



South African Coalition for Transitional Justice

Reg no: 297-873 NPO | www.sactj.org.za

203 Community House, 41, Salt River Road,
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SACTJ NPM WEBINAR OF 15 SEPTEMBER 2026 REPORT

Understanding the NPM, Reflecting on the Current Model and Strengthening Collaboration for Torture Prevention

This hybrid webinar was convened against the background of continuing concerns about torture and ill-treatment in places of deprivation of liberty in South Africa, and ongoing debate about the institutional design and effectiveness of the country's National Preventive Mechanism (NPM). The SACTJ has had a long-term interest in these matters and released a Memorandum on these matters in 2021.

SACTJ convened the webinar to promote public awareness and understanding of South Africa's NPM following the redesignation of the South African Human Rights Commission (SAHRC) as the sole NPM in December 2024. The webinar aimed to examine whether the current NPM architecture effectively fulfils South Africa's obligations under OPCAT, draw lessons from international models, discuss the role of oversight institutions in strengthening torture prevention, and propose recommendations to improve torture prevention, accountability and collaboration.

Speakers included representatives of the United Nations Subcommittee on Prevention of Torture (SPT), the SAHRC's NPM Unit, the Judicial Inspectorate for Correctional Services (JICS), the Health Ombud and SACTJ. The discussion showed agreement on the need for an effective, independent and adequately resourced NPM, and offered many constructive ideas for improving the current architecture. The report concludes with concrete recommendations.

KEY CONTRIBUTIONS OF SPEAKERS

Ms Barbara Bernath of the SPT explained the role of the SPT as the operational treaty body established under OPCAT. She highlighted the preventive nature of OPCAT, which requires regular visits to places where people are deprived of their liberty to identify to identify and address risks before torture or ill-treatment occurs.

Ms Bernath emphasised that OPCAT does not prescribe a single institutional model for NPMs and presented three global NPM models: the designation of an existing National Human Rights Institution, the creation of a new and dedicated institution, and a multi-institutional NPM. Regarding the criteria for effectiveness, she emphasised functional independence, appropriate composition and expertise, adequate financial and human resources, unrestricted access to places of detention including unannounced visits and private interviews, and cooperation among stakeholders, oversight bodies, civil society and NPMs. Her contribution provided a framework for assessing the South African NPM in terms of its institutional designation and its compliance with the substantive requirements of an effective preventive mechanism. Ms Bernath supported greater transparency concerning the SPT's engagement with South Africa, including the release of the confidential SPT report from its 2023 visit.

Dr Kwanele Pakati, head of the NPM Unit at the SAHRC, outlined the evolution of South Africa's NPM from the cooperative model designated in 2019, informed by domestic

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discussions and study visits to the United Kingdom and Poland, to the redesignation by Cabinet of the SAHRC as the sole NPM in 2024. He said that the SPT's concerns about the independence of constituent institutions in the cooperative model were a factor in the redesignation. Dr Pakati outlined initiatives to rationalise overlapping mandates, strengthen cooperation and governance, and establish a consolidated recommendations database. He highlighted ongoing challenges such as the absence of a legislative framework and dedicated resources.

He explained that a consolidated database or matrix will capture recommendations made by oversight bodies to analyse recurring issues, improve reporting and monitor responses to recommendations. The NPM has engaged the Department of Justice and Constitutional Development concerning the development of an appropriate legislative framework with safeguards relating to cooperation and access to places of deprivation of liberty.

Dr Pakati extended an invitation to civil society organisations involved in torture prevention to participate in the planned NPM Civil Society Forum. He emphasised that the NPM should not primarily function as an investigative body because OPCAT is based on preventive monitoring rather than investigation and punishment.

Professor Jeremy Sarkin, representing SACTJ, argued that South Africa requires a stand-alone, independent and multi-stakeholder NPM, capable of drawing on the full range of specialised expertise available within the country's existing oversight architecture. SACTJ's position is grounded in the view that South Africa has a diverse detention landscape, encompassing prisons, police cells, military facilities, psychiatric and healthcare institutions, child and youth care facilities, immigration detention and other places where people are deprived of their liberty. The key issue is that no single institution possesses the specialised expertise, operational reach and institutional knowledge required to monitor all of these environments effectively. They will also play a more cooperative role if they are part of the process as well as making the process more legitimate and trustworthy.

The multi-stakeholder NPM should be established through dedicated legislation, with its own budget, staff and executive leadership. He emphasised that the diversity of detention environments in South Africa requires access to specialised expertise and that joint inspections and monitoring visits involving different areas of expertise could help identify systemic risks and reduce institutional blind spots, and strengthen the credibility and effectiveness of preventive monitoring. The SACTJ model emphasises that civil society should have a structured and meaningful role in the NPM architecture and its work. Professor Sarkin emphasised that recommendations must lead to measurable change. As such, the NPM should have a mechanism for tracking recommendations and monitoring implementation. Professor Sarkin questioned whether NPM recommendations should have stronger legal effect than the currently non-binding recommendations of the SAHRC. The possibility of establishing the NPM as a Chapter 9 institution was raised as one potential means of securing institutional independence. However, a standalone institution

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could have its independence secured through legislation.

