: 18 October 2006 - **NPM DESIGNATED: NATIONAL OBSERVER OF PLACES OF DEPRIVATION OF LIBERTY**

Updated on 09 April 2010

NPM designation processes

▪ 2006

In January 2006 the APT jointly with Amnesty International-Senegal organised a roundtable to promote prompt OPCAT ratification and sound implementation. As a result of the roundtable, a **national coalition** for the ratification and implementation of the OPCAT was set up, led by Amnesty International-Senegal. The joint efforts of the national coalition and its international partners resulted in ratification of the OPCAT by Senegal on 18 October 2006.

The national coalition focused its activities on the national implementation of the OPCAT, more particularly on the establishment of an NPM. In that context, the coalition mandated an expert to conduct an inventory of national monitoring bodies in the light of the OPCAT criteria. This inventory served as a basis for discussions on the most appropriate Senegalese NPM. In addition, the document recommends two main options for Senegal: designating an existing body (the Senegalese Human Rights Commission) or creating a new institution.

▪ 2007

The recommended NPM options were discussed during a national consultation co-organised by the coalition and the APT in December 2007. After having examined the advantages and challenges of each option, the participants agreed upon the creation of a new institution, which should be established by law. In addition, the participants of the national consultation adopted a “road map” at the end of the seminar which determines the follow-up actions towards the designation of the NPM. Finally, similarly to the creation of a national coalition after the first seminar, a **follow-up committee** was established in December 2007, and comprises representatives from the Ministries of Justice, Interior, Armed Forces, representatives from four different NGOs and the Senegalese Human Rights Commission.

The follow-up committee is committed to :

- present officially to the Ministry of Justice the recommendations of the seminar;
- support the Ministry of Justice in the elaboration and drafting of the NPM law proposal;
- advocate for the prompt adoption of the law by the Parliament, and
- advocate for the appointment of a competent person to assume the direction of the new institution.

The follow-up committee studied various options for creating a new institution as NPM, and examined more particularly the French General Inspector of Places of Deprivation of Liberty. They decided to promote the establishment of a similar institution in Senegal as NPM.

▪ 2008

In **April 2008**, the follow-up committee offered its assistance to the new Minister of Justice, who ensured the members that they would be closely associated with the drafting of the NPM law.

In **July 2008**, some civil society organisations presented a draft NPM proposal to the Presidency based on the discussions held during the national forum in December 2007, and on the conclusions of the follow-up committee. This draft proposal was approved by the Council of Ministers on 20 November 2008, and was presented to the Parliament for discussions and approval.

▪ 2009

In January 2009, the APT conducted an advocacy visit to Senegal to promote the prompt adoption of the NPM law. The APT took the opportunity to meet with relevant civil society organisations, including AI-Senegal, and with parliamentarians to discuss the establishment of the NPM. A few days after the APT visit, the National Assembly approved the draft NPM law, with some amendments. On 19 February 2009, the APT was informed that the law was adopted by the Senate, creating a new NPM: the **National Observer of Places of Deprivation of Liberty**.

Africa

Senegal

Ratification: 18 October 2006 - **NPM DESIGNATED: NATIONAL OBSERVER OF PLACES OF DEPRIVATION OF LIBERTY**

