



## **OMCT international symposium**

### ***Torture: political, cultural and economic relativisms: the clash of convictions***

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#### **Economic Relativism The subordination of respect for human rights to economic objectives and interests**

#### **What OMCT has learned and what OMCT is doing**

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"We must be very clear on one fact: growth cannot always generate equality. Growth does what it does, which is growth. It is thereafter the responsibility of public policy to provide the necessary responses ensuring that the benefits from growth are, as much as possible, shared equitably."<sup>1</sup>

Relating to the question of informal settlements, whether they should be razed or upgraded:

"..the minister says the government cannot do anything about it (ed. note. a large slum) because the people are adamant to be relocated. They want cheap housing close to the industrial areas where they earn a living. Besides, Non-Governmental Organisations encourage the squatters so they can keep advocating for them and making money from international donor agencies."<sup>2</sup>

These statements were made in May 2008 at the African Development Bank's Annual Meeting in Maputo, Mozambique. The first was made by Dr. Donald

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<sup>1</sup> Dr. Donald Kaberuka, President of African Development Bank, Annual Meetings Daily, Day 2, Maputo, Mozambique, 14 May 2008 [www.derltd.com](http://www.derltd.com) page 25

<sup>2</sup> African Development Bank, Annual Meetings Daily, Day 2, Maputo, Mozambique, 14 May 2008 page 7 citing a Kenyan Minister

Kaberuka, President of African Development Bank, and the second in a press interview by a Kenyan Minister.

Both are shocking to the extent that they clearly subordinate respect for basic human rights to economic development “imperatives”. That of the Bank’s President is even more shocking in that it clearly ignores years of policy research in the academic world and by the World Bank and others that demonstrates the importance to social cohesion and to people’s economic wellbeing of the type of economic development chosen.<sup>3</sup> It must be mentioned, however, that these statements were in contrast to many others at the Meeting underlining the need to fight poverty and inequality and respect human rights.

As shocking as they are, those two statements illustrate two challenges to ensuring respect for all human rights that are found in many countries throughout the world and that are fostered, in part, by a very specific development theory based on unfettered markets that ignore human rights.

The first challenge is the view that economic growth is good in itself and should be viewed in isolation from other values, when it has been clearly established that the kind of economic growth selected can, in fact, create poverty and inequality.

The second maintains that valuable development projects are stymied by the claims of people to have basic rights respected and thus by implication that development must override their rights. In both, the human person’s rights are subordinated to other interests.

The very negative consequences of these two approaches have been clearly illustrated by OMCT in its work on the economic, social and cultural root causes of torture and other forms of violence. Macro-economic policies that neglect human rights cannot avoid leading to increased poverty and inequality. This poverty and inequality leads people to demand respect for their rights and this, in turn, is met with violence, including torture and cruel, inhuman and degrading treatment and widespread state repression. Tragically, this violence and repression leads to more poverty and inequality; it is a vicious circle.

Individual projects in the area of mining, dam building, clearance of informal settlements and the establishment of economic export zones outside protective legislation also lead all too often to violations of the basic human rights of the poorest sectors of society. Here again, peaceful protests and resistance are often met with violent repression and that violence has a serious negative impact on living conditions.

Unfortunately, this can lead much further. In countries like Uzbekistan, Egypt and the Philippines, reports by the UN and other organisations have explicitly linked the desperation of some to increased poverty and inequality and the lack of avenues for peaceful opposition to armed rebellion.<sup>4</sup>

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<sup>3</sup> See for example, William Easterly, *The Elusive Quest for Growth, Economists' Adventures and Misadventures in the Tropics*, MIT Press, 2002

<sup>4</sup> For the Philippines see, United Nations Development Group, *Common Country Assessment of the Philippines 2004*, page 27. For Uzbekistan see, United Nations Development Group, *Common Country*

### **Addressing the economic, social and cultural root causes of torture**

In the late 1980s, OMCT led the way in examining the relationship between violations of economic, social and cultural rights and torture, and it was one of the first NGOs to produce a study on the right to development. Addressing those root causes became a permanent part of OMCT's work programme and in 2005, after three years of intense investigation, OMCT concluded an Interdisciplinary Study entitled "**Attacking the Root Causes of Torture Poverty, Inequality and Violence**".<sup>5</sup>

That publication contained, in its first part, three empirical examinations of the links between poverty, inequality and violence based on ILO statistics relating to 65 countries, on data about domestic violence in South Africa and data on violence against women in Sweden.

