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# **Report on Implementing OMCT's Project**

## **Preventing torture and other forms of violence by acting on their economic, social and cultural root causes**

**January 2007 to March 2010**



The European Union, through the European Initiative for Democracy and Human Rights, provided substantial support for this project which was also generously supported by the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation and the Foundation for Human Rights at Work. The Swiss Agency for Development and Cooperation (DDC) supported this project in 2007 and 2008.

How to prevent or reduce violence, including torture, by acting on its root causes often found in violations of economic, social and cultural rights, ...goes to the very heart of human rights protection.

*Ms. Louise Arbour, United Nations High Commissioner for Human Rights*<sup>1</sup>

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<sup>1</sup> OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, [www.omct.org](http://www.omct.org), p.9

## Report on Activities 2007 – 2010

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## Introduction

This report describes OMCT's implementation of the project "*Preventing torture and other forms of violence by acting on their economic, social and cultural root causes*" during the period January 2007 to March 2010.

The project *aimed* at preventing torture and other forms of violence (cruel, inhuman and degrading treatment, arbitrary detention, summary executions and enforced disappearances) by acting on the root causes found in the failure to respect economic, social and cultural rights. The *means* used were strengthening national NGOs, expanding the NGO network and, using UN human rights implementation machinery and other means, to address the root causes of violence.

The European Union, through the European Initiative for Democracy and Human Rights, provided substantial support for this project, which was also supported by the Interchurch Organisation for Development Cooperation (ICCO), the Karl Popper Foundation and the Foundation for Human Rights at Work. The Swiss Agency for Development and Cooperation (DDC) supported this project in 2007 and 2008.

### Overall challenges

To achieve the project's objectives required an operational approach to the link between economic, social and cultural rights and violence. That meant going beyond academic analysis and undertaking concrete action oriented activities that presented new and specific challenges. Importance was thus given at the beginning to assembling a team able to deal with the relevant issues and to setting the strategic overall objectives of the three year project. Staff discussions led to the drafting and agreement on a strategic planning document that, inter alia, describes the project's objectives as "*promoting change in the way the economic, social and cultural root causes of torture and violence are perceived and acted upon by national and international NGOs, governments, national human rights commissions and UN bodies.*"

As an operational project, OMCT adjusted the implementation of the project's activities to respond to the changing needs, opportunities and circumstances of the world human rights situation including the demands of NGOs and international human rights organisations and emerging opportunities for new initiatives.

Thus, the specific activities of the project were brought together in five axes of activity;

- Working with NGOs to strengthen their capacity for action; this encompassed regional and special procedures seminars, establishment of a network support group, creation of a library/database and preparation of two guides to using international machinery to address the root causes of torture;
- Bringing about change through action files and other forms of intervention;
- Using United Nations Treaty Bodies to bring about change;
- Building understanding and support through advocacy; and
- Working with the European Union.

### Methodology

OMCT has maintained its participatory approach involving relevant actors operating in the human rights field, including human rights NGOs, academics, experts and international organisations. OMCT continued its cooperation with the networks in the economic, social and cultural rights field to which it belongs, such as the International Network on Economic,

Social and Cultural Rights (ESCR-Net), with FIAN (FoodFirst Information and Action Network) and the ESCR-Asia network.

### **Working with NGOs to strengthen their capacity for action**

Regional and special procedures seminars proved to be an important way of strengthening NGO capacity. OMCT organised three regional seminars (Africa, Asia and Latin America) and three special procedures seminars (2007, 2008 and 2009). These seminars reached over 100 participants from 50 countries (Afghanistan, Argentina, Bangladesh, Benin, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Central African Republic, China, Colombia, Congo-Brazzaville, Costa Rica, Democratic Republic of the Congo, Ecuador, Egypt, El Salvador, Gambia, Georgia, Ghana, Guatemala, India, Indonesia, Kenya, Lebanon, Liberia, Madagascar, Mexico, Mozambique, Nepal, Niger, Nigeria, Pakistan, Paraguay, Peru, Philippines, Romania, Senegal, Sierra Leone, South Africa, Sri Lanka, Thailand, Togo, Uganda, Uruguay, Uzbekistan, Zambia and Zimbabwe).

These seminars were conceived to enable national NGOs to prepare targeted submissions calling for specific action on the economic, social and cultural root causes of violence. This practical approach to seminars has been shown to be a highly effective means of underlining the relevance of addressing the economic, social and cultural root causes of violence among seminar participants and has, moreover, proven to be an important source of material and case studies to be used for further action.

The positive impact of the seminars is confirmed by feedback from participants in their responses to questionnaires they are asked to complete at the end of each seminar, and again some six months later with a view to assessing the extent to which the themes addressed have been incorporated in their organisations' work.

Strengthening NGO capacity also involves enabling NGOs engaged in addressing the root causes of torture to remain in contact with each other and with OMCT, and to continue sharing information, good examples and ideas. This led to the development of the *NGO network support group* for the purpose of facilitating information exchange. The group consists of over 100 persons from some 50 countries. In addition, regional NGO groups were set up as a result of the three regional seminars.

Strengthening NGO capacity was also carried out by the development of OMCT's Economic, Social and Cultural Rights Library/database (<http://escr.omct.org>) and through the preparation of guides to addressing via international mechanisms the economic, social and cultural root causes of violence.

### **Bringing about change through action files and other forms of intervention**

Violations of economic, social and cultural rights that lead or risk leading to violence occur in a wide range of circumstances, each requiring appropriate analysis and calling for specific reactions. In some cases violence is already present or its threat is imminent, requiring OMCT to react rapidly with an *urgent intervention* aimed at saving lives.

Other situations require more in-depth analysis of the various – and often complex - factors leading to violence, including, for example, levels and distribution of poverty and inequality, international trade and investment patterns, national economic policies, political relations, public security strategies and social and cultural dynamics. They also call for identification of those responsible, by act or omission, for this violence and for research into sustainable, long-

term remedies. The need for an appropriate tool to address situations such as these gave rise to the OMCT *Action File*, a six to ten page document that provides a detailed analysis of a given situation and proposes specific remedial action.

OMCT during the period 2007 to March 2010 intervened to prevent torture and violence through 17 action files and 18 urgent appeals. The impact of urgent interventions and action files varies from case to case, according to factors such as the responsiveness of the government in question and the degree to which other actors involved, including private companies and corporations, are sensitive to international pressure. The present report shows that in a number of instances positive results have been achieved.

### **Using United Nations Treaty Bodies to bring about change**

OMCT, together with national partners, submitted six alternative reports relating to Brazil, Kenya (two reports), the Philippines (two reports) and Uzbekistan to the Committee on Economic, Social and Cultural Rights and/or the Committee Against Torture. This involved working with national partners to intervene throughout the implementation cycle from submitting recommendations for the list of issues the committee sends to the State, the preparation of an alternative report, its presentation to the committee and the follow-up of committee recommendations via missions or follow-up presences in the country concerned.

OMCT's strong links with national partners have been crucial in enabling the organisation to bring up-to-date, first hand information directly to Geneva from the field. OMCT and national partners organised during preparatory missions interactive *community forums* designed to capture grassroots concerns among marginalised communities (residents of informal settlements, indigenous groups and rural minorities). OMCT also expanded the sources of information used in alternative reports to include information from the World Bank, UNDP, UNICEF and the UN Development Group's Common Country Assessments. This added pressure for change from economic and development organisations to that of human rights actors.

This information, together with OMCT's capacity to analyse, contextualise and present it in an effective manner has brought dividends in terms of its ability to support and influence the work of the UN human rights mechanisms. The UN Treaty Bodies have, for example, begun to take up in their dialogues with governments many of the issues relating to the economic, social and cultural root causes of violence presented to them by OMCT. Indeed, OMCT's input can be clearly traced in the concluding observations and recommendations of both the Committee Against Torture and the Committee on Economic, Social and Cultural Rights.

### **Building understanding and support through advocacy**

The effectiveness of action against the economic, social and cultural root causes of torture and other forms of violence is greatly enhanced when there is a widely held understanding among influential actors of these root causes as well as of the types of action that can be taken to address these links. While progress is clearly being made, much still needs to be done to help ensure that policy makers and institutions are aware of these issues and are ready to take action. Thus OMCT seeks to contribute to building understanding and support by advocacy with UN bodies, regional institutions, human rights defenders and, to the extent possible, the general public.

This report sets out the wide range of advocacy activities carried out relating to various activities of the United Nations, the African Commission on Human and Peoples' Rights,

national human rights meetings and international meetings and organisations. OMCT's expertise in this field is recognised, it is invited to address seminars and other meetings, information is requested by UN Special Rapporteurs and members of the European Parliament and it enjoys the continuing support of the Office of the United Nations High Commissioner for Human Rights (OHCHR). OMCT was asked to chair the NGO Consultation on the Draft Guiding Principles on Human Rights and Extreme Poverty (December 2008) and present the results to the OHCHR consultation (January 2009) aimed at preparing recommendations for the Human Rights Council.

### **Working with the European Union**

OMCT gives particular importance to working with the European Union in order to raise awareness within its institutions of the need to fight violence by acting on its economic, social and cultural root causes, and its contributions have been well-received. This enables the voice of an important economic and development partner to be added to that of human rights and development NGOs in urging effective action against these root causes.

OMCT has appeared before the Human Rights Sub-committee of the European Parliament to discuss its work addressing the root causes of violence and has transmitted Action Files and other information to the Subcommittee and members of the European Parliament in connection, inter alia, with the preparation of reports and written parliamentary questions. OMCT has also submitted suggestions for amendments to draft reports or resolutions. This report shows the quite visible impact these interventions have had on the development of EU policy on human rights and in helping to focus the attention of EU institutions on the links between human rights violations and poverty, inequality and discrimination.

### **Lessons learned**

In implementing this project, OMCT has learned that addressing the economic, social and cultural root causes of violence through the appropriate channels can reduce human rights abuses, and that this in turn can *increase the space for economic, social and cultural development*.

Feedback from seminar participants, UN committee members and communities visited in the field show that this project is bringing about change and making a tangible contribution to the prevention of torture and other forms of violence by acting on their economic, social and cultural root causes.

Demonstrating that violations of economic, social and cultural rights can lead to torture and other serious forms of violence strengthens the pressure for action not only on States, which do not want to see their economic and social policies explicitly linked to violence, but also, for example, on the corporate sector, banks and development agencies.

This has also proven to be an effective means by which to challenge the relativistic argument that respect for the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment should be subordinated to economic priorities. While the project aims to ensure respect for all human rights, and in particular economic, social and cultural rights in national economic, development and other policies, it does not seek to determine what those policies should be.

Although the links between violations of economic, social and cultural rights are widely admitted in a general sense, there is a real challenge for some NGOs to analyse the link in

such a way as to identify clearly the causal connection, the respective responsibilities and to prepare the practical recommendations for action that are necessary to help bring about change. On the one hand, NGOs focusing on civil and political rights, although aware of the poverty-inequality-violence link, may lack the experience in analysing the economic, social and cultural root causes and feel more comfortable in relying on the use of legal procedures. On the other, NGOs working in the field of development and economic, social and cultural rights often lack the expertise in using the tools of civil and political rights and are not aware of their potential value.

Reaching out to and working with national human rights institutions has also been shown to be important in addressing the root causes issues on the national level. The response from, for example, the Commission on Human Rights of the Philippine has been most encouraging.

### **Challenges**

This project has established a firm basis for effective action against the root causes of torture and violence. Each activity has shown its own contribution to bringing about change and real potential exists for increasing and extending this impact in the future. There is a strong interest in the NGO community to continue working on the root causes; they continue to request support and assistance in submitting cases, training, information and analysis and in maintaining contacts between themselves. National human rights institutions also express their interest in working on these issues.

Members of UN treaty bodies and special procedures mandate holders are also interested and willing to take up the root causes issues when the appropriate information is presented. And there is a clear readiness of policy making bodies, such as the EU Parliament to react favourable to accurate and well prepared information on the root causes of violence. Private sector actors and development agencies are also sensitive to this issue.

Realising this potential will require a significant expansion in the number of NGOs undertaking actions to address the root causes. This will mean increased training and skills transfer and support for NGO interface with international monitoring organs. Developing activities on the regional level and working more closely with national human rights institutions may prove the most effective ways forward. Having a real impact will also require sustained investment in coordinated and long-term follow-up activities.

The documents prepared under this project are available from OMCT's Economic, Social and Cultural Rights library/database <http://escr.omct.org>

This project was carried out under the direction of  
Eric Sottas, Secretary General and  
Anne-Laurence Lacroix, Deputy Secretary General, with the guidance of  
OMCT's Economic, Social and Cultural Rights Scientific Council (see page 33)  
by the Economic, Social and Cultural Rights Team;  
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## **1. Working with NGOs to strengthen their capacity for action; Regional and Special Procedures Seminars, Network Support Group, Electronic Library/Database and Guides to International Machinery**

Effective non-governmental organisations are crucial to preventing torture and ill-treatment in particular when action needs to be taken to address their economic, social and cultural root causes. OMCT, through this project, focused particular attention on strengthening NGO capacity for action, building OMCT's links with them and strengthening links between NGOs themselves.

*Strengthening the capacity* of NGOs for action is the objective of OMCT's Regional and Special Procedures Seminars, the electronic library/database, two guides -one on preparing action files and a second on preparing alternative reports- along with OMCT's research and information activities. *Strengthening links* with and between NGOs active in the field of human rights is the objective of OMCT's network support group and other outreach activities.

### **A. An Overview of Regional and Special Procedures Seminars**

#### ***Regional seminars***

OMCT organised three seminars on the regional level in order to reach NGOs and national human rights institutions in the context of their regional realities, strengthen the links between them on the regional level and develop actions taking into account that reality.

#### ***Objectives of the regional seminars***

The principal objective of the Regional Seminars was to help NGOs prepare action files for submission to the UN or other organisations, and/or elements for inclusion in alternative reports for submission to UN Treaty Bodies containing recommendations for practical action to stop or prevent torture and other forms of violence by dealing with their economic social and cultural root causes. For OMCT, another important objective was to build partnerships with NGOs to work together on these issues over the long term. The seminars, in particular, sought to;

- help NGOs understand the various ways violations of economic, social and cultural rights are linked to violence and how acting on those root causes can reduce violence;
- help NGOs to develop their own capacity to address the economic, social and cultural root causes of violence;
- identify how action on the root causes of violence could relate to the specific circumstances of the participants' countries;
- assist participants in preparing action files for submission to the UN and other organisations;
- assist participants in preparing elements for including in alternative reports to UN Treaty bodies and in submissions to other institutions (for example the European Union) containing information on the link between the denial of economic, social and cultural rights and torture along with recommendations for specific action; and
- identify new and emerging issues for attention.

The regional seminars took place as follows; African Regional Seminar, 7 to 11 May 2008 in Maputo, Mozambique; Latin American Regional Seminar, 18 to 22 May 2009 in Buenos Aires, Argentina, and the Asian Regional Seminar, 26 to 30 October 2009 in Manila, the Philippines. In addition to the eighteen participants sponsored for each seminar by the project itself, a few additional participants were accepted from NGOs active in the host country. For

the three seminars a total of 59 individuals representing NGOs from 38 countries took part from Argentina, Bangladesh, Benin, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, China, Colombia, Congo Brazzaville, Costa Rica, Democratic Republic of the Congo, Ecuador, Egypt, El Salvador, Ghana, Guatemala, India, Indonesia, Kenya, Liberia, Madagascar, Mexico, Nepal, Niger, Nigeria, Pakistan, Paraguay, Peru, Philippines, Senegal, Sri Lanka, Thailand, Togo, Uruguay, Zambia and Zimbabwe.

### ***Regional seminars methods of work***

The participants selected to take part in the regional and special procedures seminars were asked to prepare and submit in advance of the seminar a 5 to 10 page paper addressing the economic, social and cultural root causes of torture and other forms of violence in their country. That paper was to include the elements for an action file or for elements for inclusion in an alternative report.

The seminars' work was then built principally around a discussion and refinement of draft action files or elements for alternative reports based on the papers prepared in advance in order to ensure that the participants would leave the seminar with practical action to take on returning home. Particular emphasis was placed on the potential for human rights and development NGOs to bring about change by working together.

Providing a substantive and international framework for the seminar's work was also an important objective. For that purpose, resource persons were invited to discuss these issues with participants.

### ***Special Procedures Seminars***

The UN Special Procedures system is a powerful tool to address the economic, social and cultural root causes of torture and other forms of violence because of the wide range of issues dealt with, the ability of mandate holders to act rapidly and to make joint interventions and their continuing openness to working with NGOs.

The first seminar took place from 18 to 22 June 2007, the second from 23 to 27 June 2008 and the third from 29 June to 3 July 2009 at the Graduate Institute of International and Development Studies in Geneva situated close to the Palais Wilson offices of the UN High Commissioner for Human Rights (OHCHR). This facilitated the interaction between mandate holders, the OHCHR secretariat and seminar participants. The opening ceremonies were addressed by senior OHCHR staff and international experts.

Forty-two participants from over 30 countries (Afghanistan, Argentina, Bangladesh, Brazil, Bulgaria, Burundi, Cambodia, China, Colombia, Congo-Brazzaville, Egypt, Gambia, Georgia, India, Kenya, Lebanon, Liberia, Mexico, Mozambique, Nepal, Nigeria, Peru, Philippines, Romania, Sierra Leone, South Africa, Thailand, Uganda, Uruguay, Uzbekistan, Zambia and Zimbabwe) took part in the seminars.

### ***Objectives of special procedures seminars***

Three annual seminars were thus organised between NGO representatives and special procedures mandate holders in order to strengthen the capacity of NGOs to use the special procedures system to address the economic, social and cultural root causes of torture and other forms of violence. These objectives were similar in detail as those set out above for the regional seminars.

The seminars also sought to strengthen the links between mandate holders and NGOs in order to enable them to work more closely together. The seminars were thus organised parallel to the Annual Meetings in Geneva of the Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council (Special Procedures mandate holders meetings).

### ***Special procedures seminar methods of work***

As with the regional seminars, a key objective was to ensure that the seminar produced concrete and practical results that the participants could use on returning to their countries. Thus, participants were asked to prepare prior to the seminars papers of some 10 pages analysing the situation in their country with regard to the economic, social and cultural root causes of violence and identifying specific action that could be taken to address them. During the seminar itself, both in plenary meetings and working groups, they developed cases that could be submitted to Special Procedures mandate holders and in addition, as appropriate, to governments, international development and financial institutions, regional bodies and private sector actors calling for specific preventive or remedial actions. Particular emphasis was given to developing concrete responses to these situations and to drawing up specific and tailored recommendations.

OMCT, together with staff from OHCHR, provided a detailed introduction to the special procedures system and how NGOs could interface with mandate holders. OHCHR staff members were particularly helpful in describing how NGOs could work practically with OHCHR staff to make optimum use of the system's possibilities.

Working sessions during the seminars were organised with mandate holders responsible for the following mandates; torture, indigenous peoples, the right to health, the right to education, arbitrary detention, the protection of human rights defenders, violations of human rights by private security forces, adequate housing, minority issues, the right to food, the human rights of migrants, access to safe drinking water and sanitation, violence against women, violence against children and human rights and extreme poverty. OMCT is very grateful for the willingness of the mandate holders to devote significant time to taking part in the seminar during the heavily charged period of their annual meeting.

At each seminar, experts were invited to make substantive presentations on wider aspects of the interrelation between violations of economic, social and cultural rights and violence in order to offer a broader perspective on the subject.

Participants were also able to observe a public session of the mandate holders meeting and they contributed to the substantive content of OMCT's statement as an NGO in consultative status to those meetings.

### ***Annual special procedures seminar position papers***

OMCT prepared three position papers for Special Procedures mandate holders on the substantial and procedural aspects of attacking the root causes of violence. These were aimed at increasing the mandate holders' awareness and action on those root causes. In preparing the first Special Procedures Seminar, it became apparent that the best source for the planned position papers was the information that the participants were bringing from the field, in particular in the papers on the situation and needs of their countries that they had been asked to prepare in advance of the seminar.

