

Evaluation of the Implementation of APT's Strategic Plan 2011 – 2012

Final Report

Brian Pratt & Harriet Ware-Austin
February 2014



association for
the prevention
of torture

Table of Contents

Abbreviations	2
Summary	3
Part I Overview	5
1 <i>Introduction</i>	5
2 <i>Methodology</i>	5
3 <i>Overview of Findings</i>	6
4 <i>APT's Strategic Plan 2011/2012 Against the Evaluation Objectives</i>	9
5 <i>Other issues</i>	16
6 <i>Conclusions and Recommendations</i>	18
Part II Country Case Studies	22
1 <i>The Philippines case study</i>	22
2 <i>Senegal Case Study</i>	29
3 <i>Tunisian Case Study</i>	37
4 <i>The Kyrgyz Republic Study</i>	45
5 <i>Latin American Case study</i>	55
Annex A: Terms of Reference	60
Annex B: List of people interviewed	66
Annex C: Interview Questions	71
Annex D: Selected bibliography	78

Acknowledgements

The main report was compiled by Brian Pratt and Harriet Ware-Austin, the country studies were from : John Beauclerk ,(Senegal,) Harriet ware-Austin (Tunisia & Philippines) , Charlie Buxton and Gulnara Ibraeva (Kyrgystan), Brian Pratt reviewed the earlier evaluations from Latin America and with Harriet carried out the interviews in Geneva , extra support was provided by Nicole Titera at INTRAC. We would like to thank the APT staff in Geneva, its partners and other stakeholders in the countries visited for their tremendous cooperation and good natured assistance with organising programmes and giving time to meet with us.

Abbreviations

APT	Association for the Prevention of Torture
ATA	Anti-Torture Act
Balay	Philippine Human Rights NGO providing Psychosocial Services and Rehabilitation to Internally Displaced Persons and Survivors of Torture and Organized Violence
CHR	Commission on Human Rights
CSO	Civil society organisation
ECHR	European Court of Human Rights
HRB	Human Rights Based
INTRAC	International NGO Training and Research Centre
LPM	Local Preventive Mechanism
NGO	Non-governmental organisation
NHRI	National Human Rights Institutions
NPM	National preventive mechanism
OHCHR	UN High Commissioner for Human Rights
OMCT	World Organisation against Torture
OPCAT	Optional Protocol to the Convention against Torture
POD	Places of Detention
RCT	Rehabilitation and Research Centre for Torture Victim
SIDA	Swedish Cooperation Agency
SPT	Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
TOR	Terms of Reference
UN	United Nations
UNCAT	UN Committee Against Torture

Summary

It is clear that APT's work is as relevant and necessary today as when it was founded. Torture continues to be a problem in every part of the world, usually with impunity, compounded by ineffective criminal justice systems and governments which are either complicit or fail to prevent it.

We found almost universal agreement amongst a wide range of stakeholders that APT has made a very important contribution over the years to the prevention of torture.

There has been some confusion between APT's strategies, objectives, plans and activities and a lack of clarity in linking outcomes to activities and objectives. However, this is already being addressed following previous external evaluations and we have noted improvements in planning, in particular the development of the ABC system for prioritising projects and a revised strategic plan for the period 2013-15 with its greater emphasis on results.

APT chooses to target 'workable' states where there is some openness to ratifying or considering ratifying the OPCAT. This is a logical strategy and increases the chance of APT achieving its objectives. However, we have had some comments that APT should consider initiatives with some of the 'worst offender' states, where through its credibility and strong reputation it might achieve some positive influence.

APT's strategy based on its narrow focus of achieving ratification and implementation of OPCAT is seen to be relevant in each country case study. It provides an adaptable format for working with states, national and international institutions and civil society using APT's training courses and materials, guidelines and handbooks, advice, experts and expertise.

Relatively modest resources, including a small staff have been used efficiently, transparently and strategically to achieve much. The strategic involvement of external experts on some APT interventions is not only good value for money but increases impact and develops important connections between such experts and target countries.

Partners find APT's approach of leading from the back and its ability to bring together diverse groups is particularly effective and sensitive. It leaves them as the clear owners of the process and often results in well-coordinated and constructive civil society input where previously groups were unable to put differences aside and work together.

In theory, creating laws, policies and institutions, founded upon ratification of an international treaty, has strong potential to sustain. However, there are questions of whether the quality of NPMs will sustain and whether they will be adequately resourced. It is highly likely that APT will need to maintain some level of ongoing contact and support into the medium and even long term.

Some partners, non-governmental organisations (NGOs) in particular, point to the need for APT to maintain longer term contact and focus on developing their capacity as well as that of the NPMs. NGOs make this case given their probable future role in

monitoring, training and supporting NPMs and their work with police and prisons. There is a discussion which needs to take place as in APT, as it could develop in two very different directions. The first option would be to follow the current trajectory of consolidating the NPM processes those countries it already works with, by providing more training and mentoring of both NPMs and local civil society. This could lead to an ever greater and dispersed workload. The alternative would be to help these local bodies on their way but to withdraw quickly and move onto increasing the number of ratifications with new countries, and hopefully new NPMs, leaving future follow up training and support to others in the country or region. As despite commendable success there are still many countries which have not yet ratified the OPCAT.

APT's approach is described as 'consultative and facilitative' and appears fully compliant with its human rights based policy.

One problem widely identified is the judiciary. While the judiciary should play a leading role in torture prevention, it frequently plays little or no role, or is even complicit in enabling torture to continue. A number of stakeholders commented that they would like to see APT include more work with the judiciary as part of its programmes. Although consideration of the importance but neglect of the judiciary has to be placed alongside the issues raised above about longer term focus for APT.

Part I Overview

1 Introduction

This is a mid-term evaluation of the first of APT's multiyear strategic plans. Until 2010, APT had worked to one-year strategic plans. The evaluation was required as part of a four year core grant from the Swedish Cooperation Agency SIDA. It is also intended to complement the internal review of the same period, an external desk review of six countries and an external review of Latin America.¹

These previous evaluations have led to some significant changes in the strategic plan for 2013-2015 including the addition of a fourth objective and an attempt to tighten planning and reporting around key priorities (countries and themes). Therefore, our evaluation will inevitably report on some issues, which have already been the subject of discussion and improvements in practice and planning.

In this report, Part I provides an overview and includes examples and analysis based on the country studies. The detailed country reports are provided in Part II.

2 Methodology

We have carried out an extensive document review including previous reports, reviews and evaluations of APT. We have also studied the website and publications.

We conducted face-to-face interviews with the APT staff in Geneva and with partners and stakeholders in Kyrgyzstan, The Philippines, Tunisia and Senegal. We met with UN representatives, NGOs, officials and members of government and foreign diplomatic missions, where relevant, in Geneva and on the country visits. We did not visit Latin America in the light of a recent evaluation by Hayek Weismann (2013) but reviewed the findings of this and other Latin American materials. The lists of people interviewed can be found in the country case studies and in Appendix 2.

We also conducted on-line and telephone interviews with others including the Special Rapporteur on Torture. Again, a list of names can be found in Appendix 2.

A core group of three consultants conducted the visits and interviews. The regional INTRAC office in Bishkek conducted the interviews there through a local consultant under the oversight of the country director. We have streamlined the country studies to some extent, but given they have been written by four different people, about very different countries, there are inevitably some variations in style.

We all worked loosely from a set of questions developed for and refined after the first field visit (the Philippines). These served as a guide only to ensure some consistency in our approach and that we covered all aspects required in the TORs. For UN officials and others in Geneva we worked from a different set of questions, again using these as a guide rather than a set formula. Both are attached in Appendix 3

¹ Carver 2012, Hayek Weismann 2013

and in each case we sent ahead a summary of the questions to help people prepare their thoughts.

Whilst the time phase for evaluation is quite clear, our interlocutors inevitably focused on a wider timeframe including the current status of the Optional Protocol to the Convention against Torture (OPCAT) implementation. This was very helpful in assessing impact and effectiveness of the 2011/2012 activities. Most people, including quite close partners, were not familiar with the precise detail of APT's strategic plan, which is fully understandable and not a concern.

At our initial meetings with APT's management, they emphasised the importance to them of hearing the feedback and views of partners on their approach and expressed their openness to new ideas about the role of APT. This helped inform our own focus and questions to APT's partners.

The INTRAC team come from a combination of international human rights and development backgrounds. We are very aware of and sympathetic to the debate within the human rights movement about evaluating human rights work. Traditional development approaches are not easily applicable to human rights work with its focus on prevention and promotion, the shortage of clear measurable outcomes, the multiple influences and above all the slow, incremental nature of progress.

3 Overview of Findings

3.1 Introduction

There is almost universal agreement amongst the wide range of stakeholders we interviewed that APT has made a very important contribution over the years to the prevention of torture. The organisation's significant involvement in the creation of the Optional Protocol established its close identification with OPCAT and has helped to give APT a highly focused mandate.

APT has continued to focus on OPCAT since its entry into force in 2006, encouraging states to ratify and implement it. This narrow focus, based around three (now four) strategic objectives, is seen as one of the reasons for APT's effectiveness.

The period of 2011-2012 was clearly instrumental in helping APT to clarify its objectives and has led to a tighter strategic plan for 2013-2015 with more defined and measurable objectives. Most importantly, this plan does not appear to have diluted any of APT's aims and standards for the sake of preparing a slightly more quantitative as well as qualitative action plan for donors.

It is difficult to directly attribute responsibility for achievement in this subject because so many different factors and actors are involved. The 2011-2012 Plan reflects this and includes objectives to 'promote,' and 'contribute to.' This also underlines the longer time frame needed to allow impact from human rights initiatives.

3.2 Planning and Reporting Systems

Like previous evaluators, we have found some confusion between APT's strategies, objectives, plans and activities.² As we have noted in section 1 and 3.1, since this first planning cycle of 2011/2012, there has been an improvement in some aspects of the planning system. We note for example, the introduction of the country/thematic priority subsystem with its ABC classifications and the recent introduction of staff plans tied to these priorities. We also note that work outside these has to be formally authorised. The new strategy is more closely tied to expected results. These are logical improvements and techniques for helping APT focus, although as we note later (section 5.1) there are still some questions pending around how decisions are made about priorities.

The ABC system was introduced during the period in question (2012) and in some ways applied retrospectively in that it was not envisaged in the original strategy of the period

The three original objectives are clear and make sense in the light of APT's vision. As has been noted in previous evaluations, however, there were some common problems in the earlier planning system. There are many passive words in the plan such as "promote, support and advocate". While this is typical human rights language and strategy, it sometimes makes it difficult to find clear links between goals, the activities actually carried out and outcomes resulting from these.

Internal reporting shows progress in ratifications and establishment of national preventative mechanisms (NPMs), indicating that there is a general movement forward. The country studies did find links between APT's involvement and this progress, showing that APT had made a contribution, to a greater or lesser extent. In the case of the Philippines, for example, APT became involved before the ratification and was *felt* by partners to have contributed to a process that civil society and the Philippines Human Rights Commission had already begun. It is currently providing substantial help with preparation of the NPM law.

In Tunisia OPCAT had already been ratified when APT became involved, but partners all saw a significant contribution from APT in guiding the establishment and design of a strong NPM. APT's accompaniment over the long period between OPCAT ratification and the eventual establishment of the NPM (which coincided with the strategy) was an important factor in getting monitoring started up Senegal.

Overall, there seems to be a fit between the strategy and activities in thematic and geographical programmes and there have been serious attempts in the last couple of years to improve internal resource management (related to the introduction of the ABC system and tighter monitoring of results). The new strategy includes operational

² Carver (2012), APT Board 19/4/13, earlier evaluation referred to by Carver, Hayek Weismann (2013) whose Latin American evaluation unilaterally changed the log frame.

plans coupled with internal reviews of progress, clearer guidelines on priorities and indications of who needs to approve exceptions to these.³

The internal evaluation of the 2011/2012 strategic plan provides a substantial report on activities and outcomes against objectives. This is a useful guide and overview, although it has no narrative or analysis and is at times unclear and fails to link outcomes more tightly to objectives and activities. This can result in failure to highlight achievements as is seen in the case of Senegal, which is not included under strategic objective 2, although work on effective legal frameworks had previously been initiated and did continue through 2011/2012 and beyond but is not recorded in the internal evaluation.

Reporting of activities and outcomes in Tunisia is also slightly vague. Tunisia was included under 'Advice on OPCAT and on UNCAT implementation'. The outcome in the internal evaluation is a very general summary and not country specific: *'knowledge about OPCAT has increased globally and in a variety of measures'* and *'APT advocacy, comment and exchanges of experiences have had a positive impact on progress re anti-torture legislation'* and *'judiciary in 3 countries have increased knowledge of national UNCAT implementation'*. In the case of Tunisia, the comment on the judiciary could not be applied, and we are unsure which '3 countries' this speaks of.

We recognise that Tunisia is a special case as it was not in the original plan, however, given that this sort of sudden action on a country is to be expected, the reporting system needs to be able to incorporate a 'new' country, be thorough and detailed and ensure APT can demonstrate its achievements.

3.3 Strategic Plan Aims and Objectives

The 2011/2012 Strategic Plan aims to deliver APT's vision and mission of "a world in which no one is subjected torture or other cruel, inhuman and degrading treatment or punishment as set out in the Universal Declaration of Human Rights."

APT aims to achieve this through an approach of prevention and cooperation, working with a wide range of partners including state authorities, national and international institutions and civil society.

APT is one player in a global movement against torture and its position is both unique and complementary to other organisations. The approaches of the other organisations range from monitoring, exposure and denouncement, to rehabilitation of torture survivors. These approaches tend to be reactive, although are nonetheless important. APT's long term vision is a pre-emptive one to prevent torture from taking place through implementing internationally designed laws and mechanisms targeting the places of detention where torture usually occurs.

APT is clear about its strategy of working cooperatively and constructively with governments and the efficacy of this. Those we spoke to during the country studies,

³ Another example is a new Project form that clearly separates planned activities and outputs from expected results and outcomes.

including organisations with a traditionally more hostile approach to state authorities, all felt that APT's approach was necessary, effective and complementary to others. Naturally government stakeholders, including donors, approved strongly of this strategy.

We did learn from another international NGO that some of their partners on the ground were suspicious of the close relationship between APT and certain governments. However, we did not encounter this directly.

Having said this, APT tends to work with 'easier' countries that have demonstrated a willingness to tackle torture and ratify or consider ratifying the OPCAT, it does not engage with the worst offenders. On one hand this is a logical and pragmatic approach and enables APT to more easily contribute towards its achieving its goals. However, some thought that with the respect and credibility APT commands, it could play a valuable part in bringing pressure on some of the more intransigent states. We consider this further at section 5.1.

4 APT's Strategic Plan 2011/2012 Against the Evaluation Objectives

4.1 Relevance

Was the strategic plan suitably designed to address the problems identified? Was it relevant to the needs of the target group and beneficiaries?

It is clear that APT's work is as relevant and necessary today as when the Association was founded 37 years ago. Torture continues to be a problem in every part of the world, mostly in places of detention and especially at the point of interrogation. Under international human rights law States are held responsible for torture, either through using it deliberately, or through failing to prevent it. The beneficiaries of torture prevention are the potential victims, their families and society as a whole. Clearly for them prevention is the best approach.

There is an established and growing international movement against torture. There is also increasing awareness that a preventative approach is preferable and more effective in the long term than a reactive one alone. Several major donors have demonstrated their belief in this approach through their support for APT.

The OPCAT is a relatively 'easy' international treaty for states to adopt because of the significant part played by a national body, which makes it more 'jointly owned,' sovereign and less of a 'foreign imposition'. Therefore, through focusing its work so closely around OPCAT, APT has selected a realistic and winnable target as well as a very practical mechanism for preventing or at least reducing torture. The steadily increasing number of countries ratifying the OPCAT, 72 state parties and a further 20 who have signed but still have to ratify now reflects this.

An important reason the strategic plan is relevant, is its flexibility and adaptability. This meant, for example, when the opportunity of working on Tunisia arose in 2012,

APT could immediately go into action, with the back-up of strong, ready to use and relevant materials and expertise.

Each country study found general agreement that APT's strategy was relevant to local circumstances: In Latin America, the moves to prevent torture and change the culture within the police, army and places of detention was felt to fit within the perceived re-democratisation of these and other countries. In Senegal, there was general agreement that APT's strategy did well to focus on civil society, given its strength in Senegal and its historical complementarity with the State. In the Philippines partners and stakeholders felt APT's strategy was relevant, and pointed out that it could not have been very different given what they want to achieve and that there has been progress. Similarly, respondents in Kyrgyzstan said the APT's activity there was important and relevant to the needs of the society and regulatory obligations of the state.

Brutal and cruel treatment of detainees is also carried out by non-governmental entities on a serious scale. However, international human rights law defines torture as action by agents of the State with complicity or failure to prevent such action by the State, as we explain earlier in this section. Therefore, international human rights law such as OPCAT, indeed all international human rights law, is targeted at States and their responsibility to protect. Working within this framework, APT also addresses States.

4.2 Efficiency

How did the APT perform on the allocation of human and financial resources in implementing the strategic plan? Did it achieve value for money?

This evaluation did not include examining APT's accounts and finances therefore our assessment of efficiency is on a general level. We conclude that APT has achieved a lot with relatively modest resources including a small staff. That it is able to attract a significant amount of core funding is an indication of the high regard and trust it is held in by its donors. This also enables APT to be responsive and act quickly when it has to. As we have noted earlier there is not always a clear link between actual activities and staff inputs to outcomes, however, we have also noted that the introduction of operational plans and reports have improved reporting and clarity. Moreover, we note it will never be totally possible to ensure a clear link between priorities, activities and outcomes given the large number of variables at work which are totally outside the control of APT.