The Study's second part contained 5 country profiles and case studies by national NGOs (Argentina, Egypt, Nepal, South Africa and Uzbekistan) and the third part examined how the UN, ILO, World Bank, IMF and the WTO dealt with the link. The conclusion was clear: there is a causal link between failure to respect economic, social and cultural rights and violence, including torture and it was urgent to address those root causes. Further, the link between poverty, inequality and violence was one to be found in the north as well as the south.

This Interdisciplinary Study and the results of an international conference<sup>6</sup> called in 2005 to examine the Study led OMCT to develop a specific project to address the economic, social and cultural root causes of violence. That project, which has received support from the EU and other donors, began to be implemented in 2007 and focuses on strengthening national NGOs, presenting alternative reports to UN treaty bodies and on in-depth investigation and action to address serious cases of violence caused by violations of economic, social and cultural rights.

A document that brings together four of the most serious cases OMCT has dealt with within the project is attached. It offers a striking illustration of the extent to which states are prepared to violate human rights - or stand by as others violate these rights - in order to promote or facilitate economic development.

It is important to note that OMCT's aim in addressing those cases was not to challenge the right of states to pursue development goals or make use of the resources within their territory, but rather to ensure that this is done in the full respect of human rights. Promoting general economic wellbeing is a firm international human rights obligation of states, but they must do so while respecting basic human rights.

The four cases can be summarised as follows:

- A village located on coastal backwaters in Tamil Nadu State, **India** in which the villagers, in attempting to speak out against the negative impacts of an illegally-located aqua farm on their health and economic status, were

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Assessment of Uzbekistan 2003, pages 43 – 45. For Egypt see, OMCT, *Attacking the Root Causes of Torture Poverty, Inequality and Violence, An Interdisciplinary Study*, Geneva 2006, page 147

<sup>5</sup> Available from OMCT, [www.omct.org](http://www.omct.org)

<sup>6</sup> See, Report of the International Conference "*Poverty, Inequality and Violence: Is there a human rights response?*" Geneva, 4 to 6 October 2005 at [www.omct.org](http://www.omct.org)

subjected to police violence and harassment and had false criminal charges of a serious nature brought against them by the owner of this farm. October 2007 (IND041007.ESCR)

- The peaceful opposition by local communities and indigenous people to mining that violates their rights and endangers their way of life on the Island of Sibuyan in the **Philippines**. Their objections were met with violence resulting in the killing of some 17 persons, including the shooting of the leader of a protest movement by a mining company security guard. November 2007 (PHL301107.ESCR)
- The construction of two large-scale hydropower dams in the Northern Nile Valley in **Sudan** that has led to repeated violent clashes between local communities and security forces and resulted in a number of civilian deaths. November 2007 (SDN301107.ESCR)
- A proposed open-pit coal mine at Phulbari in **Bangladesh** that risked seriously affecting the lives of between 50,000 and 500,000 people, including a number of indigenous communities. Many of those affected would have been forced to leave their homes and land. The mine had been planned without those directly concerned having been fully informed or adequately consulted, and public protests had been met with violence. November 2007 (BGD211207.ESCR).

-The Bangladesh Government, the multinational coal company responsible, banks financing the project, including the Asian Development Bank (ABD) were seized with the file that contained remedial recommendations for action. Subsequently, OMCT met with the multinational coal company at the company's request to discuss the problems involved, and OMCT has learned that some of the banks addressed withdrew their investments in the project and that the ADB suspended a large loan to the project citing the need to take into consideration "...all sensitivities, including concerns relating to safeguard issues,...".

