



MINISTER  
JUSTICE AND CORRECTIONAL SERVICES  
REPUBLIC OF SOUTH AFRICA

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Dear Madam Speaker

**TABLING OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST  
TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR  
PUNISHMENT FOR PARLIAMENT'S CONSIDERATION AND APPROVAL**

In terms of section 231(2) of the Constitution of the Republic of South Africa, 1996, I hereby table the attached the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT)* for consideration and approval by resolution by both the National Assembly and the Council of Provinces.

The required supporting documentation is enclosed for ease of reference.



South Africa was instrumental in the international negotiations which saw the conclusion of the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

In September, 2006, South Africa signed the OPCAT and it now requires ratification by Parliament in terms of section 231(2).

South Africa made a firm decision that it must comply with all its international obligations, including the ratification of outstanding international treaties, such as the OPCAT.

In keeping with this decision, in September 2017, at the United Nations Human Rights Council in Geneva, South Africa confirmed at its Universal Periodic Review that it will ratify the OPCAT. The move towards the ratification of the OPCAT began in 2012/2013 with the enacting of the Prevention to Combating of Torture of Persons Act, 2013 (Act 13 of 2013), and the process of developing a National Preventive Mechanism (NPM) as required by the OPCAT to make unscheduled visits to places where people are deprived of their liberty by court order or state sanction.

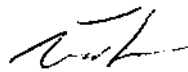
The South African Human Rights Commission (SAHRC) as the appropriate body was requested by the Department of Justice & Constitutional Development (DoJ&CD) to develop a proposed model NPM. The SAHRC has done so, with the proposed NPM model including various existing institutions i.e. the Judicial Inspectorate of Prisons; the Independent Police Investigative Directorate; the Office of Health Standards Compliance; the Commission for Gender Equality; the Military Ombudsman; the Health Ombudsman; and, the Mental Health Review Boards. The SAHRC will play a coordinating role in the NPM. Extensive consultations with relevant civil society and government stakeholders were undertaken in the developing of the proposed NPM model.

By ratifying the OPCAT, South Africa will not only be complying with its international obligations, but will also be reaffirming its commitment to the promotion and protection of human rights, freedom and dignity as enshrined in the Constitution.



The OPCAT is herewith tabled in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996, for approval by the National Assembly.

Yours Sincerely



**TM MASUTHA, MP (ADV)**

**MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**

**DATE: 2019/02/27**





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Dear Madam Chairperson

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The South African Human Rights Commission (SAHRC) as the appropriate body was requested by the Department of Justice & Constitutional Development (DoJ&CD) to develop a proposed model NPM. The SAHRC has done so, with the proposed NPM model including various existing institutions i.e. the Judicial Inspectorate of Prisons; the Independent Police Investigative Directorate; the Office of Health Standards Compliance; the Commission for Gender Equality; the Military Ombudsman; the Health Ombudsman; and, the Mental Health Review Boards. The SAHRC will play a coordinating role in the NPM. Extensive consultations with relevant civil society and government stakeholders were undertaken in the developing of the proposed NPM model.


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of human rights, freedom and dignity as enshrined in the Constitution.

The OPCAT is herewith tabled in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996, for approval by the National Council of Provinces.

Yours Sincerely



**TM MASUTHA, MP (ADV)**

**MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**

**DATE: 2019/02/27**



# **EXPLANATORY MEMORANDUM ON SOUTH AFRICA'S ENVISAGED RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ("OPCAT")**

## **INTRODUCTION**

In 2000, South Africa signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") after its active participation in the negotiating of the instrument. Since then, there has been mounting pressure on South Africa, both at the national and international level, to ratify the Optional Protocol to the CAT ("OPCAT")(marked A) which requires member states to establish a National Preventive Mechanism ("NPM") to monitor places of detention in order to prevent incidents of torture.

South Africa made a firm decision that it must comply with all its international obligations, including the ratification of outstanding international treaties such as the OPCAT.

