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**Working for Change, No. 2**

**A Practical Guide to Preparing**

**Alternative Reports**

**to United Nations Treaty Bodies**

**addressing the**

**Economic, Social and Cultural Root Causes of**

**Torture and Other Forms of Violence**

**September 2010**

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**Box 1: Working together for change**

This publication is intended to help NGOs combat torture and other forms of violence by providing guidance on the preparation of alternative reports on the economic, social and cultural root causes of torture and violence to UN treaty bodies.

The purpose of these alternative reports is to raise awareness of the economic, social and cultural root causes of torture and other forms of violence in a national context and, above all, to *promote change* by influencing the Committee's concluding observations and recommendations to the government. These, in turn, can be powerful tools for national action to improve respect for human rights.

For more information, see OMCT's economic, social and cultural rights website, <http://escr.omct.org>.

If you require further support, or are interested in working directly with the World Organisation Against Torture (OMCT) secretariat on this issue, please contact:

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## Preface

This guide has been produced in the context of the OMCT project “Preventing Torture and Other Forms of Violence by Acting on their Economic, Social and Cultural Root Causes” funded by the European Union’s European Initiative for Democracy and Human Rights, the Karl Popper Foundation, the InterChurch Organisation for Development Cooperation (ICCO) and the Foundation for Human Rights at Work. The Swiss Agency for Development and Cooperation (DDC) supported the project in 2007 and 2008. This project is founded on the principle of the interdependence of human rights and seeks to develop human rights responses that address the link between poverty, inequality and discrimination on the one hand, and torture and violence on the other.

Torture and cruel, inhuman or degrading treatment or punishment and other forms of violence – including extra judicial executions, enforced disappearances and violence against women and children – are related in a range of ways to disrespect for economic, social and cultural rights.<sup>1</sup> 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.<sup>2</sup> The converse equally applies: acting to reduce levels of violence in a given society is a fundamental step towards ensuring the widespread enjoyment of economic, social and cultural rights.

Dealing effectively with these issues is an important challenge for human rights activists. Ms. Louise Arbour, as United Nations High Commissioner for Human Rights, stated in her preface to the OMCT study on this theme, that the question of *“how to prevent or reduce violence, including torture, by acting on its root causes, often found in violations of economic, social and cultural rights”, is one that, “goes to the very heart of human rights protection”*.<sup>3</sup> It is with the aim of going “to the very heart of human rights protection” that this practical guide has been produced.

The importance of this challenge was further emphasised by Sir Nigel Rodley, in his role as UN Special Rapporteur on the question of torture, when he stated that *“as long as national societies and, indeed, the international community fail to address the problems of the poor, the marginalized and the vulnerable, they are indirectly and, as far as the exposure to the risk of torture is concerned, directly contributing to the vicious circle of brutalization that is a blot on and a threat to our aspirations for a life of dignity and respect for all”*.<sup>4</sup>

The present guide is accompanied by a complementary OMCT publication on preparing and disseminating communications on the economic, social and cultural root causes of torture and other forms of violence (Working for Change, No. 1). These guides have been prepared for OMCT by Michael Miller and are based, *inter alia*, on the experience acquired by OMCT’s

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<sup>1</sup> See OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, <http://escr.omct.org>.

<sup>2</sup> Of course, many other measures must be taken to eliminate torture in addition to addressing its economic, social and cultural root causes. These are dealt with in OMCT-sponsored alternative reports to the UN Human Rights Committee, the UN Committee Against Torture, the UN Committee on the Rights of the Child and the UN Committee on the Elimination of Discrimination Against Women.

<sup>3</sup> OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, p.9, <http://escr.omct.org>

<sup>4</sup> *Interim Report of the Special Rapporteur of the Commission of Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/55/290, 11 August 2000, §37.

Economic, Social and Cultural Rights Team: Tom McCarthy, Francesca Restifo, Jastine Barrett and Michael Miller.

# 1. Introduction

The United Nations (UN) human rights treaty bodies (committees) are key international mechanisms for protecting human rights.<sup>5</sup> This guide has been developed to help both non-governmental organisations (NGOs) and national human rights institutions (NHRIs) to fight torture, cruel, inhuman or degrading treatment or punishment, and other forms of violence by submitting to committees information on the economic, social and cultural root causes of violence in the form of what are known as “alternative”, “parallel” or “shadow” reports.

Human rights are “universal, indivisible and interdependent and interrelated”,<sup>6</sup> which means among other things, that our enjoyment of any one human right depends on the possibility of enjoying the whole range of human rights to which each of us is entitled. OMCT’s work over a number of years has demonstrated, for example, that enjoyment of the right to live without being subjected to torture, oppression or other forms of violence is inextricably linked to the possibility of enjoying just living conditions, free from discrimination. All too often, those who struggle to feed and clothe themselves and their families, who are unable to obtain work in just and favourable conditions, who have no access to health facilities, education or social protection, and who are excluded from cultural life also live in the shadow of violence and insecurity.

Effectively eliminating torture and other forms of violence in a society requires multidimensional and integrated action aimed at ensuring the implementation of all human rights; civil, cultural, economic, political and social. This guide thus focuses on the work of two treaty bodies: the Committee on Economic, Social and Cultural Rights (CESCR), which has the task of monitoring the implementation of the 1966 International Covenant on Economic, Social and Cultural Rights, and the Committee Against Torture (CAT), which has a similar monitoring role as regards the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. OMCT focuses on these two committees in order to promote mutually reinforcing recommendations addressing the wide range of causes of torture.

The various ways in which these elements are linked is discussed in detail in Section 2 of this guide. Section 3 provides an outline of how the treaty bodies, and in particular the Committee on Economic, Social and Cultural Rights and the Committee Against Torture operate (see also Box 2), while Section 4 details how to influence these committees through the submission of alternative reports. Section 5 demonstrates how this approach has helped to shape the committees’ concluding observations and recommendations.

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<sup>5</sup> For an overview see OHCHR Fact Sheet No. 30 “The United Nations Treaty System” [www.ohchr.org](http://www.ohchr.org). The ninth core international human rights treaty, on enforced disappearances, has not yet entered into force.

<sup>6</sup> Vienna Declaration and Programme of Action (part 1, §5), adopted by the World Conference on Human Rights, Vienna, 25 June 1993 (A/CONF.157/24 (Part 1), chap. III).

## **Box 2: Further information on working with the committees**

The ways in which the Committee on Economic, Social and Cultural Rights and the Committee Against Torture operate are similar, however there are small but important differences. In addition to the information contained in this Guide, comprehensive fact sheets on these committees are available from the UN Office of the High Commissioner for Human Rights (OHCHR).

The fact sheet on the Committee on Economic, Social and Cultural Rights can be downloaded from:

[www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdfX](http://www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdfX)

The fact sheet on the Committee Against Torture is available at:

[www.ohchr.org/Documents/Publications/FactSheet17en.pdf](http://www.ohchr.org/Documents/Publications/FactSheet17en.pdf)

In addition, OHCHR has prepared a guide to the participation of NGOs in the work of the Committee on Economic, Social and Cultural Rights, available at:

[www2.ohchr.org/english/bodies/cescr/NGOs.htm#a2b](http://www2.ohchr.org/english/bodies/cescr/NGOs.htm#a2b), and

a guide to the participation of NGOs and NHRIs in the reporting process to the Committee Against Torture. This can be downloaded from:

[www2.ohchr.org/english/bodies/cat/follow\\_up\\_ngo.htm](http://www2.ohchr.org/english/bodies/cat/follow_up_ngo.htm)

## **OMCT and alternative reports on the economic, social and cultural root causes of torture and other forms of violence**

For illustrative purposes, this guide draws on a series of alternative reports OMCT and its partners prepared and submitted to the Committee on Economic, Social and Cultural Rights and the Committee Against Torture between 2007 and 2009:

- **Uzbekistan** “Torture and cruel, inhuman and degrading treatment. Recommendations for dealing with their economic, social and cultural root causes”, an alternative report on Uzbekistan to the 39th session of the *Committee Against Torture*, November 2007 (see annex 1 for the Main thrusts of the of this report);
- **Kenya** “Addressing the Economic, Social and Cultural Root Causes of Torture in Kenya”, an alternative report to the 41st session of the *Committee Against Torture*, November 2008 (see annex 2 for the Executive summary of this report);
- **Kenya** “The Lie of the Land”, an alternative report on Kenya to the 41st session of the *Committee on Economic, Social and Cultural Rights*, November 2008 (see annex 3 for excerpts from the Introduction to this report);
- **Philippines** “Addressing the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in the Philippines”, an alternative report to the 41st session of the *Committee on Economic, Social and Cultural Rights*, November 2008 (see annex 4 for the Executive summary of this report);
- **Philippines** “Preventing Torture and other Cruel, Inhuman and Degrading Treatment in the Philippines by Acting on their Economic, Social and Cultural Root Causes”, an alternative report to the 42nd session of the *Committee Against Torture*, April-May 2009 (see annex 5 for the Executive summary of this report);



- **Brazil** “The Criminalisation of Poverty”, an alternative report on Brazil to the 42nd session of the *Committee on Economic, Social and Cultural Rights*, April 2009 (see annex 6 for excerpts from Chapter 1 of this report).

Because of the close links between the denial of economic, social and cultural rights on the one hand, and torture and other forms of violence, OMCT chose to submit reports on Kenya and the Philippines to two committees; the Committee Against Torture and the Committee on Economic, Social and Cultural Rights. The resulting reports for these countries, while tailored to the mandate of the respective committees, were explicitly conceived as complementary documents with the purpose of encouraging mutually reinforcing recommendations aimed at addressing the economic, social and cultural root causes of violence.

All these reports are available for consultation on the OMCT website <http://escr.omct.org>.

Alternative reports prepared for the UN treaty bodies are a rich source of information and knowledge regarding specific national contexts. Having prepared a report, the material it contains can also be made use of in other UN processes, including the Universal Periodic Review (UPR). Likewise it can be submitted to other bodies, including the African, European or Latin American regional human rights institutions or the European Union when, for example, it considers relevant trade and cooperation agreements.<sup>7</sup>

### **A word about information**

Information is one of the key resources we possess in the fight against torture and other cruel, inhuman or degrading treatment or punishment. The very nature of these activities – and their absolute illegality under international law - mean that those who perpetrate or tolerate such acts often seek to conceal them or, in the case of other forms of violence such as forced evictions or suppression of peaceful protest, to depict them as actions necessary for economic or social development.

The widespread dissemination of information is one of the most effective means we have at our disposal to counter these developments, cast light on illegal acts and draw attention to spurious justifications for unacceptable actions. For this reason, we can allow for no doubt over the validity or accuracy of the information submitted to a treaty body. Time dedicated to verifying sources and cross-checking information is time well spent: even a small error can undermine the credibility of a report, while the reporting of false information, albeit unknowingly, can seriously discredit an organisation. All information transmitted to the human rights treaty bodies should therefore be:

- specific to the instrument for which the committee in question is responsible;
- based on documentary sources and properly referenced;
- concise and succinct; and
- reliable and not abusive.

Information related to issues of torture and other forms of violence is sometimes of a highly sensitive nature. For this reason, it is important to be aware that a copy of all written information submitted to the committees by NGOs is provided to the Government concerned by the secretariat of the committees and may be published on the website of OHCHR. The

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<sup>7</sup> See, Working with the European Union at <http://escr.omct.org>

Committee Against Torture, in exceptional cases, duly justified, may accept confidential reports.

## 2. How torture and other forms of violence are related to the denial of economic, social and cultural rights

Understanding the ways in which torture and other forms of violence are related to the denial of economic, social and cultural rights is a crucial first step in identifying the areas in which strategic action, including the preparation of alternative reports, can be undertaken to reduce or eliminate this violence. On the basis of OMCT experience in this area, it is possible to identify at least five ways in which this link operates.

*1. The socio-economic status of poor and marginalised groups and individuals, including those marginalised on the grounds of their cultural identity, makes them particularly vulnerable to violence, including torture and cruel, inhuman and degrading treatment, and its effects.*

The poverty and marginalization that vulnerable groups and individuals experience do not allow them to defend themselves and demand their rights.<sup>8</sup> This in turn helps create a climate of impunity favourable to continued torture and other forms of violence. In the words of the UN Special Rapporteur on the Question of Torture, poor people are often *“deprived of the means to claim and ensure the enforcement of their rights, including their right to legal representation and to obtain legal remedies such as compensation”*.<sup>9</sup>

OMCT’s alternative report on Uzbekistan to the 39th session of the Committee Against Torture clearly shows that much torture and other abuse, as well as unlawful and arbitrary arrests and detention, are directed at poor and impoverished groups, who constitute the majority of the country’s population. In some cases, as discussed in OMCT’s alternative report on Brazil to the 42nd session of the Committee on Economic, Social and Cultural Rights, the discrimination experienced by economically marginalised groups at the hands of the police and within the justice system can be such that the very fact of being poor is treated as a crime. It is also the case that poor and marginalised groups or individuals who have been submitted to torture or other forms of violence can face significant obstacles to seeking redress or lodging complaints. These obstacles may be as a result of direct costs involved in seeking medical corroboration of torture or other forms of violence, accessing justice or hiring a legal representative, or they may be due to indirect costs (the cost of travelling to court, for example, or taking time away from work to attend a hearing). Discrimination may also constitute a significant obstacle to accessing justice for members of certain socio-economic, religious or ethnic groups.

