



Jean-Jacques Gautier

NPM Symposium



- **2014**
Addressing children's vulnerabilities in detention



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

Jean-Jacques Gautier NPM Symposium 2014

**Addressing children's vulnerabilities
in detention**

Outcome report

The Association for the Prevention of Torture (APT) is an independent non-governmental organisation based in Geneva, working globally to prevent torture and other ill-treatment.

The APT was founded in 1977 by the Swiss banker and lawyer Jean-Jacques Gautier. Since then the APT has become a leading organisation in its field. Its expertise and advice is sought by international organisations, governments, human rights institutions and other actors. The APT has played a key role in establishing international and regional standards and mechanisms to prevent torture, among them the Optional Protocol to the UN Convention against Torture.

APT's vision is a world free from torture where the rights and dignity of all persons deprived of liberty are respected.

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Abbreviations

APT	Association for the Prevention of Torture
CRC	Committee on the Rights of the Child
CPT	European Committee for the Prevention of Torture
LGBTI	Lesbian, gay, bisexual, transgender and intersex
NGO	Non-governmental organisation
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
SPT	UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
UN	United Nations
UNICEF	United Nations Children's Fund

About the First Jean-Jacques Gautier NPM Symposium

On 26–27 June 2014, the Association for the Prevention of Torture (APT) organised the first Jean-Jacques Gautier NPM Symposium, ***Addressing children’s vulnerabilities in detention***. The Geneva meeting aimed to strengthen the capacities of National Preventive Mechanisms (NPMs) to address the vulnerabilities and risks faced by children deprived of their liberty.

The Symposium was the first of a series of annual meetings for NPMs and other experts to exchange knowledge and practices on vulnerabilities in detention. Through the Jean-Jacques Gautier NPM Symposium series, the APT wishes to commemorate Jean-Jacques Gautier’s idea to open up places of detention to outside scrutiny and to enable NPMs to make their torture prevention work more effective, by providing a space for peer-to-peer exchanges and interaction with other experts on issues that require further attention related to vulnerabilities in detention.

Since the entry into force of the Optional Protocol to the UN Convention against Torture (OPCAT) in 2006, NPMs have emerged not only as a central part of the international system established by this treaty, but also as front actors in the prevention of torture worldwide. Today, 76 States from all regions of the world are parties to the OPCAT and 60 of them have officially designated their NPMs, although some of them are still not operational and others do not fully meet some of the key requirements set out in the OPCAT. Despite their different structures and the geographical, political and cultural diversity of the contexts in which they operate, most NPMs face similar challenges when it comes to implementing their broad preventive mandate. One such challenge is the effective protection of persons who are in a situation of particular vulnerability when deprived of their liberty, such as children, women, LGBTI persons, migrants and others.

In consequence, the APT decided to focus the first Jean-Jacques Gautier NPM Symposium on the role of NPMs in addressing the

specific vulnerabilities of children deprived of their liberty and, in particular, those who come into contact with the justice system as a result of being suspected or accused of committing an offence. The Symposium was designed as an expert meeting, in order to enable the greatest possible exchange among participants. The combination of expertise from all regions of the world was extremely enriching and the format used for the meeting, based on short presentations followed by moderated discussions, allowed for a high level of interaction in an informal and open atmosphere.

The first day gathered representatives of 14 NPMs from all regions and 11 other human rights actors with specific expertise on the protection of the rights of children in conflict with the law (but not necessarily familiar with the OPCAT system of torture prevention), including representatives of civil society and state authorities, as well as representatives of international and regional human rights mechanisms. The discussions focused on the main issues related to the broader context of deprivation of liberty for children in conflict with the law, identifying the main risks faced by children when they are deprived of their liberty, examining the particular vulnerability of some groups of children, and exploring how NPMs can effectively address these issues.

The exchanges proved to be of mutual benefit; NPMs could further explore issues that had been either overlooked or not sufficiently addressed in their work, and other experts became familiar with the work of NPMs and their essential role in protecting children deprived of their liberty from torture and other ill-treatment. Furthermore, the meeting provided a unique opportunity to strengthen existing cooperation and to build new partnerships.

“The Symposium was a really interesting experience that allowed me to meet amazing people committed to improve the situation of children in justice systems”

Fabrice Crégut, Terre des Hommes

The second day was dedicated exclusively to NPM representatives and to an open discussion of the challenges they face in their day-to-day preventive work (relating to the issues addressed on the first day of the symposium). It was also an opportunity to exchange practices and working methods. The day also served as an important basis for future peer-to-peer exchanges between NPMs from different countries.

“We are enriched by the experience of other interesting NPMs, especially those from geographical areas with different legal cultures”

Boubou Diouf Tall, National Inspector of Places of Deprivation of Liberty (NPM), Senegal

Purpose and structure of the report

This document is the outcome report of the Jean-Jacques Gautier NPM Symposium, ***Addressing children's vulnerabilities in detention***. It is not meant to provide a detailed record of the two-day meeting, but rather to highlight the key issues, strategies and ways forward deriving from the discussions among participants. The APT hopes that it will serve as a reference for all NPMs established under the OPCAT, but also for all those working to protect the rights of children deprived of liberty.

The first part of the report provides an overview of the context and key principles related to children in conflict with the law and deprived of their liberty, as well as the main risk factors and situations which need to be addressed by NPMs. The second part explores the role of NPMs in addressing those issues, both as monitoring bodies and as advocates for children's rights, including concrete suggestions and examples of good practices shared by participants. The annexes provide background information: agenda, list of participants, briefing note and further readings.

Executive summary

The first Jean-Jacques Gautier NPM Symposium, ***Addressing children's vulnerabilities in detention***, organised by the APT in Geneva on 26–27 June 2014, confirmed that children are one of the most vulnerable groups in detention and recognised the important role played by National Preventive Mechanisms (NPMs) in protecting the rights of children deprived of liberty, not only as monitoring bodies but also as actors for change and advocates for the fulfilment of children's rights.

Independent monitoring of places of detention

Regular and independent monitoring of places where children are deprived of their liberty – including the implementation of international and domestic standards related to their treatment and conditions of detention – is key to preventing violations of their rights and to ensuring that their dignity is respected. With their focus on domestic implementation, NPMs, established and in compliance with the requirements of the OPCAT, play a very important role in protecting the rights of children by monitoring all places where children are or may be deprived of their liberty and by making recommendations to the relevant authorities.

