



## **Project**

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

## **Report on Activities**

**January – June 2008**



The European Union, through the European Initiative for Democracy and Human Rights, provides substantial support for this project which is also generously supported by the Swiss Agency for Development and Cooperation (SDC), the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation and the Foundation for Human Rights at Work.

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## Activities January – June 2008

OMCT is implementing a project aimed at preventing, reducing and eliminating violence, including torture, cruel, inhuman and degrading treatment or punishment, and violence against women and children by identifying and acting on their economic, social and cultural root causes.

Through the project, OMCT works with national NGOs to strengthen their capacity to address the economic, social and cultural root causes of torture and other forms of violence directly with their own national authorities and internationally through alternative reports to United Nations Treaty Bodies, through complaints and appeals in urgent cases addressed to the United Nations (UN), governments, development institutions and the private sector and through the institutions of the European Union. Seminars and training courses are organised to help build NGO capacity and NGO representatives take part in UN meetings.

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### **Building NGO capacity**

Enabling national NGOs to prepare targeted submissions calling for specific action on the economic, social and cultural root causes of violence for transmission to the United Nations, either to the special procedures mandate holders or to UN treaty bodies, governments, international development and financial institutions and private sector actors was the principal objective of the African Regional Seminar held in Maputo, Mozambique (7 -11 May, 2008) and the second Special Procedures Seminar held in Geneva (23 – 27 June 2008).

### ***African Regional Seminar on addressing the economic, social and cultural root causes of violence*** (see annex 1 for more information)

This seminar 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, select particularly serious instances of violence linked directly to violations of those rights, and design practical ways of addressing those root causes for presentation to national governments and international organisations.

Seminar participants also adopted the Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in which they called on African Governments to make the continent “*free from such practices*” (see appendix 1).

Seminar participants prepared in advance papers analysing the situation in their countries and identifying specific cases needing 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 roots of the torture and other forms of violence identified in the cases.

Among the cases dealt with were the slavery-like conditions of indigenous hunter-gatherer forest communities 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; violent repression of demonstrations calling for government action against rising food prices and deteriorating living conditions; and the violent evictions of indigenous communities who, as a result, are subjected to ever graver violations of their economic, social and cultural rights.

These action proposals will be further refined by participants in their own countries for presentation, in cooperation with OMCT, to governments, international bodies and private sector actors.

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 with representatives of UNDP, Sweden and Finland also taking part. A number of presentations were made in order to provide the substantive and international framework for the seminar's discussions. These examined how disrespect for economic, social and cultural rights can lead to violence, how the United Nations human rights system can be used to address those root causes, how to engage with the European Union to promote economic, social and cultural rights and fight torture. A session was also dedicated to an exchange of experience and information on how the human rights institutions of the African Union can be used to raise the issue of violence and its root causes.

Presentations on activities being carried out in Mozambique aimed at preventing violence were made by UNICEF, the International Organisation for Migration's Southern African Counter Trafficking Assistance Programme and Save the Children, United Kingdom. While in Mozambique, OMCT staff met within agencies and national NGOs to discuss the acting on the economic, social and cultural root causes of violence and establish working partnerships.

### ***Special Procedures Seminar 2008***

The second OMCT Special Procedures Seminar took place in Geneva at the Graduate Institute of International and Development Studies from 23 to 27 June 2008 (see appendix 2 for press release). Fourteen NGO representatives from Brazil, Bulgaria, Colombia, Congo-Brazzaville, Kenya, Lebanon, Mexico, Mozambique, Nigeria, Peru, Philippines, Thailand and Uganda examined how to use the United Nations Special Procedures System to address the economic, social and cultural root causes of torture and other forms of ill-treatment.

The seminar was organised parallel to the 14<sup>th</sup> annual meeting of the UN Special procedures mandate holders which enabled the participants to meet and discuss with mandate holders responsible for Human Rights Defenders, Adequate Housing, Minority Issues, Indigenous People, the Right to Food and the Human Rights of Migrants. Participants also 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.

Substantive presentations to the seminar followed by discussions were made by Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe and member of OMCT's Scientific Council and Mr. Pierre de Senarclens, Professor of International Relations at the University of Lausanne, member of OMCT's Scientific Council and former Human Rights Director of UNESCO. Substantive presentations were also made on the economic, social and cultural root causes of violence and engaging the UN treaty bodies.

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 those root causes. During the seminar, in plenary meetings and working groups, they developed cases that could be submitted to special procedures mandate holders, governments, international development and financial institutions and private sector actors calling for specific preventive action.

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 people 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, and attacks on indigenous people by illegal armed groups in collusion with official armed forces to make way for extensive coca plantations. Other cases included violence against peasant farmers, human rights violations connected with the exploitation of petroleum resources, the denial of adequate health and support services to victims of torture, and arbitrary executions of poor and marginalised urban youth by police officers.

Particular emphasis was given to developing concrete responses to these situations and to drawing up specific recommendations. These action proposals will be further refined by participants in their own countries for presentation, in cooperation with OMCT, to special procedures mandate holders, governments, international bodies and private sector actors.

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

A constant demand of NGOs taking part in the activities of this project is to remain in contact with each other and with OMCT and to continue sharing information, good examples and ideas. OMCT is thus building up a network of those NGOs it has worked for those purposes keeping them informed of the activities of the project, seeking their help in specific activities and assisting them as much as possible in the preparation of cases for submission to the appropriate organs and authorities. In addition, there are a number of other NGOs that have asked to be kept informed and all the NGOs of the OMCT SOS-Torture Network are also kept abreast of developments to the extent possible. Thus, at the beginning of 2008, 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. Many NGOs responded favourably and have been added to OMCT's economic, social and cultural rights contact list.

Furthermore, OMCT staff meets frequently with NGO delegations visiting Geneva to explore ways in which joint actions can be carried out within the economic, social and cultural rights project, in particular the preparation of action files and alternative reports to UN treaty bodies.

### **Bringing about change: action files and other forms of interventions**

Action files, that provide a detailed analysis of a specific situation where violations of economic, social or cultural rights are causing or risk causing violence and propose specific remedial action together with other forms of interventions, for example press releases, are key tools in bringing about change. They are sent to government agencies, UN officials and special procedures mandate holders, international development and financial organizations and private corporations. They are also circulated to OMCT's mailing list and NGO network

with requests that they in turn intervene with governments and others calling for an end to the violations documented.

***Action File relating to severe violations of human rights by the Kenyan army in the District of Mount Elgon***

In June 2008 OMCT, together with Kenyan national partners, issued an Action File (KEN060608.ESCR in English, French and Spanish) calling for a halt to the 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.

The human rights abuses by the police and army are carried out in the context of operations against the Sabaot Land Defence Force (SLDF), an organization that emerged to defend displaced communities and that has itself been responsible for grave human rights abuses in the Mount Elgon area. Since March 2008, the Kenyan military has been responsible for the execution of thousands of men and boys from the Sabaot community in Mount Elgon District. The deaths, injuries and displacement that are a direct result of the military operations also have a serious impact on the socio-economic wellbeing of the population of the affected areas.

The Action File was transmitted to members of the Government of Kenya, the Kenyan Permanent Mission in Geneva, relevant Special Procedures mandate holders, the OMCT SOS-Torture Network and the OMCT mailing list. OMCT and its national partners in Kenya called on the Government of Kenya to immediately suspend the military operation in the Mount Elgon 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 and its national partners also called on the Government to take concerted steps to reach fair and just resolutions to land disputes in Mount Elgon and elsewhere, independent of political and ethnic interests.

This Action File was prepared as a result of work at the above-mentioned African Regional Seminar in Maputo. Several other action files are being prepared as a result of that seminar and the Special Procedures Seminar.

***Press release on the shooting of a protester during a demonstration against the rising cost of living in Tunisia***

OMCT, in a press communiqué on 11 June 2008, referred 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. OMCT stated that to repress by violence demonstrations against the deteriorating living conditions only exacerbates the social tensions caused by those circumstances and creates the conditions for further violence.

***Action File on the Phulbari coal mining project: Suspension of financial support***

In December 2007 and January 2008, OMCT circulated an Action File (BGD211207.ESCR) in order to prevent further violence and killings in relation to a project for an open-pit coal mine in Phulbari – promoted by the British company GCM Resources with the projected support of the Asian Development Bank (ADB) and several international private banks. The

project provoked widespread concern over its potential socio-economic, environmental and human rights impact and protests against it had resulted in loss of life and injury.

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 project. 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 Sustainable Development Manager of GCM Resources in Geneva to discuss the issues raised in the Action File.

At the beginning of April 2008, OMCT learned that the ADB decided to suspend its support for the project and in June 2008 it was announced that Barclays Bank had sold its shares in GCM. For more details see appendix 3.

Action files are widely circulated and OMCT receives requests to provide more information updating the situations referred to from the Office of the UN High Commissioner for Human Rights and from the European Parliament.

## **United Nations Treaty Bodies**

### ***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 UN committees is strongly conditioned by the preliminary list of issues and questions raised by committee members during pre-sessional discussions many months before the actual consideration of the state party's report. OMCT thus prepares detailed substantive submissions for consideration by committee during the pre-sessional discussion of the state party report.

### ***Brazil***

In May 2008 OMCT, with contributions from two national partners, submitted a list of issues to the Committee on Economic, Social and Cultural Rights in preparation for the Committee's consideration of the report of Brazil (see appendix 4). That document notes that Brazil is a country strongly characterized by deep-rooted socio-economic disparities and inequalities, where levels of violence are particularly high in marginalised communities. These communities remain outside the protection of the State and are therefore doubly victimized. Millions of Brazilians are caught in a vicious circle of poverty, violence and lack of state protection and OMCT emphasises the need to break this cycle which is at the root of ever increasing levels of violence and conflict in Brazil.