Updated on 09 April 2010

<p>NPM options</p>	<p><u>Existing monitoring mechanisms</u></p> <p>Local organisations visit prisons for different purposes. It is reported that the National Organisation for Human Rights (ONDH), a local human rights NGO, identified overcrowding as the major problem facing the country's prisons. The Senegalese Committee for Human Rights, the Parliamentarian Network for Human Rights, and a group of Catholic priests also reportedly visit prisons.</p> <p><u>NPM option</u></p> <p>The NPM proposal presented in July 2008 by the civil society organisations was initially providing for the creation of a new institution, the General Inspector of Places of Deprivation of Liberty (<i>Contrôleur général des lieux de privations de liberté</i>). The draft proposal was <i>mainly</i> inspired by the French NPM law.</p> <p>The APT submitted some comments and suggestions in relation to the establishment of the General Inspector in Senegal. Please refer to France for further information on the Inspector, and to the APT comments on the French NPM law.</p> <p><u>NPM designated</u></p> <p>The law adopted in February 2009 provides for the creation of a National Observer of Places of Deprivation of Liberty, which is very similar to the French General Inspector. On the basis of proposed amendments made by AI-Senegal and the APT in January 2009, the National Assembly decided to amend the National Observatory's law in the spirit of the OPCAT. The main changes introduced by the parliamentarians restricted the possibility to report a visit of the NPM, and the NPM can be granted access to the relevant information.</p> <p>In July 2009 the APT facilitated a workshop with relevant stakeholders to discuss the content of the implementing decrees and promote their prompt adoption. The participants also discussed strategies towards the selection of the most appropriate person to the position of National Observer. Recommendations were adopted at the end of the seminar to follow-up on the implementation of the NPM law.</p> <p>To date, the mandate-holder has not been elected.</p>
<p>SPT communications</p>	<p>Official correspondence to the SPT designating the NPM, 24 February 2009</p>
<p>Legal framework</p>	<p><i>NPM law adopted n° 2009-08 of 2 March 2009</i></p>

Africa

Sierra Leone

Signature: 26 September 2003- **Ratification:** under consideration

Updated on 19 February 2009

Background information	<p><u>Population:</u> 5, 7 millions <u>Area (sq km):</u> 71 740 <u>Prison population:</u> 1,899 <u>Number of prisons:</u> 18 (2 under construction)</p> <p>The government is slowly re-establishing its authority after the 1991 to 2002 civil war that resulted in tens of thousands of deaths and the displacement of more than 2 million people (about one-third of the population). The last UN peacekeepers withdrew in December 2005, leaving full responsibility for security with domestic forces, but a civilian UN office remains to support the government.</p> <p>The Sierra Leone Police has primary responsibility for maintaining internal order, and has approximately 9,300 officers (end of 2005).</p> <p><u>Consideration by international and regional mechanisms</u></p> <p>Sierra Leone extended an open invitation to UN Special Procedures of the Human Rights Council in April 2003.</p>
OPCAT ratification and NPM designation processes	<p style="text-align: center;">▪ 2008</p> <p>In April 2008, the APT met several representatives of civil society and the National Human Rights Commission from Sierra Leone during the OPCAT regional conference organised by Bristol University in South Africa. On that occasion, the APT was informed that several organisations, including Forum of Conscience and Prisons Watch, are conducting visits to places of detention. The visits take place with different purposes, such as legal counselling and assistance, monitoring of the length of pre-trial detention etc.</p> <p>On the other hand, the National Human Rights Commission's (NHRC) mandate also provides for "access to all government offices, facilities and places of detention, including prisons, police cells, remand homes and probation facilities, in order to investigate a human rights matter initiated by the Commission or brought to the attention of the Commission as well as access to any non-classified information in government documents" (NHRC law).</p> <p>The Truth and Reconciliation Commission (TRC) Act 2000 included a provision encouraging the government to establish a NHRC that would implement the TRC recommendations. The NHRC began to function in 2007 and presented its first annual report to the Parliament and the President in July 2008. According to the NHRC, there is no system in place of effective monitoring of places of detention in Sierra Leone, even though the NHRC carried out its first preliminary survey of prisons in 2007-2008.</p>
NPM options	<p>The APT is not aware of any discussion on potential NPM options. The NHRC could be an institution that might eventually assume the NPM mandate.</p>
Legal framework	<p><i>No NPM establishment law adopted yet</i></p>

Africa

South Africa

Signature: 20 September 2006 - **Ratification:** under consideration

Updated on 19 February 2009

Background information

Population: 44,187,637

Area (sq km): 1,219,912

Prison population: approximately 164,667 (31 October 2009)

Number of prisons: 237

Number of police arrests per year: 1,223,505 (2008/2009 year)

On 15 December 2005 the Jali Commission of Inquiry handed its report to the President after a four-year inquiry into corruption and violence in prisons, and the report was made public in November 2006.

