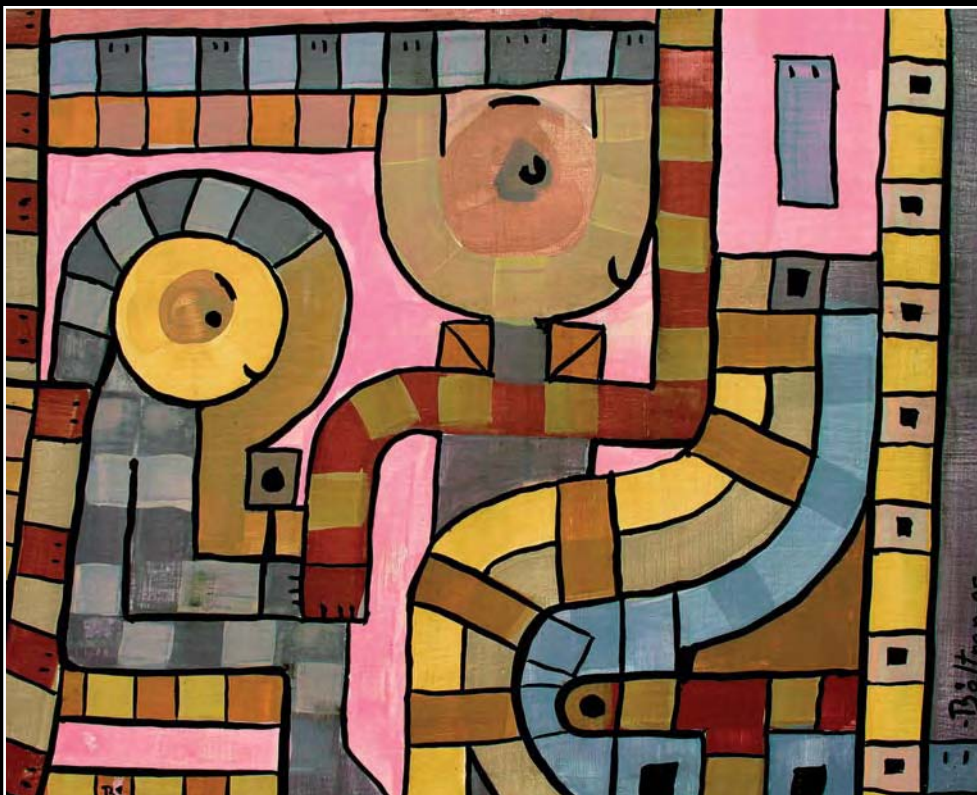


# Letting in the light

## 30 years of Torture Prevention



## **Association for the Prevention of Torture**

The Association for the Prevention of Torture (APT) is an independent non-governmental organisation based in Geneva. It was founded by the Swiss banker and lawyer, Jean-Jacques Gautier, in 1977.

The APT envisions a world in which no one is subjected to torture or cruel, inhuman or degrading treatment or punishment, as promised by the Universal Declaration of Human Rights.

The APT focuses on the prevention of torture, rather than denunciations of individual cases or the rehabilitation of victims. This strategic focus on prevention enables the APT to collaborate with state authorities, police services, the judiciary, national institutions, academics and NGOs that are committed to institutional reform and changing practices.

To prevent torture, the APT focuses on three integrated objectives:

### **1. Transparency in institutions**

To promote outside scrutiny and accountability of institutions where people are deprived of their liberty, through independent visiting and other monitoring mechanisms.

### **2. Effective legal frameworks**

To ensure that international, regional and national legal norms for the prevention of torture and other ill-treatment are universally promoted, respected and implemented.

### **3. Capacity strengthening**

To strengthen the capacity of national and international actors concerned with persons deprived of their liberty by increasing their knowledge and commitment to prevention practices.

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# Letting in the light

## 30 years of Torture Prevention



## Letting in the light: 30 years of Torture Prevention

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The front cover is a copy of J.'s painting, a detainee from a Mexican prison and is issued from the catalogue created as a result of the international art contest for prisoners organised by the International Commission of Catholic Prison Pastoral Care (ICCPCC) in 2005–2006. The contest received over 1500 submissions from 49 countries from all 5 continents. For more information please visit [www.iccpc.org](http://www.iccpc.org)

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# Chronology

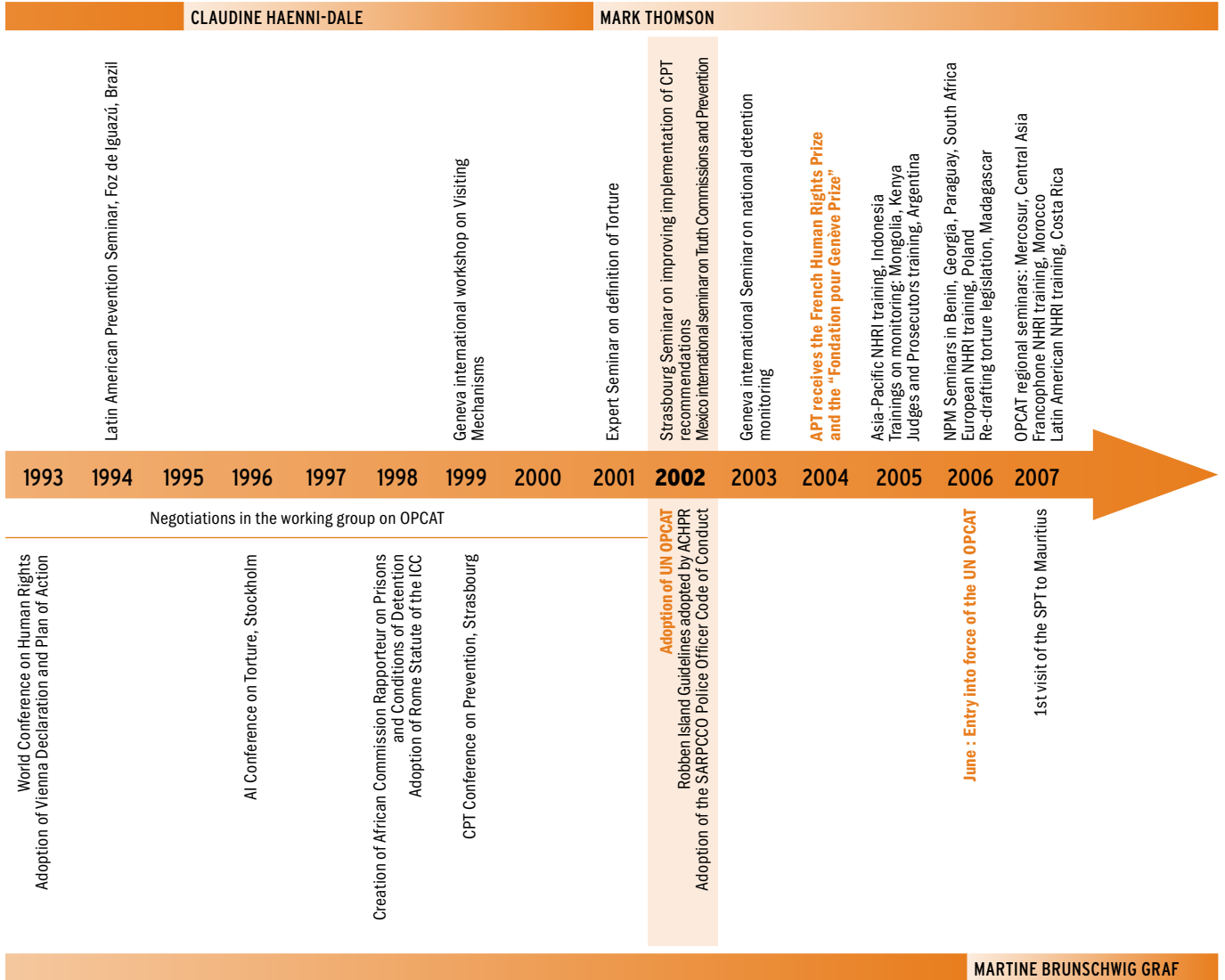
SECRETARIES GENERAL: FRANÇOIS DE VARGAS

INTERNATIONAL LANDMARKS	CSCT/APT LANDMARKS
<p>Adoption of UN Standard Minimum Rules for the Treatment of Prisoners</p> <p>Adoption of 2 additional Protocols to the Geneva Conventions</p>	<p>Creation of the CSCT</p>
<p>1st Submission of OPCAT to UN CHR by Costa Rica</p>	<p>Conference in St. Gallen</p>
<p>Barrier proposal of a European visiting system</p>	<p>ICJ and CSCT present a draft ECPT</p>
<p>AI 12 Point Program for the Prevention of Torture</p>	<p>Geneva International Symposium on how to combat Torture</p>
<p>Adoption of the Inter-American Convention to Prevent and Punish Torture (IACPTT)</p> <p>Appointment of 1st Special Rapporteur on Torture</p>	<p>Death of Jean-Jacques Gautier</p> <p>Creation of the OMCT/SOS Torture</p>
<p>Adoption of the African Charter on Human and Peoples' Rights</p>	<p>Expert meeting in Uruguay on an Inter-American visiting system</p>
<p>Entry into force of IACPPT</p> <p><b>Adoption of the ECPT</b></p> <p>Entry into Force of UN CAT</p>	<p>Strasbourg Colloquium on implementation of ECPT</p> <p>Expert meeting in Barbados on an Inter-American visiting system</p>
<p>Adoption of UN Body of Principles on Detention</p> <p>Graz Colloquium on a new draft optional Protocol</p>	<p>Florence and Geneva meetings to prepare a draft of Protocol to re-submit to UNCHR</p>
<p>Entry into Force of ECPT</p>	<p>The CSCT becomes the APT</p>
<p>CPT begins visits</p>	
<p>2nd submission to draft OPCAT by Costa Rica to UNCHR</p>	
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PRESIDENTS: JEAN-JACQUES GAUTIER