Multidisciplinary and specialised expertise

The composition of NPMs is essential to their effectiveness. All participants in the Symposium agreed that, in order for NPMs to effectively monitor places where children are deprived of their liberty, conduct interviews with children, and make recommendations on laws, policies and practices related to children, they need both a multidisciplinary approach and a high degree of sensitivity. They need to draw on professional knowledge in a number of fields, including social work, child rights, child psychology and psychiatry, in order to address the multiple vulnerabilities of children deprived of their liberty and understand the specific normative framework

and the overall system of child protection. In addition, there is a need for ongoing training among the staff and members of all NPMs to ensure that all have the necessary knowledge and skills to deal with child and gender-specific issues. Finally, it was suggested that children and young people should also be involved in the work of NPMs.

Advocate for children's rights

With their holistic approach to prevention, NPMs have the potential to make real changes on the ground, not only as monitoring bodies of places where children are deprived of their liberty, but also as advocates for children's rights. Such an approach means building a dialogue with all relevant authorities and raising awareness and mobilising public opinion on the situation of children deprived of their liberty and the need for a separate and specialised juvenile justice system. They also need to promote changes in policies and legislation to raise standards relating to children. Finally, they need to advocate for alternatives to detention and for children to be deprived of their liberty only as a measure of last resort and for the shortest appropriate period of time.

Build alliances

A general consensus emerged that the complexity of the subject requires that NPMs reach out to different actors to ensure better protection for children. These may include specialised institutions, such as ombudsperson's offices for children and UN agencies such as UNICEF; the judiciary; parliamentarians; civil society; and regional and international human rights bodies. NPMs also need to build alliances with the media, become opinion makers on the issue of the rights of children deprived of their liberty and influence society.

Enhance NPM impact

During the Symposium, two common challenges faced by NPMs emerged in ensuring that they effectively protect children from torture and other ill-treatment: the provision of adequate resources and getting their recommendations implemented. OPCAT States Parties have the obligation to allocate all necessary resources to NPMs and to enter into dialogue with them on the implementation of their recommendations. However, in practice, most NPMs

face a shortage of staff and/or finance, which invariably has a negative impact on their capacity to monitor a variety of places of detention throughout the country on an adequately frequent basis as well as on other aspects of their mandate. To ensure adequate funding, participants recommended better engagement of NPMs with key actors, especially the parliament. Regarding NPMs' recommendations, the discussions identified key strategies which can improve their implementation by relevant authorities, including: formulating clear and targeted recommendations; highlighting good practices and improvements; formulating recommendations which are relevant beyond the single place of detention, publishing thematic reports and establishing constructive dialogue with the authorities.

Systemic approach

Participants highlighted the need for NPMs to view the issue of children deprived of their liberty not in isolation and to analyse all the complexities of the issue. Detained children are not a homogenous group; their needs and the risks to which they are exposed vary according to a number of factors. In many cases, children deprived of their liberty are also carers, either as parents or siblings. They may be also children of incarcerated parents. In some instances, children detained in juvenile detention centres have been previously held in psychiatric institutions and/or social protection facilities and, when they turn 18, they are transferred to adult facilities. NPMs can visit all places where persons are or may be deprived of their liberty. This broad and unique mandate allows NPMs to have a better understanding of all aspects of deprivation of liberty and therefore bridge the gaps between different institutions through their recommendations.

Children deprived of their liberty: context, key principles and risk factors

Detention already leads to vulnerability because of the imbalance of power between the person deprived of their liberty and those in charge of their detention. Although vulnerability affects all persons deprived of their liberty, children find themselves in situations of particular vulnerability because of their age and stage of maturity, and the long term damaging effects of detention on their well-being and development. They differ from adults in terms of their physical and emotional development and their specific needs, which require special protection. Detention rarely responds to children's individual characteristics and specific needs. Indeed, it often intensifies their vulnerability, exposing them to numerous types and situations of risk.

Deprivation of liberty of children occurs for a variety of reasons. It can occur when a child is suspected or accused of having committed a crime; for immigration control; when they accompany a parent seeking asylum in another country; due to physical and/or mental disabilities; for status offences; or for substance abuse. Children are deprived of their liberty in a variety of settings, including prisons, pre-trial detention centres, police cells, centres for juveniles, vehicles, social care facilities, educational centres, immigration facilities, and health and psychiatric facilities.

Although this report, and the Symposium on which it was based, focuses specifically on the situation of children detained within the criminal justice system, some of the issues identified may be relevant also in the case of children deprived of liberty for different reasons. The following section provides an overview of the context and key principles related to children in conflict with the law¹ and deprived of their liberty. It also examines the main risk factors and situations which need to be looked at and effectively addressed by NPMs in carrying out their preventive mandate.

¹ "The term 'children in conflict with the law' refers to anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence", UNICEF: www.unicef.org

Deprivation of liberty as a last resort

Deprivation of liberty for children should be used only as a measure of last resort, in relation to serious offences, and for the shortest appropriate period of time.² It should aim at rehabilitating and reintegrating children into society. However, more than one million children are deprived of their liberty by law enforcement officials worldwide, a figure that is probably underestimated due to the difficulty of gathering official data.³ The majority of children deprived of their liberty are held in pre-trial detention, often for prolonged periods. Far from responding to children's individual characteristics and specific needs and reintegrating them into society, detention often intensifies their vulnerabilities.

Specialised juvenile justice system

Children deprived of their liberty have different needs from adults. International standards clearly establish that children in conflict with the law must be treated in accordance with the rules of a specialised juvenile justice system, appropriate for their age and development and tailored to their specific needs. Children should be arrested only if they have reached the minimum age of criminal responsibility, which should not be lower than 12 years.⁴

Alternatives to detention

Children are often arrested for minor offences and for "status" offences which are not criminalised if committed by adults, such as living in the streets, begging, violating curfew regulations or for substance abuse problems. Such behaviours are often a symptom of social problems, the result of disadvantaged socio-economic status or psychological problems and "should be dealt with through the implementation of child protective measures, including effective support for parents and/or caregivers and measures which address the root causes of this behaviour".⁵ A variety of alternative measures to deprivation of liberty should be available for children, to ensure their well-being.

² Convention on the Rights of the Child, Art. 37 (b); Havana Rules 1,2.

³ UNICEF, *Progress for Children: A Report Card on Child Protection*, Number 8, September 2009, p.20.

⁴ Committee on the Rights of the Child, General Comment N°10, UN Doc. CRC/C/GC/10, 25 April 2007, §32.

⁵ *Ibid*, §9.

Perception of children deprived of liberty

In many cases, children are placed in detention as a result of punitive approaches. On one hand, there is often a common perception, encouraged by the media, that a large number of crimes are committed by children, putting pressure on the authorities and leading to the adoption of laws, policies and practices that weaken children's rights (for example, reduction of the age of criminal responsibility and more severe sentences). On the other hand, there is often a lack of public awareness of the conditions and treatment of children deprived of their liberty.