The new systems are designed to help staff focus on priorities, allocating 50% of their time to level "A" priorities, and so on. This discipline is very important because it prevents APT spreading itself too thinly and maximises its work in the areas it is most likely to influence. This was evident from the country studies (all of which were "A" projects). Within this focus, however, APT remains flexible, responsive and opportunistic. This enables it to respond to needs that arise. For example in the Philippines, where APT was able to meet the request for training of almost all the staff of the Commission on Human Rights. This was an unplanned activity, but its value was recognised, and a training course delivered. This was not only highly appreciated, but also very important for the potential NPM whose staff said they

learnt very important lessons, and were guided through important deliberations on the role of an NPM.

Clearly APT has to judge carefully where to respond to demands such as the one above, balancing opportunities with keeping to the plan.

The Hayek Weismann evaluation on Latin America commented on the difficulty of disaggregating costs against activity and therefore of assessing efficiency (2013). APT responded with an explanation of their analytical registration system of expenditure. Under this simple and transparent system, each expenditure is systematically related to a project and a donor and these reports submitted to donors.

All of APT's donors we spoke to appeared completely confident that their money was being efficiently and effectively spent and helping to deliver their own national policies to tackle torture.

For some activities, APT makes strategic decisions on involving other experts as part of small, well targeted APT missions, often funded by the organisation (for example the visit of the Special Rapporteur to the Kyrgyz Republic was part funded and facilitated by APT). Partners, state authorities and the experts find these immensely constructive and the use of non-staff experts represents good value for money.

The increasing use of training of trainers helps to increase both the spread of impact and also the value for money.

APT's strategy of choosing to work in 'easy' countries, as discussed in section 3.3 could partly be seen as an exercise in prioritising resources to actions more likely to result in positive outcomes and achieve its objectives, therefore increasing value for money.

4.3 Effectiveness

Was the strategic plan suitably designed to address the problems identified?

In this section we have distinguished between the different methods of working that APT uses to achieve their strategic goals as the effectiveness of each is distinct. Overall this use of different tools and techniques seems very effective, enabling different partners and stakeholders to select what is best suited for them at any one time, usually benefitting from the combination.

4.3.1 Training

The value of APT's training programmes consistently comes to the fore. More recently, the training of trainers seems to have been successful in helping local authorities in particular to begin mainstreaming ideas on preventing torture. While the initial training needs the input of international experts for both credibility and expertise, subsequent training for police and prison officials by APT trained nationals is important, well received and ensures local ownership of the process. The Philippines Bureau of Corrections works closely with the Commission on Human Rights inviting its Director on Government Linkages (one of APT's key contacts) to train on all their training sessions. Moreover, they appear to have recently

incorporated APT's 2011/2012 strategic plan as their own, forming a blueprint for training and management systems in their seven national prisons.

The training materials, both publications and those available on-line have been universally well received and were highly praised by all for their practicality, accessibility and usefulness. The handbook on Monitoring Police Custody has been praised in particular and its translation into French and Arabic welcomed. Some partners commented on the importance of the documents being quite small and not too heavy or lengthy in any sense.

The existence of this 'library' of materials provides a useful and targeted resource and is partly why APT can respond quickly when opportunities arise. It enables them to build partners' capacities by providing them with reference material. It has also been very helpful to guide newly formed NPMs (as we were told by one UN commentator) who are generally low on resources and often expertise as well.

Kyrgyz respondents all found the specially designed materials and guidelines on designing the NPM were of great importance in the course of preparation and conducting the public debates aimed to define the NPM format in Kyrgyzstan. This support enabled local actors to promote an entirely new state agency – the Centre for Monitoring and Analysis, which has considerable autonomy in the civil service system and provides strategic guidance, which is implemented in partnership between the state and civil society. Similarly, the development of local preventative measures in the federal states of Brazil and Argentina were clearly linked to APT inputs with programmes including training, advocacy/lobbying, workshops and provision of training and other materials. We found in Tunisia, and the Philippines that those drafting the terms of reference and legislation for new NPMs had also made substantial use of the targeted materials.

Two important reasons why APT is effective, are its tendency to “lead from behind” and to leave local players in control of the process; and its ability to bring diverse organisations to work together. This was particularly striking in Tunisia where the organisations and authorities we interviewed were all clear that Tunisia owned the process and APT advised. Tunisian NGOs spoke of their gain in learning how much more effective they are when working constructively together and attributed this directly to APT (and World Organisation against Torture (OMCT)). NGOs in the Philippines described APT as “consultative and facilitative, a helpful link between government and civil society”, and partners in Senegal commented that only APT could have brought together all the relevant institutions in the country on torture prevention.

4.3.2 Mentoring

Over and above the training and materials, APT regional staff seem to have an ability to develop and maintain very positive close and regular contact with partners. The continuity of APT personnel working in the regions has helped partners and others develop highly trusted and valued relationships with APT staff. Partners feel they can ask quick questions and send documents for comments and advice. This was clear in each country case. The NPM drafting committee in Tunisia sent their completed draft to the regional officer for comment before submitting it to the National Constitutional

Assembly. We were told there is almost daily contact between the Philippines Commission on Human Rights (CHR) and the APT office.

4.3.3 Exchange visits

Where we recorded exchange visits, they appear to have been highly valued and often instrumental in bringing about changes in practise. For example after an exchange visit to his counterpart in France set up by APT in June 2012⁴ the Senegalese Observer became conscious of the need to re-model the approach to torture in the country. This started with awareness raising and focusing on building a new political dialogue for protection and prevention – even within the judiciary. On return the NPM developed and distributed a Practical Guide to Visits inspired by the French system and outlining the provisions of OPCAT for prison staff as well as for monitors.

Partners and officials are very keen on exchange visits. This is often the case in international work and it is important that the visits are handled very carefully to ensure they are targeted, closely managed and result in action plans and other outcomes. The Senegalese case demonstrates this well.

4.3.4 Regional and National Seminars and Conferences

These are clearly found to be of great value because of the opportunity to learn from other people who may face similar local situations and problems. Tunisian partners spoke very positively of the usefulness of the regional conference on ‘torture prevention in international law’ held in Morocco in 2012. Similarly, the Philippines Human Rights Commission found the sub-regional conference on blended learning on torture prevention for National Human Rights Institutions in SE Asia extremely valuable. Senegalese organisations also benefited from exposure to wider processes addressing torture in the continent. Study tours organized by APT for civil servants and civil society representatives were of great importance in improving torture monitoring in Kyrgyzstan. The regional meeting of NPMs in the southern Cone of South America held in Argentina, and the forthcoming regional consultation also reflect strong regional collaboration and sharing assisted by APTs office in Panama.

Assuming the establishment of the new NPM in Tunisia goes ahead smoothly and the mechanism begins to function as it should, Tunisian partners believe they will be in a good position to demonstrate a strong model of OPCAT ratification and implementation to the region. One vehicle they are considering to promote this is the Arab Council for Ministries of Interior, which is based in Tunis.

4.3.5 International Conferences

In the period under review the 2011 a “Global Forum” with 300 people from 90 countries, including representatives from 23 NPMs and two local Preventative mechanisms (LPMs) was held in Geneva. This was clearly an important marker event for OPCAT and the NPM process. The Director of APT’s key partner in Senegal,

⁴ The Controller for the Prevention of Torture in France first visited Senegal for APT’s Conference in 2010. Therefore the visit by the new Observer was therefore a return visit in this useful exchange facilitated by APT.

Amnesty International was one of two invitees from Senegal that gained greatly from the opportunity of exchange at the international level.

4.4 Sustainability

Are the results sustainable? Is APT support/involvement still required in order to achieve lasting results and where?

In theory, creating laws, policies and institutions, founded upon ratification of an international treaty has strong potential to last. Given the generally strong political and civil society buy-in to this issue, it is even more likely to last. Therefore, APT's strategy is potentially sustainable. However, the question that has been pointed out in Carver's evaluation will be one of sustained quality (2012). Moreover, it is a long-term process which will almost certainly require some medium to long term input from APT with states, NPMs and civil society.

OPCAT is a new treaty with a relatively short track record on which to predict longer term patterns. There are many variables beyond APT's control, including local political and economic situations. One of the main threats to the effective and sustained functioning of NPMs is resourcing and we already have examples of governments not resourcing their NPMs adequately. For example Senegal, where the NPM is attempting to operate a very wide mandate with government providing less than a tenth of its desired budget. Amnesty International is subsidising a little but potential donors are still deliberating about providing future funding. The planned NPM for Tunisia will possibly face a similar problem, particularly as the transitional government has ruled out any kind of foreign funding.

In addition to resourcing issues, the capabilities and commitment of NPM members and their access to often-sensitive places of detention will have a significant impact on the independence and effectiveness of the mechanism. There will need to be an ongoing capacity in each country to provide training to new NPM members as well as to independently monitor and mentor their work.

Independent scrutiny is largely a civil society function therefore local civil society organisations will need to have the capacity to do so and they are likely to need some continued support and training for this even after NPMs are established.

Training new NPM members will best be provided by a combination of government and civil society, with some international input. There will also need to be ongoing training for police and prison staff, with a view to incorporating this into the curricula at their academies as well. Organisations in the Philippines commented on this and urged APT to increase its support for them (and not only the Commission on Human Rights which is the potential NPM). The reason for this is to ensure they have capacity to train police and prison staff as well as monitor the future NPM and places of detention, which some of them already do under their own mandates. NGOs in Tunisia tend to lack basic organisational capacity and will continue to need support to develop this as well as training and monitoring skills.

We discuss the judiciary in more detail later, (section 5.3) and the serious concerns over their frequent failure to play their part in preventing torture and helping bring real and lasting change.

APT addresses most of these previous issues in its interventions, although with less focus on the judiciary. All parties, particularly NGOs find these interventions very effective and helpful and in all cases would like much more. Clearly APT has to make resource based decisions and cannot continue working at high levels in each country indefinitely. Therefore, it needs to ensure its initial impact is high and designed to sustain, for example by continuing to prioritise the training of trainers and building capacity of partners. It should also plan for how to manage and maintain some level of ongoing, active contact with all parties. Strong NGOs will help maintain and steadily improve effective functioning of NPMs.

4.5 Impact

What contribution did APT make to the change it wanted to see? What were the final results of its activities as part of implementing the 2011-2012 strategic plan?

Previous reports have noted the difficulty of assessing impact in relation to human rights work and particularly in relation to torture prevention. This is for many reasons including the difficulty of precisely attributing responsibility for any outcome given the number of different factors involved and the length of time having an impact takes in such a sensitive area. This is likely to be a long time, in some areas (such as torture prevention) but should be a little quicker on issues such as treaty ratification and law making. We note there are no proposed timeframes in the strategic plan.

The value of having a timeframe would allow a clearer measurement of impact. It would also provide APT with a possible basis on which to make strategic decisions on whether to continue working in some countries where progress may be pathologically slow, as in Mali where APT took the decision to cease its work.

As we outlined in section 4.4, there is an important question about quality and sustained quality of the NPMs and associated laws and processes. This will also influence the measure of impact in the medium and longer term. APT might consider outlining a minimum standard, for example based on the Paris Principles, within a certain timeframe beyond which it would not continue its support.

Despite the uncertainty of measuring impact, we heard from stakeholders in every country case, Geneva and elsewhere, nothing but praise of APT. Everyone assured us that its work has made a significant impact in this field. The reason given is that APT's unique, cooperative approach together with a clear-cut (narrow) focus, expertise and a wide range of tools provides states and civil society groups with a practical course of action. Therefore, APT is considered an effective vehicle in changing mind-sets and practices.⁵

4.6 Human Rights Based Approach (HRB Approach)

"In its work and functioning, the APT endeavours to apply the principles of a human rights based approach, in particular the universality and indivisibility of all human

⁵ The current multi country research on impact by Richard Carver for APT may produce further ideas on the longer-term impact of its work.

rights, empowerment, accountability, participation, non-discrimination, gender sensitivity and protection of vulnerable people”

APT aims to apply the HRB approach internally, within the secretariat and Board and externally, in its programmes and activities. The underlying principle is for APT to ensure that all activities contribute to enhancing Human Rights. The rationale being that one of the best means to convince its partners and beneficiaries of the use and need to abide by international human rights law is to ensure that all internal and external actions of the organisation reflect and abide by this commitment.

Based on our observations, reading and interviews with staff, partners and all other stakeholders, APT appears to have followed this approach both internally and externally. Within the organisation there is a relatively flat management structure and an open and participative approach with relevant staff sharing in decision making, planning and other organisational matters. Individual staff appear to have significant ownership of their work and the principles of transparency, accountability, non-discrimination and equality appear to apply fully.

Externally, APT is almost universally held in high regard and one important reason for this is its respectful, inclusive and level treatment of other organisations and individuals. Partners and stakeholders in the field mostly felt they had participated equally, been fully involved in the planning and advocacy and that they, not APT, led the various processes with help and advice from APT.

We did encounter a few minor concerns, for example, the organisations in the Philippines and Mexico who seem to have been or felt they had been slightly side-lined (see section 5.2, para. 4-5). This is less a case of APT not applying its HRB approach than having to make strategic decisions, prioritising its time and resources towards the main partners. However, as we have said elsewhere, APT may wish to consider how it does maintain links and support for NGOs who are important for the future functioning of NPMs.

5 Other issues

5.1 Geographical Cover

We recognise that APT does not have the resources to cover the globe. Moreover, we have noted APT’s strategy of working with approachable states where there is a level of genuine will to ratify OPCAT and prevent torture. This makes sense in terms of using its resources efficiently and achieving value for donors’ money, as we note in section 4.2. However, there is the question raised in section 3.3 about whether APT could have a positive influence on some of the more intransigent states, of which there are many.

Despite understanding the broad principle that APT works with countries where the door is open, it is not always clear exactly how decisions are made to allocate A, B or C prioritisation between these countries. One donor for example queried why it appeared that sub Saharan Africa seemed to have been dropped in favour of the Middle East. Especially since the meeting in South Africa which led to the Robben Island statement seemed to have opened the way to more progress in the region?

Another donor also asked whether APT might have an increased outreach through decentralising to more regional offices like the Latin American office in Panama, which seems to have been effective in the region. This might permit long-term work in otherwise neglected areas such as South Asia, or where more input could speed up current progress. Indeed many other Human rights groups are seeking such a structure via their own regional or country offices or a stronger more formal set of alliances.

If lack of resources were the main constraint preventing APT from tackling some of the worst offenders, would its strategy change if more resources became available? APT might consider developing another long-term list of countries where despite low expectations it aims to try to initiate interest in entering the OPCAT process. The Special Rapporteur on Torture commented that “APT is very efficient, and effective and successful in getting the attention of states and other NGOs” which suggests that it could well play an important role in trying to engage with the next tier of countries.

5.2 Partnerships

One of APT’s many strengths is its global network and highly positive working relationships with organisations and individuals across the world. Many partners commented on the value APT brings in terms of connecting them and their states with key players, such as members of the Subcommittee for the Prevention of Torture (SPT). This was noted in Tunisia and the Kyrgyz Republic where visits from a member of the SPT and Special Rapporteur respectively were held to have been catalysts in moving forward implementation of OPCAT.

Equally it helps connect such key players with states and civil society groups in target countries. The Special Rapporteur on Torture commented on behalf of his office that “in many parts of the world APT has become a primary vehicle for us to get acquainted with human rights activists in the front line and we have benefited enormously from that assistance.” Representatives of other international agencies reflected this sentiment.

We have commented in section 4.3 on APT’s valuable role in bringing diverse groups together within countries into constructive working relationships with their governments. These are informal relationships and are detailed more fully in the country reports.

Despite these generally being very positive relationships, there have been a few concerns that once an NPM is in place NGOs partners get side-lined and even abandoned. This is to some extent inevitable, as APT has to prioritise resources and move on once it has achieved its objectives (section 4.4). However, given the important role of civil society in supporting, even facilitating the effective function of the NPMs, APT would ideally maintain some active link and or at least clarify future relations.

Such concerns were raised in each country study and the Hayek Weismann evaluation commented on the problems in Mexico where NGOs and the NPM had become “estranged” implying an ongoing need for APT to facilitate cooperation between these parties. NGOs in the Philippines felt they were a lower priority than the Commission on Human Rights (the potential NPM) and while understanding this,

thought APT should continue to support them given their future role as independent monitors of the NPM and their own work training police and prison staff, which should be re-enforcing APT's work.

5.3 The Judiciary

A serious barrier to enforcing OPCAT and other anti-torture law that arose in most of the country cases, with the exception of Senegal, is the Criminal Justice System, in particular the police and the judiciary. While police are generally being targeted through training either directly by APT or through trained local partners, the judiciary do not appear to have been targeted to the same degree. In Tunisia 80 judges were removed after the fall of Ben Ali's regime, however, most of those remaining have a history of failing to take any action over allegations of torture. Attitudes are described as retrogressive and they are at best ignorant but at worst often hostile to human rights.

The Judiciary in the Philippines and the Kyrgyz Republic were also criticised for their ineffectiveness in enforcing anti-torture laws and combating cases of alleged torture. Freedom House has just released a statement about the human rights situation in Kyrgyzstan in 2013. It states that "the most urgent problems remain denial of due process and access to justice because of the lack of judicial independence, impartial prosecution and non-discriminatory application of law."

There are various reasons why the judiciary can be seen to undermine torture prevention, namely retrogressive attitudes and ignorance of human rights and national and international legal obligations to uphold them, corruption and political interference. Other reasons vary with countries and include reliance of confession evidence in court (Kyrgyzstan & Senegal) and in the Philippines the system relies heavily on witness evidence. If a witness does not see who their alleged torturer is, the case cannot progress. In Tunisia, no torture cases have been progressed yet in the three years since the revolution although in theory confession evidence is now ruled out.