Thus, based on these country papers prepared by participants and the discussions during the seminar, three position papers were prepared reflecting the issues and concerns raised during the 2007, 2008 and 2009 seminars and transmitted to mandate holders. In addition, following the first seminar in 2007, and on the basis of the papers and the discussions, a list of the urgent matters, in particular those not receiving sufficient emphasis in the UN, was prepared and transmitted to the High Commissioner for Human Rights to help guide the action of her office.

### ***Building an NGO network; the network support group***

During each regional and special procedures seminar a special session was set aside to discuss with the participants the building of a network of NGOs particularly interested in the addressing the economic, social and cultural root causes of violence. These discussions also highlighted the future needs of the participants and their organisations in continuing to address the root causes of violence. The participants in the regional seminars and the special procedures seminars have formed the Network Support Group (see below). Participants in the three regional seminars established their own regional networks of NGOs interested in the subject to maintain contact, exchange information and advice and consider undertaking concrete actions.

### ***Evaluations***

Evaluations of the seminars were carried out on three levels. First, during the seminar itself short meetings usually at the end of the day were devoted to a discussion of the seminar and how it responded to the needs of the participants; as necessary, modifications in the programme were introduced. During the final session of the seminar an evaluation discussion took place and participants were asked to fill-out anonymously a questionnaire.

Finally, six months after each seminar, an impact assessment was carried out and information was requested from participants on how the seminar affected their own work and that of their organisation. The six month evaluations contain basic questions dealing with the impact of seminar on the work of the participant and the participant's organisation as follows; was the participation worthwhile from a personal and organisational point of view?; what had been the impact of the seminar's theme on the work of the organisation?; had any concrete action been taken (appeals or other action) based on the seminar's theme?; had the organisation begun to work with other NGOs in the development field?

### ***Selection of participants***

Participants for the regional and special procedures seminars were selected from nominations made by members of OMCT's SOS-Torture Network and other NGOs working closely with OMCT and by national human rights institutions (NHRIs). Nominations were also invited from NGOs active in the fields of economic, social and cultural rights and development that wished to address the economic, social and cultural root causes of violence from their own perspective.



**Asian Regional Seminar Manila October 2009**

## **B. Regional Seminars**

### **African Regional Seminar; May 2008**

This seminar, held in both French and English, enabled representatives of 18 African Human Rights NGOs from Benin, Burundi, Cameroon, Central African Republic, Congo Brazzaville, Democratic Republic of the Congo, Egypt, Ghana, Kenya, Liberia, Madagascar, Niger, Nigeria, Senegal, Togo, Zambia and Zimbabwe to examine the economic, social and cultural root causes of torture and other forms of violence in their countries, and, in an interactive manner, design practical ways of addressing those root causes.

Participants prepared papers in advance analysing the situation in their countries and identifying specific cases requiring action. On that basis and during the seminar, targeted submissions were drafted for transmission to governments, international organisations and private actors calling for specific action on the poverty, inequality and discrimination at the root of the violence identified in each case.

Among the cases dealt with were the slavery-like conditions of indigenous hunter-gatherer forest communities in Congo-Brazzaville who are subjected to forced labour and denied most economic, social and cultural rights; official violence inflicted on export zone workers calling for respect for their basic rights in Nigeria; violence against pastoralist communities in Cameroon; violent repression of demonstrations calling for government action against rising food prices and deteriorating living conditions in Senegal; poverty and overcrowding in Madagascar's prison system; and violent evictions of indigenous communities in the Democratic Republic of Congo who, as a result, are subjected to ever graver violations of their economic, social and cultural rights.

The seminar's opening ceremony was addressed by Ambassador Glauco Calzuola, Head of the Delegation of the European Commission in Mozambique, and Ambassador Thomas Litscher of Switzerland. Representatives of the UN Development Programme and the Governments of Sweden and Finland also took part.

In order to provide the substantive and international framework for the seminar's discussions based on OMCT research and experience, presentations were made on how disrespect for economic, social and cultural rights can lead to violence and on how the United Nations human rights system can be used to address those root causes (Dr. Michael Miller, OMCT Director of Research and Development). In addition, presentations were made on engaging with the European Union to promote economic, social and cultural rights and fight torture including the use of the EU Guidelines Against Torture (Ms. Francesca Restifo, OMCT Researcher and Dr. Anna-Lena Svensson-McCarthy, Lawyer and Human Rights Consultant).

A presentation on how NGOs can interface with the European Union, especially on the country level, was made by Ms. Fotini Antonopoulou of the Delegation of the European Commission in Mozambique. A special session was devoted to exploring how the human rights institutions of the African Union could be used to raise the issues of violence and their root causes.

In order to assist participants to better understand the links between economic, social and cultural rights and violence and to help in designing practical projects or steps that could be taken to address those root causes, presentations on programmes dealing with violence in relation to children being carried out in Mozambique were made by UNICEF, Mozambique (Mr. Mioh Nemoto), the International Organisation for Migration, Southern African Counter Trafficking Assistance Programme (Ms. Nely Chimedza) and Save the Children, United Kingdom, on their unaccompanied and undocumented child migrant workers programme (Mr. Chris Bjornestad). All the presentations were followed by discussions with participants.

### ***The Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment***

In the course of the seminar, participants also drafted and adopted the *Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* in which they recognised that violations of economic, social and cultural rights are very often the root causes of the torture and other cruel, inhuman or degrading treatment or punishment their organisations fight against, and that such violations can be effectively reduced and eliminated by taking action on these root causes. They called on African Governments to take action to make the continent "*free from such practices*". This initiative came directly from the seminar participants, who identified the importance of preparing and disseminating a declaration of this kind. Subsequently, additional NGOs signed the Declaration bringing the total to well over 50 NGOs.

### **Latin American Regional Seminar; May 2009**

The Latin American Regional Seminar was organised by OMCT in cooperation with the Argentine human rights organisation "Centro de Estudios Legales and Sociales (CELS) a member of the SOS-Torture Network. Twenty-one participants from Argentina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Paraguay, Peru and Uruguay took part.

The issues discussed by the participants based on the papers prepared prior to the session included;

- Violence against workers, union members and Unions (Regional perspective);
- Social and racial inequality and violence against women (Brazil);
- Discrimination based on gender and violence (Chile);
- Intra-familial violence and state agency responses (Chile);
- Modern violence against the colonial background (Colombia);
- Situation in adolescent detention centres in Guatemala, Honduras, Nicaragua, Panama, Costa Rica and El Salvador;
- Killing suspects as an operational police method (Ecuador);
- Serious consequences of counterinsurgency actions and new forms of violence (Guatemala);
- Violations of economic, social and cultural rights in jails (Guatemala);
- Violence and violations of economic, social and cultural rights; the vulnerability of indigenous women in informal commerce (Mexico);
- The economic, social and cultural causes of torture and other forms of violence (Mexico);
- Land expropriation for the construction of an airport; people affected attacked and detained by police during demonstrations.

The participants also identified a number of important issues for future action including; the criminalisation of social protests and human rights defenders; the problem of migration and the failure of government responses to respect human rights; the prejudicial and contradictory effects of economic and development treaties, security cooperation agreements and agreements in relation to the fight against organised crime; violence against women and children including those deprived of liberty; the ineffectiveness of judicial organs; and the precarious nature of the penitentiary system.

Three major avenues for future action were identified; give priority to acting on public opinion through campaigns aimed through the media at the sensitising public opinion to the interaction between torture and violations of economic, social and cultural rights; give more precision to conceptual and terminological issues in particular in clarifying the links between violations of economic, social and cultural rights and torture and cruel, inhuman and degrading treatment; and strengthen the work with international and inter-American institutions and mechanisms in order to focus attention on a holistic approach to human rights violations.

The participants agreed on specific details of these avenues for future action and agreed to take specific action within defined time periods.

#### **Asian Regional Seminar, October 2009**

The Asian Regional Seminar on addressing the economic, social and cultural root causes of torture and other forms of violence was organised from 26-30 October 2009 by the World Organisation Against Torture (OMCT) and the Philippines Alliance of Human Rights Advocates (PAHRA), in cooperation with the Commission on Human Rights of the Philippines (CHRP). Twenty participants from 10 Asian countries (Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka and Thailand) took part.

Atty. Leila De Lima, the Chair of the Commission on Human Rights of the Philippines (the independent national human rights institution of the Philippines) and Ambassador Alistair MacDonald, Head of the Delegation of the European Commission in Manila addressed the opening ceremony. Both guest speakers underlined the commitment of their organisations to fighting against torture, recognizing that the majority of those who are subjected to torture are the marginalised and vulnerable sectors of society, or those involved in defending their rights.

### ***Substantive presentations***

In order to provide a substantive framework for the seminar's discussions, presentations based on OMCT's research and experience were made on how disrespect for economic, social and cultural rights can lead to violence (Mr. Tom McCarthy, Special Adviser), how the United Nations human rights system can be used to address those root causes and how to bring about change by action files and other forms of intervention (Ms. Jastine Barrett, Human Rights Consultant). Representatives from the Filipino NGOs, PAHRA and Karapatan (Alliance for the Advancement of People's Rights), also shared their experiences on working with OMCT in addressing the root causes at the international level.

Continuing with the substantive presentations, Ambassador MacDonald gave an overview of the European Union's (EU) policy on the eradication of torture with a particular focus on the EU's activities in the area of human rights and governance at the country level. Further, a representative of the United Nations Development Programme (UNDP) described the role of the UNDP in addressing the economic, social and cultural root causes of torture and other forms of violence. A comprehensive insight into the role of national human rights institutions in this area was provided by Ms. Karen Gomez Dumpit of the Commission on Human Rights of the Philippines who discussed the Commission's experiences in addressing these root causes.

All the presentations were followed by lively discussions with participants, and the participants expressed appreciation for having been able to deepen their understanding of the economic, social and cultural root causes of violence.

### ***Issues dealt with by the participants***

During the seminar, the participants presented and discussed case-studies examining the economic, social and cultural root causes of torture in their countries. The cases presented by the participants indicated that, time and time again, the principal victims of violence come from the most vulnerable segments of society such as the poor, indigenous peoples, women, minorities, as well as economic, social and cultural rights defenders. Additionally, the participants identified a number of issues that they considered to be applicable across the Asian region. These included environmental degradation and human rights violations resulting from the exploitation of natural resources, unequal land distribution, trafficking of women and children, exploitation of migrant workers, corruption, extra-judicial killings and the targeting of human rights defenders. They also expressed a desire to establish an "early warning system" to reduce the potential of human rights violations and the resultant possible violence.

More specifically, the papers that were prepared by participants in advance of the seminar and that were analysed in the course of the seminar included the following:

- Harassment of, discrimination and violence against women [frequently on religious grounds];



- Slavery like conditions of labourers in the agricultural, manufacturing and mining sectors, who, because of their weak economic position and marginalisation, are subjected to bonded labour and denied most economic, social and cultural rights;
- Unequal treatment of, discrimination and violence against tribal communities, religious minorities and lower caste peoples;
- Omission by the State to correct gross inequalities and uneven distribution of resources;
- Criminalisation of poverty, leading to the imprisonment of the poor, criminalisation of social protests, false charges against the poor, and impunity for police violence against the poor;
- Widespread poverty and environmental damage caused by the extractive industry, accompanied by the denial to use the revenues of the extractions to benefit the local populations (and the links with corruption) who are subjected to violence when they call for respect for their rights;
- Indigenous communities subjected to gross human rights violations including forced evictions and violence linked to development projects;
- Conflict over land allocation leading to protest by farming communities and resulting in violent repression by government forces; and
- Extra-judicial killings and a culture of impunity resulting in a climate of fear amongst defenders of economic, social and cultural rights.

These and other cases were analysed in working groups where they were enriched through an exchange of experience and ideas. The participants developed concrete recommendations on the type of action needed to effectively address these root causes. They also focused on lists of key national and international actors to whom to address their concerns and recommendations. The proposals for action that resulted were intended to be further refined by participants in their own countries with a view to their presented to governments, international bodies and private sector actors, eventually in cooperation with OMCT.

At the end of the seminar, Mr. Yves Berthelot, President of OMCT and former Executive Secretary, United Nations Economic Commission for Europe, provided a thoughtful summing up of the proceedings, encouraging participants to continue in their fight against torture and other cruel, inhuman or degrading treatment or punishment in Asia and underlining OMCT's support for their work.

### ***The Manila Declaration***

During the seminar participants elaborated the ***Manila Declaration on Addressing the Economic, Social and Cultural Root Causes of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*** which was open to signature by the participants and their organizations as an Asian companion to the Maputo Declaration adopted by the African Regional Seminar (see above).

The Manila Declaration acknowledge fully the interconnectedness that exists between violations of economic, social and cultural rights and the persistence of torture and other forms of violence in all countries of the Asian region, called for concerted action at all levels in active collaboration with other non-governmental organizations and partners, to identify and act upon the root causes of torture, cruel, inhuman or degrading treatment and punishment, and to remain focused on urgently needed remedies.

The Declaration also strongly affirm the urgency of various forms of coherent and collective action at the local, national, sub-regional, regional and international levels by all concerned actors, rooted in established human rights norms and standards, with appropriate political, diplomatic, legislative, administrative and judicial measures throughout the region. The Declaration strongly emphasize that torture and other cruel, inhuman or degrading treatment or punishment is absolutely prohibited in all circumstances by international law and that respect for this prohibition is fundamental to the full enjoyment of all rights by all. In addition, the Declaration dealt with numerous issues of concern to Asian NGOs.

## **Regional seminars; results and impact**

### ***Evaluation of the regional seminars***

As mentioned above, seminar participants were asked to evaluate the seminars at the end of each seminar and then some six months later to assess the extent to which the themes addressed had been incorporated in their organisations' work.

### ***End of session evaluations***

Regarding the content and organisation of the African Seminar, 72% responded "good", while 27% responded "average" (1% "poor"). For the Asian Seminar, 78.5% rated the content and organisation "good" with 21% finding it "average" (.05% "poor"). The written evaluations are available from OMCT.

### ***Six month impact assessments***

***African Regional Seminar*** A large majority of participants in the African Regional Seminar indicated that analysing torture and other forms of violence had had an impact on their work and had permitted them to broaden their approach to the prevention of torture, including in terms of advocacy work and new strategies to support victims of torture. Many indicated that they had issued appeals or taken other concrete actions associated with the root causes of torture. This included working with local associations concerning evictions taking place in Niamey, Niger, working with government officials and professionals in the area of juvenile justice in Ghana, and issuing press releases on the human rights of immigrant workers in Egypt. In Burundi, a range of initiatives were taken up, including using community networks to raise awareness of the economic, social and cultural root causes of torture and training public officials and military on the elimination of the economic, social and cultural root causes of torture. In Senegal, the analysis of economic, social and cultural rights became an explicit dimension of the actions of Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO) against the violence associated with demonstrations in Kédougou:

*"Today our organisation very much takes into consideration the dimension of the economic, social or cultural causes with respect to torture and other forms of violence. For example, in RADDHO's appeal regarding the Kédougou demonstrations, emphasis was put on the causes linked to social and economic concerns as much as political or civil issues"*<sup>2</sup>

*"Establishing a link among us has enabled us to better deal with each case starting with the causes, so that we are then better able to combat the resulting human rights violations [...]. And even if we have before us a case of torture and/or other form of violence, it is easy for us to find a*

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<sup>2</sup> Mr Oumar Diallo, RADDHO, Senegal

*solution to this problem starting from an analysis of its causes. From a participant in the OMCT African Regional Seminar*

**Latin American Regional Seminar** Participants in the Latin American Regional Seminar reported that the seminar had an important impact on their personal way of analysing the human rights situations with which they were confronted and on the work of their organisations. This included enabling them to analyse the root causes (structural causes) of violence establishing the link with violations of economic, social and cultural rights and learning from the experiences of others. Being able to focus on the criminalisation of social protest and include that subject in reports the organisation prepared was another.

*« Considero que el seminario fue sumamente enriquecedor para mí y para mi organización, en la medida que nos permitió tomar una nueva perspectiva sobre el tema. El SERPAJ trabaja violencia y tortura desde hace muchos años, pero nunca vinculado a los DESC. Por mi parte hace mucho que trabajo DESC pero no los había vinculado con la tortura. Al preparar el trabajo de presentación pude establecer el vínculo y luego, en el propio seminario, a partir del trabajo de las y los demás pude ampliar la perspectiva. En este momento estamos iniciando un trabajo sobre cárceles y el ejercicio hecho en el seminario está dando sus frutos. » (Uruguay)*

The seminar also led to specific actions by participants' organisations. One organisation reported that as a result of the seminar its legal assistance programme had been focussed on the economic, social and cultural rights of persons in conflict with the law who are among the principal victims of torture. Another organisation reported establishing a diploma for staff members on structural causes of violence in order to increase their knowledge of the issue and to better prepare projects related with the theme. Appeals on the subject were circulated by another organisation and another reported reviewing a large number of public policies in order to propose new policies respecting the wide range of rights. Further, one organisation said it would begin including the subject in reports to a UN treaty body. Several organisations reported establishing contact with other organisations in order to work on the subject.

**Asian Regional Seminar** The six month responses by participants in the Asian Regional Seminar were similar to those from the first two seminars. The seminar had been worthwhile from a personal and organisational point of view. The insights into the links between violation of economic, social and cultural rights and violence influenced to planning of new projects. On an organisational level, superiors and colleagues had been informed of the information gained at the seminar and one organisation reported adding the dimension of the consequences in terms of violence to its work in the promotion of economic, social and cultural rights work. Another organisation reported preparing an action plan as a result of the seminar.

One participant reported that *“In Indonesia, somehow, most of the anti-torture activist only see torture problems here is caused of the lack of the legal frameworks. In fact, we have the deeper and more complicated problems, which is the inequality between the officers and the poor.”*

Others wrote;

*“Yes! Certainly my participation in the workshop was worthwhile from my personal as well as organisational point of view. ... I disseminated what I learned from the workshop with my senior managers..” “The workshop as a whole given me a new idea, a new dimension; there is relations between violations of ESC rights and violence and torture. And now I had started analyzing this issue in my work as well. Like in planning any projects.” (Nepal)*

*“Yes, It’s worth for every single second! I gained a lot there. I learned a lot from the experiences of other participants” (Indonesia)*



**Special Procedures Seminar participants and members of the OMCT secretariat, 2 July 2009.**

### **C. Special Procedures Seminars**

#### **2007 Special Procedures Seminar**

The first seminar took place from 18 to 22 June 2007 with NGO representatives from fourteen countries among them; Argentina, Bangladesh, Brazil, Burundi, Colombia, Egypt, Gambia, Georgia, India, Liberia, Nepal, South Africa and Zambia. The seminar took place at the same time as the 14<sup>th</sup> annual meeting of the UN Special Procedures mandate holders

The opening ceremony of the seminar was addressed by Ms. Soussan Raadi-Azarakhchi, Chief of the Special Procedures Branch of the Office of the UN High Commissioner for Human Rights (OHCHR) and Mr Eric Sottas, OMCT Secretary General. An overall substantive framework was provided by Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe.

During the seminar a substantive presentation was made by Mr. Francios Beaujolin, President of the Foundation for Human Rights at Work who discussed the issue of the macro-economic and political policies that need to be addressed to reduce inequality and the resulting violence. Further, Ms. Sandra Ratjen from the International Secretariat of FIAN (FoodFirst Information and Action Network) spoke on the ways that national NGOs, with international collaboration, can effectively act against government policies that risk increasing poverty and violence.

#### ***Mandate holders***

Leading Special Procedures mandate holders responsible for issues relating to torture, indigenous peoples, the right to health, arbitrary detention, the protection of human rights defenders, and violations of human rights by private security forces held in-depth discussions

with participants.<sup>3</sup> The participants explored how those mandates and the others in the Special Procedures system could help them attack the root causes of torture and violence in their countries. In addition, mandate holders and OHCHR staff provided guidance on what national NGOs needed to do to help make the Special Procedures more effective. Participants also attended two public meetings of the 14<sup>th</sup> annual session of United Nations Special Procedures mandate holders and held discussions with staff of the OHCHR.