Children not a homogenous group

Children in conflict with the law and deprived of their liberty not only have different needs from adults. Discussions also highlighted that children are not a homogenous group. Their needs and the risks to which they are exposed vary according to a number of factors, such as, *inter alia*: age, stage of development, gender, physical or mental disability, ethnicity, substance abuse, prior experience of violence and exploitation, and level of education. Participants specifically highlighted the risks deriving from situations in which children awaiting trial are held alongside convicted children, boys are detained with girls, or younger children are detained with older ones.

France: Violence between children in remand prison

The French NPM (Controller General of Places of Deprivation of Liberty) reported that persistent violent practices between older and younger children deprived of liberty occurred in the exercise yard of the young offenders' wing of a remand prison, posing a serious threat to the physical safety of those children. The NPM also reported the lack of effective measures to prevent these incidents and the inadequate response by the authorities in charge of the wing.⁶

Croatia: Lack of separation according to behavioural disorders

In the case of a correctional centre for children, the Croatian NPM (Ombudsperson's Office) has reported a lack of separation of children according to the severity of their behavioural disorders which, *inter alia*, made it more difficult to ensure proper treatment.⁷

Arrest, police custody and pre-trial detention

Discussions highlighted that, in many instances, the worst situations for children occur at the moment of apprehension by the police and during pre-trial detention. At the moment of arrest, children are often exposed to excessive use of force, verbal abuse and threats, and they are often not provided with information on their rights and the allegations against them in a manner that they can understand. Following their arrest, children may not have prompt access to their parents or caregivers and to legal assistance, which puts them at greater risk of physical, verbal and psychological violence, especially during interrogations. Furthermore, despite the international legal framework, children are often held in pre-trial detention for long periods and in unsuitable premises. The excessive use of pre-trial detention often leads to overcrowded facilities.

⁶ French Controller General of Places of Deprivation of Liberty and APT, *Opinions and Recommendations of the French "Contrôleur général des lieux de privation de liberté" 2008-2014*, pp. 201-208. Available at: www.apl.ch

⁷ Croatian Ombudsperson's Office, *2013 Annual report on the performance of activities of the NPM*, September 2014, p.15. Available at: www.ombudsman.hr

Ukraine: Violations of children's rights in police custody

The Ukrainian NPM (Parliament Commissioner for Human Rights) has reported a number of violations of children's rights in police custody, including police violence, unsuitable premises, children held in police vehicles for hours without medical assistance, at below-zero outside temperatures and with no access to water and sanitation, as well as a lack of prompt access to legal aid and lack of notification to families.⁸

Overemphasis on discipline and security

During the discussions, participants examined the specific risks for children deprived of their liberty associated with the excessive use of disciplinary and security measures. It was highlighted that the majority of children in custody are disadvantaged, suffer from neuro-disabilities, neglect, attachment disorders, or have experienced abuse. Therefore, an overemphasis on discipline and security only serves to reinforce these problems, rather than helping to solve them. For security reasons, children can be subject to humiliating and degrading searches. In some instances, restraints become the first resort, instead of being used only in exceptional cases.

Despite the fact that UN treaty bodies recommend that children should not be held in solitary confinement and that the UN Special Rapporteur on torture⁹ clearly stated that solitary confinement of children, of any duration, is cruel, inhuman and degrading treatment, it continues to be used in many countries. Solitary confinement is imposed on children as a disciplinary or (allegedly) a protection measure, either to separate children from adult detainees, to protect other detainees or to protect them from injuries by other detainees.

⁸ Ukrainian Parliament Commissioner for Human Rights, *Monitoring of custodial settings in Ukraine: status of implementation of the national preventive mechanism, 2014*, pp. 33-50. Available at: www.ombudsman.gov.ua

⁹ UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Interim report, UN Doc. A/66/268, 5 August 2011, §§ 77 and 86.

United Kingdom: Risks deriving from use of disciplinary and security measures

The Office of the Children's Commissioner (OCC), one of the 20 institutions composing the UK NPM, has reported a number of risks associated with the use of disciplinary and security measures, including segregation of children for lengthy periods, "informal" segregation which could be identified by the OCC only by "walking around" the places of detention, restraint using undue force and routine strip searches.¹⁰

Participants also agreed that children deprived of their liberty need to be informed about the rules in a manner that they can understand and, when sanctioned, they must know the reason and have access to legal assistance, in order to question the disciplinary measure.

Placement of children

One of the main issues discussed, at which NPMs need to look, is the placement of children in detention facilities. Although international standards provide that children deprived of their liberty should be separated from adults "unless it is considered in the child's best interest not to do so",¹¹ some countries fail to abide by this rule. In some instances, separation between children and adults is only apparent, as they are placed in the same facility, but on different floors or separated only by a fence. Furthermore, placement of children is not only about separation from adults, but also ensuring that the detention facilities are designed to respond to children's needs and ensure individualised care and treatment.

¹⁰ Office of the Children's Commissioner for England, Annual Report and Financial Statements for 2013-2014, p.25. Available at: www.childrenscommissioner.gov.uk

¹¹ Convention on the Rights of the Child, Art. 37(c).

CPT: Reviewing standards on children deprived of liberty

In 2013, the European Committee for the Prevention of Torture (CPT) set up a working group to review the CPT's existing standards¹² on children deprived of their liberty. The revised standards are currently under development.

Impact of detention environment on children

Detention has a negative effect on children, as it limits not only their freedom of movement but also a whole set of their rights and rarely responds to children's specific needs for appropriate rehabilitation, education, sport, recreation and vocational activities. The denial or inadequacy of those services has a negative impact on children's development and rehabilitation. In addition, the lack of activities may also create situations of risk of abuse and ill-treatment, because children spend most of their time confined in their cells, and may experience a lack of motivation and even depression which, in turn, can result in the occurrence of incidents of abuse and violence between children as well as with staff.

Uruguay: inadequate education and leisure activities

The NPM of Uruguay (National Human Rights Institution), in its reports of the visits conducted to juvenile detention centres, highlighted the lack of adequate educational and vocational services for children, as well as recreational activities. As a result, children spent most of their time in their cells without any activity.¹³

In some instances, children deprived of their liberty do not maintain regular contact with their families and friends, either because they are denied contact as a form of punishment, or because they are placed in facilities which are located far away from their homes and families. The location of facilities not only impacts on their ability to receive visits but also on their reintegration into the community.

¹² European Committee for the Prevention of Torture, 9th Annual General Report, CPT/Inf (99) 12.

¹³ National Human Rights Institution and Ombudsperson's Office of Uruguay (NPM), Annual report 2013-2014. Available at: www.inddhh.gub.uy

Honduras: Denial of contact with family as disciplinary measure

The Honduran NPM (National Committee for the Prevention against Torture) has reported situations in which children were denied contact with their family members as a form of punishment for misconduct.¹⁴

Inadequate staffing

Participants highlighted the need for multi-disciplinary and qualified staff working in children's institutions. Unqualified and inadequately trained staff, as well as their poor working conditions, was identified as one of the factors leading to violations of children's rights in detention.