HANS HAUG

MARCO MONA



MARTINE BRUNDSCHWIG GRAF

*Never doubt that a small group of thoughtful,  
committed citizens can change the world, indeed  
it's the only thing that ever has.*

**Margaret Mead**

US anthropologist & popularizer of anthropology (1901-1978)



# Preface



*Martine Brunschwig Graf*

To tell the story of concerted efforts to prevent torture and the Association for the Prevention of Torture (APT), is to tell the story of 30 years of dedication and determination of remarkable individuals and organisations. In the 1970s, the world was waking up to the fact that the practice of torture was spreading in the four corners of the globe and there were few legal mechanisms in place to stop it. Amongst the many individuals who rejected the use of torture was Jean-Jacques Gautier, the founder of the APT. He believed that torture not only affected the victims themselves, but it also had a corrosive and toxic effect on societies that tolerated it.

At the time, many organisations and human rights defenders were denouncing and documenting torture, and where possible reintegrating people who were victims of torture. However, there was one big area in the fight against torture which was not being covered: prevention. Based on the premise that torture is most likely to occur in places out of public view, Gautier set about developing a universal system of visits to places of detention. This utopian idea was considered with great scepticism. Who could imagine a government agreeing to open all its places of detention to independent scrutiny?

Against all the odds, the past 30 years have seen the creation of international, regional and national legislation and mechanisms to fight torture worldwide. This includes the realisation of Gautier's

idea, the Optional Protocol to the Convention against Torture, which entered into force in 2006.

It is with gratitude and pride that I look back on the 30 years of the work of the APT to prevent torture worldwide. This could never have happened without the commitment, determination and hard work of the women and men who have passed through the APT and its many partners in civil society, governments, the police and international organisations.

This publication highlights 10 key landmarks and 30 key actors involved in the prevention of torture and the work of the APT over the past three decades. Much has still to be done to better protect persons deprived of their liberty. However, this short history reveals the undeniable progress that has been made and it will hopefully inspire us all for the future.

**Martine Brunschwig Graf**

*President APT*

# 1. Prevention: a new approach to combating torture

After a long career as a banker and lawyer, **Jean-Jacques Gautier** (Geneva, Switzerland) decided to take early retirement to dedicate his life to combating torture. He was inspired by Amnesty International's (AI) first campaign and conference for the abolition of torture. The conference was symbolically held on the 25th anniversary of the signing of the Universal Declaration of Human Rights (Paris, 10 December 1973). It brought together over 250 participants from 40 countries to draw up a practical programme to eradicate torture in all its forms. As the Chairman of AI, Sean MacBride stated, "the number of cases was increasing to a point where torture could be described as epidemic (...)". He noted that AI's task was "to make torture as unthinkable as slavery."<sup>1</sup> This conference was a key landmark in the fight against torture. Not only did it result in a list of proposals of specific action to combat and eliminate torture, but it also mobilised and inspired many governments, international bodies, NGOs and individuals, including Gautier.

While Gautier did not fear death thanks to his strong faith, he found the physical pain and the loss of dignity and identity endured by torture victims intolerable. Not only did torture affect the victims themselves, but it also had a corrosive and toxic effect

<sup>1</sup> Amnesty International Conference for the Abolition of Torture: Paris 10–11 December 1973, Final Report (1973), p. 10.

## Jean-Jacques Gautier SWITZERLAND



In 1977, Jean-Jacques Gautier (1913-1986) founded the *Comité Suisse Contre la Torture* (Swiss Committee against

Torture - CSCT), which eventually became the APT, and was its President from its creation until 1985. He took early retirement from his career in private banking in Geneva to dedicate his life to the prevention of torture. His idea was to emphasise this preventive aspect by persuading states to allow independent experts to visit all places of detention. For his inspirational torture prevention work, Jean-Jacques Gautier received an honorary title of Doctor from the University of St. Gallen in 1981. Jean-Jacques Gautier's compassion and steadfast dedication remained an inspiration, both to the CSCT and to all the subsequent Presidents and Secretary Generals of the APT.

## François de Vargas

SWITZERLAND



In 1977, François de Vargas became the first Secretary General of the CSCT. During 18 years in

office, he contributed to outstanding achievements such as the adoption of the European Convention for the Prevention of Torture (1987) and negotiations for a draft Optional Protocol to the UNCAT. He also contributed to the creation of the World Organisation against Torture (OMCT) as well as other organisations for the rights of persons deprived of their liberty. In 1995, he left the APT to dedicate his time to conflict resolution. In 2001, he became the Director of the Lausanne-based organisation *Appartenance*, which works on the rehabilitation of victims of repression. Since his retirement in 2003, François de Vargas is involved in the defence of asylum seekers in Switzerland.

on societies that tolerated it. In an interview, he once noted: “I belong to a generation that had thought, that (...) torture was a phenomenon of the past, that only existed in a few barbaric nations. And here we are, thirty years later, and we can note that it is rampant in over half the countries in the world.” Thus, inspired by his beliefs and the growing anti-torture movement, Gautier decided to dedicate his life to combating torture. However, he did not want to duplicate the work being done by other organisations to document and denounce torture. Instead, he wanted to develop ways to prevent torture from happening, with the hope that some day it would become a thing of the past.

Gautier began researching the existing international instruments to combat torture. Although the absolute prohibition of torture was included in the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights<sup>1</sup> (1966), neither of them proposed a mechanism to implement these articles. Furthermore, the Universal Declaration was adopted by the United Nations General Assembly, and so was not a direct source of legal obligations. When Gautier analysed the practice of torture in the world, he noted that it was widespread. His analysis indicated that 40% of states did not have torture, 40% of states either ignored or tolerated it and 20% used it as a way to govern. In addition to the lack of implementation of these instruments, there was another problem. The existing UN instruments focused on acting once the violations had occurred. They did not set up a system to prevent torture. Considering the difficulties in implementing these existing international human rights standards, Gautier began envisioning a more effective way to apply them in order to prevent torture.

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<sup>1</sup> “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

Based on his analysis of existing treaties and approaches (including the International Committee of the Red Cross – ICRC), Gautier’s idea began to take shape. He concluded that regular and unannounced visits to places of detention would be a useful means of effectively preventing torture. His idea was therefore to create a universal system of visits for places of detention. However, he understood that it would be difficult to attain widespread acceptance of such an ambitious idea. He therefore proposed that such a convention could initially be taken up by countries willing to abide by higher standards, before it would become taken up by others.

In the early 1970s, ways to combat torture were being increasingly discussed in Switzerland. However, the federal authorities were reticent to follow Gautier’s proposal, fearing the potential impact on the work of the ICRC. In 1976, the ICRC sent a letter of support for Gautier’s idea of a convention against torture. To raise awareness and support for his ideas, Gautier published articles and organised conferences. He developed a support network for the project, including key players such as Martin Ennals, (Secretary General of AI), Nigel Rodley (legal counsel at AI), Guy Aurenche (ACAT) and Niall MacDermot (International Commission of Jurists). In January 1977, the Swiss Committee Against Torture (CSCT<sup>1</sup>) was founded with the aim to promote the Gautier proposal. It consisted of Gautier (President), Eric Martin (Vice-President), Bernard Bonvin, Freddy Klopfenstein, Yves de Saussure, Barbara Vischer and Bruno Holtz. The CSCT focused on raising awareness about the proposed convention through publications and conferences. The articles inspired many people, including the second President, **Hans Haug** as well as **François**

<sup>1</sup> The CSCT became the APT in 1992.

## Hans Haug

### SWITZERLAND



Before answering to the call of Jean-Jacques Gautier to replace him as the President of the CSCT in 1985,

Hans Haug (1921–1995) already had significant experience in issues related to torture. He was Professor of Public International Law at the University of St.Gallen, the President of the Swiss Red Cross in Bern from 1968 to 1982 and a member of the ICRC from 1983. In 1977, he participated in the St.Gallen group, which supported the activities of the CSCT in German-speaking Switzerland. In 1990, Hans Haug left the CSCT presidency but remained an active member. He was rewarded for his lifetime commitment to the fight against torture in 1991, when he received the Brandenburg Prize.