### *Cases and issues discussed with mandate holders*

During the 2007 seminar, participants presented and discussed papers examining the economic, social and cultural root causes of violence in their countries, identifying the types of action taken that could be taken to address those root causes and evaluating their effectiveness. Videos were presented illustrating some of these issues. Some of the subjects dealt with and on which participants asked assistance from mandate holders were;

- the oppression of tribal and indigenous groups and government occupation of their lands;
- the issue of impunity for those who committed human rights abuses during the transition phase to a republican state;
- the difficulty of working to protect and promote human rights in the context of long-term imposition of emergency law;
- the de facto continuation of the caste system and its impact on the enjoyment of ESC rights (the caste system generates social violence within society);
- the situation of Afro-Colombian groups in the Pacific Coast region of Colombia and their vulnerability to violence due to strong pressure to develop this region and exploit its resources;
- the inefficiency of the justice system and lack of judicial independence (can the Special Rapporteurs encourage improvement?);
- the inadequate demobilisation procedures and ineffective decommissioning of weapons leading to unemployment and insecurity in Liberia and South Africa (lack of alternatives for ex-combatants);
- the direct link between the denial of the right to the highest attainable standard of health and violence (the poor unable to pay for health insurance or medical treatment turn to crime and violence); and
- the link between globalisation, poverty and state violence (what are the possibilities for influencing the international financial institutions through the reports of the Special Procedures mechanisms?)

Participants considered carefully the potential of the Special Procedures mandates to assist them and discussed how they could best interface with those mandates and how OMCT, through its network of national NGOs, could be of assistance. They concluded that in order to fight violence it is crucial for NGOs to identify and address its economic, social and cultural root causes, that NGO action can be effective, that UN procedures can be of significant

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<sup>3</sup> Special Procedures Mandate Holders that took part in the Special Procedures seminar: Mr. Rodolfo Stavenhagen, UN Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous Peoples, Mr. Paul Hunt, UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Ms. Leila Zerrougui, Chairperson-Rapporteur, UN Working Group on Arbitrary Detention, Mr. Manfred Nowak, UN Special Rapporteur on the Question of Torture, Ms. Hina Jilani, UN Special Representative on Human Rights Defenders, Mr. José Luís Gómez del Prado, Chairperson-Rapporteur of the UN Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination

assistance if NGOs provide reliable and targeted information and that it is important for OMCT to continue to develop its capacity to support national NGOs in this area.

The mandate holders, in turn, asked the participants to help them in their work by providing reliable information, assisting in the preparation of country visits and following up on their recommendations. A very rich exchange took place as is reflected in the seminar report.

### ***Building an NGO network***

During the 2007 seminar a special session was set aside as an occasion to begin to build the core network support group and to discuss with the participants the support they needed to help them in their work, in particular in addressing the root causes of violence.

### ***Position paper***

The country papers prepared by the participants provided the resource material for the 2007 position paper submitted to mandate holders. In addition, and as was mentioned above, on the basis of the papers and the discussions, a list of the urgent matters, in particular those not receiving sufficient emphasis in the UN, was prepared and transmitted to the High Commissioner for Human Rights to help guide the action of her office.

### ***Evaluations***

In written (anonymous) and oral evaluations at the end of the seminar, participants expressed particular satisfaction at the fact of having met and discussed with such a large number of Special Procedures mandate holders, and also at having been able to exchange and compare national experiences. Many indicated that they had been unaware of the severity of human rights violations in other countries. In the written evaluation, participants were asked to grade the overall usefulness of the seminar as “good”, “average” or “poor”; 70% responded “good”, 30% responded “average”. During the seminar itself, regular evaluations were held to judge progress and help orient the seminar’s work.

### ***Six month impact assessment***

Six months after the close of the seminar, OMCT contacted the participants and asked for their evaluation of the impact of the seminar on their work. They were asked whether the seminar had proved worthwhile for the individual and the organization, had the issues of poverty and violence dealt with in the seminar had an impact on their work, had their organisation made any appeals or taken any other action based on addressing the root causes of torture and violence, and had their organization undertaken with other organisations, or within its own structure, joint activities related to the link?

Eight participants replied and the answers were positive and encouraging. The importance of the seminar to the individual participant and the organisation was recognised by respondents;

*“It indeed helped a lot to improve my knowledge and skill, experience and sharing of life with the participants which enabled me to understand that human rights violations everywhere occurs and only in different forms sometimes. The way OMCT had organised bringing people from all "hotpot" countries where the human rights defenders have to work in the burning fire.”*

*“I think sharing of our situation with like-minded and similar situations, we are encouraged and energized with solidarity and mutual support.”* (Bangladesh)

*“Yes, the workshop was very worthwhile for me and for my organisation as well. Indeed, before attending the seminar, I didn't have enough knowledge of the*

*relationship between Economic disparities and Torture or other kind of violence. My organisation didn't have any holistic approach in its work in order to think of root causes of torture that it is engaged to fight.” (Burundi)*

The seminar also helped orient the work of the organisations;

*“When we applied your approach to different findings we have concerning violations practised by authorities, the link was clear and the relation between torture to farmers in land disputes in particular and violation to socio economic rights was evident.” (Egypt)*

*“Although I and our organisation are working in the fields of protecting and promoting human rights, we were not very much aware of the special procedures systems of the UNHCHR. The said seminar helped us to understand the complaints mechanisms other than the treaty bodies. After the seminar, I have been able to present discussions on the special procedures systems that I learnt. Some other individuals of our organisation and the networks that we represent were also coached by me, using the resource materials provided during the seminar, in this regard, so they also can work as the facilitators for the same. Looked upon from this, I consider that my participation was worthwhile both individually and institutionally.” (Nepal)*

*“We started linking the death penalty to economic, social and cultural rights. Our analysis showed that out of 38 persons 37 lived below poverty line. This information will be used in further lobbying for cancellation of death penalty verdicts.” (Asian country)*

### **2008 Special Procedures Seminar**

The second Special Procedures Seminars scheduled under this project took place from 23 to 27 June 2008 with the participation of 14 NGO representatives from Brazil, Bulgaria, Colombia, Congo-Brazzaville, India, Kenya, Lebanon, Mexico, Mozambique, Nigeria, Peru, Philippines, Thailand and Uganda. They examined how to use the UN Special Procedures System to address the economic, social and cultural root causes of torture and other forms of ill-treatment.

The opening ceremony was addressed by Ms. Anne-Laurence Lacroix, OMCT Deputy Secretary General, Mr. Orest Nowosad, Coordinator, Civil and Political Rights Unit, Special Procedures Division, UN Office of the High Commissioner for Human Rights, Mr. Roberto Garretón, of the UN Working Group on Arbitrary Detention, and Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe and member of OMCT's Scientific Council.

Ms. Lacroix underlined the importance of efforts to address the economic, social and cultural root causes of torture and other forms of violence, Mr. Nowosad spoke of the Special Procedures system and the role of OHCHR in supporting it, and Mr. Garretón traced the development of the issue of economic, social and cultural rights in the UN system and underlined the importance of the emerging concept of human security.

A substantive framework for the discussions during the five-day seminar was provided by presentations from two invited experts: Mr. Yves Berthelot, President of OMCT and former Executive Secretary, United Nations Economic Commission for Europe, addressed the links



between economics and human rights, drew attention to the central importance of issues of access to land and food, both in the present and for the future and spoke of the necessity of a dialogue between development and human rights NGOs. Mr. Pierre de Senarclens, Professor of International Relations at the University of Lausanne, also member of OMCT's Scientific Council and former Human Rights Director of UNESCO addressed some questions related to the philosophical bases of human rights and the role and limits of human rights NGOs in the context of dealing with the economic, social and cultural root causes of violence. Additional presentations were made by OMCT staff on the economic, social and cultural root causes of violence and on engaging the UN treaty bodies.

### ***Mandate holders participation***

The seminar was organised in parallel with the 15<sup>th</sup> annual meeting of the UN Special Procedures mandate holders which also took place in Geneva. This enabled the participants to meet and discuss with mandate holders responsible for human rights defenders, adequate housing, minority issues, indigenous peoples, the right to food, the right to education and the human rights of migrants.<sup>4</sup> In addition, participants met with staff of the Office of the UN High Commissioner for Human Rights and attended a session of the Annual Mandate Holders Meeting at which the relations between Mandate Holders and NGOs were discussed. Participants also contributed to the text of the OMCT statement to the meeting

### ***Participants' papers and cases studied***

Prior to the seminar, participants prepared papers of some 10 pages analysing the situation in their country with regard to the economic, social and cultural root causes of violence and identifying specific action that could be taken to address them. During the seminar, both in plenary meetings and working groups, they developed cases that could be submitted to Special Procedures mandate holders, governments, international development and financial institutions, regional bodies and private sector actors calling for specific preventive or remedial actions. Particular emphasis was given to developing concrete responses to these situations and to drawing up specific and tailored recommendations. Among the issues dealt with were;

- violence against persons with mental disabilities and the violation of their economic, social and cultural rights in both institutional and non-institutional contexts;
- the forced eviction of indigenous communities to make way for an agricultural institute and the need to take measures to ensure respect for their rights to land, housing and employment;
- the repercussions for economic migrants driven out of South Africa during the recent wave of xenophobic violence;
- attacks on indigenous people by illegal armed groups in collusion with official armed forces to make way for extensive coca plantations.
- violence against peasant farmers, human rights violations connected with the exploitation of petroleum resources, and
- the denial of adequate health and support services to victims of torture, and arbitrary executions of poor and marginalised urban youth by police officers.

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<sup>4</sup> Mr Vernor Munoz, Special Rapporteur on Education, Mrs Margaret Sekaggya, Special Rapporteur on Human Rights Defenders, Ms Raquel Rolnik, Special Rapporteur on Adequate Housing, Ms Gay McDougall, Independent Expert on Minority Issues, Mr James Anaya, Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, Mr Olivier De Schutter, Special Rapporteur on the Right to Food and Mr Jorge Bustamante, Special Rapporteur on the Human Rights of Migrants.

***Position papers***

Based on the papers prepared by participants a position paper reflecting their concerns was prepared and transmitted to special procedures mandate holders and disseminated through the SOS-Torture Network (logframe means of verification Objective C2).

***Evaluations***

As with the 2007 seminar, an anonymous written evaluation was held at the end of the 2008 Special Procedures Seminar. In the end of session evaluations, 87% of participants found the seminar's content and organisation "good" while 13% found it "average". Questioned about the administration and logistics, 86% responded "good", 12 % "average" and 2% "poor" (suitability of venue).

***Six month impact assessment***

The replies to the evaluation questionnaire sent out six months after the seminar indicated that the perspective and approach introduced by OMCT has had a significant impact on the work of the participants.

In ***Uganda***, for example, the economic, social and cultural root causes of torture have been introduced into the advocacy strategies of the participating organisation, which has also disseminated this issue through other workshops and seminars. In ***Mozambique***, participation in the seminar led to the preparation of an action file on domestic violence and the denial of women's social rights for presentation to the National Assembly, as well as an action file dealing with poverty and access to justice. In ***Mexico***, the training received at the seminar influenced the coordination of a 6 month investigation into discrimination against children from the perspective of the national legal framework for the National Council to Prevent Discrimination in Mexico.

The seminar also led participating organisation to place greater emphasis in its work on the lack of effective protection against violence against children and its consequences in the areas of health, education, access to justice and economic exploitation. In ***Colombia***, the participating organisation's 2008 Annual Report on the human rights situation in Nariño, produced in conjunction with the Permanent Committee for the Defence of Human Rights, underlined that poverty indexes of some regions in Nariño are the direct cause of escalating armed conflict and violence.

The information received and contacts established during the 2008 seminar contributed to the development of four alternative reports to UN treaty bodies (***Brazil***, for submission in 2009, ***Kenya*** [two reports] and the ***Philippines***), as well as five interventions in the form of urgent appeals, action files or complaints (***Bangladesh, Bulgaria, India*** [2] and ***Kenya***).

**2009 Special Procedures Seminar**

The third seminar on "Addressing the economic, social and cultural root causes of violence through the UN Special Procedures System" took place from 29 June to 3 July 2009 in Geneva with the participation of representatives of national human rights NGOs from 14 countries; Afghanistan, Brazil, Cambodia, China, Gambia, India, Nigeria, Peru, Philippines, Romania, Sierra Leone, Syria, Uganda, Uruguay and Zimbabwe.

The seminar was opened by Ms. Anne-Laurence Lacroix, Deputy Secretary General, OMCT and Ms. Mara Bustelo of the Office of the High Commissioner for Human Rights. Substantive

presentations were made by Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe and Mr. François Beaujolin, President of the Foundation for Human Rights at Work.

Mr. Berthelot spoke of the need to sensitise UN agencies and NGOs to the relationship between economic, social and cultural rights and violations of civil and political rights. He drew attention to practical hurdles, such as impunity, misinformation and lack of accessible information among the public that NGOs face in addressing violations of economic, social and cultural rights and torture. Mr. Beaujolin provided an analysis of the economic link between corruption, demographic growth, and discriminatory cultural practices and violations of civil and political rights, including torture. A weak political system, without clear separations between political, judicial and police/military functions, will lead to internal corruption, which in turn can spur militarisation, internal conflict over access to resources, and gang violence. It can also greatly reduce the effectiveness of the judiciary in addressing rights violations.

In addition, two substantive presentations were made by Dr. Michael Miller, Director, Research and Development, OMCT aimed at setting the context for the seminar's work: one on how disrespect for economic, social and cultural rights can lead to violence, and another aimed at explaining how to influence the UN system. Given the growing importance of the European Union in fighting torture in third countries, Ms. Anna-Lena Svensson-McCarthy, Director of Operations, OMCT made a presentation on using the EU Guidelines on torture and other cruel, inhuman or degrading treatment.

### **Mandate holders participation**

The seminar took place at the same time as the 16<sup>th</sup> Annual Meeting of the Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council (Special procedures mandate holders meeting). Mandate holders responsible for the following subjects met and discussed with participants; human rights obligations related to access to safe drinking water and sanitation, violence against women, violence against children, human rights and extreme poverty and human rights defenders. The former Chairperson of the Working Group on Arbitrary Detention also met with participants.<sup>5</sup>

Participants also attended a session of the mandate holders meeting and contributed to OMCT's statement to that meeting.

### ***Participants' papers, case studies and cross-cutting issues***

As with earlier seminars, the 2009 special procedures seminar emphasised the development of concrete responses to specific issues by identifying practical steps to aid NGO participants in developing interventions and/or alternative reports for submission to UN Special Procedures mandate holders. The work was built around the participants' papers and case studies submitted prior to the seminar.

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<sup>5</sup> Ms. Caterina de Albuquerque, Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Ms. Yakin Ertürk, Special Rapporteur on violence against women, its causes and consequences, Ms. Marta Santos Pais, Special Representative of the Secretary-General on violence against children, Ms. Maria Magdalena Sepulveda, Independent Expert on human rights and extreme poverty, Ms. Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders and Ms. Leila Zerrougui, Deputy Special Representative of the Secretary-General in the Democratic Republic of the Congo and former Chairperson of the Working Group on Arbitrary Detention

The papers and case studies submitted by Seminar participants provide specific, concrete examples of the way in which the most vulnerable members of society are also the most likely victims of violence. Street children, the poor, prisoners and other marginalised groups that experience violations of their economic, social and cultural rights are in turn more vulnerable to torture and other forms of violence.

These papers also highlight a lack of government initiative to ensure the enjoyment of economic, social and cultural rights through implementing legislation, even where States have signed and ratified the relevant international conventions. Additionally, states are unwilling to take action against non-state actors that violate these rights, and indeed are often complicit in such violations.

The situations dealt with by the participants can be analysed as follows;

**Indigenous Communities** (cases from Brazil and Peru)

Due to their marginalisation and social exclusion, indigenous groups are often subject to the worst violations of economic, social and cultural rights. Land grabbing in particular is an issue, with private companies taking advantage of this marginalisation to exploit resource-rich indigenous territories. In many instances, dispossession is accomplished through intimidation, threats and outright violence. Even where the State has recognised indigenous landrights, it may not act to protect these rights, and may even be complicit in dispossession.

**Economic reform and labour rights** (cases from India, the Philippines and Sierra Leone)

The poor and minority groups are excluded from economic and social development. The failure of economic policies to address income inequality means that even successful economic development strategies do not include these marginalised populations, and may even drive them further down the economic ladder. High unemployment and lack of basic social services lead to increased reliance on the informal sector, where workers have few protections. This vulnerability and instability can often lead to violence.

**Vulnerable populations and minority groups** (cases from Romania and Zimbabwe)

Women, children and other vulnerable groups are extremely vulnerable to social and economic exclusion. They are in turn more likely to experience poverty, unemployment, and other factors that put them at a greater risk of violence. Due to discrimination and the inequality in dignity, values and respect afforded to these marginalised populations, they may effectively have no protections or recourse to legal avenues for redress against perpetrators of violence.

**Criminal justice practices** (cases from Uruguay and Nigeria)

State criminal justice policies can have a direct impact upon the enjoyment of economic, social and cultural rights. Poverty and marginalisation put individuals at greater risk for arrest and detention, which in turn puts them at greater risk of violence, including torture and other ill treatment. Harsh criminal justice policies that focus on punitive measures, rather than addressing these underlying economic and social inequalities, perpetuate this mutually reinforcing relationship between poverty and violence.

### **Ineffective State institutions** (case from The Gambia)

The absence of mechanisms addressing inequality, and of programmes to promote the enjoyment of economic, social and cultural rights, can in itself be a cause of violence. Even where the State has incorporated protections for economic, social and cultural rights into national law, a lack of enforcement mechanisms can mean that vulnerable populations are not ensured full enjoyment of these rights. Corruption and an ineffective judiciary often can result in violence and intimidation being used against those who speak out for economic, social and cultural rights with impunity.

### ***Cross-cutting issues***

Through presentation and discussion of their case studies, participants identified several cross-cutting issues. **Access to land and forced evictions** were major issues in nearly every country. In many instances, states were directly involved in land dispossession, and in all cases had failed in its obligations under international covenants to protect and respect land rights. Likewise, governments have failed to address **poverty, inequality and discrimination**.

Participants also drew attention to the heightened risk of violence against **women, children, the poor and other vulnerable groups**. In addition to their increased vulnerability, special attention must be paid to the specific effects of torture and violence on these populations, so that support and can be tailored to their specific needs.

The primary obstacle to addressing violence and its economic, social and cultural root causes for participants was **poor implementation of existing legislation and obligations**. This often resulted from **corruption and impunity**, both among legislators and the judiciary. Even where domestic laws exist in addition to international obligations, an **ineffective judiciary** does not utilise or enforce them. Similarly, the **criminal justice system**, rather than serving a rehabilitative function, instead exacerbates economic and social inequalities and perpetuates the mutually reinforcing relationship between poverty and violence.

### **Position paper**

The 2009 position paper submitted to the mandate holders was based on the above cases submitted and discussed by participants.

### **2009 Seminar; results and impact**

#### ***Evaluations***

The participants in the end of seminar written evaluations found the content and organisation of the seminar “good” (85%), “average” (14%) and “poor” (1%-overall length of meeting).

#### ***Six month impact assessment***

In the written evaluations on the impact of the seminar six months after it took place, participants were positive as to the impact of the seminar on their work personally and on the work of their organisations.