Czech Republic: Lack of specialised staff working with children

The Czech NPM (Ombudsperson's Office) has reported the lack of specialised and qualified staff working in children's institutions, such as psychologists and teachers for children with special education needs. The insufficient number of personnel has also been identified as placing the well-being of children at risk.¹⁵

Girls in detention

Girls deprived of their liberty have different characteristics and needs not only from adults, but also from boys. Girls in detention are often not only children, but also carers, either as mothers or as siblings and have specific health, hygiene and sanitary needs. They have often experienced past social, physical and/or sexual abuse.¹⁶

¹⁴ Honduran National Committee for the Prevention against Torture (NPM), *Annual Report 2013*, p.20. Available at: www.conaprev.gob.hn

¹⁵ Public Defender of Rights of Czech Republic (NPM), *Annual Report 2013*, p.86. Available at: www.ochrance.cz

¹⁶ Penal Reform International and Interagency Panel on Juvenile Justice (IPJJ), *Neglected needs: Girls in the criminal justice system*, 2014, p.3.

Furthermore, in some countries, girls suffer discrimination as they are judged on the basis of what is acceptable for a girl, not as a child (for example, in relation to issues such as moral conduct, prostitution and abortion). As girls often make up a small minority of detainees, they are often placed with adult women and/or in facilities which are not designed to respond to girls' specific needs, as well as in remote facilities, so they are not able to maintain regular contact with their families.

New Zealand: Girls detained in women's facilities

The Office of the Ombudsman of New Zealand, one of the 5 institutions composing the NPM, has reported situations where girls are placed in women's prisons together with adult prisoners, although on a separate unlock regime. The "lack of appropriate facilities for girls undermines the full implementation of juvenile justice and penalises female youth significantly".¹⁷

Children with mental health problems in detention

Discussions highlighted that a large number of children who are deprived of their liberty show signs of mental health problems, either mental illnesses or psychological disorders, which are often exacerbated during their detention. They may include: post-traumatic stress disorders leading to sleep problems, loss of skills, aggression and/or irritability; affective disorders, such as anxieties, bipolar disorders and depression; conduct disorders; attachment disorder; language, communication and learning difficulties; and substance abuse, leading to social, psychological or physical problems.

In many instances, children who suffer from mental disorders have no access to mental health screening within the first hours of admission to a detention centre and do not receive adequate treatment.

During the discussions, there was a general agreement that children who suffer from mental health illnesses should not be held in a detention facility but in a specialised health institution so that they are able to receive adequate treatment by specialised personnel.

¹⁷ See Office of the Ombudsman of New Zealand (part of the NPM), *Annual report 2013/2014*, pp. 44-45. Available at: www.ombudsman.parliament.nz

What is the role of NPMs in addressing the vulnerabilities of children deprived of their liberty?

Owing to their preventive mandate, NPMs can play a very important role in addressing the vulnerabilities of children deprived of their liberty through their visits to places of detention and subsequent reports to the relevant authorities. Their preventive mandate also goes beyond the facts found in places of detention. NPMs identify root causes of torture and other forms of ill-treatment and gaps in law and practices, make recommendations to the authorities and establish dialogue and cooperation with them on the implementation of their recommendations. They also submit observations on laws and policies with a view to strengthening the protection of children deprived of liberty from torture and ill-treatment.

The following section highlights some actions, good practices and ways forward for NPMs to effectively prevent abuse and ill-treatment of children deprived of their liberty, which emerged from the discussions among participants in the Symposium. Although the discussions focused on the role of NPMs in relation to the situation of children deprived of their liberty, many of the actions and strategies identified by participants can also apply to the general work of NPMs.

Monitoring places where children are deprived of liberty

Visits to places of detention

NPMs are based in the country and are able to carry out unannounced and regular visits to all places where persons are or may be deprived of their liberty. These include places where children are detained. Visits are a unique means to observe and gain first-hand information on the treatment of children and their conditions of detention, to conduct confidential interviews with children deprived of their liberty and staff, and to check all relevant information and records.

Through their visits to places of detention, NPMs monitor the implementation of international and domestic standards related to the treatment of children deprived of their liberty and conditions of detention and can also play an important role in contributing to positive culture change in places of detention. Because of their access to those places and their access to staff and children deprived of their liberty, they are well placed to identify shared attitudes and values, as well as informal structures and systems within the places, which would be difficult for outsiders to understand. In order to conduct effective visits to places where children are deprived of their liberty, participants highlighted the need for NPMs to:

- Have multidisciplinary and specialised expertise as part of the NPM staff or through external experts, drawing on professional knowledge in a number of fields, including social work, child rights, child psychology and psychiatry, and possess a high degree of sensitivity
- Know what issues to look at when carrying out their visits
- Interview children as long as they agree
- Implement a rights-based approach
- Understand complexities in places of detention (for example, children who are members of rival gangs)
- Know the rules and regulations applicable to the places visited, in order to be respected by the authorities
- Always commend good practices as well as criticise
- Take detailed records
- Send clear messages (for example, solitary confinement of children should not be allowed under any circumstances)

UK: Sub-group on children and young people

In early 2013, the UK NPM decided to establish a specialised sub-group¹⁸ focusing on children and young people, chaired by the Office of the Children's Commissioner for England, given the specific challenges faced by children and young people in detention and the need to share experiences and good practice among the institutions composing the UK NPM.

Reporting and following-up on recommendations

The discussions provided the opportunity for NPMs to share their practices in making recommendations to the relevant authorities and establishing dialogue with those institutions to follow-up on their implementation. Participants highlighted the need for recommendations to be clear and targeted according to the audience (for example, authorities in charge of the place visited or supervising agencies). In their reports, NPMs need to focus on good practices as well as on problems and include improvements observed since previous visits. Furthermore, NPMs can formulate recommendations which can be relevant beyond the single place of detention.

France: Opinions and recommendations beyond the single place of detention¹⁹

The French NPM issues thematic opinions, which summarise the observations made following visits to a number of places of detention, as well as make recommendations which are relevant to a range of places of detention. On children, the French NPM has issued a number of opinions regarding, for example, young children in prison with their imprisoned mothers, as well as recommendations addressing, among others, the issue of disciplinary measures and educational and healthcare services in young offenders' institutions.

¹⁸ Terms of reference of the sub-group are included in Appendix Four of the UK's NPM Annual Report 2013-2014. Available at: www.justiceinspectores.gov.uk

¹⁹ French NPM and APT, *Opinions and Recommendations of the French "Contrôleur général des lieux de privation de liberté" 2008-2014*. Available at: www.apr.ch

The French NPM has also included a specific section on children in its annual reports.²⁰

NPMs agreed on the need to analyse specific issues related to children deprived of their liberty and vulnerabilities of particular groups of children. They could do so either by including a specific section in their annual reports or publishing separate thematic reports, including in collaboration with other organisations.