*2. Violence is inflicted on persons because they demand respect for economic, social or cultural rights – their own or those of others.*

Trade unionists, workers, human rights defenders and citizens in general in the exercise of their legitimate human right to demonstrate, strike or otherwise claim respect for basic economic, social or cultural rights can be subject to violent attacks by official and private forces. Arrested, they also risk being subjected to cruel, inhuman and degrading treatment

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<sup>8</sup> For more information on vulnerable groups and torture, see the OMCT paper presented to the Committee Against Torture, “Torture and violations of Economic, Social and Cultural Rights: Appraisal of the Link and Relevance to the Work of the United Nations Committee Against Torture”, OMCT, Geneva, November 2001, and OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, <http://escr.omct.org>.

<sup>9</sup> UN Doc. E/CN.4/2001/66 para. 10 See also the OMCT paper presented to the Committee Against Torture cited in footnote 8.

and even torture.<sup>10</sup> Violence is frequently employed as a means to protect economic interests from industrial unrest provoked by low wages, poor working conditions or restrictions on labour rights, and incidents of violence against trade unionists and workers is increasingly associated with the development of “free” or “export economic zones”, where workers’ rights are pared down to a minimum. Around the world, such zones are perhaps one of the most explicit expressions of the growing conviction among some governments that human rights represent an obstacle to effective economic development.

*3. Levels of violence in a given community or society can be such that individuals or groups are unable to enjoy their economic, social and cultural rights.*

The intensity of violence or conflict, or indeed the fear of such violence, can be so great that people are afraid to venture out to seek health care or social assistance. Likewise parents may be afraid to allow their children to leave their home to attend school. Cultural life can be curtailed in a similar way. The possibility of earning an adequate living can also be compromised because conflict has destroyed infrastructure or because it prevents people reaching their place of work. In 2007, for example, the Committee on Economic, Social and Cultural Rights noted that the efforts of the Government of Nepal to comply with its obligations under the Covenant on Economic, Social and Cultural Rights were impeded by the consequences of the violent conflict in the country.<sup>11</sup> The Committee has also drawn attention to the situation of children in Albania who are prevented from going to school – and hence from enjoying their right to education – by the threat of violence as a result of “vendettas”.<sup>12</sup>

*4. Denials of economic, social and cultural rights are carried out so violently as to be considered ill-treatment under international treaties.*

Economic, social and cultural rights can be denied in such a brutal fashion as to amount to cruel, inhuman and degrading treatment. In 2002, the Committee Against Torture found that the violent way in which Roma were evicted from their homes in the former Yugoslavia, and their dwellings destroyed and burned, constituted acts of cruel, inhuman or degrading treatment in violation of the Convention Against Torture. Although the destruction was carried out by private individuals, the Committee found that the State party was responsible for the violations of the Convention because the authorities acquiesced in the destruction.<sup>13</sup>

*5. Policies, programmes and projects by governments, private actors or development and financial institutions can exacerbate poverty and inequalities and lead to increased levels of official, criminal and domestic violence.*

Public policies in the economic and social fields that directly increased poverty and inequality in large sectors of society can, in turn, result in a significant increase in violence, including ill-treatment and torture. For example, in its alternative report on Uzbekistan to the Committee Against Torture, OMCT reported that poverty and violence have resulted from the economic and social policies associated with the transition from the Soviet system. Economic interests are frequently at the root of human rights abuses, and economic

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<sup>10</sup> For a more detailed description see OMCT, “Torture and violations of Economic, Social and Cultural Rights: Appraisal of the Link and Relevance to the Work of the United Nations Committee Against Torture”, *op. cit.*, in particular sections 2 & 3. Further, OMCT’s publication, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, contains examples of such practices from Argentina, Egypt, Nepal and Uzbekistan <http://escr.omct.org>.

<sup>11</sup> E/C.12/NPL/CO/2, 30 April-18 May 2007, §10.

<sup>12</sup> E/C.12/ALB/CO/1, 24 November 2006, §36.

<sup>13</sup> Committee Against Torture, *Communication No 161/2000: Yugoslavia*, submitted by Hajrizi Dzemajl. Document CAT/C/29/D/161/2000.

development is all too often regarded by states as an imperative that may involve, or even require, the abuse of human rights, including the use of torture and other forms of cruel, inhuman or degrading treatment or punishment. In many cases, the target of these abuses are individuals or communities who express their opposition to development projects because such projects compromise their way of life or their standard of living. Often the issue at stake is access to the land on which they rely for their livelihood and, in the case of indigenous communities, from which they draw their cultural identity.

Similarly, urban development projects can involve violent evictions and the destruction of homes and property. Protests may also arise as a result of concerns over the rise in the cost of food or other necessities and the resulting deterioration in living standards. They can also reflect concerns about the health implications of certain industrial activities or their environmental impact, or because communities have been excluded from meaningful consultation or denied adequate compensation for the use of their land and resources.

A relatively new development in the concluding observations issued by the Committee on Economic, Social and Cultural Rights has been the identification of specific national projects that risk violating economic, social and cultural rights and which have, or may have, implications as regards violence and the suppression of opposition by force. These have included comments regarding forced evictions in Greece in the lead up to the 2004 Olympic Games in Athens,<sup>14</sup> similar comments regarding China's preparations for the 2008 Olympic Games in Beijing,<sup>15</sup> as well as regards important infrastructure projects including China's Three Gorges dam project,<sup>16</sup> and the La Parota dam project in Mexico.<sup>17</sup>

OMCT's purpose in preparing alternative reports on the economic, social and cultural root causes of violence is not to challenge the paradigm of economic development as such, but rather to identify how and why certain specific policies or projects can lead to human rights abuses and how these abuses might be brought to an end.

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<sup>14</sup> E/C.12/1/Add.97, 7 June 2004, §21 & 43.

<sup>15</sup> E/C.12/1/Add.107, 13 May 2005, §31.

<sup>16</sup> *Ibid.*

<sup>17</sup> E/C.12/MEX/CO/4, 9 June 2006, §10 & 28.

### 3. Working with United Nations treaty bodies; an overview

#### The implementation cycle, Non-Governmental Organisations (NGOs) and National Human Rights Institutions (NHRIs)

There are eight core United Nations human rights treaties that set international standards for the protection of human rights and which are being implemented by the United Nations today.<sup>18</sup> States can agree to respect those international standards by becoming a party to each treaty (ratification). That State then has an obligation to take steps to ensure that everyone in the State or under its jurisdiction can enjoy the rights set out in the treaty. Each treaty has a committee, or treaty body, which helps the States parties to carry out their treaty obligations by, *inter alia*, monitoring the State's implementation of its obligations and recommending further action. Annex 7 contains a full list of committees, the treaties they monitor, and web links for further information on each.

An important responsibility of each committee is to monitor the implementation of the treaty's provisions through the review of reports submitted by the State party on the progress made in carrying out their treaty obligations. Depending on the treaty, the committee may have other responsibilities such as accepting complaints of violations of treaty protected rights from individuals and/or states or carrying out investigations.

State party reports are of two kinds, an initial report to be submitted soon after the treaty enters into force for that State party and periodic reports to be submitted at regular intervals thereafter. For example,

- The International Covenant on Economic, Social and Cultural Rights requires State parties to submit an initial report within two years of ratifying the treaty and thereafter every five years, and
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, requires State parties to submit their initial report within one year of ratifying the treaty and then every four years. However, as described below, the Committee Against Torture has adopted a new procedure for periodic reports which in the future will be prepared by the State party on the basis of a list of issues sent by the Committee one year in advance of the report's due date.

Implementing human rights treaties through the committee review of State party reports can best be seen as a circle that generally includes the following steps:

- First: Submission to the Office of the United Nations High Commissioner for Human Rights (OHCHR) of the State's initial or periodic report;
- Second: Preparation by the committee of a *list of issues* in which the committee requests more information from the State party or raises issues it wishes to discuss in more detail;
- Third: Written responses to the list of issues by the State party;
- Fourth: Public dialogue between the committee members and representatives of the State party;

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<sup>18</sup> For an overview see OHCHR Fact Sheet No. 30 "The United Nations Treaty System" [www.ohchr.org](http://www.ohchr.org). The ninth core international human rights treaty, on enforced disappearances, has not yet entered into force.

- Fifth: Adoption by the committee of its concluding observations and recommendations to the State party;
- Sixth: Follow-up by the committee of the implementations of its recommendations.

The reports submitted to the committees by NGOs and NHRIs on the implementation of the committee's recommendations lay the foundation for the next reporting round.

Non-governmental organisations (NGOs) and national human rights institutions (NHRIs) have the possibility of contributing to this process at almost every stage. They can;

- encourage the State party to submit on time its report,
- make suggestions to the committee for items to include in the list of issues,
- submit alternative reports giving their views of the implementation of the treaty obligations by the State party and suggesting to the committee appropriate recommendations for progress,
- provide information formally or informally to the committee during the session when the committee is considering the State party report and,
- take an active role in implementing the committee's recommendations on the national level and provide information to the committee on the State party's progress in implementing those recommendations.

*Alternative reports* are submitted to the committee secretariat prior to the session during which the official State report of the country in question is due to be examined. Generally speaking, the purpose of the alternative reports is to: ensure that committee members receive a balanced and objective view of the situation in the country under examination; provide information that is missing from the government report; spotlight serious human rights violations that fall within the brief of that committee; and suggest recommendations that the committee in question can make to the government.

### **Box 3: The contribution of national human rights institutions**

As bodies set up to monitor or protect human rights in national contexts, NHRIs represent an important bridge between national and international protection mechanisms and can play an important role in implementing human rights treaties.

Many NHRIs operate according to the standards set out in the 1993 Paris Principles<sup>19</sup> that relate to the status, functioning and responsibilities of these institutions. UN treaty bodies, through the meetings of the treaty body Chairpersons and the Inter-Committee Meetings of the treaty bodies have given importance to the contribution of NHRIs and recommended that the committees put in place procedures that allow them to hear the views of NHRIs during the reporting process.<sup>20</sup> These Meetings also indicated that NHRIs should have the opportunity to address the treaty bodies separately from the State party's delegation and NGOs.

<sup>19</sup> Principles relating to the status of national institutions, adopted by General Assembly resolution 48/134 of 20 December 1993.

<sup>20</sup> The annual Meeting of Chairpersons of the Human Rights Treaty Bodies provides a forum for members of the human rights treaty bodies to discuss their work and consider ways to enhance the effectiveness of the treaty body system as a whole. Since 2002, an Inter-Committee Meeting, consisting of the chairpersons plus two members of each of the committees, has also been convened to discuss these issues.

The opportunities for NHRIs to influence the reporting process are similar to those available to NGOs. Thus, for example, the Committee Against Torture receives information from NHRIs and, since 2005, also meets directly with them. In addition, the Committee Against Torture offers NHRIs a mechanism that is not available to NGOs: “A” status NHRIs that have submitted information and wish to brief the Committee but are unable to send a representative to Geneva may be represented by the Geneva representative of the International Coordinating Committee (ICC) of NHRIs.

NGOs that are unable to attend sessions of the Committee Against Torture do not benefit from a similar structure and must rely on representation by partner organisations.

The Committee on Economic, Social and Cultural Rights provides NHRIs with the opportunity to submit written information and orally address the Committee and they benefit from special seating arrangements in the conference room. The CESCR Secretariat contacts the relevant NHRIs inviting them to provide information and encourages them to take part in the lunch time briefings which are organised separately from the NGO briefings.

Further information on this procedure is available from the OHCHR National Institutions Unit ([National\\_Human@ohchr.org](mailto:National_Human@ohchr.org)) and the secretariats of the respective committees (see [www.ohchr.org](http://www.ohchr.org)).

### **Working with the Committee on Economic, Social and Cultural Rights**

The Committee on Economic, Social and Cultural Rights is a key committee in addressing the economic, social and cultural root causes of violence. It is made up of eighteen independent experts elected by the States parties from candidates proposed by the State parties. They must be nationals of a State party and there may not be more than one member from the same country.