The UN Working Group on Arbitrary Detention visited the country in September 2005 and expressed alarm at the "rate of overcrowding in detention facilities". The overcrowding, in some cases by over 300 per cent of capacity, and the resulting poor prison conditions led the Judicial Inspectorate of Prisons to recommend that minimum sentence legislation be allowed to lapse. The UN delegates noted, in respect of prisoners awaiting trial or sentence, a "lack of adequate facilities so blatant that they fall short of international guarantees". The Civil Society Prison Reform Initiative urged Parliament in November to support the development of rehabilitation programmes and non-custodial alternatives to imprisonment.

The South African Police Service (SAPS), under the Department of Police, has primary responsibility for internal security. The SANDF, under the Department of Defence, is responsible for external security but also has domestic security responsibilities. The National Prosecuting Authority's (NPA) Directorate of Special Operations, the "Scorpions," coordinates efforts against organised crime and corruption.

Consideration by international human rights mechanisms

South Africa's report to the HRC in the context of the **UPR** was examined in April 2008 [Report of the Working Group](#)

CAT examined South Africa's report in 2006 [CAT Concluding Observations](#)

The UN Working Group on Arbitrary Detention visited South Africa in September 2005 [Report of Working Group on Arbitrary Detention](#)

Africa

South Africa

Signature: 20 September 2006 - **Ratification:** under consideration

Updated on 19 February 2009

OPCAT ratification and NPM designation processes

▪ 2005

The APT conducted an advocacy mission to South Africa in November 2005 to promote prompt OPCAT ratification. From the meetings held with police officials, public officials and civil society actors, it appeared that a revised Judicial Inspectorate for Correctional Services with increased resources could be the most relevant existing mechanism to take on a future NPM mandate.

▪ 2006

In April 2006, a few months after the previous APT visit, the APT and the South African Human Rights Commission (SAHRC) decided to take advantage of the momentum for ratification and organised a roundtable discussion on the OPCAT. The participants in the roundtable commended to the SAHRC an **inventory of existing monitoring mechanisms** in South Africa. This document would serve as a basis for future national discussions on OPCAT implementation. The inventory was carried out in cooperation with the Centre for the Study of Violence and Reconciliation (CSVR), and was published in December 2008 [Review of existing mechanisms](#)

The report provided an overview and analysis of existing systems for the prevention and investigation of torture in South Africa. It also made recommendations on the setting up, designation or maintaining of a National Preventive Mechanism, as required by Article 3 of OPCAT. Following up on the report, the SAHRC and CSVR convened a workshop in order to engage a critical debate on the preliminary findings and recommendations of the report and consider how to use the report as a source of ideas for future implementation of the OPCAT. The APT was invited to this workshop which took place in February 2007 at the SAHRC offices in Johannesburg.

The Workshop concluded with the establishment of a **Section 5 Committee** (Ad Hoc Committee) under the legislative framework of the SAHRC. The Section 5 Committee is mandated to promote the domestication of the UNCAT as well as OPCAT ratification and implementation, including the facilitation of the establishment of the South African NPM. The APT is part of the Committee and provides technical advice on strategies and activities to promote OPCAT ratification.

▪ 2007-2008

The APT participated in several meetings of the Section 5 Committee. The Committee members examined on those occasions the domestication of the UNCAT provisions, and advocacy for ratification of the OPCAT and promotion of its implementation by facilitating the establishment of a NPM in South Africa. In addition, the regional OPCAT Conference organised in April 2008 by the OPCAT Project of Bristol University in South Africa provided for bilateral meetings with the SAHRC to follow-up on specific activities.

Ratification of the OPCAT is still pending and may not take place in 2010. In its report to the UPR in May 2008, South Africa stated it was in the *"process of signing and ratifying the OPCAT"*.