Publishing joint thematic reports in Ukraine

On the basis of joint visits to places where children are deprived of their liberty, the Ukrainian NPM, UNICEF and the NGO Kharkiv Institute for Social Researches, published a thematic report on the protection of child rights in juvenile detention centres.

The protection of the rights of children deprived of their liberty involves a wide range of government agencies and requires effective coordination between relevant institutions. Therefore, NPMs need to proactively engage and build confidence with all relevant authorities, allowing for cooperation while maintaining independence. They also need to adopt an inter-institutional approach, for example by establishing, on a regular basis, inter-institutional working groups to address issues of concern and to follow-up on NPM recommendations.

New Zealand: Maintaining constructive dialogue with the authorities

The New Zealand NPM institutions receive responses by relevant authorities on their reports and recommendations, on which they can then follow-up. Furthermore, representatives of the Ministry of Justice participate in monthly meetings held by the NPM (on invitation by the NPM), a practice which gives the Minister first-hand knowledge of the issues and common themes highlighted by the NPM.

²⁰ See French NPM, *Annual Report 2012*, pp. 222-240. Available at: www.cgjpl.fr/en/

Beyond visits to places where children are deprived of their liberty

It was agreed that monitoring places where children are deprived of their liberty is central to the work of NPMs. Their preventive approach, however, also involves analysing and addressing the institutional, political, normative, structural and socio-economic factors that lead to torture and ill-treatment. Therefore, in order to address the broader context related to children in conflict with the law and deprived of their liberty, participants identified the following key actions for NPMs.

Adopt a holistic approach: NPMs should adopt a holistic approach to preventing torture and ill-treatment of children deprived of their liberty. To do so, they should find a balance between, on the one hand, conducting visits to places of detention and making recommendations arising from these visits and, on the other hand, comprehensively analysing the systemic factors that have an impact on the treatment and conditions of children deprived of their liberty and providing guidance to the authorities.

Advocate and raise awareness: NPMs could greatly contribute to protecting children's rights by raising awareness of the situation of children deprived of their liberty and advocating on key issues. These include: deprivation of liberty to be used only as a measure of last resort and for the shortest appropriate time; increasing the minimum age of criminal responsibility; a separate and specialised juvenile justice system; and alternative measures to detention for children (including by showing the financial benefits of such policies for the state).

Uruguay: Looking at alternative measures to detention

The NPM of Uruguay is creating a database of alternative measures provided in criminal proceedings for adolescents, with the aim of analysing their effectiveness, possible improvement and applicability. In doing so, the NPM is cooperating with the public and private institutions in charge of implementing such alternative measures.

Make use of international and regional human rights mechanisms:

NPMs should submit information on the situation of children deprived of their liberty to relevant human rights mechanisms, such as the Committee on the Rights of the Child and the UN Committee Against Torture. In order to maximise their impact and resources, they may wish to do so in collaboration with other national actors, such as civil society organisations and specialised Ombudsperson's Offices for Children.

Promote legal and policy reforms: Participants expressed the need for NPMs to contribute to improving standards for children deprived of their liberty, by monitoring the implementation of international, regional and domestic standards, identifying existing gaps and promoting changes in relevant legislation and policies.

United Kingdom: Submitting observations to the Ministry of Justice

In April 2013, The UK NPM's subgroup on children and young people submitted a joint response to the Ministry of Justice's consultation paper on youth custody, focusing on the principles that must underpin best practice for children deprived of their liberty in a criminal justice context.²¹

Cooperation with other actors: In order to effectively prevent torture and ill-treatment of children deprived of their liberty, NPMs need to identify possible partners and build alliances with a wide range of national and international stakeholders, including the judiciary, parliamentarians, NGOs, academia, professional associations, UN agencies and ombudsperson's offices for children.

Ukraine: Establishing cooperation with the Parliament

The NPM of Ukraine carried out a visit to a place of detention with the Human Rights Committee of the Parliament to raise awareness on the conditions of detention, which resulted in improved cooperation with the Parliament.

²¹ See National Preventive Mechanism of the United Kingdom, *Response to the Ministry of Justice Consultation "Transforming Youth Custody"*, April 2013. Available at: www.justiceinspectores.gov.uk

Rio de Janeiro: Holding public hearings at the Parliament

As part of its preventive activities, the local preventive mechanism of Rio de Janeiro, in Brazil, holds public hearings at the Parliament to raise awareness on specific issues related to deprivation of liberty, including the situation of children.

Strategic engagement with the media: In order to contribute to public debates and positively change the way in which children deprived of their liberty are perceived, NPMs need to develop relationships with the media. The media can also be an important ally in raising awareness about the work of NPMs. Nevertheless, NPMs need to engage with them strategically in order to both have an impact and avoid instrumentalisation. They need to be selective and be able to choose when and about what/what not to communicate. Furthermore, NPMs need to find a balance between engaging public opinion and maintaining a constructive dialogue with the authorities.

Senegal: Changing approach with the media

“Too much communication is detrimental to communication. We used to communicate a great deal to help the institution gain visibility. I used to give interviews following each visit. Then, I realised that this was not a good strategy because we need to target the information we disseminate. Once, after a visit, I spoke to the press and they misconstrued what I said. So, since then, I have been a lot more cautious.”

Boubou Diouf Tall, National Observer of Places of Deprivation of Liberty (NPM), Senegal

Participants identified a number of strategies for NPMs to engage with the media, including:

- Holding press conferences when the NPM publishes its annual report
- Organising regular meetings with selected journalists
- Issuing press releases following visits to places of detention
- Giving interviews
- Participating in public debates on issues related to children deprived of their liberty
- Publishing articles in specialised journals
- Developing the NPM's website

France: Publishing articles in journals

As part of its communication strategy, the French NPM writes articles for specialised journals. In 2012, for example, an article on the forms and impact of children's deprivation of liberty was published in a quarterly review of psychoanalysis, psychopathology and human sciences.²²

²² *État des lieux de l'enfermement*, in *Revue Adolescence, Enfermement II*, 2012, Vol. 30, n. 4, p.823 et seq.

Conclusion

Children in detention are particularly vulnerable and often voiceless. From their first moment of contact with the criminal justice system, children are at greater risk of discrimination, abuse, neglect and ill-treatment by both staff and fellow detainees. When deprived of their liberty, they are also at risk of self-harm or even suicide. The situation of children in detention is not usually high on every state's political agenda. When it is on the agenda, the focus is often on a punitive approach, further compounded by societal perceptions relating to children in conflict with the law.