6 Conclusions and Recommendations

- We found almost universal agreement amongst a wide range of stakeholders that APT has made a very important contribution over the years to preventing torture. It is a unique and vital player within the global movement against torture.
 - *There is general agreement that APT should continue as it is with only a few possible changes.*
- The nature of human rights work generally makes it inherently difficult to measure outcomes and impact. Progress tends to be slow and there are many factors totally outside the control of implementers such as APT.
 - *Nevertheless, APT should continue its efforts to set clear, measurable and observable objectives with timeframes.*

- Like previous evaluators, we have found some confusion between APT's strategies, objectives, plans and activities and a lack of clarity in linking outcomes to objectives. This can result in a failure to highlight achievements. We note there have been improvements in the planning system since the period of our evaluation.
 - *Internal reporting systems must continue to ensure that they link objectives, activities and outcomes clearly.*
- We have found the strategic plan is **relevant** and suitably designed to work with states, national and international institutions and civil society and ease their OPCAT process. This is achieved through providing technical advice and support on ratification and implementation and examples of NPMs. This work has been well received and APT directly attributed with contributing to progress.
- OPCAT has relative 'appeal' because it enables states parties to maintain significant ownership through the establishment of a *national* preventative mechanism. Working narrowly around OPCAT has enabled APT to have a clear, focused, deliverable mandate, which is highly relevant for seeking to prevent torture.
- APT generally seeks to engage with 'easier' states, which are willing to ratify or consider ratifying OPCAT which increases its likelihood to deliver.
 - *Given APT's credibility and influence it might consider developing a strand of higher risk, longer term work seeking to initiate interest amongst some of the 'worst offenders' in entering the OPCAT process.*
- APT's strategy has been seen to be relevant in each country case study, with flexibility to allow new opportunities to be taken as they arise.
 - *Without losing flexibility, APT should ensure it balances resources between following its plans with responding to reasonable demands from stakeholders.*
- APT appears to have allocated resources most **efficiently** and achieved a lot with relatively modest amounts, including a small staff. The new planning systems allow it to focus on priorities and APT clearly makes strategic decisions including selecting 'workable' countries where objectives are more likely to be achieved and assembling influential delegations for high level country missions.
- APT reports in detail to donors, accounting for money spent on each activity in a project. The process is simple and transparent and donors seem completely confident that their money is being well spent.
- APT applies a range of methods to achieve their strategic goals **effectively**. These include various training techniques and provision of advice based on their substantial training and information resources, experience from other countries and access to relevant experts.
 - *This is delivered as training sessions with targeted groups, through regional and international seminars and conferences, and through regular and direct personal contact between Geneva and partners on the ground.*

- APT's approach of leading from the back and its ability to bring diverse groups together is particularly effective, sensitive and well received. It leaves partners as the clear owners of the process and often results in well-coordinated civil society input where previously groups were unable to put differences aside and work together.
- Some concerns have been raised about exit strategies and not maintaining support for NGOs as the process matures.
 - *APT should clarify its exit strategies and also how and if it will maintain support over the longer term and ensure that NGOs have capacity to monitor and support the effective functioning of NPMs.*
- In theory, creating laws, policies and institutions, founded upon ratification of an international treaty, has strong potential to sustain. Therefore, APT's strategy to achieve these results is **sustainable**.
- There are questions⁶ about whether the quality of the NPMs will be sustained and given that the prevention of torture is a long term process, therefore NPMs and civil society will almost certainly require ongoing input and support from APT over the medium even long term, which will be a challenge for APT's resources.
 - *APT might design a strategy for re-visiting closed country projects after certain, regular intervals to provide health checks and up-date training and advice. Alternatively, it could develop a monitoring and reporting system within its network of organisations, including an alert system for problems. This may also point towards the need for regional support groups to provide ongoing support to NPMs .*
- Other factors outside APT's control will influence the sustainability of NPMs, including political situations, resources, capacity and commitment of NPM members, access to all places of detention, space for civil society to operate and most of all resources.
 - *APT might consider outlining a minimum standard, for example based on the Paris Principles, linked to a timeframe, below which it suspends its work in countries.*
- **Impact** is difficult to measure precisely in human rights work, however, APT is seen by all its partners and stakeholders to have made a significant impact in this field and been instrumental in helping to change mind-sets and practises.
- APT has complied fully with its human rights based policy.
- The judiciary in many countries actually represent a barrier to implementing OPCAT and preventing torture. This is due to various reasons including corruption and political interference, retrogressive attitudes and ignorance about human rights and how to uphold them under national and international law.
 - *APT might wish to include a strategy to address the judiciary as another element of its interventions.*

⁶ First raised in the Carver report

- A specific view was expressed suggesting that APT could generate legal and other advocacy initiatives at the local level, to mobilise courts, prosecutors, public defenders and NGOs to bring complaints, file petitions for habeas corpus and more generally intervene in a timely fashion to reduce the risk of torture of detainees.

Part II Country Case Studies

1 The Philippines case study

1.1 Background

The Philippines signed the OPCAT in 2008 and ratified it in April 2012. It also passed its own Anti Torture Act (ATA) in 2009, after 22 years of work on this. The 1987 constitution outlawed torture (vaguely defined) in very general terms. The NPM has not yet been established.

In 2009 the UN Committee Against Torture reviewed the Philippines and expressed deep concern about the “numerous, ongoing, credible and consistent allegations of routine and widespread use of torture and ill-treatment of suspects in police custody”. These included the use of torture to extract confessions or other information to be used in criminal proceedings. The Committee also expressed its deep concern that “credible allegations of torture and/or ill-treatment committed by law enforcement and military services personnel are seldom investigated and prosecuted and that perpetrators are either rarely convicted or sentenced to lenient penalties.” Impunity also continues for enforced disappearance and unlawful killing despite a government commitment to end them.

Torture mostly happens at arrest, in transport to custody and during interrogation. It is mostly used as a punishment or in the case of youth ‘discipline’ – it is widely accepted by society and even torture victims. 80% of violations are allegedly committed by new police recruits. Police use torture as a tool and argue it is justified.

There is mostly impunity for offending police, compounded by slow justice. Prosecutors tend not to be familiar with Philippines’ own Anti Torture Act (2009) let alone with OPCAT and other international obligations. The Philippines judicial system relies primarily on witness testimony as evidence and has not developed the practice of medical evidence. Therefore, if torture victims did not see their abuser, the courts take this as there being no evidence of torture.

The main problem in prisons is severe over-crowding chiefly because of the time suspects are kept waiting for trials with three years a typical length. Because of a constitutional article discouraging ‘over use of bail’ there is far too little use of bail. Only 5% of prisoners are post-trial.

The failure of the judiciary to understand either national or international human rights is a major reason torture and violations continue. Impunity is a barrier to everything. The police and military use disappearance to overcome the restrictions of the Anti-Torture Act and Judges tend not to see cases prosecuted from a human rights dimension.

Police are under-staffed, ill-equipped and low skilled. Only 2% of police are investigators, so investigations are very slow and long. Corruption is also a barrier to change throughout the judiciary.

The Philippines was reviewed under the Universal Periodic Review in October 2012 in which while recognising progress other short-comings were regretted. Amnesty International's submission raised concern about the Philippines' failure to implement the Anti-Torture Act and noted the continuing practice or complicity in torture and cruel, inhuman and degrading treatment by security officials.

During the evaluation visit we met with four survivors of torture whose stories illustrated these allegations and concerns.

The Philippines Commission on Human Rights (CHR) was established in 1987, it has A grade status and is likely to form the National Preventative Mechanism (NPM). The exact format has not yet been finalised and may either involve the CHR as the NPM or the NPM as a body attached to the CHR. The latter seems to be the preferred scenario although there will be the inevitable issue of the CHR being given adequate resources to carry out the task.

1.2 The OPCAT processes and APT's involvement

The APT became involved with the Philippines in 2007/8, working with a pre-existing coalition of local NGOs, the CHR and Rehabilitation and Research Centre for Torture Victim (RCT) on advocating for ratification of OPCAT. The coalition, which had formed in 2002, began to campaign for OPCAT in 2007 with support from RTC. APT became involved with them through the NGO Balay and brought in its expertise and guidance on how to approach the process.

APT's support has been very significant through its training and advocacy visits. APT is supporting CHR in drafting the NPM legislation, communication is regular and the CHR finds APT swift and accessible, with answers and advice to all its queries. A senator has agreed to sponsor the bill and foresees no trouble as this is an 'un-contentious law'.

NGOs comment that APT has focused increasingly on the CHR and while they are critical of the CHR they also understand the reason and APT's particular approach. This approach is described as very diplomatic, one that does not impose its views and that shares ideas... it is "consultative and facilitative." APT has provided useful inputs, resources, capacity, insights, knowledge and encouragement over the NPM as well as models and advice.

Some CSOs feel APT should speak out to ensure the mechanism (probably CHR is independent and OPCAT compliant 'APT should steer the process more firmly' and should relate more strongly and visibly with the Presidential Human Rights Committee and the Department of Interior and Local Government.

APT is seen by CSOs as a useful link between them and the government.

One criticism was that CSOs feel there should have been more work with them, more training and capacity building as they will be closely involved both in preventative monitoring of their own and also monitoring the NPM.

1.3 Achievements against the strategic objectives:

1.3.1 Strategic Objective 1: promote effective monitoring and transparency in places of deprivation of liberty

Output/ activities:

- 1. Trainings for NHRIs (monitoring place of detention (POD))*
APT has provided training sessions on best practices related to preventative detention monitoring in the Philippines. These have been face to face and also virtual and included CHR staff from all the 14 regional office, including training of trainers who in turn have been able to deliver to other colleagues.
- 2. Contribution to drafting NPM legislation (advice on NPM designation)*
APT has worked closely and regularly with the CHR advising on drafting the legislation, providing examples, letting the CHR lead the process, with some input from NGOs, draft the legislation and ask questions.
- 3. Support the establishment/designation of an effective NPM*
APT has worked closely with Balay (NGO) and the CHR lobbying on the designation of the NPM, providing information, examples and advice on the process which it is hoped and believed will lead to the establishment of an effective NPM in the near future.
- 4. Support the effective functioning of the NPM*
There is no NPM yet so this is not deliverable
- 5. Promote synergies and coordination between international, regional and national bodies involved in preventative monitoring*
APT has helped connect and coordinate international, regional and national groups – 2 OPCAT conferences in region. Most strongly at international level, partners feel the SPT Philippines member is attributable to APT's efforts.

Under the regional 'planned activities by objective' the activity for the Philippines was:

'Support the establishment/designation of an effective NPM'

We assess that this has been achieved as demonstrated in 3 above. We have recorded achievements against other strategic objectives because although these were not set out as specific country objectives, most have been achieved or largely achieved.

1.3.2 Strategic Objective 2: contribute to effective legal and policy frameworks to prevent torture.

Output/activities:

- 1. Advocate for ratification of UNCAT its OP and other relevant instruments*
UNCAT was signed in 1987, so partners do not feel APT contributed to this;
APT has certainly contributed to ratification of the OPCAT along with NGOs

and CHR which had already started work on this. APT contributed to the adoption of the Philippines' own Anti Torture Act.

2. *Advocate for and provide policy and legal advice on OPCAT implementation*
Yes, APT has provided a sustained flow of advice and information on this, responding to all questions and requests very speedily and comprehensively and providing examples of other models.
3. *Advocate for, and provide policy and legal advice on UNCAT implementation*
APT has not been particularly involved in this according to partners and reports.
4. *Contribute to the development of and better knowledge and understanding of international standards and jurisprudence related to the prohibition and prevention of torture*
Yes, APT has provided knowledge, information, examples and understanding particularly through its materials and publication, of international standards. It is not clear that this included jurisprudence and work on this is needed given the Philippines's judiciary's dependence on witness evidence. CHR would like advice on dealing with the judiciary and their reliance on witness evidence.
5. *Promote legal and procedural safeguards for the prevention of torture*
Yes, this has been integral to what it teaches and advocates for.

Under the regional 'planned activities by objective' the activity for the Philippines was: 'promote OPCAT ratification'

APT have clearly promoted *OPCAT ratification, and to made an important contribution to achieving it. Again, we have included all the strategic objectives as well as this country specific one. The answers above demonstrate that APT did help promote OPCAT ratification in the Philippines.

1.3.3 Strategic Objective 3: promote a culture of prevention by helping to improve capacities and practices of relevant actors.

1. *Increase knowledge on torture prevention and prohibition by providing multilingual publications, tools and online resources*
The online materials have been very helpful, accessible and clear. The partners are able to use the English language versions as there are none in Filipino, but are fine with this.
2. *Provide training and technical advice on torture prevention and facilitate exchange of experiences amongst relevant actors on best practices for torture prevention.*
To some extent, given the training on preventative monitoring is aimed at preventing torture, this has been achieved. The Uganda visit and exchange of experience was found very useful.

3. *Improve practices of actors directly concerned with persons deprived of liberty, through enhancing their capacity, knowledge and determination to prevent torture.*

APT have achieved this indirectly through training CHR staff who train others for example at the Bureau of Corrections, who following their modernisation act and shift in approach, claim to have adopted APT's own strategy for their prison management.

4. *Contribute to the development of the conceptual framework on torture prevention, through internal knowledge management, research and analysis of data and trends.*

This has been achieved to some degree, partners appear to have a reasonable understanding of this concept of torture prevention, although the CHR do not yet seem to be systematically implementing such an approach. We were told they are still more responsive than preventative.

*Under the regional 'planned activities by objective' the activities for the Philippines were: **sub-regional:** blended learning trainings (online course and face to face workshop) on torture prevention for NHRIs in South Asia (2011)*

A workshop was delivered in September 2011 and those who attended found this very helpful.

National: *delivering an NHRI requested training on (preventative) detention monitoring for 52 of its staff from throughout the country.*

This was delivered as requested and has led to further training for colleagues by the staff who attended.

1.4 Achievements against priorities by programme

1.4.1 Asia-Pacific:

1. *Contribute to a critical mass of OPCAT ratifications in Asia Pacific, with effective NPMs in key countries*

APT played an important part together with partners in the Philippines, in advocating for and achieving the signing of OPCAT. It has and is also contributing to the development of as effective an NPM as possible in the Philippines through provision of training, information and other examples.

2. *Support processes for effective legal reform against torture in target countries*

APT's role here has been less clear, although it did contribute to the advocacy efforts of the local coalition against torture which again probably contributed to the introduction of the Philippines' Anti Torture Act. It may also be possible to see an indirect contribution from APT towards progressive laws beginning to modernise the prison system (see strategic objective 3.3 above) as a result of the various trainings with the CHR who in turn brought pressure and advocacy meetings with government officials.

3. *Contribute to strengthened capacity and determination of key actors to prevent torture (NHRIs and criminal justice officials, NGOs)*

APT has clearly made a significant contribution to key actors mainly the CHR prison monitoring staff (Assistance and Visiting Office) who as a result of attending various regional and also country specific training have developed their capacity and are preparing a strategy on preventative monitoring. While the strategy does not appear to be being implemented very quickly key attitudes have apparently changed to appreciate the value of preventative monitoring for preventing torture. APT has also contributed indirectly through the CHR's training and advocacy aimed at government including justice officials, and directly through its own discussions with government interlocutors.

1.5 Summary against the objectives of the evaluation

1.5.1 **Relevance was the strategic plan suitably designed to address the problems identified? Was it relevant to the needs of the target group and beneficiaries?**

Partners and stakeholders feel APT's strategy has been relevant, that it could not have been very different and that there has been progress.

1.5.2 **Effectiveness was the strategic plan suitably designed to address the problems identified?**

It has made a contribution, giving an extra impetus to what was on its way. APT's name and involvement brings valuable pressure. While many CSOs take a much more critical approach to the Philippines government, there was general support for APT's approach. Some acknowledged that the government had had enough of the stick approach and that APT's dialogue and cooperation has proved more effective in this case. The President's human rights committee welcome APT's help. The providing of information, advice and training feeds straight into the local process and influences how the legislation (for example) is being developed.

1.5.3 **Sustainability Are the results sustainable? Is APT support/involvement still required in order to achieve lasting results and where?**

This work is likely to sustain as it is about putting laws and institutions in place. However, there will need to be ongoing, active contact with all parties. Strong relationships with CSOs will help this greatly as these partnerships are based on advocacy not funding. They would like to see APT produce a long term plan working with and sustaining relations with CSOs.

1.5.4 **Impact what contribution did APT make to the change it wanted to see? What were the final results of its activities as part of implementing the 2011-2012 strategic plan?**

Some mind-sets have changed, we are told, both in government and also in CHR where there is a far greater understanding of and commitment to developing preventative monitoring. APT contributed directly to this and it is likely to have an impact on preventing/reducing torture in the medium and longer term.

A significant portion of the torture prevention work in Philippines would not have happened without APT because they brought the models, knowledge and experience.

The Bureau of Corrections has incorporated APT's strategy as their own and this has changed their practice. They have close contact with Karen from the CHR, she gives a lot of training, based on that she received from APT. This is a direct impact of ratifying OPCAT and of APT.

1.5.5 Human rights based approach were our actions compliant with this policy? How can we improve in the implementation of this APT policy?

NGOs felt that APT did not seek much input from them, particularly towards the end of the process, compared with the APT input to CHR. However while feeling slightly left out, they also understand APT's focus on the CHR. The CHR see themselves not just equal but a lead part of the partnership and have helped shape the advocacy work.

1.6 Conclusion and recommendations

Work towards signing and ratifying the OPCAT was well underway when APT became involved. APT's contribution through training, technical advice and support in drafting the NPM law has been very important and made an important contribution to the implementation of OPCAT and development of an NPM.

APT has been quite targeted in its choice to work closely with the CHR. Some CSOs would prefer a new institution for the NPM but appreciate that under APT's guidance the CHR will gain greater capacity and effectiveness.

CSOs believe they should also receive training on the process, partly because they will provide independent monitoring of the CHR (as the NPM) as well as the help this would provide to them in their own work training training police and prison staff and monitoring places of detention.