Africa

South Africa

Signature: 20 September 2006 - **Ratification:** under consideration

Updated on 19 February 2009

NPM options

Existing monitoring bodies

The **Judicial Inspectorate for Correctional Services (JICS)** was established in 1997 and its purpose is to facilitate inspections of the existing 240 prisons to ensure human treatment of prisoners. The JICS comprises two branches: the Office of the Inspecting Judge (prisons inspectorate comprises inspectors and other staff), and Independent Correctional Centre Visitors (individual complaints process). The JICS has been through an important review of its work and mandate, including the creation of visitor committees for each individual prison with full-time coordinators. In addition, the Inspecting Judge has reportedly made unannounced visits to prisons, and visits are carried out between 1 and 4 times per month. However, according to the Review of Existing Mechanisms report published by CSV, the JICS lacks of administrative and budgetary independence from the executive, most particularly regarding the appointment procedure. His mandate also focuses on recording prisoner complaints.

The **South African Human Rights Commission (SAHRC)** was established in October 1995 by the Constitution. It plays a limited role in monitor places of detention, particularly immigrant detention centres, centres accommodating refugees, and drug and alcohol rehabilitation centres.

In addition, some specific bodies were put into place at the end of the apartheid era to oversee the police, including: the Independent Complaints Directorate; National and Provincial Secretariats of Police; Provincial and area police boards and Community Police Forums. Finally, some bodies have been established to oversee mental health institutions (Mental Health Review Boards) and children's institutions, but they do not conduct systematic preventive visits. The review also identifies some gaps in the oversight of detention centres for immigrants and refugees.

Possible NPM options

The review published by CSV proposed four NPM options, with the advantages and challenges of each:

- Option 1: The **SAHRC coordinates existing inspectorate bodies**, with the creation of a specific Secretariat within the SAHRC, and a broader mandate for the JICS. This option would ensure coherence in standards and methodology, and would present an opportunity to strengthen existing institutions. The main challenges would be the coordination of existing bodies, the need for additional financial resources and legal reforms and the perceived lack of credibility of certain existing mechanisms.
- Option 2: The **Judicial Inspectorate** could be the NPM, with an extended mandate to cover all places of detention. The main advantages of this option are that it takes advantage of existing expertise within the institution, and the existing mandate which relates closely to the OPCAT. However, the institution would require not only additional human and financial resources but also institutional restructuring in order to be fully independent.
- Option 3: A **New Independent Inspectorate** would be created and would be fully devoted to OPCAT. In this case, the JICS would be sub-component only dealing with individual complaints of prisoners. According to the review, a new institution would face some difficulties in building support and credibility, as well as political challenges. In addition, it would be a lost opportunity to strengthen existing institutions.
- Option 4: The **SAHRC coordinates independent experts**, and a specific Secretariat would be created within the institution. The visits to places of detention would be undertaken by independent experts rather than existing institutions, on a contract basis or grant system. This option would be cost effective, and a relevant mean to bypass current weaknesses of existing institutions. This would also represent a proactive option to involve civil society, with certain flexibility on contracting experts. However, a strong secretariat would be required, the civil society organisations would face a challenge in losing their critical role, and there would exist the risk of lacking institutional memory.

The review does not give any particular recommendations for an NPM option, but it represents a useful tool for further national discussion on the most appropriate South African NPM(s).

Back in November 2007, the Section 5 Committee members generally agreed that it would be preferable to adapt existing inspection mechanisms rather than establish a new body. The consensus was in favour of a mixed model, with a number of thematic preventive mechanisms coordinated by a central NPM, most likely the SAHRC. However, an internal discussion of this possibility has yet to take place within the SAHRC.