*“Yes, it was a great chance for me to participate in this seminar. First, helped understanding how UN special procedures work. Second, it improved me for the writing skills of report for UN special procedures. Third, I learned from other orgs’ works under various situations in different nations.” (Asia)*

*“Yes, I learned a lot from the participants particularly the role of culture as a context in relation to ESCR and specific violations. It made me appreciate more my work and the work of others from a perspective of global sharing. The seminar made me keep abreast of the current human rights topics and themes being developed at the international level. The topic on linking ESCR violations and violence is indeed relevant and timely particularly from the South or Asian /Philippine perspective....”*

*Organization: The said conference reaffirmed ESCR-Asia’s mandate of monitoring realizations and or violations related to adequate food, housing, work, culture, health and ESCR rights. It gives a sharper framework and link.” (ESCR-Asia)*

*“Yes, my experience at the seminar was worth the while both from my personal point of view and from my organization. OMCT added a new dimension into our advocacy and campaign for a just and equitable society.” (Nigeria)*

*“No doubt about this. It has been extremely important to me and to my organization. Personally, the opportunity to access so special knowledge is something I thank OMCT so much. As international law professor, it is useful to have others ways to understand juridical phenomenon of torture. It is impossible to understand it if you only study treaties, follow-up committees and rights. They are necessary but they are not enough. Understanding the causes becomes easier to reduce as much as possible torture. Including I could reproduce the OMCT seminar into one all-day class to my students. They got surprised to see how close they are to international organizations that promote and protect Human Rights. One of them from Coelhos, one of poorest sections of Recife, he didn’t have the idea how easy to send any information of Human Rights violation to United Nations or to an international NGO. Besides this, it is very nice to know people from others countries and learn from their experience....”*

*To my organization, this seminar made possible to continue an important policy of the organization: improve permanently the expertise of its staff.” (Brazil)*

*“Yes; in my personnel point of view , this seminar give me the real idea and knowledge how the root causes of violence linked with ESCR which helped and given my ability to apply these factors in the context of my country and based on that identify the priority areas to be integrated with organization existing activities. From the organization point of view, it give us the direction to broaden its focus and at the same time how the organization can, increase collaboration with other similar actors in order to address these priority issues effectively.” (Afghanistan)*

### ***Lessons learned***

The participants in the special procedures seminars stressed that the presentations from academics and the opportunity to dialogue with experts on the Special Procedures system were very helpful. They requested OMCT to continue to provide such opportunities for cross-fertilisation between local and regional NGOs and international academics and experts.

One important impact of the special procedures seminars was to enable the NGO participants to better understand how to structure information for action by Special Procedures mandates and it in turn enabled the mandate holders to better understand the expectations and needs of

NGOs. Participants asked mandate holders for action on a number of neglected such as those listed above.

As mentioned above, as a result of the work with the participants during the regional and special procedures seminars, OMCT was able to prepare a number of action files, other interventions and alternative reports.

The practical approach adopted by OMCT for the regional and special procedures seminars – taking concrete examples based on national realities – has been shown to be a highly effective means of underlining the relevance of addressing the economic, social and cultural root causes of violence among participants and has, moreover, proved to be an important source of material and case studies.

Significantly, this approach has not only encouraged seminar participants to look more closely at the root causes of violence, it has also provided the OMCT secretariat with invaluable insights into local processes. In particular, the material prepared by the two Kenyan participants at the African Regional seminar became the basis of an important action file addressing a particularly grave situation of torture and enforced disappearances in that country (see below for details of the Mount Elgon case). In keeping with the project's integrated approach, this material in turn became a cornerstone of two alternative reports submitted to UN Treaty Bodies.

### ***Importance of networking***

The regional seminars also helped to create and reinforce contacts and communication both among participants and between participants and the OMCT secretariat. As a result of the African Seminar, Zimbabwe Lawyers for Human Rights, one of the participating organisations, subsequently invited OMCT to make a presentation on the economic, social and cultural root causes of torture and other forms of violence at its own Annual Intensive Workshop on Human Rights and Torture in Harare. Further, the representative of Action by Christians Against Torture (ACAT) - Burundi who took part in the African seminar explained that,

*“Establishing a link among us has enabled us to better deal with each case starting with the causes, so that we are then better able to combat the resulting human rights violations [...]. And even if we have before us a case of torture and/or other form of violence, it is easy for us to find a solution to this problem starting from an analysis of its causes.” (Burundi)*

The African Regional seminar was also the nucleus of the informal network of organisations interested in reducing and eliminating torture and other forms of violence by acting upon their root causes, an initiative strongly supported by the participants themselves. This was also the case with participants in the Asian Seminar and one participant reported that that the “*new network on ESC rights in Asia area is quite active, we keep in touch with each other a lot*”. Participants in the Latin American Seminar also emphasised the importance of maintaining contact in order to continue to deepen the understanding of the links between violations of economic, social and cultural rights and violence. (see Activity 4)

### ***Other suggestions and ideas***

Participants from all three seminars made suggestions aimed at improving the seminars themselves including a better balance between substantive presentations and group work time, more practical exercises and improvements in the preparatory guidance given to participants.

Some of these points were addressed in the organisation of subsequent seminars. Participants in these seminars repeatedly emphasised the need for continuing contact and support between themselves and with and by OMCT. This could be through OMCT's network and OMCT's database and via assistance in submitting complaints. Follow-up seminars, including on the sub-regional level were also requested.

#### **D. Network Support Group and outreach to NGOs**

**Strengthening links** with and between NGOs active in the field of human rights is the objective of OMCT's network support group and its information and outreach activities. OMCT approaches strengthening links with NGOs on two levels.

**Network support group** The first level concerns those NGOs and individuals with whom OMCT has substantial working relationships through participation in seminars and the drafting of alternative reports and action files or other forms of interventions. This is in response to the consistent request from NGOs taking part in OMCT's activities relating to economic, social and cultural rights to remain in contact with each other and with OMCT and to continue sharing information, good examples and ideas.

These NGOs form OMCT's **network support group**, or an initial **community of practice** on addressing the economic, social and cultural root causes of torture. This network brings together some 100 NGO representatives or individuals from some 50 countries and OMCT keeps them regularly informed of activities and seeks their advice and guidance on important matters.

OMCT obtained first hand information and guidance from NGOs in the network by organising during each of the three Regional Seminars and the three Special Procedures Seminars a special session set aside to discuss with the participating NGOs their needs and concerns. A free ranging exchange of ideas took place with the participants providing very clear indications of the type of support that they would need to continue to work on the economic, social and cultural root causes of violence. Participants provided insightful information on emerging problems and issues relating to the root causes of violence and very pertinent ideas were shared on how OMCT could better help them in their work.

In addition to these face-to-face discussions, OMCT circulates messages and information from members of the network and seeks their input and recommendations as regards, for example, appropriate participants for OMCT meetings. In a number of cases, including NGOs from India and the Philippines, these organisations have subsequently applied to become official members of the SOS-Torture Network and in others, specifically Brazil, Kenya and, again, the Philippines, they have worked with OMCT to produce alternative reports for the UN Treaty Bodies or action files or other interventions.

The NGOs participating in the African, Asian and Latin American Regional Seminars created their own regional contact network to maintain links between themselves, share information and work together. The NGOs from the Asian region were particularly active in exchanging information and those at the Latin American seminar developed plans for regional coordination and specific activities to undertake addressing the criminalisation of social protest.

The **second level** of contact with NGOs relates to those NGOs who are interested in the subject and have been asked to be kept informed but with whom concrete activities have not



been undertaken. In addition, all the members of the OMCT SOS-Torture Network (over 290 organisations) are also kept abreast of developments to the extent possible.

### ***NGO information and outreach***

In 2008 an information note (English, French and Spanish), inviting NGOs to work with OMCT to address the poverty and discrimination that are the root causes of torture through the preparation of interventions was prepared and circulated to the SOS-Torture network. It summarised how violations of economic, social and cultural rights can be at the root of torture and other forms of violence, described recent OMCT interventions as examples and invited NGOs to contact the Secretariat.

Further, an information note in English, French and Spanish was widely circulated describing the project's activities during 2007 along with an invitation to NGOs to join OMCT in those activities. In 2009 a similar bulletin was circulated reviewing the activities in 2007 and 2008. Many NGOs have responded favourably to that invitation and have been added to OMCT's economic, social and cultural rights contact list.

In order to extend OMCT's outreach to NGOs more directly involved in promoting and protecting economic, social and cultural rights and in development issues, OMCT has agreed to collaborate with FIAN (FoodFirst International Action Network) and its national affiliates on actions in a number of areas. In 2008, OMCT also became a partner in FIAN's annual *Food and Nutrition Watch* publication and was invited to join the ETO Consortium headed by FIAN that focuses attention on the extraterritorial obligations of states. OMCT is also active in the global ESCR-Network and works closely with regional networks such as the ESCR-Asia network.

Further, in Geneva, OMCT staff members also meet frequently with NGO delegations visiting Geneva to explore ways in which joint actions can be carried out in the context of the economic, social and cultural rights project, in particular the preparation of action files and alternative reports to UN treaty bodies. OMCT also conducted a workshop on the economic, social and cultural root causes of torture in the context of the Geneva Training Course on Treaty Monitoring Bodies organised for experienced human rights activists and organisations by the International Service for Human Rights (November 2007).

***Scientific Council*** OMCT continues to receive very valuable guidance and support from its Economic, Social and Cultural Rights Scientific Council; a group of experts formed specifically to support and advise on OMCT's activities addressing the economic, social and cultural root causes of torture and other forms of violence.<sup>6</sup> The Scientific Council met in

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<sup>6</sup> Members of the Scientific Council: Mr. François Beaujolin, President, Fondation pour les droits de l'homme au travail; Mr. Yves Berthelot, President of OMCT, Former Executive Secretary United Nations Economic Commission for Europe and former Deputy Secretary-General of UNCTAD; Mr. Théo van Boven, Professor Emeritus, University of Maastricht; Mr. José B. de Figueiredo, Former Senior Economist, InFocus Programme on Socio-Economic Security, International Labour Office; Mr. Miloon Kothari, former United Nations Special Rapporteur on the Right to Adequate Housing; Ms. Florizelle A. O'Connor, Human Rights Consultant, former member of the UN Sub-Commission on the Promotion and Protection of Human Rights; Ms. Marta Santos Pais, former Director, UNICEF Innocenti Research Center, Florence, Italy and Special Representative of the Secretary-General on Violence against Children; Mr. Pierre de Senarclens, Professor of International Relations, University of Lausanne; Mr. Eric Sottas, Secretary General of OMCT; Mr. Rodolfo Stavenhagen, former United Nations Special Rapporteur on Indigenous Peoples; Mr. Michael Windfuhr, DIAKONIE, Social Welfare Service of the Protestant Church in Germany; Mr. Yozo Yokota, Professor Chuo Law School, Japan and member of the ILO Committee of Experts on the Application of Conventions and Recommendations; Ms. Leila Zerrougui,

June 2007 to provide guidance on the initial steps to implement this project, and held six meetings in 2008 and 2009. In addition, advice is sought from individual members as is desirable. The Scientific Council, for example, was crucial in proposing and facilitating OMCT's partnership and cooperation with FIAN. Scientific Council members act in their personal capacity and on an honorary basis.

### **Results and impact**

The results and impact of the network support group are reflected in the comments made by the participants in OMCT seminars as set out above.

### **E. Electronic library/database**

OMCT has established an electronic database designed to facilitate research and access to information by OMCT, the members of OMCT's network, other national and international NGOs, academic institutions and others engaged in human rights protection, for example, national human rights institutions. The purpose is to help develop and implement actions to address the economic, social and cultural root causes of violence via international action. This is done by collecting and sharing learning experiences, examples and other resource materials to assist in identifying the economic, social and cultural root causes of violence and in exploring new forms of action addressing those root causes.

It became apparent at the beginning of the implementation of the project that an important initial challenge, not specifically described in the project proposal, was to begin to build OMCT's knowledge base as work was carried out on the individual outputs. The amount of information available on the subject is considerable and turning that into useful knowledge is very labour intensive. Progress has been made enabling good substantive content to be prepared for the specific activities. In this context, and among other initiatives, the concluding observations of the UN Treaty Bodies have been reviewed in order to update the information in the relevant chapters of the Interdisciplinary Study. This allows OMCT to follow the evolution of the issue in the committees and to identify where alternative reports have led to recommendations and action.

Establishing the database involved four distinct stages: conceptualising this tool, developing the required software, capturing information and testing. 2007 saw initial preparations for the planned database being made, including an inventory of sources of information that are related to the project's issues from academic and research institutions, international organisations and NGOs. In 2008, activities focused on surveying existing databases, both to collect good models and to avoid duplication and on discussions with network members, OMCT's Scientific Council and other partners regarding the ideal structure for this tool. In the course of 2008, the key elements of the database were defined as: web-based, linked to OMCT's existing website; unrestricted access; pre-defined (drop-down) search fields; contents initially made up of OMCT material subsequently augmented by materials from other sources; capacity to expand to incorporate other OMCT activities; capacity to develop restricted access areas for posting of information or modified discussion groups (communities of practice).

In 2009 a team was established consisting of database experts and human rights specialists to design the details of the database, to draft the terms of reference for the contract with the database developer, to work with the developer in designing the database and to code data

and supervise its entry. Close consultations were carried out with the Office of the United Nations High Commissioner for Refugees in relation to their database and community of practice on refugee rights and with the organisation HURIDOCS (Human Rights Information and Documentation Systems, International) that has many years of experience managing its own human right database and providing advice on the subject, including on economic, social and cultural rights. Based on OMCT's terms of reference, offers were solicited from three firms specialised in database development and after a detailed internal review a contractor was selected. The website and database were tested and went on line in March 2010 (<http://escr.omct.org>). Members of OMCT's SOS-Torture Network, of the economic, social and cultural rights network group and others on OMCT's electronic mailing list were informed.

Ensuring easy and intelligent access to the considerable data produced and collected by OMCT became an important objective. While persons with experience in the field of human rights, the United Nations system and its procedures would be able to locate desired information easily, those without that experience would find meaningful and rapid access difficult. Thus, it was decided to design access to the database through explanatory web pages which would describe the type and function of the information available and its place within the project's overall objectives. Access was also guaranteed directly via the normal type of search engine.

Thus web pages were drafted to provide; i) a broad introductory overview of economic, social and cultural rights and torture; ii) an historical perspective of the subject; iii) a detailed description of the links between violations of economic, social and cultural rights and torture; iv) a description of the elements of OMCT's project on the issue; v) information on how OMCT works with NGOs (seminars and the network support group); vi) information on action files and complaints; vii) information on submitting alternative reports to UN treaty bodies; viii) information on advocacy activities and ix) information on working with the European Union. In connection with the various explanations, direct links are provided to the documents in the database. The web pages are English, French and Spanish. The documents are in the original language with translations when available, including in local languages for alternative reports.

### **Results/Impact**

The initial responses to the database from members of OMCT's network and others have been positive;

*“ Merci pour l'informtion et félicitation pour la création du site et bibliothèque sur les droits économiques, sociaux et culturels, ce qui constitue un pas important dans le combat contre la torture et pour la justice sociale. Mes encouragements. ”* (Sénégal)

*“Many thanks for the information. I have looked at the webpage, great work!”*  
(Uganda)

*« Toutes mes félicitations pour ces nouvelles informations sur le Web. L'accès est très convivial , c'est une belle source de renseignements et les documents démontrent bien tout le travail effectué et les actions entreprises. Bravo et cordiaux messages. »* (Switzerland)

*“Thanks for informing us about your new webpage on ESCR and torture. Very impressive presentation and I’m sure that it will help many around the world better understand the variety of causes of torture and other ill-treatment. Congratulations in persevering with the project and I wish good luck in keeping it updated.”* (International Anti-Torture NGO, Geneva)

*“I am thankful for the OMCT’s new virtual library on ESC root causes of torture. My organization, Equitas, published a handbook for national human rights institutions on women’s economic, social and cultural rights (<http://www.equitas.org/english/pdf/EquitasWESCRHandbook.pdf>).*

*While not explicitly linked to torture, it canvases women’s ESC rights in international human rights law. Should you find it relevant to your database, please feel free to add this link. I will share your link with participants currently attending our International Human Rights Training Program, with 120 human rights defenders from 60 countries, I am sure they will benefit from this resource!”* (Canada)

## **F. Guides to international machinery and other information**

### **Guides**

Encouraging NGOs to work with OMCT on the economic, social and cultural root causes of violence has been given importance. Thus, and in response to requests from network partners, a guide on submitting alternative reports to the Committee on Economic, Social and Cultural Rights focussing on those root causes was prepared. In that connection, a review was made of the concluding observations of the Committee on Economic, Social and Cultural Rights and Committee on the Elimination of Discrimination Against Women over the last 8 -9 years to identify their evolving approaches to the ESCR-violence link and identify instances in which alternative reports influenced committee observations in this regard. The results were annexed to the guidelines.

Based on its experience, OMCT in 2009 and 2010 prepared two guides to international machinery;

- *Working for Change, No. 1* A Practical Guide to Acting Against the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence through Action Files, and
- *Working for Change, No. 2* A Practical Guide to Preparing Alternative Reports to United Nations Treaty Bodies addressing the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence

### **PowerPoint presentations**

In addition, and in order to facilitate understanding of how economic, social and cultural rights are related to violence and how UN machinery can be used to address the root causes of violence, OMCT prepared the following PowerPoint presentations on the subject.

- The World Organisation Against Torture and Economic, Social and Cultural Rights. Available on OMCT’s website (<http://escr.omct.org>).
- Influencing the UN System: The Committee on Economic, Social and Cultural Rights. Available on OMCT’s website (<http://escr.omct.org>).
- OMCT Action files on Economic, Social and Cultural Rights. Available on OMCT’s website (<http://escr.omct.org>).

## 2. Bringing about change: Action Files and other forms of interventions

The purpose of OMCT urgent appeals and action files is to halt or prevent torture or other forms of violence within OMCT's mandate.<sup>7</sup> Action files and urgent appeals call for preventive and/or remedial action in relation to situations, policies or projects involving violations of economic, social and cultural rights that cause violence or that present a real and substantial risk of causing violence. This includes calling on governments or others to take protective action in relation to vulnerable groups or situations.

Violations of economic, social and cultural rights that lead or risk leading to violence occur in many varied circumstances that require appropriate reactions. Some involve immediate violence that requires OMCT to react rapidly with, for example, an *urgent appeal* aimed at saving lives. Urgent appeals can also take the form of a press release or an open letter.

Other situations require in-depth research and analysis of the factual, technical, legal and other aspects of the case and detailed presentation of the recommended action. Because of the extensive nature of the information, analysis and recommendations in these cases, they are prepared in the form of OMCT **Action Files**. Action files seek to identify as clearly as possible the respective responsibilities of governments, development institutions, private companies and banks in situations that involve or risk serious violence. Action files also contain precise recommendations for action by those involved that can be monitored.

Urgent appeals and action files are prepared in cooperation with reliable national NGOs including members of the OMCT SOS-Torture Network. Often they result from cases discussed during Regional Seminars or Special procedures Seminars and many times are developed together with members of the Network Support Group (see above). Selected action files and appeals are translated into Arabic, French and Spanish.

Action file and urgent appeals are sent to the competent United Nations Special Procedures mandate holders and to the government authorities with direct responsibility. In addition, international financial and development institutions, trans-national corporations and banks are seized when they are involved in projects that cause or risk causing violence. Action file and urgent appeals are also sent to the over 290 members of the SOS-Torture Network and the other NGOs belonging OMCT's Network Support Group on economic, social and cultural rights. These organisations are requested to take action by contacting directly the responsible authorities and circulation the intervention to members of their own network.

An important objective of urgent appeals and action files is to give voice on the international level to marginalised and vulnerable communities and groups that might otherwise remain voiceless. Cases are selected based on a number of criteria including the severity of the threat, the number of persons affected, the quality of information submitted or the possibility of developing good information in cooperation with the national partner, the potential for bringing about change (including the existence of a UN mandate or mandates or other procedure that would be willing to act on the information) and factors such as the sensitivity to pressure of the government, the international development/financial institutions or private

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<sup>7</sup> OMCT's mandate includes torture, cruel, inhuman and degrading treatment, summary or arbitrary executions, forced disappearances, violence against women and violence against children.

actors involved. The importance as a test case and as a good example for others to follow is also taken into consideration.

To the extent possible, OMCT follows-up on these interventions to encourage remedial action, monitor progress and, if necessary, renew the appeal. The situations addressed, in particular by action files, require both short and long term action and the full impact of action files only becomes evident over time.

The information and recommendations developed in connection with action files and urgent appeals are also included, as appropriate, in alternative reports submitted to United Nations treaty bodies and submitted to other procedures, including the UN Human Rights Council's Universal Periodic Review of respect for human rights by UN Member States and to the institutions of the European Union.

#### **A. Action Files**

During the period 2007 to March 2010, OMCT issued 17 action files relating to the economic, social and cultural root causes of violence as listed below. All are available on OMCT's economic, social and cultural rights website (<http://escr.omct.org>).