In keeping with this decision, in September 2017, at the United Nations Human Rights Council in Geneva, South Africa confirmed at the Universal Periodic Review ("UPR") that it will ratify OPCAT.

## **BACKGROUND AND DISCUSSION**

South Africa is committed to the protection of human rights and the fight against impunity which commitment was forged in the struggle for liberation against the inhumanity of colonialism and apartheid. South Africa condemns in the strongest terms, human rights violations wherever they may occur and is steadfast in its commitment to promote and protect the human rights of all, most especially those who are the most vulnerable in society. This commitment is reflected in the significant role that South Africa played in the international negotiations on the establishment of several international instruments of which the CAT is but just one.



The CAT provides for the prohibition of torture, cruel and inhuman treatment and punishment in situations where individuals are deprived of their liberty and thus rendered vulnerable to such abuses. The OPCAT, the optional protocol to the CAT, breaks new ground within the United Nations Human rights system as it emphasizes prevention rather than reaction, and cooperation with national authorities rather than condemnation. Rather than reacting once violations have occurred, the OPCAT bodies are proactive: they can visit any place of detention at any time, without any allegation of abuse. Article 3 of the OPCAT requires that a National Preventive Mechanism ("NPM") be established to carry out site visits and clearly defines the NPM as a body specifically set up with a mandate to prevent torture in places of detention. As on June 2018, 88 Member States have ratified the OPCAT, a further 15, South Africa included, have signed but not ratified the OPCAT. South Africa signed the OPCAT on 20 September 2006.

It must be noted that the OPCAT does not give a boundless mandate to the NPM to undertake visits to all places where people are detained. The OPCAT limits the visits of the NPM to places of detention where persons are deprived of their liberty by public authorities, or by court order/ State sanction. Even where the NPM is authorized to undertake visits to a psychiatric hospital, for instance, they will only be undertaking the visit to oversee the conditions of detention of patients who are detained by virtue of a court order.

The NPM, in terms of the OPCAT must have the following characteristics:

- **Independence:** they need to be independent, financially and operationally, and members must not hold any positions that raise a conflict of interest;
- **Mandate:** they should regularly examine the treatment of persons deprived of their liberty, have the power to make recommendations to relevant authorities, and to comment on (draft) legislation;
- **Visits:** they should have access to all places where people are deprived of their liberty, without prior announcement and throughout the country. Visits should be undertaken frequently to ensure regular scrutiny;
- **Unlimited access:** they must have unlimited access to – within – any place where people are deprived of their liberty. This includes access to information;
- **Private interviews and confidentiality:** the members of monitoring bodies (NPM) must be able to conduct private interviews and protect information acquired from detainees on a confidential basis;
- **Professional team:** the members must have proven multi-professional





experience. The team must include female members and have an ethnic and minority representation; and,

- **Protection against reprisals:** detainees who speak to members of the monitoring mechanism must be protected from any form of sanction or reprisal as a result of having done so.

During 2012/2013 the Department of Justice and Constitutional Development ('DoJ&CD') consulted widely with relevant Departments, civil society and Chapter 9 institutions. The outcomes of these consultations were positive and in favour of the proposed ratification. The greatest hindrance which was identified through the consultations on the OPCAT was the fact that South Africa did not have legislation criminalizing torture. This was remedied by the Prevention and Combatting and Torture of Persons Act, 2013 (Act 13 of 2013) which was enacted in July 2013. A further delay to the OPCAT's ratification was discussions regarding and appropriate NPM model to be implemented.

In 2017, the DoJ&CD, together with the SAHRC, reconsidered the proposed NPM model. The SAHRC embarked on an extensive process of revising and re-conceptualising an NPM model which involved consultations with stakeholders domestically through workshops, as well as a study tour to the United Kingdom and Poland in early April, 2018.