The Committee convenes twice per year in Geneva, Switzerland, in April-May and again in November.<sup>21</sup> Each session of the Committee lasts three weeks, during which it examines the reports of four to six States parties. This is followed by a one week “pre-sessional” meeting during which a working group made up of five members of the Committee prepares for the next plenary session. This involves preparing the lists of issues mentioned above.

### **NGO and NHRI participation<sup>22</sup>**

The Committee on Economic, Social and Cultural Rights attaches great importance to cooperation with NGOs and NHRIs and has adopted a proactive approach to that cooperation. For example, when a State party has submitted its report, the Committee takes the initiative, through the secretariat, to establish a list of national NGOs working in the field of economic, social and cultural rights and to contact these NGOs and relevant NHRIs in writing to solicit information from them regarding the implementation of the Covenant in their country. The Committee also encourages Governments to consult with NGOs regarding the implementation of the Covenant. The Committee has provided very detailed guidance to NGOs on participating in its work on which this section is based.

<sup>21</sup> Geneva is the venue for all treaty body committee sessions, with the exception of the Committee on the Elimination of Discrimination Against Women and the Human Rights Committee. Both of these committees alternate between New York and Geneva.

<sup>22</sup> See in this regard, the PowerPoint presentation Influencing the UN System: CESCR at <http://escr.omct.org>



Annex 8 contains the most recent version of that guidance, but the OHCHR website should be checked for future modifications.

NGO participation in the work of the Committee is not limited to those with consultative status with the UN Economic and Social Council.<sup>23</sup> Rather, the Committee seeks cooperation with all non-governmental organizations (NGOs) active in the field of economic, social and cultural rights - local, national and international, those in consultative status with the Economic and Social Council and those without such status.

### **Considering State party reports**

In connection with the Committee's consideration of State party reports, the Committee lists the following stages at which NGO cooperation is welcome;

- Entry into force of the Covenant : once a State party has ratified the Covenant, national NGOs working in the field of economic, social and cultural rights are encouraged to establish contact with the Committee secretariat;
- From the receipt of a State party's report until its consideration: submission of any relevant information (placed in country files established and maintained by the secretariat);
- Pre-sessional working group : submission of information directly to the member of the Committee responsible for drafting the list of issues (with copy to the secretariat) and/or submission of written information to the secretariat and/or oral presentations before the pre-sessional working group; (See below for more details)
- Session at which a State party's report is scheduled for consideration: submission to the secretariat of a written statement and/or of information in the form of a report, and/or oral presentations before the Committee, within the framework of the Committee's "NGO hearings" (usually during the afternoon of the first day of the session); observing the Committee's dialogue with the State party delegation; (See below for more details)
- Follow-up to the Committee's concluding observations: submission of information to the secretariat on the implementation of the concluding observations of the Committee in the State party concerned.

Annex 8 also contains the Committee's guidance on the type and form of the information to be submitted to the Committee, recommendations on NGO collaboration in preparing alternative reports, advice concerning languages and on how NGOs can obtain accreditation to attend Committee sessions and working group meetings.

### ***The pre-sessional working group***

During the above-mentioned pre-sessional working group the five members, meeting in private, typically considers five State party reports, each member serving as a "country

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<sup>23</sup> To be eligible for consultative status, an NGO must have been in existence (officially registered with the appropriate government authorities as an NGO/non-profit) for at least two years, must have an established headquarters, a democratically adopted constitution, authority to speak for its members, a representative structure, appropriate mechanisms of accountability and democratic and transparent decision-making processes. The basic resources of the organization must be derived in the main part from contributions of the national affiliates or other components or from individual members. For further information see <http://esango.un.org/paperless/Web?page=static&content=intro>

rapporteur"<sup>24</sup>, with the task of drafting a list of issues concerning one of the five reports. The list of issues is adopted 6 to 12 months prior to the Committee's consideration of the State party report.

The list of issues containing questions addressed to the State party is formulated on the basis of the documents submitted by the State party and on information made available to the Committee from all other sources, including NGOs and NHRIs. The State party is requested to provide written replies to the list of issues well in advance of the session at which its report is scheduled for consideration, in order to allow sufficient time for their translation into all the working languages of the Committee. The lists and the replies to the lists are also made available to the public on the OHCHR website.

The Committee lists the following possibilities for NGOs, international or national, to contribute to the work of the pre-sessional working group:

- Prior to the meeting of the working group, relevant information may be submitted directly to the country rapporteur concerned;
- Prior to the meeting of the working group, relevant information may be submitted to the secretariat for distribution to the full working group. The Committee points out that it is particularly helpful to formulate, at the end of each section of the report specific questions which the pre-sessional working group may consider incorporating in the list of issues. Ten copies of the report (and a summary) should be delivered to the secretariat one week before the pre-sessional working group meets, for distribution to its members.
- Oral statements to the pre-sessional working group may be made by NGO representatives in person. The Committee encourages NGOs to make an oral presentation at the first morning meeting of the pre-sessional working group, which is usually held on a Monday from 10.30 a.m. to 1 p.m.

More detailed guidance on these matters is to be found in annex 8.

### ***Participating in Committee sessions***

The sessions of the Committee during which State party reports are considered are open to the participation of NGOs through;

- The submission of written statements. This is reserved for NGOs in consultative status or those sponsored by an NGO in consultative status. There are limits to the length of the text which must be submitted three months in advance of the session (in order to allow time for translation);
- Submission of reports (parallel, alternative etc); 25 copies should be submitted to the secretariat one week prior to the session;
- Oral statements to the NGO hearings that take place on the first day of a reporting session from 3 p.m. to 6 p.m. Average time limit 15 minutes;
- Observing the Committee's consideration of State party reports.

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<sup>24</sup> At the session of the Committee at which the report is considered, the country rapporteur is also responsible for drafting concluding observations, on the basis of the State party's report and the dialogue between the Committee and the State party.

*Informal NGO lunchtime briefings* with members of the Committee also take place during the Committee's sessions. They are that are not official meetings and are organised by the NGOs themselves.

During the actual dialogue between the Committee and the Government delegation, neither NGOs nor NHRIs may intervene. However, since these meetings are public, NGOs and NHRIs may attend as observers. More detailed guidance on these matters is to be found in annex 8.

### **Participating in the follow-up to Committee recommendations**

The role of NGOs is crucial in helping to ensure that the recommendations of the Committee are implemented. NGOs can give publicity to the concluding observations locally and nationally. They can also monitor the Government's performance in implementing the recommendations, report back to the Committee on the measures taken and keep the Committee informed of developments in the country.

### **When a State party fails to report**

When an initial State party report is significantly overdue, the Committee can decide to go ahead and review the situation concerning the status of implementation of the Covenant in that country. The State party is notified of the Committee's intention, requested to submit its report and if it fails to do so, the Committee proceeds with the consideration as scheduled on the basis of all information available to it. In these situations, information provided by NGOs becomes especially valuable and the Committee welcomes from NGOs reports discussing article by article the implementation of the Covenant by the State party. In addition, the Committee highly recommends that NGOs participate in the Committee's NGO hearings and provide information orally regarding the situation in the country under review. Information in this regard is available on the OHCHR website.

### **Working with the Committee Against Torture**

The Committee Against Torture is also important in addressing the economic, social and cultural root causes of violence. It is made up of ten independent experts, each elected for a period of four years by the States parties from candidates proposed by the States parties. They must be nationals of a State party and there may not be more than one member from the same country.

The Committee meets twice every year in Geneva, once in April-May, and again in November. During each three week session the Committee generally examines seven State party reports and adopts lists of issues for reports to be considered at future sessions.

### **NGO and NHRI participation**

The Committee has expressed its appreciation for the work of NGOs, their reports and participation in Committee briefings. This is especially so with regard to local and national NGOs, which provide the Committee with direct country-specific information. See annex 9 for the Committee's guidance on NGO participation. However, the OHCHR website should be checked for future modifications.

There are three principal means by which NGOs and NHRIs can influence the Committee's examination of a State party report:

- Submitting written information for the *list of issues* (Lists of issues are not prepared for initial reports).

-With regard to periodic reports already submitted and awaiting consideration, the Committee adopts the list of issues one session ahead of the session at which it will consider the State party report; submissions by NGOs must be received two months prior that session. Two Committee members are appointed rapporteurs for each country.

-However, a *new procedure* was instituted in 2009 with regard to periodic reports that had not yet been submitted. The Committee will adopt a list of issues to be transmitted to the State party prior to the submission of the periodic report and on which the State party is invited to base its periodic report. In this case, the list of issues will be sent to the State party at least one year before the due date of the report (see the OHCHR website for more information).

- Preparing an *alternative report* for submission to the Committee prior to its examination of a State party report. The report must be submitted two weeks before the opening of the session at which the State party report will be considered. This information is to be submitted electronically and is posted on the OHCHR website. In exceptional cases, duly justified, confidential reports may be accepted. Fifteen hard copies can be submitted two weeks in advance for distribution to members.
- **Briefing** the Committee during its session. NGOs and NHRIs that have submitted written information to the Committee concerning a State party may also meet with the Committee during briefings that take place one day prior to the dialogue with the State party's delegation. These take place in private with interpretation between the respective working languages of the Committee.<sup>25</sup> During these briefings, one hour for NGOs and another hour for NHRIs, the representatives have approximately 30 minutes to address the Committee, the remaining time being used for the members of the Committee to pose questions. The Committee recommends that NGOs and NHRIs should not repeat the written information provided but highlight and update its most important issues. NGOs are also expected to coordinate their presentations in order not to repeat each others information
  - As mentioned above, "A" status NHRIs that have submitted information and wish to brief the Committee but are unable to send a representative to Geneva for the relevant session may be represented by the Geneva representative of the International Coordinating Committee (ICC) of NHRIs.
  - During the actual dialogue between the Committee and the Government delegation, neither NGOs nor NHRIs may intervene. However, since these meetings are public, NGOs and NHRIs may attend as observers.
- **Follow-up** on the implementation of concluding observations and recommendations of the Committee. The Committee identifies a number of concerns and recommendations in the concluding observations that are serious, protective and can be achieved within one year and requests States parties to provide information on their implementation. NGOs and NHRIs also have to opportunity to submit written information on the implementation of those measures.

Information for the Committee Against Torture from NGOs and NHRIs must be submitted to the secretariat electronically. Hard copies may also be submitted for distribution to members.

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<sup>25</sup> If needed, NGOs and NHRIs can bring their own interpreters.

Annex 9 contains the most recent information provided by the Committee on NGO and NHRI participation.

## **4. Preparing and presenting alternative reports on the root causes of torture and other forms of violence**

NGOs and NHRI can achieve the best results in using the UN treaty body review of state party reports to improve respect for human rights in a given country by intervening at each stage of the implementation cycle. As indicated above, there are a number of important stages involved in preparing and presenting an alternative report on the root causes of torture and other forms of violence to the Committee on Economic, Social and Cultural Rights or the Committee Against Torture. For NGOs and NHRI the planning stage is of first importance and this is particularly true for cross-cutting submissions that seek to build on the indivisible, interrelated and interdependent nature of human rights.

### **Planning ahead**

The time frames of the treaty bodies themselves make advance planning crucial. Deadlines, for example, for submitting contributions to the preparation of lists of issues - which can shape the dialogue with the government - are often six months or a year ahead of the actual consideration of the report by the committee concerned. Under the new procedure of the Committee Against Torture the process should start well in advance of a year before the state party report is scheduled for consideration.

Alternative reports themselves must be submitted prior to the committee session at which a given State party's report is scheduled for consideration, one week in the case of the Committee on Economic, Social and Cultural Rights and two weeks for the Committee Against Torture. However, it is advisable to submit information well in advance in order to give ample time to the committee members and the secretariat to study that information.

Countries whose reports are due for consideration during each committee session are posted on the OHCHR website (see annex 7). The timetables provided for each committee by OHCHR generally lists sessions some 12 months in advance and should allow adequate time to identify strategic opportunities for the submission of information with the possible exception of the new procedure for periodic reports of the CAT.<sup>26</sup> This website also provides information on other upcoming events, including days of discussion and the development of general comments.

### **Selecting your issues**

It is never too early to begin considering the issues you wish to address in your suggestions for the list of issues or your alternative report. Again, this is particularly important when dealing with the economic, social and cultural root causes of torture and other forms of violence, which often call for an additional degree of analysis and understanding.

### **Rights protected by the treaties and recommendations for action**

The two treaties on which OMCT has focussed attention in the context of addressing the economic, social and cultural root causes of violence each protect specific rights and submissions to the respective committee should focus on improving respect for the rights each treaty protects. However, it is important to note that the States parties to each have

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<sup>26</sup> The timetables offer the most accurate indication of a committee's work-plan, however it can happen that schedules are reviewed and the examination of a State party's report is postponed to a later date.

undertaken wide ranging obligations to ensure respect for those rights, potentially allowing each committee to make recommend to governments that address the root causes of violations in a holistic and interdependent manner.