**de Vargas**, a young theology graduate, who joined Jean-Jacques Gautier in his efforts and became the first Secretary General of the CSCT.

## 2. Growing support from St. Gallen to San José

‘A man fights torture’ was the title of the newspaper article that grabbed the attention of **Martita Jöhr-Rohr**, the wife of the Director of the St.Gallen University (Switzerland). In light of the ongoing discussions before the Swiss Parliament about a possible Swiss action against torture, and given the important political weight of the German-speaking region, she contacted Gautier to congratulate him for his initiative and pledge her support. Taking her up on her offer of assistance, he asked her to convene a meeting in St.Gallen. The main objective of the advocates of the ‘Gautier proposal’ was to lobby influential Swiss parliamentarians before the debate at the National Council in June 1977.

In April 1977, the conference brought together Amnesty International – Switzerland, the Swiss League for Human Rights, as well as professors, lawyers and parliamentarians interested in the Gautier proposal. Following the conference, Mrs Jöhr created an informal support group called the ‘St.Gallen Group’. Its aim was to promote Gautier’s idea at national and international level. Its members included Martita and Adolf Jöhr, Hans Haug, **Alois Riklin** and Werner Weber. The St.Gallen Group worked closely with the CSCT to promote the Gautier idea in German-speaking Switzerland as well as in neighbouring Germany and Austria.

Having developed contacts in neighbouring countries, the St.Gallen Group and the CSCT organised an international

### Martita Jöhr-Rohr SWITZERLAND



Martita Jöhr-Rohr, the wife of former Rector of the St.Gallen University Adolf Jöhr, has been a

generous patron and active supporter of the APT for the last 30 years. Inspired by an article describing Jean-Jacques Gautier’s concept of prevention of torture, she persuaded, in 1977, a group of experts and academics to meet and form the St.Gallen Group, which became the institutional support of the CSCT in German-speaking Switzerland. Thanks to her faith in the project, as well as her generous donations, Ms Jöhr-Rohr gave the organisation nationwide recognition and earned the nickname of ‘Godmother of the CSCT/APT’. In 1993, she came up with the idea to create the Art Portfolio “Artists against Torture”, whose sales benefit the APT.

## Niall MacDermot

### UNITED KINGDOM



A lawyer, who was also a Member of Parliament and Junior Minister on two occasions in the United

Kingdom, Niall MacDermot CBE (1916–1996) took up the position of Secretary General of the International Commission of Jurists (ICJ) in 1970. In close collaboration with Gautier and the CSCT, he deployed the institutional weight of the ICJ, and his impeccable moral authority, to advocate for the establishment of an Optional Protocol to the Convention against Torture, a proposal that he submitted to the St.Gallen group in 1977. He also actively contributed towards the drafting and the adoption of the European Convention for the Prevention of Torture. He ably led the ICJ for twenty years and strengthened its international reputation as a leading bastion for the rule of law.

congress in 1982 in Eisenstadt (Austria). It aimed to support the authorities in neighbouring countries in their efforts to abolish torture and encourage Austrian colleagues to create the Austrian Committee Against Torture. Members of this sister Committee included Renate Kicker (current Vice-President of the CPT), Konrad Ginther, Joachim Schick, Hans René Laurer and Manfred Nowak (current UN Special Rapporteur on Torture).

During the same period, support for combating torture was growing at the international level. In 1977, based on a draft presented by Sweden, the UN General Assembly mandated the Commission on Human Rights (CHR) to draft an international convention against torture. Amongst the many partnerships that CSCT was developing with other organisations, the one with the ICJ and more particularly its Secretary-General, **Niall MacDermot**, would prove to be decisive in developing the Gautier proposal. With the drafting of a convention against torture underway at the UN, MacDermot proposed to abandon the idea of creating another convention, which would contain preventive mechanisms. He reasoned that the UN was unlikely to support two proposals and would most probably accept the broader proposal made by Sweden rather than the more specific Gautier one. MacDermot, therefore, persuaded Gautier that an Optional Protocol on prevention to the future convention was a better strategy.

In the search of a state sponsor for the Optional Protocol, they contacted Sweden – the instigator of the Convention against Torture. While Sweden was in favour of the project, it believed that it would be counterproductive to present the Protocol project in the midst of the discussions of the Convention. Both the Swedish and other European governments thought that this project could delay the drafting of the Convention and suggested that they defer the submission of the Optional Protocol. In total, they solicited the



assistance of 52 states to present the project. Costa Rica responded to the request and presented the drafting proposal to the Human Rights Commission in 1980. However, it posed a similar condition as the Europeans – the Optional Protocol<sup>1</sup> should only be examined after the adoption of the Convention against Torture. The significance of it being presented by Costa Rica, a Latin American country, was important, as it was not a Western power imposing a new treaty on the rest of the world.

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<sup>1</sup> The Optional Protocol would be known as the Optional Protocol to the Convention against Torture (OPCAT).

## Alois Riklin

### SWITZERLAND



Alois Riklin is a well known Swiss Political Professor and Advisor to various government ministries. He

is a former Professor of Political Science (1970–2001) and former Rector of the University of St. Gallen (1982–1986), Co-Founder of the European Institute in Budapest and a leading member of the St.Gallen Group. In 1978, he organised and chaired the St. Gallen expert Conference that recommended an initial focus on a Convention and later an Optional Protocol, to create a detention visiting mechanism. He also contributed to the creation and promotion of the modern art portfolio “Artists Against Torture” in 1993, which has raised funding and awareness for the prevention of torture.



### 3. Joining forces for a global strategy to fight torture

In the early 1980s, it was clear that international denunciations of torture were ineffective. Torture was spreading in many Latin American countries that were under dictatorships and conditions in Russian gulags and psychiatric hospitals were becoming more widely known. The current and potential victims of torture could not wait for the slow process of developing a convention<sup>1</sup> to be delivered from their suffering (if they were able to survive).

While Gautier wanted to dedicate his time and energy to his idea of a universal system for visiting places of detention, he was open to the CSCT initiating complementary means to fight torture worldwide. Thus, in order to develop a comprehensive approach to fight torture, the CSCT organised a historic international conference of 70 experts from 29 countries in Geneva (April, 1983). It brought together important international players, such as the ICRC, AI, ICJ as well as representatives from the church, unions and international organisations such as the ILO. It also included international and national experts from around the world, such as **Paz Rojas** (a Chilean psychiatrist working with torture victims), Luis Perez Aguirre (a Priest and victim of torture from Uruguay), José Diokno (a Senator and lawyer from the Philippines), Thomas Hammerberg (Secretary General of AI)

<sup>1</sup> The drafting of the Convention against Torture took seven years in total (1977–1984).

#### Paz Rojas Baeza CHILE



Until the military coup that struck Chile in 1973, Dr Paz Rojas was practising and teaching Neurology at

the University Hospital of Chile. During the Pinochet dictatorship, she bravely dedicated her medical and psychiatric skills to the victims of human rights violations. She is the President of the Chilean NGO Corporation for the Promotion and Defence of the Rights of Peoples (CODEPU) and a Board member of the Association for the Prevention of Torture. She has shared her rehabilitation experience to assist the creation of preventive mechanisms in Paraguay, Uruguay, Brazil and Argentina. She received the Human Rights Prize of the University of Oslo in 1998.

## Theo Van Boven

### THE NETHERLANDS



Professor at the University of Maastricht, Theo Van Boven has been one of the most steadfast contributors to the

establishment and growth of the United Nations Human Rights system over the past four decades. Director of the UN Human Rights Division from 1977 to 1982, he was Special Rapporteur on the Right to Reparation of victims of gross violations of human rights from 1988 to 1993. In 1994, he was the first Registrar of the International Criminal Tribunal of the Former Yugoslavia. From 2001 to 2004, Theo van Boven was the UN Special Rapporteur against Torture, where he stood strong in the face of the challenges of the post “9-11” environment and insisted on better follow up by states to recommendations of the Rapporteurs. In 2004 and 2005, he was a member of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture.

and **Theo van Boven** (the former Director of the UN Human Rights section of the UN).

The aim of the conference was simple – create a global strategy to fight torture. The diversity in approaches, individuals and regional representation led to a rich pool of competencies and ideas to fight this pandemic. The conference also provided activists from countries with repressive governments with a chance to give first-hand accounts of the situation in their countries.

During the conference, the need for an implementation system including a visiting mechanism was reiterated. Different approaches, including the Convention against Torture (which was being drafted), the Optional Protocol and possible regional conventions were discussed. **Nigel Rodley** presented AI’s proposal that a Special Rapporteur on Torture be appointed by the UN Commission on Human Rights, a post he held a decade later.

The Geneva conference reiterated the enormity of the task to fight torture worldwide. It was clear that no national or international institution had the means to take on this task alone. It was decided that a global network (similar to AI’s membership structure) was needed to help individual organisations and people more effectively combat torture. Such a network was especially important for human rights activists operating in countries where state-sponsored torture was taking place. They were exposed to high risks and dangers and often received limited help from international actors. It became clear that better coordination and a centralised source of information were also needed for local actors who were not part of existing networks such as AI. This would allow them to access help, funds, as well as transmit messages and appeals on behalf of torture victims. Other areas that would benefit from better coordination between these key actors included the rehabilitation of victims, the denunciation of perpetrators and

the possibility of a constructive dialogue with the authorities. The latter included governments, but above all there was a strong focus on the police and military institutions.