The new proposed NPM model will draw in existing inspection mechanisms under the coordination of the SAHRC. The following institutions are proposed to contribute to the work of the NPM, subject to legislative amendments to their enabling legislation and/or reaching memorandums of agreement:

- Judge Inspector for Correctional Services ("JICS")
- Independent Police Investigative Directorate ("IPID")
- Commission for Gender Equality
- Military Ombudsman
- Health Ombudsman
- Compliance Inspectorate of the Office of Health Standards of Compliance ("OHSC")
- Mental Health Review Boards

The cost of the new proposed NPM model is financially viable as the model relies



on existing structures and the coordinating role of the SAHRC. The DoJ&CD have allocated budget, with the approval of the National Treasury, to meet the setting up costs of the NPM. A copy of the envisaged activities and action plan of the NPM, together with the budget, is attached marked B.

Legal opinions were obtained from the DoJ&CD: Office of the Chief State Law Advisor and the Department of International Relations and Cooperation ("DIRCO"): Office of the Chief State Law Advisor. Both legal opinions (marked C and D respectively), found the OPCAT to be an international agreement, as contemplated in section 231(2) of the Constitution of the Republic of South Africa, 1996, and consistent with the Constitution. It was recommended that South Africa ratify the OPCAT.

In terms of section 231(2) of the Constitution an international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces.

By ratifying the OPCAT, South Africa, continues to show its commitment to the promotion and protection of human rights remains unwavering, based as it is on the foundational values of upholding human rights, freedom and dignity as enshrined in the Constitution.



**OPTIONAL PROTOCOL TO THE CONVENTION AGAINST  
TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING  
TREATMENT OR PUNISHMENT**

**PREAMBLE**

*The States Parties to the present Protocol,*

*Reaffirming* that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

*Convinced* that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

*Recalling* that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

*Recognizing* that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

*Recalling* that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

*Recalling also* that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

*Convinced* that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

*Have agreed* as follows:

**PART I**

**General principles**

*Article 1*

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places



where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

#### *Article 2*

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

#### *Article 3*

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

#### *Article 4*

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.
2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.





**PART II**  
**Subcommittee on Prevention**

*Article 5*

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.
2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.
3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.
4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.
5. No two members of the Subcommittee on Prevention may be nationals of the same State.
6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

*Article 6*

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.
2. (a) The nominees shall have the nationality of a State Party to the present Protocol;  
(b) At least one of the two candidates shall have the nationality of the nominating State Party;  
(c) No more than two nationals of a State Party shall be nominated;  
(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.
3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.



#### *Article 7*

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

#### *Article 8*

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks



after having been informed by the Secretary-General of the United Nations of the proposed appointment.

*Article 9*

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

*Article 10*

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.
2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:
  - (a) Half the members plus one shall constitute a quorum;
  - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
  - (c) The Subcommittee on Prevention shall meet in camera.
3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

**PART III**

**Mandate of the Subcommittee on Prevention**

*Article 11*

The Subcommittee on Prevention shall:

- (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) In regard to the national preventive mechanisms:
  - (i) Advise and assist States Parties, when necessary, in their establishment;
  - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;



(iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

#### *Article 12*

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

(a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;

(b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;

(d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

#### *Article 13*

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the





Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

#### *Article 14*

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:

(a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

#### *Article 15*

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

#### *Article 16*

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.



2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

#### **PART IV**

#### **National preventive mechanisms**

##### *Article 17*

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

##### *Article 18*

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.



#### *Article 19*

The national preventive mechanisms shall be granted at a minimum the power:

(a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

(b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

(c) To submit proposals and observations concerning existing or draft legislation.

#### *Article 20*

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

(a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;

(e) The liberty to choose the places they want to visit and the persons they want to interview;

(f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

#### *Article 21*

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.



2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

*Article 22*

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

*Article 23*

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

**PART V**

**Declaration**

*Article 24*

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.
2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

**PART VI**

**Financial provisions**

*Article 25*

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.
2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

*Article 26*

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.