Through their holistic approach to prevention, independent and effective National Preventive Mechanisms established under the OPCAT are critical to ensuring the protection of the rights of children deprived of their liberty. Because of their unrestricted access to all places where children are or may be deprived of their liberty and their first-hand information, they are best placed to give a voice to children in detention and shed a light on the risks that they face. This access and information means they are able to influence both governments and their societies at large and therefore contribute to changes in policies and practices.

At the regional and international level, there is momentum building on the issue of children deprived of their liberty, with many initiatives drawing attention to the topic and contributing to the development of higher standards and broader safeguards, in particular:

- the upcoming thematic report of the Special Rapporteur on Torture on the use of torture and ill-treatment in the context of children deprived of their liberty to be issued in March 2015;
- the revision of the existing standards of the European Committee for the Prevention of Torture on children deprived of their liberty;
- the Call for a Global Study on Children Deprived of Liberty²³ to be

²³ www.childrendeprivedofliberty.info

undertaken by an independent expert appointed by the United Nations' Secretary General; and

- the World Congress on Juvenile Justice²⁴.

NPMs can not only contribute to these important efforts but they will also benefit from these additional tools in their efforts to effectively protect the rights of children deprived of their liberty.

²⁴ The World Congress is co-organised by the Swiss Federal Department of Foreign Affairs, in collaboration with the Swiss Federal Office of Justice, and the NGO *Terre des Hommes*. It will take place in Geneva, Switzerland, on 26-30 January 2015. Further information available at: www.eda.admin.ch

Annex I: Agenda

Thursday, 26 June 2014

Objectives

- Examine the risk factors and situations which contribute to the abuse and ill-treatment of children in conflict with the law and in detention.
- Identify strategies for NPMs to address these issues when carrying out their preventive mandate.
- Enable interaction between NPMs and other key actors to reinforce cooperation and share good practices.

Time	Session
8:30 – 9:00	Registration and welcome coffee
9:00 – 9:30	Introductory session Opening remarks - <i>Mark Thomson, APT Secretary-General</i> “Tour de table” Objectives and methodology - <i>Veronica Filippeschi, APT Advisor on OPCAT</i>
9:30 – 11:00	Session 1 – Setting the scene Children in conflict with the law and deprived of their liberty: current situation, key issues, principles and standards (10 min.) <i>Ms. Renate Winter, Committee on the Rights of the Child</i>

	<p>The broader framework for the protection of the rights of children deprived of their liberty and the work of NPMs (10 min.)</p> <p><i>Ms. Odalis Najera, National Committee for the Prevention of Torture, Honduras</i></p> <p>Moderated discussion: all participants (1h 10 min.)</p> <p>Moderator: <i>Mark Thomson, APT</i></p>
11:00 – 11:15	Coffee break
11:15 – 12:45	<p>Session 2 – Risk factors deriving from overemphasis on discipline and security in detention</p> <p>Key issues and standards (10 min.)</p> <p><i>Ms. Ilvija Puce, European Committee for the Prevention of Torture</i></p> <p>Perspective from an NPM (10 min.)</p> <p><i>Ms. Sue Berelowitz, Office of the Children’s Commissioner for England</i></p> <p>Moderated discussion: all participants (1h 10 min.)</p> <p>Moderator: <i>Jean-Baptiste Niyizurugero, APT Africa Programme Officer</i></p>
12:45 – 14:15	Lunch
14:15 – 15:45	<p>Session 3 – Risk factors deriving from lack of “normal life” in detention</p> <p>Perspective from the authorities (10 min.)</p> <p><i>Ms. Adidi Arnould, Juvenile Detention Centre of Marseille, France</i></p> <p>Perspective from an NPM (10 min.)</p> <p><i>Mr. Boubou Diouf Tall, National Observer of Places of Deprivation of Liberty, Senegal</i></p> <p>Moderated discussion: all participants (1h 10 min.)</p> <p>Moderator: <i>Veronica Filippeschi, APT</i></p>
15:45 – 16:00	Coffee break

16:00 – 17:30	<p>Session 4 – Most vulnerable children in detention</p> <p>Girls in detention (10 min.) <i>Mr. Nikhil Roy, Penal Reform International</i></p> <p>Children with mental health problems in detention (10 min.) <i>Mr. Peter Green, Doctor for Child Safeguarding – St. George Hospital, London</i></p> <p>Moderated discussion: all participants (1h 10 min.) Moderator: <i>Tanya Norton, APT Detention Monitoring Advisor</i></p>
17:30 – 17:45	<p>Wrap up and close of meeting</p> <p><i>Veronica Filippeschi, APT</i></p>
19:30	<p>Dinner</p>

Friday, 27 June 2014

Objectives:

- Discuss the challenges faced by NPMs in carrying out their preventive mandate regarding children in conflict with the law and in detention
- Exchange good practices and working methods between NPMs
- Strengthen cooperation between NPMs

Time	Session
8:30 – 9:00	Welcome coffee
9:00 – 9:30	<p>Introductory session</p> <p>Objectives and methodology</p> <p>Summary of discussion on Day 1</p> <p><i>Veronica Filippeschi, APT Advisor on OPCAT</i></p>

9:30 – 11:00	Session 1 – How NPMs can address the issues discussed on Day 1 Moderated discussion: all participants Moderator: <i>Veronica Filippeschi, APT</i>
11:00 – 11:15	Coffee break
11:15 – 12:45	Session 2 – Recommendations to and dialogue with detaining authorities in places where children are deprived of liberty Moderated discussion: all participants Moderator: <i>Barbara Bernath, APT Chief of Operations</i>
12:45 – 14:30	Lunch
14:30 – 16:00	Session 3 - Recommendations to and dialogue with other state institutions related to children in detention Moderated discussion: all participants Moderator: <i>Barbara Bernath, APT Chief of Operations</i>
16:00 – 17:30	Session 4 – Engagement with other actors Moderated discussion: all participants Moderator: <i>Isabelle Heyer, APT Americas Programme Officer</i>
17:30 – 17:45	Wrap up and close of Symposium <i>Veronica Filippeschi, APT</i>

Annex II: List of participants

Name	Position	Institution/Country
Ms. Mariyam Adam	Assistant Inspection Officer	National Human Rights Commission - NPM, Maldives
Ms. Mari Amos	SPT Member	UN Subcommittee on Prevention of Torture
Ms. Adidi Arnould	Director of Educational Service	Juvenile Detention Centre, Marseille/ France
Mr. Palamwé Ayim	Member and President of the Sub-commission on Prevention of Torture	National Human Rights Commission (NPM), Togo
Mr. Manuel Barros Llorente	Head of NPM Unit	Ombudsperson's Office (NPM), Spain
Ms. Sue Berelowitz	Deputy Children's Commissioner	Office of the Children's Commissioner, England (NPM/United Kingdom)
Ms. Ivana Buljan Ajelić	Legal Affairs Advisor	Ombudsperson's Office (NPM), Croatia
Ms. Rachel Brett	Representative for Human Rights and Refugees	Quaker United Nations Office
Mr. Yuriy Byelousov	Representative of the Commissioner for the NPM	Parliamentary Commissioner for Human Rights (NPM), Ukraine