One of the key outcomes of this conference was the decision to create ‘SOS Torture’, a global rapid response network of NGOs. Through SOS Torture, NGOs from around the world would be able to denounce cases of torture, better coordinate their actions, facilitate the rapid dissemination of information as well as assist torture victims. The CSCT was asked to host SOS Torture. However, the CSCT believed that they should be separate organisations, as the same organisation could not denounce a government for cases of torture and simultaneously try and convince them to adopt a preventive visiting mechanism. In 1985, two years after the conference, SOS Torture was officially launched as a separate entity with a network of over 200 NGOs. That same year, the UN appointed a Special Rapporteur on Torture with a universal mandate. In 1986, SOS Torture became the World Organisation Against Torture (OMCT).

## **Nigel Rodley** **UNITED KINGDOM**



Sir Nigel Rodley KBE is Professor of Law and Chair of the Human Rights Centre at the University of

Essex (UK), where he has taught human rights and international law since 1990. From 1993 to 2001 he was the UN Special Rapporteur on Torture, and as the second holder of that office, contributed fundamentally to its development and strengthening. He was the founding head of the legal office at the International Secretariat of Amnesty International, where he worked from 1973–1990. He participated in a seminal meeting in 1977 that prepared a first draft of the original Gautier draft convention, and the 1983 international conference on means to fight torture, where he proposed the creation of a UN Special Rapporteur against Torture. He continues his important contributions to the UN Human Rights protection system as a member of the UN Human Rights Committee since 2001.



## 4. European Convention: a regional success in preventing torture

In the early 1980s, the Optional Protocol proposal was on hold while the Convention against Torture (CAT) was being drafted. However, when the CAT was eventually adopted in 1984, states were reluctant to immediately re-launch another drafting process for the Optional Protocol. They preferred to focus their attention on the entry into force and implementation of the Convention.

It was around this time that the CSCT began working simultaneously at international and regional levels. While the global nature of preventive visiting mechanisms was central to Gautier's ambitious idea, he had always advocated the need for a few committed countries to develop such mechanisms and lead by example. He believed that a few cases of best practices could act as a catalyst to encourage other countries to adopt an efficient tool to prevent torture. A further benefit of developing regional systems was that the experiences could provide useful "lessons learnt" to the global initiative and create momentum for its development. Another important aspect was that a regional instrument had a better chance of being adopted before a global one.

The Council of Europe (CoE) was an ideal starting point for a regional initiative. It was greatly aided by the French Senator **Noël Berrier** (the President of the Legal Affairs Committee of the Parliamentary Assembly of the CoE), who strongly supported the Optional Protocol. In 1981, Berrier proposed that "since

### Noël Berrier

FRANCE



A French Senator from 1975 to 1986, Noël Berrier (1914–1986) was a medical doctor, and a

member of the Resistance during the Second World War. He became a member of the Parliamentary Assembly of the Council of Europe (CoE) from 1978 and led the Legal Affairs Committee. Noël Berrier's vocal insider support was crucial for the adoption of the groundbreaking European Convention for the Prevention of Torture (ECPT) by the CoE. The Berrier report, adopted by the Legal Affairs Committee in 1983, presented the draft ECPT to the Assembly, which subsequently adopted a recommendation advising the Council of Ministers to adopt the Convention.

## Antonio Cassese

ITALY



A renowned academic, Antonio Cassese has been a Professor of Law in many prestigious

European universities, including the University of Firenze and the European University Institute. He was the first elected President of the European Committee for the Prevention of Torture during its crucial formative years from 1989 to 1993. He hosted an expert meeting in Firenze, in 1990, to prepare a revised version of the draft Optional Protocol. From 1993 to 1997 he was the first president of the International Criminal Tribunal for Former-Yugoslavia. Antonio Cassese is also the Editor in Chief of the Journal of International Criminal Justice.

such a system cannot be expected to be put into swift and perfect operation at the world level”, CoE States should set an example and institute such a system of visits amongst themselves. The CSCT and the ICJ not only supported the initiative, they also offered to draft the regional convention. In April 1982, Berrier took them up on the offer, and asked them to draft a Convention on a system of visits to places of detention (in accordance with the Optional Protocol) for the CoE Member States. In Geneva, MacDermot, Gautier, Christian Dominicé and Jean Pictet came up with an initial draft. The latter was taken up by the CoE Committee of experts who were preparing the formal draft of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT).

Berrier’s final report, which was adopted in June 1983, contained the ICJ/CSCT draft convention. Three months later, the Parliamentary Assembly adopted recommendation 971(1983) calling the CoE Committee of Ministers to adopt the draft Convention. The formal drafting process began in 1984. The ICJ/CSCT convention, which served as a basis for negotiations, established a Committee of five members, serving in their individual capacity, to organise visits to places of detention in States Parties. During the negotiations, presided by **Antonio Cassese**, the composition of the Committee was modified and a system of ‘one state-one member’ was introduced. To clearly distinguish the role of the Committee from the control carried out by the European Court, the preventive and non-judicial nature of the work of the Committee was emphasised, and the term ‘prevention’ was included in the title.

On 26 June 1987, the Committee of Ministers of the CoE adopted the final text of the ECPT<sup>1</sup> and opened it for signature by member

<sup>1</sup> The UN Convention against Torture entered into force on the same day.



states 5 months later. The rapid process of developing this regional convention was encouraging, as it was a key outcome of Gautier's idea. Unfortunately, Jean-Jacques Gautier passed away on 1 May 1986 before the adoption of the ECPT. Earlier that year, he had handed over the presidency of the CSCT to Hans Haug to continue the work towards creating both regional and international conventions to prevent torture.

The ratification process of the European Convention was remarkable, both in its speed and the countries that led the way. The first country to ratify the ECPT was Turkey. It was closely followed by many other countries in the region, which led to its rapid entry into force on 1 February 1989.

The significant outcome of the ECPT was the creation of the European Committee for the Prevention of Torture (CPT), which was composed of as many members as States Parties. The members, led by the first President Antonio Cassese, were independent experts from a variety of backgrounds, with a mandate to visit all places of detention. This included police stations and prisons, transit zones in international airports, centres for foreigners, psychiatric hospitals, centres for juveniles and military detention centres. During their visits they could look at the treatment and conditions of detention of the persons deprived of their liberty, as well as recommend improvements to states. In certain cases, public statements were issued, when countries had not cooperated or refused to implement recommendations.

Over the years, the CPT developed a clear understanding of the legislative and procedural safeguards that needed to be in place, and succeeded in pressing countries to adopt these standards. The CSCT assisted the CPT in developing its working methods and produced country reports before CPT visits, as well as raising awareness of its work through a series of publications. The

## Malcolm Evans UNITED KINGDOM



Malcolm Evans OBE is a Professor of Public International Law at Bristol University. He has worked

closely with the APT, OSCE, CPT and the UN particularly in the development of standards for the ECPT, the drafting of the OPCAT and Robben Island Guidelines on Torture Prevention in Africa, and as an active member of the APT Board. He acts in an advisory capacity to numerous governmental and international bodies on torture and religious freedom issues. He is currently co-leading the OPCAT research project at the University of Bristol, examining the choice and effectiveness of National Preventive Mechanisms, and their relationship to the International Sub-Committee established by the OPCAT.

CSCT's focus later shifted towards the monitoring of the CPT's work and the analysis of its visit reports and their implementation. During the early years of the CPT, Rod Morgan and **Malcolm Evans** participated in the development of working standards and practices as academic researchers of the CPT. Malcolm Evans continued working with the APT on several projects supporting the CPT in fulfilling its mandate.

## 5. Mobilisation against torture in Latin America

The mid 1980s saw the emergence of many South American countries from a nightmare of military dictatorships and their commonplace practice of torture. The activists and NGOs who had been denouncing cases of torture during the dictatorships were keen to develop a new instrument to prevent any use of torture and tackle the impunity for such crimes. This coincided with the rapid development of the ECPT and appeared to provide a good opportunity to draft a regional convention in Latin America. As a result, the ICJ and CSCT organised a colloquium in April 1987 in Montevideo (Uruguay). It brought together around thirty experts to discuss a draft Inter-American convention which would resemble the European draft convention.