The CHR would like to see APT help challenge the unusual situation in the Philippines judicial system of relying predominantly on witness evidence and reluctance to prosecute cases of alleged torture unless survivors can identify who carried out the torture.

The criminal justice system and judiciary in particular is weak and a barrier both to implementing the OPCAT and preventing torture. Partners would like to see APT work with and train the judiciary and have more contact with the ombudsman.

It seems unclear how the CHR of Mindanao, which is an autonomous region, will stand in relation to the NPM and partners would like an input from APT on this.

The CHR would like APT to help work on a strategy for prevention of torture, before the current administration ends. This would be particularly timely as The Philippines UNCAT report is due in 2014. APT should ensure they include this in their Philippines strategy

2 Senegal Case Study

Senegal ratified the UNCAT in 1986 and ratified the OPCAT in 2006. An NPM was introduced in 2012.

2.1 Background

In Senegal there are annually between 5-10 fatalities at the hands of the security services for a population of approximately 12 million and the National Observatory of Places of Deprivation of Liberty (NPM) estimates that the police alone have been responsible for 25 deaths over the last 10 years. There are various views on the nature of the problem in Senegal with some interlocutors holding the authoritarian colonial period and its legacy primarily responsible. There is also a cultural dimension – especially amongst older people – and parents are still known to ask the police to chastise their rebellious children, resulting occasionally in fatalities. There is also a strong tradition of denial and non-reporting of torture, although this is generational to some extent and is gradually giving way to greater transparency accompanied by publicity and complaints.

Torture occurs mainly in police stations and is generally motivated by the desire of the police to resolve cases within 48 hours of arrest. After this period of remand the case goes to the investigating judge and the accused is taken to prison. In reality there are many cases of suspects held in the country's 200 plus police stations beyond the legal limit and these are vulnerable to torture for the purpose of extracting confessions. Torture also occurs in Army bases, notably in the breakaway region of Casamance, bordering Gambia, where suspected insurrectionists are held and interrogated either for information useful for military operations or in reprisal for ambush against military patrols – usually in the form of mines. Prisons are another source of torture although the most common form of penal abuse is overcrowding in the country's 13 prisons – almost all dating from the colonial period and few if any purpose built (the Dakar jail was the city armoury)⁷. The 2012 elections were also associated with violence, a new development in the politics of Senegal.

The public are often more knowledgeable about torture in prison than in other places of detention, as families and NGOs have access to correction centres in order to supply basic hygiene, feeding, clothing and bedding – none of which the prison system provides to an adequate standard. Rural police stations are run by the para-military Gendarmerie, which has a reputation for brutality. But even in these secretive centres of detention word increasingly gets out to the public thanks largely to the spread of mobile phones and a vocal press. After a decade or more of local NGO advocacy against torture, the public is increasingly well-informed about where torture occurs and is no longer afraid to speak out when citizens confront abuse. There is

⁷ There is a reportedly a rolling government programme of prison refurbishment and reconstruction which has so far delivered one purpose-built establishment in the capital, Dakar. The prison population is generally estimated at 5,360 – approximately 1 person detained per 2,200 inhabitants of the country.

however little or no reporting about torture within the military and the “Observatory” has yet to establish an inspection routine for military bases.

The main barriers to change are the tradition and culture of violence in the police and military and impunity. With both, torture is the recognised method for extracting information from a suspect. NGOs say it is relatively easy to change attitudes amongst the well-educated prosecutors, prison directors and senior police and military officers but changing *behaviours* amongst rank and file police, guards and soldiers is another matter – especially since the general population has little sympathy for criminals and believes prison should be a hard place.

2.2 The OPCAT process and APT’s involvement

The post-independence state has gradually disowned and distanced itself from practices that harm its international reputation. Senegal was an early signatory of UNCAT (1986) and was the first country to sign the optional protocol (2003), although it was slower to follow up: Senegal took 3 years to ratify OPCAT (2006), pass a law on the NPM (2009) and finally in 2012 actually appoint a Head of NPM(the National Observatory of Places of Deprivation of Liberty). This would not have happened without the sustained input of a strong civil society consisting of trades unions, a vocal media and a wealth of voluntary groups. Indeed Civil Society is widely credited with cutting short President Wade’s (2000-2011) attempt at permanence in office through an unconstitutional third term.

In terms of capacity to deliver on its strategy, by 2011 APT was able to build on long-standing partnerships with NGOs with a national profile, in particular Amnesty International. APT brought international expertise and broad comparative experience from Africa and beyond to the extended campaign for OPCAT ratification and implementation. In 2005 APT had initially partnered with the Senegal Committee of Human Rights, the country’s governmental National Human Rights Institution (NHRI)⁸ but focused increasingly on NGOs as the political situation deteriorated and the NHRI lost credibility as a competent and independent human rights defender.

In general terms, APT’s response to the problem is considered appropriate and relevant in Senegal where a wide range of stakeholders appreciate APT’s highly focused, preventive approach, applied cooperatively over the long term. One informant contrasts this with the ineffective short term interventions of other international NGOs that expect policy and practice change within 2-3 year programmes. Informants appreciate in particular APT’s non-partisan and inclusive approach. For example it takes no sides on the potentially divisive issue in Senegal regarding the choice of mechanism for implementing the optional protocol.

⁸ In 2005 APT published a guide on the role of NHRIs in the prevention of torture. In 2011-2012 APT undertook a major continent wide CB initiative for Francophone and Anglophone NHRI. In 2008, 2011, 2012 and 2013 APT sponsored NHRI conferences on administration of justice (Nairobi), preventive role of NHRI (Morocco) and cooperation with the UN (Addis Ababa and joint NHRI/APT investigation of allegations of torture (Johannesburg).

The Observatory complains that its capacity is severely constrained by the wide mandate and the low budget. It lacks all-terrain vehicle(s) and the delegates are all part-time, unpaid and based in Dakar. The annual budget assigned by government is €36,000, compared with the proposed 2013 budget of €557,000. Several informants agree that the Observatory could achieve its mission with a long term allocation of around four times the current budget assigned by government. At present the system of visits to places of detention is centralised while there is comment that effective long term monitoring would require branches in each of the 14 regions each with a modest budget for communications (mobile phone) and transport (motor bike). Putting an operational strategy such as this in place by 2017 when the first Observer's mandate finishes constitutes a considerable challenge.

2.3 APT's activities and achievements against the strategic plan 2011-2012

2.3.1 **Strategic Objective 1: promote effective monitoring and transparency in places of deprivation of liberty, to be achieved by supporting the establishment and the functioning of an effective NPM.**

The NPM was appointed half way through the period of the strategic plan following seven years of intensive advocacy and preparatory action by APT and its partners. APT provided capacity building that enabled the new NPM and stakeholders to become aware of the new role, needs and challenges of the mechanism, culminating in an inaugural prison visit accompanied by the SPT, which was also on its first monitoring visit to the country. Efficiency of the NPM was reduced by a government budget insufficient for it to carry out its basic observation functions. It is further restricted by limitations to its mandate.

The prospect of sustainability was likewise affected by a cautious response from donors to APT's efforts at mobilising international awareness and support.

There was also a regional dimension to the first strategic objective, designed to strengthen NPMs in neighbouring countries through training and exchange of best practices on monitoring places of detention. This was postponed owing to an insufficient number of functioning NPMs. Senegal was not specifically targeted in the regional plans for the other two objectives, but the newly established NPM and partners in Senegal benefited from exposure to wider processes addressing torture in the continent.

2.3.2 **Strategic Objective 2: Contribute to effective legal and policy frameworks to prevent torture.**

Senegal was not included in Objective 2 although work on effective legal frameworks had been initiated in previous strategies and continued through 2011-2012 and beyond.

2.3.3 **Strategic Objective 3: Promote a culture of prevention by helping to improve capacities and practices of relevant actors.**

For its internal reporting purposes APT integrated the one activity for Senegal in Objective 3 (capacity building through a study visit to the French NPM) under Objective 1 which does not help particularly with clarity or detail.

After an exchange visit to his counterpart in France set up by APT in June 2012⁹ the Observer became conscious of the need to re-model the approach to torture in the country, starting with awareness raising and focusing on building a new political dialogue for protection and prevention – even within the judiciary. On return the NPM developed and distributed a Practical Guide to Visits inspired by the French system and outlining the provisions of OPCAT for prison staff as well as for monitors.

2.4 Summary against the Strategic Plan against the Objectives of the Evaluation

2.4.1 **Relevance: was the strategic plan suitably designed to address the problems identified? Was it relevant to the needs of the target group and beneficiaries?**

The strategy was both timely and relevant given the appointment of the NPM half way through the evaluation period and following seven years of intensive advocacy and preparatory action by APT and its partners.

Apart from underlying differences between the coalition members regarding the set-up of the new mechanism there is general agreement that APT's strategy did well to focus on civil society, given its strength in Senegal and its historical complementarity with the State. The strategy did not predetermine events but allowed for a logical sequence of steps.

2.4.2 **Efficiency: how did the APT perform on the allocation of human and financial resources in implementing the strategic plan?**

2011-2012 were intensive years in APT staff time for travel, capacity building and workshops as its long term strategy in Senegal finally came to fruition. This was clearly an essential investment of the APT project officer's time but one that cannot be justified on efficiency grounds over the longer term – especially when considering the intense inputs to Senegal required of APT from 2005 onwards.

By the following year 2013 the Observatory(NPM) had established a close relationship with Amnesty, which enabled it to start reaching out to the prisons and police stations that constitute the main elements of its monitoring remit. Whether there was a planned division of tasks between APT and its partner Amnesty or not, the outcome is evidently efficient. The strategy represents value for money in that it resulted in the first functioning NPM in the region, even if conditions were not yet ready in neighbouring countries for replicating success in Senegal.

⁹ The Controller for the Prevention of Torture in France first visited Senegal for APT's Conference in 2010. Therefore the visit by the new Observer was therefore a return visit in this useful exchange facilitated by APT.

It is not yet clear whether this efficiency gain is sufficient to allow APT to phase out altogether from Senegal and invest scarce time and resources elsewhere in the continent. A change of focus for APT interventions in Senegal seems more likely, given the long term relationships that APT engages in with its partners. These relationships seem to vary according to the need of the time.

2.4.3 Effectiveness: was the strategic plan suitably designed to address the problems identified?

Implementation of the strategy was effective in that APT's capacity building enabled the new NPM and stakeholders to become aware of the role, needs and challenges of the mechanism, culminating in an inaugural prison visit accompanied by the SPT, which was also on its first monitoring visit to the country.

Apart from the exchange visit to France the most effective APT training for the Observatory was coaching on reports, training in UNCAT, OPCAT and the function of the mechanism, followed by a prison visit training for the Observer and 6 of his newly appointed 10 part-time delegates. The training involved visit procedures and usefully included a role play as the delegates went into Dakar's Rebeuss Prison for a full visit on the second day of the 3 day training. The participants were divided into two groups one addressing food and hygiene, the other overcrowding. This has become the norm for visits: bringing together the legal profession with the prison staff and the police in advance of the visit.

Most likely with the support of APT's partner Amnesty, the Observatory has adopted a particularly effective means of raising awareness across the police force and amongst staff of prisons. This involves entrusting the training of policemen and prison staff to senior officers, using the force's own code of conduct. To lend weight and credibility to this approach, the training is supervised by retired senior officers from each of the two services. These officers serve as Delegates of the Observatory and are represented on its Standby Committee.

Stakeholders found the following characteristics of APT's work particularly effective:

- **Continuity of personnel** before and after the 2011-2012 strategy – doubtless helped by the fact that the APT contact person is African, bilingual English-French, and has a bird's eye perspective on human rights at the continental level.
- **Convening capacity.** All informants acknowledge that only APT could have brought together all the relevant institutions in the country around prevention of torture. The consultations involved the Ministries of Justice, Interior, Armed Forces, 4 NGOs and the Senegalese HR Commission. Informants acknowledge that these stakeholders would have remained dispersed without the intervention of APT from 2005 onwards.
- **Partnership.** The impression gained is that APT did not profile itself as a protagonist in advocating for implementing OPCAT. Instead it stood behind its local partners. During the critical first year of the Observatory, APT provided direct and intensive orientation and technical support for the Observer and his Secretary. Since then Amnesty leads on support for the roll-out of the Observatory's schedule of monitoring visits.

2.4.4 Sustainability: Are the results sustainable? Is APT support/involvement still required in order to achieve lasting results and where?

There is a view amongst informants that Senegal is prone to duplicating state and civil society institutions that the country cannot afford even if it improves the quality of governance outcomes. This view foresees an eventual merger of the NPM with the NHRI. It is true that no other Francophone country has gone down the independent NPM route, which to some extent calls into question the validity of Senegal as a regional model. However the opposite view also exists in Senegal that NPMs established by national law have greater force than the more familiar alternatives based on less robust international agreements such as the Robben Island Guidelines or the Paris Principles, with both of which Senegal engages.

Financial sustainability presents the observatory with a challenge. The donors present in the country are supportive but cautious about underwriting the human rights obligations of the government. The Senegalese government on the other hand may expect the seed money invested in the NPM will leverage substantial foreign contributions. According to one informant, the capacity to raise budget is a significant criterion of the success of any Director of a human rights organisation in Senegal, whether governmental or NGO. It seems likely that APT will need to continue advocating amongst donors for relevant support to the Observatory probably via its acknowledged convening role.

2.4.5 Impact: what contribution did APT make to the change it wanted to see? What were the final results of its activities as part of implementing the 2011-2012 strategic plan?

As a result of joint advocacy by APT and its Senegalese partners over the years NPM design is largely compliant with OPCAT requirements. The 2009 law provides the NPM with all essential powers required under the OPCAT. There are, however, some outstanding issues including the Observatory's dependence upon the Ministry of Justice rather than enjoying administrative autonomy; the need for greater transparency in the appointment of the Observer and its inadequate resourcing.

APT's briefings to the CAT and SPT have included these points and have been reflected in these bodies' reviews and comments.

2.4.6 Human rights based approach: were our actions compliant with this policy? How can we improve in the implementation of this APT policy?

APT appears to have been fully compliant with this policy.

2.5 The future role for APT in Senegal

Informants have mixed views regarding the future role of APT in Senegal. All acknowledge the relevance of its heavy investment in finance, advice, accompaniment, training and conferences between 2005 and 2013. For some APT should now be in a phase-out phase. For others another 18 months of APT support is still necessary to help overcome key challenges such as low financial commitment by the government, a legacy from the Wade era of mismanagement of funds and inefficiencies potentially arising from duplication between the NPM and the NHRI.

The logical next step for APT is to further encourage regional networking and exchange, building on the Senegal experience. A problem for APT may be that if Senegal with all its advantages of good governance has taken a decade to get this far, how much longer will be needed elsewhere? At the extreme Guinea Bissau lacks even the basic civic infrastructure. However one informant sees potential in Ivory Coast, Mali, Togo, Benin and Burkina Faso and, further afield, but still within the Francophone group: Algeria or Morocco (one will follow on from the other).

In terms of targeting, APT and partners followed up the successful campaign for OPCAT ratification with capacity building of the NPM (a visit to the Observer's counterpart in France) and training of the judiciary and police. APT had previously set the scene with conferences such as Prevention of Torture in Africa, 2010 in Dakar¹⁰, while the partners followed up with training. Capacity building was also approached strategically, with the partners using materials from APT to train trainers from within the ranks of the target group, on the grounds that the police are likely to accept training more readily from a member of their own force rather than from an NGO.

2.6 Conclusion

OPCAT has clearly benefited from an ongoing dialogue between Civil Society and State in Senegal. Relations between the two sectors are generally complementary and there is a history of close cooperation in specialist areas such as prevention of torture. Senegal is seen by donors and the UN agencies as a country that is open to making progress on good governance and transparency. According to informants the government pays attention to the Observatory but does not see torture as a real priority – especially now that the mechanisms are in place. According to a well-placed insider, only the Ministry of Justice understands the importance of these international undertakings but even after her promotion to Prime Minister, she has not been able to convince other politicians to raise the budget for this area of human rights.

It is possible that APT has underestimated the demands of OPCAT implementation in Senegal and INTRAC agrees to some extent with the Observatory that “APT's work has only just begun”. This presents APT with a serious challenge as it is dependent on a single individual for its entire Africa programme. OPCAT implementation in Senegal is promising, but may require as much if not more APT input/follow-up in implementation as it required in the lead up to designation. The Observatory requires the following support from APT: accompaniment for the team, coaching at a distance; more on monitoring methodology (especially good practice from other mechanisms); communications strategy, to make the Observatory more visible; more support in developing strategic partnerships with donors; lobbying government and internationally on behalf of the mechanism in Senegal.

There is however general agreement amongst stakeholders that it is up to the partners in Senegal to implement the necessary preventive measures. It is also evident that making a success of OPCAT implementation presents a strategic challenge that is if anything even more complex than ratification. In the words of one

¹⁰ Prevention of Torture in Africa, Dakar April 2010 – African Commission for Human Rights, APT and Amnesty International.

seasoned Senegalese actor in this field, there are urgent needs for political will, coordination and the means needed for implementation. If one takes the means to include capacity building then all these needs remain closely aligned with APT's mandate and expertise in analysis, lobbying and relationship building.

Coordination is necessary to avoid duplication amongst the many institutions (both government and non-government) that visit places of detention. There are also cost implications of government support for an increasing number of QUANGOs, for example the Ombudsman, the Observatory and the NHRI. The government funds none of these adequately and so they are compelled to supplement their income with grants from the international aid system, which will tend to put them in competition rather than cooperation with each other.