#### **2010**

- **Cambodia:** The Suy indigenous group, already at risk of extinction, is losing its ancestral lands due to Economic Land Concession (ELC) issued by the Government of Cambodia to private companies for economic exploitation of corn agribusiness. OMCT called upon the Royal Government of Cambodia to abide by international standards on forced evictions and to respect international and national law on indigenous peoples and to halt the harassment of community leaders struggling for their economic, social and cultural rights. OMCT also called upon the HLH Groups Limited - the Singaporean Company to which was granted the indigenous land - to comply with international law and to fully respect the economic, social and cultural rights of all local communities affected by its economic activities. See Cambodia: Suy indigenous peoples at risk of extinction, March 2010;
- **Cambodia:** 270 families in Srey Cha Commune, Kratie Province - Cambodia - have lost or are at risk of losing their ancestral lands owing to Government's land concessions for economic exploitation. OMCT called upon the Royal Government of Cambodia to abide by international standards on forced evictions and to respect international and national law on indigenous peoples. OMCT also called upon the Government of Cambodia to suspend existing land concessions and set a moratorium on new ones until an independent commission sheds light on the current procedures. OMCT also called upon the Government of Cambodia to dismiss unfounded charges against community leaders struggling for their economic, social and cultural rights. See Cambodia: Forced eviction of indigenous families from their ancestral lands, February 2010;
- **Colombia:** The recent emergency revision of the Colombian healthcare system will jeopardise the lives and the access to health of millions of Colombians by drastically reducing the number of persons benefiting from free health care and by imposing additional healthcare costs on those least able to pay. OMCT called upon the Government of Colombia to revise this emergency policy and find different solutions to cope with financial crisis of health system. In particular, OMCT called upon the

Government of Colombia to ensure that the poor and most vulnerable sectors of society are granted full access to health. See Colombia: New health decrees jeopardise the life and health of millions of Colombians, February 2010;

## 2009

- **Bangladesh:** Reported extrajudicial killing in the Chakma Community, Chittagong Hill Tracts. A member of the Chakma indigenous community and an active supporter of the indigenous political party Parbatya Chattagram Jana Samhati Samiti, (PCJSS), was pursued and shot by a group of soldiers. His body was found with a broken neck, several wounds, and bullet injuries on his leg and scrotum, which suggest he was subjected to torture prior to his death. OMCT called upon the Government of Bangladesh to implement a prompt, effective, thorough, independent and impartial investigation on this death. It also urges the Government to end de-facto military rule and protect the indigenous communities of Chittagong Hill Tract from violence and land dispossession. See Bangladesh: Reported extrajudicial killing in the Chakma Community, Chittagong Hill Tracts, July 2009;
- **India:** Following an order of the Kolkata High Court more than 5000 people, all from Dalit and poor communities, were about to be evicted from land that is said to be in their lawful possession near Belgachia Bhagar, the municipal garbage dumping ground of Howrah. OMCT called upon both the Union Government of India and the State government of West Bengal to halt immediately the current eviction procedure. See India: imminent forced eviction of 5000 people in Howrah, West Bengal, January 2009;
- **India:** Follow-up: Ongoing risk of forced eviction of 5000 people in Howrah, West Bengal. OMCT continued to express concern about risk of eviction for 5000 people and called on the Government of India to halt the eviction procedure and respect international human rights standards on right to housing and evictions. See India: Ongoing risk of forced eviction of 5000 people in Howrah, West Bengal, January 2009;

## 2008

- **Bulgaria:** Persons with mental disabilities constitute one of the most marginalised and discriminated groups in Bulgarian society. They frequently face discrimination, social exclusion and severe human rights violations, including violence and ill-treatment. OMCT called on the Government of Bulgaria to stop violence against persons with disabilities and revise the current national legislation in the light of international human rights standards. See Bulgaria: Human rights violations of persons with mental disabilities, December 2008;
- **Bangladesh:** Arson attack on indigenous Jumma community in Sajek Union - the Chittagong Hill Tracts - in which Bengali settlers, with military support, set fire at night to the homes of the indigenous community in at least 7 villages with some 76 homes destroyed. OMCT called on the Government of Bangladesh to establish an independent commission to conduct an inquiry into the attack and into the harassment, intimidation and other forms of violence perpetrated by Bengali settlers and army personnel, and to ensure that all those responsible for human rights violations are brought to trial and that the victims of these violations are adequately compensated

and rehabilitated. See Bangladesh: Arson attack on indigenous Jumma community in Sajek Union, the Chittagong Hill Tracts, August 2008;

- **India:** The denial of the economic, social and cultural rights of the tribal peoples of Wayanad District, Kerala, risked generating further violence. OMCT reported on ongoing tensions and police harassment of members of local Adivasi community following the breach by the Agricultural University of Kerala of conditions attached to a transfer of land from that community to the University for the construction of a veterinary college. These conditions were intended to compensate the indigenous community for the appropriation of their land by re-housing them and by providing employment. As a result, the affected Adivasi families have been left homeless and have lost their livelihood and their protests are met with police harassment, intimidation and ill-treatment of community members. OMCT called upon the Government of India and the State Government of Kerala to ensure compliance by the University Authorities with the conditions attached to the transfer of land and provide reparation as appropriate. OMCT further called upon the Union and State Governments to ensure that the police fully respect the rights of the adivasi community and that an immediate end is put to the harassment and intimidation of this community. See India: Denial of the economic, social and cultural rights of the tribal peoples of Wayanad District, Kerala, risks generating further violence, August 2008;
- **Kenya:** Severe violations of human rights, including torture and extrajudicial killings by the Kenyan Army and Police in the Mount Elgon District in the Western Province of the country. At the root of this conflict lies the question of land ownership and competing claims over land title, particularly in the Chebyuk settlement area of Mount Elgon. OMCT called on the Government of Kenya to order an immediate suspension of the military operation in the area and to establish an independent commission to ensure that all those responsible for human rights violations are brought to trial and that victims of torture and their families receive just and adequate reparation. OMCT, also called on the Government to take concerted steps to reach fair and just resolutions to land disputes in Mount Elgon and elsewhere. See Kenya: Military action against the sabao land defence force in Mount Elgon involves serious human rights violations against civilians, June 2008;

## 2007

- **Bangladesh:** A proposed open-pit coal mine at Phulbari risked to seriously affect the lives of between 50,000 and 500,000 people, including a number of indigenous communities. Many of these affected have been forced to leave their homes and land. The mine had been planned without the full information and consultation of those directly concerned and public protests had been met with violence. OMCT called upon the mining company (GCM) to suspend its activities in this area until an independent investigation had been conducted and to fully respect the land rights of all local communities affected. OMCT also called upon financial institutions with significant financial interest in GCM (UBS, RAB Capital and Barclays) to use their influence to ensure that the company abides by international human rights standards. See Bangladesh: Risk of violent suppression of public opposition to Phulbari coal mine project, December 2007;
- **Bangladesh, follow-up:** The Government, the multinational coal company responsible, banks financing the project, including the Asian development Bank



(ABD) were seized with the file. Subsequently, OMCT met with the international coal company at the company's request to discuss the problems involved and OMCT has learned of bank disinvestment in the project and the denial of a large loan to the project by the ADB. See Bangladesh: OMCT welcomes the Asian Development Bank's suspension of support for the Phulbari coal mine project, July 2008;

- **Philippines:** The peaceful opposition by local communities and indigenous people to mining operations that violate their rights and endangers their way of life on the Island of Sibuyan, was met with violence resulting in the killing of some 17 persons, including the shooting of the leader of a protest movement by a mining company security guard. OMCT called on the Government of the Philippines to halt mining activities and to establish an independent commission to review respect for the rights of the local population. OMCT also called on mining companies to carry out their activities in strict respect for the human rights of the populations affected. See Philippines: Mining activity on Sibuyan Island must be halted to prevent further killing and violence, December 2007;
- **Philippines:** Counter-insurgency operations in Surigao del Sur in which 500 military personnel were reportedly stationed in and around the homes of members of the Lumad indigenous communities. The civilians were used as shields, schools and other buildings appropriated as military barracks, children questioned by soldiers, community members denied access to their fields, families forced to seek shelter in makeshift evacuation centres and individuals forcibly enrolled as military guides. OMCT called upon the Government of the Philippines to ensure that its military fully respects the human rights of the men, women and children in every area in which it operates and to compensate individuals for any damage or loss caused by military operations. See Philippines: military activity seriously affecting the safety and wellbeing of rural communities in Surigao Del Sur, December 2007;
- **India:** A forced eviction in Kolkata, carried out violently and in breach of international standards. The victims, including children, women and elderly persons, were physically ill-treated and subjected to violence, and homes and belongings were destroyed by the police. The evictees were not properly informed and were offered neither compensation nor alternative housing. OMCT calls upon both the Union Government of India and the State Government of West Bengal to halt forced evictions and implement adequate rehousing and compensation programmes for those affected by urban redevelopment programmes of all kinds. See India: another violent forced eviction by police in Kolkata, West Bengal, December 2007;
- **Sudan:** The construction of two large-scale hydropower dams in the Northern Nile Valley led to repeated violent clashes between local communities and security forces and resulted in a number of civilian deaths. OMCT called upon the Government of Sudan to suspend the Merowe and Kajbar hydro-electric projects until their impact upon the human rights of the communities affected have been independently assessed. It also called upon the Government to fully respect the human rights of protesters and stop violence and harassment against protesters. Further, OMCT calls upon States involved in the hydro-electric projects to ensure that the work of their national companies does not negatively impact the human rights of the local communities affected. See Sudan: ongoing violence against communities resisting dam construction in the Northern Nile Valley, November 2007;

- **India:** the residents of a village located on coastal backwaters in Tamil Nadu State, in attempting to speak out against the negative impacts of an illegally-located aquafarm on their health and economic status, have been subjected to police violence and harassment and have had false charges of a serious nature brought against them by the owner of this farm. OMCT called upon Indian relevant authorities to stop violence against villagers, apply national legislation on aquaculture and stop all illegal shrimp farming operations. See India: Violence against and harassment of Dalit villagers involved in peaceful protest, October 2007;

## **B. Urgent appeals, press releases and open letters**

During the period 2007 to December 2009, OMCT issued 18 urgent appeals<sup>8</sup> relating to the economic, social and cultural root causes of violence as listed below. All are available on OMCT's economic, social and cultural rights website (<http://escr.omct.org>).

### **2009**

- **Guatemala:** Serious concerns for the safety of several families in Panzós, following a violent eviction. OMCT expressed deep concern on the situation and called the Government of Guatemala to halt violence and to ensure respect for the economic, social and cultural rights of the victims. See Guatemala: Serious concerns for the safety following a violent eviction of several families in Panzós, December 2009;
- **Ecuador:** Excessive use of force by the police against members of the indigenous group Shuar, including the death of Mr. Bosco Wisum and injuries sustained by several persons, in the framework of a peaceful indigenous protest and carried out in several locations of the province. OMCT called on the Government of Ecuador to take immediate steps to ensure that the human rights of the people concerned are respected and to order a prompt investigation on the events. See Ecuador: Alleged excessive use of force by police in Morona Santiago, October 2009;
- **Brazil:** Excessive use of force by police, including the death of a MST (Movimiento de los Sin Tierra) rural worker in the Southall de San Gabriel, during the context of protest for Land Reform throughout Brazil. OMCT urged the Government of Brazil to shed light on the events and to order an independent inquiry, to redress the victims of violence and to international legislation on human rights. See Brazil: Excessive use of force by police. Death of a MST rural worker in the Southall de San Gabriel farm., August 2009;
- **Mexico:** Violent arrest and detention of members of the movement against the increase of energy fees in Candelaria, Campeche during a protest against the high fees of electricity. OMCT called the Government of Mexico to dismiss charges against protesters, to ensure their protection and to respect the international legislation on economic, social and cultural rights. See Mexico: Violent arrest and detention of members of the movement against the increase of energy fees in Candelaria Campeche, July 2009;

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<sup>8</sup> Eight of those appeals were prepared jointly with OMCT's general Urgent Appeals programme.

- **Colombia:** Serious human rights violations against the AWA indigenous community in Nariño carried out by military and paramilitary forces, including the enforced disappearance. OMCT urged the Government of Colombia to halt violence, to ensure the protection of the victims and to order an independent inquiry into the events. See Colombia: Serious human rights violations against the AWA indigenous community in Nariño, June 2009;
- **Ecuador:** detention and ill-treatment during a protest in the framework of the Mining Bill, in the Province of Morona Santiago y Azuay. OMCT asked the Government of Ecuador to respect the human rights of protesters, including their economic, social and cultural rights. See Ecuador: Detention and ill-treatment, January 2009;

## 2008

- **India:** OMCT called for an end to the violence against Dalits and Adivasis and to ensure their access to food and medical assistance at the Chengara estate in Pathanamthitta District of Kerala, India. OMCT referred to reports of escalating violence against those two communities in connection with their occupation of land to which they claim historic rights. Several thousand landless people were subjected to a blockade cutting them off from the outside world and from civil society supporters. See India: OMCT calls for an end to violence against Dalits and Adivasis and to the blockade of their camp at Chengara Estate, Kerala, India, August 2008;
- **Kenya:** Gross violations of economic, social and cultural rights are the root causes of violence and conflict. Land is a critical and complex issue in the country. The ownership – or lack of ownership - of land has subjected many communities to violence, conflict, poverty or even to a life characterized by psychological torture and fear for their lives. OMCT called upon the Committee on Economic, Social and Cultural Rights to make recommendations that will not only promote the enjoyment of economic, social and cultural rights for all Kenyans, including the poorest and most marginalised, but also free them from the violence that is so often present in their lives. See Kenya: Call for action to stop violence by addressing violations of economic, social and cultural rights, November 2008;
- **Tunisia:** OMCT issued an urgent intervention on the shooting of a protester during a demonstration against the rising cost of living in Tunisia referring to reports of the excessive use of force by Tunisian police in acting against demonstrations against the rising cost of living and for the right to work that killed one person and wounded 11 others. OMCT called on the Government of Tunisia to prevent future violence, respect the right of peaceful demonstrations and to investigate and punish those responsible for the excessive use of force. Tunisia: Death of a protester during a march against the high cost of life, June 2008;
- **Mexico:** OMCT appealed to the Government to halt the attacks, torture and threats against members of "La Comunidad Tabiquera Loma de Uruapilla" in the State of Michoacan, who were objecting to being expelled from their land in order to make way for residential construction. OMCT expressed deep concern about the situation and called upon the Government to respect international human rights legislation. See Mexico: Torture and fear for security, July 2008;

**2007**

- **Kenya:** In light of the extreme violence that followed Kenya's elections in December 2007, OMCT joined with the Centre for Minority Rights Development (CEMIRIDE) in Kenya to prepare a letter to the Permanent Secretary of the Kenyan Ministry of Justice, National Cohesion and Constitutional Affairs drawing attention to the fact that socio-economic hardship and the iniquitous allocation of resources in Kenya contribute to inter-community competition over scarce resources and that this, in turn, is easily transformed into violent conflict. On behalf of 14 other NGO signatories (all of whom belong to OMCT's network support group developed in the context of this project) CEMIRIDE and OMCT urged the Government to take into consideration and systematically address the causal links between the failure to respect economic, social and cultural rights and the incidence of violence, and presented a series of concrete recommendations to this end. See Kenya: Call for action to stop violence by addressing violations of economic, social and cultural rights, December 2007;
- **Ecuador:** Killings and excessive use of force including torture against protesters, following a protest by rural workers against the Petrobell Company in which they were asking reparation of damages caused to more than 30 farmers by the Company's activities. OMCT called upon the Government to carry out an independent inquiry on the events and to respect the economic, social and cultural rights of the farmers. See Ecuador: Excessive use of force against protestation, one dead, October 2007;
- **Mexico:** Violent forced eviction of community of Nuevo San Manuel and Buen Samaritano, all indigenous peoples. OMCT called upon the Government to urgently provide redress and reparation to the evictees, to dismiss charges against those arrested during the eviction and to order a genuine inquiry on the events. See Mexico: Violent forced eviction of community of Nuevo San Manuel and Buen Samaritano, September 2007;
- **Ecuador:** Excessive force used by the police, including mistreatment and arbitrary detention of children during a protest against the exploitation of their lands by a mining company, in the Province of Azuay. OMCT asked the Government of Ecuador to take immediate steps to respect the human rights of local communities, including their economic, social and cultural rights. See Ecuador: Excessive force used by the police/mistreatment/arbitrary detention of children, July 2007;
- **Brazil:** Assassination of rural worker Antonio Santos do Carmo linked to the MST in the region of Pará. OMCT called on the Government of Brazil to take immediate steps to ensure a prompt enquiry and to protect and respect human rights of worker, including their economic, social and cultural rights. See Brazil: Assassination of rural worker Antonio Santos do Carmo, May 2007;
- **Chile:** Assassination of Mr. Rodrigo Cisternas Fernández, member of the Corporación de Promoción y Defensa de los Derechos del Pueblo. OMCT called upon the Government of Chile to take immediate steps to ensure that human rights of workers are protected and respected, including their economic, social and cultural rights. See Chile: Assassination of Mr. Rodrigo Cisternas Fernández, May 2007;
- **Cameroon:** arbitrary arrest and detention of about 50 prison guards of Kondengui and serious risk of torture. OMCT called upon the government of Cameroon to respect

international legislation and in particular article 2 of the UN Convention against Torture. See Cameroon: arbitrary arrest and detention of around 50 prison guards of Kondengui prison-risk of torture, February 2007;

- **Cameroon:** follow-up on the arrest of prison guards following a strike. OMCT received information that the prisons guards arrested experience torture and ill treatment during their detention. OMCT asked the stop of violence, the prompt dismissal of all charges and the liberation. See Cameroon: Prison guards arrested following strike, January 2007.

### C. Results and impact

The impact of urgent interventions and action files varies from case to case, according to factors such as the responsiveness of the government in question and the degree to which other actors are involved, including private companies and corporations, are sensitive to international pressure. Results are often not immediately observable, since improvements in the human rights situations addressed often call for changes in government policy or in investment strategies of national and international corporations. Given the complexity of the cases addressed, OMCT's contribution, based on its specific expertise, is at times part of a broader civil society response to situations of human rights violations.

OMCT has received positive feedback from NGOs and has received requests to help with specific situations. One local NGO, on learning of the Phulbari mine action file wrote,

*"I am thankful for the appeal on Fulbari Coal Mine issue." ... "Last month (we) went to the spot and have observed that huge people would be affected if this project would start. People are concerned that especially the indigenous peoples' properties would be affected very badly."*

OMCT's actions have had a clear impact in certain cases. This is well illustrated by *the case of the project for an open-pit coalmine in Phulbari, Bangladesh* promoted by the British company GCM Resources with the planned support of the Asian Development Bank (ADB) and several international commercial banks. The Phulbari project has provoked widespread concern over its potential socio-economic, environmental and human rights impact and protests against it have resulted in loss of life and injury. In December 2007 and January 2008, OMCT circulated an Action File (BGD211207.ESCR) in order to prevent further violence and killings in relation to this project.

OMCT contacted all parties involved, including the Government of Bangladesh, private financial institutions, the ADB, UN Special Procedures mandate holders and the European Parliament to express its deep concern at the risk of further violence associated with the coalmine. OMCT has insisted that a decision on the future of the Phulbari mine should only be taken once a thorough, transparent and independent investigation into its human and environmental impact has been carried out, with the full and informed participation of all local communities.

OMCT received responses from the private banks involved, and in February 2008, at the invitation of GCM Resources, OMCT staff met with the company's Sustainable Development Manager in Geneva to discuss the issues raised in the Action File. At the beginning of April 2008, OMCT learned that the ADB had decided to suspend its support for the project. In doing so the Bank stated that:

*“We think it is premature to continue dialogue with the private sector under current circumstances. So, at this stage we are open to suggestions of the government of Bangladesh, civil society and other stakeholders and prepared to review our engagement in this project to ensure that all sensitivities, including concerns relating to safeguard issues, are fully considered.”*

Finally, in June 2008 it was announced that Barclays Bank had sold its shares in GCM.