2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

## PART VII

### Final provisions

#### *Article 27*

1. The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

#### *Article 28*

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

#### *Article 29*

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

#### *Article 30*

No reservations shall be made to the present Protocol.

#### *Article 31*

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and



cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

*Article 32*

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

*Article 33*

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.
3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

*Article 34*

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.



2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

#### *Article 35*

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

#### *Article 36*

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

(a) Respect the laws and regulations of the visited State;

(b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

#### *Article 37*

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.



[illegible]





Provision for printing, publishing costs and other administrative disbursement													
Facilitating quarterly Steering Committee meeting													
Steering committee field visit to places of detention													
Convene workshops to develop monitoring indicators and reporting framework.													
Establishment and coordination of a SADC sub-regional Committee on the Prevention of Torture													
Preparation of periodical reports to the United Nations, Parliament and Government													
Training of policy makers on the NPM													
Visit of the SPT													

### 3. BUDGET

The following is an estimated budget for the activities set out above. Additionally, there is a need to make provision for funds for at least three (3) dedicated individuals to effectively assist with the coordination of the NPM activities.

Activity	Cost
Finalisation of the TOR and associated legal instruments to facilitate strengthening of SAHRC as the NPM	R25,000
Setting up the steering committee and developing of the TOR of the Committee	R25,000
Setting up working groups and developing of the TOR of the working groups	R25,000



Designing logo	R3,000
Developing and maintaining website	R40,000
Developing and setting up of a monitoring system	R200,000- R500,000
NPM Coordinator	R898, 000
NPM Researcher	R450, 000
Administrative support	R350, 000
Convening workshops to develop monitoring indicators and reporting framework	R50,000 – R100,000
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Preparation of periodical reports to the CAT, SPT and parliament	R25,000
Facilitation of quarterly Steering Committee meetings	R20,000
Training of policy makers on the NPM	R50,000
Communication with NPM members	R20,000
Establishment and coordination of a SADC sub-regional Committee on the Prevention of Torture	R1000 000
Project Management Cost	R25,000
Equipment and furniture	R50,000
Provision of printing	R100,000
<b>Total</b>	<b>R3 976,000.00</b>

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<sup>1</sup> Four per year.





**the doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

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Date: 04 January 2018

Mr V Madonsela, Esq.

The Director-General

Department of Justice and Constitutional Development

Private Bag X81

Pretoria

0001

Dear Mr Madonsela

Attention: M Lingwati

**RATIFICATION OF OPTIONAL PROTOCOL TO THE UN CONVENTION AGAINST  
TORTURE: YOUR E-MAIL DATED 27 OCTOBER 2017**

## **BACKGROUND**

1. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the United Nations Convention against Torture ("Convention"), is an international human rights treaty, under the review of the United Nations, that aims to prevent torture and other acts of cruel, inhuman or degrading treatment or punishment around the world.<sup>1</sup> The Convention requires states to take effective

<sup>1</sup> A copy of the Convention is attached for ease of reference.



measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured.

2. The text of the Convention was adopted by the United Nations General Assembly on 10 December 1984 and, following ratification by the 20th state party, it came into force on 26 June 1987. The Republic of South Africa acceded to the Convention on 10 December 1998. Since the Convention's entry into force, the absolute prohibition against torture and other acts of cruel, inhuman, or degrading treatment or punishment has become accepted as a principle of customary international law. As of August 2017, the Convention has 112 state parties.