At the end of 2012, APT invested in a workshop designed to introduce the new Observatory mechanism to potential donors. APT's favoured method of bringing stakeholders together has not achieved the desired result so far. Although there have been some positive developments, the financial situation of the Observatory remains critical a year later. There are protracted negotiations around budgetary support between the Observatory, the government, the UN, the EC and bilateral donors, yet at present the Observatory functions thanks to support for visits to the field from an NGO – APT's partner Amnesty International. It seems inevitable that APT will need to invest more of its own social capital in lobbying for the sustainability of the Observatory, without being seen as partisan by other stakeholders.

3 Tunisian Case Study

Tunisia ratified the UNCAT in 1988 and the OPCAT in 2011. APT became involved with Tunisia towards the end of 2011 and then actively engaged from early 2012. The law for an NPM was approved in September 2013 and candidates are currently being selected ready for the NPM to be established in the Spring 2014.

3.1 Background

Torture was a trademark of Ben Ali's rule. It was used not just as a punishment, but as a tool to sustain power through intimidating society. Torture still occurs three years on but the important change is that it appears to be no longer sanctioned by the state. Its continuation is partly seen as a legacy of the former regime whose apparatus is still in place. Moreover there is still a strong sense of impunity for perpetrators. Human rights activists believe the police have not felt any effects of the new laws and are also so poorly trained and skilled at their jobs that their easiest technique for extracting information is torture. While confession based evidence gained under torture was outlawed in 2011, in practice it remains. This needs to be challenged by the judiciary, which mostly fails to take up cases of alleged torture.

The judiciary remain a weak link. During Ben Ali's rule few, if any, judges ever challenged even blatant cases of torture. Many of the former regime's judges remain, although 80 were removed. Their attitudes are generally retrogressive, far from being sympathetic to and educated about human rights and torture prevention. Those older judges from the former regime seem particularly unlikely to be changed. Since the revolution a number of cases (in the forties) alleging torture have been filed under Article 101 of the constitution, which prohibits torture. However, none have yet been processed and no perpetrators punished. This not only denies victims redress, but also misses an important opportunity for judges to deter police brutality.

3.2 The OPCAT process and APT's involvement

Tunisia ratified the OPCAT on the 29th June 2011, a few months after the revolution which ended President Zine el Abidine Ben Ali's rule. It announced its plan to implement OPCAT and develop an NPM at its second Universal Periodic Review in Geneva in 2012. There seems to be a genuinely strong will to prevent torture.

This ratification so soon after the revolution presented APT with a sudden opportunity to work on Tunisia which had not been in the strategic plan when it was prepared in 2010. Therefore it only featured for the second half of the plan's implementation phase. It was categorised as an A project because of the strength of the opportunity. Activities were inserted into the strategic plan framework for the internal review and despite the short turnaround time, much seems to have been achieved.

Tunisian human rights organisations had previously had a lot of contact with international human rights groups and also the UN Committee Against Torture, having submitted eight torture cases to the latter. At its first consideration under the Universal Periodic Review (UPR) in 2008 Tunisia accepted a UK recommendation to

'consider' ratification of the OPCAT. Within weeks of the revolution the new government in Tunisia was ready to ratify.

APT had a history of contact with Tunisian NGOs, for example through providing help with the eight cases presented to the Committee Against Torture. It became closely involved from February 2012, attending a workshop on tackling torture organised by the OMCT's Tunisia office, for NGOs and government representatives. A key recommendation from this was to operationalise the OPCAT through establishing an NPM. From this point APT began working closely with OMCT in a very effective cooperation.

The opportunity was very clear and APT provided advice, training and advocacy support. It was a challenge to persuade Tunisian civil society to work constructively with a government, after decades of fighting the state. Mind-sets had to be changed from a denouncement to a preventative approach and trust had to be built between government and civil society in a situation where NGOs are highly politicised, often promoting their own political agendas above everything else.

Once both government and civil society had supported the idea of enforcing OPCAT, a draft law for an NPM had to be prepared. A drafting committee was set up with 60% civil society representatives and 40% ministry staff. APT, OMCT and the OHCHR ran a two day training course for the drafting committee, to brief them on their task. At the outset of their work, the Ministry of Human Rights and Transitional justice organised a wider consultation with civil society. Both OHCHR and the drafting committee produced draft laws and from these the committee produced the final draft and submitted it to the National Constituent Assembly (NCA), following this up with more lobbying of individual CSA members.

The law was adopted by the National Constituent Assembly in October 2013 and it is now in the final stage of the candidacy process. Approximately 87 have put themselves forward as candidates and the NCA will vote on choices for the 16 places.

Once elected, the NPM members will need training, advice, support and above all, resources. One of the potential risks for the NPM's efficiency is resourcing. It is to be funded by the Tunisian public treasury with foreign donations ruled out by. Effective functioning will also depend on well-chosen candidates without political agendas to promote and freedom and access to do its job. It will almost certainly need technical assistance from outside sources and its performance will have to be closely monitored and supported by civil society organisations.

Training has already been taking place for civil society, ministry staff and police, with more planned soon by APT, including a workshop for the police on the effects of enforcing OPCAT, in particular on the NPM's work and the impact on police.

APT's role in this process has been praised as highly valuable by all stakeholders. It was important that APT was an external body and able to work with OMCT and unify the different groups, facilitate the process, provide advice, examples of other models and comment on the draft NPM law.

APT has been described as ‘the most objective organisation of all involved’ by a government source, who commented on its professionalism and ability to keep an equal distance from all parties. A member of the Constituent Assembly described some suspicion in the beginning, from certain members of the Assembly, of the involvement of the international organisations, but how this went as the dialogue began.

APT made many visits to Tunisia and kept in regular contact by email. Partners found APT always responds promptly to questions and information requests and its materials have been very useful. One of the reasons given for APT’s success is their ability (together with OMCT) to bring diverse groups together on an equal basis and its highly participative approach leaving a clear sense of Tunisian ownership. APT’s approach has been based on partnership rather than leadership, which has clearly been the right one. Amidst the politicized NGOs APT has brought some neutrality and enabled minds to change and a way ahead in unity and partnership to be forged.

3.3 APT’s activities and achievements against the strategic plan

In the following, we provide our own findings against the strategic plan. In the boxes we summarise APT’s internal review of the strategic plan. This is particularly important for Tunisia because it was not in the original plan.

3.3.1 Strategic Objective 1: promote effective monitoring and transparency in places of deprivation of liberty.

Output/ activities:

1. *Trainings for NHRIs (monitoring PODs)*

This is not relevant in Tunisia where the NHRI is non-functional and has not been APT’s partner

2. *Contribution to drafting NPM legislation (advice on NPM designation)*

APT made a substantial contribution towards this, both through training the drafting committee before they began the task and providing advice and answers to questions during the process. The committee sent the final draft to APT for feedback.

3. *Support the establishment/designation of an effective NPM*

The NPM will not be established for a few more months but APT’s contribution towards the legislation has indirectly provided support for the establishment and this is an area it is hoped by partners, that APT will continue to work on.

4. *Promote synergies and coordination between international, regional and national bodies involved in preventative monitoring*

APT has achieved this very successfully, bringing together (along with OMCT) diverse and often opposed groups, with the Tunisian government and ministries and with international bodies.

Tunisia does not feature under the regional '*planned activities by objective*' in the strategic plan, because, as explained above, the opportunity to work on it only arose half way through 2011. In the internal review of the Strategic Plan, 'Overview by Objectives' Tunisia is included with countries for: **Advice on NPM designation**. The outcome summarised as 'tailor-made papers and when there is a direct involvement it has a positive influence on NPM processes and NPM laws. *This brief conclusion of the processes is supported by our findings, the emphasis on processes deliberate.*

Similarly Tunisia did not feature in the original strategic plan, under the '*planned activities by programme*' section, but it is included in the internal 'Review where it is recorded as an A project and the outcomes summarised as follows:

NPM process *accelerated*; APT provided *input* through hiring a national consultant and *drafting policy papers*; law creating new NPM approved by government September 2012 and in front of Parliament. The emphasis is ours, [demonstrating that they are all processes]

3.3.2 Strategic Objective 2: contribute to effective legal and policy frameworks to prevent torture.

Output/activities:

1. *Advocate for ratification of UNCAT its OP and other relevant instruments*

Tunisia ratified the UNCAT in 1988 before the period under review. The post revolution government appears to have ratified the OPCAT without needing or receiving encouragement.

2. *Advocate for and provide policy and legal advice on OPCAT implementation*

APT has provided substantial legal advice on OPCAT implementation in relation to the development of the NPM. Legal and policy matters are very closely linked here, particularly on looking at models and modalities for NPMs.

3. *Advocate for, and provide policy and legal advice on UNCAT implementation*

APT has contributed towards UNCAT implementation through its OP implementation as described above. It advocated for this in its statement at Tunisia's second Universal Periodic Review in September 2012.

4. *Contribute to the development of and better knowledge and understanding of international standards and jurisprudence related to the prohibition and prevention of torture*

This is the basis to APT's training and training materials. Tunisian organisations and government officials talk about the development of their knowledge through APT's input both in trainings and in answers to questions.

5. *Promote legal and procedural safeguards for the prevention of torture*

Again, this is the basis of APT's training and advocacy aims and it has achieved this.

Under the internal review on *'planned activities by objective'* Tunisia was included for **Advice on OPCAT and on UNCAT implementation**. The outcome is a very general summary and not country specific: 'knowledge about OPCAT has increased globally and in a variety of measures' and '*APT advocacy, comment and exchanges of experiences have positive impact on progress re anti-torture legislation*' and *judiciary in 3 countries have increased knowledge of national UNCAT implementation*' This last outcome cannot apply to Tunisia, although it is a very important need there for the future. The other very general comments do apply in Tunisia, but are rather unspecific.

Tunisia was included in the internal review under *'planned activities by programme'* in the regional conference on torture prevention in international law held in Morocco, June 2012. The internal review outcomes are summarised as: 30 participants from different backgrounds enabled *rich discussions*; and *Special Rapporteur on Transitional Justice invited to Tunisia November 2012*. Also, in June 2012 APT held a workshop in /Tunis with a young lawyer's network on access to lawyers, emphasis ours.

3.3.3 Strategic Objective 3: promote a culture of prevention by helping to improve capacities and practices of relevant actors.

1. *Increase knowledge on torture prevention and prohibition by providing multilingual publications, tools and online resources*

All our interlocutors spoke of the value they found in APT's publications (covering both relevant languages) for learning about preventative monitoring, in particular people mentioned the handbook on monitoring places of detention.

2. *Provide training and technical advice on torture prevention and facilitate exchange of experiences amongst relevant actors on best practices for torture prevention.*

APT has contributed substantially to providing technical advice on torture prevention through training sessions and facilitating involvement of experts such as Suzanne Jabbor from the Subcommittee on the Prevention of Torture.

3. *Improve practices of actors directly concerned with persons deprived of liberty, through enhancing their capacity, knowledge and determination to prevent torture.*

Some efforts have been made towards this through training sessions with ministry staff and police although a substantial amount remains to be done to enhance their capacity and in particular to improve practices. Government officials appear to have a strong will to prevent torture, to which APT's involvement and support may have contributed.

4. *Contribute to the development of the conceptual framework on torture prevention, through internal knowledge management, research and analysis of data and trends.*

It is not clear to what extent APT has been able to do this yet. Most Tunisian CSOs are notable for their weak management and organisation, accurate data on prevalence of torture in Tunisia is mostly unavailable or unreliable. Future training will have to address focus more on these areas.

Under *planned activities by objective* and also *planned activities by programme* Tunisia does not feature in the internal review, although as our findings above show, we have identified many areas where they have achieved original strategic plan objectives.

3.4 Achievements against priorities by programme

1. *Increase commitment to the OPCAT among governments and civil society in the MENA region leading to additional ratifications*

In the case of Tunisia APT joined an ongoing process where there was already a commitment, but probably contributed through helping to facilitate the process and providing expert advice. It is not possible to measure at this stage whether this led to additional ratifications.

2. *Improve implementation of the Convention against Torture*

Through promoting and advising on enforcement of OPCAT by helping to develop the law for the NPM, APT has helped improve implementation of the CAT.

3. *Sharing best practices on torture prevention within the region*

This was not particularly apparent from our Tunisian interlocutors who are strongly focused on their own situation at the moment. In relation to Tunisia there has been some training on this, particularly in relation to the publication of the detention monitoring hand book. The internal review refers to APT delivering various regional trainings in Morocco, however its relation to the original plan is not entirely clear because some different headings and objectives seem to be used.

3.5 Summary against the Strategic Plan against the Objectives of the Evaluation

3.5.1 **Relevance: was the strategic plan suitably designed to address the problems identified? Was it relevant to the needs of the target group and beneficiaries?**

Although Tunisia had not been included in the SP originally, it seems that the plan provided an off the peg structure enabling it to move straight into action with a relevant plan. APT's focus on uniting NGOs into an effective advocacy group who could put their differences behind them and cooperate effectively on developing a strong NPM was highly relevant. It earned high praise from every stakeholder for its approach and support which suggests that the SP and particularly APT's general approach and style were well suited to facilitate a sudden new project like Tunisia .

3.5.2 **Effectiveness: was the strategic plan suitably designed to address the problems identified?**

APT (and OMCT) enabled opposed organisations to sit down together and work constructively for the first time; it provided advice, experience and models to help in drafting the NPM law. Through working constructively together NGOs have been far more effective in turn. The Tunisian government has grown to trust APT as it saw they were only trying to provide support and advice and did not have their own agenda.

3.5.3 **Sustainability: Are the results sustainable? Is APT support/involvement still required in order to achieve lasting results and where?**

Developing laws and institutions is more likely to lead to a sustainable system and given the strong political and civil society buy in to this issue, it is even more likely to last. NGOs have started developing capacity and learning a new way of operating from this work with APT which if they keep it up will maintain a more effective approach; contact will need to be maintained to keep this on the right track.

3.5.4 **Impact: what contribution did APT make to the change it wanted to see? What were the final results of its activities as part of implementing the 2011-2012 strategic plan?**

APT appeared to make a significant contribution to preparing the NPM, directly through advising the drafting committee and indirectly by facilitating and enabling civil society input. The NPM is expected (and hoped) to change how Tunisia responds to and thus prevents torture. APT brought together organisations many of whom have been unable to work together in the past. By facilitating the co-operation, together with OMCT, APT demonstrated to the NGOs how much more effective they are when united, strategic and professional. This was also appreciated by the government, who encouraged significant civil society participation and the result was a high level of civil society input to the planned NPM.

3.5.5 **Human rights based approach: were our actions compliant with this policy? How can we improve in the implementation of this APT policy?**

All the partners we spoke to felt they had participated equally, been fully involved in the planning and advocacy and that it was a Tunisian led process with help and advice from APT.

3.6 Conclusion and recommendations

APT reacted swiftly and effectively to the opportunity to work in Tunisia. The operation went very smoothly partly based on the strategic plan and also on APT's wide experience and ready-made tools for providing support to these processes.

While very active, APT kept its usual low profile and enabled Tunisian organisations to lead and own the process.

The criminal justice system, in particular the judiciary and police will present a continuing challenge to effectively implementing the OPCAT and preventing torture. There will need to be a significant amount of work here and local organisations will certainly look to APT for ongoing help in the medium and probably long term.

4 The Kyrgyz Republic Study¹¹

4.1 Background

4.1.1 Introduction

In 1997, Kyrgyzstan ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)¹². In 2003, the Article “Torture” was added to the Criminal Code of the KR and obligations of the state to prohibit and prevent torture were secured in the Constitution of the Kyrgyz Republic in 2010. Kyrgyzstan joined the Optional Protocol to the Convention against Torture in 2008 (OPCAT). In 2012, the Law on the National Preventive Mechanism (NPM) was adopted in Kyrgyzstan. In 2013, the governmental delegation of the KR participated in the 51st session of the UN Committee against Torture in Geneva, where the report on the implementation of the Convention against Torture by Kyrgyzstan was presented.

Despite this, torture is still common in the country. Statistical data indicate of tens and even hundreds of complaints regarding ill-treatment by law enforcement bodies every year. Following his visit to Kyrgyzstan in December 2011, the UN Special Rapporteur on Torture, Juan Mendez noted that “the use of torture and ill-treatment to extract confessions remains widespread” and that “general conditions in the visited places of detention reach the threshold of inhuman and degrading treatment”.

In October 2012, the European Court of Human Rights (ECHR) noted “the widespread torture against representatives of the Uzbek minority in the southern Kyrgyzstan”. The Ministry of Internal Affairs however, argued that the above assertion had not been confirmed in the course of a preliminary examination.¹³

In January 2014, the International Organization Freedom House released a statement about the human rights situation in Kyrgyzstan in 2013. It states that “the most urgent problems remain the refusal to implement due legal process and provide access to justice, due to the lack of independence of judicial bodies, impartial criminal prosecution and non-discriminatory application of law, as well as rampant corruption. Law enforcement authorities continuously violate human rights and remain unpunished: they arrest people, use torture and are involved in extortion from a wide range of population groups, especially from ethnic Uzbeks in the south of the country following the events of 2010. Uzbeks convicted after the bloody events that year are still deprived of the right to due legal process and access to justice”.¹⁴

4.1.2 Main actors in the field of torture prevention

¹¹ This case study has been translated from the Russian original

¹² http://www.ap.t.ch/en/opcat_pages/opcat-situation-35/?pdf=info_country

¹³ <http://www.hrw.org/ru/world-report-%5Bscheduler-publish-yyyy%5D/vsemirnyi-doklad-2013-kyrgyzstan>

¹⁴ <http://www.fergananews.com/news/20120>

- State agencies engaged in prevention of torture are the institute of Ombudsman of the KR, the National Preventive Mechanism newly created in 2013, the National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its governing body – the Coordinating Council for Human Rights.
- The Ombudsman’s office has the department for the protection of the rights of persons in penitentiary and preliminary detention institutions, as well as a service protecting the rights of patients in psychiatric in-patient clinics.
- International organizations working in this area are: OHCHR, Soros Foundation-Kyrgyzstan, Freedom House, the OSCE Centre in Bishkek, etc.
- More than a dozen NGOs in the capital and several regional NGOs focus on the torture prevention and monitoring in prisons, boarding schools and nursing homes for the elderly and the army... Several of these organizations are highly experienced in the field of human rights protection and have a well-deserved reputation: “Spravedlivost”, “Voice of Freedom”, “Kylm Shamy”, “The League of Child Rights Defenders”, “Mental health of the population”, “Precedent”, the Association of Attorneys of Kyrgyzstan”, the Lawyers Guild, etc.
- Minors and adolescents.
- Government officials and representatives of international organizations are unanimous in the opinion that CSOs are one of the main drivers in the fight against torture and other cruel, inhuman or degrading treatment or punishment in Kyrgyzstan.