Mr. Álvaro Colistro	Lawyer, NPM unit	National Human Rights Institution and Ombudsperson's Office (NPM), Uruguay
Mr. Fabrice Crégut	Juvenile Justice Advisor	Terre des Hommes
Mr. Vincent Delbos	Inspector	General Inspectorate of Places of Deprivation of Liberty (NPM), France
Ms. Anne Grandjean	Child Protection Specialist	UNICEF - Regional Office for Central and Eastern Europe and CIS (CEE/CIS)
Mr. Peter Green	Doctor specialised in Forensic and Legal Medicine and Child Safeguarding, former CPT expert	St George's Hospital, London/England
Ms. Adéla Hradilová	Lawyer, NPM Unit	Office of Public Defender of Rights (NPM), Czech Republic
Ms. Mary Murphy (Observer)	Detention Adviser	International Committee of the Red Cross (ICRC)
Ms. Odalis Najera	NPM Member	National Committee for the Prevention against Torture (NPM), Honduras
Ms. Ilvija Püce	CPT Member	European Committee for the Prevention of Torture
Mr. Nikhil Roy	Programme Development Director	Penal Reform International

Mr. Dario Rubio	Head of Local Preventive Mechanism (LPM)	Committee of Evaluation of Follow-up and Implementation of the UNCAT (LPM), Province of Río Negro/ Argentina
Mr. Fábio Simas	LPM Member	State Mechanism to Prevent Torture (LPM), State of Rio de Janeiro/Brazil
Mr. Boubou Diouf Tall	National Inspector	National Inspector of Places of Deprivation of Liberty (NPM), Senegal
Mr. Benoit Van Keirsbilck	President	Defence for Children International
Ms. Renate Winter	Member	UN Committee on the Rights of the Child
Association for the Prevention of Torture		
Ms. Barbara Bernath	Chief of Operations	APT
Mr. Jean-Sébastien Blanc	Detention Advisor	APT
Ms. Veronica Filippeschi	OPCAT Advisor	APT
Ms. Isabelle Heyer	Americas Programme Officer	APT
Mr. Jean-Baptiste Niyizurugero	Africa Programme Officer	APT
Ms. Tanya Norton	Detention Monitoring Advisor	APT
Mr. Mark Thomson	Secretary General	APT

Annex III: Briefing note

Addressing children's vulnerabilities in detention

La Pastorale, Geneva 26-27 June 2014

The Jean-Jacques Gautier NPM Symposium Series, organised by the Association for the Prevention of Torture (APT), with the financial support of the Swiss Federal Department of Foreign Affairs, is a series of annual meetings, initially over a three-year period, aimed at enabling National Preventing Mechanisms (NPMs) from around the world and other experts to exchange knowledge and practices on the issue of vulnerabilities in detention.

The first meeting of the Jean-Jacques Gautier NPM Symposium Series, entitled Addressing children's vulnerabilities in detention, will be held in Geneva on 26-27 June 2014. To make the best use of time and have in-depth discussions, the meeting will address specific issues related to children deprived of liberty within the criminal justice system.

This paper is designed to provide participants with background information about the June meeting, its objectives and methodology. Attached to this document you will find the list of participants and the annotated agenda, which includes the specific objectives and proposed discussion questions for each session.

BACKGROUND INFORMATION

The 2014 Symposium will consist of a two-day meeting with the overall objective of strengthening the capacities of NPMs to address the vulnerabilities and risks faced by children deprived of their liberty as part of their preventive mandate. It will bring together NPM representatives from 14 different countries and representatives from the Committee on the Rights of the Child, NGOs working to promote and protect the rights of the child, national authorities, and international and regional human rights bodies working to prevent torture.

The first day will bring together representatives of NPMs and other relevant institutions, with the aim of examining the specific vulnerabilities and risk factors which contribute to the abuse and ill-treatment of children deprived of their liberty, and identifying strategies for NPMs to effectively address these issues when carrying out their work. The meeting will also be an opportunity for NPMs and other actors to meet and get familiar with each other's work, as well as to establish or strengthen their cooperation. The second day will gather only NPM representatives to openly discuss the challenges faced on a daily basis in carrying out their preventive mandate in relation to the issues addressed on the first day of the Symposium. The meeting will be also an opportunity to exchange practices and working methods between NPMs.

The meeting will focus on specific issues related to children in detention, which were identified through a questionnaire sent to all participants during a pre-symposium preparatory phase. The two-day meeting has been conceived as a platform for discussions rather than a panel with a series of presentations, in order to enable maximum exchanges between participants. Each session will start with two short presentations to introduce the issues, which will be followed by moderated discussions among all participants. Simultaneous interpretation will be available into English, French and Spanish.

CHILDREN DEPRIVED OF LIBERTY: KEY ISSUES

Introduction

Every person deprived of his or her liberty is vulnerable because of the imbalance of power created by the detention itself. But some persons find themselves in situations of specific vulnerability. Children are one of the most vulnerable groups in detention, because of their age and stage of maturity, and the long term damaging effects of detention on their well-being and development.

Deprivation of liberty for children should be used only as a measure of last resort and a variety of alternative measures to deprivation of liberty should be available for children, to ensure their well-being. When detention is absolutely necessary, it should be used for the shortest appropriate period of time and should aim at rehabilitating and reintegrating children into society. International standards

clearly establish that every child in conflict with the law must be treated in accordance with the rules of juvenile justice and that children can be arrested only if they have reached the minimum age of criminal responsibility, which should not be lower than 12 years.

However, the reality around the world shows a growing trend for children to be placed in detention as a result of punitive approach. More than one million children are deprived of their liberty by law enforcement officials worldwide, a figure that is probably underestimated due to difficulties in gathering official data.²⁵ They are detained also for status offences which are not criminalised if committed by adults, such as living in the streets, begging, violating curfew regulations or for substance abuse problems. Such behaviours are often the result of disadvantaged socio-economic status or psychological problems and “should be dealt with through the implementation of child protective measures, including effective support for parents and/or caregivers and measures which address the root causes of this behaviour”.²⁶

Risk factors and situations contributing to the abuse and ill-treatment

The majority of children deprived of their liberty are held in pre-trial detention, often for prolonged periods, and for minor offences²⁷, in breach of international standards. Children deprived of their liberty are at greater risk of experiencing discrimination and abuse by both staff and fellow detainees, from the first moment of contact with the criminal justice system. When deprived of their liberty, they are also at risk of self-harm or even suicide.