Mr Vick Misser, CEO of the Judicial Inspectorate for Correctional Services (JICS), similarly supported a coordinated multi-institutional approach, arguing that the different detention environments in South Africa require different areas of specialised expertise. His proposal envisaged the SAHRC retaining the role of national coordinator, while JICS, the Independent Police Investigative Directorate (IPID), the Military Ombud and the Health Ombud would exercise specialised monitoring functions within their respective areas of expertise, supported by a joint steering committee. The SAHRC would be responsible for national coordination, human rights oversight and reporting, while a joint steering committee would provide common standards, joint inspections, integrated reporting, data-sharing, coordinated recommendations, and collective engagement with Parliament.

Mr Misser argued that the solution to independence concerns should be institutional strengthening, not institutional exclusion. He proposed legislative reforms to strengthen the independence of existing oversight institutions while preserving the specialised expertise they have developed. He also stressed the importance of sustainable and ring-fenced funding.

Health Ombud, **Professor Taole Mokoena**, argued that the current NPM structure does not adequately represent the diverse settings in which people may be deprived of liberty and that no single institution has sufficient capacity to monitor all such environments effectively. He emphasised the need for legislation to underpin the NPM, clarify institutional mandates, secure funding, provide indemnity for those participating in NPM work, ensure publication of findings and recommendations, and establish mechanisms for addressing failures to implement recommendations. Professor Mokoena highlighted significant resource constraints within the Health Ombud, and a substantial backlog of complaints. He explained that work to revive an independent Health Ombud through legislation was underway, with engagement involving Parliament and the Department of Health.

Ms Shirley Gunn thanked the speakers and reiterated SACTJ's commitment to preventing torture and to advocating for an effective South African NPM framework. She reiterated that preventing torture should not be the responsibility of a single institution and that an effective NPM requires the participation of the range of institutions and stakeholders with relevant expertise. She emphasised the importance of maintaining open public engagement on the future of the NPM with all relevant stakeholders able to contribute meaningfully to the discussion, and that the webinar report will be available on SACTJ's website.

RECOMMENDATIONS

A call for transparency: The SPT's report of its 2023 visit to South Africa must be released by the South African government. The SPT supports this. NPM reports, findings and

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recommendations should be made available promptly to the public for institutional learning, accountability and public awareness.

Release of research reports: Research undertaken by the NPM must be publicly accessible.

Review the current sole-NPM designation: A consultative review should be undertaken of the current sole-NPM model to assess whether it is delivering the level of coverage, expertise, independence and effectiveness required under OPCAT. The evidence-based review should consider the current model and lessons from the previous cooperative model.

Develop dedicated NPM legislation through wide consultation: South Africa should develop legislation regulating the NPM to address mandate and functions; institutional composition; independence; funding; staffing; unrestricted access; unannounced visits; private interviews; information access; reporting; publication of findings; recommendation follow-up; civil society participation; indemnity and protections for NPM personnel and participants; and consequences for non-compliance. It should be flexible to incorporate different designations while the current architecture is reviewed.

Strengthen the independence of participating oversight institutions: The functional, operational and financial independence of all institutions that could form part of the NPM architecture must be strengthened through legislative and institutional reform.

Establish sustainable and ring-fenced funding: Preventive monitoring must have dedicated funding to enable regular monitoring across all relevant places of deprivation of liberty.

Develop joint monitoring and inspection mechanisms: The NPM must establish mechanisms for joint inspections, monitoring methodologies, information-sharing, reporting and coordinated follow-up to allow specialised institutions to contribute their expertise while maintaining NPM standards.

Establish a central recommendations-tracking mechanism: The NPM's proposed matrix or database should be developed as a transparent and effective follow-up mechanism that records recommendations made, the responsible institution, responses received, implementation status, outstanding recommendations, and recurring systemic concerns.

Strengthen civil society participation: A structured framework must be developed for meaningful and ongoing civil society participation in NPM work that includes joint monitoring visits, thematic investigations and research, thematic working groups, early-warning reporting, evidence and information sharing, and verification of implementation.

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Regular and meaningful engagement is.

Establish an NPM-CSO accountability mechanism: Civil society and the NPM should develop a formalised mechanism which includes regular engagement through which CSOs can assist with inspections and visits and monitor whether recommendations are implemented and result in measurable change.

Address sexual violence and other systemic risks: The NPM legislation and monitoring framework should provide for the identification, reporting and follow-up of sexual violence and other serious forms of ill-treatment in places of deprivation of liberty.

Maintain an open discussion on the future of the NPM: Discussion about the NPM architecture must continue among the NPM, relevant stakeholders, government departments, institutions, Parliament, persons with lived experience, and international and regional torture-prevention bodies, to ensure the best model is adopted for South Africa.

CONCLUSION

The webinar provided a platform for an open and substantive discussion about South Africa's NPM architecture and highlighted a central question: how can the South African NPM be structured so that it has sufficient independence, expertise, resources, reach and authority to effectively prevent torture and ill-treatment across the country's diverse places of deprivation of liberty? Recognising significant common ground, the webinar demonstrated that different institutional perspectives exist and should form part of ongoing discussion. The next phase should focus on translating the discussion into practical institutional, legislative and policy reform, while ensuring that civil society, oversight bodies, government, Parliament and the NPM remain engaged in an open process.

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