Another factor which made Latin America a good candidate for developing a regional convention was the existence of the Organization of American States (OAS) and its American Convention on Human Rights (1978). The same year, the OAS had asked one of its auxiliary organs, the Inter-American Juridical Committee (IAJC) to prepare a draft convention defining torture as an international crime together with the Inter-American Commission on Human Rights. The idea was to develop an alternative convention against torture to the one being drafted by the UN. The Draft Convention Defining Torture as an International Crime was presented to the OAS in 1980. While it had similarities with the UN convention, it did not “provide for

### Alejandro Artucio Rodriguez URUGUAY



Alejandro Artucio, a lawyer and former victim of torture, was the Secretary General of

the Committee of Experts for the Prevention of Torture in the Americas (CEPTA) which organised, in 1987, two seminars in Montevideo and Barbados to explore the possibility of adoption of an Inter-American Convention against Torture. From 1991 to 2000, he was the Senior Legal Advisor for the International Commission of Jurists. He served as UN Special Rapporteur on the Situation of Human Rights in Equatorial Guinea from 1993 to 1999. In the 1990s, he was the advisor to the Head of the UN mission to Guatemala and participated in several fact-finding missions in Latin America for various organisations. Alejandro Artucio is a former Board member of the APT. As Uruguay's Ambassador to the UN in New York, he had the honour of depositing his country's ratification of the OPCAT in 2005.

## Cardinal Evaristo Arns

BRAZIL



Cardinal Paulo Evaristo Arns, Honorary Archbishop of São Paulo, was ordained Cardinal in 1973 and

was the Metropolitan Archbishop of São Paulo from 1970 to 1998. During the dictatorship in Brazil, he visited political prisoners and spoke out courageously against the abuses of the military. He oversaw the clandestine collection of data of cases of torture and supported the project *Tortura Nunca Mais* (Never Again Torture) at the end of the 1970s. In 1987, he became the president of the Committee of Experts for the Prevention of Torture in the Americas (CEPTA), which gathered experts to discuss the project of an Inter-American Convention against Torture. He received the Nansen Refugee Award in 1985 and the Niwano Peace Prize in 1995.

a system of universal jurisdiction for the purpose of prosecuting alleged torturers”.<sup>1</sup> In 1985, the Inter-American Convention to Prevent and Punish Torture was adopted in Colombia. It included a system of universal jurisdiction, which reflected the change of governments and the end of many dictatorships in the region. It entered into force in February 1987. It required states to present a report to the Inter-American Commission on Human Rights (IACHR) on the measures and reforms adopted to implement the treaty. However, no specific implementing body was created to prevent torture.

Through the meetings of experts in Uruguay (1987) and Barbados (1988), the CSCT and ICJ wanted to instigate the creation of a convention with stronger instruments focusing on the development of visiting mechanisms for places of detention. The driving force behind these meetings was the new Committee of Experts for the Prevention of Torture in the Americas (CEPTA). The President of CEPTA, the Archbishop of São Paulo, **Cardinal Paulo Evaristo Arns**, and the Secretary-General, **Alejandro Artucio**, organised the meeting in Montevideo and prepared the working draft. The outcome of the meetings was the “Draft American Convention to establish a System of visits (...) to prevent Torture (...)”.

Despite the support of Latin American experts and NGOs, the draft convention never received strong governmental support. Many member countries of OAS, with the exception of Costa Rica and Uruguay, were reluctant to establish a regional visiting mechanism. The principal reasons were a lack of political will to open the door to criticism as well as limited OAS financial resources to cover the costs of an effective visiting mechanism.

<sup>1</sup> Burgers & Danelius, *The United Nations Convention against Torture* (Dordrecht/Boston/London, 1988), p. 29.

In addition, IACHR was not keen on the idea of another major human rights body operating in the region. After unsuccessful attempts to mobilise support for the draft convention, the CEPTA renounced trying to push for the creation of a regional instrument. They decided to focus their efforts on the proposal to establish an Optional Protocol to the Convention against Torture (OPCAT). CEPTA participated in the 1990 Geneva meeting in the early stages of the development of the new proposal of the OPCAT. Costa Rica and other Latin American states then played a crucial role in the drafting process in the UN and were seven of the first 20 states that ratified the OPCAT, which led to its rapid entry into force. This massive regional support for the OPCAT was thanks to certain leading Latin American human rights experts. They included the former President of the Inter-American Commission on Human Rights, **Juan Méndez**, who encouraged states in the region to ratify the OPCAT rapidly.

## Juan E. Méndez

### ARGENTINA



An Argentinean jurist, Juan E. Méndez is the President of the International Center for Transitional

Justice and was concurrently (until March 2007) the Special Advisor to the UN Secretary General on Prevention of Genocide. During the 1970s, his activities as a lawyer under the Argentinean dictatorship led to his arrest and detention for a year and a half, after which he was forced to leave the country. He took up leading roles in human rights organisations such as Human Rights Watch in the United States (1982-1996) and the Inter-American Institute of Human Rights in Costa Rica (1996-1999). From 2000 to 2003 he was a member – and in 2002 the President – of the Inter-American Commission on Human Rights that encouraged OAS States to ratify the OPCAT. He has taught International Human Rights Law at the universities of Georgetown, Johns Hopkins, Notre Dame and Oxford. In June 2007, he received a doctorate *honoris causa* from the University of Quebec at Montreal.



## 6. The Vienna Conference: consolidating human rights worldwide

June 1993 marked a landmark for the consolidating of human rights worldwide. Over 7,000 participants, including 171 states, academics, treaty bodies, national institutions as well as over 800 NGOs, converged on Vienna, for the World Conference on Human Rights. The biggest ever human rights NGO parallel event was hosted by **Manfred Nowak**. All the states present at the conference adopted, by consensus, the Vienna Declaration and Programme of Action. This declaration not only renewed the international community's commitment to the promotion and protection of human rights, it also provided a framework for a holistic approach that involved all the key stakeholders in promoting human rights. Amongst the Vienna Declaration's concrete recommendations to strengthen and harmonise the UN system, was: the call for the early adoption of the Protocol; the creation of an International Criminal Court; and the establishment of a High Commissioner for Human Rights. Most of these recommendations have been implemented. To this day the Office of the High Commissioner for Human Rights' priorities follow the Vienna Declaration and Programme of Action, as well as the Charter of the UN.

The success of the conference, its declaration and plan of action was the result of a long process of preparatory meetings that began in September 1991. This preparatory process, which included regional meetings, provided an important opportunity to promote

### Manfred Nowak AUSTRIA



Since December 2004, Manfred Nowak has been an outspoken UN Special Rapporteur

on Torture. He is also Professor of Constitutional Law and Human Rights at the University of Vienna and Director of the Ludwig Boltzmann Institute of Human Rights. He held other UN mandates on the issue of enforced disappearances. From 1996 to 2003, he was a judge at the Human Rights Chamber for Bosnia Herzegovina. Prof. Nowak has also been the Chairman of the Human Rights Advisory Board at the Austrian Ministry of Interior since 2000. In 1992 and 1993, he insisted on NGOs having the right to participate in the World Conference on Human Rights, with a view to influencing its Declaration and Plan of Action.

## Jean-Daniel Vigny

### SWITZERLAND



Jean-Daniel Vigny is a jurist in International Law specialised on human rights issues and working

for the Swiss government. In the first 20 years of his career, he worked successively in the International Public Law and the Political Division of the Federal Office of Foreign Affairs in Bern. His talents as a negotiator led him to play an important role in emerging international human rights projects on behalf of his government, notably the ECPT in Strasbourg, the Vienna World Conference, the UNCAT and the OPCAT in Geneva and New York. Jean Daniel Vigny is currently Minister at the Permanent Mission of Switzerland to the UN in New York.

the OPCAT proposal. With the support of the Swiss and Belgian delegation, **Jean-Daniel Vigny** (member of the Swiss delegation), suggested that the OPCAT be included in the Vienna Declaration and Programme for Action. In the section on ‘Freedom from Torture’ of the final text of the Declaration, article 61 stated that “The World Conference on Human Rights reaffirms that efforts to eradicate torture should, first and foremost, be concentrated on prevention and, therefore, calls for the early adoption of an Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, which is intended to establish a preventive system of regular visits to places of detention.” Although it did not really expedite the drafting process, it was important to remind states that there was a consensus demand for a preventive system, and thus the Optional Protocol.

The early 1990s was also a crucial time for the development of the CSCT. While its founders, funding, members and even its name had Swiss roots, the scope of its work had become international. To reflect these developments and ensure that it was in a position to continue working towards a universal system of visits to places of detention, the organisation underwent an important reform process.

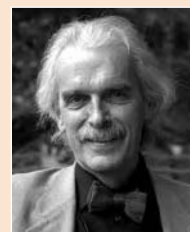
Within a few years, the organisation changed its name, structure, President, Secretary-General as well as its sources of funding. In 1990, Hans Haug stepped down from the presidency, and was replaced by **Marco Mona**, who had previously been active in AI – Switzerland and was known to the CSCT. During Marco Mona’s 16-year presidency, he guided the transformation of this small organisation, dependent on a few private donors, to flourish into a professional international NGO. By 1992, the organisation had redefined its name, objectives and structure and became the



**Association for the Prevention of Torture (APT).** As an association, it developed a broader base of members to support its work and extend its funding. These changes also allowed the APT to obtain consultative status with the Economic and Social Council of the United Nations (and thus the Commission on Human Rights), as well as other international and regional institutions.