3. The provisions of the Convention can be summarised as follows:

3.1 Part I (Articles 1–16) contains a definition of torture (Article 1), and commits parties to taking effective measures to prevent any act of torture in any territory under their jurisdiction (Article 2). These include ensuring that torture is a criminal offense under a party's municipal law (Article 4), establishing jurisdiction over acts of torture committed by or against a party's nationals (Article 5), ensuring that torture is an extraditable offense (Article 8), and establishing universal jurisdiction to try cases of torture, where an alleged torturer cannot be extradited (Article 5). Parties must promptly investigate any allegation of torture (Articles 12 and 13), and victims of torture, or their dependents in case victims died as a result of torture, must have an enforceable right to compensation (Article 14). Parties must also ban the use of evidence produced by torture in their courts (Article 15), and are barred from deporting, extraditing, or rerouting people where there are substantial grounds for believing they will be tortured (Article 3). Parties are required to train and educate, amongst others, their law enforcement personnel, civilians and public officials regarding the prohibition against torture (Article 10). Parties must also keep interrogation rules, instructions, methods, and practices under systematic review regarding individuals who are under custody or physical control in any territory under their jurisdiction, in order to prevent all acts of torture (Article 11). Parties are also obliged to prevent all acts of cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction, and to investigate any allegation of such treatment (Article 16).

3.2 Part II (Articles 17–24) governs reporting and monitoring of the Convention and the steps taken by the Parties to implement it. It establishes the Committee against Torture





(Article 17), and empowers it to investigate allegations of systematic torture (Article 20). It also establishes an optional dispute-resolution mechanism between parties (Article 21) and allows Parties to recognize the competence of the Committee to hear complaints from individuals about violations of the Convention by a Party (Article 22).

3.3 Part III (Articles 25–33) governs ratification, entry into force, and amendment of the Convention. It also includes an optional arbitration mechanism for disputes between Parties (Article 30).

4. The Department of Justice and Constitutional Development ("Department") now refers us to the Optional Protocol to the Convention ("OPCAT") and requests our opinion on the question whether it will be "desirable" to ratify the OPCAT.<sup>2</sup>

## DISCUSSION

### *Background*

5. The OPCAT<sup>3</sup> was the first international instrument to explicitly oblige states to establish bodies tasked with regular and unannounced visits to places of detention in order to prevent torture and ill-treatment. It also established the Sub-committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("SPT") to visit places of detention across the globe, in states that ratified the Protocol. Until then, the only comparable body was the European Committee for the Prevention of Torture ("CPT") in the Council of Europe region.

6. The OPCAT was groundbreaking as it sought to fill a gap and extend and strengthen detention monitoring by requiring state parties to establish their own National Preventive Mechanisms ("NPMs"). An NPM is an independent expert body (or bodies) tasked with monitoring places of detention through regular visits. To be compliant with OPCAT, the NPM must be independent and entitled to make unannounced and unhindered visits to every place in the country where people are deprived of their liberty. Their mandate also needs to include the competence to review existing and proposed legislation. NPMs should gather

<sup>2</sup> A copy of OPCAT is attached for ease of reference.

<sup>3</sup> Adopted by the UN General Assembly in December 2002, South Africa signed OCTA in 2006.



information during visits, analyse the legal and practical framework, query government and authorities, and recommend measures to reduce the risk of torture and ill-treatment.

7. The OPCAT explicitly enshrines the following preconditions for effective preventive monitoring:

- **Independence:** They need to be independent, financially and operationally. Members must not hold any positions that raise a conflict of interest.
- **Mandate:** They should regularly examine the treatment of persons deprived of their liberty, have the power to make recommendations to relevant authorities, and to comment on (draft) legislation.
- **Visits:** They should have access to all places where people are deprived of their liberty, without prior announcement and throughout the country. Visits should be undertaken frequently to ensure regular scrutiny.
- **Unlimited access:** They must have unlimited access to – and within – any place where people are deprived of their liberty. This includes access to information.
- **Private interviews and confidentiality:** The members of monitoring bodies must be able to conduct private interviews and protect information acquired from detainees on a confidential basis.
- **Professional team:** The members must have proven multi-professional experience. The team must include female members and have an ethnic and minority representation.
- **Protection against reprisals:** Detainees who speak to members of the monitoring mechanism must be protected from any form of sanction or reprisal as result of having done so.