Africa

South Africa

Signature: 20 September 2006 - **Ratification:** under consideration

Updated on 19 February 2009

**Legal
framework**

No NPM establishment law adopted yet

Shaded boxes: States Parties to the OPCAT

Unshaded boxes: States that have signed the OPCAT or are due to sign it in the near future

Africa

Togo

Signature: 15 September 2005 - **Ratification:** under consideration

Updated on 11 January 2010

<p>Background information</p>	<p><u>Population:</u> 5,548,702 <u>Area (sq km):</u> 56,785 <u>Prison population:</u> 3200 <u>Number of prisons:</u> 12</p> <p>Upon his death in February 2005, President Eyadema was succeeded by his son Faure Gnassingbe. The succession, supported by the military and in contravention of the nation's constitution, was challenged by popular protest and a threat of sanctions from regional leaders. Gnassingbe succumbed to pressure and agreed to hold elections in late April 2005 to legitimise his succession.</p> <p>The security forces consist of the army, navy, air force, national security service (including the national police and investigation bureau), and the gendarmerie. The police are under the direction of the Ministry of Security, while the Ministry of Defence oversees the gendarmes and military. Legally, the police and gendarmes are responsible for law enforcement and maintenance of order within the country. However, as of 2005 the army, charged with external security by law, was actually in command of domestic security.</p> <p>The OHCHR opened a new country office in Lomé, following the signature of the Memorandum of Understanding with the Government of Togo on 10 July 2006.</p> <p><u>Consideration by international human rights mechanisms</u></p> <p>CAT examined Togo's report in July 2006 Togo CAT Concluding Observations</p> <p>The Special Rapporteur on Torture visited Togo on 10-17 April 2007 Report Special Rapporteur Togo</p>
<p>OPCAT ratification and NPM designation processes</p>	<ul style="list-style-type: none"> • 2008 <p>In February 2008, the APT participated in a national workshop organised by the Interparliamentary Union (IPU) and the National Assembly of Togo on how to enhance the participation of the Togolese parliamentarians in the work of the Human Rights Treaty Bodies. At the end of the seminar, OPCAT ratification was identified as a short-term priority in terms of ratification of international human rights treaties by Togo.</p> <p>The APT was informed during this seminar that some Togolese NGOs and the National Human Rights Commission are currently conducting visits to places of detention. Nevertheless, it was reported that gaining access to those places is difficult for civil society due to a very complicated procedure and a lack of financial resources to carry out regular visits to all regions of the country. The National Human Rights Commission visits places of detention once or twice a year.</p> <p>In October 2008, the APT took the opportunity of its presence in the country to promote prompt ratification of the OPCAT. In that context, the APT co-organised a roundtable discussion on the OPCAT with the OHCHR Office in Togo. The APT was informed that a draft law on OPCAT ratification was submitted to the Parliament in August 2008 and was under consideration by the Human Rights and Foreign Affairs Commissions of the Parliament.</p> <ul style="list-style-type: none"> • 2009 <p>In June 2009, the OHCHR in Togo and the APT co-organised a national seminar focusing on the ratification and implementation of the OPCAT in Togo. The OHCHR and the APT met with key officials and parliamentarians who assured us of the willingness of the government to quickly proceed with ratification. Following the seminar, recommendations were adopted by the participants which foresaw the creation of a multi-disciplinary follow-up committee to advocate for prompt OPCAT ratification and support the designation and establishment of the NPM. The follow-up comprises 11 members from a wide range of sectors.</p> <p>The OPCAT ratification bill was discussed by the Parliamentary Committee on External Affairs on 23 November 2009. It is likely to be discussed by the whole Parliament in the near future and that Togo will join the States Parties to the OPCAT in 2010.</p>
<p>NPM options</p>	<p>No consensus emerged from the national discussions held in June 2009 in Lomé. While some participants were in favour of designating the existing National Human Rights Commission</p>

Shaded boxes: States Parties to the OPCAT

Unshaded boxes: States that have signed the OPCAT or are due to sign it in the near future

Africa

Togo

Signature: 15 September 2005 - **Ratification:** under consideration

Updated on 11 January 2010

as the NPM, other sectors argued for the **creation of a new body** to assume the NPM function. The follow-up committee will examine, among other things, possible ways of implementing the OPCAT in Togo and will propose some possible NPM options.

Legal framework

No NPM establishment law adopted yet