While the core mission and non-denunciatory approach of the APT remained, there was a need to develop ways to best support the European CPT, continue to promote the OPCAT during UN negotiations, as well as develop ways to implement standards and CPT recommendations. To carry out these tasks effectively, the APT needed to expand its activities, programmes and staff. One of the changes that occurred during this time was the appointment of a new Secretary General, Claudine Haenni, in 1995. She led these important structural changes, which have provided the foundations for the more global and professional organisation of today.

## Marco Mona SWITZERLAND



A former judge and Police Ombudsman, Marco Mona succeeded Hans Haug as President of

the CSCT in 1990 and facilitated the transformation from the CSCT to a more international APT in 1992. During his 16 years of dynamic presidency, he demonstrated his deep personal commitment to the organisation, including through his involvement in important field activities, such as chairing the negotiations of the Robben Island guidelines, participating in the APT High level mission to Chile in 2006, and delivering human rights training to police officers. On behalf of the APT he received the Human Rights Prize of the French Republic, in 2004. Marco Mona sees his work as a lawyer (in particular for immigrants to Switzerland) as being like a public writer, writing letters for those who can not do it themselves. Besides his important duties as a grandfather, he continues to participate in the APT's training and advocacy events (e.g. in Bolivia and Peru in 2007).



## 7. A breakthrough in Africa: The Robben Island Guidelines

As part of its initiative to prevent torture at both international and regional level, the APT extended its regional focus to Africa. In 1995, the APT acquired observer status at the African Commission on Human and Peoples' Rights (ACHPR) and created, in 1998, an Africa programme to focus on the specific issues of that continent.

Although the prohibition of torture was included in article 5 of the African Charter on Human and Peoples' Rights (1986) and certain African countries had ratified the CAT, torture remained a widespread practice. It was, therefore, deemed necessary for the APT to initiate a collective measure to address the issue of torture in Africa. However, it was unlikely that most countries would agree to have an international visiting mechanism inspect their places of detention. Furthermore, a binding treaty such as the ECPT would have taken too much time to be adopted and implemented. In 2001, with the support of the new Secretary General of the APT, Mark Thomson, the Africa Programme Officer focused on the creation of a tool to translate current norms and standards into practice in the region.

At the 28th Ordinary Session of the African Commission, the APT proposed that the Commission hold a joint workshop to formulate concrete measures to effectively implement the provisions of Article 5 of the African Charter. Thanks to the

### Barney Pityana SOUTH AFRICA



Barney Pityana is an attorney of the High Court of South Africa, an ordained priest and deacon of

the Church of England. In the 1970s, he succeeded Steve Biko as President of South African Students' Organisation (SASO) and was involved in the Black Consciousness Movement before being jailed and exiled in the UK and Switzerland. On his return to South Africa in 1993, he was appointed as a member and elected as Chairperson of the South African Human Rights Commission (1995–2001). He also served as Commissioner of the African Commission on Human and Peoples' Rights from 1997 to 2003 during which he supported whole-heartedly the APT initiatives in Africa. Professor Barney Pityana has been Vice-Chancellor and Principal of the University of South Africa (UNISA) since 2002.

## Germain Baricako

**BURUNDI**



A former lawyer in Burundi, Germain Baricako joined the Organisation of the African Union in

1988 as a legal advisor. He was later appointed Secretary to the African Commission on Human and People's Rights from 1994 to 2006. In this position, he facilitated the APT's interaction with the African Commission as well as the drafting and adoption process of the Robben Island Guidelines on the prohibition and prevention of torture in Africa in 2002. He is a member of the APT. Mr Germain Baricako is currently Senior Advisor in Humanitarian affairs and Human Rights to the African Union Mission in Sudan.

support of the Commissioner, **Barney Pityana**, and Vice-President of the ACHPR, Julienne Ondziel, it was agreed that a workshop of experts would be convened to develop concrete measures to prevent torture in Africa.

The workshop was held in February 2002 in Cape Town and on Robben Island, a symbolic place for the continent, as it was where Nelson Mandela and other anti-Apartheid activists had been detained. This workshop brought together regional and international experts, including ACHPR members, NGOs, torture victims' associations, the police, doctors, CPT members, national human rights institutions, ministry of justice officials, lawyer and academics. They worked on a draft text which had been prepared by the APT. During the meeting, a drafting committee was established to revise the APT document. It was chaired by Malcolm Evans and included **Germain Baricako**, Fiona Adolu, Hannah Forster, Renate Kicker, Debra Long and Jean-Baptiste Niyizurugero.

In order for this tool to be used by a broad array of actors in Africa, it was decided that it should be in the form of guidelines. The latter would become comprehensive measures for the prohibition and prevention of torture, known as the 'Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa: the Robben Island Guidelines'. The latter were adopted by the African Commission in October 2002 and endorsed by the African Union in July 2003. The Robben Island Guidelines (RIG) became the first regional specific instrument for the prohibition and prevention of torture and other ill-treatment in Africa.

The RIG are now used as a reference for standards and measures that countries can refer to in their periodic reports to the African

Commission. In addition, the Special Rapporteur on Prisons and Conditions of Detention in Africa include the RIG in their recommendations on torture and ill-treatment. The African Commission, under the leadership of the **Salamata Sawadogo**, set up a Focal Point and a Working Group on the Implementation of the Robben Island Guidelines, which actively disseminated the RIG provisions and provided advice for their effective implementation. The APT's Africa Programme Officer is the Vice-Chairman of this Working Group.

## **Salamata Sawadogo**

### **BURKINA FASO**



From 2000 to 2007, Salamata Sawadogo was a member of the African Commission for human

and People's Rights, and was the first woman to be elected Chairperson for a 4-year mandate of this regional mechanism. During her mandate, she contributed largely to the adoption and implementation process of the Robben Islands Guidelines for the prevention of torture in Africa. Ms Sawadogo is also a committed human rights activist involved in NGOs such as the Consumer's league and the Women Association of Jurists. A former judge, Ms Sawadogo is the Minister of Human Rights of Burkina Faso (since June 2007).



## 8. Encouraging the police to be frontline human rights defenders

Torture is most likely to occur in places out of public view. Thus, any measures taken to effectively prevent torture should involve the training of the police to improve practices of arrest, interrogation and detention.

Article 10 of the CAT states that “1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.” Despite entering into force in 1987, it took a decade for the significance of training to be recognised as an important element of the preventive framework. This area of work had always been a sensitive and difficult domain for NGOs due to their often critical views of the police. Meanwhile, the police often accused NGOs of interfering with their work and mission to protect the general public.

The concept of having a constructive dialogue with the police and other state authorities, who were willing to eradicate torture, was at the heart of the APT’s approach. Beyond creating a legal framework to prohibit torture, it was essential to train persons in a position to apply and implement the standards. Thus, strengthening the capacity of these actors became a pillar of the

### Anita Hazenberg THE NETHERLANDS



Commissioner Anita Hazenberg was the first police manager responsible for the establish-

ment, operation and development of the Council of Europe’s “Police and Human Rights 1997–2000 programme”. In 1982, she began working as operational officer in the Dutch police and later became the Director of the European Network of Policewomen. She was recently appointed Ambassador ‘Police in Evolution’ by the Dutch Board of Chief Constables. This is a function which she combines with a post as Director of the International Police Leadership for the Police Academy of the Netherlands. She is responsible for the further development of international learning opportunities for police executives.

## Walter Suntinger

AUSTRIA



Walter Suntinger is a jurist, freelance human rights consultant and university

lecturer. He has particularly focused his studies and research on issues related to torture. In the early 1990s, he was Acting Chairman of the Austrian Committee against Torture, the sister organisation of the Swiss Committee against Torture (CSCT). From 1997, he has provided human rights training to the Austrian police. Since 1999, he has been a member of the Austrian Human Rights Advisory Board. He is a board member of the APT (since 1998) and assists the APT in training on visiting and monitoring places of detention, for example in Brazil and Mexico.

prevention of torture. In the second half of the 1990s, there was a global trend to engage with law enforcement authorities in a collaborative and constructive manner. This marked an important shift in the relationship between the police and human rights, as the police was no longer perceived as an alleged violator. Instead, it would be encouraged to become a front line defender of human rights.

The Council of Europe (CoE) was at the forefront of developing human rights programmes for the police forces. In 1997, it launched a ‘Police and Human Rights Programme 1997–2000’, which aimed to raise awareness on human rights among police services through the creation of a network of human rights police officers and the development of training tools. Ms. **Anita Hazenberg**, a committed Dutch police official, was seconded to the CoE to direct the programme. As the only NGO taking part in the launch of this programme, the APT closely collaborated with the programme as well as the Swiss police. In 1999, the APT, the CoE and the Geneva Police published ‘A visit by the CPT – What’s it all about? 15 questions and answers for the police’, which was broadly disseminated and used in many places of detention in Europe. Translated by police services themselves, the brochure is available in over 20 languages and is used to this day. In light of the success, the CoE continued the programme ‘Police and Human Rights – Beyond 2000’ to strengthen the knowledge and skills of police officials to apply human rights standards in their daily work.