Concrete results can also be seen in the case of the fatal shooting by a private security guard of an indigenous activist protesting against illegal mining operations on **Sibuyan Island** in the Philippines. Having produced an Action File on this case in late 2007, OMCT wrote to the Philippine Government in early 2008 to express its concern and to ask that an investigation into this killing be initiated and that steps be taken to ensure that indigenous rights, enshrined under Philippine law, are not compromised by large scale mining activities. OMCT sources indicate that the security guard was subsequently charged with murder and that his case is pending before the regional trial court. OMCT has also learned that a Filipino Senator urged the Department of Environment and Natural Resources to suspend all mining permits and applications in Sibuyan,<sup>9</sup> and that this request has been upheld by the Government.<sup>10</sup>

In addition to the concrete results that can be obtained through Action Files and urgent interventions, these tools have an invaluable role as catalysts for reinforcing links between the OMCT secretariat and national partners. Given their wide circulation, they also contribute to raising awareness of the links between violations of economic, social and cultural rights and violence among civil society. Importantly, they also provide building blocks for other key activities under the project, including the submission of alternative reports.

As was mentioned above, information developed in connection with interventions and alternative reports can serve to assist the UN Human Rights Council in its Universal Periodic Review of states. OMCT was able to do this in connection with the UPR of India and the Philippines.

OMCT's Action Files have also been taken up as information sources to inform the work of other institutions, and in 2008, OMCT received requests from the Office of the UN High Commissioner for Human Rights and the European Parliament to provide additional information on a number of cases.

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<sup>9</sup> [www.senate.gov.ph/press\\_release/2007/1005\\_legarda2.asp](http://www.senate.gov.ph/press_release/2007/1005_legarda2.asp);  
[www.senate.gov.ph/press\\_release/2007/1012\\_legarda1.asp](http://www.senate.gov.ph/press_release/2007/1012_legarda1.asp)

<sup>10</sup> [www.minesandcommunities.org/article.php?a=8998](http://www.minesandcommunities.org/article.php?a=8998)



**Taking testimony in the field, Kenya 2008**

### **3. Using the UN Treaty Bodies and other mechanisms to bring about change**

#### **A. Intervening in the implementation cycle; an overview**

The preparation of alternative reports for submission to United Nations treaty bodies in connection with a Committee's review of state party respect for human rights has been shown to be a powerful tool in helping committees better understand the situation in the country, and in formulating well targeted recommendations.

The purpose of OMCT's economic, social and cultural alternative reports is to raise awareness of the economic, social and cultural root causes of torture and other forms of violence and, above all, to *promote change* by influencing the Committee's concluding observations and recommendations to the government. These recommendations, in turn, provide the basis for action on the national level to improve respect for human rights by NGOs and others, including National Human Rights Institutions (NHRIs).

Thanks in part to OMCT's efforts, there is a growing awareness by UN treaty bodies that violations of economic, social and cultural rights can lead to torture and other serious forms of violence and of the need to act on those root causes.

#### ***The implementation cycle***

Preparing alternative reports is just one part of the treaty body reporting cycle which gives NGOs several opportunities to bring influence to bear to promote improved respect for human rights.

The cycle begins with the submission by the State party of its report on how it respects the particular treaty to the Office of the United Nations High Commissioner for Human Rights (OHCHR). On the basis of this report the Committee usually prepares a *list of issues* requesting more information from the State party. The State party is invited to provide written responses to the list. Next, a public dialogue between committee members and representatives of the State party takes part. On the basis of that exchange, the Committee adopts concluding observations and makes recommendations on action to be taken to the State party. A further important step is the follow-up of the implementations of the recommendations by the committee and by NGOs.

At almost every one of these stages NGOs have the possibility of bringing pressure to bear for change. In some cases, national NGOs and NHRIs are associated with the preparation of the state party report.

OMCT works with national NGOs, usually members of OMCT's SOS-Torture Network, to assist them in intervening in the reporting process and has learned that effectively influencing a committee can require action at several stages of the reporting cycle.

NGO action often begins after the state has submitted its report by the submission to the committee of suggestions for the *list of issues*. This is usually followed by a *preparatory mission* to the country concerned, the drafting and submission of the *alternative report* and the *presentation of the alternative report to the committee* by OMCT and national partner representatives. Representatives of national partners and OMCT then observe the committee's *dialogue with the government* representatives. After the adoption of the concluding observations and recommendations, NGOs, NHRIs and OMCT can undertake *follow-up action* to encourage and help in the implementation of the recommendations and to report back on progress. Follow-up activities usually include *publication of the alternative report* and *committee recommendations* on the national level in English and usually also in a national language, and a *follow-up mission* by OMCT to the country concerned, usually six months after the committee session. A report can then be submitted to the government and the committee.

#### ***Pre-sessional analytical lists of issues***

The UN treaty body system has evolved so that the consideration of a State party's respect for human rights by the relevant committee is strongly conditioned by the preliminary list of issues and questions raised by committee members during pre-sessional discussions that take place many months before the actual consideration of the State party's report. The committee sends the list of questions to the government to help prepare the discussion of the report.

It is important to raise emerging issues such as the link between respect for economic, social and cultural rights and torture and other forms of violence in relatively detailed substantive submissions during the pre-sessional consideration of the state party report. Thus, OMCT, working with its national partners, prepares and submits a document containing an *analytical lists of issues* to the relevant committee at its pre-sessional consideration of the State party report. The analytical list of issues summarises the available information relating to the economic, social and cultural root causes of violence and places it in the context of the relevant sections of the State party's report to facilitate comparison.



### ***Preparatory missions***

Prior to drafting the report, OMCT organises *preparatory missions* to the country concerned that enables OMCT staff to gather firsthand information and achieve a better understand of the national situation. During these missions training seminars and workshop on the link between torture and violence and denials of economic, social and cultural rights and on how the UN treaty body system works can be organised as appropriate. In addition *community forums* can also be organised aimed at hearing of the concerns of victims of human rights abuses, thus enabling them to bring their concerns more directly to international human rights bodies.

### ***The alternative report***

Alternative reports must respond to the particular needs and level of awareness of each committee and provide recommendations for *feasible and concrete steps* that the state party can take to address the root causes of violence the report has identified. This requires the report to be as *specific as possible* – both in terms of identifying challenges and proposing remedies. This also facilitates monitoring government implementation of committee recommendations.

***Sources of information*** The main source of information used in preparing alternative reports is that submitted by national NGO partners and that gathered during OMCT's own research and its preparatory missions to the country concerned. However, other sources of information especially concerning poverty and inequality are often found useful, including World Bank reports, reports from UNICEF, UNDP and regional development organisations. In addition, the Common Country Assessments (CCAs) prepared by the United Nations Development Group can prove helpful in making clear the link between poverty, inequality, discrimination and violence and in identifying possible remedial action. Examples can be found in the alternative reports listed below relating to Uzbekistan, the Philippines and Kenya.

***Recommendations for effective action*** Effectively eliminating torture and other forms of violence in a society requires multidimensional and integrated action aimed at ensuring the implementation of all human rights; civil, cultural, economic, political and social. Experience has shown that acting only on selected causes of violence has little chance of success.

The *recommendations* developed in OMCT alternative reports include specific programmes of preventive measures based on the identification of the sectors of the population most at risk. They involve focussed action for economic, social and cultural development (employment creation, housing, education, nutrition and health initiatives, respecting and promoting culture etc), reinforcing measures to ensure compliance by public authorities with legal standards and good practice (strengthening and training of the judiciary, police, local administration, military authorities etc) and the establishment of a permanent monitoring function with the participation of those directly concerned.

OMCT recommends the adoption of a *human rights based approach* to economic and development policy that would include *human-rights impact assessments* of government economic policy and development projects, including those by the private sector. However, while aiming to ensure respect for all human rights in government economic, development and other policies, OMCT does not seek to determine what those policies should be.

In order to promote a holistic approach to protecting human rights, OMCT submitted alternative reports on the economic, social and cultural root causes of torture to the

Committee Against Torture and the Committee on Economic, Social and Cultural Rights with regard to the Philippines and Kenya. While each report responded to the specific treaty, they were submitted with a view to providing the Committees with the basis for mutually reinforcing recommendations.

In addition, when following up on the recommendations of the respective Committees with regard to those two countries, OMCT approached national authorities on the basis of the recommendations of the two Committees combined to focus on the violations that needed to be corrected. This was in order to help address the *implementation gap* which can appear when on the national level the recommendations of the Committees are implemented separately through distinct channels.

### ***Follow-up missions and field presences***

Helping to ensure the implementation on the country level of committee recommendations is crucial to OMCT's work with UN treaty bodies. Thus, to the extent possible, OMCT carries out *follow-up missions* to the country concerned several months after the committee has made its recommendations.

OMCT staff members and national partners give publicity to the reports and the committees' recommendations with a view to building up support on the national level for action. They also meet with national partners, government officials and persons directly affected by the violence generated by violations of economic, social and cultural rights. Together an evaluation is made of progress and suggestions developed for further action and a report is prepared for submission to the respective committee in connection with that committee's own follow-up activities. During certain missions, meetings take place with officials from the UNDP, European Union and regional development agencies to examine how they can contribute to the implementation of committee recommendations. Following these missions, reports are prepared and submitted to the relevant treaty bodies and national authorities.

***Field presence in Kenya*** To follow-up on the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights and the Committee Against Torture regarding Kenya, OMCT was able to organise a three month (March to June 2009) *follow-up field presence in Kenya*. More details are set out below in the Kenya section.

### **Preparation and submission of six alternative reports to UN treaty bodies**

OMCT, under activity 3 and in the period 2007 to 2009, prepared and submitted the following six alternative reports to UN treaty bodies:

- Brazil***; to the Committee on Economic, Social and Cultural Rights, May 2009
- Kenya***; to the Committee on Economic, Social and Cultural Rights, November 2008
- Kenya***; to the Committee Against Torture, November 2008
- Philippines***; to the Committee on Economic, Social and Cultural Rights, November 2008
- Philippines***; to the Committee Against Torture, April 2009
- Uzbekistan***; to the Committee Against Torture, November 2007

## **B. Brazil**

The alternative report on the economic, social and cultural root causes of violence in Brazil, entitled “*The Criminalisation of Poverty*” was prepared by the World Organisation Against Torture together with two Brazilian NGOs; Justiça Global and the National Movement of Street Boys and Girls (MNMMR). It was submitted to the Committee on Economic, Social and Cultural Rights in connection with its consideration of Brazil’s second periodic report that took place on 6, 7 and 19 May 2009

### ***Analytical list of issues***

In preparation of that report and in May 2008, OMCT with contributions from its two national partners submitted to the Committee a document containing suggestions for issues that the Committee might wish to raise with the Government in connection with its consideration of the State party’s report. That document stated that Brazil is a country strongly characterized by deep-rooted socio-economic disparities and inequalities and it drew attention to the fact that levels of violence are particularly high in marginalised communities. It also points out that these communities remain outside the protection of the State and are therefore doubly victimized: the result was that millions of Brazilians are caught in a vicious circle of poverty, violence and lack of state protection. OMCT emphasised the need to break that cycle which is the cause of ever increasing levels of conflict.

Many of these concerns were reflected in the list of issues the Committee sent to the Government of Brazil.<sup>11</sup> Information was requested regarding, *inter alia*, efforts to reduce poverty and protect the economic, social and cultural rights of the most disadvantaged and marginalized individuals and groups. Information was also requested on actions to prevent the killing of young persons of African descent and to prevent violence against union leaders and activists. Information was also requested on measures taken to protect street children from economic and social exploitation and work harmful to their morals or health or dangerous to life and on the prevalence of forced evictions in Brazil.

### ***Preparatory field mission***

In February 2009, two staff members of from MNMMR and one from OMCT carried out a preparatory mission to the State of Pernambuco in the Northeast Region of Brazil (in particular, in and around the city of Recife). Subsequently the OMCT staff member travelled to the city of Rio de Janeiro in the Southeast Region of the country to for a series of meetings organised by Justiça Global.

The aim of the preparatory mission was twofold: first, to consult representatives of Brazilian civil society regarding the link between violence and the denial of economic, social and cultural rights in Brazil, and second to meet and discuss with individuals whose lives have been directly affected by violence. Some of these were women victims of domestic violence, others had suffered violence at the hands of the police or had been the victims of shootings associated with gang violence in the neighbourhoods in which they live. Still others had lost family members as a result of being caught up in lethal violence. Finally, a number of women with a partner or husband in prison spoke of the economic hardship and the social stigma their situation brings upon them. Together, these interviews provided a testimony of the violence and insecurity that are a constant element in the lives of many of Brazil’s poorest and most

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<sup>11</sup> E/C.12/BRA/Q/2 of 11 June 2008.

marginalised citizens. In addition, they offered the opportunity for these individuals to express their views concerning how the situation in Brazil might be improved.

### ***The Alternative report***

The alternative report described the criminalisation of poverty in Brazil by stating that violence was an inherent element of poverty in Brazil: it disproportionately affects the poorest communities, in urban and rural areas alike, and in turn reinforces this poverty. Furthermore, state actors engaged in law enforcement tend to “profile” the poor, and particularly the poor residents of Brazil’s *favelas*, as “criminals”. This identification is reinforced by media reports and even statements by public figures. The criminalisation of the poor justifies public security strategies that violate a range of human rights, including the right to life, as police engage in arbitrary actions against *favela* residents, particularly young, black males. Identified as criminals by the police, the poor are, at the same time, also victims of crime, and organised gangs control much of the economic resources in Brazil’s poor urban neighbourhoods.

Within that context, the report dealt with inequality and violence, police violence against the poor, militia control of poor urban areas, economic, social and cultural rights and the prison system, violence against women and violence against human rights defenders and social movements. The report made a number of specific recommendations designed to deal both with the violence itself and violations of economic, social and cultural rights that are often at the roots of that violence.

***Statement to the Committee*** In connection with the Committee’s consideration of the Brazilian Government’s report, a statement was made to the Committee’s plenary session on 4 May 2009 by Justica Global, the National Movement of Street Boys and Girls and OMCT providing updated information on the situation in the country. In addition, representatives of the Brazilian NGOs had an opportunity to discuss with Committee members during the informal lunch-time briefing organised by NGOs during the session.

### ***Committee’s concluding observations and recommendations***

In the case of Brazil, several of the concluding observations and recommendations of the Committee on Economic, Social and Cultural Rights<sup>12</sup> clearly reflect the issues brought to the attention of its members by OMCT and its partners. For example, the Committee expresses its deep concern at,

*the culture of violence and impunity prevalent in the State party. In this regard, the Committee is concerned about reports that human rights defenders, including those assisting individuals and communities in asserting their economic, social and cultural rights, are threatened, harassed and subjected to violence, frequently by private militias commissioned by private and public actors. The Committee is also deeply concerned about the reports of the failure of the Brazilian authorities to ensure the safety of human rights defenders and to prosecute those responsible for committing such acts.*

This in turn lead the Committee to recommend that the Government of Brazil take all necessary measures to combat this violence and impunity and to ensure the protection of human rights defenders, including by improving “*human rights training for law enforcement officials, especially police officers, and ensure that all allegations of human rights violations*

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<sup>12</sup> E/C.12/BRA/CO/2 of 12 June 2009

*are promptly and thoroughly investigated by an independent body capable of prosecuting perpetrators”.*

The Committee also explicitly addressed the issue of violence in the context of gender-based violence, domestic violence, the sexual abuse of and violence against children, and the harassment and murder of trade union leaders.

It is interesting that the issues and the question of the criminalisation of poverty developed in OMCT’s alternative report figured in the opening statement of the head of the Government delegation to the Committee. The President of the Republic of Brazil’s Special Secretariat for Human Rights and head of the Brazilian Government’s delegation in his opening statement to the Committee on Economic, Social and Cultural Rights on 6 May 2009 clearly echoed the content of the alternative report submitted by OMCT and its partners on the criminalisation of poverty in Brazil, confirming that, “[...] *many of the denunciations made regarding violence in Brazil and the criminalisation of social movements are particularly relevant, and they lead public powers to take corrective action*”.<sup>13</sup>

### ***Follow-up mission***

OMCT conducted a five-day follow-up mission to Brazil from 14 to 19 March 2010. The purpose of the mission was to assess developments in the enjoyment of economic, social and cultural rights in the light of the Committee’s recommendations to the Government of Brazil following the submission of the State Party’s second periodic report – and in particular those recommendations most closely linked to the issue of violence in Brazilian society - and to assist in the launch and dissemination of the Alternative Report on Brazil prepared by OMCT, Justica Global and MNMMR in April 2009.

The follow-up mission included meetings with Justiça Global staff, with a representative of the Human Rights Commission of the Legislative Assembly of the State of Rio de Janeiro, a representative of the Movimento dos Trabalhadores Rurais Sem Terra (MST) and a representative of the organisation Rede Contra a Violência. Subsequently, a report was prepared which reviewed the situation and made specific recommendations for further action to address the violence in the country and its root causes.

In connection with the public launch (at the Federal University of Rio de Janeiro) of the alternative report, in which was included the concluding observations and recommendations of the Committee, copies of the report in both English and Portuguese, and in both paper and electronic formats were distributed.

## **C. Kenya**

### ***Two reports***

In November 2008, Kenya’s respect for international human rights obligations was examined by two United Nations treaty bodies. Kenya’s periodic report on the International Covenant on Economic, Social and Cultural Rights was examined by the *Committee on Economic, Social and Cultural Rights* on 6, 7 and 19 November 2008 in the presence of representatives of OMCT and its Kenyan national partners. In addition, on 13, 14 and 19 November 2008, the

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<sup>13</sup> “[...] muchas de las denuncias hechas sobre la violencia en Brasil y sobre la criminalización de los movimientos sociales son de las más relevantes y inducen los poderes públicos a tomar actitudes correctivas”. Discurso de su excelencia, el Ministro de la Secretaría Especial de los Derechos Humanos de la Presidencia de la República de Brasil, Paulo Vannuchi. Presentación del II Informe Nacional Brasileño referente al Pacto de Derechos Económicos, Sociales y Culturales de las Naciones Unidas, Geneva, 6 May 2009, p.16.

*Committee Against Torture* examined Kenya's initial report on its respect for the Convention Against Torture, also in the presence representatives of OMCT and its Kenyan national partners.

As was mentioned above, alternative reports on Kenya were submitted to these two Committees with the purpose of encouraging mutually reinforcing recommendations aimed at addressing the economic, social and cultural root causes of violence. Oral statements were made by OMCT and its national partners to the plenary sessions of the respective Committees in order to provide updated information.

### ***Preparatory mission***

In order to collect material for these two alternative reports, two members of OMCT staff conducted a mission to Kenya from 12 to 18 April 2008. Working closely with OMCT's national partners, the Centre for Minority Rights Development (CEMIRIDE), the Independent Medico-Legal Unit (IMLU) and the International Commission of Jurists, Kenya Section (ICJ-Kenya), meetings were held with representatives of Kenyan Government and civil society and community discussions took place in both urban Nairobi and rural districts of the Rift Valley. The team met and consulted with a large number of other Kenyan human rights organisations.

For the purpose of capturing grassroots concerns among marginalised communities (residents of informal settlements, indigenous groups and rural minorities) and provide them with more direct access to the committees, a series of interactive *community forums* were held with OMCT staff to explore the economic, social and cultural root causes of torture and other forms of violence. These events, supported by ICJ-Kenya and CEMIRIDE, proved to be rich sources of experience and information and were filmed and recorded.

### ***Analytical list of issues***

In early November 2007, in preparation for the consideration of the Kenyan report by the Committee on Economic, Social and Cultural Rights, OMCT submitted to the pre-session meeting of the Committee a document containing suggestions for issues to be raised with the Kenyan Government in that connection. The document summarised the available information relating to the economic, social and cultural root causes of violence in Kenya and placed it in the context of the relevant sections of the state party's report to facilitate comparison. It was presented in an oral briefing to the Committee later that month.

The Committee, in its List of issues sent to the Government, reflected many of the issues OMCT had identified as root causes of violence. These included violent forced evictions, conditions in export processing zones, respect for the economic and social rights of women, including girls (economic empowerment of women, expulsion of women from marital lands, child labour, street children and violence, poverty reduction especially for female-headed households) and ensuring affordable social housing in slum upgrading projects.

Regarding the Committee Against Torture, since the Kenyan report was its initial report the Committee did not prepare a list of issues, which the Committee reserved for subsequent reports.