OMCT and its Brazilian partners drew attention to the crucial issue of access to land and the lack of implementation of national provisions on land allocation. They pointed out that land in Brazil represents one of the primary sources of conflict and is closely linked to a wide-range of human rights violations. Land conflict is further exacerbated by the rapidly growing ethanol industry and other forms of agribusiness that are characterized by the occupation and concentration of large land plots. Other important issues dealt with in this list of issues are forced labour, trafficking of labourers and access to water,.

The list of issues also emphasises the high level of housing deficit and inadequacy that affects millions of people living in precarious and informal settlements and that lead to urban overpopulation, deterioration of living conditions and an increase in homelessness, poverty, violence and insecurity. In addition, the list of issues for Brazil draws attention to the situation of economic, social and cultural rights defenders who are often threatened and harmed by gunmen or private militias commissioned by powerful private actors. The list also addresses the poverty, discrimination, exploitation and marginalization experienced by many Afro-Brazilians, as well as the failure of the state to protect women from domestic violence and various forms of exploitation. Finally, OMCT and its Brazilian partners expressed their deepest concern at the situation of Brazilian children, in particular those living in poverty, street children and children belonging to minorities, who are often the first victims of violence and exploitation, including trafficking and sexual exploitation.

### ***Mission to Kenya***

In order to collect material for the alternative report on Kenya to the Committee on Economic, Social and Cultural Rights scheduled for November 2008, two members of OMCT staff conducted a mission to Kenya from 12 to 18 April 2008.

Working closely with the International Commission of Jurists (ICJ), Kenya and the Centre for Minority Rights Development (CEMIRIDE), the staff members held meetings with representatives of Kenyan government and civil society and conducted community discussions in both urban Nairobi and rural districts of the Rift Valley. OMCT staff also spoke about the economic, social and cultural root causes of violence on a Kenyan community radio programme.

In order to capture grassroots concerns among marginalised communities (residents of informal settlements, indigenous groups and minorities) and provide them with more direct access to members of the Committee, a series of interactive *community fora* were held with OMCT staff, supported by ICJ and CEMIRIDE, to explore the economic, social and cultural root causes of torture and other forms of violence. These events, which proved to be rich sources of experience and information, were filmed and will be made available to the Committee on Economic, Social and Cultural Rights.

Key themes identified in the course of the preparatory mission included the role of land disputes as a trigger for violence in both urban and rural areas, the severe discrimination experienced by indigenous and minority communities, and high levels of violence directed at women and girls.

### **United Nations Human Rights Council: The Universal Periodic Review**

In November 2007, OMCT submitted a list of issues for consideration by the UN Human Rights Council in connection with its Universal Periodic Review of the Philippines scheduled for April 2008. OMCT drew attention to the serious situation as regards torture and other cruel, inhuman or degrading treatment or punishment in the Philippines and, in particular, emphasised that the *root cause of torture and other forms of serious violence was frequently found in the violation of the economic, social and cultural rights of Filipino citizens*. A number of specific points were developed and recommendations made.

In April 2008, in connection with the Council's consideration of the Philippines, OMCT, together with a number of other NGOs, advocated strongly with the members of the Council,



representatives of the Government of the Philippines and the OHCHR secretariat for permission to hold a public parallel event within UN premises to enable civil society organisations to provide information and express their views. Proposals to hold such a public event had initially met with some strong resistance, but finally it was permitted in order to discuss the preparations of civil society input into the UPR process. OMCT took part in that parallel event on 11 April 2008 and reviewed the process of preparing its list of issues and the recommendations contained therein. OMCT also called attention to the Action File (PHL301107.ESCR) relating to the violence inflicted on local communities and indigenous people in relation to a mining project that violated their rights and endangers their way of life on the Filipino Island of Sibuyan and for which no adequate government response had been received.

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

OMCT has given importance to working with the institutions of the European Union (EU) in order to raise their awareness of the need to fight violence by acting on the economic, social and cultural root causes. This enables the voice of the EU to be added to that of human rights and development NGOs in urging effective action against those root causes of violence.

#### ***EU Parliament Annual Human Rights Report***

OMCT submitted a set of 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 (see appendix 5). 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.

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 the special situation of human rights defenders in the new EU Common Code on Visas, as well as an explicit mention of economic, social and cultural rights defenders within this category. Furthermore, the European Parliament also endorsed the position that 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 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 both as basic human rights and the violation of which could lead to the violation of other rights were absent from the original draft. 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.

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 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.

### ***Submissions to the EU***

Action files and other complaints are transmitted to the relevant bodies of the EU, in particular interested parliamentary committees. For example, after having transmitted the Phulbari Action File (see above) to the Parliament, the Chair of the Committee on Development asked OMCT to provide additional information and to keep the Committee informed of future developments. An OMCT Action File on serious human rights violations in connection with two major hydro-electric projects in Northern Sudan (SDN301107.ESCR) was submitted to the Parliament’s Rapporteur on human rights violations deriving from China’s investments in Africa, and 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.

### **Advocacy: building a framework of understanding**

The effectiveness of action against the economic, social and cultural root causes of violence is greatly enhanced by a framework of understanding of the links between violations of those rights and violence and the types of action that can be taken to address these links. While progress is 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, to the extent possible, OMCT seeks to contribute to building this framework of understanding with UN bodies and other institutions such as the European Union.

In addition, OMCT’s advocacy aims to encourage NGOs to work with OMCT on these issues and thus, as mentioned above, an information note highlighting the project’s activities in 2007 was widely circulated. OMCT also discusses these issues with visiting delegations of NGOs as well as making presentations to groups on study trips to Geneva. This year OMCT has hosted students from both the London School of Economics and the University of Exeter, UK.

### ***Written Statement to the Human Rights Council***

OMCT submitted a written statement on the economic, social and cultural root causes of torture and other forms of violence to the 7<sup>th</sup> session of the Human Rights Council in connection with Item 3, Promotion and protection of all human rights, civil, political, 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;
- ensure that the Universal Periodic Review process takes into account the economic, social and cultural root causes of torture and other forms of violence.

### ***UN Human Rights Council; discussion of the global food crisis***

At the invitation of the newly-appointed UN Special Rapporteur on the Right to Food, OMCT submitted recommendation 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 calling attention to high living costs and lack of work.

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

During the meeting of the African Commission in Swaziland and the NGO Pre-Sessional Forum in May 2008, OMCT reports and CD-Roms on the economic, social and cultural root causes of torture were distributed, and preliminary contacts were made to facilitate OMCT's involvement in subsequent meetings of the Commission.

### ***The Maputo Declaration***

This Declaration, mentioned above (see annex 1 for the text) is another example of OMCT efforts to build a framework of understanding. In addition to the original 18 NGO signatories, to date some 15 additional NGOs have added their name to the Declaration. The wide circulation of the Declaration will help heighten awareness of the need for action against torture and cruel, inhuman and degrading treatment and punishment and the economic, social and cultural root causes.

***International Day in Support of Victims of Torture: press release.*** On 26 June 2008, OMCT issued a press release (see appendix 6) in connection with the International Day in Support of Victims of Torture, 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.

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## Appendix 1



### **African Human Rights NGOs meeting in Maputo to address the economic, social and cultural root causes of torture call on Governments to make Africa a torture-free continent**

**On 11 May of this year, representatives of 18 African Human Rights NGOs meeting in Maputo, Mozambique, to participate in the World Organisation Against Torture (OMCT) African regional seminar on the economic, social and cultural root causes of torture drafted and adopted the Maputo Declaration Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In this document, the seminar participants - representing organisations 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 - express their extreme concern at the erosion of the absolute prohibition against torture and urge concerted action at both national and international levels to bring an end to this practice.**

The Maputo Declaration was drafted in the course of OMCT's regional seminar on addressing the economic, social and cultural root causes of torture and other forms of violence (7-11 May 2008). The aim of the seminar was to explore the ways in which violations of economic, social and cultural rights are linked to violence and how acting on those root causes can in turn reduce levels of violence. During the seminar, participants selected, presented and collectively analysed specific situations from their own countries and identified practical actions to address the root causes. For each case they developed concrete recommendations for Government authorities, the human rights bodies of the United Nations and other institutions, such as the European Union and private sector actors.

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

The seminar participants - all engaged in fighting torture and other cruel, inhuman or degrading treatment or punishment in Africa - discussed the many serious obstacles placed in the way of their activities. To express their deepest concern at the present situation, they adopted the Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see annex) in which they call on African Governments to make the continent "*free from such practices*".

In the Declaration, participants, "deplore the open practice and justification by certain States of torture and other cruel, inhuman or degrading treatment or punishment and the open or silent cooperation and complicity of other States in those practices that gravely undermine our daily work and provide justification to repressive regimes that practice torture". They also express their deepest concern at attempts by certain public figures, jurists, academics and

others to undermine the absolute prohibition of such practices and the complicity of some media in justifying such unlawful treatment.

The participants encourage the African Union, the European Union and the United Nations to take practical steps to reinforce their cooperation and activities against torture and other cruel, inhuman or degrading treatment or punishment and to strengthen their cooperation and support for civil society organisations engaged in the promotion and protection of human rights. They invite human rights NGOs from all over the world to join in the Declaration and ask for its widest circulation.

***Acting on the economic, social and cultural root causes of torture***

In the Maputo Declaration, the signatories also recognise “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 that our organisations fight against”. Indeed, on the basis of papers prepared in advance of the seminar, participants analysed specific cases in order to identify what action NGOs can take to end and prevent serious violations of human rights by acting on the poverty, inequality and discrimination at their roots. Among these situations were:

- Slavery like conditions of indigenous hunter-gatherer communities who, because of their weak economic position and marginalisation, 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;
- Demonstrations calling for government action against rising food prices and deteriorating living conditions met with violent repression;
- Conflict over land allocation and mass evictions that led to armed resistance by populations and violent and indiscriminate repression by government forces;
- Torture and ill-treatment of detainees, including children, who are unable to afford legal defence and are not released from custody pending trial;
- Violent evictions of indigenous communities who, as a result, are subjected to ever graver violations of their economic, social and cultural rights;
- Eviction of an island community to make way for a hotel and casino complex.