States parties to the Convention Against Torture undertake to “take effective legislative, administrative, judicial or *other measures* (emphasis added) to prevent acts of torture in any territory under its jurisdiction” (Article 2.2) and “to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment” (Article 16.1). States parties to the Covenant on Economic, Social and Cultural Rights undertake to take steps to achieve progressively the full realisation of the rights recognised in the Covenant “by *all appropriate means* (emphasis added), including particularly the adoption of legislative measures.” (Article 2)

The importance of the different treaties working together to achieve their objectives was recognised by the United Nations in 1984 in Article 17, para. 2 of the Convention Against Torture which, regarding nominations for candidates to the CAT stated “States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee...”.

An alternative report thus need not cover all aspects of the treaty it is intended to support and you may wish to focus on a limited number of articles or, indeed, a single article to deal with the violations of concern. The recommendations, however, may cover a wide range of possible action.

In preparing to select the issues for your report, it might prove helpful to review the committee’s “jurisprudence” with regard to violence and economic, social and cultural rights. This could prove helpful not only in selecting the issues to be dealt with, but in presenting them to the committee in a framework that the committee has already used. Examples of how alternative reports can influence the Committee on Economic, Social and Cultural Rights and a review of some of the Committee’s “jurisprudence” in that regard is to be found the appendices to the OMCT *Guide to submitting information on torture and other forms of violence to the Committee on Economic, Social and Cultural Rights*.<sup>27</sup>

It is also useful at an early stage to consult previous concluding observations addressed to the State party in question to identify areas of concern and review the recommendations already made to it– and not only recommendations by the committee to whom you plan to submit information, but also those from other committees that might serve as building blocks for your own work.

### **Coordinating your efforts**

In planning your report, it is also worthwhile obtaining information regarding other civil society initiatives around the reporting process. This will allow you to coordinate your inputs and avoid any overlap of issues. This is something the committees encourage NGOs to do.

In the case of Brazil’s examination during the 42nd session of the Committee on Economic, Social and Cultural Rights, a “platform” of civil society organisations submitted a broad-ranging report on the enjoyment of economic, social and cultural rights in this country, while

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<sup>27</sup> A guide to submitting information on torture and other forms of violence to the Committee on Economic, Social and Cultural Rights, prepared for the 5<sup>th</sup> Annual Intensive Seminar on Torture and Human Rights Harare, Zimbabwe, September 2008. <http://escr.omct.org>

other organisations, including OMCT and its partners, submitted complementary reports that focused on specific themes.

When identifying themes for your alternative report it is also a good idea to think about strategic partnerships. Does your organisation have the capacity to develop and present a report on its own? Would it benefit from developing a partnership with other civil society organisations, each of which can bring its particular expertise to the alternative report? Are there networks, such as ESCR-Net, ESCR-Asia or the FoodFirst Information and Action Network (FIAN) with members that may be able to contribute to or collaborate in your work?

Analysis of the root causes of torture and other forms of violence may call for a range of capacities not always accessible to a single organisation, from an understanding of legal instruments to expertise in questions of development and economic analysis. Similarly, some organisations have highly developed contacts and networks at the grassroots level (ideal for obtaining the most relevant and up to date information from individuals and communities), while others have valuable and extensive knowledge of national political processes and policy development. At the same time, international NGOs often have the capacity to bring together partners and provide them with technical expertise and logistical and even financial support.

These complementary roles are evident in the SOS-Torture Network, for which OMCT operates as the international secretariat. This Network is made up of over 290 international, regional and national NGOs from around the world. They work closely with OMCT and have an invaluable role in providing insight into national realities and channelling crucial input from the country level. OMCT for its part, provides the “*Geneva perspective*”, its knowledge of the United Nations system and the best ways of working with the various committees and their members.

### **Getting concerns on the table: the list of issues<sup>28</sup>**

Providing input while a committee is preparing its list of issues is an important means of ensuring the impact of your alternative report. Indeed, committee members can be reluctant to raise new issues with government delegations during their final consideration of a State party report, making it particularly important for you to get your concerns on the agenda at an early stage.

When committee members take interest in an issue raised by an NGO or NHRI during the preparation of the list of issues, there is a good likelihood they will request the State party to respond to this issue prior to or during the session at which the State Party report is considered. For this reason, the more focused you can be, and the more clearly you can identify issues of concern even at this early stage, the more likely you will be to have an impact on a committee’s considerations.

To take one example, 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 State party report on Brazil. This document makes the general observation that Brazil is a country strongly characterized by deep-rooted socio-economic disparities and inequalities. It then draws attention to the fact

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<sup>28</sup> The lists of issues on the economic, social and cultural root causes of violence to the Committee on Economic, Social and Cultural Rights with regard to Brazil, Kenya and the Philippines are available at <http://escr.omct.org>



that levels of violence are particularly high in marginalised communities. It also points out that these communities remain outside the protection of the State and are therefore doubly victimized: the result is that millions of Brazilians are caught in a vicious circle of poverty, violence and lack of state protection and OMCT emphasised the need to break this cycle that is at the root of ever increasing levels of conflict. Many of these concerns were reflected in the list of issues sent to the Government of Brazil<sup>29</sup> and in the opening statement of the head of the Government delegation (see below section 5).

Subsequently, these observations formed the basis of the alternative report on Brazil compiled by OMCT and its national partners on the “criminalisation of poverty” in Brazil. For the impact of that report, see below section 5.

### **Preparatory missions; collecting information and connecting with those directly concerned**

A preparatory mission can bring a valuable dimension to an alternative report, particularly if your organisation does not have close contacts at the institutional or grassroots level in a given country.

The preparatory missions carried out by OMCT and its partners have permitted consultation with national officials and collaboration with civil society organisations. Importantly, these missions have also permitted interaction with individuals and communities that experience the impact of violence fuelled by the denial of economic, social and cultural rights including women victims of domestic violence, young men and women who suffer violence at the hands of the police or in the prison system, individuals whose lives have been impacted by gang violence, families who are caught up in inter-community conflict over scarce resources and members of indigenous communities who are targeted for violence simply because of the land they occupy. In some cases – and particularly when dealing with sensitive issues - one-to-one meetings or small group discussions are most appropriate, while larger community forums provide an excellent opportunity to discuss issues with wide-ranging implications, such as access to land and resources (see Box 4).

Together, these interviews and meetings provide a testimony of the violence and insecurity that are a constant element in the lives of many of the world’s poorest and most marginalised citizens. In addition, they offer the opportunity to these individuals to express their concerns more directly to the treaty body and to make suggestions for recommendations the treaty body could make to improve their situation.

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<sup>29</sup> E/C.12/BRA/Q/” of 11 June 2008.



Taking testimony in the field: Kenya

**Box 4: OMCT preparatory mission to Kenya**

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

Working closely with national NGO partners, the staff members held meetings with representatives of Kenyan government and civil society and conducted discussions in community forums in both urban Nairobi and rural districts of the Rift Valley in order to capture grassroots concerns among marginalised communities (residents of informal settlements, indigenous groups and rural minorities) and provide them with the opportunity to give more direct input to the work of the committees. These events proved to be rich sources of experience and information and were filmed and recorded.

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.

On the basis of the information gathered during the mission, OMCT prepared two complementary alternative reports on Kenya in cooperation with national partners. The report to the Committee on Economic, Social and Cultural Rights placed particular emphasis on the issue of access to land and housing as a catalyst of violence across Kenya, in rural and urban areas alike, while the report to the Committee Against Torture examined the ways in which

Kenya's poorest and most disadvantaged citizens are criminalised through Kenya's law-enforcement, judicial and penal systems.



Community forum Kenya; listening to the people

### **Drafting your report; bringing it all together**

Your report will typically bring together information from two sources: the field (including information from missions) and additional research or secondary sources. Given the importance of accurate reporting, select your secondary sources with care, and do not hesitate to check and cross-check information, returning to sources or seeking out new ones to offer corroboration. Your organisation may already possess significant amounts of relevant information that can be included in your report. OMCT, for example, frequently draws on cases or makes use of material on a given country that it originally developed for its urgent communications or “Action Files” (see the OMCT guide “Working for Change, No. 1” for a full discussion of how Action Files are compiled and used).

Regarding the structure of your report, committees advise that submissions should use a format that follows the articles of the relevant covenant or convention. However, OMCT has found that in order to clearly establish the causal links between violations of economic, social and cultural rights and violence it was necessary to go beyond the simple article-by-article structure of a single human rights treaty and use a more broad-ranging, thematic approach. This holistic approach helps committee members better appreciate the crucial and interdependent links between efforts to protect different rights. Nevertheless, it will facilitate the committee members’ reading of your report if you “signpost” your document with references to the appropriate treaty articles where possible.

Likewise, it is useful to begin your report with a concise summary of your report, highlighting the key issues and recommendations it contains. It is also important to explain at an early point why your organisation has chosen to adopt an approach that seeks to address the root causes of torture and other forms of violence (much as this guide does in the preface and introduction) and why this approach is relevant for the committee in question.

### **Linking poverty, inequality, discrimination and government policies to violence**

It is important when addressing the economic, social and cultural root causes of violence to examine the links in the country between government policies leading to poverty, inequality, and discrimination on the one hand and violence on the other. This might include;

- An examination of the socio-economic situation in the country, including information on poverty and inequality, its increase or decrease and the impact on vulnerable sectors of the population. This might also draw attention to any particular characteristics of the national economy and their implications for the population (e.g. economic transition, high levels of international debt, or the existence of a caste system or bonded labour);

OMCTs' alternative reports on Kenya, the Philippines and Uzbekistan contain important introductory chapters clearly establishing the links between government policy, poverty, inequality, discrimination and violence. In those chapters a wide range of sources are used, including, and in addition to national human rights reports, World Bank reports, reports from UNICEF, UNDP and regional development organisations.

Further, the Common Country Assessments prepared by the United Nations Development Group have proved very helpful in making the link between poverty, inequality, discrimination and violence based on economic research and analysis and those reports have provided interesting ideas for corrective action thus bringing the voices of economic and development specialists to support positions of human rights activists.<sup>30</sup>

### **Other contextual country information**

It may be appropriate to provide other information to establish the context in which torture and violence takes place. Depending on the committee, this might include:

- Information on the level of violence, including torture and ill-treatment, experienced by the population in general, and vulnerable groups in particular. If such information is not available, you might offer information based on your own organisation's experience;
- Information on any discriminatory domestic legislation that prevents certain groups from fully enjoying their economic, social and cultural rights; and

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<sup>30</sup> United Nations Common Country Assessments (CCA) are the result of a collaborative effort of United Nations agencies, other international organisations, government agencies, non-governmental and civil society organisations. The 2004 Philippines CCA, for example, adopted a rights-based development approach that meant "putting the poor and vulnerable groups at the core of the development agenda", and it identified many failures to respect economic, social and cultural rights and their links to violence. It also provides very valuable recommendations for remedial action and enabled the fight against torture to be seen in a wider context. The findings and recommendations of that CCA echo many of those identified by OMCT and its partners during the preparation of the alternative reports on the Philippines. See "A Common View, A Common Journey, A Common Country Assessment of the Philippines 2004", United Nations Country Team, the Philippines, pp. 8-10, at <http://www.undp.org.ph/?link=6>.



- Information on policies, programmes or specific projects being implemented or proposed by the government, development agencies or private actors that could significantly increase the risk or level of violence.

Although there are no hard and fast rules concerning how your report should be structured (Box 5 provides, by way of an example, the principal contents of an alternative report on the Philippines submitted to the Committee Against Torture by OMCT and its national partners), it is important that the issues are developed in such a way that they clearly demonstrate the key point: that torture and other forms of violence are closely linked to the denial of economic, social and cultural rights (Box 6 outlines how the main issues covered in OMCT's complementary report on the Philippines submitted the Committee on Economic, Social and Cultural Rights linked socio-economic concerns to violence or the risk of violence). In some cases this link might be evident, but in more complex cases, arriving at the root causes may call for reflection and consultation.

It is worth remembering, however, that most if not all cases will correspond to one (or perhaps more) of the scenarios discussed in Section 2 of this guide.