OMCT, in its alternative reports to UN treaty bodies relating to Uzbekistan, Kenya and the Philippines, has dealt with very similar issues and demonstrated the same causal links.<sup>7</sup>

It is clear from OMCT's work that respect for human rights, even those rights that under international law are to be respected at all time and in all places and for which no derogations are permitted, is gravely endangered by the theory that their enjoyment can be subordinated to economic objectives. This economic relativism may well be the oldest type of relativism, and it is particularly dangerous because it is almost invisible.

In this context, the Maputo Declaration Against Torture and Other Cruel, Inhuman and Degrading Treatment,<sup>8</sup> adopted in Maputo, Mozambique in May 2008 by 18 African NGOs, is relevant. Those organisations, subsequently joined by many others, rejected economic relativism and stated that their own experiences in fighting for

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<sup>7</sup> Available at [www.omct.org](http://www.omct.org)

<sup>8</sup> Available at [www.omct.org](http://www.omct.org)

human rights showed that violations of economic, social and cultural rights are very often the root causes of torture and other cruel, inhuman or degrading treatment or punishment, and that such violations can be effectively reduced and eliminated by action on those root causes.

### **How can we strengthen our work?**

Colloquium participants, based on their very real experiences in defending human rights, will be a precious source of ideas for the ways ahead, and we look forward to your ideas and suggestions as we move into our working groups.

From OMCT's perspective, our work so far has provided us with some ideas of the types of action needed to address economic relativism that you might wish to discuss as the Colloquium goes forward:

**First**, raise the issue publicly and keep it in debate in order to allow public opinion to develop. Do not let the subject go without discussion nor let decisions go unchallenged;

**Second**, work together. Many NGOs working together from various perspectives, human rights, food, land development and the environment may have a greater impact than one working alone. For example, OMCT has agreed to work jointly on with FIAN (FoodFirst International Action Network) on the violations of the essential elements of the right to food that engender violence. OMCT is already a partner with FIAN and others in the annual Food and Nutrition Watch publication dedicated to monitoring respect for the right to food in its large sense;

**Third**, make the debate concrete by focusing on emblematic cases or situations as exemplified by the action files that clearly show the negative human rights impacts of the policy, programme or project addressed. This also involves identifying concrete, focused and viable recommendations that could bring about changes and that could be addressed to targeted actors.

**Fourth**, base the advocacy on in-depth analytical research prepared in partnership with those directly concerned;

**Fifth**, identify those with direct responsibility and those that are indirectly responsible through their complicity in the situation or case addressed;

**Sixth**, don't give up! Pressure must be maintained over the long term for results to be achieved, especially if it involves significant changes in policy;

**Seventh**, consider addressing all the available targets, governments, national human rights institutions, international organisations, the UN,

development agencies and banks, the European Union, regional human rights and political organisations, the private sector, other governments;

**Eighth**, advocate for systemic solutions such as human rights impact assessments and human rights budget analysis;

**Ninth**, strengthen the justiciability of economic, social and cultural rights by using national and international judicial procedures and advocating for the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. This would also involve devising arguments and ways of raising the negative human rights impacts of policies, programmes and projects within the established approaches courts are willing to accept. In some countries courts have been very progressive, but OMCT's work also shows that governments and others can also use them to stifle dissent and human rights advocacy.

**Tenth**, in dealing with the private sector, seek to bring complaints for corporate misbehaviour to courts in the home country of the corporation for actions outside that country, if the laws of the home country provide better protection (the extraterritoriality of state human rights obligations<sup>9</sup>);

Thank you very much for your attention, and I am looking forward to our coming discussions.

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<sup>9</sup> See Report of the 2<sup>nd</sup> Conference of the ETO-Consortium, Heidelberg, September 26-27, 2008  
[www.fian.org](http://www.fian.org)

