



**UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS**



Address of Ms Maria Francisca Ize-Charrin,
representative of the
Secretary-General,
Temporary Chairperson
to the First Meeting of the States Parties to the
Optional Protocol to the Convention



Monday, 18 December 2006

Geneva, Palais des Nations

Room XXII, 10.30 a.m.

Distinguished representatives, ladies and gentlemen,

On behalf of the High Commissioner for Human Rights Ms Louise Arbour, I have the honour and privilege to extend a very warm welcome to you at this First Meeting of the States Parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The High Commissioner, who is currently in Canada, sends her greetings and looks forward to hearing of the outcome of your meeting.

Approximately six months ago the dream of a retired Swiss banker from Geneva, Mr. Jean-Jacques Gautier came true. Inspired by the work of the International Committee of the Red Cross (ICRC) based on the four Geneva Conventions relating to armed conflicts, Mr. Gautier began a relentless fight against torture, searching for practical methods for its eradication. As this torture generally occurs behind closed doors, he thought that a system of visits by independent experts, who could have access to all places of detention, would be beneficial. He proposed the establishment of an international body with a mandate to visit all places of deprivation of liberty and all persons deprived of their liberty, a mandate of much broader scope than the ICRC. Together with his Swiss Committee against Torture and the International Commission of Jurists, Mr. Gautier prepared a draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which was then itself in draft form. Mr. Gautier's text was formally submitted in 1980 by the delegation of Costa Rica, to the United Nations Commission on Human Rights, which created a Working Group. However, the political climate was not favourable and for a number of years no progress was achieved.

However, Mr. Gautier's ideas were implemented at the regional, European level, through the adoption of the European Convention for the Prevention of Torture and the establishment of the European Committee for the Prevention of Torture, known today as the CPT.

From 1992, the Working Group, headed by Ms. Elizabeth Odio Benito, made significant progress, but it took ten years. The text was adopted by the General Assembly, at its 57th session, on 18 December 2002. Our meeting coincides with the fourth anniversary of the adoption of OPCAT. The Protocol entered into force on 22 June 2006. It has been signed by 56 States, and ratified or acceded to by 29 States, most of which are present here today.

It has been said that the entry into force of the Optional Protocol represents an historic step in the fight against torture and other forms of ill-treatment. The treaty creates the Subcommittee for the Prevention of Torture, which will complement the existing diverse United Nations framework to combat torture which includes the Committee against Torture, the Special Rapporteur on Torture, and the Voluntary Fund for Victims of Torture.

The new monitoring mechanism provided for in the Protocol is significantly different from those established by other United Nations treaties. It establishes a system of preventive visits, to be carried out in a complementary manner by independent international and national experts. States parties oblige themselves to grant them access to all places where persons are deprived of their liberty and are

mandated to speak to such persons confidentially. The basic idea remains that of Jean-Jacques Gautier. Such visits, conducted on a regular and unannounced basis, will be an effective tool to prevent torture and other forms of ill-treatment.

This innovative concept of visits makes the Subcommittee's mandate unique. While most of the other treaty bodies monitor States parties' compliance with their treaty obligations through the review of reports submitted by the States themselves, this body will have a first hand opportunity to oversee the conditions in different places of detention and will be able to issue concrete recommendations for improvement based on its own observations.

I would like to remind this Meeting of the obligations of the States Parties under the Protocol.

In the first place, as you elect the members of the Subcommittee it should be borne in mind that the Optional Protocol requires the creation of one or several independent national preventive mechanisms for the prevention of torture at the domestic level. This should take place at the latest one year after the entry into force of the Optional Protocol or of its ratification or accession. No specific type of national mechanism is required by the OPCAT, therefore Human Rights Commissions, Ombudsmen, Parliamentary Commissions, or NGOs, could be designated to carry out this function. States Parties however must ensure that these national bodies function without any interference from the State authorities.

I should like to take this opportunity to acknowledge the essential role played by civil society organizations, NGOs and national human rights institutions in the

process that has led to today being a reality.

In addition, the Protocol provides for the establishment of a Special Fund to help finance the implementation of the recommendations made by the Subcommittee after a visit to a State Party, as well as for education programmes of the national preventive mechanisms. This Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities. The OHCHR is in the process of establishing this Fund, and I would like to take this opportunity to encourage States and others to consider contributing to this critical tool.

Before I turn to the election of members, I would like to remind you of article 13, paragraph 3, which provides for the establishment of a roster of experts. States Parties may propose up to five national experts to be included in this roster. The OHCHR looks forward to receiving nominations of experts, whose profile should be complementary to that of the members of the Subcommittee you will be electing today.

Finally, a few observations about the membership of the Subcommittee. The first ten members will be critical in shaping the new body and establishing its working methods, and defining its mandate.

Let me recall the criteria the Optional Protocol contains in respect of members and their professional qualifications.

Article 5 states that:

2. The members of the Subcommittee shall be chosen from among persons of high moral character, having proven experience in the field of administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

and

6. The members of the Subcommittee shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee efficiently.

States Parties thus should ensure that the Subcommittee is multidisciplinary, possesses all the relevant professional and personal skills to effectively carry out its mandate. The Subcommittee should be guided by principles of confidentiality, impartiality, non-selectivity, universality and objectivity. One cannot overemphasize the importance of these criteria, in particular that of independence, as members will not represent their countries, but operate independently.

Members will be elected for four years, and be eligible for re-election once if re-nominated. The term of half of the members elected today shall expire only at the end of two years. Immediately after the election of the ten members, the names of those members to serve for two years only shall be drawn by lot by the Chairperson of this meeting.

As you know once the number of States Parties to the Optional Protocol reaches fifty, the membership of the Subcommittee shall increase to twenty-five. If the current trend of approximately two ratifications per month continues, this may occur in the near future.

Despite the fact that there are more candidates than members to be elected today, it is important to stress that there will be no winners or losers. I am convinced that the creation of this body makes winners of us all.

Before proceeding to the election of the Chairperson, I would just like to inform the meeting that, there are now only fourteen candidates. The Secretariat received, on 15 December 2006, a Note Verbale from the Republic of Benin, dated 14 December 2006, withdrawing their candidate.

Allow me to proceed to agenda item 2 of the Provisional agenda (document CAT/OP/SP/2 of 22 November 2006), election of the Chairperson of the First Meeting of the States parties.

Since I hear no objections, it is so decided.