**Box 5: The principal components of OMCT's alternative report on the Philippines to the Committee Against Torture, 2009**

Executive Summary

Introduction

- I. Torture, ill-treatment, poverty and inequality in the Philippines: Setting the context
- II. Torture and other forms of ill-treatment that result from landlessness and conflicts over land
- III. Torture and violence against Indigenous Peoples
- IV. The Muslim population in the Philippines
- V. Torture and other forms of violence deriving from mining policy and activities
- VI. Labour rights, trade unions and violence
- VII. Counter-insurgency activities, militarization and violence in response to claims for social justice
- VIII. Summary executions, enforced disappearances and other forms of violence against economic, social and cultural rights activists
- IX. Conclusions and recommendations

To maximise the impact of the information contained in your report, it is important to give consideration to the context in which this information is presented. For example, reporting that torture and ill-treatment of prisoners is commonplace in a certain detention centre is of crucial importance to the Committee Against Torture. Presented in this way, however, this same information has little pertinence for the mandate of the Committee on Economic, Social and Cultural Rights. On the other hand, in reporting that the majority of prisoners in this detention centre come disproportionately from poor and discriminated communities, that they are denied access to adequate health treatment or education, that they do not have the economic means to access legal assistance or that they are subjected to torture and other forms of ill treatment, this issue becomes highly relevant for the latter Committee. You may even be able to take this analysis a step further and report on the socio-economic impact of

this situation on the mental and physical wellbeing of detainees' children, families and communities.

**Box 6: Linking socio-economic concerns and violence in the OMCT Alternative Report on the Philippines to the Committee on Economic, Social and Cultural Rights, 2008**

This report, prepared by OMCT and its national partners, draws attention to the fact that the Philippines' trade liberalisation policy promotes mining activities that have consistently failed to take into account the human rights of persons and communities affected by these activities, and that local resistance to these mining projects is often met with violence by private security forces.

Conflict over land is also identified as a root cause of violence in the Philippines as landowners increasingly convert agricultural land to agri-business or other forms of economic activity at the expense of rural communities and small-scale farmers.

In the report, OMCT and its partners also express their concern that violence against trade unions and trade union leaders in the Philippines has been increasing in recent years. Similarly, an alarming number of Filipino human rights defenders, human rights lawyers and indigenous or peasant activists engaged in defending economic, social and cultural rights have been victims of disappearances or summary executions.

The report also underlines the fact that socio-economic marginalisation in the Philippines leads to desperation and hopelessness that can find its expression in armed rebellion. In turn, this rebellion becomes the justification for anti-insurgency activities by the Philippine military that regularly compromise the economic, social and cultural rights of rural communities.

**Developing recommendations for effective action; addressing the implementation gap**

Your report should conclude with a series of concise recommendations developed on the basis of the issues and concerns you have raised. These recommendations should contain clear measures to enhance the enjoyment of human rights based on the above described wide ranging undertakings of State parties to take remedial action.

Civil and political rights on the one hand and economic, social and cultural rights on the other can not be effectively protected in isolation. In the overwhelming number of cases, efforts to protect rights in one group will fail if rights in the other are not also protected; experience has shown that acting only on selected causes of violence has little chance of success. Unfortunately, there is often an *implementation gap* in that committee recommendations to implement rights in one group do not take into account measures needed to protect rights in the other group.

Effectively eliminating torture and other forms of violence in a society thus requires multidimensional and integrated action aimed at ensuring the implementation of all human rights; civil, cultural, economic, political and social. For this reason the recommendations developed in OMCT alternative reports addressing the root causes of violence include specific programmes of preventive measures based on the identification of the sectors of the

population most at risk. They involve focussed action for economic, social and cultural development (initiatives aimed at employment creation, housing, education, nutrition, health, and respecting and promoting culture etc), reinforcing measures to ensure compliance by public authorities with legal standards and good practice (strengthening and training of the judiciary, police, local administration, military authorities etc) and the establishment of a permanent monitoring function with the participation of those directly concerned. For examples of recommendations see the alternative reports listed in Section 1 and annexes 1-6 below.

Thus for example, it is more constructive to recommend the establishment of an independent mechanism to monitor respect for human rights than simply to call for “better information on the human rights situation”. Where your work has led you to identify specific vulnerable groups, (for example, residents of informal settlements, ethnic minorities or communities affected by large-scale infrastructure projects), it might be appropriate to request that affirmative preventive action be taken, for example, through special police training or education, monitoring by the authorities of the conduct of police and others, and special attention on the part of the authorities to ensuring that vulnerable communities are legally recognized, protected and receive basic public services. The presence of marked socio-economic inequality might lead you to make recommendations concerning the creation of employment opportunities, better provision of education and health services and so on. Again, these recommendations should be as specific as possible.

In many cases it will also be important to include a recommendation concerning awareness-raising and training initiatives for government officials, the judiciary, law enforcement officials and others regarding the socio-economic root causes of torture and other forms of violence in their country, the vulnerability of specific groups and the measures necessary to reduce or eliminate this phenomenon.

In some cases it may be useful to suggest specific steps to achieve particular objectives. Thus, for example, while the key objective might be to introduce and effectively implement a law protecting indigenous land rights, this might, in fact, first involve carrying out an independent inquiry into the situation of indigenous land rights, consulting with indigenous communities, publicising the findings of the inquiry and consultations, and establishing a parliamentary working group to develop an appropriate draft law, before finally having this law approved and establishing an institution with the specific brief of implementing this law.

In order to promote such multidimensional action, OMCT, as has been mentioned, submitted alternative reports on the economic, social and cultural root causes of torture to the Committee Against Torture and the Committee on Economic, Social and Cultural Rights with regard to the Philippines and Kenya. While each report responded to the specific treaty, they were submitted with a view to providing the Committees with the basis for mutually reinforcing recommendations.

In addition, when following up on the recommendations of the respective Committees with regard to those two countries, OMCT approached national authorities on the basis of the combined recommendations of the two Committees. This was in order to help address the above-mentioned *implementation gap* as it appears on the national level when the recommendations of the Committees are implemented separately through distinct channels.

While it is a challenge to apply an article by article approach to the main body of an alternative report that addresses the economic, social and cultural root causes of torture, this approach may be more practical as regards the structure of your final recommendations. Irrespective, however, of the way you choose to structure your recommendations, practical, concrete measures are always preferable to vague statements.

### **During the session; keeping the Committee informed**

In order to participate in a session of a treaty body committee, representatives of NGOs and NHRIs must apply to the OHCHR Secretariat for accreditation and sign up as speakers for the briefing. Accreditation forms, available from the OHCHR website, should be submitted well in advance of the session. OMCT has been fortunate in being able to bring representatives of its national partner organisations to Geneva to brief the relevant committees on their alternative reports and, in particular, on the importance of focusing on the links between the incidence of all forms of violence and the denial of economic, social and cultural rights.

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

In the case of the Committee on Economic, Social and Cultural Rights, and as mentioned above, NGO hearing takes place on the afternoon of the first day of each session. The length of an NGO presentation generally depends on the number of organisations wishing to take to the floor. It is often as little as five minutes. This being the case, it is important that your statement is to the point and clearly sets out the critical points of your alternative report, putting these clearly in a framework that demonstrates their relevance for the development of Committee recommendations that will both prevent torture and other forms of violence, and also help reduce discrimination, socio-economic inequality and cultural intolerance.

These points may be further developed during the *informal NGO lunchtime briefing* with members of the Committee. Similar briefings are organised for NHRIs. The fact that this briefing is not an official element of the session means that the OHCHR Secretariat cannot offer organisational support for this meeting. It is therefore the responsibility of NGOs involved in the reporting process to organise this meeting, coordinate the speakers (leaving adequate time for questions from the Committee) and invite Committee members to the briefing.

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

For the Committee Against Torture, and as mentioned above, NGOs and NHRIs that have submitted information to the Committee can also address it during a formal, private in-session briefing. There is a one hour briefing allocated in the session schedule for NGOs and another, separate briefing for NHRIs, also one hour long. For each briefing, there are some thirty minutes available for all parties wishing to address the Committee to do so. The remaining time is allocated to questions from the Committee members. The Secretariat advises that representatives of NGOs and NHRIs do not repeat the information included in their reports, but highlight and update the most important issues.

### **Following-up recommendations: maintaining pressure for change**

At the end of a session, each committee issues an advance, unedited version of its concluding observations, including recommendations for the government of each country whose report was examined during that session.



The committees rely heavily on NGOs and NHRIs to keep them informed of the government's progress in implementing their recommendations. The Committee on Economic, Social and Cultural Rights explains that NGOs can assist, "by providing the Committee with reports on follow-up measures taken by the Government in response to the recommendations contained in the concluding observations. NGOs can give publicity to the concluding observations locally and nationally, and monitor the Government's performance in implementing the Committee's recommendations. NGOs reporting back to the Committee on the basis of their local monitoring and awareness-raising activities would contribute to more effective follow-up on the part of the Committee by keeping the Committee informed of developments in the country after the consideration of the State party report".<sup>31</sup>

*Follow-up missions* to assess and promote the implementation committee recommendations are an integral part of OMCT's engagement with the human rights treaty bodies. These generally involve OMCT staff travelling to the country concerned to discuss the implementation of the recommendations of the relevant treaty body with national NGO and government authorities. Effective follow-up maintains the momentum behind the committee recommendations and helps sustain pressure for reform. Missions usually take place within six to twelve months of a country's report having been considered by a committee.

OMCT alternative reports are published in English and a local language and include the concluding observations of the respective committee. They are used as an advocacy tool on the country level. Follow-up mission have been used as a platform for the official launching of the publication, helping to add to its impact. Working with national NGOs, NHRI and in dialogue with government and administration officials, follow-up missions can act as catalysis for change.

### ***Long term follow-up***

Most OMCT follow-up missions last for a short period, usually 5 working days. However, in the case of Kenya, a member of OMCT staff was able to carry out a three month mission in order to work with national partners to coordinate follow-up to the sets of recommendations issued, within a matter of days of each other, by the Committee on Economic, Social and Cultural Rights and the Committee Against Torture. This long term presence proved to be a very effective way of maintaining momentum by helping a wide range of actors in the implementation of the Committees' recommendations.

### ***Cross-sectorial implementation***

The strategy of producing complementary alternative reports on the same country to different treaty body committees has allowed OMCT to exploit the synergies generated when the human rights situation in a country is examined twice in a short period of time, albeit from different perspectives.

Each treaty body committee develops recommendations for a given country according to its specific mandate. This means that reducing or preventing torture and other forms of violence that arise from the violation of economic, social or cultural rights inevitably requires the implementation of recommendations from more than one committee. Further, on the national level, the implementation of the recommendations of different committees is often assigned to distinct and unconnected organs or institutions with separate chains of responsibility.

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<sup>31</sup> "Committee on Economic, Social and Cultural Rights - NGO participation. Participation of non-governmental organizations in the Committee on Economic, Social and Cultural Rights", see [www2.ohchr.org/english/bodies/cescr/NGOs.htm](http://www2.ohchr.org/english/bodies/cescr/NGOs.htm), also available as document E/C.12/2000/6.

Conducting follow-up on selected recommendations from two or even more committees and drawing attention to the significance of these recommendations at the national and sub-national levels is therefore an effective strategy to help bridge what is potentially an “*implementation gap*” regarding the prevention of violence in a given country.

## 5. Achieving results, bringing about change

OMCT's strong links with national partners have been crucial in enabling the organisation to bring up-to-date, first hand information directly to Geneva from the field and thus support and influence the work of the human rights treaty bodies. Responding to a questionnaire distributed by OMCT to help tailor the organisation's submissions to the treaty bodies, a member of the Committee on Economic, Social and Cultural Rights found OMCT alternative reports, "*very useful in the preparation of the questions I intended to put to the delegation of each State party*", described the particular emphasis on the links between the denial of economic, social and cultural rights and the incidence of various forms of violence as "*extremely relevant*", and confirmed that, "*the incidence of various forms of violence results in the restriction or even the total negation of most ESCR [economic, social and cultural rights].*"

The concrete impact of OMCT's alternative reports, and hence the value of the approach promoted in this guide, can be illustrated by a number of examples. Regarding *Kenya*, the Committee Against Torture in its concluding observations<sup>32</sup> specifically acknowledged the links between violence and denials of economic, social and cultural rights in emphasising, *the persistent linkage between widespread violence and torture by state agents and the problem of land in the State party. The lack of access to land, paired with other social and economic injustices, are frequently considered as root causes of torture and violence.*

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

Likewise, the concluding observations and recommendations of the Committee on Economic, Social and Cultural Rights on Kenya<sup>33</sup> reflect many of the concerns expressed and measures proposed by OMCT and its partners. In particular, the Committee noted that, *disparities in the enjoyment of economic, social and cultural rights, including access to land, have led to inter-ethnic tensions and post-election violence during which at least 1,500 persons were killed in early 2008.*

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

<sup>32</sup> CAT/C/KEN/CO/1 of 19 January 2009

<sup>33</sup> E/C.12/KEN/CO/1 of 1 December 2008

In the case of the *Philippines*, the Committee on Economic, Social and Cultural Rights<sup>34</sup> made specific reference to forced disappearances and extrajudicial killings of trade union activists, indigenous leaders, peasant activists advocating for the implementation of the agrarian reform and human rights defenders engaged in defending the economic, social and cultural rights of their communities. It also expressed particular concern about the limited progress made by the State party in investigating such cases and in prosecuting the perpetrators of these crimes. Echoing OMCT's recommendations, it explicitly called upon the Government to take all necessary measures to protect these groups against "*any intimidation, threat and violence, whether perpetrated by State security forces and agents or non-State actors.*" It also called on the State party

*"to ensure that all alleged cases of forced disappearances and extrajudicial killings are promptly and thoroughly investigated, and that alleged perpetrators are prosecuted and appropriately punished, if found guilty."*

In addition, the Committee noted with concern the adverse effects that economic activities connected with the exploitation of natural resources, especially mining operations, carried out in indigenous territories continued to have on the right of indigenous peoples to their ancestral domains, lands and natural resources. In line with OMCT's alternative report, it called on the Government to avoid that, "*economic activities, especially mining, carried out on indigenous territories adversely affect the protection of the rights recognized to indigenous peoples [...].*"

In the case of *Brazil*, several of the concluding observations and recommendations of the Committee on Economic, Social and Cultural Rights<sup>35</sup> clearly reflect the issues brought to the attention of its members by OMCT and its partners. For example, the Committee expresses its deep concern at,

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

This in turn lead the Committee to recommend that the Government of Brazil take all necessary measures to combat this violence and impunity and to ensure the protection of human rights defenders, including by improving "*human rights training for law enforcement officials, especially police officers, and ensure that all allegations of human rights violations are promptly and thoroughly investigated by an independent body capable of prosecuting perpetrators*".