8. The OPCAT entered into force on 22 June 2006 and, over the past decade, this global system of preventing torture and other forms of ill-treatment has enhanced cooperation and exchanges between governmental and non-governmental actors, NPMs and the UN, on improving the treatment of all detained persons.

#### *Consideration of OPCAT*

9. We have scrutinised the OPCAT in terms of paragraph 5.20(a) of the *Manual on Executive Acts of the President of the Republic of South Africa* and with reference to



*Chapter 5 of the Constitutional Handbook for Members of the Executive, the Constitution of the Republic of South Africa, 1996 ("Constitution"), and domestic law, such as the Prevention and Combating of Torture of Persons Act, 2013 (Act No. 13 of 2013).*

10. The provisions of OPCAT can be summarised as follows:

10.1 Part I (Articles 1-4) provides for the establishment of a UN SPT and NPMs, which shall undertake regular visits to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

10.2 Part II (Articles 5-10) provides for the composition and election of the SPT and the qualifications of members thereof.

10.3 Part III (Articles 11-16) sets out the mandate and powers of the SPT.

10.4 Part IV (Articles 17-23) sets out, *inter alia*, the powers of NPMs and the obligations of States Parties towards NPMs.

10.5 Part V (Article 24) provides that States Parties may, upon ratification, make a declaration postponing the implementation of the obligations under either Part III or Part IV of OPCAT.

10.6 Part VI (Articles 25-26) provides that the expenditure incurred by the SPT in the implementation of the OPCAT shall be borne by the United Nations.

10.7 Part VII (Articles 27-37) makes provision for final provisions, such as those pertaining to the entry into force, denouncement and amendment of the OPCAT.

11. Regarding the entry into force of the OPCAT, we wish to draw the Department's attention to section 231 of the Constitution which reads as follows:

"(1) The negotiating and signing of all international agreements is the responsibility of the national executive.



(2) An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3).

(3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the national executive, binds the Republic without approval by the National Assembly and the National Council of Provinces, but must be tabled in the Assembly and the Council within a reasonable time.

(4) Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament.

(5) The Republic is bound by international agreements which were binding on the Republic when this Constitution took effect.<sup>4</sup>

12. We now turn to the relevant provisions of section 231 of the Constitution which we have quoted in full above. The Department's attention is specifically drawn to section 231(3), which deals with international agreements of a technical, administrative or executive nature. According to Chapter 5 [par 5 on page 44] of the Handbook, technical, administrative and executive agreements are agreements which—

- (a) are departmental specific;
- (b) are of no major political or other significance;
- (c) have no financial consequences; and
- (d) do not affect domestic law.

13. These agreements flow from the everyday activities of government departments and are often drafted in a simplified form. However, since the Convention was *ratified* by Parliament on 10 December 1998, it follows that OPCAT should also be ratified by Parliament under section 231(2) of the Constitution. Furthermore, OPCAT also imposes various obligations on the Republic of South Africa and, in our opinion, legislation must be enacted to give effect to these obligations.<sup>4</sup> In view of the aforesaid, we are consequently of the opinion that OPCAT is an international agreement, as contemplated in section 231(2) of the Constitution. However, it falls within the mandate of the Office of the Chief State Law Adviser (International Law) to make a final determination in this regard.

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<sup>4</sup> In this regard, it should be noted that the Prevention and Combating of Torture of Persons Act, 2013 (Act No. 13 of 2013) was enacted to give effect to the Republic's obligations under the Convention.



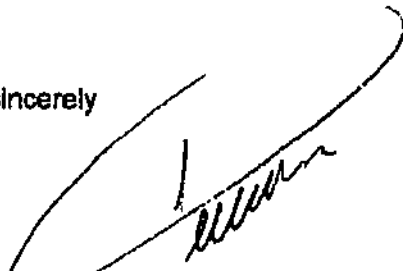


**CONCLUSION**

14. In view of our comments in paragraphs 5 to 8, there can be little doubt that the OPCAT supplements CAT and provides for effective preventative monitoring of prisoners. We therefore recommend that the Republic of South Africa ratifies the OPCAT.

