



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

New Zealand

Updated 06.06.2018

OPCAT status

OPCAT Ratification : March 14, 2007

UNCAT Ratification : December 10, 1989

NPM Designated :

5 different bodies coordinated by the [Human Rights Commission](#) (central NPM), and including the [Office of the Ombudsman](#), the [Independent Police Conduct Authority](#), the [Office of the Children's Commissioner](#) and the Inspector of Service Penal Establishments of the Office of the Judge Advocate General of the Armed Forces.

NPM Type :

Multiple Institutions

NPM Legal Framework :

[Crime of Torture Amendment Bill](#) and its section on torture prevention (Part 2 of the consolidated version of the Crimes of Torture Act [Torture prevention section](#))

 **Information**



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

Quick Links

SPT: Visit (29 April to 8 May 2013). [Press release](#) (May 2013).

Communication to the SPT: [Official Correspondence](#) from New Zealand

CAT: [Concluding Observations](#) (May 2009)

UPR: [Report of the Working Group](#) (May 2009)

HRC: [Concluding Observations](#) (March 2010)

OPCAT Situation

New Zealand ratified the OPCAT in 2007 and designated five existing institutions as its NPM through the Crime of Torture Amendment Bill. The New Zealand NPM has been operational since then, with one of the designated institutions acting as NPM coordinator: the Human Rights Commission.

Each designated institution has a specific thematic mandate under the OPCAT. In common with other designated NPMs, they face some operational challenges including a lack of additional human and financial resources granted to the specific institutions to perform their new functions under the OPCAT.

The SPT conducted a visit to New Zealand from 29 April to 8 May 2013. The report has been made public.



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

The SPT member June C. Pagaduan Lopez is the SPT Focal Point for New Zealand.

NPM Designation

NPM Designated

Five existing institutions were formally designated as New Zealand NPM in June 2007. The implementing legislation also allows for the establishment of new mechanisms, under the coordination of the central NPM.

- **New Zealand Human Rights Commission (Central NPM)**

The Commission has a variety of functions under the wider mandate of human rights promotion in New Zealand and operates independently. As an NPM, it undertakes a central role: it coordinates all NPM activities and identifies cross-cutting issues.

- **Office of the Ombudsmen**

It has the mandate to visit prisons, immigration detention facilities, health and disability places of detention, and, overlapping with the Office of the Children's Commissioner, youth justice residences.

- **Independent Police Conduct Authority (IPCA)**

It is a civilian oversight body. The mandate of the PCA was extended by the Crime of Torture Amendment Bill. Under this Bill, it can monitor the treatment of persons in the custody of the police, in addition to its existing complaints and investigations role.

- **Office of the Children's Commissioner**



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

It is an independent body appointed by the Governor-General. As an NPM, it monitors all places where minors are kept in juvenile detention facilities. Its mandate overlaps with the Office of the Ombudsmen.

- **Inspector of Service Penal Establishments**

The Inspector visits Defence Force Service Custody and Service Corrective Establishments. This represents a significant development, as providing for the first time regular external monitoring of Defence Force detention facilities.

Process

2006-2007

In May 2006, the APT provided written submissions to the Committee on Foreign Affairs, Defence and Trade of the New Zealand Parliament in which it raised specific concerns in relation to the proposed NPM model.

In June 2007, the Minister of Justice formally designated, by law, five existing institutions as the New Zealand NPM.

NPM Internal Organisation

The Human Rights Commission was designated as the NPM coordinating body by the Crimes of Torture Act 1989. The coordinating role includes:

- Publishing of the NPM annual report
- Coordinating NPM policies and procedures
- Maintaining an online workspace for NPM institutions to share information
- Convening regular meetings of the NPM
- Assisting with NPM monitoring
- Organising training activities
- Liaising with the SPT



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

The New Zealand Human Rights Commission works with the NPMs to identify systemic issues, as well as any potential gaps in the monitoring system. As the Central NPM, the Human Rights Commission does not carry out any visit to places of detention, nor accompany the other NPMs in their monitoring activities.

The institutions comprising the New Zealand NPM have designated specific persons or departments for OPCAT purposes.