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

Significantly, in his opening statement to the Committee on Economic, Social and Cultural Rights on 6 May 2009, the President of the Republic of Brazil's Special Secretariat for

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<sup>34</sup> E/C.12/PHL/CO/4 Of 1 December 2008

<sup>35</sup> E/C.12/BRA/CO/2 of 12 June 2009

Human Rights and head of the Brazilian Government's delegation, anticipated the Committee's concerns regarding violence in Brazilian society. In so doing he clearly echoed the content of the alternative report submitted by OMCT and its partners on the criminalisation of poverty in Brazil, confirming that, "*[...] many of the denunciations made regarding violence in Brazil and the criminalisation of social movements are particularly relevant, and they lead public powers to take corrective action*".<sup>36</sup>

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<sup>36</sup> "[...] muchas de las denuncias hechas sobre la violencia en Brasil y sobre la criminalización de los movimientos sociales son de las más relevantes y inducen los poderes públicos a tomar actitudes correctivas". Discurso de su excelencia, el Ministro de la Secretaria Especial de los Derechos Humanos de la Presidencia de la República de Brasil, Paulo Vannuchi. Presentación del II Informe Nacional Brasileño referente al Pacto de Derechos Económicos, Sociales y Culturales de las Naciones Unidas, Geneva, 6 May 2009, p.16.

## 6. Conclusions

The approach advocated in this guide has the potential to make a tangible difference to the lives of those individuals and communities around the world who live in poverty, experience discrimination and bear the harshest consequences of the iniquitous distribution of resources. These same individuals and communities are also among those most vulnerable to being subjected to torture, cruel, inhuman or degrading treatment or punishment and other forms of violence. This significant overlap necessarily calls for a holistic approach to the implementation of international standards, and UN treaty bodies have a crucial role to play in supporting and, indeed, promoting this development. Likewise, NGOs have the potential to bring together recommendations issued by separate committees and help ensure that they are implemented in a coordinated manner by the national organs and institutions whose duty it is to do so.

One aspect, however, remains constant: many of the issues discussed in this guide refer to economic initiatives established or supported by national governments, and OMCT's principal aim in preparing alternative reports is not to challenge the right of states to pursue development goals or to make use of the resources within their territory, but rather to ensure that this is done in the full respect of human rights. This involves not only addressing immediate human rights violations, but also laying the foundation of sustainable change toward a more just and equitable world in which individuals and groups are no longer victimised because of their socio-economic status or cultural identity.

This guide has focused on two committees in particular - the Committee on Economic, Social and Cultural Rights and the Committee Against Torture - however the strategy of seeking to address the connection between the denial of economic, social and cultural rights on one hand, and torture and other forms of violence on the other is equally relevant for a number of other treaty body committees.

Thus, for example, women, children, migrant workers and their families and persons with disabilities are all vulnerable to violence linked to their economic, social or cultural status, and each of these groups also has a specific committee dedicated to monitoring the implementation of their human rights. The potential of enhancing the synergies between and among these committees is enormous and would take us significantly closer to breaking down the artificial divisions between different “sets” of rights that still mark the human rights landscape. It would also represent an important step toward making tangible the assertion contained in the 1993 Vienna Declaration and Programme of Action that all human rights are universal, indivisible, and interdependent and interrelated and that it is the duty of all States, *“regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms”*.

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## **Annex 1**

### **Uzbekistan**

#### **An alternative report to the Committee against Torture on the Economic, Social and Cultural Root Causes of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Uzbekistan**

November 2007

(Excerpts)

#### **Main thrusts of the report**

##### **The challenge**

Human rights violations in Uzbekistan have been the subject of much concern and of many recommendations on the part of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee against Torture.

The Special Rapporteur on torture reported on the serious situation with regard to torture in Uzbekistan after a visit to the country, and non-governmental organisations such as OMCT continually denounce serious violations of human rights there.

In its 2003 Common Country Assessment of Uzbekistan, the United Nations Development Group reported on serious violations of human rights and on violence in the country, identified a number of economic, social and cultural root causes and recommended corrective action. Furthermore, organisations such as the European Union and the European Parliament have also called for action to address human rights violations in Uzbekistan.

The clear warnings that various governmental and development agency policies would lead to increased violence went unheeded and the preventive recommendations were ignored. The violence, torture and ill-treatment subsequently increased dramatically. The information presented to the Committee shows that little or no improvement has been made and this lack of progress underlines the need to seek additional means of bringing about change.

*Chapter 1* establishes that torture and cruel, inhuman or degrading treatment or punishment are among the most severe human rights problems facing Uzbekistan. At the root of much torture is the socio-economic situation in the country, where torture and other forms of abuse, including unlawful and arbitrary arrest and detention, are aimed at poor and impoverished groups. Today, these groups constitute the majority of the population of Uzbekistan. In addition, the reports of arrests and ill-treatment often concern human rights defenders fighting for the economic, social and cultural rights of the population, or individuals defending their own economic, social and cultural rights. Violence is also associated with mass displacements of the population and forced evictions, as well as the presence in the

cities of informal and illegal workers with no residence permit. The economic situation and the social and cultural conditions are also the reasons behind much violence against women, both at home and in their work environment, and for violence against children.

*Chapter 2* reviews the United Nations Development Group's 2003 Common Country Assessment of Uzbekistan, which shows that the neglect of economic, social and cultural rights and the growth in poverty and inequality resulted in increased violence in the country. It also reviews the recommendations contained in the Common Country Assessment, which, if implemented, would go far towards redressing the situation with regard to torture and violence.

*Chapter 3* examines the economic situation in Uzbekistan in detail and considers the extent to which a wide range of economic, social and cultural rights are respected. It analyses the Government's economic policies and shows that these policies produce poverty and violence in the country. Several case studies are provided as examples. The chapter concludes that there exists a close relationship between poverty, inequality and violence. The difficult economic situation is intensifying social disparities and thus creating a potential opportunity for extremist groups to act out of resentment at perceived social injustice. Additionally, the growing numbers of the unemployed present a threat to social stability and security. The Government is directly violating many of the human rights of the population, using as a pretext the need to protect national security and to combat terrorism. This does not constitute an acceptable justification. Disillusionment with the reform process, growing inequality, citizens' alienation from the State, and human rights violations may give rise to an unstable social, economic and political environment and in themselves create a threat to security.

*Chapter 4* contains recommendations based on the report. Since the majority of victims of torture, ill-treatment and other forms of violence, in particular the victims of violence committed by state officials, can be identified in terms of their economic, social and cultural situations and, in particular, their place of residence, it is proposed that preventive measures be established to protect persons at risk of violence based on the areas where they live. This would include establishing focused programmes of economic development and poverty reduction, implementing specific training and educational programmes for officials serving in those areas and establishing a permanent monitoring function there in order to ensure official compliance with legal standards and good practice. In addition, recommendations are made for initiatives in the field of economic, social and cultural rights that are necessary to guarantee the full implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Such initiatives include implementation of the recommendations of the Common Country Assessment and the establishment of a human rights assessment mechanism for all government policies. Further recommendations are made regarding specific measures to address a number of economic, social and cultural rights, the violation of which has a clear impact on torture and ill-treatment.

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## **Annex 2**

### **Kenya** **An alternative report to the Committee Against Torture** **addressing the economic, social and cultural root causes of** **Torture in Kenya**

November 2008

(Excerpts)

#### **EXECUTIVE SUMMARY**

The purpose of this report is to help eliminate torture, cruel, inhuman and degrading treatment and punishment in Kenya by making recommendations to address their economic, social and cultural root causes. OMCT has submitted another report addressing the same issues from a complementary perspective to the Committee on Economic, Social and Cultural Rights in order to enable the Committees to adopt mutually reinforcing recommendations addressing the root causes of torture in Kenya.

The present report is based on documentation provided by national NGOs and on the information gathered during a preparatory mission that OMCT undertook in Kenya during the month of April 2008. The mission also included a number of fora giving local communities and victims of violence the opportunity to express themselves on these issues for transmission to the Committee. These are reflected in *ad hoc* boxes in this report.

This report describes the extensive violence deriving from deep poverty and inequality in Kenya, in this respect the particular case of Westlands is examined. It provides information on how the poor are, on a regular basis, harassed, forced to pay bribes and arbitrarily arrested by the police, particularly in informal settlements. The report demonstrates that Kenyan prisons are predominantly populated by the poor, due to unaffordable and inaccessible justice and analyses the impact of the lack of financial means in terms of congestion and unhealthy and inhuman living conditions in Kenyan prisons. The report discusses land conflicts that generate violence and the Government's inadequate response to address inequitable land distribution. In this respect, the report draws attention to the recent torture allegations in Mount Elgon District. The strong linkages between denials of access to land and violence exacerbate ethnic divisions by increasing tensions, insecurity, dissatisfaction, poverty and powerlessness. Furthermore, the persistence of certain cultural norms, stereotypes and traditions perpetuates discrimination and violence against women and girls in Kenya, and lack of economic and social empowerment prevents women from enjoying their civil and political rights, including access to justice in case of violence. Poverty is the main cause of the high levels of trafficking in women and girls and sexual exploitation in the country.

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

The report offers a set of recommendations addressing the various economic, social and cultural dimensions that underlie torture and other forms of violence in Kenya, including

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

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## **Annex 3**

### **Kenya**

#### **“THE LIE OF THE LAND”**

#### **An alternative report to the Committee on Economic, Social and Cultural Rights Addressing the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in Kenya**

November 2008

Excerpts from the Introduction

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#### **The lie of the land**

The economic, social and cultural root causes of violence in Kenya are manifold and complex. In this report, however, they are examined through a specific lens – that of access to land and the resources associated with it. In Kenya, land represents survival, shelter and security. For the majority of the population, it is essential for guaranteeing the rights to work and to an adequate standard of living, including adequate food (it is said that land and natural resources provide a livelihood for some 80 per cent of Kenya’s population<sup>37</sup>). Land is also inextricably linked to the question of housing: where there are doubts concerning title deeds, housing security is put at risk, and with it access to education, health facilities and other services. In Kenya’s cities, residents of certain disadvantaged areas are effectively criminalised – and victimised – by the police. The de facto exclusion of women and children from ownership of land and other forms of property is at the heart of the discrimination they experience. And for many Kenyans, in particular indigenous communities, certain pieces of land have a cultural significance so great that it is difficult for those who do not belong to the concerned communities to begin to grasp its importance. Land in Kenya is also a symbol of political power and patronage. Political support finds reward in the form of land allocations, and groups too small to have a political impact often live in constant uncertainty regarding the very land on which they live and work.