4.2 The current situation with torture prevention

Experts outline the following five major reasons for the use of torture. These are given below along with Kyrgyzstan’s rating on key indicators:

- *Impunity* – law enforcement officers are not punished for torture and up till now no-one has been convicted for torture under the Criminal Code.¹⁵
- *Regulations* on acceptance of confessions as evidence for adopting a decision in the course of the court proceedings.
- *Poor professional investigative practices.* Existing organizational culture and professional techniques do not allow law enforcement officers to solve criminal cases in a different way.
- *Corruption, including in investigative bodies,* which gives rise to torture in order to extort bribes or extract confessions from innocent people.¹⁶

¹⁵ <http://www.transparency.org/country#KGZ> - according to the global competitiveness index of the World Economic Forum, Kyrgyzstan’s rating in terms of judicial independence is 135 out of 142 countries. The rating reflects the extent of independence of the judiciary bodies from the government, citizens and businesses.

- *Lack of political will to stop torture.* This reduces the possibility for the implementation of recommendations based on torture monitoring in closed institutions.

Despite Kyrgyzstan's continuing problems in this area, there have been some positive changes during the last year. They include the creation of a Coordinating Council for Human Rights; the launch of work of the National Centre of Kyrgyzstan for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the contributions of experienced independent experts and civil society representatives thanks to whom the problem of torture has been put on the agenda for public discussion, and places where torture has taken place are continuously monitored.

4.3 Methodology and main respondents in this evaluation

This assessment report is based on thirteen in-depth interviews with stakeholders involved in prevention of torture, including experts, representatives of civil society organizations (CSOs), international organizations and government agencies. The APT evaluation revealed that a significant number of state and non-state agencies are involved in torture preventing. Many of these are quoted in the text. A full list including the mandates and activities of these actors is given as Attachment 2.

4.4 Evaluation of APT's work in the Kyrgyz Republic

As mentioned above, the KR has signed numerous international liberal and normative documents, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It has ratified the OPCAT and adopted the Law on NPM. At each stage key actors liaised closely with APT in the fight against torture in KR.

APT started working in the Kyrgyz Republic in 2007, assisting national actors to prepare for the ratification of the Optional Protocol and later in the implementation of the protocol and promotion of national legislation for the creation of the NPM.

APT's 2011-12 strategic plan in the Kyrgyz Republic committed itself to support the effective functioning of the NPM through strategic planning and training on the monitoring of arrests with the following expected results:

- Briefing on the preparation for the parliamentary hearings (September 2011);
- One representative involved in the process of NPM development will take part in the forum of the Optional Protocol;
- Participation in the seminar on human rights "EU – civil society in Kyrgyzstan" (February 2012);

¹⁶ <http://www.transparency.org/country#KGZ> - according to Transparency international, the country's rating in 2013 was 150 out of 177 countries, with 24 points out of 100, where 0 is the most corrupt and 100 is the purest state.

- A meeting of NGOs and government agencies on prevention of torture facilitated by APT (May 2012).

In accordance with the TOR, the assessment methodology includes five criteria for measuring successful implementation of the APT 2011-2012 strategic plan¹⁷: relevance, effectiveness, efficiency, impact, sustainability and human rights based approach.

4.4.1 Relevance

In the opinion of the respondents to this study, APT activity in Kyrgyzstan was important and relevant to the needs of the society and regulatory obligations of the state.

During the period of assessment, APT's activity in Kyrgyzstan was focused on the implementation of the obligations in line with the commitments under the Optional Protocol, primarily – the development and creation of the NPM represented by the Coordinating Council and the Centre for Monitoring and Analysis.

In general, it can be noted that all respondents perceive the institutional development achieved in the Kyrgyz Republic in preventing torture was an area to which APT had made a significant contribution in partnership with CSOs and government agencies. One of the important symbolic results of the activities of civil society and international organizations was the recognition by the state of the fact that torture in state institutions does take place.

As noted by a representative of the Human Rights Center “Kylym Shamy”:

“Prior to 2005 everyone tried to close their eyes to the existence of torture. The catalyst is the state, dissatisfaction and the initiative to fight against torture”.

Political recognition of the fact of torture in the country and signing of the Optional protocol have essentially created a favorable environment for further activity and enabled civil society activists with support from international organizations to initiate the institutionalization of the torture prevention mechanism.

The NPM model evolved in the process of public discussions, including during seminars, meetings and roundtables funded by APT, where APT experts reported to national actors about the existing experience of accumulating and developing such mechanisms in various countries. Specially designed materials and guidelines on NPM formation were of great importance in the course of preparation and conducting the public debates aimed to define the NPM format in Kyrgyzstan. According to virtually all respondents, this methodological and expert support enabled local actors to promote an entirely new state agency – the Centre for Monitoring and Analysis, which has considerable autonomy in the civil service system and potential for strategic guidance of which is implemented in partnership between the state and civil society. The following are quotes from different respondents:

¹⁷ Evaluation criteria were developed by the OECD; the sample sets of questions and list of issues were provided to the evaluator by APT and the INTRAC team in the UK ..

“Without APT the laws and NPMs would not be of such quality. APT served as an example, a model to be striven for”.

“APT’s contribution is NPM establishment – defining the model and legal expertise, including preparing the conclusion on the draft law on NPM and organization of public discussions”.

A particularly important event was the visit of the UN Special Rapporteur on Torture in December 2011 and subsequent presentation of the report on the visit in February 2012. APT played an important role as a facilitator of the meetings between the UN representative and civil activists and NGO leaders to ensure as complete and objective picture during the visit as possible.

Thus, APT’s activity during the assessment period can be recognized as extremely relevant to national policy priorities and the interests and needs of society.

4.4.2 Effectiveness and efficiency

Strategic objective 1: “Promoting effective monitoring and transparency in prisons”

By the time that APT started implementing its 2011-2012 strategic plan, a tradition of monitoring prisons was already in place in the Kyrgyz Republic, as initiated by a number of NGOs (first of all – Kylym Shamy) and the institute of the Ombudsman. With its wide experience of the development of methodological materials on monitoring, detecting and documenting torture, APT has provided a number of tools to representatives of civil society and government agencies that can ensure greater effectiveness and efficiency in monitoring.

Study tours organized by APT for civil servants and CS representatives were of great importance in improving torture monitoring in Kyrgyzstan. APT provided funds for the participation of a representative in the APT Global Forum, and this helped promote torture prevention activity.

Respondents in this assessment spoke highly of the value of a unified methodology for monitoring places of detention, making possible the detection of facts of torture and identification of key information about such incidents. Nuridin Nurakov from the Ombudsman's office also noted the use of the guidelines on monitoring police stations provided by APT. (Guide on monitoring police custody).

Strategic objective 2: “Assisting in the creation/development of the effective international and national legal and policy framework/mechanisms for the prevention of torture”.

According to the respondents, implementation of the strategic objective 2 was very effective as indicated by the following quotes:

“APT’s practical assistance and direct participation in events were required when arguments by local experts were not taken into account, especially when the question related to unrestricted access to closed institutions, support from serious international organizations was required”.

“APT helped to create a platform at which we could speak out during key events like the Human Dimension Implementation Meeting. We managed to draw attention to the NPM in the course of a side event”.

APT’s activity in Kyrgyzstan opened up the opportunity to attract the leading academics from the University of Bristol who in turn were able to promptly provide legal expertise on the draft law on NPM, and to hold discussions at the highest political level involving international consultants.

While the authors of this assessment did not have data on the amount of funds invested by APT on the promotion of the national preventive mechanism in Kyrgyzstan, one can state that the strategic plan seems to have been efficiently implemented. Thus, despite the political crisis in the country and consequent delay with the NPM creation, this institute has now been established and started operations. Due to its design, NPM has every chance to become a leading actor in the country and to work effectively to prevent torture.

Strategic objective 3: “Providing international and national legal entities with the required capacity to prevent torture”

This strategic objective was achieved in the course of the round tables and other discussion meetings between stakeholders at different levels. During such meetings, participants were provided with information and methodological materials developed and published with the financial support of APT. As noted by several respondents, some publications have had a very important instrumental role for the work of the actors at the national level:

“APT’s theoretical base is extremely valuable – these are booklets on NPM establishment, appointments, guidelines and selection of persons to be interviewed during the preventive mechanisms. These are specific materials as comments to the Optional Protocol for countries that are just starting to set up the NPM”.

“The following materials were extremely important: guidelines, collections of the international documents on the prevention of torture”.

An important aspect of the APT’s effectiveness and efficiency is its systemic work. So, following the visit of the UN Special Rapporteur on Torture, Juan Mendez to the Kyrgyz Republic and publication of the report on the visit and recommendations to the country for further activity to prevent torture, in May 2012 APT co-financed the largest and most important round table on torture in order to monitor the implementation of the recommendations provided by the UN Special Rapporteur. In the course of this discussion, participants expressed their wish to invite Mr. Juan Mendez back to Kyrgyzstan in order to accelerate the implementation of the recommendations.

Other aspects demonstrating the effectiveness and efficiency of APT in the Kyrgyz Republic are as follows:

- The organization of activities by APT's coordinator, a person with high competence in this specific issue in the region, who in addition is fluent in Russian. This ensured unrestricted and systematic communication with local actors without any intermediaries'
- The high level of motivation and personal contribution of APT's representative, who was interested in achieving the goal by all optimal means.

This was mentioned by several respondents during interview. One also noted strength in APT's mode of activity, including flexibility, prompt feedback to partners and minimum bureaucratization of procedures.

"We submitted an application and they called us in order to clarify the major points, after short-listing they interviewed other organizations as well. And they responded very quickly".

4.4.3 Sustainability

It is quite difficult to give an unambiguous assessment of the sustainability of APT's activity in the country.

On the one hand, the NPM has been created and this model looks extremely promising. There are already the first signs of viability of this structure: the cost of maintaining the Center for Monitoring and Analysis was included in the national budget and the government has provided the resources necessary to launch its work. On the other hand, as noted by a former employee of the Ombudsman:

"The NPM is still evolving, it needs help from NGOs and the legal community. The NPM should not become just an intermediary in the process of filing complaints".

While highly appreciating the effectiveness in implementing APT's strategic plan, one of the respondents from Bristol University noted:

"... the NPM model on paper looks very impressive. Another question is whether it can be implemented in practice".

In addition, the sustainable operation of this structure depends on continued funding at the necessary level. There is a risk of underfunding, in turn preventing the full implementation of its mandate.

A Senior Advisor on Human Rights of the OSCE, Bishkek notes that NPM is a significant actor in the macro environment, despite the fact that some stakeholders still have limited understanding of what the NPM is. Due to differences in NPM understanding and its application in practice by different actors in the macro environment, such as the Ombudsman, the service for monitoring psychiatric institutions is not independent anymore and is influenced by the Ombudsman.

"The new service for monitoring psychiatric institutions should have been independent, but eventually it became dependent and fell

under the influence of the Ombudsman's apparatus. There are some fears that NPM may also find itself under the Ombudsman”.

Ex-employee of the Ombudsman's apparatus.

Another important point ensuring sustainability of the outcomes of the strategic plan is maintaining professional contacts and communication between national actors and experts from the University of Bristol and other consultants provided with the APT's support. According to an independent expert:

“The contacts between the Director of the Coordinating Council, APT and the University of Bristol are continuously maintained”.

Finally, another factor of sustainability is that when working with its professional partners APT aims to transfer its expertise and methods of work to local experts, thus enhancing expertise in this area. In particular, its contribution to the growth of personal expertise was mentioned:

“They don't send English-speaking experts to Kyrgyzstan; they prefer to select local people and train them in their methodology”.

4.4.4 Impact

The launch of the NPM gave rise to an institutionalized mechanism for inspecting places of detention and other closed institutions by representatives of civil society and relevant government agencies. It means that the base for ensuring openness and transparency of these institutions is being created. To be fair, it should be noted that an effective model of cooperation between NGOs, the Ombudsman institute, law enforcement agencies and international organizations (OSCE) had been developed in Kyrgyzstan before the creation of this institutional base. However, achievements in promoting monitoring were not really sustainable, as the annual signing of the memorandum of cooperation between these partners depended on the will of the key politicians.

According to the OSCE, partnership in NPM development has already showed significant results:

“After 3 years, there is an institutional platform for discussions with the state authorities. The system has become more open. It was recognized that torture takes place... Of course the problems are not resolved so quickly, but at least they can be discussed with the NSC, MIA, Prosecutor's Office, even representatives of the Supreme Court came on the visits several times. The NPM's mandate now needs to be fully carried out, not just the monitoring aspect”.

Another important thing is the impact of measures organized in cooperation with APT and aimed at analyzing and monitoring the implementation of the recommendations of the UN Special Representative (rapporteur) and their inclusion in the civil society agenda. Virtually all respondents stressed the importance of not just focusing on

inspections, but on advocacy to promote the recommendations arising from monitoring.

4.4.5 Human rights based approach

APT always and everywhere uses right based approach and in its work relies on the detailed analysis and respect for human rights.

It is important to note the APT's strength – the ability to identify torture not only in places of detention, but also in other institutions where torture is also practiced, such as psychiatric hospitals and/or boarding type institutions. Thus APT had a meeting with a representative of the Ombudsman – the head of the patients' rights protection service – and this was cited as very useful.

4.5 Conclusion and recommendations regarding APT's future work in Kyrgyzstan

Clearly, Kyrgyzstan has been a success story for speed and openness in ratifying OPCAT and implementing NPM in Central Asia. APT was a key player though the success also depended on other key actors. The law adopted is seen as one of the most progressive and a possible model for other countries.

As noted by the regional officer, during the long discussions of the NPM law in parliament in Bishkek in 2011-12, there was little that APT could do from Geneva. However, the APT was active on other fronts during this period, for example, the regional officer visited Bishkek in February 2012 to participate in the EU-KR human rights dialogue and APT co-sponsored and largely funded the large-scale conference to mark the return visit of the UNSRT, Professor Juan Méndez to the country.

During the same period, the Association had an OSF-funded torture prevention project in three countries including the KR., one component of which was to conduct a detention monitoring/strategic planning training for the emerging NPM. However, in the absence of an NPM, APT could not implement this component of the project (and hopes to do so in 2014).

This hiatus in activities explains a certain lack of clarity among some stakeholders interviewed for this evaluation as to APT's contribution to the development of the NPM. While some respondents immediately replied positively and gratefully, in other cases we had to ask again or remind them about APT's role. In some cases people did not know about the continuing contribution of APT. For example, several respondents noted the work of the Tian Shan Policy Center in researching torture prevention practices in different countries; however, none of them was aware that this project is supported by APT.

It would be useful to maintain more regular contact with key development partners, especially since we understand that APT intends to continue its activity in Kyrgyzstan in 2014. As the regional officer noted, APT needs to define its future role taking into account other contributions, for example the OSCE project to support the NPM.

Below we include other recommendations on matters relating to torture and ill-treatment made by respondents:

“APT could assist with examining changes to legislation (for example, the Criminal Code, Criminal Procedure Code), as well as in the formation of intolerance to torture among the population”.

“APT could help with bringing cases using international mechanisms of investigation; preparing recommendations for the strategy; supporting and developing mechanisms for visits. APT can help with independent investigation at the request of the NPM and summarize regional practice, which would be useful for judges and MIA staff. It can also develop a specific toolkit and methodical guidelines for operations officers of the prosecutor’s and MIA (norms of detention, transportation etc.)”.

”It would be interesting if APT launched the projects in Central Asia (5 countries) and covered Uzbekistan and Turkmenistan, although it will be difficult. Various projects funded by Soros and others are already being implemented in Kyrgyzstan, Kazakhstan and Tajikistan. There is a project implemented by the Tien Shan Policy Center in AUCA, it presents the results of the investigations and has already found its niche. If APT was here, it could find its niche as well”.

“The space is monopolized by NGOs, it is difficult for other NGOs with no experience of applying for grants to compete with active experienced and skilled NGO... Donors shall engage regional NGOs for example from Aksy or Alabuka and border areas in this process”.

“International experience would be useful, in the CIS such a service is in place only in Estonia; our law on this service was based on the Russian law, although there is no such service in Russia; our CSOs made their efforts”.

“Sharing experiences with the prosecutors from other countries where there are less cases of torture would help our prosecutors to work more efficiently”.

5 Latin American Case study

5.1 Overview

The review of the Latin American programme is distinct from the other country reviews, not only because it looked at the entire region but also because it has recently been evaluated.

It was evaluated a year ago (March 2013) by Elizabeth Hayek Weismann¹⁸ who took the period 2009-13 (although mainly 2009-12 in reality) and as a part of the Richard Carver 2012 evaluation of six countries including Brazil and Argentina. It was deemed unnecessary to carry out a new field based review given the material in these evaluations plus the Boletín electrónico, and regular reports.

The Hayek Weismann evaluation noted several successes in the region, for example 14 of 22 countries have signed the OPCAT. The progress made in Argentina and Brazil programmes was also outlined in the Carver evaluation¹⁹.