These and other cases were analysed in working groups where they were enriched through an enthusiastic exchange of experience and ideas. The proposals for action that resulted are being further refined by participants in their own countries and, in cooperation with OMCT, may be presented to governments, international bodies and private sector actors.

***Opening ceremony and providing the substantive framework***

The opening ceremony on 7 May was addressed by Ambassador Glauco Calzuola, Head of the Delegation of the European Commission in Mozambique and Ambassador Thomas Litscher of Switzerland, with representatives of the United Nations Development Program and the Governments of Sweden and Finland also taking part.

In order to provide a substantive framework for the seminar’s discussions, presentations based on OMCT research and experience<sup>1</sup> were made on how disrespect for economic, social and

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<sup>1</sup> See the OMCT publication “*Attacking the Root Causes of Torture, Poverty, Inequality and Violence: an Interdisciplinary Study*” (Geneva, September 2006), and the Report of the International Conference “*Poverty,*

cultural rights can lead to violence and how the United Nations human rights system can be used to address those root causes (Dr. Michael Miller, OMCT Director of Research and Development). Presentations were also made on engaging with the European Union to promote economic, social and cultural rights and fight torture (Ms. Francesca Restifo, OMCT Researcher and Dr. Anna-Lena Svensson-McCarthy, Lawyer and Human Rights Consultant). In addition, 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. Further, a special session was devoted to exploring how the human rights institutions of the African Union can be used to address the issue of violence and its root causes.

Guest speakers provided participants with examples of practical responses to violence – and violence against children in particular - in Mozambique and Southern Africa. Mr Mioh Nemoto (UNICEF Mozambique) gave an overview of the socio-economic conditions of children and women in the country and presented UNICEF’s child protection activities. Ms, Nely Chimedza (International Organisation for Migration, Southern African Counter Trafficking Assistance Programme) discussed practical responses to child trafficking, and Mr. Chris Bjornestad (Save the Children, UK) presented the situation of unaccompanied and undocumented child migrants in the Southern African Region. All the presentations were followed by lively discussions with participants.

Participants expressed appreciation for having been able to deepen their understanding of the economic, social and cultural root causes of violence. They also underlined the importance of targeted action to address these root causes and called for the setting up of an African regional network of NGOs interested in the subject to exchange information and ideas. OMCT was asked to assist in this as well as to continue to provide support to African NGOs wishing to address the economic, social and cultural root causes of violence.

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**Appendix 1 (cont.)****Annex****The Maputo Declaration  
Against Torture and Other Cruel, Inhuman or Degrading  
Treatment or Punishment**

The undersigned African Human Rights Non-Governmental Organisations fighting torture and other cruel, inhuman or degrading treatment or punishment and the World Organisation Against Torture (OMCT), meeting at the African Regional Seminar on Addressing the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence, held in Maputo, Mozambique, from 7 to 11 May 2008;

Recognise 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 that our organisations fight against and that such violations can be effectively reduced and eliminated by action on those root causes;

Call for concerted action on the national and international levels in collaboration with other civil society partners to identify, address and act upon those root causes along with those violations of civil and political rights that make torture and other cruel, inhuman or degrading treatment or punishment possible;

Strongly reaffirm that torture and other cruel, inhuman or degrading treatment or punishment are absolutely prohibited in all circumstances by international human rights law and international humanitarian law, and that torture and other inhuman acts constitute in certain circumstances crimes against humanity under the Statute of the International Criminal Court. No circumstances can ever justify torture and other cruel, inhuman or degrading treatment or punishment and such acts must be made criminal offences in national law. States are responsible before the international community for outlawing torture and other cruel, inhuman or degrading treatment or punishment, for preventing their occurrence, for prosecuting and punishing those guilty of such acts and for providing reparation to the victims;

Strongly deplore the open practice and justification by certain States of torture and other cruel, inhuman or degrading treatment or punishment and the open or silent cooperation and complicity of other States in those practices that gravely undermine our daily work and provide justification to repressive regimes that practice torture and other cruel, inhuman or degrading treatment or punishment;



Further, express our deepest concern at attempts by certain public figures, jurists, academics and others to undermine the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the complicity of some media in justifying such unlawful treatment;

Emphasising that in our daily work of defending human rights and human dignity, we are witness to the devastating physical and psychological consequences that torture and other cruel, inhuman or degrading treatment or punishment inflict on the victims, such as women, men, children, youth, the poor and marginalised, indigenous peoples, minorities and others, on their family members and on society as a whole, in addition to the dehumanising effects upon those who practice torture and other forms of ill-treatment;

Welcome the conclusions of 29 April 2008 of the Council of the European Union in which it recalled "the EU's firm position to fully comply with obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment, in the fight against terrorism, in particular the absolute prohibition of torture and cruel, inhuman and degrading treatment";

Call on all States to make similar statements categorically rejecting torture and other cruel, inhuman or degrading treatment or punishment;

Call, in particular, on African Governments to end torture and other cruel, inhuman or degrading treatment or punishment and to make Africa a continent free from such practices, to end impunity by identifying, prosecuting and punishing those guilty, directly or indirectly, of torture and other cruel, inhuman or degrading treatment or punishment, and to ensure justice, reparation, assistance and rehabilitation to victims of torture and other cruel, inhuman or degrading treatment or punishment;

Recognise the essential role of civil society organizations in effectively ending torture and other cruel, inhuman or degrading treatment or punishment and in efforts to ensure justice, reparation, assistance and rehabilitation for the victims;

Call for strengthening of the civil society organizations fighting torture and other forms of ill-treatment and increased cooperation with them on the part of national authorities in the fight against torture and other cruel, inhuman or degrading treatment or punishment;

Encourage the African Union, the European Union and the United Nations to take practical steps to strengthen their cooperation and activities against torture and other cruel, inhuman or degrading treatment or punishment, in particular within the framework of the Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment and to strengthen their cooperation and support for civil society organisations engaged in the promotion and protection of human rights;

Request all interested organisations to join with the World Organisation Against Torture in adhering to this Declaration and in circulating it widely, and invite organisations and individuals to transmit this Declaration to all African Governments, the African Union, the European Union, the United Nations and other relevant institutions.

- Action by Christians for the Abolition of Torture (ACAT), Burundi
- Action by Christians for the Abolition of Torture (ACAT), Central African Republic
- Action by Christians for the Abolition of Torture (ACAT), Togo
- Association pour les Droits de l'Homme et l'Univers Carcéral (ADHUC), Republic of the Congo
- Centre for Security and Development Studies (CSDS), Liberia
- CLEEN Foundation, Nigeria
- Comité des Observateurs des Droits de l'Homme (CODHO), Democratic Republic of the Congo
- Comité de Réflexion et d'Orientation Indépendant pour la Sauvegarde des Acquis Démocratiques (CROISADE), Niger
- Defence for Children International (DCI), Ghana
- Enfants Solidaires d'Afrique et du Monde (ESAM), Benin
- Independent Medico-Legal Unit (IMLU), Kenya
- International Commission of Jurists (ICJ), Kenya
- Land Centre for Human Rights (LCHR), Egypt
- Mouvement pour la Défense des Droits de l'Homme et des Libertés (MDDHL), Cameroon
- Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), Senegal
- Women in Law and Development in Africa (WiLDAF), Zambia
- World Organisation Against Torture (OMCT), Switzerland
- Zimbabwe Lawyers for Human Rights (ZLHR), Zimbabwe

## **Maputo, Mozambique**

**11 May 2008**

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In addition, the following organisations and individuals adhere to and express their support for the message and principles contained in the Maputo Declaration:

- African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Uganda
- Antenna International, Switzerland
- L'Association de Défense des Droits de l'Homme au Maroc (ASDHOM), France
- Rencontre pour la Paix et les Droits de l'Homme (RPDH), Republic of Congo
- Bulgarian Helsinki Committee, Bulgaria
- Centre Action Social Réhabilitation et Réadaptation pour la Victime de la Torture (SOHRAM-CASRA), Turkey
- Centre for Human Rights, Democracy and Transitional Justice Studies, Democratic Republic of Congo
- Centre for Minority Rights Development (CEMIRIDE), Kenya
- Khulumani Support Group, South Africa

- Centro de Atencion Psicosocial (CAPS), Peru
- Jananeethi Institute, India
- Justiça Global, Brazil
- La Ligue Camerounaise des Droits Humains, Cameroon
- Nora Wilson, Toronto, Canada
- Philippine Alliance of Human Rights Advocates (PAHRA), Philippines

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## Appendix 2



### OMCT SEMINAR – ADDRESSING THE ECONOMIC, SOCIAL AND CULTURAL ROOT CAUSES OF VIOLENCE THROUGH THE UN SPECIAL PROCEDURES SYSTEM, GENEVA 23-27 JUNE 2008

#### **How can national human rights NGOs address the economic, social and cultural root causes of torture through the UN Special Procedures System?**

This was the key question addressed by representatives of fourteen NGOs from around the world during the 2<sup>nd</sup> International Seminar on the UN Special Procedures System organised by the World Organisation Against Torture (OMCT). The seminar was held in Geneva from 23 to 27 June and took place in parallel with the 15<sup>th</sup> annual Meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council.

The core discussions were aimed at strengthening synergies between national NGOs and the UN Special Procedures mandate holders, with a particular view to reducing violence associated with the denial of economic, social and cultural rights. The outcome of the seminar highlighted the mutually beneficial relationship between national NGOs and mandate holders. Indeed, on the one hand, mandate holders rely on well-targeted information reported from the field, and on the other, national NGOs benefit from the international exposure that the Special Procedure System offers to their concerns.

