



Specific techniques of interviewing members of vulnerable groups – PERSONS WITH PSYCHO-SOCIAL DISABILITIES –

Methodological tool for carrying out the tasks of the national preventive mechanism

According to Article 19 of OPCAT,¹ national preventive mechanisms should regularly examine the treatment of persons deprived of their liberty, who are held at a place of detention specified in Article 4 of OPCAT (e.g. in prisons, hospitals, schools, institutions involved in the care of children, the aged, the mentally ill or the disabled),² in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The main task in the preventive work of the NPM is to visit places of detention, during which an essential source of information is provided by the personal meetings with the persons deprived of their liberty, and interviewing them about their situation.

Although people deprived from their liberty may be considered as vulnerable in general, some groups, due to certain factors and/or circumstances, are exposed to particular vulnerability, such as women, juveniles, members of minority groups, foreign nationals, persons with disabilities, and members of sexual minorities.³ A combination of risk factors (intersectionality) may lead to aggravated vulnerability, and it can result in experiencing torture and ill-treatment in distinct ways.⁴

Those factors and circumstances which may render a person vulnerable may also affect communication, which needs to be considered during the preparation and conduction of monitoring visits.

Based on the exchange of views and experiences between the participants of the international workshop entitled “Interview techniques with vulnerable groups” organized by the Hungarian NPM on 29-30 September 2021, monitoring visits of NPMs in places of detention where persons in vulnerable situation are concerned should meet the following criteria:

1. Before the visit:

- careful planning and preparation;
- involvement of experts by experiment (at every stage of the monitoring process);
- composition of the visiting team (size, gender, age, professional training – multidisciplinary);

2. During the visit; interview techniques:

- “do no harm”;
- provide information to the interviewee;
- empathy;
- trauma-informed approach;
- adequate time;
- confidentiality;
- avoid labelling, generalization, prejudice;
- adequate language and terminology;
- maintain good body language;
- thorough information gathering, cross-check, triangulation;
- feedback;

3. After the visit:

- emphasis on prohibition of reprisals;
- special attention to the content and structure of the report; taking into account international human rights standards;
- follow-up;
- importance of training and sensitization;
- contact with the stakeholders (*SPT, CPT, NPM, Network, experts*).

Interviewing persons with psycho-social disabilities⁵

People with psycho-social disabilities are often viewed with pity or fear, which leads to stigmatization and discrimination, and ultimately the violation of their human rights. Persons with psycho-social disabilities deprived of their liberty, due to isolation, subordination and the lack of control over their own lives, are in a situation of particular vulnerability.

According to Article 4 of the Convention on the Rights of Persons with Disabilities (CRPD), state parties have to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind. Accordingly, persons deprived of their liberty also enjoy the rights set out in CRPD. One of the general principles of CRPD is full and effective participation and inclusion in society [Article 3 (c)]. The existence of a disability shall in no case justify a deprivation of liberty [Article 14 (b)].

Core principles of monitoring institutions:

1. Do No Harm

- prevention of reprisals:
 - o interview as many people as possible:
 - speak to those in the most restrictive circumstances (e.g. isolation rooms, segregation cells);
 - speak to those experiencing physical or chemical restraint;
 - speak with newly admitted persons;
 - speak with those who have been resident in the institution for the longest period of time;
 - be sure to take a gender-sensitive and age-sensitive approach;
 - be prepared to speak with people who use alternative forms of communication.
 - o make sure not to reveal identifying information in the report;
 - o leave your contact details in case of punishments following a monitoring visit;
- ensure that the process of the interview is not damaging for the interviewee.

2. Carry out monitoring regularly (repeated visits and systematic follow-up)

3. Demonstrate your independence (from the institution, from the government)

4. Build a credible team

- adequate composition of the visiting team (experts by experience; health care practitioner; expert on human rights law);
- adequate preparation, training.

5. Collect reliable information (triangulation – gathering information using a variety of sources)

6. Adopt an inquisitive mindset (reveal details, inconsistencies)

7. Store information securely (prevent accidental disclosure of e.g. names and contact details).

Conducting interviews – some practical considerations:

- Ensure you thoroughly introduce yourself, your independence, and your role.
- Start with open questions, use closed or focused questions to clarify information.
- Consider the effects of psychiatric medication.
- Maintain dignity: do not place emphasis on diagnosis or ‘mental illness’
- Explain confidentiality clearly and comprehensively.
- Avoid having staff or other residents present during the interview.
- Instead of continuous note-taking, really listen.
- Explain the limitations of your work; do not offer help unless you can actually do something.
- Respect the decisions of interviewees and ensure you have gained their direct consent; not just that of their guardians!
- Supplement the information with your observations (time of the day, what the staff are doing, whether there are any physical signs of mistreatment).

