

**queste istituzioni**

---

**What does visible mean?**

**Alessandro Albano, Mauro Palma**

**Numero 3/2022**

**30 settembre 2022**

---



# What does visible mean?

Alessandro Albano<sup>#</sup>, Mauro Palma<sup>\*</sup>

## Context

Here follows the text of the presentation (entitled *What does visible mean?* in the session dedicated to the theme *Making the invisible visible*) held in Geneva (Switzerland) by Alessandro Albano at the First World Conference on Health in Detention organized from 27 to 29 June 2022 by the International Committee of the Red Cross (ICRC) with the co-sponsorship from the World Health Organization Office for Europe (WHO/Europe) in partnership with the University of Melbourne's Justice Health Unit and other international partners. The Conference organized at the *Centre International de Conférences* gathered delegates from over 80 Countries. Alessandro Albano represented the National Guarantor of the Rights of Persons Deprived of their Liberty and he was the only speaker belonging to an Italian Institution.

We would like to thank first the International Committee of the Red Cross (ICRC) and all the others distinguished partners having contributed to this important Conference, the first of its kind, for this great opportunity to share some observations that arise from the concrete experience in monitoring different places of deprivation of liberty. We are referring to a reality of people who are in a constrictive and vulnerable situation, intrinsic to the inability to decide about time, movement and space.

## 1. The freedom of the gaze.

One of the relevant points of this monitoring experience is how to look into these places: how to make visible and perceived what tends instead to be invisible and unperceived.

This is the first point we want to consider, and we would like to call it *the freedom of the gaze*.

In Italy, as well as in Europe, there are now many mechanisms that carry out visits inside detention institutions as well as in other places of deprivation of liberty.

Let us start from the monitoring visits organized by professional groups or associative realities that focus in particular on penitentiary institutions.

This is a very important issue. In Italy we have a particular system that, in some ways,

---

<sup>#</sup> Head of the Study Office of the Italian *National Preventive Mechanism*.

<sup>\*</sup> President of the Italian *National Preventive Mechanism's* Board.

began when Mauro Palma was President of *Antigone*<sup>1</sup>. In fact, in 1998, he signed an agreement with the then Head of the Prison Administration to allow the *Antigone*'s just born "Prison Observatory" to visit all of Italy's penitentiary institutions and later also juvenile institutions. It was a very new element for those times, because while it is true that there were other bodies that called themselves "Prison Observatories", it is also true that they did not always really visit prisons and very often drafted their own reports based on the experiences that were told to them by other interlocutors. It was nevertheless a valuable and important work giving visibility to the reality of prison, even if, in some ways, the real access certainly gave something more. *Antigone* also carried out an important work because it then started to draft Periodic Reports on the outcomes of the visits and it was useful in building a different cultural approach to the stark and tough reality of detention.

This kind of access provides visibility compared to the inherent opacity that some places of deprivation of liberty such prisons have. The issue however is always to understand how much these eyes can see and are able to see. The question is: are they really able to grasp the reality of the place they are looking at?

A second kind of eyes is required to look into those places. In the Italian legal system, in fact, there is the oversight power over the prison of the Supervisory Judge<sup>2</sup>. This supervision would require frequent and unannounced visits, in order to understand the concreteness of the daily reality of life inside the prison. Instead, for a variety of reasons, such independent activity is not carried out frequently, partly because there has been an increasing tendency to broaden the function of the supervisory Judge in the sense of making him more of a Judge for alternative measures rather than performing that original function of effective supervision. However, even these are specific eyes that turn a determined gaze within a detention facility.

Earlier we spoke of the eyes of the Volunteer, now the eyes of the Judge. The third gaze is certainly that of the Medical doctor: a very technical eye which is necessary to see, in particular at the time of the admission to a prison, but also afterwards, whether the persons being led there by police, have any marks on their body indicative of something that may have happened previously. One would need to have very careful eyes, particularly able to catch whether there is a correspondence between the visible marks on the body and the reasons given by the person himself as to what caused them.

Three different kinds of eyes, three different kinds of gazes within a closed world: the gaze of the voluntary sector organizations; the gaze of those who have institutional tasks of supervision but also have difficulties in making that task effective; the gaze of those who have to read and to interpret those observed marks namely the gaze of those who have to make

---

<sup>1</sup> *Antigone* is an Italian NGO focused on the promotion and protection of human rights in prison.

<sup>2</sup> It is a specific Judge for penal execution.

technically “talking” what they observe. The question is how and how far these three different eyes can see? What can naturally escape their observation?

Let us put together, then, these different gazes and then ask ourselves some questions.

We would like also to add the eyes of an Independent monitoring body: eyes that should be trained to see in a different way. In a way that we can call “unaccustomed” namely “not-hardened”

All these gazes run at least two kinds of risk.

In this connection I would like to tell a personal experience of Mauro Palma dating back to when he was the President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Usually, when a Country is visited by the Committee, the prison’s governor initially accompanies the delegation in order to explain the facility’s main characteristics. He or she takes you around a bit to see a variety of things, and certainly tries never to let you see the elements he thinks have to remain invisible; namely the prison’s director doesn’t show you what he or she considers critical. Going back to that personal experience, he was accompanied by the director and the medical doctor. Walking past a cell he noticed a person in it who was mechanically restrained to the bed: a person who was tied to the bed. This struck him but it struck him more that in the eyes of the medical doctor and in the eyes of the governor that image was not perceived as an image to be hidden. It was an image that their eyes did not recognize as to be hidden or shameful, because they had hardened and accustomed eyes.

Therefore, which are the risks for prison gazes?