During the seminar, the participants – representatives of NGOs from Brazil, Bulgaria, Colombia, Congo Brazzaville, Kenya, India, Lebanon, Mexico, Mozambique, Nigeria, Peru, Philippines, Thailand, and Uganda - presented and discussed case-studies examining the economic, social and cultural root causes of torture in their countries. The entry point of the debate focused on the policies and programmes that are the cause of poverty and marginalisation, and that, consequently, lead to discontent, protests and violence. Among the main issues addressed by the participants were conflicts arising from access to land, forced evictions, access to water resources and adequate food, militarisation and the effects of free trade agreements and liberalisation policies.

More specifically, the fourteen cases presented during plenary sessions and analysed in detail in working groups addressed the following themes:

- Indigenous communities subjected to gross human rights violations by private actors or private militia in connection with development projects. The forced eviction of indigenous communities without alternative resettlement and remedy.
- Violence generated by land grabbing and the inability of the dispossessed - often peasant farmers or pastoralists - to provide for themselves and their families;

- Omission by the State to correct gross inequalities and uneven distribution of resources, particularly as regards the most marginalised communities. Absence of mechanisms addressing inequality and of programmes to promote the enjoyment of economic, social and cultural rights. Demonstrations to protest against these poor living conditions are frequently met with violent repression;
- Violence against vulnerable groups including children, migrants and persons with mental disabilities. Lack of effective access to health and social services for these groups. Victims of torture denied access to rehabilitation services and social support;
- Criminalisation of poverty, leading to false charges against and imprisonment of the poor, suppression of legitimate social protest, and police impunity as regards arbitrary executions and violence against the poor;
- Widespread poverty and environmental damage caused by extractive industries, and violence directed at local populations when they call for respect for their rights and a fair share of revenues.

The individual 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, persons with disabilities, indigenous peoples, women and children, as well as economic, social and cultural rights defenders. For each case, the participants developed concrete recommendations on the type of action needed to effectively address these situations. They also drew up lists of key national and international actors to whom to address their concerns and recommendations. Lastly, participants explored the ways in which the UN Special Procedures System can help them address these concerns.

To support participants in their reflections, OMCT invited a number of UN mandate holders for an in-depth exchange of views. In this way, participants had the opportunity to interface directly with mandate holders on how to deal with the link between torture and the denial of economic, social and cultural rights in their countries. Specifically, participants met with the Special Rapporteurs on Education, Human Rights of Indigenous Peoples, Right to Food, Human Rights Defenders, Right to Housing, and Human Rights of Migrants, as well as the Independent Expert on Minority Issues and the assistant to the Special Rapporteur on Torture. All mandate holders emphasised the need to enhance the relationship between the Special Procedures System and national NGOs, especially when addressing the economic, social and cultural root causes of violence and other human rights violations.

In addition, participants attended the 15<sup>th</sup> annual Meeting of Special Procedures mandate holders, during which OMCT made a statement on the UN Special Procedures System, indicating, *inter alia*, that the above-mentioned NGO representatives from around the world encouraged the mandate holders to focus attention - both individually and collectively - on the root causes of violence in all their activities.

Many of the NGOs represented at OMCT's seminar have also adhered to the Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (please see [http://www.omct.org/pdf/ESCR/2008/maputo\\_declaration\\_en.pdf](http://www.omct.org/pdf/ESCR/2008/maputo_declaration_en.pdf)). This Declaration was drafted by OMCT and eighteen African NGOs on the occasion of the OMCT African Regional Seminar on Addressing the Economic, Social and Cultural Root Causes of Torture, held in Maputo, Mozambique, from 7 to 11 May 2008.

Geneva, 11 July 2008

## Appendix 3



### **OMCT acts to prevent further violence in connection with a large scale open-pit coal mine in Phulbari, Bangladesh and welcomes the Asian Development Bank's suspension of support for this project**

*Geneva, 3 July 2008:* The project for an open-pit coal mine in Phulbari – promoted by British company GCM Resources - has provoked widespread concern over its potential socio-economic, environmental and human rights impact. Protests against this project have already resulted in loss of life and injury. OMCT has contacted all parties involved, including the Government of Bangladesh, private financial institutions and the Asian Development Bank, to express its deep concern at the risk of further violence associated with the project. 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.

#### **The mining project, human rights and violence**

In December 2007 and January 2008 OMCT acted to prevent further killings and violence in connection with the Phulbari mining project - Dinajpur District of **Bangladesh** - and to ensure respect for the human rights of the local communities and indigenous peoples directly affected. In August 2006, several persons had been killed and many injured as a result of action by police and personnel of the Bangladesh Rifles against demonstrations of opposition to the proposed large scale open-pit coal mine. Local NGOs approached OMCT to express their serious concern that further violence, ill-treatment and even deaths could result from Government reaction to the expression of opposition by the local communities and indigenous people directly affected.

The information reported to OMCT stated that if the proposed Phulbari mine was carried out it would negatively affect between **50,000 and 500,000 people** through mass evictions, destruction of agricultural land and the pollution that would result from extraction activities. The mine would also seriously compromise the rights to health and to an adequate standard of living of those affected (including access to housing, land, adequate food and clean water). In addition, concern was expressed at the failure to carry out serious environmental impact assessments, and the lack of adequate information and consultation with the affected communities about the project and its potential consequences was criticised.

#### **OMCT acts to prevent further violence**

OMCT carried out in-depth research into the mining project itself, its implications for the human rights of the affected populations, local resistance to the project, the limits imposed by

the Government on expression of opposition and the specific impact on the economic, social and cultural rights of those affected. OMCT identified how those human rights violations were connected to past violence and created the risk of further violence in the future.

OMCT also investigated the corporate structure of the mining operation, the planned support of the Asian Development Bank (ADB) and that of private banks as shareholders in the mining company in order to identify the specific responsibilities of each.

This research resulted in an OMCT **Action File (BGD 21 12 07)** (annex 1). This Action File focussed attention on preventing violence by addressing the economic, social and cultural root causes and was seen by OMCT as adding a crucial dimension to the efforts of other organisations objecting to the potentially negative impacts of the proposed mine.

OMCT's Action File called on the Government of the Peoples' Republic of Bangladesh to suspend the mining project and to initiate a thorough and independent investigation into the human and environmental impact of the project and to request the assistance of the Office of the United Nations High Commissioner for Human Rights in that connection. It also called on the Government to ensure the full and informed participation of all local communities in the investigation, to make the report public and abide by its recommendations. It also called on the Government to lift restrictions on public demonstrations and take all necessary steps to prevent future violence. See annex 1 for further recommendations to the Government.

The Action File called on Global Coal Management Resources Plc (GCM), the company responsible for the project, to suspend its activities pending the human and environmental impact report, to fully respect the land rights, resources and livelihoods of all affected communities and to provide fair and adequate compensation. The File also called on the major shareholders in GCM (UBS, RAB Capital and Barclays) to ensure that GCM abided by the impact report and respected national laws and international human rights standards.

The Asian Development Bank (ADB) was scheduled to approve in June 2008 a US\$ 100 million loan and a US\$ 200 million political risk guarantee for the project. This led OMCT to contact the ADB, transmit the Action File and request the Bank to recognise the discontent of the majority of the local population at the manner in which the preparatory phases of the Phulbari project have been conducted. OMCT asked the ADB to insist on the production of a comprehensive human rights and environmental impact study with the full and informed participation of all local communities as a fundamental condition for financial support.

OMCT transmitted the Action File along with requests for specific action to the President of Bangladesh and relevant Government ministers, the Chief Executive of the mining company GCM, the Chief Executives of the above mentioned financial institutions, together with that for Credit Suisse, another shareholder (calling attention to the Equator Principles and the UN Global Compact) and the President of the ADB (see annex 1).

The Action File was also transmitted to the UN Special rapporteurs on Indigenous People and Adequate Housing and the UN Special representative on Transnational Corporations and Human Rights. In addition, the Action File was transmitted to the chairs of the European Parliament Committees on International Trade and Development and the Subcommittee on Human Rights. Finally, the file was transmitted to the 282 national NGOs in OMCT's SOS-Torture Network with the request that they, in turn, seize the appropriate authorities.

### **The reaction**

GCM Resources, the company which was awarded the licensing agreement for mining the Phulbari deposit through Asia Energy Corporation, its wholly-owned subsidiary, contacted OMCT and proposed a meeting to discuss the issues raised in the Action File. As a result, on 26 February 2008 OMCT staff met with the Sustainable Development Manager of GCM Resources in Geneva. The main points made by GCM at that time are summarised in the attached note (annex 2) that has been shared with and approved by GCM. That includes information on GCM's Environmental and Social Impact Assessment (ESIA), the level of compliance' with both ADB's Safeguard Policies and the Equator Principles, planned engagement with local stakeholders and plans concerning compensation of affected communities and local businesses. These points do not necessarily reflect the views of OMCT.

OMCT also received responses from Barclays PLC, RAB Capital, Credit Suisse and UBS, the main financial institutions involved. Unfortunately, and notwithstanding some references to the Equator Principles and the Global Compact, the responses to a large extent reflected a lack of transparency and a failure to take responsibility for the shares held in the name of clients. That constitutes a real challenge to ensuring that financial institutions take responsibility for the human rights implications of their investment decisions.

At the request of the Chair of the European Parliament Committee on Development, OMCT provided additional information on the Phulbari case. OMCT was subsequently requested to keep the Committee informed of further developments. The Committee Chair transmitted the Action File to the Secretariats of the South Asian Delegation and the Human Rights Subcommittee.

### **The Asian Development Bank's decision**

At the beginning of April 2008, the ADB decided to suspend its support for the project. In a statement, the ADB said, "*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.*"<sup>2</sup>

The ADB's decision bears testament to the potential of concerted civil society action to influence an issue with serious human rights implications.

### **The future**

OMCT, together with its national NGO partners, will remain vigilant to help ensure that any future work on the proposed mine respect the rights of local communities and international human rights standards in the matter.