International legal standards concerning persons with psycho-social disabilities deprived of their liberty⁶

- [UN Convention on the Rights of Persons with Disabilities](#)
- [Guidelines on article 14, The right to liberty and security of persons with disabilities; UN Committee on the Rights of Persons with Disabilities; September 2015](#)
- [United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\) General Assembly resolution 70/175, annex, adopted on 17 December 2015](#)
- [Committee on the Rights of Persons with Disabilities General comment No. 5 \(2017\) on living independently and being included in the community \(CRPD/C/GC/5\)](#)
- [Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment \(A/63/175\); 28 July 2008](#)
- [Recommendation CM/Rec\(2009\)3 of the Committee of Ministers to member states on monitoring the protection of human rights and dignity of persons with mental disorder](#)
- [Recommendation CM/Rec\(2010\)2 of the Committee of Ministers to member states on deinstitutionalisation and community living of children with disabilities](#)
- [Detainees with disabilities in Europe, Parliamentary Assembly of the Council of Europe, Resolution 2223 \(2018\)](#)
- [European Court of Human Rights Factsheet – Detention and mental health, March 2020.](#)
- [European Court of Human Rights Factsheet – Prisoners’ health-related rights, July 2020.](#)
- [Prison systems and conditions, European Parliament Resolution of 5 October 2017 on prison systems and conditions \[2015/2016\(INI\)\], P8TA\(2017\)0385\]](#)
- [Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings, OJ C 378, 24.12.2013](#)

Further reading related to interviewing persons with psycho-social disabilities

- [Chapter 11 – Interviewing. OHCHR: Manual on human rights monitoring. Professional Training Series No 7. New York ; Geneva: UN, 2011 \(HR/P/PT/7/Rev.1\)](#)
- [Krassimir Kanev: Prisoners in a situation of vulnerability – A Handbook for National Preventive Mechanisms \(2021\)](#)
- [MDAC, GIP, LIGA, ACT: The CHARM Toolkit - The Child Human Rights Abuse Removal Monitoring Toolkit. 2017.](#)
- [The Institutional Treatment, Human Rights and Care Assessment \(ITHACA\) Toolkit. A comprehensive human-rights based approach to monitoring in mental health and social care settings](#)
- [Principles on Effective Interviewing for Investigations and Information Gathering, May 2021.](#)

References

¹ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>

² UN Committee Against Torture, General Comment No. 2, CAT/C/GC/2 par 15. <https://undocs.org/en/CAT/C/GC/2>

³ SPT: The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the OPCAT CAT/OP/12/6, par 5(j) <https://undocs.org/en/CAT/OP/12/6>

and Report of the UN Special Rapporteur on torture (2016) A/HRC/31/57. <https://undocs.org/en/A/HRC/31/57>

⁴ CAT General Comment No 2, par. 22.; Report of the UN Special Rapporteur on torture (2016) A/HRC/31/57, par. 9.

⁵ Based on the following sources:

Krassimir Kanev: Prisoners in a situation of vulnerability – A Handbook for National Preventive Mechanisms (2021) https://bim.lbg.ac.at/sites/files/bim/attachments/handbook_-_prisoners_in_a_situation_of_vulnerability_-_bhc.pdf

The Institutional Treatment, Human Rights and Care Assessment (ITHACA) Toolkit. A comprehensive human-rights based approach to monitoring in mental health and social care settings

https://www.mdac.org/sites/mdac.info/files/ithaca_toolkit_english.pdf

and information shared on the international workshop entitled “Interview techniques with vulnerable groups” organized by the Hungarian NPM on 29-30 September 2021, with special regard to the presentation of Steven Allen, co-executive director of Validity Foundation

⁶ Based on the collection of the APT: <https://www.apt.ch/en/knowledge-hub/detention-focus-database/groups-situations-vulnerability/persons-disabilities>, and the list on page 42 of Krassimir Kanev: Prisoners in a situation of vulnerability – A Handbook for National Preventive Mechanisms (2021) https://bim.lbg.ac.at/sites/files/bim/attachments/handbook_-_prisoners_in_a_situation_of_vulnerability_-_bhc.pdf