In several countries, children's behaviours which do not conform to what is seen as conventional are stigmatised by both authorities and society at large. Such stigmatisation often leads to the arbitrary arrest of children, and exposes them to abusive and discriminatory

²⁵ UNICEF, *Progress for Children: A Report Card on Child Protection*, Number 8, September 2009, p.20.

²⁶ Committee on the Rights of the Child, General Comment N°10 on Children's rights in juvenile justice, UN Doc. CRC/C/GC/10, 25 April 2007, §9.

²⁷ Human Rights Council, Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system, UN Doc. A/HRC/21/25, 27 June 2012, §8.

practice by the police. In many circumstances, at the moment of arrest, children are not provided with information on their rights and the allegations against them in a manner that they can understand. Following their arrest, children may not have prompt access to their parents or caregivers and to legal assistance, which put them at greater risk of physical, verbal and psychological violence, especially during interrogations.

The risk of abuse and ill-treatment by both staff and other detainees is also present in pre-trial detention and when executing a sentence. Although international standards provide that children deprived of their liberty should be separated from adults “unless it is considered in the child’s best interest not to do so”²⁸, many countries fail to abide by this rule. As a result, children are often deprived of their liberty with adults during transportation, in police stations and in detention centres, exposing them to abuse and compromising their future ability to remain free of crime and to reintegrate into society. Children are at risk of abuse, bullying and violation of their rights also when those awaiting trial are held alongside convicted children, when boys are detained with girls, when younger children are detained with older ones and when the placement of children in a detention facility does not take into account the specific requirements of the most vulnerable children, for example, children with physical and mental disabilities.

In many instances, children deprived of their liberty are subject to violent and unlawful disciplinary measures. States have a duty to ensure that disciplinary measures and means of restraint are used only for the maintenance of safety. Those measures which constitute cruel, inhuman or degrading treatment or may compromise the well-being of the child should be strictly prohibited, including denial of contact with family, corporal punishment and solitary confinement. In order to prevent abuse and ill-treatment of children in detention, states should also ensure that staff working with children are specialised and that children in detention have access to child-friendly complaints mechanisms.

Detention rarely responds to children’s individual characteristics and specific needs, including the need for appropriate education, contact with family and the wider community, sport and recreation. Girls

²⁸ Convention on the Rights of the Child, Art. 37(c).

deprived of their liberty are in a situation of particular vulnerability in detention, due to their age, gender and small numbers, and specific measures should be taken to meet their needs.²⁹

Role of NPMs in addressing children's vulnerabilities in detention

In order to prevent violations of the rights of children deprived of their liberty and to ensure that conditions and treatment of children in detention respect their dignity and minimize the risk of abuse, it is extremely important that places where children are deprived of their liberty are regularly monitored by independent bodies, as recently recalled by the OHCHR, the UNODC and the Special Representative of the Secretary-General on Violence against Children.³⁰

As part of their mandate, NPMs established under the Optional Protocol to the UN Convention against Torture (OPCAT) carry out regular visits to places where children are or may be deprived of their liberty, examine the treatment of children and their conditions of detention, conduct confidential interviews with children deprived of their liberty and check all relevant information and records. But their mandate goes beyond the facts found in places of detention. NPMs identify root causes of torture and other forms of ill-treatment and gaps in law and practices, make recommendations to the authorities and submit observations on laws and policies with a view to strengthening the protection of children deprived of their liberty from torture and other forms of ill-treatment. Therefore, through their preventive work, NPMs can play a very important role in preventing abuse and ill-treatment of children deprived of their liberty.

²⁹ *Neglected needs: Girls in the criminal justice system*, Penal Reform International (PRI) and Interagency Panel on Juvenile Justice (IPJJ), 2014.

³⁰ UN Doc. A/HRC/21/25, 27 June 2012, §89.

Annex IV: Further reading

International standards

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Doc. A/Res/39/46, 10 December 1984
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Doc. A/RES/57/199, 18 December 2002
- Convention on the Rights of the Child, UN Doc. A/RES/44/25, 20 November 1989
- Committee on the Rights of the Child, General Comment N°10 on children's rights in juvenile justice, UN Doc. CRC/C/GC/10, 25 April 2007
- United Nations Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice: "Beijing Rules", UN Doc. A/RES/40/33, 29 November 1985
- United Nations Guidelines for the Prevention of Juvenile Delinquency: "Riyadh Guidelines". UN Doc. A/RES/45/112, 14 December 1990
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty: "Havana Rules", UN Doc. A/RES/45/113, 14 December 1990
- United Nations Standard Minimum Rules for Non-custodial Measures: "Tokyo Rules", UN Doc. A/RES/45/110, 14 December 1990
- United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders: "Bangkok Rules",

UN Doc. A/RES/65/229, 11 March 2011

- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – CPT Standards, 2002 Rev. 2013. Available at: www.cpt.coe.int

Other useful resources

- Children’s Commissioner for England, *I think I must have been born bad. Emotional wellbeing and mental health of children and young people in the youth justice system*, June 2011. Available at: www.childrenscommissioner.gov.uk
- French NPM and APT, *Opinions and Recommendations of the French “Contrôleur général des lieux de privation de liberté” 2008-2014*. Available at: www.apr.ch
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- UNICEF, *Torture and ill-treatment in the context of juvenile justice: the final report of research in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Tajikistan and Ukraine*, 2013. Available at: www.unicef.org



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Children are one of the most vulnerable groups in detention, because of their age and stage of maturity, and the long term damaging effects of detention on their well-being and development. Detention rarely responds to children's individual characteristics and specific needs. Indeed, it often intensifies their vulnerability, exposing them to numerous types and situations of risk.

On 26–27 June 2014, the Association for the Prevention of Torture (APT) organised the first Jean-Jacques Gautier NPM Symposium, *Addressing children's vulnerabilities in detention*, in Geneva. The expert meeting gathered representatives of National Preventive Mechanisms (NPMs) from all over the world and other human rights actors with specific expertise on the protection of the rights of children within the criminal justice system. The participants were asked to discuss the context and key principles related to children in conflict with the law and deprived of their liberty, and to examine the main risk factors and situations which need to be looked at and effectively addressed by NPMs in carrying out their preventive mandate. The Symposium recognised the important role played by NPMs in protecting the rights of children deprived of liberty, not only as monitoring bodies but also as actors for change and advocates for the fulfilment of children's rights.

The purpose of this document is to highlight the key issues, strategies and ways forward deriving from the discussions among participants. The APT hopes that it will serve as a reference for all NPMs established under the OPCAT, but also for all those working to protect the rights of children deprived of liberty.