15. We are also satisfied that the OPCAT is not in conflict with the domestic law of the Republic of South Africa.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P Pienaar', is written over a large, sweeping, curved line that starts under 'Yours sincerely' and extends to the right.

**For the OFFICE OF THE CHIEF STATE LAW ADVISER  
P PIENAAR// H MEKWA// A JOHAAR**





## international relations & cooperation

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International Relations and Cooperation  
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18scholtzc061102

File: 10/16/11/1

RO 103/2018

Ms N Giralt  
Route: giralt@n

### RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

1. Your request for legal advice under reference number 18/1/4/UN/CAT refers.
2. This Office previously provided a legal opinion, dated 15 December 2003, on the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* ("the Protocol") (ref. **RO459/2003**).
3. Given the lapse of time, we have again scrutinised the Protocol from an international law perspective and wish to confirm the advice provided in **RO459/2003** that the Protocol is acceptable from an international law point of view and not in conflict with South Africa's international law obligations. We also wish to make the following comments:
4. In terms of Article 27, a state wishing to become a party to the Protocol, must also be or be a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention"). According to the South African Treaty Register, South Africa became a party to the Convention on 9 January 1999. South Africa also signed the Protocol on 20 September 2006.

#### Ratification

5. Since the Protocol is subject to ratification or accession, it falls within the ambit of section 231(2) of the Constitution of the Republic of South Africa, 1996, requiring parliamentary approval for ratification. The Protocol potentially also requires enactment of domestic legislation, which *a fortiori* would bring it under the ambit of section 231(2).

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**Batho Pele – putting people first**



Parliament's approval therefore needs to be obtained before the Protocol can be ratified.

6. Both the National Assembly and the National Council of Provinces needs to approve the Protocol before it can be ratified. In order to obtain Parliamentary approval, the line function department must take the following steps:
  - 6.1. The line function department must prepare a Cabinet Memorandum. The various Cabinet Committees may have their own requirements for the format of Cabinet Memoranda. The usual headings required are: Subject; Purpose; Summary; Discussion; Organisational and Personnel Implications; Financial Implications; Communication Implications; Constitutional Implications; Other Departments/Bodies consulted; and Recommendations.
  - 6.2. The Protocol must be submitted to Parliament (both the National Assembly and National Council of Provinces) with an explanatory memorandum and the legal opinions from the State Law Advisers of both DOJCD and DIRCO. The explanatory memorandum must contain the following information:
    - the history, objectives and implications of the Protocol;
    - the projected financial and other costs of the Protocol;
    - whether the Protocol contains any self-executing provisions in terms of section 231(4) of the Constitution; and
    - all other information needed to take an informed decision.
7. Once Parliament's approval of the Protocol has been obtained, the Protocol can be ratified by depositing an Instrument of Ratification with the Depository. In this regard, the steps required are as follows:
  - 7.1. The Line Function Department must prepare the Instrument of Ratification and submit it to the South African Treaty Section at DIRCO;
  - 7.2. The Minister of International Relations and Cooperation or the President must sign the Instrument; and
  - 7.3. DIRCO will deposit the Instrument with the Depository through the diplomatic channel.
8. Finally, the Protocol must be deposited with the Treaty Section at DIRCO. Copies of the following documents are required:
  - a certified copy of the Protocol;
  - President's Minute;
  - Parliamentary approval; and
  - a copy of the signed Instrument of Ratification/Acceptance/Approval/Accession.