The global trend to develop police training led to the publication of numerous training manuals, including: the UN training manual ‘Human rights and Law Enforcement’ (1997); the ICRC publication ‘To serve and to protect’ (2001); and the Commonwealth Secretariat manual on ‘Human Rights training for police in Commonwealth West African Countries’ (2005 – with



support from the APT). At national level, human rights training materials were developed in several countries, such as in South Africa – ‘Human rights and policing’ (2000), or in Austria, where **Walter Suntinger**, an APT board member, drafted a manual for trainers entitled ‘Menschenrechte und Polizei’ (2005). Meanwhile, in Switzerland, the APT was requested by the Swiss Institute and the Geneva police to produce a training Manual for police trainers entitled ‘Police and Human Rights’ (2001).

To bring real improvements in places of detention, a more holistic approach combining organisational and individual dimensions was necessary. As an institution, the police needed to shift from the concept of a ‘police force’ to ‘police service’ to reflect their key social role in protecting human rights. The emphasis would therefore be placed on integrity and professionalism. Meanwhile, individual police officers would have to integrate ethical values into their work. This holistic approach led to the recognition of the need for the police to adopt codes of ethics or conduct.

The APT contributed to two regional codes of conduct for the police in Southern Africa and Europe. In Southern Africa, the Commissioner of the South Africa Police Service, **Jacky Selebi**, invited the APT to assist the Southern African Police Chiefs’ Co-operation Organisation (SARPCCO) in drafting a regional code of ethics for the police. In 2001, the first regional ‘Code of Conduct for Police Officials’ was adopted by SARPCCO. The national police in the 12 Southern African states were expected to implement the code of conduct. The APT ran training courses and produced copies of the code for the police in Botswana and Mauritius. The SARPCCO initiative was in line with the Robben Island Guidelines which also contained a provision on the development of codes of conduct and training tools for law enforcement and security personnel. In 2001, the COE also

## **Jackie (Jacob) Sello Selebi**

**SOUTH AFRICA**



In 1995, Jackie Selebi was appointed South Africa’s Ambassador and Permanent Representative

to the United Nations in Geneva, Switzerland. Following his brilliant chairing of the UN Commission on Human Rights, he received the 1998 Human Rights Award of the International Service for Human Rights. On his return to South Africa, he was appointed National Commissioner of Police. He initiated a joint project between the Southern African Regional Police Chief Council (SARPCCO) and the APT, consisting in the drafting, the adoption and the implementation of the world’s first regional Code of Conduct for Police Officials. Jackie Selebi is currently the National Commissioner of the South African Police Service, as well as the President of Interpol.

adopted a 'European Code of Police Ethics'. These codes became key tools to train senior police officers and to encourage police forces to incorporate modules of the code and ethical policing in the curriculum of basic training for new recruits as well as on-going training.

## 9. The long road of drafting and adopting the Optional Protocol

Between 1977 and 1987, states prioritised the drafting, adoption and entry into force of the Convention against Torture (CAT). Once it entered into force on 26 June 1987, the advocates for the Optional Protocol to the CAT (OPCAT) began encouraging states to begin the official drafting process. Numerous important events were organised to build the momentum to draft the OPCAT. The first one was a colloquium in Graz (1988), which was organised by Renate Kicker, Manfred Nowak and other members of the Austrian Committee against Torture. During the colloquium, they began reviewing the proposal for the OPCAT. A new draft emerged from an expert meeting in Florence (1990), which was convened by the President of the CPT, Antonio Cassese. The experts included **Walter Kälin** and Agnes Dormenvil (CSCT), Helena Cook (AI), Peter Kooijmans (first UN Special Rapporteur on Torture), Jean Daniel Vigny (Switzerland) and Andrew Clapham (European University Institute). Together, they produced a new draft, which incorporated practical measures on preventive visits, based on the CPT's experience. This draft was the basis of discussion at an expert meeting in Geneva (November, 1990). With the support of Joseph Voyame, the Chairman of the Committee against Torture, Costa Rica agreed to re-submit a proposal to the UN Commission on Human Rights (January, 1991) to establish a universal visiting mechanism based on the new

### Walter Kälin SWITZERLAND



Walter Kälin is Professor of Constitutional and International Law at the University of Bern (Switzerland)

and Advisor to the Swiss Federal Department of Foreign Affairs. He is the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons (since 2004), a Member of the UN Human Rights Committee (since 2003), and was Special Rapporteur of the UN Commission on Human Rights on the Situation of Human Rights in Kuwait under Iraqi Occupation (1991–92). Walter Kälin acted as Rapporteur of the group of experts who prepared the Draft Optional Protocol to CAT and played a major role in the 10 years of negotiations of the draft. He was the long-standing, and very influential Vice-President of APT until 2004.

## Claudine Haenni-Dale

SWITZERLAND



During her 6 years as the Secretary General of the APT, Claudine Haenni Dale supported

the expansion of the association's work beyond the visiting aspect of the concept of prevention by developing NGO and police training programmes. On leaving the APT in 2001, she was appointed Advisor to the Chair of the Open-Ended Working Group for the Adoption of the Optional Protocol for the Prevention of Torture. Formerly, she worked as a delegate to the ICRC from 1986 to 1995 and later was a policy Advisor for the Swiss Federal Office of Foreign Affairs. More recently, Claudine Haenni-Dale has been the Advisor to the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, as well as the Subcommittee on Prevention of Torture.

draft. In 1992, an open-ended Working Group was established to draft the Optional Protocol to the UN Convention against Torture.

The drafting and adoption process would take a total of fifteen years, reflecting the complex nature of the issues surrounding the OPCAT. The main bones of contention during the decade of difficult negotiations on the draft were: the possible duplication with existing mechanisms; the costs of visiting bodies; unrestricted access to all places of detention without prior authorisation; reservations; domestic legislation to empower or restrict visiting mechanisms; and national preventive mechanisms. **Claudine Haenni-Dale**, the APT's Secretary General, organised numerous informal inter-sessional meetings with government and NGO delegates, to explore possible solutions to these issues.

Initially the Working Group was chaired by Costa Rica. **Elizabeth Odio-Benito** (from Costa Rica) later returned to the chairmanship for the decisive last three sessions of the Working Group. One of the increasing concerns during the later phases of the drafting process was the ability of one international visiting body to monitor *all* places of detention in *all* the States Parties. This would be a major flaw of the OPCAT and could seriously impede its implementation. The late realisation of this problem led to a radical new proposal being tabled by the Mexican delegation, with the support of the Latin American Group, the APT, ICJ and FIACAT, during the penultimate session of the Working Group (2001). They proposed to include the obligation to establish National Preventive Mechanisms to complement the work of the international visiting body. Many states and NGOs were sceptical about the independence of such bodies and their relationship with the international body. A counter-proposal was presented by Sweden on behalf of the European Union putting more emphasis on the international body, but leaving open the possibility of

complementary national mechanisms, albeit with safeguards on their independence.

With the increasing pressure to complete the drafting process, Odio-Benito took on board the new proposals to draft an alternative negotiated text, while staying true to the aims of the original vision. During the last Working Group meeting and later in the Commission on Human Rights, she told the states that she believed that this was the best achievable compromise.

With the support of NGOs (coordinated by the APT), as well as most Latin American, European and some African and Pacific states, Costa Rica lobbied for support for the draft text at various UN bodies. These included the UN Commission on Human Rights, the ECOSOC and finally the General Assembly. The final vote on 18 December 2002 was a resounding success with 127 states in favour, 4 against and 42 abstentions. It had taken 25 years for Jean-Jacques Gautier's utopian idea to become a reality.

## **Elizabeth Odio Benito** **COSTA RICA**



Elizabeth Odio Benito, former judge of the International ad hoc Tribunal for the Former Yugoslavia,

and currently judge at the International Criminal Court, has extensive practical and academic experience in the field of human rights and international humanitarian law. From 1983 to 2003, she served as member of the United Nations Voluntary Fund for Victims of Torture (UNFVT) and in 1987 and 1988 she was a member of the Expert Committee for the Prevention of Torture in the Americas (ECPTA). In 2000, she was re-elected Chairperson of the Working Group on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and greatly contributed to its adoption in 2002. In Costa Rica, she served as Second Vice-President from 1998 to 2002, and served twice as Minister of Justice, from 1978 to 1982 and from 1990 to 1993.



## 10. From concept to reality: implementing the Optional Protocol

Having waited so long for the drafting and adoption of the OPCAT, the APT unfolded its strategy for the rapid entry into force and implementation of the Optional Protocol. The three pillars of the OPCAT strategy were: a global ratification campaign; the preparation for and assistance to the new Subcommittee on Torture; and assistance and advice on the establishment and functioning of National Preventive Mechanisms. The APT, certain states, the UN Office of the High Commission for Human Rights (OHCHR) and certain NGOs, in particular the members of the Coalition of International NGOs against Torture (CINAT) worked together to make this happen.