### **Contents of the alternative reports**

#### ***Committee on Economic, Social and Cultural Rights***

The report to the Committee on Economic, Social and Cultural Rights, entitled "*The lie of the land*" stated that the economic, social and cultural root causes of violence in Kenya were

manifold and complex. The report examined them through the specific lens of access to land and the resources associated with it. In Kenya, land represents survival, shelter and security and for the majority of the population, it is essential for guaranteeing the rights to work and to an adequate standard of living, including adequate food.

Land is also inextricably linked to the question of housing: where there are doubts concerning title deeds, housing security is put at risk, and with it access to education, health facilities and other services. In Kenya's cities, residents of certain disadvantaged areas are effectively criminalised – and victimised – by the police. The de facto exclusion of women and children from ownership of land and other forms of property is at the heart of the discrimination they experience. And for many Kenyans, in particular indigenous communities, certain pieces of land have a cultural significance so great that it is difficult for those who do not belong to the concerned communities to begin to grasp its importance.

Land in Kenya is also a symbol of political power and patronage. Political support finds reward in the form of land allocations, and groups too small to have a political impact often live in constant uncertainty regarding the very land on which they live and work.

The report made a series of precise recommendations aimed at addressing specifically the link between the denial of economic, social and cultural rights and violence that reflected the ideas and suggestions that emerged during the expert meetings and community forums held during the preparatory mission to Kenya. These included the adoption of a new Kenyan Constitution that adequately addresses issues of property and land rights, the establishment of a Truth, Justice and Reconciliation Commission and the taking of firm and decisive steps to address and end corruption. Specific recommendations were made for dealing with the land issues that are often at the root of community violence in Kenya, including the land rights of minority communities. Forced evictions in both rural and urban areas were dealt with and others dealt with the situation of women and children and violence.

### ***Committee Against Torture***

The report to the Committee Against Torture described the extensive violence deriving from deep poverty and inequality in Kenya, in this respect the particular case of Westlands is examined. Information was provided on how the poor are, on a regular basis, harassed, forced to pay bribes and arbitrarily arrested by the police, particularly in informal settlements. The report demonstrated that Kenyan prisons are predominantly populated by the poor, due to unaffordable and inaccessible justice and analyses the impact of the lack of financial means in terms of congestion and unhealthy and inhuman living condition in Kenyan prisons.

The report discussed land conflicts that generate violence and the Government's inadequate response to address inequitable land distribution. The strong linkages between denials of access to land, ethnic divisions and insecurity, dissatisfaction, poverty and powerlessness are described. Furthermore, the persistence of certain cultural norms, stereotypes and traditions perpetuates discrimination and violence against women and girls in Kenya. The lack of economic and social empowerment prevents women from enjoying their civil and political rights, including access to justice in case of violence and poverty is the main cause of the high levels of trafficking in women and girls and sexual exploitation in the country.

This report concludes that the Kenyan State is directly responsible for torture and ill-treatment against the poorest, for the economic, social and cultural policies that lead to such treatment, and for violence against the poor by non-state actors. It also makes a set of recommendations

addressing the various economic, social and cultural dimensions that underlie torture and other forms violence in Kenya, including measures to help ensure the rights of the poor in relation to, *inter alia*, pre-trial detention, access to justice, arbitrary arrests, land conflict, and violence against women and children. This report also includes concrete measures to implement these recommendations, including specific programmes that focus on torture prevention activities and economic and social development actions as well as the establishment of a permanent body to design and monitor these activities.

### **Concluding observations and recommendations of the Committees**

***Committee on Economic, Social and Cultural Rights*** The concluding observations and recommendations of the *Committee on Economic, Social and Cultural Rights* on Kenya<sup>14</sup> reflect many of the concerns expressed and measures proposed by OMCT and its partners. In particular, the Committee noted that,

*disparities in the enjoyment of economic, social and cultural rights, including access to land, have led to inter-ethnic tensions and post-election violence during which at least 1,500 persons were killed in early 2008.*

The Committee issued a comprehensive recommendation that brings together a number of measures OMCT and its partners had identified as crucial for resolving land-based conflict in Kenya. Other issues raised in this report and reflected in the recommendations of the Committee include police corruption, harmful traditional practices, trafficking in women and children, child labour - in particular child sexual exploitation - and lack of legislation specifically criminalizing domestic violence, including spousal rape.

The ***Committee Against Torture*** in its concluding observations<sup>15</sup> specifically acknowledged the links between violence and denials of economic, social and cultural rights in emphasising,

*the persistent linkage between widespread violence and torture by state agents and the problem of land in the State party. The lack of access to land, paired with other social and economic injustices, are frequently considered as root causes of torture and violence.*

The Committee also expressed its concern at one of the key issues brought to its attention by OMCT and its partners, namely “*the common practice of unlawful and arbitrary arrest by the police and the widespread corruption among police officers, which particularly affects the poor living in urban neighbourhoods*”. This point was particularly underlined during the OMCT preparatory mission to Kenya by representatives of residents of informal settlements who denounced police arbitrary actions, illegal arrests and harassment in poor areas. In response to this issue, the Committee urged the Government of Kenya “*to address the problem of arbitrary police actions, including unlawful and arbitrary arrest and widespread police corruption, particularly in slums and poor urban neighbourhoods*”.

These recommendations by the Committee Against Torture are important since until very recently that Committee, unlike the Committee on Economic, Social and Cultural Rights, has been reticent to directly link violence with violations of economic, social and cultural rights.

### ***Follow-up field presence***

OMCT, with regard to the two alternative reports regarding Kenya, was able to organise a three month (March to June 2009) *follow-up field presence in Kenya*. A representative of

<sup>14</sup> E/C.12/KEN/CO/1 of 1 December 2008

<sup>15</sup> CAT/C/KEN/CO/1 of 19 January 2009



OMCT worked with several national partners to assist and catalyse action by the Government for the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights and the Committee Against Torture, in particular relating to the economic, social and cultural root causes of violence (April - June 2009). English and Kiswahili versions of both reports published and distributed and forums and workshops were held as well as meetings with concerned officials. This three month presence in Kenya showed the advantage of investing time in the often long and complicated process of bringing about coordinated and effective action to implement committee recommendations.

## **D. The Philippines**

### ***Two reports***

The *Committee on Economic, Social and Cultural Rights* considered the report from the Philippines at its session in November 2008 and the *Committee Against Torture* considered the Philippines second periodic report at its session in May 2009. As with Kenya, OMCT decided to submit reports to each Committee in order to encourage mutually reinforcing recommendations. And as with Kenya, OMCT arranged for the presence in Geneva of representatives of its national partners from the Philippines that were able to meet with committee members and make statements to the respective committees.

### ***Committee on Economic, Social and Cultural Rights; analytical list of issues***

OMCT prepared a document containing suggestions to the Committee for items to be included in the Committee's lists of issues to be sent to the Government of the Philippines. It summarised the available information relating to the economic, social and cultural root causes of violence and places it in the context of the relevant sections of the state party's report to facilitate comparison. In preparing the document, OMCT carried out research and consulted local NGOs. The document was submitted to the Committee in early November 2007 and presented in an oral briefing to the Committee later that month. Subsequently, and in response to a request by a Committee member, OMCT submitted additional information concerning specific cases of violence caused by failure to respect economic, social and cultural rights in the Philippines. A number of the issues raised by OMCT were reflected in the Committee's list as sent to the Government.

### ***Preparatory mission***

OMCT prepared an initial version of its alternative report during the course of 2008 based on a combination of contributions from national NGO partners and OMCT research. In September 2008 OMCT organised a mission to the Philippines by Ms. Jastine Barrett, a lawyer from the United Kingdom, in order to review the initial draft and collect further information. In the course of this mission consultations were carried out with a range of national partners including Karapatan (Alliance for the Advancement of People's Rights), Philippines Alliance of Human Rights Advocates (PAHRA), Task Force Detainees, Philippines (TFDP), Bayan (Bagong Alyansang Makabayan) and the IBON Foundation.

### ***Alternative report to the Committee on Economic, Social and Cultural Rights***

The report draws attention to the fact that the Philippines' trade liberalisation policy promotes mining activities that consistently failed to take into account the human rights of persons and communities affected by these activities, and that local resistance to these mining projects is often met with violence by private security forces. Conflict over land is also identified as a root cause of violence in the Philippines as landowners increasingly convert agricultural land to agri-business or other forms of economic activity at the expense of rural communities and small-scale farmers.

In the report, OMCT and its partners also express their concern that violence against trade unions and trade union leaders in the Philippines has been increasing in recent years. Similarly, an alarming number of Filipino human rights defenders, human rights lawyers and indigenous or peasant activists engaged in defending economic, social and cultural rights have been victims of disappearances or summary executions. The report also underlines the fact that socio-economic marginalisation in the Philippines leads to desperation and hopelessness that can find its expression in armed rebellion. In turn, this rebellion becomes the justification for anti-insurgency activities by the Philippine military that regularly compromise the economic, social and cultural rights of rural communities.

The report pointed out that effectively eliminating torture and other forms of violence in the Philippines will require a multifaceted and integrated approach ensuring the implementation of economic, social and cultural rights as well as civil and political rights, as experience has shown that acting on only one of the causes of torture has little chance of success.

The recommendations covered, first, specific responses to the particular violations and problems identified. Second - and because in order for recommendations to be effective, they must be accompanied by means of implementation that identify those responsible for the implementation and engage their accountability - this report suggests possible institutional mechanisms that might be entrusted with implementing certain recommendations in specific circumstances. Finally, the report stated that progress would also depend on correcting the serious imbalances in Philippine economic and social policy at the macro level, and recommendations are therefore made to deal with those basic policies.

### ***Committee concluding observations and recommendations***

Reflecting the issues raised in the alternative report submitted by OMCT and its national partners, the Committee on Economic, Social and Cultural Rights in its concluding observations and recommendations made specific reference to forced disappearances and extrajudicial killings of trade union activists, indigenous leaders, peasant activists advocating for the implementation of the agrarian reform and human rights defenders engaged in defending the economic, social and cultural rights of their communities. It also expressed particular concern about the limited progress made by the State party in investigating such cases and in prosecuting the perpetrators of these crimes.

Further, and echoing OMCT's recommendations, it explicitly called upon the Government to take all necessary measures to protect these groups against "*any intimidation, threat and violence, whether perpetrated by State security forces and agents or non-State actors.*" It also called on the State party "*to ensure that all alleged cases of forced disappearances and extrajudicial killings are promptly and thoroughly investigated, and that alleged perpetrators are prosecuted and appropriately punished, if found guilty.*" The Committee also noted with concern the adverse effects that economic activities connected with the exploitation of natural resources, especially mining operations, carried out in indigenous territories continue to have on the right of indigenous peoples to their ancestral domains, lands and natural resources. In line with OMCT's alternative report, it recognised the conflict of laws between the 1995 Mining Act and the 1997 Indigenous Peoples Rights Act and called on the Government to ensure,

*the effective enjoyment by indigenous peoples of their rights to ancestral domains, lands and natural resources, and avoiding that economic activities, especially mining, carried out on indigenous*

*territories adversely affect the protection of the rights recognized to indigenous peoples....*

### ***Alternative report to the Committee Against Torture***

***List of issues*** OMCT did not submit suggestions to the Committee Against Torture for the list of issues it would send to the Government of the Philippines. However, it did transmit to a Committee member a copy of the alternative report submitted to the Committee on Economic, Social and Cultural Rights. The list of issues adopted by the Committee in December 2008 reflected in two paragraphs specific problems that had been raised in the alternative report to the Committee on Economic, Social and Cultural Rights.

### ***Gathering information; preparatory missions***

The alternative report was prepared on the basis of extensive information provided by three non-governmental organisations in the Philippines: Karapatan (Alliance for the Advancement of People's Rights), Philippines Alliance of Human Rights Advocates (PAHRA) and Task Force Detainees, Philippines (TFDP). In addition, in-depth discussions with a wide range of Philippines human rights activists during their visits to Geneva provided valuable information and insights. The report also reflected the results of OMCT's own ongoing activities in relation to the Philippines including research into certain of the cases and issues dealt with.

In addition, first-hand information for the report was gathered and consultations held with Philippine non-governmental organisations during two field missions to that country. The first, by Ms. Jastine Barrett, a lawyer from the United Kingdom, took place from 16 to 20 September 2008 during which Ms. Barrett met with many Philippine human rights organisations. The second, which took place from 16 to 20 March 2009, was carried out by Mr. Yves Berthelot, President of the World Organisation Against Torture, and Ms. Barrett.

During the second Mr. Berthelot and Ms. Barrett met with representatives of some sixteen non-governmental organisations. Meetings also took place with victims of human rights violations and Mr. Berthelot and Ms. Barrett also visited a fisherfolk community and met with representatives of SMBC, Inc. Samahan ng mga Mandaragat ng Bacoor, Cavite, Inc. (Association of Fisherfolk of Bacoor, Cavite, Inc.) during which they were able to see the impact on the lives of the villagers of a development project which had deprived them of their livelihood. Mr. Berthelot and Ms. Barrett also met with the Chairperson of the Commission on Human Rights of the Philippines and the Head of the European Delegation to the Philippines.

### ***The report and its recommendations***

The alternative report to the Committee Against Torture (2009) described how the poor, vulnerable and marginalised in their daily struggle for existence and in their legitimate activities to claim and protect their rights are met with violence on a large scale. Farmers and indigenous peoples wishing to have continued access to their means of living, the Muslim population of the Philippines seeking respect for their culture and way of life, workers seeking to protect their rights, victims of large scale mining operations, and human rights defenders working to protect those populations and their rights are subjected to torture, summary executions, forced disappearances and other forms of ill-treatment from public and private sources.

The report recommended the adoption by the Government of a multidimensional and regional approach to eliminate torture and other forms of violence resulting from violations of

economic, social and cultural rights. This would be done by establishing *specific programmes of preventive measures* in each geographic region affected by violence aimed at protecting, in an integrated manner, economic, social and cultural rights and civil and political rights through, in particular, the implementation the relevant recommendations of the Committee against Torture, the Committee on Economic, Social and Cultural Rights and other UN treaty bodies. The programme for each specific region to be designed and implemented with the participation of representatives of the different communities concerned.

#### ***Concluding observations and recommendations of the Committee***

The concluding observations and recommendations adopted by the Committee after its consideration of the Philippine report focussed principally on the implementation of legislative measures already adopted or proposed in the Philippines. A number of issues dealt with in OMCT's alternative report were dealt with including extrajudicial killings and enforced disappearances of activists, harassment and violence against human rights defenders, including indigenous human rights defenders, trade union and peasant activists, journalists and reporters, medical personnel and religious leaders. In this connection, the Committee called for protection of members of groups especially at risk of ill-treatment and for *“ensuring implementation of positive measures of prevention and protection”*. Other subjects dealt with of concern to OMCT were children involved in armed conflict, domestic violence and trafficking.

#### ***Follow-up mission to the Philippines***

A follow-up mission to the Philippines headed by the President of OMCT took place in November 2009 to examine the progress made in the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights and the Committee Against Torture relating to the economic, social and cultural root cause of torture and violence.

The recommendations of both committees were dealt with together in order to encourage the cross-cutting and mutually reinforcing action necessary to effectively address to root causes of violence. A document was prepared bringing together under common headings the recommendations of both committees to demonstrate how their implementation was interdependent.

Working closely with the Commission on Human Rights of the Philippines, the team met with representatives of a wide range of civil society organisations from the Manila area and elsewhere, with the Philippine National Economic Development Agency (NEDA), with the staff of the Philippine Senate Committee on Justice and Human Rights, the UN Resident Coordinator/UNDP Resident Representative, the Asian Development Bank and the Chair and senior staff of the Commission on Human Rights of the Philippines. Subsequently written requests were sent for information to government authorities with whom the mission was unable to meet, including police officials. At OMCT's request, the Commission on Human Rights of the Philippines contacted those authorities to encourage them to respond.

#### **E. Uzbekistan**

OMCT submitted to the Committee Against Torture an alternative report on the economic, social and cultural root causes of torture and other forms of violence in Uzbekistan in connection with that Committee's consideration of the report by Uzbekistan in November 2007.

Because of the conditions in that country at that time, it was not possible to carry out a preparatory mission and so the report was prepared on the basis of information provided by human rights advocates in Uzbekistan. It was also built upon earlier reports submitted to the Committee against Torture in May 2002 by OMCT and the Uzbekistan Legal Aid Society, one of which was entitled “Uzbekistan: violence, repression and denial of economic, social and cultural rights”,<sup>16</sup> and upon chapter 8, “Uzbekistan: country profile and case studies”, of a 2006 OMCT interdisciplinary study entitled *Attacking the Root Causes of Torture: Poverty, Inequality and Violence*.<sup>17</sup>

### ***The report***

The report noted that human rights violations in Uzbekistan have been the subject of much concern and of many recommendations by UN treaty bodies and the Special Rapporteur on torture. It also reported that in its 2003 Common Country Assessment (CCA) of Uzbekistan, the United Nations Development Group reported on serious violations of human rights and on violence in the country, identified a number of economic, social and cultural root causes and recommended corrective action. Unfortunately, the clear warnings that various governmental and development agency policies would lead to increased violence went unheeded and the preventive recommendations were ignored. The violence, torture and ill-treatment subsequently increased dramatically. The report also noted that had the CCA’s recommendations been implemented, they would have gone far towards redressing the situation with regard to torture and violence.

The report stated that at the root of much torture is the socio-economic situation in the country, where torture and other forms of abuse, including unlawful and arbitrary arrest and detention, are aimed at poor and impoverished groups that constitute the majority of the population. Reports of arrests and ill-treatment often concern human rights defenders fighting for the economic, social and cultural rights of the population, or individuals defending their own economic, social and cultural rights. Violence was also associated with mass displacements of the population and forced evictions, as well as the presence in the cities of informal and illegal workers with no residence permit. The economic situation and the social and cultural conditions are also the reasons behind much violence against women, both at home and in their work environment, and for violence against children.

The report also analysed the Government's economic policies and shows that they produced poverty and violence in the country. Recommendations were made concerning preventive measures to be taken to protect persons at risk of violence based on the areas where they live, including establishing focused programmes of economic development and poverty reduction, implementing specific training and educational programmes for officials serving in those areas and establishing a permanent monitoring function there in order to ensure official compliance with legal standards and good practice.

### ***Concluding observations and recommendations***

The Committee Against Torture, in its Concluding Observations on Uzbekistan, echoed many of the points contained in the Alternative Report regarding widespread violence during arrest and detention, access to justice, violence against women and trafficking in women. For example, OMCT underlined the failures of the Uzbek justice system that “...influences the

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<sup>16</sup> The second report, entitled “Comments on the report of the State of Uzbekistan concerning the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, was wider in scope. Both are available on the OMCT website, [www.omct.org](http://www.omct.org).

<sup>17</sup> See note 1 above.

access of citizens to justice, diminishing their confidence in the institutions and limits the provision of effective legal aid to the poor.” The Committee, for its part, recommended that the State party ensure in practice that each detainee can implement the right to access a lawyer, independent doctor and family member and other legal guarantees to ensure protection from torture.

With regard to domestic violence, OMCT reported that the Uzbek authorities had failed to address the problem of family violence and often refused to carry out any active measures against domestic violence. OMCT recommended a number of specific measures to address the problem, several of which were taken up by the Committee. For example, the Committee recommended that the State party ensure the protection of women in places of detention and elsewhere, and the establishment of clear procedures for complaints as well as mechanisms for monitoring and oversight. It should also ensure protection of women by adopting specific legislative and other measures to prevent in practice domestic violence in accordance with the UN Declaration on Violence against Women and provide for protection of victims, access to medical, social and legal services and temporary accommodation and it recommended that perpetrators be held accountable.

## F. Results and impact

*“Thanks for the good work that you are doing for taking the plight of the Ogiek and other indigenous minorities to such a high level, indeed we feel honoured that at last our name is mentioned at the United Nations. We lack words to explain our gratitude”.*

From the Ogiek community in Kenya relating to OMCT’s Alternative Report to the Committee on Economic, Social and Cultural Rights

The impact of the alternative reports as set out above can be seen on three levels. First, the national NGOs with which OMCT has worked have learned how to analyse the root causes of violence and have been able to apply that technique in other areas of their work. Having their concerns included in alternative reports strengthens the national NGOs in their work.

