

# Monitoring of prison management in selected places

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## 1. Introduction

1.1 In Hong Kong, prisoners with grievances about improper treatment can lodge complaints through major channels like (a) Correctional Services Department ("CSD"); (b) visiting Justices of the Peace ("JP"); and (c) the Ombudsman. However, **as most of these complaints are referred back to CSD for further investigation, there are concerns that the entire handling mechanism is rather "internal"**. In the absence of open and transparent investigation procedures, there are public doubts whether the complaints can be handled in a fair and impartial manner. Reportedly, prisoners distrust the complaints handling system and fear retribution. Against this backdrop, there are calls for **setting up a dedicated and independent institution to monitor prison management and oversee prisoners' complaints in Hong Kong**, in line with the best global practice.

1.2 At the request of Hon SHIU Ka-chun, the Research Office has completed a research task on monitoring of prison conditions and complaints handling in five selected places with generally good practices. These selected places are Canada, Ireland, New Zealand, the Netherlands and Norway. The relevant documents are organized into an information pack folder, with key features highlighted below.

## 2. Global standards on prison monitoring

2.1 In 1955, the United Nations ("UN") announced the **Standard Minimum Rules for the Treatment of Prisoners** with a view to safeguarding prisoners' rights, followed by major revisions in 2015. On top of "internal or administrative inspections", it highlights the need of "external inspections conducted by a body independent of the prison administration" for maintaining a transparent system. In addition, the UN launched the **Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("OPCAT")** in 2002, suggesting the establishment of an independent body responsible for oversight of prisons through regular in-depth visits. As end-2018, some 88 member states were signatory parties to OPCAT. Yet OPCAT does not apply to Hong Kong, as China is not a signatory party.



### 3. Monitoring of prison management in selected places

3.1 **All of the selected places have established dedicated external institutions to monitor the prison system**, with three of them (i.e. New Zealand, the Netherlands and Norway) as signatories to OPCAT. In complaints handling, prisoners in most places are advised to submit complaints first to the internal system, before turning to external authorities. While these external authorities usually convey the review results to the prisons for follow-up action, they can report to the parliaments or other higher authorities if necessary. Four selected places (i.e. Canada, Ireland, New Zealand and the Netherlands) have even **laid down the complaint procedures either in law or through publicly available guidelines**, with pledged response time.

3.2 In **Canada**, the Office of the Correctional Investigator ("OCI") is an independent body dedicated to investigation of prisoner complaints and review of correctional policies. In 2017-2018, OCI received 5 846 complaints, of which 13% were followed by in-depth investigation. If complaints cannot be resolved through discussion with the Correctional Service, OCI will refer them to the Minister of Public Safety or put them into the annual reports presented to the Parliament.

3.3 In **Ireland**, the Irish Prison Service ("IPS") has since 2014 graded complaints into six categories based on seriousness of the complaints. For the most serious ones, IPS shall engage external investigators. The complainants also can write to the independent Office of the Inspector of Prisons, which reviews the complaints procedure and makes recommendations to the Minister for Justice and Equality.

3.4 In **New Zealand**, prisoners can lodge complaints to the Ombudsman with dedicated officers handling such complaints. While the officers will discuss with the prisoners on phone in most cases, the Ombudsman may conduct his own investigation and make recommendations if he considers it appropriate. The Ombudsman also regularly visits prisons and submits reports to the Parliament.

3.5 In **the Netherlands**, each prison has a supervisory committee (comprising at least a judge, a lawyer, a doctor and a social worker), which appoints a complaints committee ("CC") to inquire into prisoners' complaints. For founded complaints, CC can instruct the warden to change decisions or make compensations. There is also an independent Inspectorate of Justice and Security tasked with regularly visiting prisons and making suggestions for improvement.

3.6 In **Norway**, the Ombudsman formed a dedicated team in 2014 to inspect general prison conditions through prison visits and private interviews with prisoners. The Ombudsman will publish recommendations and give prison authorities a deadline for reporting their follow-up measures which will also be published.

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