1) All the gazes we have listed are often accustomed or hardened gazes. The accustomed gaze of those who work in this complex field means a gaze that considers some things less important than they deserve. The hardened gaze is the gaze of those who think that some degraded conditions are more or less normal. A bit like when you get used to rubbish in the street and start perceiving it as normal: it means that your gaze has become habituated. Mere habit with the current state of play can lead to not seeing. The hardened gaze is, however, only the first risk.

2) There is also the risk of the gaze guided by third parties. It was not of this kind, for example, the gaze of the episode I reported earlier of the person tied to the bed: from one side there was no intention to lead the monitor’s gaze elsewhere (which, on the other hand, often happens). From the other side the very fact that the monitor noticed it, was a sign that his gaze had succeeded in not being influenced by third parties who wanted in some way to be little the incident.

Instead, for example, several times it happens that many people want to lead the visitor's gaze; the governor wants it, but also often the inmates who maybe want to lead you to see certain things. This is the risk we can call of the led gaze, the gaze guided by third parties.

Therefore, we have to try to figure out how you can to some extent make the gaze of the monitoring mechanism free, because the gaze of the person who monitors can also risk becoming an accustomed gaze and because sometimes it also risks being led by other people.

The hardened gaze that is a partial one and the gaze oriented by third parties, in one way or another, are factors that also risk perverting our gaze, no matter how much we try to have it as free as possible. These factors risk distorting even the gaze of those who monitor, the gaze of the *National Mechanism for the Prevention of Torture* (NPM)<sup>3</sup>.

Therefore, the challenge of an NPM is, in our opinion, to find the right way of looking into situations of deprivation of liberty, not falling into these deviations of the gaze. The free gaze is the challenge. *Prevention Mechanisms* have to make the invisible visible first and foremost to themselves, because their gaze also risks becoming accustomed and guided by others.

The goal is to challenge these distorted elements that are the roots of invisibility.

## 2. The time of the gaze.

Let us now turn to the second point we want to consider: we would like to define it *the time of gaze*.

A *National preventive mechanism* cannot be one among many other “watchers”, a body that simply adds to other internal and external “watchers”. It must necessarily be a body that puts itself always in question: it has to put in question its working methods, its experiences, even its acquisitions. It must be an evolving and dynamic observer if it really wants to grasp the inherent change that always characterizes places of deprivation of liberty, as a mirror of the changes in external reality. It must never be satisfied with how it sees things or how it implements its practices, because practices are never definitive once and for all.

Good practices need guidelines which are not static “handbooks” but dialogical open elements, dynamic “manuals”.

The first of the guidelines is certainly attention to all the details.

The second guideline is to take note even of what is irrelevant to you at that moment of the visit, because perhaps you can understand it later.

---

<sup>3</sup> See Article 3 of the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), adopted on 18 December 2002 by the General Assembly of the United Nations by resolution A/RES/57/199.

The third guideline is something connected with time, because visibility is only rediscovered if you have time to see, to review, to return seeing even during the same visit. Only in this way it is possible to understand something under another light.

I would like to dwell on this last aspect. When you visit one of these places and talk to a person who lives there and who may have had a painful experience there or previously, there is always a need to investigate two aspects, which are then the foundation of all rights: at first, the recognition and protection of the dignity of each person; secondly, the absolute protection of his or her physical and mental integrity. Therefore, every interview, every investigation, every story has to do with something that the person has suffered, that he has experienced as his own annihilation, as his own degradation. Telling the story recalls that experience and thus always reopens a wound. That one needs to be able to put back together, to recompose. One certainly cannot have in mind only the goal of identifying a particular lack in the structure or in the organization or of focusing on and thus bringing to prosecution the wrongful and serious behavior of those who have custody of the person, without considering how to put back together, how to recompose the traumatic experience itself that we have made that person relive.

This is precisely why we must also always keep in mind that it is often the person himself who makes the trauma suffered invisible, because he tends to remove it, not wanting to see it. Here, then, is the importance of time. We have to have the time to gain trust, to give the person a chance to speak, until they agree to make themselves visible to themselves and make the experience of trauma visible to us as well.

We can recall experiences of people who only after much talking, after many visits, after a situation of empathy but also of physical closeness had been established (such as sitting or even lying down next to each other) dissolved into weeping over what they had suffered.

And this is only possible if there is enough time.

### **3. Making visible what is invisible.**

So, what have we learned about visibility?

We have found some criteria to make visible what is invisible from the point of view of a *National Preventive Mechanism*.

First, the attention to every detail.

Second, the always questioning: the independent Monitor has to put in question its working methods, its acquisitions, even itself. There can be no Npm that has settled a working method once and for all, without continuously questioning it, without a continuous practice of

debriefing what has been observed, precisely to redirect one's gaze that has been enriched by the new experience.

Third, the importance to foresee the right amount of time because unravelling needs time. Unravelling skeins, discovering details, understanding situations in depth, getting to the heart of complex situations needs time. Unfortunately, our experience also shows that we still too often fail to devote the right amount of time to our delicate activities: hastily taken notes, fewer questions and briefings than necessary. And in the pressure of seeing too many things, we realize that we need more time.

Fourth and last: when you look at a person or at a single episode obviously you have to figure out the trauma of that person and the disease of the concrete case. But it's not enough. You also have to figure out that the individual case can be representative of a more general critical situation. Our gaze must help to make visible the person himself and at the same time what goes beyond the individual person, grasping the systemic issue behind the individual case.

This is the only way in which the monitor's gaze can become an effective contribution to building a more conscious culture based on a systemic and relational approach.