Second, and as described above, alternative reports have had a very clear impact on the work of the committees in their lists of issues, in the questions they ask government representatives during hearings and in the concluding observations. Responding to a questionnaire distributed by OMCT to help tailor the organisation’s submissions to the UN committees, a member of the UN Committee on Economic, Social and Cultural Rights indicated that she found OMCT alternative reports *“very useful in the preparation of the questions I intended to put to the delegation of each State party”*, described the particular emphasis on the links between the denial or economic, social and cultural rights and the incidence of various forms of violence as *“[e]xtremely relevant”*, and confirmed that, *“The incidence of various forms of violence results in the restriction or even the total negation of most ESCR[economic, social and cultural rights].”*

Thirdly, on the national level in the dialogue between OMCT, national NGOs and the government and in certain instances development agencies, the need to address the economic, social and cultural root causes of violence has emerged and an important item.

## **4. Building understanding and support through advocacy**

### **A. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights**

The judicial enforceability of economic, social and cultural rights is crucial to their effective protection and thus to the prevention of violence. During the period 2007-2008, OMCT advocated for the drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would render those rights judicially enforceable. For example, OMCT took this position at the 9<sup>th</sup> NGO Human Rights Forum of the EU Presidency in December 2007 in Lisbon, Portugal. In December 2008 the United Nations General Assembly adopted and opened for ratification the Optional Protocol and OMCT's advocacy beginning in 2009 shifted to urging States to ratify that important instrument.

### **B. Building understanding for efforts to address the root causes of torture**

The effectiveness of action against the economic, social and cultural root causes of violence is greatly enhanced by a framework of understanding among a wide range of actors of the links between violations of those rights and violence and the types of action that can be taken to address those links. OMCT thus expanded its lobbying and advocacy activities in order to reach UN bodies, regional institutions, human rights defenders and the general public.

#### **Activities in 2007**

During 2007, OMCT took advantage of a number of opportunities to raise awareness that violations of economic, social and cultural rights are often closely connected to torture and other forms of violence. OMCT took part in and submitted a document to the UN Expert Seminar on Extreme Poverty and Human Rights (February 2007), made a statement at the OHCHR seminar on the UN draft guidelines on extreme poverty and human rights (October 2007) and contributed to the online NGO consultation on those guidelines. OMCT also took part in the OHCHR observance of the International Day for the Elimination of Extreme Poverty (17 October).

OMCT also made a contribution in response to the request of OHCHR for input regarding guidelines for article 2 of the Convention Against Torture (the measures States should take to prevent torture) and took part in the international conference organised in Brussels on development and economic, social and cultural human rights defenders. In November 2007 OMCT made a presentation to the FIAN consultation on implementing and monitoring the FAO guidelines on the right to food.

OMCT's guidance was sought concerning the preparation of the above-mentioned 9<sup>th</sup> NGO Human Rights Forum of the EU Presidency (Lisbon 6 & 7 December 2007) that focussed on the economic, social and cultural rights policy of the EU and economic, social and cultural rights human rights defenders. OMCT was invited to take part and its Director made a presentation to the Forum and OMCT staff explained its approach to the root causes of violence.

#### **Activities in 2008**

OMCT submitted a written statement on the economic, social and cultural root causes of torture and other forms of violence to the 7th session of the Human Rights Council (March 2008) in connection with Item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Specifically, OMCT recommended that members of the Human Rights Council:

- ensure that policies and programmes by governments, private actors, development institutions and financial institutions are founded on a human rights-based approach and do not exacerbate poverty and inequalities that lead to increased levels of official, criminal or domestic violence;
- request that the UN Special Procedures mandate holders continue to take into account the link between the denial of economic, social and cultural rights and violence in their reports wherever relevant; and
- ensure that the Universal Periodic Review process takes into account the economic, social and cultural root causes of torture and other forms of violence.

In connection with the 2008 session of the Social Forum of the Human Rights Council, OMCT submitted a written statement relating to the eradication of poverty in the context of human rights. In December 2008, OMCT chaired the NGO Consultation on the draft guiding principles on extreme poverty and human rights and contributed to the NGO consultation on those draft guiding principles.

Further, and as noted above, OMCT also made an oral statement to the Annual Meetings of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council in 2008 and 2009, inter alia, urging the Special Procedures to further develop the examination of economic, social and cultural root causes of violence in their work.

At the invitation of the newly-appointed UN Special Rapporteur on the Right to Food, OMCT submitted recommendations for matters to be discussed by the Human Rights Council during its special session on the global food crisis. OMCT suggested that the question of social unrest as a result of rising food prices and the potential violent suppression of protest by police and security services be considered by the Council as either a separate or a cross-cutting issue. OMCT referred in particular to the concerns of the participants in the African Regional Seminar and the reports of excessive use of force by Tunisian police against demonstrators protesting against high living costs and lack of work.

In its work to raise awareness of the need to address the economic, social and cultural root causes of torture and violence, OMCT has made presentations to the 5th Annual Intensive Workshop on Human Rights and Torture on “Medical and Legal Strategies for Addressing Torture, Ill-treatment, Extra-judicial Killings, Summary and Arbitrary Executions in Zimbabwe”, in Harare, Zimbabwe, in September 2008, and to the “Expert Seminar on the Impact of Terrorism and Counter-terrorism Measures on the Enjoyment of Economic, Social and Cultural Rights” organised by the UN Office of the High Commissioner for Human Rights in Geneva in November 2008.

OMCT also raised the issue at the University of Geneva Graduate Institute of International and Development Studies’ Annual Meeting on Global Issues and its NGO Programme dedicated to corporate social responsibility and the concept of corporate complicity in human rights violations (28 October 2008). During the preparatory mission to Kenya in April 2008, OMCT staff spoke about the economic, social and cultural root causes of violence on a Kenyan community radio programme, and in October, OMCT contributed to an article by CEMIRIDE, published in *The Standard* newspaper, Kenya, entitled “The Reform Path that Kenya should take for a Stable and Better Future”.



### ***The African Commission on Human and Peoples' Rights***

OMCT reports and CD-ROMs on the economic, social and cultural root causes of torture were distributed during the 43<sup>rd</sup> meeting of the African Commission on Human and People's Rights in Swaziland and the NGO Pre-Sessional Forum in May 2008, and preliminary contacts were made to facilitate OMCT's involvement in subsequent meetings of the Commission. In November 2008, OMCT was again represented at the NGO Pre-Sessional Forum and the 44<sup>th</sup> Ordinary Session of the Commission, and included in its work a call to the Commission that it focus attention on the economic, social and cultural root causes of violence.

### ***International Day in Support of Victims of Torture: press release***

On 26 June 2008, the International Day in Support of Victims of Torture, OMCT issued a press release drawing attention to the fact that, around the world, the majority of victims of torture and other forms of violence come from the most disadvantaged social groups and that members of marginalised communities are not only more vulnerable to such abuses, but also least able to claim their rights and seek protection and redress. OMCT called upon civil society to remain vigilant to the risk that incidents of torture and violence directed against the poorest and most marginalised elements of society become still more frequent over the coming months, in the context of growing public unrest provoked by rising global food prices and increasing food insecurity. OMCT also emphasised that, at the same time, it is imperative that governments recognise and respect the right of their citizens to peaceful demonstration.

### **Activities in 2009**

OMCT presented the conclusions of the above-mentioned December 2008 NGO consultation on draft guiding principles on extreme poverty and human rights which it had chaired to the ***Seminar on the Draft Guiding Principles on "Extreme Poverty and Human Rights: The Rights of the Poor"*** organised by the Office of the High Commissioner for Human Rights in January 2009.

OMCT, as a partner in FIAN's Rights to Food and Nutrition Watch Consortium, organised in Geneva the launch of the first issue of the publication ***"Right to Food and Nutrition Watch"*** entitled "Who Controls the Governance of the World Food System?" prepared by FIAN International in cooperation with a number of international NGOs including OMCT. That issue contains the alternative report on Brazil to the Committee on Economic, Social and Cultural Rights entitled "The Criminalisation of Poverty" prepared by OMCT and its national partners.

### ***Public information activities***

Reaching a broader public with information about how violence can be combated by addressing its economic, social and cultural root causes has also been of importance to OMCT. Thus annual reports on the activities of this project have been circulated along with shorter information bulletins giving the highlights of the project's activities. OMCT also issued press releases relating to the activities of this project and has prepared power-point presentations on the subject.

## **C. Results and impact**

OMCT's advocacy and information activities have resulted in a significant increase in awareness and willingness to act on the economic, social and cultural root causes of violence by non-governmental organisations, international human rights experts and staff on international organisations. OMCT also helped the move to the actual drafting and adoption

of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

The competence of OMCT in matters relating to the economic, social and cultural root causes of violence is widely recognised and OMCT is asked to contribute to the work of international bodies and to take part in international conferences as is reflected in the various sections of this report.

The Office of the UN High Commissioner for Human Rights continues to express support for OMCT's approach to these issues and its relevance to the work of that Office work<sup>18</sup>, most recently in OHCHR's opening statements to the Special Procedures Seminars<sup>19</sup>. The UN Secretary-General in his 2007 report on Economic, Social and Cultural Rights to the Human Rights Council cited OMCT Interdisciplinary Study to conclude that "a comprehensive strategy to fight torture or prevent violence should therefore address the socio-economic root causes of conflict and promote the respect of economic, social and cultural rights in addition to civil and political rights."<sup>20</sup>

Members of both the UN Committee Against Torture and the Committee on Economic, Social and Cultural Rights have expressed satisfaction with OMCT's analysis of the root causes issues.

The *Maputo Declaration*, a direct output of the 2008 African Regional seminar, which was subsequently widely disseminated by OMCT, including through ESCR-Net, was cited as a document providing guiding principles during the Fifth Annual Intensive Workshop on Human Rights and Torture held in Zimbabwe in September 2008. Further, a lawyer from the Refugee Law Project at Makerere University, Uganda, engaged in drafting a national law criminalizing torture in line with the UN Convention Against Torture, wrote to inform OMCT that she had found the Declaration "very encouraging" for her work. NGOs and individuals from all parts of the world are invited to join the Maputo Declaration, and to date it has close to 50 signatories.

Similarly, the *Manila Declaration* has been joined by a number of NGO, principally from Asia and has been widely circulated by OMCT.

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<sup>18</sup> This is reflected in the High Commissioner's address to the International Conference "Poverty, Inequality and Violence: Is there a human rights response?", Geneva October 2005, her preface to the Interdisciplinary Study "Attacking the Root Causes of Torture, Poverty, Inequality and Violence" Geneva 2006

<sup>19</sup> See for example the opening statement of the Chief of the Special Procedures Branch (Ms. Soussan Raadi) to the OMCT's special procedures seminar in June 2007 in the Seminar report.

<sup>20</sup> A/HRC/4/62, para. 31

## 6. Working with the European Union

The institutions of the European Union (EU) have shown themselves to be important allies in reducing violence by promoting respect for economic, social and cultural rights, both within the 27 members themselves and in relation to third countries. OMCT works with the members of the European Parliament and EU Secretariat to help develop EU action on the link poverty – violence across the Union’s spectrum of activities through, inter alia, official recognition by the EU institutions, including the European Parliament, of the need to address the economic, social and cultural root causes of violence; inclusion of that objective in the European Union’s cooperation and association agreements; and the monitoring and evaluation of those agreements in that regard.

Action by the European Union reinforces the impact of OMCT’s alternative reports to UN Treaty Bodies and action files as well as the interventions and complaints by national NGOs. Governments thus find that a key international economic partner raises issues similar to those of human rights organisations.

OMCT maintains close contacts through its Brussels Office with the institutions of the European Union and receives regularly requests for inputs to various areas. OMCT was asked for substantive guidance by the Commission secretariat in connection with the preparation of the **9<sup>th</sup> NGO Human Rights Forum of the EU Presidency** which took place in Lisbon on 6 and 7 December 2007. The forum focussed on the economic, social and cultural rights policy of the EU and economic, social and cultural rights human rights defenders. OMCT’s Director made a presentation to the Forum and the Presidency invited three additional OMCT staff to take part and contribute to the discussion of the various issues of interest to OMCT. OMCT also took part in an NGO-sponsored conference in Brussels on the implementation of the EU Guidelines on Human Rights Defenders in relation to economic, social and cultural rights defenders.

### A. Calls on the European Union for action

Action files and other complaints are regularly transmitted to the relevant bodies of the EU, in particular interested parliamentary committees in connection with their consideration of specific situations.

In September 2007, OMCT, on the basis on information from a national NGO, submitted a report to the European Parliament on the economic, social and cultural root causes of torture in **Uzbekistan** in connection with the EU’s review of sanctions and human rights in Uzbekistan. In that report, OMCT emphasised that the clear warnings that the rise in poverty and inequality in that country could lead to violence had gone unheeded and had given rise to a serious situation of violence. OMCT’s report described a situation of increasing poverty and inequality (as compared to the Soviet era) that, combined with a blocked political system, offered little hope for change. That had caused growing social tension to which the government had responded with increasingly repressive measures that pushed some people to violence. The causal connection between government policies that failed to provide protection for economic and social rights and increased violence had been identified with clarity in a 2003 United Nations Development Group report

In January 2008, OMCT submitted information on **Egypt** to the Parliament’s Subcommittee on Human Rights in connection with its discussion of the relations between the EU and Egypt. OMCT also transmitted the Action File on Phulbari, **Bangladesh** to the Parliament and

subsequently the Chair of the Committee on Development asked OMCT to provide additional information and to keep the Committee informed of future developments.

Also in 2008, an OMCT Action File on serious human rights violations in connection with two major hydro-electric projects in *Northern Sudan* was submitted to the Parliament's Rapporteur on human rights violations deriving from China's investments in Africa. In addition, a number of Action Files were transmitted to the Parliament in support of the seminar on “*Tackling Grand Corruption, National Resources and Poverty: Can the EU take the global initiative?*” held in May 2008. Several Action Files and appeals were also transmitted to members of the European Parliament in connection with the preparation of written parliamentary questions.

### ***EP's Resolution on the Philippines***

In January 2009, OMCT was invited before the Sub-Committee on Human Rights of the European Parliament to make a presentation on the economic, social and cultural root causes of violence in the Philippines. On that occasion, [OMCT has submitted to the Subcommittee detailed information on the subject, including recommendations for action](#) - emphasising that the EU Institutions could have a key role in halting human rights violations and calling on the Members of the Subcommittee, along with EU relevant authorities, to use all EU instruments available to stop violence and torture in the Philippines and address their root causes.

Subsequently, on 12 March 2009, the European Parliament adopted a [Resolution](#) on the Philippines that reflects many of the concerns expressed by OMCT during its presentations before the Sub-Committee on Human Rights. In particular, the European Parliament recognised that violence in the Philippines is rooted on denials of economic, social and cultural rights, by stating that “*in order to put an end to abductions and extrajudicial killings it is necessary to address the economic, social and cultural root causes of violence in the Philippines.*” As recommended by OMCT, the European Parliament also pointed out the crucial role that the European Union can play in helping address these root causes, by calling on the Council and the Commission “*to ensure that the EU's financial assistance towards economic development in the Philippines is accompanied by scrutiny of possible violations of economic, social and cultural rights, with special attention being paid to encouraging dialogue and inclusion of all groups in society.*”<sup>21</sup>

In connection with the European Union – *Uzbekistan* Human Rights Dialogue in May 2010, OMCT submitted a document containing the main points and conclusions and recommendations relating to the economic, social and cultural root causes of violence in Uzbekistan from OMCT's alternative report on that country submitted to the UN Committee Against Torture in November 2007.

## **B. Working with the European Parliament**

### ***EU Annual Human Rights Report 2007***

OMCT submitted a set of proposed amendments for inclusion in the EU Parliament's *Annual Report on Human Rights in the World for 2007 and EU Policy in that Matter*, in order to support the development of EU policy on human rights and to help EU Institutions focus

more attention on the links between human rights violations and poverty, inequality and discrimination.

Most of OMCT's suggestions were included in the final text as adopted by the Parliament in Plenary. In particular, OMCT is pleased that the European Parliament has explicitly mentioned the principle of indivisibility of human rights and has reaffirmed the importance of the principle of interdependence of human rights by recognising the need for a human rights assessment accompanying each impact analysis carried out by the Directorate General for Trade.<sup>22</sup>

The Parliament also adopted OMCT's amendment calling on the European Commission to ensure that the economic activities of EU private companies in third countries - in particular as regards the exploitation of natural resources - abide by international human rights standards, including the obligation to obtain the prior and informed consent of local communities and indigenous peoples affected.

The Report also incorporated OMCT's proposal to include a clear reference to facilitating visas in the special situation of human rights defenders in the new EU Common Code on Visas and to explicitly mentioning economic, social and cultural rights defenders within this category. Furthermore, the European Parliament also endorsed OMCT's proposal that the Council and the Commission should enhance the cooperation with the Council of Europe in order to create a *"Europe-wide zone free from torture and other forms of ill-treatment, as a clear signal that European countries are firmly committed to eradicating these practices also within their borders."*

Finally, the Committee on Civil Liberties, in its opinion submitted in relation to the Report, endorsed the paragraph suggested by OMCT calling on the EU to adopt a more holistic approach in addressing torture that takes into consideration a wide spectrum of possible measures aimed at eradicating torture, including prevention, assistance to victims and the fight against impunity.

### ***EU Fundamental Rights Agency***

The European Parliament, in late 2007 and in early 2008, reviewed and amended the mandate and work programme of the new EU Fundamental Rights Agency. The original draft contained no reference to economic, social and cultural rights either as a basic human right or as a right the violation of which could lead to the violation of other rights, such as violence. Consequently, OMCT wrote to key Parliamentarians and suggested that the terms of reference of the agency be modified to include, *"In its work the Agency shall seek to identify the economic, social and cultural factors that contribute to respect for the human rights [...] or which may constitute root causes of violations of those rights."* OMCT's amendment was accepted by the Civil Liberties Committee of the Parliament in December and by the Parliament as a whole in January 2008.<sup>23</sup>

Unfortunately, the European Commission and EU Council failed to accept the Parliament's recommendations thus leaving economic, social and cultural rights outside the mandate of the agency. OMCT thus wrote to the Commission and Council urging them to reconsider the Parliament's recommendations both to ensure the protection of all the human rights of the

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<sup>22</sup> See OMCT press release of 27 May, 2008 (<http://escr.omct.org>)

<sup>23</sup> Multiannual Framework for the Fundamental Rights Agency for 2007-2012 - adopted on Thursday, 17 January 2008 – Strasbourg, Article 2, introductory part

citizens of Europe and to the strengthen EU's efforts to promote respect for human rights at the international level, particularly in the United Nations system.

### **C. Field level contacts with the European Union**

OMCT gives importance to contacts with the EU representatives in the field. The Head of Delegation of the European Commission in Mozambique addressed the opening ceremony of the African Regional Seminar in Maputo and a staff member of European Commission in Mozambique met with participants to discuss how NGOs can interface with the European Union, especially on the country level. Similarly, the Head of Delegation of the European Commission in the Philippines addressed the opening ceremony of the Asian Seminar in Manila and at a subsequent session he made a presentation on the European Union's (EU) policy on the eradication of torture with a particular focus on the EU's activities in the area of human rights and governance at the country level.

In addition, during OMCT's follow-up mission to the Philippines in November 2009, OMCT's team met with the EU Head of Delegation in order to examine from the EU perspective the implementation of the recommendations of the Committee Against Torture and the Committee on Economic, Social and Cultural Rights with regard to the Philippines. The discussion focussed on addressing the economic, social and cultural root causes of violence in the Philippines, progress being made and existing obstacles and how the EU activities could assist in addressing those root causes. This included a discussion regarding the above mentioned Resolution of the European Parliament that called on the EU "to ensure that the EU's financial assistance towards economic development in the Philippines is accompanied by scrutiny of possible violations of economic, social and cultural rights."

### **D. Results and impact**

As can be seen from the above, the information submitted by OMCT to the institutions of the European Union in relation to the economic, social and cultural root causes of violence has clearly raised the profile of the issue within the EU and influenced the decisions of the European Parliament both with regard to specific countries and in connection with general EU policy. OMCT has become a reliable source of guidance for the Commission Secretariat and the members of the Parliament.

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