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### Reservations and Declarations

9. The line department is further advised that Article 30 prohibits states from making Reservations to the Protocol.

### Domestic legislation

10. The line department must ensure that any national legislation which may be required for the implementation of the Protocol is in place by the time the Protocol is ratified, otherwise the Protocol's eventual entry into force could place South Africa in breach of its international law obligations.<sup>1</sup>

### Privileges and immunities

11. The line department's attention is further drawn to Article 35 of the Protocol, which provides that "Members of ... the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions." In order to give effect to this provision, the requirements set out in section 7(1) of the Diplomatic Immunities and Privileges Act 37 of 2001 needs to be followed:

#### **"7. Conferment of immunities and privileges**

- (1) Any agreement whereby immunities and privileges are conferred to any person or organisation in terms of this Act must be published by notice in the [Government] Gazette."
12. The line department is invited to contact Ms Rika van der Walt of the South African Treaty Section at 012 351 0872 for assistance in this regard.

### Legal Privilege and Confidentiality

13. Kindly be reminded that this communication constitutes legal advice that is legally privileged and confidential. It is intended solely for the consumption of the client, desk or Department, and may not be freely disclosed to any third party, foreign State or international organisation without the express consent of the client, after taking legal advice from Departmental legal advisers. In the event that the client releases this opinion to a party that is legally entitled to it (e.g. auditors) the third party must be informed that they are under a legal obligation to maintain the confidentiality and legal privilege of the legal opinion, and also implement measures that will prevent unauthorised disclosure of the legal opinion.
14. We trust that our comments will be of assistance to you.

**CORNELIUS SCHOLTZ**  
STATE LAW ADVISER (IL)

**11 JUNE 2018**  
**PRETORIA**

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<sup>1</sup> A Aust (2007) *Modern Treaty Law and Practice* (2<sup>nd</sup> ed.), p. 103.

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## D

- Establish the NPM coordination within the SAHRC;
- Finalisation of Terms of Reference (TOR) and associated legal instruments to facilitate strengthening of SAHRC as the NPM;
- Establishment of a Steering Committee and development of TOR of Committee;
- Convene workshops to develop monitoring indicators and reporting framework;
- Facilitating quarterly Steering Committee meeting;
- Training of policy makers on the NPM;
- Steering committee field visits to places of detention;
- Establishment and coordination of a SADC sub-regional Committee on the Prevention of Torture;
- Preparation of periodical reports to the United Nations, Parliament and Government; and
- Visit of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("SPT").

The envisaged plan of the NPM for 2019 would be as follows:

[illegible]



Provision for printing, publishing costs and other administrative disbursement													
Facilitating quarterly Steering Committee meeting													
Steering committee field visit to places of detention													
Convene workshops to develop monitoring indicators and reporting framework.													
Establishment and coordination of a SADC sub-regional Committee on the Prevention of Torture													
Preparation of periodical reports to the United Nations, Parliament and Government													
Training of policy makers on the NPM													
Visit of the SPT													

### 3. BUDGET

The following is an estimated budget for the activities set out above. Additionally, there is a need to make provision for funds for at least three (3) dedicated individuals to effectively assist with the coordination of the NPM activities.

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Setting up working groups and developing of the TOR of the working groups	R25,000



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Developing and maintaining website	R40,000
Developing and setting up of a monitoring system	R200,000- R500,000
NPM Coordinator	R898, 000
NPM Researcher	R450, 000
Administrative support	R350, 000
Convening workshops to develop monitoring indicators and reporting framework	R50,000 – R100,000
Steering Committee visit to places of detention <sup>1</sup>	R270,000
Preparation of periodical reports to the CAT, SPT and parliament	R25,000
Facilitation of quarterly Steering Committee meetings	R20,000
Training of policy makers on the NPM	R50,000
Communication with NPM members	R20,000
Establishment and coordination of a SADC sub-regional Committee on the Prevention of Torture	R1000 000
Project Management Cost	R25,000
Equipment and furniture	R50,000
Provision of printing	R100,000
<b>Total</b>	<b>R3 976,000.00</b>

---

<sup>1</sup> Four per year.