The specific objectives noted by Carver were: “Securing the designation of suitable OPCAT national preventive mechanisms in Argentina and Brazil”;

The conclusion reached in his evaluation was:

“Argentina represented a considerable success, with progress made towards establishing local preventive mechanisms at the provincial level, and the almost complete passage through the legislature of a Bill establishing a fully independent national preventive mechanism.

“Brazil saw even greater progress at the local level, as well as the introduction of an NPM Bill into Congress and extensive training of local personnel. P.3” (Carver 2012)

These were no mean achievements, given the very poor conditions in detention centres and the previous inadequate legal frameworks noted at the time of the “base line study” in 2009. Furthermore a positive step was to develop approaches for local preventative measures in these two federal states.

Hayek Weismann noted that one of the major problems in the region could be put down now to overcrowding in places of detention: Large numbers of people held without conviction, and generally harsh regimes in detention centres often with a culture of violence inside the centres (both by prison staff and between detainees). Prisons seem to be often not under the control of the authorities, leading to gang violence and poorly trained and understaffed authorities reliant on violence or collusion with gangs to maintain some sort of order. Several high profile mass deaths through fire and riots reinforced the image of crisis in these penal systems.

¹⁸ Hayek Weismann 2013

¹⁹ Based on a three year period which utilised a base line for the six countries reviewed by Carver which had been drafted in 2009 (APT 2009; Carver 2012).

Overall it was argued by Hayek Weismann that the APT Latin American programme is consistent with the APT overview goals, its mission and strategy. There were notes about a couple of negative scenarios mainly problems in Mexico where the CSOs and NPM were “estranged” but not due to any failing on the part of APT. In the report the author “reformulated the log frame “ which she felt helped make the theory of change more explicit. Overall APT in both Geneva and Panama seemed to have accepted most of the evaluation findings. The evaluator observed that the output results were often unclear, but noted that outcomes seemed to be better articulated. In part this seems to be because the basic goals driving APT are relatively straightforward (get ratification of OPCAT, set up an independent national monitoring mechanism, assist this mechanism in its work and operation.)

The Hayek Weismann evaluation argued that because of the regional consensus that torture needed to be eliminated/reduced, the APT programme was relevant as it was in line with both government and public demands. The author did argue that it was not always clear when and why APT “ exited “ from a country within the LA programme. And that perhaps APT should be more explicit about its plans in this regard. Another criticism was “dispersion” thus 7 out of the 17 countries seemed to have less than 2 activities over the previous 4 years. The ABC system for prioritising activities and country/ regional focus may in part now provide some guard against this dispersion. She noted however that 50% of activity was focussed on Brazil, Argentina and Panama. Reviewing the 2011/ 2012 Latin American reports and the Boletín electrónico, it would seem that indeed the ABC prioritisation reflects activities overall in terms of amount of activity in the higher priority countries. It is a different question as to how and why these particular priorities were agreed upon by APT and whether they represent the best use of resources. Although given the importance awarded to Brazil, the largest country in the region by far, and Argentina the second largest, their priority seems logical. The third “A “ country priority, Honduras makes sense as it is one of the most violent countries in the world, and the situation in prisons is clearly out of control (or was at this time of the evaluation study) as noted by the 350 deaths in a prison fire.

The evaluation did provide some critiques including that:

- it is sometimes hard to match reported activities to the work plan/ log frame (Hayek Weismann 2013 p.15)
- the demand based approach can work against efficiency
- concerns as to whether it is possible to disaggregate costs by activity, the failure to do so making it hard to assess efficiency at all. (Hayek Weismann 2013 p.16).

In response the APT team noted that:

“Regarding monitoring of APT activities, we have been making changes internally to strengthen the way we monitor and evaluate our own work (based on the objectives set in APT Strategic Plan 2013-2015). We monitor and evaluate our work mainly through two different channels: our internal team meetings and during our bi-annual meetings with the Board. Reports to our Board have been based on the format and structure of the strategic plan for a

few years already. We are now moving to a system of internal team meetings structured around the strategic plan, which should contribute to improving our M&E. The reports that Elizabeth Hayek Weismann and you may have seen are reports to the main programme donor (Liechtenstein), which are tailored to their requirements and not necessarily to specific log frames or monitoring frameworks.”

“Regarding the issue of disaggregation of costs by activity, the question ought to be clarified, as we are able to disaggregate costs for any activity, thanks to the analytical registration of our expenditure (each expenditure is systematically related to a project and a donor in our system). This can be exemplified by the activity specific financial reports we regularly submit to our donors, including in Latin America.”

A closer look at the regional reports for 2011/12 shows a clarity of overall approach despite some initial fuzziness over what progress has been made regarding specific goals and where APT has contributed to them. For example: the ratification of OPCAT by Paraguay is listed under regional successes and the passing of the NPM law is to be welcomed, but APT's input was challenged as it had partially withdrawn after some years of engagement as support for the process was apparently taken over by the Ludwig Boltzmann Institute. Elsewhere there are very clear links between positive changes and APT inputs, for example in the development of local preventative measures in the federal states such as Brazil and Argentina with programmes including training, advocacy/lobbying, workshops and provision of training and other materials. It is to be hoped that this work on Federal systems will be of use with other Federal states which have not as yet ratified the protocol including the USA, and India.

The ABC system of prioritisation was introduced in 2012 and the Latin American reports seems to indicate a clarity in operation along these lines thus in the three “A” priority countries for example:

- Argentina: there is evidence of advocacy by APT, training, support to SPT visits (as well as helping develop local monitoring in federal states)
- Brazil: public meetings with CSOs, Local monitoring mechanisms support, training, events, materials to local authorities.
- Honduras: after the prison fire there was a boost to support the newish NPM and promotion of earlier SPT recommendations, plus what seems to be a productive link forged between Honduran and Costa Rican NPMs and CSOs

We have found similar consistency between both key geographic priorities in the region as well as major emphasis and ways of operating within the activities and trends reported through the Boletín electrónico since January 2011 to 2013 (the last report posted).

A particularly impressive regional event seemed to be the August 2013²⁰ southern cone conference on torture with representatives from Argentina, Brazil, Bolivia, Paraguay, Chile, Peru which led to the declaration of Buenos Aires. The analysis of challenges in Latin America were honest and clear in the specific challenges of the region which included: impunity, culture of punishment, corruption, overcrowding, lack of public policy, and in some places discrimination by class and ethnicity and the internal violence within prisons, weak legal systems and poor working conditions and training for prison staff. This conference led to a set of action plans.

5.2 Summary against the evaluation objectives:

5.2.1 **Relevance**

The programme is guided by specific factors in the region, although clearly not identical in all countries, so the sort of general issues as summarised in the August 2013 report noted above, shows awareness of specific problems such as violence within places of detention, over-crowding etc. Within the region there is also a consensus that people and governments wish to put the old militarist past behind them (including Argentina, Brazil, Chile, as well as Guatemala, El Salvador). The moves to prevent torture and change the culture within the police, army and places of detention fits within the perceived re-democratisation of these and other countries.

5.2.2 **Effectiveness**

Strategic Objective 1: APT are meeting these objectives through training, distribution of materials, facilitating some exchanges (Costa Rica and Honduras, the southern cone group). APT is assisting NPMs in the priority countries. APT has assisted the establishment of the NPMs and LPMs and supported their functioning. The regional programmes seem to be playing an increasing role with regional bodies.

Strategic Objective 2: evidence that they are pushing for ratification with some success, and have confronted positively the challenges of the federal states (Argentina and Brazil)

Strategic Objective 3: some evidence of public communications, open meetings, as well as work with NPMs, and those engaged in regulation places of detention etc.

We can say is that things are moving forwards with considerable local support from CSOs and governments. Progress is being made within individual countries as shown by the charts APT produces on the countries in the region. "Programme evolution timeline", and confirmed by the Hayek Weismann and Carver evaluations.

5.2.3 **Efficiency**

There have been some questions on the **efficiency** side, due to the emphasis on demand based responses, and sometimes a lack of clarity on forward planning. The new ABC system seems to help in prioritising resources as noted in the response from the Latin American team above. Ironically perhaps in view of the high proportion of unrestricted "core" income enjoyed by APT, the fact that in the LA case the

²⁰ Desafios y estrategias cono sur . APT PDF background notes and reports from the conference .

regional programme receives programme funds (Liechtenstein) ensures a requirement for an annual report to donors.

5.2.4 **Sustainability,**

We have evidence of government making budgetary commitments to the NPM etc. and there does seem to be general support for much of this work by CSOs. A very positive sign in terms of both effective demand from local groups and future sustainability was the contribution towards APT costs by partners in Brazil, Chile, Argentina. Also the regional network for the Southern cone already produced some useful material which could develop local mutual support for the future.

Overall the picture in south America is positive and APTs input well regarded . Only one commentator suggested that a bigger challenge might have been to open an office in Washington or New York as a way of engaging authorities in the USA over the issue of torture prevention. Whilst , it did appear that the logical of a regional office might be explored further as a way of engaging with the less supportive governments and regions to date not ratifying the OPCAT (for example South Asia).

Annex A: Terms of Reference

Call for proposals - Evaluation of the implementation of APT Strategic plan 2011-2012

Organisation

The APT is a human rights non-governmental organisation advocating worldwide for the prevention of torture over the last 35 years. The APT is the leading organisation behind the Optional Protocol to the Convention against Torture (OPCAT) which creates a system of national and international preventive bodies, who visit all places where persons are deprived of their liberty. See www.apr.ch for more information on the APT's mission and work.

Background of the evaluation

The APT has developed, tested and implemented various initiatives and tools over recent years to improve our results-based management, including with regards to monitoring and evaluating our work²¹, and continuously learning on what we do and how with a view to seek potential improvements. For instance, we have commissioned a research project, which is now being undertaken by a team of independent academics, on the measures and mechanisms which contribute to preventing torture²². We have trained our staff on monitoring and evaluation and we have commissioned an increasing number of external evaluations of our projects²³. More recently, we have complemented external project evaluations with internal project evaluations²⁴. Additionally, we systematically report to our Board, which meets twice per year, on the monitoring and evaluation of our strategic plan. Therefore, an internal review of the implementation of our 2011-12 Strategic Plan was undertaken and presented to our Board on the occasion of its April 2013 meeting. As part of a 4 year core grant from the Swedish Cooperation Agency SIDA to the APT (2011-2014), a mid-term evaluation is expected in 2013.

This provides a good opportunity to complement the internal review of the 2011-12 Strategic plan with a more comprehensive external evaluation.

The APT 2011-12 Strategic Plan

The APT Strategic Plan 2011-2012²⁵ was finalised in January 2011. It was based on the APT vision, mission and strategic objectives for the period 2010-2012, which

²¹ See <http://www.apr.ch/en/monitoring-and-evaluation/>

²² See <http://www.apr.ch/en/research-project/>

²³ Available at http://www.apr.ch/en/categories_res/reviews/

²⁴ For instance on the occasion of the external and internal evaluation of our Latin America Programme, over the

period 2009-2012; see <http://www.apr.ch/en/resources/support-programme-2009-2013/?cat=34>

²⁵ Available at http://www.apr.ch/content/files_res/APT%20Strategic%20Plan%202011-2012.pdf

were approved by the APT Board in March 2010²⁶. The Strategic Plan was based on the following 3 integrated objectives:

- Promoting effective monitoring and transparency in places of deprivation of liberty
- Contributing to effective international and national legal and policy frameworks for the prevention of torture
- Ensuring that international and national actors have the necessary determination and capacity to prevent torture.

Each of the 3 strategic objectives were broken down into 4 to 5 sub-objectives. The plan also enshrined the newly adopted APT policy on the application of a Human Rights Based approach²⁷. The strategic plan included a list of priorities for each of the 5 regional programmes of the APT and the 3 thematic programmes. It was subsequently organised by strategic objective and APT programme, with details on planned activities and target countries.

Objectives of the evaluation

The APT seeks to complement the internal review of our 2011-12 Strategic Plan with a comprehensive external evaluation, based on the perspectives of APT actors, partners, beneficiaries and other relevant stakeholders. The evaluation should seek to assess the following principles:

- **Relevance:** was the Strategic Plan suitably designed to address the problems identified?

Was it relevant to the needs of its target group and beneficiaries?

- **Efficiency:** how did the APT perform on the allocation of human and financial resources in implementing the strategic plan? Did we achieve value for the money?
- **Effectiveness:** how far have we delivered on our intended outputs and results? Could we achieve similar or better results with different methodology(ies)? How could things be done better in the future?
- **Sustainability:** are the results sustainable? Is APT support/involvement still required in order to achieve lasting results and where?
- **Impact:** what contribution did we make to the change we wanted to see? What were the final results of our activities as part of implementing the 2011-12 Strategic Plan?
- **Human Rights Based Approach policy:** were our actions compliant with this policy? How can we improve in the implementation of this APT policy?

²⁶ http://www.apr.ch/content/files_res/APR%20Strategies%202010-2012%20ENG.pdf

²⁷ http://www.apr.ch/content/files_res/apr_hrba_policy.pdf

The evaluation report is intended for the APT staff, management and Board, the stakeholders consulted as part of the exercise, as well as APT donors, including core donors, especially SIDA. In line with our existing practice, we will publicise the final approved evaluation report on our website.

This global evaluation of our Strategic Plan should be carried out as a complement to the specific project evaluations that we commissioned during the period under review, including the following evaluations. :

- Baseline survey and final evaluation of APT 6-country project 2009-2011²⁸
- External and internal evaluations of Latin America Programme 2009-2012 (see footnote)
- The evaluator should seek to avoid the repetition of interviews with Latin American stakeholders who have been consulted as part of this recent evaluation.

This new evaluation should solely focus on the above mentioned objectives, and it should avoid to duplicate recent APT project evaluations. It is not intended as an assessment of specific torture prevention interventions on the prevalence of torture (we commissioned a separate research project on that).

Scope of the evaluation and in-country visits

The evaluator will be required to undertake several country visits in order to complement the desk reviews of APT materials and interviews from a distance with relevant stakeholders and beneficiaries. The list of illustrative countries includes one per APT region (5 regions in total):

- Africa: Senegal
- Americas: Brazil
- Asia-Pacific: Philippines
- Europe & Central Asia: Kyrgyz Republic
- MENA: Tunisia

For each of these countries, in the interest of our partners, the evaluator will be requested to provide a detailed agenda to the relevant APT Programme Officer ahead of the mission, including a list of expected meetings with relevant stakeholders and beneficiaries. The evaluator may want to seek input from relevant APT staff on the selection of interviewees in these countries. Joint meetings may be organised when relevant for the sake of efficiency.

²⁸ <http://www.apr.ch/en/resources/preventing-torture-through-the-promotion-of-the-un-convention-against-torture-and-its-optional-protocol-in-six-target-countries-of-five-world-regions-apr-project-2009-2011/?cat=34>

It must be duly noted that the activities of the APT as part of implementing the 2011-12 Strategic Plan were not limited to these above 5 countries, and the evaluation should seek to cover the whole Strategic Plan, by making use of the illustrative examples of APT activities in these 5 countries.

Timeframe

The evaluation must be completed within a seven months' timeframe, between August 2013 and

February 2014, as per the following estimates:

- Review of relevant materials, interviews with APT staff and management, preparation of country visits: month 1
- Country visit 1: month 2
- Country visit 2: month 3
- Country visit 3: month 4
- Country visit 4: month 5
- Country visit 5: month 6
- Conclusions & report drafting, liaising with evaluation steering committee: month 7

In total, it is estimated that the evaluation will take up an average of three full-time months for one person. Candidates (open to individuals and institutions) should include an estimate of the time required and their costs in the proposal (see below, under "where and when to send proposals").

Proposed evaluation methodology

The external evaluator will be provided with all data and information relevant to the implementation of the APT 2011-2012 Strategic Plan, including internal reviews (e.g. for the APT Board), mission reports, project documents, annual reports, reports from partners, memorandum of understanding, etc. The evaluator will also be provided with contact details for relevant project stakeholders and beneficiaries, including in the target countries mentioned above. Special arrangements may be agreed to translate relevant documents and facilitate interpretation during country visits.

At minimum, the evaluator will be required:

- To undertake a review of all relevant documents
- Discuss with APT staff, including the Secretary General and Chief of Operations, and Board members, including the President
- Organise interviews/questionnaires with key stakeholders,

- Undertake the 5 country visits.

However, applicants are welcome to propose different or additional evaluation methodologies, including details on the methods for the verification of information.

Governance and accountability

The evaluation will be followed by an APT Steering Committee including the Secretary General, Chief of Operations, and Institutional Development Officer. The evaluator will directly report and on a regular basis to the APT Institutional Development Officer. He/she may also contact other relevant members of staff, including in preparation for country visits. The evaluator may seek support from the APT in order to get introduced to relevant stakeholders. All contractual obligations of the APT are managed by the Secretary General.

Guiding principles

In its work and functioning, the APT is committed to implementing a human rights based approach, including the principles of empowerment, non-discrimination and accountability. For more information, see our policy at: http://www.apr.ch/content/files_res/apr_hrba_policy.pdf. The evaluator will be required to take into account the terms of the APT Human Right Based Approach policy in his/her assignment.

Additionally, the evaluator should respect the strict confidentiality of APT information and data, particularly that which is not meant for external distribution (e.g. missions reports). The consultancy agreement will include a confidentiality clause.

Professional qualifications

Applications are accepted from both individuals and professional institutions. The following criteria are applicable to both (unless specified):

- o Postgraduate degrees or higher in human rights, law, or development (team leader if applicant is a team);
- o Professional experience in project design, implementation, and evaluation;
- o Previous experience in evaluations of human rights projects a must;
- o In the case of a team, the different expertise, skills and experience among members should complement each other;
- o Knowledge of torture prevention a plus;
- o Demonstrable report writing competencies;
- o Fluency in English, French and Spanish a plus.