For further information contact:  
Michael Miller,  
Director of Research and Development,  
[mm@omct.org](mailto:mm@omct.org)  
+44 022 809 4939

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<sup>2</sup> See <http://www.guardian.co.uk/business/2008/apr/06/mining.bangladesh>



**Appendix 3 (cont.)****ANNEX 1*****Addressing the economic, social and cultural root causes of violence***

OMCT ACTION FILE (BGD 211207.ESCR)

**BANGLADESH: RISK OF VIOLENT SUPPRESSION OF PUBLIC OPPOSITION TO THE PHULBARI COAL MINE PROJECT, DINAJPUR DISTRICT, BANGLADESH*****Your action is called for to suspend the Phulbari Project until community concerns are met*****OMCT is concerned that police and security forces may again employ violence to deal with public opposition to the Phulbari open-pit mining project**

The International Secretariat of the World Organisation Against Torture (OMCT), on the basis of reliable information received, expresses its concern that communities affected by the proposed Phulbari open-pit coal mine in the Dinajpur District of **Bangladesh**, have been neither adequately consulted nor fully informed regarding this significant project. Estimates put the number of people affected by the mine at anything between 50,000 and 500,000, including a number of indigenous communities. Many of these affected will be forced to leave their homes and land.

A public demonstration against the mine in August 2006 saw at least five persons killed and fifty others injured by the police and personnel of the Bangladesh Rifles. OMCT expresses its serious concern that further violence, ill-treatment and even deaths may ensue if local communities again seek to give public expression to their opposition.

To prevent further human right violations, and having regard to the strong local opposition to the project, OMCT calls upon the **Government of the People's Republic of Bangladesh** to instigate a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project, ensuring the full and informed participation of all local communities, to make the findings of this investigation available in a public report and to abide by the recommendations of this report. It also calls for the Government to lift the restrictions on public demonstrations imposed under emergency rule and take all necessary steps to prevent future episodes of violence by police and security forces against persons defending their human rights.

OMCT calls upon **Global Coal Management Resources Plc (GCM)** - the company in charge of the Phulbari project - to suspend its activities in this area until this investigation has been conducted and to abide by the recommendations resulting from this investigation. It also calls upon GMC to fully respect the land rights, resources and livelihoods of all local communities affected by any subsequent mining activity and provide fair and adequate compensation wherever appropriate.

Finally, OMCT calls upon **UBS, RAB Capital and Barclays**, all of which have significant financial interest in GCM, to use their influence to ensure that the company abides by the recommendations issuing from the independent investigation and to make certain that it complies fully with national laws and international human rights standards.

### **The Phulbari coal mine project**

The Phulbari coal deposit, in the Dinajpur District of Bangladesh, was discovered during the second half of the 1990s by the Australian mining company BHP. In 1998, the Government of Bangladesh awarded the licensing agreement for mining the deposit to the Asia Energy Corporation (Bangladesh) Pty Ltd,<sup>3</sup> a wholly-owned subsidiary of British-registered Global Coal Management Resources Plc. (GCM). The Phulbari mine is expected to lead to a 1 per cent increase in the gross domestic product of Bangladesh over the next 30 years, bringing more than US\$ 21 billion to the Bangladeshi economy.<sup>4</sup> The Asian Development Bank is scheduled to approve a US\$100 million private sector loan and a US\$200 million political risk guarantee in favour of the Phulbari project on the basis of environmental and social impact studies included in a Definitive Feasibility Study carried out since April 2004.<sup>5</sup>

The Phulbari project is an open-pit mine.<sup>6</sup> In order to access the coal seams, it is reported that between 140 and 300 metres of earth will need to be removed, affecting an area of 59 km<sup>2</sup>. In terms of the human impact of the project, there are differing views. According to estimates from GCM, the mining company involved, the project will affect approximately 50,000 people (a total of some 12,000 households), including some 2,200 indigenous people. Of this total, some 43,000 will be displaced from their homes and land by the mine. This number will be higher if the full-scale expansion plans for the mine are carried out. On the other hand, according to the National Committee to Protect Oil, Gas, Mineral Resources, Electricity and Ports, the number of people potentially affected could be as many as 470,000, including indigenous peoples belonging to Santhal, Munda and Mahali tribes, who occupy some 100 villages in Phulbari and surrounding sub-districts.<sup>7</sup>

In terms of the impact upon community structures, it is reported that the project will involve the closure of 50 educational institutions, including six colleges and 18 *madrassas*,<sup>8</sup> as well as 171 mosques, 13 temples and other religious establishments.<sup>9</sup> The mine will also have a significant environmental impact due to the considerable waste material produced in the extraction process. This in turn will have serious implications for the livelihood and, potentially, the health of local communities: the area around Phulbari is one of the most productive agricultural zones in Bangladesh, and the project will not only destroy productive farmland, but also cause the diversion of the Choto Jamuna River from its natural course. According to Professor Anu Muhammad in the Faculty of Economics at Jahangirnagar University, Bangladesh, studies in other countries have shown that rivers as far as 160km away from an open-pit mine can remain polluted for three decades as a result of the waste generated. He concludes that "in a country like Bangladesh, with hundreds of small rivers linked like a huge net, polluted water can travel long beyond the mining area."<sup>10</sup> Despite these concerns, on 11 September 2005, the Bangladeshi Department of Environment approved the

<sup>3</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

<sup>4</sup> BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

<sup>5</sup> See Asian Development Bank – Projects, <http://www.adb.org/Documents/PIDs/39933014.asp>

<sup>6</sup> Open-pit mines are also known as opencast mines. Both terms refer to the extraction of rocks or minerals by excavating earth to create pits rather than sinking shafts and digging tunnels.

<sup>7</sup> The Daily Star: *Rehabilitation issue makes it a tough task*, <http://www.thedailystar.net/2006/08/29/d6082901159.htm>

<sup>8</sup> the Arabic term for “schools”.

<sup>9</sup> The Daily Star: *Rehabilitation issue makes it a tough task*, <http://www.thedailystar.net/2006/08/29/d6082901159.htm>

<sup>10</sup> BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

Environmental Impact Assessment Report prepared by the Asia Energy Corporation and granted environmental clearance for the mining operation.<sup>11</sup>

In order to gain the consent for the project from local communities, Asia Energy reportedly distributed colour televisions, cash, cloths and blankets to affected populations.<sup>12</sup> Furthermore, Asia Energy also reportedly refused to be bound by the 1894 Land Acquisition Act which regulates land acquisition and/or expropriation by the Government, and demanded the adoption of special laws in order to avoid the obligation to obtain the free, prior and informed consent of the affected communities.<sup>13</sup>

On 31 August 2006, five days after large and violent demonstrations against the Phulbari project, the Junior Minister for Food and Relief declared that the Government had revoked all existing agreements with Asia Energy and that a moratorium had been imposed on all open-pit mining in Bangladesh. On the same day, Asia Energy declared that it had received no official communication to that effect, and that the position of the Government remained to be clarified.<sup>14</sup> In practice, coal mining remains an important element in Bangladesh's development strategy: on 17 November 2007, the Coal Policy Review Committee adopted a proposal encouraging partnerships between the Government and foreign firms engaged in mining in order to promote investment in and develop of the coal sector. The Committee also suggested strengthening the existing Bureau of Mineral Development so that it could deal more efficiently with foreign companies in leasing transactions and indicated its intention to establish coal-based power plants in rural areas.<sup>15</sup>

### **Local resistance to the project and violence against protesters**

*“What will happen to us if we are forced to move from here? What will happen to our livelihoods? I don't want us to live like this. Our mosques and holy places and the places we were born will be destroyed. What will happen to the graveyards of our ancestors?”*

75-year-old man, resident of Phulbari sub-district<sup>16</sup>

Resistance to the proposed Phulbari project is widespread in the areas. On 26 August 2006, an estimated 50 to 100,000 demonstrators, mainly farmers and indigenous people, protested against the project.<sup>17</sup> At least five demonstrators were killed and about fifty others reportedly injured and taken to hospital after the police and the Bangladesh Rifles (BDR) opened fire on demonstrators.<sup>18</sup> The exact death toll as a result of the shooting remains unclear, and may be

<sup>11</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

<sup>12</sup> The Daily Star: *Cancellation of Phulbari Coal Project demanded*, <http://www.thedailystar.net/2006/08/24/d608241004111.htm>

<sup>13</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref6](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref6)

<sup>14</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

<sup>15</sup> *Government Prime Role Recommended in Coal Mining*: <http://phulbariresistance.blogspot.com/2007/11/govts-prime-role-recommended-in-coal.html>

<sup>16</sup> BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

<sup>17</sup> Bangladesh News - Phulbari Coalmine Killing, 28 August 2006, <http://www.bangladeshnews.com.bd/2006/08/28/phulbari-coalmine-killing-thousands-defy-ban-stage-protest/>

<sup>18</sup> The people were identified as: Tariqul Islam (24 years-old), Ahsan Habib (35), Osman (24), Raju (8) and Chunnu. Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

as many as ten - it was reported that the BDR dumped some of the dead bodies.<sup>19</sup> Furthermore, the Bangladeshi *Daily Star* newspaper reported that, according to eye-witnesses, BDR personnel threatened Magistrate Abdul Aziz with a gun in order to make him sign the authorization to open fire on the protesters.<sup>20</sup> Neither the Government nor the Asia Energy Corporation have taken any responsibility for these events.

Under the Emergency Rule declared by Bangladesh's military government in January 2007, fundamental civil rights have been suspended and public protest banned.<sup>21</sup> These Emergency Rules effectively remove the possibility of the populations affected by the Phulbari mine engaging in peaceful protest, and OMCT expresses its strong concern that, should such protest nevertheless take place, they will be met with further and possibly more extreme violence on the part of the police and security forces.