The targets of the ratification campaign were: obtainment of the 20 ratifications necessary for a quick entry into force of the OPCAT; a regional balance in ratifications and signatories; the promotion of good role models for neighbouring and politically similar states. Advocacy visits were organised around the world in coordination with national partners, to ensure that they followed up the lobbying work in their countries. The APT and its partners encouraged almost all the states that ratified or signed the OPCAT. After over 60 advocacy visits to over 40 countries, the OPCAT entered into force on 22 June 2006. By mid 2007, over 60 states throughout the world had either ratified or signed the OPCAT.

### Louise Arbour CANADA



Louise Arbour was appointed United Nations High Commissioner for Human Rights in 2004. A former judge

of the Supreme Court of Canada, she was Chief Prosecutor of the International Tribunals for the Former Yugoslavia and Rwanda from 1996 to 1999. Ms. Arbour has received numerous honorary doctorates for her legal and human rights work. As UN High Commissioner at the time of the coming into force of the OPCAT, she has been a strong advocate for the Protocol and has been very supportive of the Subcommittee on Prevention of Torture. She continues to promote the OPCAT as an excellent opportunity to impose national implementation of international human rights law. The Office of the High Commissioner for Human Rights (OHCHR) represents the world's commitment to universal ideals of human rights, and has been given a unique mandate by the international community to promote and protect all human rights.

## Silvia Casale

### UNITED KINGDOM



Silvia Casale has been a leading and long-standing member of the European Committee for the

Prevention of Torture, of which she was the President from 2000 to March 2007. She is currently applying that hands-on prevention and visiting experience as the first Chairperson of the UN Subcommittee on Prevention of Torture. As a criminologist specialising in custody issues, she worked in the United States, Sweden, Germany and England. A former member of the Parole Board for England and Wales and independent consultant to the Her Majesty's Chief Inspector of Prisons, she is a Northern Ireland Sentence Review Commissioner, deciding on release and recall, under the Good Friday Agreement, of prisoners sentenced for offences related to terrorism.

One of the key components of the campaign to ensure the optimal interpretation and implementation of the OPCAT was the production of practical manuals and guides. In 2004, the APT and Inter-American Institute for Human Rights published the OPCAT manual (which was translated into eight languages) to assist in the interpretation of the articles of the OPCAT. The APT also produced a brochure of frequently asked questions (available in 13 languages) to provide a brief introduction to the key issues surrounding the OPCAT.

With the campaign well under way, the APT and the OHCHR organised expert meetings in preparation for the work of the future Subcommittee on the Prevention of Torture (SPT). Experienced practitioners such as: the CPT President (Silvia Casale) and its Secretary (Trevor Stevens); the Head of Protection at the ICRC (Alain Aeschlimann); and the Secretary of the Inter-American Commission on Human Rights (Santiago Canton) and Malcolm Evans shared their knowledge of the functioning, staffing and costs of similar visiting and advisory bodies. The High Commissioner for Human Rights, **Louise Arbour**, gave her personal backing to this process. She has been a very outspoken advocate for the OPCAT and strongly encouraged states to ratify it. For instance, in her Human Rights Day statement on “Torturers and Terrorists” (10 December 2005), she noted that “(...) efforts should be directed at creating a genuine system for monitoring all detainees in all places of detention. The tools to do this already exist, including the Optional Protocol to the UN Convention against Torture, which foresees the creation of mechanisms to access places of detention and interview detainees.” A year later, on the fourth anniversary of the adoption of the OPCAT (18 December 2006) OHCHR convened the first meeting of the States Parties to the OPCAT to elect the new international Subcommittee.



As the first SPT has the historic responsibility of setting precedents and procedures for its function as a visiting and advisory body, the APT and partner NGOs lobbied States Parties to select candidates with a variety of expertise through a public process (e.g. as in Mexico and the UK). All the members bring their complementary and relevant expertise to the SPT. In addition, the Chairperson, **Silvia Casale**, is the former President of the CPT. The other nine members of the SPT are: Mario Coriolano, Marija Definis, Zdenek Hajek, Zbigniew Lasocik, Hans Petersen, Victor Rodriguez, Miguel Sarre, Wilder Tayler and Leopoldo Torres.

While the APT team, led by the Secretary General, **Mark Thomson**, is still campaigning for the ratification of the OPCAT and supporting the work of the SPT, it is also focusing on the challenges of establishing independent and effective National Preventive Mechanisms (NPMs). Prior to the designation or establishment of NPMs, the APT has been encouraging open national processes, broad consultation of relevant actors, and reviews of existing mechanisms and legislation. Such positive processes have been observed in Benin, Paraguay, South Africa and New Zealand. In developing the NPMs, new partners (e.g. parliamentarians, development agencies, the judiciary, police and prison reform organisations) who have not always been involved in torture prevention have increasingly been encouraged to participate in these national processes of democratic governance and national implementation of international human rights to better protect those most likely to be tortured.

Although visionaries such as Jean-Jacques Gautier and Niall MacDermot had initially focused on an international visiting body to oversee the prevention of torture, the NPMs complement and strengthen the work of the SPT to better prevent torture

## Mark Thomson

### UNITED KINGDOM



Mark Thomson took over as APT Secretary General in 2001, when it was not evident that

the Protocol could be adopted. Based on his experience in negotiating other UN texts, such as the Declaration on Human Rights Defenders and the subsequent Special Representative; and the revised ECOSOC rules on consultations with NGOs, he was able to orchestrate, with the Chairperson of the Working Group, her advisor and the Costa Rican diplomats a successful strategy to have the Protocol adopted in 2002. Since then, he has been leading the APT's efforts for a rapid entry into force of the Protocol, as well as strengthening the organisation's ability to support national prevention initiatives. He has provided training on UN human rights procedures and prevention of torture throughout the world. In 2004 he was invested with the British Honour of OBE for his 25 years of human rights work.

in the countries. In practice, the national bodies are in the best position to conduct regular and unannounced visits to all places of detention, and as such will be at the forefront of prevention. Furthermore, their permanent presence in their countries should also have the desired deterrent effect, especially in places where impunity is widespread. Their cooperation with the relevant authorities and the international SPT should lead to a new era of more effective prevention of torture.

As Marco Mona, the former President of APT, wrote in 2006: “If you add three threads of saffron the next time you prepare rice, you will immediately see how the saffron rapidly spreads throughout even the largest pots of rice, imbuing it with rich colour and delicious spicy perfume – a striking effect, considering the small size of those few threads! The ingredients contributed by the APT and its partners to the wider discussion on torture prevention have had a similar effect as those three threads of saffron. And we still have more precious threads of saffron to add to the pot, when and just as much as needed, to make utopia become reality.”

# Annexes



*CSCT/APT Office: "La Cabane".*

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# Glossary

ACAT	Action des chrétiens pour l'abolition de la torture et des exécutions capitales
ACHPR	African Commission on Human and Peoples' Rights
AI	Amnesty International
APT	Association for the Prevention of Torture
CBE	Commander (The Order of the British Empire)
CEPTA	Committee of Experts for the Prevention of Torture in the Americas
CHR	Commission on Human Rights
CINAT	Coalition of International NGOs against Torture
CODEPU	Corporation for the Promotion and Defence of the Rights of Peoples
COE	Council of Europe
CPT	European Committee for the Prevention of Torture
CSCT	Swiss Committee Against Torture
UN/CAT	Convention against Torture
ECOSOC	United Nations Economic and Social Council
ECPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
IACHR	Inter-American Commission on Human Rights
IACPPT	Inter-American Convention to Prevent and Punish Torture
IAJC	Inter-American Juridical Committee
ICJ	International Commission of Jurists
ICRC	International Committee of the Red Cross

ILO	International Labour Organization
KBE	Knight/Dame Commander (The Order of the British Empire)
NGO	Non-Governmental Organisation
NHRI	National Human Rights Institution
NPM	National Preventive Mechanism
OAS	Organization of American States
OBE	Officer (The Order of the British Empire)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OMCT	World Organisation Against Torture
OPCAT	Optional Protocol to the Convention against Torture
OSCE	Organisation for Security and Cooperation in Europe
RIG	Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa: the Robben Island Guidelines
SARPCCO	Southern African Police Chiefs' Co-operation Organisation
SASO	South African Students' Organisation
SPT	Subcommittee on Prevention of Torture
UN	United Nations
UNFVT	United Nations Fund for Victims of Torture
UNISA	University of South Africa



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To tell the story of the concerted efforts to prevent torture and of the Association for the Prevention of Torture (APT), is to tell the story of 30 years of dedication and determination of remarkable individuals and organisations.

The 1970s was a decade when torture reached epidemic proportions. It was also the decade when the world woke up to the fact that torture was increasingly being used against civilian populations. Inspired by a growing movement for the abolition of torture, Jean-Jacques Gautier set about to develop a way to prevent torture. His idea was simple: create a universal system of visits to all places of detention. In 1977, he founded the Swiss Committee against Torture (which later became the APT) to promote this idea.

This brochure is part of a series of activities and publications to mark the 30th anniversary of the APT. It highlights 10 key landmarks and 30 key actors involved in the prevention of torture and the work of the APT over the past three decades.

The APT is an international non-governmental organisation working worldwide to prevent torture and other cruel, inhuman or degrading treatment or punishment.

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