Given the extent to which the enjoyment of economic, social and cultural rights in Kenya is linked to land and its associated resources, it is hardly surprising that land is also at the root of a range of forms of violence, whether directly, in the form of conflict over land or access to water, forced evictions, or politically motivated violence such as that seen after Kenya’s elections at the end of 2007, or indirectly, in the form of violence against or harmful traditional practices affecting women and children. The situation becomes still more acute when drought brings food and water shortages: in the north of the country, which is currently experiencing severe drought, there has been a marked escalation of conflict over scarce resources among the predominantly pastoralist communities. On 18 September 2008, IRIN (the Integrated Regional Information Network for humanitarian news and analysis, of the United Nations Office for the Coordination of Humanitarian Affairs, OCHA) reported that at

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<sup>37</sup> *United Nations Development Assistance Framework (UNDAF): KENYA 2004-2008*, <http://www.ke.undp.org/UNDAF.pdf>.

least six people had been killed and hundreds displaced following days of fighting between Borana and Samburu herders over water and pasture along the border of Isiolo and Samburu Districts. This followed the death of at least 13 people as a result of inter-community clashes in the neighbouring region of Mandera.<sup>38</sup>

The question of land and associated resources, including housing, is, of course, not the only key to understanding the economic, social and cultural root causes of violence in Kenyan society; however, it is a theme that was raised again and again in the course of meetings held during the preparatory mission for this report. Participants in these meetings repeatedly said that they considered it impossible to address the long-term and ongoing social tensions in Kenya effectively until the issue of land tenure is satisfactorily resolved.

### **Listening to the people**

In preparation for this report, CEMIRIDE and ICJ in Nairobi and OMCT in Geneva collaborated to produce a “List of issues arising from the initial periodic report of Kenya to the Committee on Economic, Social and Cultural Rights” in November 2007. OMCT subsequently carried out a preparatory mission to Kenya with the support of CEMIRIDE and ICJ. This mission involved two OMCT staff and a number of staff from the Kenya-based organisations and ran from 12 to 18 April 2008.

The aim of the preparatory mission was twofold: first, to consult representatives of Kenyan Government and civil society regarding the link between violence and the denial of economic, social and cultural rights in Kenya and second (and this is the more innovative dimension of the methodology), to hold a number of consultative forums with local communities directly affected by violence, to record their experiences, seek their inputs and recommendations and bring their voices to the Committee.

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<sup>38</sup> IRIN, “KENYA: Hundreds displaced in ‘drought’ clashes”, Isiolo, 18 September 2008, <http://www.irinnews.org/Report.aspx?ReportId=80464>.

**Box 2: Forums held during the OMCT-CEMIRIDE–ICJ preparatory mission**

*Sunday, 13 April*

- Laikipia Maasai community, near Nanyuki; 30 men of all ages (women were present but did not participate)

*Monday, 14 April*

- Arabal Endorois community, near Mochongoi; 25 men of all ages
- Public forum on right to land, Nairobi; 70 participants of all ages, predominantly men
- Ilchamus Community, Marigat Division; 50 men and women, all ages (including children)

*Tuesday, 15 April*

- Ogiek community, Mau Forest, Nakuru; 40 men of all ages

*Wednesday, 16 April*

- Forum on youth and economic, social and cultural rights, Nairobi; 25 participants, both men and women, from the Westlands Constituency in the north of the city, the majority between 18 and 30 years of age

*Thursday, 17 April*

- KENGO public forum on informal settlements, Nairobi; 100 men and women of all ages, low- to middle-income residents of informal settlements.

Four of these meetings were coordinated by CEMIRIDE and were held with pastoralist and hunter-gatherer communities in the Rift Valley area.<sup>39</sup> The situation of these communities is presented here not as an exceptional case, but rather as representative of many of the serious challenges facing communities across Kenya. Three other meetings were organised by ICJ and addressed, in particular, the challenges faced by urban dwellers in Nairobi. All these meetings were held in formal or semi-formal settings (in the case of rural communities, outdoors at their traditional gathering places) and were both filmed and photographed, with the communities' approval. In rural areas, the majority of participants spoke in their local language and simultaneous interpretation into English was provided. In urban areas participants spoke Kiswahili or English. Again, interpretation was provided when necessary. Selected transcripts from these forums are included in this report. They offer eloquent testimony of the violence and insecurity that are constant elements of the lives of many of Kenya's poorest and most marginalised citizens. Box 2 lists the details of the six forums. The full schedule of meetings and forums held during the one-week preparatory mission is listed in the appendix to this report.

### **The impact of the 2008 post-election violence**

This mission was carried out in the wake of the severe post-election violence that swept across the country from January 2008; the two main political parties were engaged in negotiations over a new power-sharing Cabinet at the time of the visit by the OMCT Secretariat. While the post-election violence clearly influenced the views of Kenyans, many of those who spoke with OMCT, CEMIRIDE and ICJ staff in the course of the mission underlined that the violence had deep historical roots and that the events that took place in the

<sup>39</sup> This report makes reference to Kenya's various administrative areas. The country is divided into eight provinces, which are made up of 71 districts. In turn, these districts are subdivided into 262 divisions, which are further divided into locations, Kenya's smallest administrative units.

early months of 2008 could be understood to represent a particularly extreme manifestation of the unrest that periodically flares up in Kenya, especially around election periods. At the root of this unrest lies the manipulation of ethnic groups by politicians, who unhesitatingly play upon questions of political representation, access to resources and – the perennial issue in Kenya – land ownership. In short, poverty and factional politics constitute a highly inflammable mix that fuelled the violence in Kenya, and will continue to do so until a Truth, Justice and Reconciliation Commission is established. This Committee must not only address the most recent violence, but also consider earlier episodes (including the 1984 Wagalla Massacre) and the displacement, loss of livelihood and physical and psychological injuries associated with these events.

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## Annex 4

### THE PHILIPPINES

#### AN ALTERNATIVE REPORT TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS ADDRESSING THE ECONOMIC, SOCIAL AND CULTURAL ROOT CAUSES OF TORTURE AND OTHER FORMS OF VIOLENCE IN THE PHILIPPINES

November 2008

(Excerpts)

#### **Executive summary**

This report seeks to reduce and eliminate torture, cruel, inhuman and degrading treatment, and other forms of violence in the Philippines by proposing to the Committee recommendations for action by the Government to address their economic, social and cultural root causes.

In the Philippines, poverty and inequality marginalise large sectors of society, rendering them vulnerable in their daily lives to many forms of violence, including State-sponsored violence. Persons peacefully claiming their economic, social and cultural rights or defending the rights of others are often subjected to violent attacks, killings and disappearances. And, as a UN report has pointed out, desperation and hopelessness at their situation can lead some to resort to armed rebellion.<sup>40</sup> Tragically, this violence and lack of security, in turn, severely hinders these people from escaping from poverty.

Although the Filipino economy has demonstrated healthy levels of growth in recent years, this has been accompanied by an increase in the inequitable distribution of wealth and has not contributed significantly to the reduction of poverty. Further, the Philippines has one of the highest levels of income inequality in Asia. The inability to break the cycle of poverty is largely a result of these disparities and inequalities in accessing the resources and benefits of development and the lack of accountability placed on duty-bearers.

The Government of the Philippines has implemented a policy of trade liberalisation in order to attract foreign capital and to accelerate domestic economic development. Policies with respect to mining, land reform and export economic zones have very direct links with violence. In addition, low priority has been given to social services in the national budget where severe cutbacks have been made to enable continued debt servicing. This has rendered certain groups particularly vulnerable to violence, including indigenous people, the Muslim population in Mindanao, women living in precarious conditions (indigenous women and women living in rural and conflict-prone areas), and disadvantaged and marginalised children.

Policies promoting investment in mineral extraction that do not take into account the rights of the people affected provoke demonstrations that are often met with violent reactions by

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private security forces. Conflict over land is also a root cause of violence in the Philippines as landowners are increasingly converting agricultural land to agrobusiness or other forms of economic activity to the detriment of the lives of rural communities. And similarly, the urban population is subject to violent evictions to make way for economic development projects.

Violence against unions in the Philippines has been increasing in recent years, including killings, assaults of workers on picket lines, threats and intimidation, and the filing of false charges against union activists. Further, an alarming number of Filipino human rights defenders, human rights lawyers, trade unionists, and indigenous or peasant activists engaged in defending economic, social and cultural rights are victims of disappearances and summary executions.

### ***Recommendations***

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

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

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## **Annex 5**

### **The Philippines**

#### **An alternative report to the Committee against Torture “Preventing Torture and other Cruel, Inhuman and Degrading Treatment in the Philippines by Acting on their Economic, Social and Cultural Root Causes”**

April/May 2009

(Excerpts)

#### **Executive Summary**

The purpose of this report is to contribute to the reduction and elimination of torture, cruel, inhuman and degrading treatment, summary executions and enforced disappearances in the Philippines by proposing recommendations for action to address their economic, social and cultural root causes.

It responds to the concerns expressed by the Committee against Torture regarding the serious violations of the rights of human rights defenders, including indigenous rights defenders, trade unionists and peasant activists, and the plight of indigenous peoples who, as among the most marginalised groups in the Philippines, are often victims of various forms of abuse, violence and exploitation. The Committee also referred to reports that due to poor living conditions and social exclusion, indigenous children are at risk of becoming involved in armed conflict and being recruited into armed groups and that armed conflict renders indigenous women and girls more vulnerable to physical and sexual violence.<sup>41</sup>

This report is based on information and analysis from national and international NGOs, on two information-gathering missions to the Philippines, on the conclusions of United Nations treaty bodies, reports of United Nations special rapporteurs, the World Bank, the United Nations Common Country Assessment of the Philippines and others. The information in this report mirrors that in the report submitted by OMCT in October 2008 to the 41<sup>st</sup> session of the Committee on Economic, Social and Cultural Rights in which it addressed the economic, social and cultural root causes of torture and other forms of violence in the Philippines from the perspective of the International Covenant on Economic, Social and Cultural Rights.<sup>42</sup> By submitting reports to two key UN treaty bodies, OMCT seeks to provide the committees with a basis for mutually reinforcing recommendations.

This report describes how the poor, vulnerable and marginalised in their daily struggle for existence and in their legitimate activities to claim and protect their rights are met with violence on a large scale. Farmers and indigenous peoples wishing to have continued access to their means of living, the Muslim population of the Philippines seeking respect for their culture and way of life, workers seeking to protect their rights, victims of large-scale mining

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<sup>41</sup> UN Doc. CAT/C/PHL/Q/ 2 of 15 December 2008, paras. 32 and 33.

<sup>42</sup> Available at <http://escr.omct.org>

operations, and human rights defenders working to protect those populations and their rights are subjected to torture, summary executions, forced disappearances and other forms of ill-treatment from public and private sources.

Peaceful protests are seen as subversive by the Government and criminalised, and rural populations, under the guise of anti-subversive military operations, are prevented from growing their own food, their children are prevented from going to school, and they are subjected to torture, ill-treatment, killings, disappearances and other serious human rights violations.

The summary executions, disappearances and torture that take place in the Philippines continue because of impunity; no perpetrators are brought to justice and convicted. A climate of fear pervades Filipino society, and many victims and/or relatives of victims either do not bring proceedings for abduction, torture or illegal detention or fail to pursue them due to fear of reprisals from the police or military.

The denial of economic, social and cultural rights weakens people to the extent that allows the perpetrators of violence, by virtue of their positions of power over the victims, to act with impunity. Violence and lack of security, in turn, severely hinder these people seeking to escape from poverty, work in just and favourable conditions, provide care and education to their children, and enjoy an adequate standard of living and the highest attainable standard of health.

This report *recommends* (see chapter IX) the adoption by the Government of a multidimensional and regional approach to eliminate torture and other forms of violence resulting from violations of economic, social and cultural rights. This would be done by establishing *specific programmes of preventive measures* in each geographic region affected by violence aimed at protecting, in an integrated manner, economic, social and cultural rights and civil and political rights through, in particular, the implementation the relevant recommendations of the Committee against Torture, the Committee on Economic, Social and Cultural Rights and other UN treaty bodies. The programme for each specific region, designed and implemented with the participation of representatives of the different communities concerned, would include:

- initiatives relating to economic and social development (employment creation, education initiatives, health services, housing, nutrition, enhancing the status of women, etc.);
- initiatives aimed at respecting and protecting the cultural rights of all groups in the Philippines, including the Muslim population and indigenous peoples and the land rights of the latter;
- initiatives aimed at enhancing the rule of law including strengthening and training the judiciary; training the police and local administrators, relevant military units and personnel in human rights (including economic, social and cultural rights); and ceasing to use civilian auxiliaries of the Armed Forces of the Philippines (AFP) in the fight against so-called “terrorism”); and
- the establishment of a permanent monitoring function in those areas to ensure official compliance (by law enforcement officials, local government and the military) with human rights law and good practices.

The report also recommends the adoption of a nationwide rights-based approach to development by integrating human rights into economic and social policy. This should

include the establishment of democratic and transparent mechanisms with an explicit economic, social and cultural rights mandate to oversee decisions on economic policies and to identify possible areas where there are risks of violence. This mechanism should include the Commission on Human Rights of the Philippines, relevant economic planning agencies and civil society. The adoption of a rights-based approach to development projects is recommended, including full and thorough consultation with the affected communities, an environmental and human rights impact assessment prior to decision-making and during implementation of projects, the monitoring of compliance with commitments entered into by corporations involved in such projects and the extension of the mandate of the Commission on Human Rights to include economic, social and cultural rights.