Despite the violent suppression of public protest, resistance to the project remains high. On 15 December 2007, representatives of the sub-districts of Phulbari and neighbouring Birampur, Nababganj and Parbatipur wrote to the president and executive Directors of the Asian Development Bank expressing their concern that the project will "increase the poverty of the local population as well as cause environmental disaster".<sup>22</sup> In this letter they claim that the social impact analysis carried out misrepresented the nature of public consultations around the project and that consultations emphasised the potential benefits of the project while failing to provide information on the negative impact. Furthermore, the community representatives express concern that only minimal information was provided in Bengali regarding the environmental impact of the project and that, to their knowledge, the environmental impact assessment has been neither translated nor summarised in the local language. They also underline that other media must be employed to communicate with a population of which approximately 60 per cent is illiterate. Additionally, they express serious concerns that land compensation and resettlement plans are insufficient to meet the losses likely to be incurred by local populations as a result of the mine, and that Asia Energy/GMC's claim that 50,000 persons will be directly affected (and hence entitled to compensation) is a significant underestimation.

### **Economic Social and Cultural Rights**

Bangladesh acceded to the International Covenant on Economic, Social and Cultural Rights on 5 October 1998, and consequently the Government of Bangladesh has the duty to ensure the protection, promotion and enjoyment of these rights for all its citizens. The Phulbari mine project jeopardises the human rights of thousands of people due to the mass evictions and destruction of agricultural land it will require and to the pollution that will result from the extraction activities. In particular, OMCT is concerned that the mine will seriously compromise the rights to health and to an adequate standard of living (including access to housing, land, adequate food and clean water) of those affected.<sup>23</sup>

<sup>19</sup>Bangladesh News: *Phulbari Coalmine Killing*, 28 August 2006

<http://www.bangladeshnews.com.bd/2006/08/28/phulbari-coalmine-killing-thousands-defy-ban-stage-protest/>

<sup>20</sup>The Daily Star: *Magistrate forced to give firing order*,

<http://www.thedailystar.net/2006/08/30/d6083001107.htm>

<sup>21</sup> <http://jurist.law.pitt.edu/paperchase/2007/01/bangladesh-media-restrictions-under.php>

<sup>22</sup> see "Phulbari communities write to ADB President and Executive Directors",

<http://banglapraxis.wordpress.com/2007/12/19/phulbari-communities-write-to-adb-president-and-executive-directors/>

<sup>23</sup> *The Basic Principles and Guidelines on Development-based Evictions and Displacement* prepared by the Special Rapporteur on adequate housing clearly define forced evictions as a violation of human rights, *Basic principles and guidelines on development-based evictions and displacement*, A/HRC/4/18 5 February 2007

OMCT also wishes to underline the comments of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Rodolfo Stavenhagen, who has expressed his concerns that the resources of indigenous communities are being appropriated and utilised, without prior consent, by powerful economic consortia, and that this “is currently one of the most controversial issues involving indigenous people, the State, and private enterprises, and often also the international financial institutions.”<sup>24</sup> In addition, the recent UN Declaration on Indigenous Peoples' Rights states that, “indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”<sup>25</sup>

### **The role of financial investors**

According to the information received, UBS, RAB Capital and Barclays financial institutions all have an interest in GCM, the sole owner of the Asia Energy Corporation and the Phulbari Coal Project. In particular, UBS is the second largest listed shareholder, owning 11.39% of GCM.<sup>26</sup>

OMCT regrets the lack of transparency demonstrated by UBS in responding to civil society queries regarding its involvement in the Phulbari project. In response to questions on its position, the Bank denied that it had any strategic interest in the company and, noting that “it does not comment on potential or specific client relations or transactions or its investments in any particular company” indicated that its purchase of GCM shares “may or may not” have been carried out on behalf of a third party or parties.<sup>27</sup> OMCT calls upon UBS, as a leading financial institution operating in the global market, to lead by example in establishing a more transparent system of accountability, assessing the human rights and environmental impact of potential investments and assuming responsibility for investments in activities that breach international law and violate human rights.

### **Requested actions**

*Please write to the **Government of Bangladesh** asking it to:*

- Instigate a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project, ensuring the full and informed participation of all local communities. Make the findings of this investigation available in a public report (including appropriate language versions) and abide by the recommendations of this report. Request assistance from the UN Office of the High Commissioner for Human Rights to help ensure that the investigation is in conformity with international standards.
- Impose a moratorium on any other open-pit mining in Bangladesh, as initially announced on 31 August 2006, until the full impact on human rights and the environment of this activity has been assessed.
- Fully respect international human rights standards in any subsequent mining activity at Phulbari or elsewhere. This includes engaging in meaningful prior consultation with affected populations, ensuring that they are fully informed of the project proposals and

<sup>24</sup> A/HRC/4/32, 27 February 2007

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/110/99/PDF/G0711099.pdf?OpenElement>

<sup>25</sup> UN Declaration on the Rights of Indigenous Peoples - Article 10,

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement>

<sup>26</sup> as of 15 November, 2007

<sup>27</sup> see <http://www.banktrack.org/index.php?show=news&id=138>

their own rights in this regard, and providing fair and adequate compensation for loss of land, housing or livelihood where displacement is unavoidable. Ensure in all such cases an adequate and appropriate resettlement programme.

- Ensure that the proposed coal policy review strictly adheres to international human rights standards and to international principles relating to forced evictions and indigenous peoples.
- Lift the restrictions on public demonstrations imposed under emergency rule and take all necessary steps to prevent future episodes of violence by police and security forces against persons defending their human rights.

*Please write to **Global Coal Management Resources Plc** asking it to:*

- Suspend activities in Phulbari until a thorough, independent and fully-consultative investigation into the proposed project's human and environmental impact has been conducted and abide by the recommendations resulting from this investigation.
- Fully respect the land rights, resources and livelihood of all local communities affected by any subsequent mining activity, and provide fair and adequate compensation wherever appropriate.
- Take all necessary measures to minimise the environmental impact of mining activities and avoid the pollution of watercourses.
- Comply fully with national laws and international human rights standards in all aspects of its activities, in particular as regards the adverse effects of these activities on indigenous and local communities. Only carry out operations subsequent to a full human rights impact assessment, and having fulfilled, *inter alia*, the legal requirement to engage in meaningful prior consultation with persons affected.

*Please write to **UBS, RAB Capital and Barclays** asking them to:*

- Call for a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project with the meaningful input of local communities.
- Use their financial influence in Global Coal Management Resources Plc. to ensure that the company abides by the recommendations issuing from the independent investigation and to make certain that it complies fully with national laws and international human rights standards.
- Carefully evaluate the impact of their current investments on the enjoyment of human rights around the world, and include a clear human rights impact assessment in future investment decisions.
- Promote greater transparency in their financial transactions.

*Please write to the **Asian Development Bank** asking it to:*

- Recognise the discontent of the majority of the local population at the manner in which the preparatory phases of the Phulbari project have been conducted and insist on the production of a comprehensive human rights and environmental impact study with the full and informed participation of all local communities as a fundamental condition for financial support. Continue to monitor the human rights situation in Phulbari and surrounding sub-districts should the project be approved.

OMCT also asks the UN Special Rapporteur on the human rights and fundamental freedoms of indigenous people, the UN Special Representative on the issue of human rights and



transnational corporations and other business enterprises, and the UN Special Rapporteur on adequate housing to monitor closely developments as regards the Phulbari coal mine project.

### **List of addresses**

#### *Government of Bangladesh and other Bangladeshi institutions*

Cabinet of the Government of the Peoples' Republic of Bangladesh,  
Cabinet Division,  
Building No. 1, Room No. 301,  
Bangladesh Secretariat,  
Dhaka-1000, Bangladesh.  
Tel.: 88-02-7162099  
Fax: 88-02-7160656

Dr. Fakhruddin Ahmed,  
Chief Adviser Government of the People's Republic of Bangladesh,  
Office of the Chief Advisor,  
Tejgaon, Dhaka,  
Bangladesh.  
Tel: +880 2 8828160-79, 9888677  
Fax: +880 2 8113244 or 3243 or 1015 or 1490

Barrister Moinul Hossain,  
Adviser, Ministry of Law, Justice & Parliamentary Affairs,  
Bangladesh Secretariat,  
Dhaka-1000,  
Bangladesh.  
Tel.: +88-02-7160627  
Fax: +88-02-7168557

Mr. Mohammad Ruhul Amin,  
Chief Justice,  
Supreme Court of Bangladesh,  
Supreme Court Building,  
Ramna, Dhaka-1000  
Bangladesh,  
Fax: +880 2 9565058

Barrister Fida M Kamal,  
Attorney General of Bangladesh,  
Office of the Attorney General Supreme Court Building,  
Ramna, Dhaka-1000,  
Bangladesh.  
Tel: +880 2 9562868  
Fax: +880 2 9561568

Mr. Nur Mohammad,  
Inspector General of Police (IGP),  
Bangladesh Police,  
Police Headquarters' Fulbaria,

Dhaka-1000  
Bangladesh

Permanent Mission of the People's Republic of Bangladesh to the United Nations in Geneva,  
65 rue de Lausanne,  
1202 Geneva,  
Switzerland,  
Fax: +41 22 738 46 16,  
E-mail: [mission.bangladesh@ties.itu.int](mailto:mission.bangladesh@ties.itu.int)

Embassy of the People's Republic of Bangladesh in Brussels,  
29-31 rue J. Jordaens,  
1000 Brussels,  
Belgium,  
Fax: +32 2 646 59 98;  
E-mail: [bdootbrussels@freegates.be](mailto:bdootbrussels@freegates.be)

Please also write to the Bangladesh Embassy in your country.

*The Mining Company*

Global Coal Management (GMC) Resources Plc,  
2nd Floor, Foxglove House,  
166 – 168 Piccadilly,  
London, W1J 9EF,  
United Kingdom,  
Tel.: + 44 (0)20 7290 1630  
Fax: + 44 (0)20 7290 1631  
E-mail: [info@gcmplc.com](mailto:info@gcmplc.com)

*Financial Interests*

Mr. Marcel Ospel,  
Chairman, UBS AG,  
Bahnhofstrasse 45,  
8001 Zürich  
Switzerland

RAB Capital,  
1 Adam Street,  
London, WC2N 6LE,  
United Kingdom.  
Te.l: 0870 702 0000  
Fax: 0870 703 6101

Barclays,  
1 Churchill Place,  
London, E14 5HP



United Kingdom.