Deliverables and schedule

The evaluator will be required to submit a first draft evaluation report to the Steering Committee by mid-February 2014 for comments and for a management response to

be included in the final report, to be submitted by end February 2014. The report should include at least the following sections:

- Background & introduction
- Methodology
- Main findings with regards to the evaluation criteria of relevance, efficiency, effectiveness, sustainability, impact and human rights based approach
- Main findings related to the countries visited as part of the evaluation
- Recommendations to APT
- APT management response
- Relevant annexes, including questionnaires, persons & institutions interviewed, agendas of country visits, relevant document related to the APT 2011-12 strategic plan, etc.

Where and when to send proposals

Proposals should include a description of the experience and skills of applicants to undertake the evaluation (cover letter), CV(s), copies of previous evaluation reports or writing sample, references, and an estimation of costs.

Proposals should be emailed to jobs@apt.ch quoting the following reference "Evaluation of APT

2011-12 strategic plan", at the latest by close of business on 12 July 2013.

APT, June 2013

Annex B: List of people interviewed

Philippines

Karen Gomez Dumpit	Director, Government Linkages Office Philippines CHR
Josephine Acuna-Lascana	Balay Rehabilitation Centre
Ernesto Anasarias	Balay
Joseph Van	Balay
Marc Cebreros	CHR
Sheena Usquisa	CHR
Joseph Jimenez	CHR
Victor Aqimbak	Presidential Human Rights Cttee
Wilnor Papa	Amnesty International Philippines Section
Jerbert Briola	Medical Acton Group
Rosemarie Trajano	Philippines Alliance of Human Rights Advocates
Frankin Bucayu	Director Bureau of Corrections
Ven Tesoro	Penal Superintendent New Bilbid Prison
Atty Roy Valenzuela Jail	Chief Inspector Dept Interior & Local Gov
Francisco Baraan	Undersecretary Dept of Justice
Rafael Villanueva	Office for Alternative Dispute Resolution DOJ
PSupt Valentino Pese	Human Rights Office, Philippine National Police
Col Rhoderick Parayno	Human Rights Office Armed Forces of the Philippines
Aquilino "Koko" Pimentell	Senate of the Philippines
Basil Fernando	Asian Human Rights Council
	Four torture survivors not being named here.

Senegal

Seydi Gassama	Director of Amnesty International, Senegal
El Hadji Abdoulaye	SECK Campaign officer at Amnesty International, Senegal
Ibrahima Bob	Political Officer in charge of development cooperation at British Embassy Dakar
Alioune Tine	Representative of former Director of RADDHO African Forum for the Defence of Human Rights
Boubou Diouf Tall (Magistrate)	Observer at National Observatory for Places of Deprivation of Liberty
Thiéyacine Fall () (Magistrate)	Delegated Observer at National Observatory for Places of Deprivation of Liberty–
El Hadj Malick Sow (Supreme Court Judge)	Director of Committee for the Prevention of Torture in Africa (CPTA) and UN Working Group on Arbitrary Detention
Abdoulaye Mar	Director of Office at Senegal Committee of Human Rights

Tunisia

Abdelwahab Hani	Consultant to project
Gabriele Reiter	OMCT
Lamia-Louise Chehabi	Dignity
Abdelhamid Abdallah	Ministry of Human Rights
Maitre Lassaa Moussa	Advocate
Saida Akermi	Human Rights Committee
Mazen Shaqoura	UN OHCHR
Karim Abdessalem	Association of Justice & Dignity
Heller Boujneh	University research student

Fiona Rumney

(ex) British Embassy Tunis

Kyrgyzstan

Nuriana Kartanbaeva

Director of the Law Program of the Soros Foundation Kyrgyzstan;

Rysbek Adamaliev

Specialist of the Program Against Torture of the Human Rights Center “Kylým Shamy”;

Aziza Abdirasulova

Head of the Human Rights Centre “Kylým Shamy”;

Asel Koilubaeva

Coordinator of the Law Programs, Voice of Freedom

Fabio Piano

Senior Advisor on Human Rights of the OSCE, Bishkek

Nuriddin Nurakov

ex-employee of the Ombudsman of the Kyrgyz Republic;

Bakyt Rysbekov

Director of the Center for the Prevention of Torture

Elina Steinerte

Associate of the University of Bristol

Ulugbek Azimov

Expert of the independent human rights group

Nazgul Turdubekova

Director of the Public Foundation “The League of Child Rights Defenders”;

Melor Moidunov

Head of the Patients' Rights Protection Center

Sarah King

Manager of the Human Rights Programs of the TianShanPolicySenter

Valentina Gritsenko

Head of the NGO “Spravedlivist”

Interviewees outside country cases, APT

Esher Shauffelberger	Middle East and North Africa Programme, APT
Jean-Baptiese Niyizurugero	Africa Programme, APT
Ilaria Paolazzi	Africa Programme, APT
Mathew Pringle	Europe & Central Asia Programme, APT
Rosita Ericsson	Communications Programme, APT
Isabelle Heyer	Americas Programme, APT
Matthew Sands	UN & Legal Programme, APT
Jean-Sebastien Blanc	Detention and Monitoring Programme, APT
Mark Thompson	Secretary General, APT
Barbara Bernath	Operations Manager, APT
Vincent Ploton	Institutional Development Officer (left APT during the evaluation),

Other interviewees outside country cases

Anh Thu Duong	3rd Sec Swiss DFA Permanent Mission to UN
Patrick Mutzenberg	Director Centre for Civil and Political Rights
Ariel Riva	Legal Officer protection policy & Legal Advice
Asger Kjaerum	International Rehab Council for Torture Victims
Patrice Gillibert	Subcommittee on the Prevention of Torture
Bob Last	UK Mission Senior Human Rights Adviser
Irina Schoulgin Nyoni	Minister Counsellor Human Rights Swedish Permanent Mission
Wilder Taylor	International Commission of Jurists Sec Gen
Joao Nataf	Committee Against Torture
Clive Baldwin	Human Rights Watch
Juan Mendez	UN Special Rapporteur on Torture
David Huxford	Conflict Adviser FCO, MENA
Richard Carver	Oxford Brookes University and coordinator Impact research for Apt.
Sylvia Dias	Director regional office APT Panama
Maria Jose Urgel	Deputy Regional office. APT , Panama
Kate Levine	Sigrid Rausing Trust

Annex C: Interview Questions

Questions for Geneva based (mainly UN)

1. Information on presenting organisation

- Background about their own organisation's approach to torture
- Is there a relationship between X and APT?
- How does it work in practise?
- Are you familiar with their strategy and approach (preventative cooperative and the 3 strategic objectives of 2011-2012)
- Is this effective?
- Does it undermine APT to work with less than independent organs in countries (many of the NHRCs and NPMs are far from independent) should APT target these issues or is it right to just work with what is there on toe in the door principle? Should it go for 'tougher' more punitive approach?
- How does APT help in connecting the UN/ X with country groups, is this effective?
- Have you witnessed APT's work in country?
- Does APT actively support the work of X? How? Is there any duplication between the APT and X? What is the impact of APT's work on X ?
- What time scale can you realistically expect to see results in this area of work?
- Is there anything else the APT could do to be even more effective?
- What future role do you see or suggest for APT?
- (4a)For CPT Does CPT make more reference to their cooperation with NPMs?

Questions specifically for the Subcommittee for the Prevention of Torture:

- How the SPT is developing
- SPT offers special training and technical assistance as part of the OPCAT arrangement, how is this being delivered? Does APT help?
- Is SPT gaining the access outlined in the OPCAT to states that are ratifying?
- How many members does SPT have and is it functioning fully?

- (3b) How many more qualified members and improved function has SPT gained in 2011//12
- (4) Has there been increased cross referencing between NPMs , SPT & regional mechanisms since APT's efforts?
- (1a) has there been more call for OC ratification in UPRs over 2011 -2012 and since?

APT

Objective 1

- How many NPMs are there? (to assess impact of the phase we are evaluating we have to include what happened after this)
- (1) Which targeted NHRIs are doing more improved preventative monitoring?
- (3) are there specific examples of improvement in methodology and reporting by any targeted NPMs?
- How many more qualified members and improved function has SPT gained in 2011//12
- (4) Has there been increased cross referencing between NPMs, SPT
- Does CPT make more reference to their cooperation with NPMs?
- (4a) does CPT make more reference to their cooperation with NPMs since 2011?

Objective 2

- (2) has knowledge on OPCAT increased, how do you measure this? Languages?
- (1) is there more regional balance in OPCAT?
- (1a) has there been more call for OC ratification in UPRs over 2011 -2012 and since?
- Have APT inputs been taken into account for TB commentaries and on international standards e.g. EU directives on access to lawyer?
- (5) Have APT comments on what has been taken up in the GA and HRC resolutions from all this?

Objective 3

- (4) can you explain this?
- 3/1 see materials?

General

- Are you satisfied with emphasizing contact with NHRIs over NGOs?
- What work do/ did you do with judiciary?
- To what extent do ignorant / reactionary judiciary undermine APT's impact?
- Do you ever work directly with security officials?
- How do you maintain contact with partners in the field between visits?
- How do you prefer to be viewed by your partners?
- At what point do you cease your work in a country?

Suggested Questions for partners (NGOs and probably National Human Rights Institutions (NHRI) such as Commissions on Human Rights and stakeholders - in country

1. Relevance

Identification of the problem and setting the country context:

- What is nature of the torture problem in country X:
- Where does torture happen? (e.g. police stations, police vans, prisons, military detention centres, other)
- By whom? (e.g. police, special police, military, others)
- How much is known of torture by non-governmental groups
- What is known about secret detention centres / ghost houses
- Why is it done? (e.g. punishment, extracting 'confessions' making an example)
- Has this pattern changed over time?
- What are the barriers to change?
- How best to change
- What scale of a problem – deeply rooted cultural or response to new challenges as in Arab Spring (where they merrily tortured away since dawn of time anyway)
- Did your group feel comfortable and able to deliver? – were you already working on this issue?
- What would you like to see APT doing next?

Response to the problem:

- How is this problem best tackled?
- What had you or anyone else been doing to tackle the risk of torture before APT came onto the scene?
- What else could be done or done better or differently etc.?
- How well targeted is the above strategy for addressing the problem?
- Who do the government listen to?
- Is constructive dialogue alone the best way to engage or should there be more stick?
- Is a legally based normative approach really the best?

- Do you tackle government or bring about social demand for change? (should there be more public awareness work?)
- Who else is doing work on torture? How linked up are they all?

2. Effectiveness (sustainability questions are incorporated here too)
2.a Strategic Objective 1

promote effective monitoring and transparency in places of deprivation of liberty

- 1. promote and provide advice and **training on best practices** related to preventive detention monitoring*
- 2. provide **advice on the designation and establishment of competent, independent and effective** national preventive monitoring (NPMs), in compliance with the OPCAT*
- 3. **support the effective functioning** of NPMs and the Subcommittee on Prevention of torture established under the OPCAT*
- 4. **promote synergies and coordination** between international, regional and national bodies involved in preventive monitoring.*

- How is preventative monitoring different from reactive monitoring and which happens in this country?
- How has APT been involved in training your organisation and also national institutions on this such as NHRIs (national human rights institutions), prisons, others?
- Is there a National Preventative Mechanism (NPM) here?
- How far towards establishing an NPM is your country?
- Has a body been agreed to be the NPM? Do you support this?
- Has a design been agreed, did you participate in this, how much did APT provide guidance on this?
- How much was your organisation involved in working on this?
- How closely does the design comply with OPCAT requirements?
- *Before APT became involved was there already any action towards developing preventative monitoring and an NPM?*
- *If yes, what difference did APT's contribution make to the action?*
- *Could local organisations have achieved the same outcome alone?*
- How do you measure your achievements and contribution to these?
- Do you co-operate more with your NHRI (national human rights institution)?

Where NPMs have been established

- How are you involved in supporting / working with the NPM?
- How does APT contribute to this?
- Do you have any contact with the subcommittee on the Prevention of Torture (SPT)?

The following are best asked of members of the NPM and NHRI

- Does your NPM and NHRI have contact with the SPT, is there a member from your country on the committee?
- What sort of contact is this?
- Did you have such contact before APT became involved?
- Do you have regional mechanisms involved in promoting preventative monitoring – does your organisation have regular and helpful contact with them?
- If yes, when was this contact established, was it only after APT became involved?

2.b Strategic Objective 2

contribute to effective legal and policy frameworks to prevent torture

1. **Advocate for States to ratify the UNCAT, its OPCAT and other relevant international instruments**
2. **Advocate for, and provide policy and legal advice on OPCAT implementation**
3. **Advocate for, and provide policy and legal advice on OPCAT**
4. **Contribute to the development of and better knowledge and understanding of international standards and jurisprudence related to the prohibition and prevention of torture**
5. **Promote legal and procedural safeguards for the prevention of torture**

- Has your country ratified the UNCAT (United Nations Convention Against Torture) and its optional protocol (OPCAT) (when?)
- If so was your organisation involved in the campaign to achieve this?
- Was APT involved with you and other groups?
- How much did APT's input progress ratification of UNCAT / OPCAT/ and any local anti-torture legislation?
- Would local organisations have achieved it alone?
- What steps have been taken to implement these conventions? For example have:
 - laws been introduced
 - training delivered to judiciary, police, military (any security forces) and prison staff?
- If your country is not yet at this stage, how far along is it in implementing the conventions?
- If progress has been made on implementation was your organisation involved in preparing the laws and training courses and delivering them?
- Was APT working with you on this?
- What specific value did APT bring?
- Has there been specific training for the judiciary and relevant officials for example at the Ministry of Justice on the international standards contained in both the UNCAT and OPCAT and other relevant international human rights law related to prevention of torture?
- Has your judiciary's knowledge increased on human rights and specifically UNCAT, OPCAT and any local anti-torture law? Can you link this with APT?
- Has your organisation been involved in providing this?
- What other ways are legal and procedural safeguards being put in place to prevent torture (for example this might be police SOPs at arrest and interrogation; Codes of conduct / guides on preventative detention monitoring and official behaviour?
- Do you think these are likely to sustain?
- Have adequate resources been provided?
- What (more) permanent provision has been made to establish on-going training of staff and monitoring of compliance by the national structures?
- Do you and other local organisations have the capacity to continue operating and to deliver workshops and widen spread of this (training of trainers etc., adequate understanding and ability to train, advocate, support / guide the structures.
- Do you have the capacity to continue monitoring and pressing for further implementation of OPCAT etc.?
- What support if any will you need from APT?

2.c Strategic Objective 3

promote a culture of prevention by helping to improve capacities and practices of relevant actors

1. Increase knowledge on torture prevention and prohibition by providing multilingual publications, tools and online resources

2. provide training and technical advice on torture prevention and facilitate exchange of experiences amongst relevant actors on best practices for torture prevention

3. improve practices of actors directly concerned with persons deprived of liberty, through enhancing their capacity, knowledge and determination to prevent torture

4. contribute to the development of the conceptual framework on torture prevention, through internal knowledge management, research and analysis of data and trends

- Which APT materials has your organisation used in your anti-torture work – publications? Specific training tools? Online training and resources?
- How and where do you use them?
- How useful have these been?
- Have you been given any training of trainers by APT in this country or region on torture prevention? Did this provide you with new knowledge and ideas?
- Could / do you now deliver that training to others?
- What is the most valuable part of the training?
- What else would you like to see included or left out?
- Has your organisation been involved in training prison and police involved in detention of people?
- Was APT involved?
- Can you deliver such work without APT now?

2.d General questions on effectiveness

- Has your organisation changed through working with APT?
- What you like to see next from APT in relation to this work above?

3. Efficiency

I think nearly all of these are best targeted at APT directly, some may be relevant locally marked with *

- BP's questions are spot on here about ABC system we can ask:
- How do you define A or B or C?
- Also look at cost of country & regional activities or wider campaigns in relation to each element of strategy and can we find out the cost of each to compare action against action, what costs most, does this seem reasonable?
- How much breakdown of each action cost is there?*
- What cost savings on materials - how can this be done across culture language etc.?
- Compare cost of APT person delivering workshops and local transfer within regions
- Do they have rough ideas of how much it costs them to advocate for and contribute to each strategy objective – can one??
- Does cost come into decision of countries to work on as well as country positions towards OPCAT?
- Do they provide financial other costable support to partners?*

- Do they have a budget and plan for each trip staff make which includes a target number of activities (meetings, workshops, advocacy meetings etc.)
- Are there comparable costs for work in different countries (*this might be applicable regionally obviously more tricky in very different countries/continents*)

4. Impact

- Much more difficult to measure on such a short plan and especially on human rights theme. The indicators for this – direction of travel only perhaps – will probably be based on analysis of answers under effectiveness, involve looking at past impact and asking partners what impact as in changes, planned or unplanned they have seen.
- Have you seen any changes in a) laws & policy b) discourse from government c) actions under OPCAT and / or NPMs d) behaviour of officials working in the area of detention (police, prisons, mental health, refugees etc.)

The Human Rights Based Approach (also to assess donor and APT influence)

- Who made the first approach you or APT?
- Are you listened to? Have you had any disagreements
- Who do you feel leads this project, Geneva or local organisations

Annex D: Selected bibliography

APT. 2012. Internal review 2011-12 Strategic Plan, November .

APT. 2013. Internal review of the strategic plan as of April 2013 .

APT. 2011. Annual report

APT. 2012. Annual report

APT . 2012-15 Strategic Plan

APT. 2012. Prioritisation Scheme

APT. 2013. Operational Plan

Hayek Weismann, E. 2013. Evaluation APT Latin American programme 2009-12, March.

APT Reports on Latin American programme 2011 & 2012 .

APT. 2009. Base line survey 2009 -12 , 6 countries.

APT. Various. Boletin Electronico. Latin America .

Carver, Richard. 2012. Evaluation Report: Preventing torture through the promotion of the un convention against torture and its optional protocol in six target countries of five world regions.