NPM Resources

Human Resources

As far as the APT is aware, the majority of the staff appointed to carry out the NPM functions is also assuming other functions within their institutions.

- **Human Rights Commission**

The Commissioners are appointed by the Governor-General, following advice of the Minister of Justice, and they serve a five-year term. One staff member is in charge of facilitating the coordination of the NPM activities, amongst other tasks. The NPM Coordinator is based in Auckland.

- **Independent Police Conduct Authority**

Following its designation as NPM, the Independent Police Conduct Authority legislation was amended to comply with the OPCAT requirements. The Independent Police Conduct Authority Act was passed and the composition of the Authority changed from one person to a board of five members, comprising legal experts and lay people. However, following the examination of the New Zealand report by the Committee against Torture in May 2009, the impartiality of



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

the Authority was questioned as it included both current and former police officers. The CAT recommended staffing the IPCA with experts drawn from outside the Police

- **Inspector of Service Penal Establishments**

Changes were brought to the Inspector of Service Penal Establishment, giving the NPM mandate to the Registrar of Court Martials under the Court Martial Act 2007. The Inspector has no staff, but has the capacity to second additional personnel if required.

- **Office of the Ombudsmen**

Two “Inspectors – Crime of Torture Act” were initially appointed by the Ombudsman to carry out OPCAT related work (one man and one woman). The first one is based in Christchurch while the second one is based in Wellington. This number was increased to four in 2015.

- **Office of the Children's Commissioner**

Due to budget constraints, no staff is dedicated solely to the NPM activities within the Office.

Financial Resources

Little or no additional funding was granted to the institutions to carry out the NPM role. Although the NPMs have been operating within the available resources, the lack of funding remains an ongoing concern. One of the most pressing issues is staffing, in particular for the OCC, IPCA and the Ombudsman’s Office, in order to cover all places of detention.

Reports and Recommendations

Visits Reports



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

Each institution writes its own visit report following a visit to a place of detention.

Visit reports are shared with the relevant authorities. Depending on the institution, those reports may not be made public and shared with the Central NPM or other institutions comprising the New Zealand NPM. For instance, the APT is aware that the Office of the Ombudsmen has the practice of not publishing and sharing with external institutions its reports: therefore, they apply the same practice while carrying out the NPM tasks.

- **Independent Police Conduct Authority**

Every NPM visit is followed by an official inspection report, which includes recommendations and timelines for implementation and review.

A separate domain was established within the IPCA's database, which acts as an information forum in which cell visit inspection reports are stored. This domain facilitates the follow-up of recommendations and the identification of trends.

- **Children's Commissioner**

Comprehensive reports on juvenile residences are completed after each visit. The Children's Commissioner refers reports and findings to the Chief Ombudsman for input, including recommendations they wish to make.

- **Office of the Ombudsman**

The Ombudsman makes recommendations only when remedial action is required. The Ombudsman records also “housekeeping points” and “good practices”, the former being instances where action is desirable but not essential.

Thematic Reports



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

Thematic reports are also compiled by the New Zealand NPM. A *Joint Thematic Review of Young Persons in Police Detention* was launched in October 2012, in cooperation with the Office of the Children's Commissioner and the Human Rights Commission.

In 2017, the Ombuds Institution published a thematic [report](#) on the use of restraints on prisoners at risk of suicide and self harm.

Annual Reports

The New Zealand Human Rights Commission publishes annual reports on NPM-related work, on behalf of all five institutions comprising the NPM. The annual report is more of an informative nature rather than a comprehensive analysis of issues which need to be addressed.

[NPM report 2014-2015](#)

[NPM report 2013-2014](#)

[NPM report 2012-2013](#)

[NPM report 2011-2012](#)

[NPM report 2010-2011](#)

In addition, all bodies which comprise the NPM report on OPCAT-related work in their respective reports, which all come out at the same time.

Balance and Results

In July 2012, the New Zealand NPM published a review of the first five years of



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

NPM operations (2007-2012), highlighting the achievements, challenges, good practices and issues going forward: resources; publication of visit reports; increased engagement with civil society; increased level of expertise within the NPM; improving how the NPM works.

[NPM five year review 2007-2012](#)