*The Asian Development Bank*

The President and Executive Directors,  
Asian Development Bank,  
P.O. Box 789,  
0980 Manila,  
Philippines.  
Tel.: + 632 632 4444  
Fax: + 632 636 2444  
E-mail: [information@adb.org](mailto:information@adb.org)

**Information on action taken and follow-up**

OMCT would appreciate receiving information on any action taken in relation to the matters dealt with in this Action File so that it might be shared with OMCT's network and others interested in this issue. Please quote the code of this appeal on the cover page in contacting us.

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Geneva, 21 December, 2007

**World Organisation Against Torture**

P.O. Box 21 - 1211 Geneva 8  
Switzerland

Tel.: 0041/22 809 49 39 / Fax: 0041/22 809 49 29

E-mail: [omct@omct.org](mailto:omct@omct.org) / Web: [www.omct.org](http://www.omct.org)

**Appendix 3 (cont.)**

**Annex 2**  
**Global Coal Management Resources Plc (GCM)**  
**Meeting with Julia Lewis, Sustainable Development Manager, GCM Resources**  
**Geneva, Tuesday 26 February 2008**

*The following is a summary of the main points communicated by GCM Resources with respect to the Phulbari Project. They do not necessarily reflect the views of OMCT.*

- GCM recognises that social issues are not covered in detail in the *Summary Environmental Impact Assessment* disclosed by the Asian Development Bank (ADB), however this document was prepared according to the format required by ADB. GCM has carried out a comprehensive Environmental and Social Impact Assessment (ESIA) which includes various socio-economic studies such as the Resettlement Plan (RP) and the Indigenous Peoples Development Plan (IPDP). These studies cover the potential socio-economic impacts of the project on local communities and businesses and provide measures to mitigate against these. GCM is reviewing these plans in detail with ADB as part of their due diligence process.
- The ESIA for the mine was completed a month before the final release of the new IFC (International Finance Corporation) Performance Standards.
- An independent study commissioned by Barclays Capital indicated that the Phulbari project demonstrated a 'moderate to high level of compliance' with both ADB's Safeguard Policies and the Equator Principles.
- The suspension of activities at the project site, and the closure of the Phulbari Information Centre in August 2006 have contributed to an 'information void'. GCM states that it had always made clear that Phulbari would be an open-pit mine. As with all mining projects of this scale, while there is local support for the project, there are also those who have concerns regarding its impact. Extensive further engagement is planned with local stakeholders and will continue throughout the mine life to address their concerns.
- Consultations took place for the most part from 2004 to 2006. Engagement with communities was halted in August 2006, at a critical point in the project's development. The delay in project implementation means that certain data will need to be reviewed. GCM continues to optimise the RP, IPDP for the Phulbari Coal Mine.
- Regarding compensation, affected communities and local businesses were surveyed for data on their current livelihood and earnings and other assets such as land, buildings and crops. Studies show that the informal economy is harder to account for but significant. GCM is conscious that Indigenous People's Groups in particular have cultural sensitivities and dependencies on the land. In keeping with best practices in rehabilitation, GCM is looking at ways to focus on like for like compensation, rather than over reliance on cash for compensation. The project will ensure that those who have to be resettled will have their living conditions improved and livelihoods improved or at least restored. Investments in public services, such as water, schools and health clinics will also be made by the Company.

**Appendix 3 (cont.)**

**Annex 3  
Responses from Banks**

UBS<sup>28</sup>



Dr. Andreas Missbach  
Berne Declaration  
Private Finance Programme  
Postfach  
8026 Zürich

UBS AG  
Postfach  
8098 Zürich  
Tel. +41-44-234 11 11

Communications Management

Dr. Christian Leitz  
Tel +41-44-234 29 57  
Fax +41-44-234 21 74  
christian.leitz@ubs.com

www.ubs.com

December 6, 2007

**Global Coal Management**

Dear Mr. Missbach and Mr. Barnden

Thank you for the letter and documentation you sent to Marcel Ospel on 21 November.

With regard to your enquiry pertaining to Global Coal Management, please note that UBS has reportable positions in a large number of companies in which it does not have any strategic interest. Often UBS holds these positions on behalf of clients.

The diverse positions in a particular company are collated across business units and reported to the company once the total position has crossed (or fallen below) the applicable notification threshold.

UBS does, however, not comment on specific or potential client relations or transactions or its investments in any particular company.

Yours sincerely,

A handwritten signature in black ink, appearing to be "C. Leitz".

Christian Leitz  
UBS AG

A handwritten signature in black ink, appearing to be "M. Willi".

Michael Willi  
UBS AG

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<sup>28</sup> Transmitted in response to OMCT' letter on 11 February 2008 by Dr. Christian Leitz, UBS AG, Communication Management – Corporate Responsibility

## RAB Capital

Pour action ..... *Richard* .....  
Reçu le 25 FEV. 2008  
Copie à .....  
A classer .....

## RAB CAPITAL

1 ADAM STREET LONDON WC2N 6LE  
TEL: +44 (0)20 7389 7000 FAX: +44 (0)20 7389 7050  
EMAIL: rab@rabcap.com WEB: www.rabcap.com

Mr E Sottas  
OMCT Secretariat International  
8, rue du Vieux Billard  
Case Postale 21  
CH-1211  
Geneve 8  
Switzerland

20 February 2008

Dear Mr Sottas

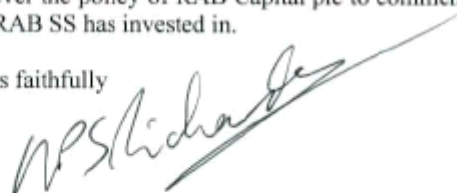
### Phulbari Mining Project

I refer to your letter of 1 February 2008 in which you express concerns about the Phulbari Mining Project in the Dinajpur District of Bangladesh.

RAB Capital plc acts as investment manager for RAB Special Situations (Master) Fund Limited ("RAB SS"), the entity that has invested in GCM Resources plc ("GCM"). As I am sure that you are aware, RAB SS has recently agreed to sell the majority of its holding in GCM.

We appreciate your efforts to ensure that the Government of the People's Republic of Bangladesh balances its economic, social and environmental responsibilities to its people when working with GCM to progress the Phulbari Mining Project. It is not however the policy of RAB Capital plc to comment on the operations of the companies that RAB SS has invested in.

Yours faithfully



Philip Richards  
Chief Executive

## Credit Suisse

**CREDIT SUISSE** *tom / sime*

Reçu le **29 FEV. 2008**

Public Policy  
Copie à *es*  
John Tobin - de la Fuente  
john.tobin@credit-suisse.com

**CREDIT SUISSE**

P.O.Box 1  
CH-8070 Zurich

Phone +41 44 333 17 17  
Fax +41 44 333 69 68  
www.credit-suisse.com

Organisation Mondiale Contre la Torture  
Eric Sottas  
Director  
8, rue du Vieux Billard  
Case Postale 21  
1211 Genève

February 26, 2008

**Your letter regarding Phulbari mining project, Bangladesh**

Dear Mr. Sottas:

We refer to your letter to Mr. Brady Dougan, Chief Executive Officer of Credit Suisse, dated February 1, 2008, in connection with the Phulbari open pit coal mine, a project under development by Global Coal Management plc (GCM) in Bangladesh.


We note your concerns about the potential environmental and social risks associated with this project as expressed in your letter, and thank you for the additional information included in the OMCT Action File enclosed with your letter. Please be assured that Credit Suisse, being a committed member of the UN Global Compact and a founding institution of the Equator Principles, operates a company-wide Reputational Risk Review Process, which aims to ensure that business relationships that entail potential risks relating to human rights, the environment, and other areas are examined in detail and are subject to a special authorization process. Any direct involvement of Credit Suisse in this or any similar project would therefore have to be thoroughly assessed in our risk review process.

While we are unable to comment about particular investments or positions, we should point out that, in general, shareholding positions attributed to Credit Suisse in public records are in most cases held by the bank on behalf of clients, who are the beneficial owners of such securities. As we are sure you understand, we have little or no leverage over the investment decisions of our clients where these are not prohibited or restricted by any applicable laws or regulations. And since we hold such shares on behalf of our clients, we are not in a position to actively engage with those companies regarding their application of environmental or social standards.


It is also worth pointing out that Credit Suisse shareholdings that are reported as part of our public disclosure requirements are as of a particular date; however, because of market events or client investment decisions the magnitude of these positions may vary both widely and quickly, and information in the public domain may become out of date in a relatively short time.

Yours sincerely

**CREDIT SUISSE**



Dr. René Büchel  
Head of Public Policy



John Tobin-de la Fuente  
Head of Public Policy-Sustainability Affairs

Investment Banking • Private Banking • Asset Management

## Barclays



26 March 2008

Mr Eric Sottas  
Director  
OMCT  
8 rue du Vieux Billard  
Case Postale 21  
CH-1211 Geneva 8  
Switzerland

Pour action... *Tom / Richard*  
Reçu le 31 MARS 2008  
Copie à  
A classer

1 Churchill Place  
London  
E14 5HP

Dear Mr Sottas

I write in connection with your letter to Barclays President, Bob Diamond, concerning the Phulbari mining project in Bangladesh and GCM Resources PLC.

Thank you for raising the issue with us, and for your comments about our adoption of the Equator Principles and membership of the Business Leaders' Initiative on Human Rights – I apologise for the delay in responding.

In response to the two action points highlighted, please be assured that Barclays takes our environmental and social responsibilities seriously and ensures that the projects we support meet our own stringent criteria, as well as local and international parameters. We were one of four banks that drafted the original Equator Principles (EPs) launched in 2003 and continue to apply the current revised and strengthened requirements. International and local regulatory compliance is also a requirement of our involvement.

Yours sincerely

Philippa Birtwell  
Head of Public Policy Research

## Appendix 4



### **World Organisation Against Torture (OMCT) Statement to the Committee on Economic, Social and Cultural Rights: List of Issues on Brazil**

**Geneva, 20 May 2008**

OMCT has compiled this list of issues with contributions from the Movimento dos Trabalhadores Rurais Sem Terra (MST) and the Movimento Nacional de Meninos de Rua.

OMCT's approach in compiling this list of issues is based on the conviction that torture and other forms of violence are related in many ways to disrespect for economic, social and cultural rights. If, therefore, these phenomena are to be effectively eliminated, then their economic, social and cultural root causes must be, first, understood and, secondly, effectively addressed.

OMCT recognises that the State party report highlights not only the achievements but also the challenges to the enjoyment of the economic, social and cultural rights. OMCT would like to take this opportunity to place the emphasis on the impact of specific issues in terms of torture and other forms of violence.

Brazil is a country strongly characterized by deep-rooted socio-economic disparities and inequalities, where high levels of violence are particularly concentrated in marginalised communities. These groups remain outside the protection of the State and are therefore doubly victimized. Millions of Brazilians are caught in a vicious circle of poverty, violence and lack of state protection and OMCT emphasises the need to break this cycle which is at the root of ever increasing levels of violence and conflict in Brazil.

First, OMCT and its Brazilian partners would like to draw attention to the crucial issue of access to land and the lack of implementation of national provisions on land allocation. To a large extent land, in Brazil, represents one of the primary sources of conflict and it is closely linked to a wide-range of human rights violations. As underlined in 2006 in the OMCT Report on human rights violations in Brazil, submitted to the Human Rights Committee, the intensification of land conflicts along with the rising number of families evicted from occupied lands contribute to the amplification of violence against and killings of peasants and rural workers. In most cases, these acts of violence are inflicted by powerful non-state actors.

Furthermore, land conflict is exacerbated by the rapidly growing ethanol industry and other forms of agribusiness that are characterized by the occupation and concentration of large land plots. Similarly, the right to water is being seriously challenged by the economic interest of national and international projects. The biofuel industry also encourages forced labour and the trafficking of labourers. In this respect, OMCT and its Brazilian partners are particularly

concerned at the rising levels of trafficking of workers, predominantly men, for forced agricultural labour. Frequently, forced labourers have their personal documents removed and are taken to remote regions to work in harsh conditions. Moreover, OMCT points out that persons trapped in this labour trafficking web principally come from low-income families. While women are trafficked both within and beyond the country, young men are mainly trafficked internally as slave labourers.

OMCT wishes to emphasise the high level of housing deficit and inadequacy that affects millions of people living in precarious and informal settlements. Rural poverty drives rapid urbanization and, in turn, this urbanization and the consequent urban overpopulation have led to deterioration of living conditions and an increase in homelessness, poverty, violence, and insecurity.

OMCT would also like to draw attention to the situation of economic, social and cultural rights defenders. Struggling against marginalization, land grabbing and exploitation, they continue to be threatened and harmed by gunmen or private militias commissioned by powerful private actors. This phenomenon affects rural areas in particular, where violence against economic, social and cultural rights defenders is mainly rooted in conflicts over land, exploitation of natural resources, and claims for rights of minorities such as indigenous peoples and Quilombola communities.

In particular, these minority communities face socio-economic precariousness and insecurity due to a process of incursion on their lands entailing the destruction of their economy, culture and identity. Moreover, poverty, discrimination, exploitation and marginalization are all dimensions that characterize the lives of many Afro-Brazilians.

Regarding the right of women, OMCT would like to point out that, despite the fact that Brazilian legislation *de jure* provides for instruments protecting the rights of women, the situation is *de facto* characterized by serious inconsistencies in the way those rights are implemented. In practice this means that women do not receive the protection from domestic violence and various forms of exploitation to which they are entitled. This situation is exacerbated by regional, economic and social disparities, and it is particularly manifested among women from the most vulnerable sectors, such as Afro-Brazilian women, domestic workers, women living in rural areas, and women from other marginalized groups.

Finally, OMCT and its Brazilian partners express its deepest concern at the situation of Brazilian children, in particular those living in poverty, street children and children belonging to minorities, who are often the first victims of violence and exploitation, including trafficking and sexual exploitation.

OMCT recognises that the social, economic and cultural root causes of violence is an issue that the Committee has been concerned with for many years; therefore, the objective in compiling this list of issues is to contribute to the preparation of practical, concrete and sustainable recommendations that can be both implemented and monitored.



## Appendix 5



WORLD ORGANISATION AGAINST TORTURE

P.O. Box 21 - 1211 Geneva 8  
Switzerland  
Tel.: 0041/22 809 49 39 / Fax: 0041/22 809 49 29  
E-mail: omct@omct.org / Web: www.omct.org

### **The European Parliament adopts OMCT's amendments in its Annual Report on Human Rights**

The World Organisation Against Torture (OMCT) welcomes the new Annual Report on Human Rights in the World 2007 and the EU Policy on the matter (the Report) adopted by the European Parliament on 8 May 2008 with an overwhelming majority.

The European Parliament in adopting this report has reaffirmed its commitment to the promotion of human rights and the fight against torture throughout the world. In this respect, OMCT appreciates the inclusion in the Report of a number of suggestions that OMCT submitted in order to support the development of the EU policy on human rights.

In particular, OMCT welcomes the adoption of the paragraph calling on the Council and on the Commission to enhance the cooperation with the Council of Europe with a view to creating 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”*.

Respect for human rights in EU trade policy and in investments in third countries is crucial to OMCT's objective of addressing the economic, social and cultural root causes of torture and other forms of violence. OMCT thus considers a decisive achievement the adoption of paragraph 128, urging the 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 European Parliament also endorsed OMCT's suggestion to include a clear reference to the special situation of human rights defenders in the new EU Common Code on Visas, as well as an explicit mention of *“economic, social and cultural rights defenders”* within this category.

Moreover, OMCT welcomes the fact the European Parliament reaffirmed the principle of interdependence of human rights by highlighting the need for a human rights impact assessment accompanying the Sustainability Impact Assessments of Directorate-General for Trade. In this respect, OMCT recalls that this is in line with the recommendations of the EU Human Rights Forum - held in Lisbon in December 2007 - on the topic of economic, social and cultural rights.

Further inputs provided by OMCT include, among others, the explicit mention of the principle of indivisibility of human rights, as well as a call for transparency in the process of renewal of the UN Human Rights Council special procedure mandates, which should be both gender and geographically balanced.

In its Opinion on the Report, the Committee on Civil Liberties also adopted a recommendation from the OMCT that the EU take a more *“holistic approach”* in addressing torture and include a *“wide spectrum of possible measures aimed at eradicating torture, including prevention, assistance to victims and the fight against impunity.”*

OMCT now calls on the Council of the European Union and on the Commission to follow-up the pronouncement of the European Parliament by adopting concrete measures aimed at addressing the concerns expressed in the Report.

Geneva, 4 June 2008

## Appendix 6



# World Organisation Against Torture

## Press release

### Around the world, poverty and discrimination fuel torture and other forms of violence

*Torture is an offence and outrage against us all, but it is often the poorest and most marginalised populations who experience its most direct and brutal impact. For this reason, OMCT's fight against torture is also a fight against economic and social injustice.*

Eric Sottas, Secretary General, OMCT

**Geneva, 26 June 2008. On this, the International Day in Support of Victims of Torture, OMCT underlines that all too often, torture and poverty go hand in hand.** Experience shows that, around the world, the majority of victims of torture and other forms of violence come from the most disadvantaged social groups. Members of marginalised communities are not only more vulnerable to such abuses, they are also least able to claim their rights and seek protection and redress. Supporting the victims of torture therefore means giving voice to women and children, indigenous communities, the poor, ethnic, racial and religious minorities and all those forced to live on the margins of society.

In some cases, acts of torture and violence are carried out by states themselves in an attempt to suppress public protest against socio-economic policies or to silence those who seek to defend economic, social and cultural rights. In others, they are used to remove opposition to major infrastructure projects, the establishment of special economic zones, clearance of informal settlements or the exploitation of natural resources. And more and more, torture is carried out at the hands of non-state actors such as paramilitary and guerrilla groups, organised criminal gangs, private individuals or security companies protecting economic interests – including those of multinational corporations engaged in mining and agri-industrial activities.

If torture and cruel, inhuman or degrading treatment or punishment and other forms of violence are to be eliminated, then their economic, social and cultural root causes must be, first, understood and, secondly, effectively addressed. The converse equally applies: acting to reduce levels of violence in a given society is a fundamental step toward ensuring the widespread enjoyment of economic, social and cultural rights. Around the world, conflict and lack of security expose citizens to situations that severely impede their possibility of escaping from poverty, of working in just and favourable conditions, of providing care and education to

their children and of enjoying an adequate standard of living and the highest attainable standard of health.

For this reason OMCT is committed to addressing the phenomena that create a context for human rights violations, including the deterioration of social fabric, growing income gaps, weakening of the State's regulatory capacity, and the repression of manifestations of linguistic, cultural or religious identity.

OMCT calls 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. At the same time, it is imperative that governments recognise and respect the right of their citizens to peaceful demonstration. Meeting unrest generated by deteriorating living standards with violent repression only heightens social tensions and creates a context for further violence. OMCT also encourages governments to take the necessary steps – including subventions and even emergency distribution - to minimise the impact of rising food prices on the poorest and most vulnerable sectors of society.

The right to peaceful demonstration, the right to work and the right to food and an adequate standard of living are all guaranteed under international and regional instruments. The current difficult global economic climate offers no grounds whatsoever for the erosion of these rights. Nor should it be invoked as a justification by States for failing to meet their clear obligations to ensure that no citizen is subjected to torture and that those who do fall victim to torture obtain redress, compensation and rehabilitation.

**For further information, please contact:  
OMCT: Michael Miller, + 41 79 743 68 63**