Other specific recommendations focus on facilitating the participation of civil society organisations in preventing and eliminating torture and ill-treatment and in ending the climate of impunity, including by ending attacks on human rights defenders, supporting the work of civil society organisations, protecting witnesses and ensuring impartial investigations of extrajudicial executions and torture. Recommendations also deal with strengthening legal and judicial measures to protect human rights by, inter alia, adopting legislation criminalising torture, ratifying the Optional Protocol to the Convention against Torture and empowering the Commission on Human Rights to carry out unannounced visits to all detention centres and military establishments.

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## **Annex 6**

### **Brazil**

#### **“THE CRIMINALIZATION OF POVERTY”**

#### **An Alternative Report to the Committee on Economic, Social and Cultural Rights on the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in Brazil**

April 2009

**Excerpts from Chapter 1 Addressing Poverty, Inequality and Violence: “the very heart of human rights protection”**

#### **The elements of this report**

This section offers a brief overview of the issues covered in this report and locates them the context of the “criminalisation of poverty”, tracing the threads of a complex and challenging situation. It concludes with a summary of the key recommendations proposed by Justiça Global, MNMMR and OMCT.

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#### *2. The criminalisation of poverty*

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

#### *3. Inequality and violence*

This section discusses how those who are most affected by socio-economic inequality – and in particular Brazil’s black population – are also most likely to become victims of violence, especially lethal violence. The Government of Brazil recognises this challenges and has introduced a number of measures to improve the situation. One of these - the National Programme for Public Security and Citizenship (PRONASCI) – seeks to articulate public security policies with social action. The effectiveness of this Programme has yet to be gauged, although civil society expresses some reservations concerning its structure and implementation.

#### 4. Police Violence Against the Poor

The criminalization of poverty is both produced by, and serves as a justification for a form of law enforcement based on social profiling and the identification of a “typical” suspect. Policing of this nature promotes indiscriminate violence over impartial investigation and armed confrontation over community dialogue. As Section 4 of this report discusses, Brazil’s poorest and most marginalised communities live with the daily risk of being caught up in acts of lethal violence at the hands of the police. The UN Special Rapporteur on extrajudicial, summary and arbitrary executions in his report on Brazil indicates that the police are responsible for one out of every five killings in the country.<sup>43</sup> The Police have also been involved in several high profile militarised operations in the poorest areas of Brazil’s cities which, despite proving to be highly ineffective,<sup>44</sup> have received the public support of President Lula’s administration.<sup>45</sup>

#### 5. Militia Control of poor Urban Areas

In the last four to five years, another oppressive element in the lives of Brazil’s urban poor has emerged, in particular in Rio de Janeiro but also in other urban areas across the country. Ostensibly, the rise of informal or semi-formal militias has taken place in response to public fears concerning “criminality”, however in practice these organisations are driven by strong economic interests. Composed of police and ex-police, together with prison guards, firefighters and others, Brazil’s militias occupy a grey area. Technically illegal, but in practice long-tolerated, they enjoy a symbiotic relation with the police. Indeed, police operations against gangs in poor urban areas have often created a power vacuum which militias have filled and, once a militia group has assumed control of a neighbourhood, the police will not confront their “colleagues”. On the pretext of providing security and “protection”, the militias establish their own structures to exploit poor communities – engaging in extortion, taking over supplies of gas and the provision of cable television and the running internet points. Control of local transport services is said to be a particularly lucrative activity for militias. In 2005, it was estimated that more than 100 poor urban communities were under militia control in the city of Rio de Janeiro.

Although pitted against each other, militias and organised criminal gangs alike represent the violent appropriation of the public space and the economic resources of Brazil’s urban poor by non-state actors. Ironically – given their negative impact on the enjoyment of the economic, social and cultural rights of Brazil’s poor urban residents - militias regularly conduct their operations from a *centro social* in the neighbourhood, which becomes a physical symbol of their domination of the community. It was also reported that areas of the city of Rio that are controlled by militias tend to attract young people in search of “employment opportunities” with these groups.

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<sup>43</sup> Alston, Philip (2008) “Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil”. A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version.

<sup>44</sup> Alston described them as “murderous and self-defeating”.

<sup>45</sup> To take just one notable example, the Complexo do Alemão in Rio de Janeiro was the scene of a major police operation on 27 June 2007, which saw a 1450-strong contingent of police and security force personnel engage in an 8-hour anti-gang operation in the streets of the neighbourhood. In the course of the operation, 19 civilians were killed and at least 9 wounded. A total of 12 weapons were confiscated – significantly fewer than the number of civilian deaths. For further details, see Alston, Philip (2008) “Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil”. A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version,

### 6. *Economic, Social and Cultural Rights and the Prison System*

The prison system, discussed in Section 5, is a fundamental element in perpetuating the link between poverty and violence in Brazil and in feeding the phenomenon of the criminalisation of the poor. Poverty, inequality and violence, including institutional violence, not only lead to incarceration, they are also present within the walls of prisons and are generated around prison inmates and their families “on the outside”. Indeed, incarceration leads to serious social stigma for a prisoner’s family, and this, together with the economic impact of losing the detainees’s income-generating capacity can lead to serious economic precariousness. If, prior to incarceration, a prisoner was employed in the formal sector then his or her family has the right to claim a small amount of financial support (*salário reclusão*). If, on the other hand, he or she earned her income in the informal sector – the case for the majority of Brazil’s poorest citizens – there is no such support. In this sense, the model of imprisonment currently applied in Brazil only serves to reinforce discrimination and deepen inequality. There is a sad but simple formula: the poor, classified *a priori* as “criminals” in an unsympathetic police and justice system, make up the majority of the prison population (and again we can add other overlapping identifiers such a “black” and “young”). In turn, incarceration only exacerbates their marginalisation and that of their families. While the law foresees education and training for prisoners to facilitate their reintegration in society, once again, in practice, this fails to work. In Rio de Janeiro, for example, the population of condemned prisoners in 2007 stood at 23,000, of whom only 510 were said to be receiving some form of training.

### 7. *Violence against women*

As is so often the case, women and children in poor communities are not only are particularly vulnerable to violence, but also susceptible to experiencing this violence in ways specific to their gender and age. Section 6 of this report discusses how, in many cases, women, and poor woman in particular, are tied to abusive partners by both financial dependency and, particularly in the North and Northeast Regions of the country, by a traditional vision of women as property of men. Again, poverty is not the only factor. Statistics demonstrate that Brazilian woman at greatest risk of being killed by their partner are not only “poor”, but also “young” and “black”. Women’s vulnerability to violence is compounded by the challenges they face in seeking assistance. In particular, this report focuses on the response of the police, which has been described as “inefficient, disrespectful and, very often, violent.”<sup>46</sup>

### 8. *Violence against human rights defenders and social movements*

The final dimension of the criminalisation of poverty discussed in this report refers to the strategies employed by the police and justice system in Brazil to criminalise social movements and human rights defenders who seek to protect and promote the human rights of the poor, of women, of black Brazilians, of indigenous peoples and Quilombola communities.<sup>47</sup> Many of the organisations that attended the one-day workshop in Recife for the preparation of this report considered that they were targeted by the State for their engagement in human rights, a claim that was echoed by representative of a number of the organisations we met with in Rio de Janeiro.

<sup>46</sup> SOS Corpo, *Violência e Saúde da Mulher*, Dados e Análises, III, no. 6, November 2007, p 7.

<sup>47</sup> Quilombolas belong to ethnically or racially distinct groups whose origins are in part linked to communities formed by slaves who escaped from captivity prior to the abolition of slavery in 1888. They are characterised by a strong cultural identity, attachment to their customs and traditions, and commitment to maintaining their way of life. These communities have distinct links to specific territories.

## Key Recommendations

A necessary precondition for the promotion of economic, social and cultural rights in Brazil is the establishment of the rule of law in areas where the State is effectively absent. This goal must be reached in a planned and systematic manner, and in full respect of human rights. It cannot be achieved by means of “mega-operations” and the application of the current model of policing based on aggressive confrontation and impunity for human violations. Rather, it calls for a new model of accountable policing with a strong community dimension.

The full set of recommendations for the Government of Brazil arising from this report, including measures to improve policing, are listed in section 9. They include recommendations to:

- Adopt more comprehensive strategies for the protection of human rights defenders, including defenders of economic, social and cultural rights, together with ending impunity for violations affecting them and unambiguously articulate support for activities in defence of human rights;
- Develop a holistic approach to end the discrimination and violence experienced by Brazil’s poorest citizens, including those in informal settlements and *favelas*. Necessary dimensions include economic and social development (employment creation, education initiatives, health services, enhancing the status of women etc), enhancement of the rule of law (strengthening and training the judiciary, training the police and local administrators in human rights), the creation of space for the meaningful involvement of civil society and the participation of local communities, including in the process of monitoring. This initiative should be accompanied by the funds necessary for its effective implementation;
- Introduce measures, including positive discrimination in the fields of employment, training and education, to ensure that Brazilians of African descent, indigenous peoples, Quilombola communities, Brazilians who reside in informal settlements and *favelas*, and other groups vulnerable to socioeconomic exclusion and violence enjoy their economic, social and cultural rights without discrimination of any kind. This should include ensuring that they have access to basic services, including water and sanitation, as well as to health and education services of an adequate quality;
- Identify and address specific cultural values that discriminate against and compromise the human rights of women and children, including their rights to protection from all forms of violence. Create economic opportunities for women in order to promote their income-generating capacity and financial independence;
- Echoing the recommendation of the UN Special Rapporteur on extrajudicial, summary and arbitrary executions, improve conditions of employment in the police services to discourage police corruption and take firm steps to eradicate the illegal practice of *bico* (second jobs to round up wages). Off-duty police should in no circumstances be permitted to work for private security firms. To facilitate such changes, the police should be paid significantly higher salaries, and the shift structure of police work should be reformed so that police cannot regularly work for large blocks of time and then receive multiple days off;
- Ensure the concrete implementation of the constitutional provisions related to land and adopt an agrarian reform consistent with the principles enunciated under the Constitution. This reform should address land conflict, ensure equitable land distribution and guarantee access to land. Elaborate a national policy on the regularization of land occupation and simplify the issuance of title deeds, including those related to rural settlements, indigenous lands and Quilombola communities;

- Recognise that the high levels of violence in Brazilian society, including gang violence, police violence and violence against women and children, have a direct impact on the physical and mental health of many Brazilians, and provide adequate medical, counselling and support services in areas particularly affected by violence;
- Introduce reforms in the adult prison system and the juvenile detention system to ensure adequate living conditions for all prisoners, including youth in juvenile detention centres, and to provide appropriate education and training opportunities of sufficient quality to support their reintegration into society and thus prevent prisons from serving as a source of further crime and violence;

Take all steps necessary to implement fully and effectively Federal Law 11645/08 on the obligation to include the teaching of Afro-Brazilian and indigenous history and culture in all primary and middle schools as a means to overcoming prejudice towards Brazil's citizens of African descent and indigenous peoples.

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## **Annex 7**

### **Treaty body committees, treaties and web links**

Online versions of documents of all the treaty body committees, information on ratifications, status of reporting and membership of the committees are available on the Treaty Bodies Database hosted by OHCHR:

<http://tb.ohchr.org/default.aspx>

The Human Rights Committee (HCR) monitors implementation of the *1966 International Covenant on Civil and Political Rights* and its two optional protocols (individual complaints with regard to alleged violations of the Covenant by States parties to the Protocol and abolition of the death penalty with regard to States who have accepted the Protocol). Information on State reporting and the Committee's sessions are available at:

[www2.ohchr.org/english/bodies/hrc/index.htm](http://www2.ohchr.org/english/bodies/hrc/index.htm)

The Committee on Economic, Social and Cultural Rights (CESCR) monitors implementation of the *1966 International Covenant on Economic, Social and Cultural Rights*. Information on State reporting and the Committee's sessions are available at:

[www2.ohchr.org/english/bodies/cescr.htm](http://www2.ohchr.org/english/bodies/cescr.htm)

The Committee on the Elimination of Racial Discrimination (CERD) monitors implementation of the *1965 International Convention on the Elimination of All Forms of Racial Discrimination*. Information on State reporting and the Committee's sessions are available at:

[www2.ohchr.org/english/bodies/cerd/index.htm](http://www2.ohchr.org/english/bodies/cerd/index.htm)

The Committee on the Elimination of Discrimination Against Women (CEDAW) monitors the implementation of the *1979 Convention on the Elimination of All Forms of Discrimination Against Women* and its two optional protocol (1. receiving communications from individuals or groups of individuals submitting claims of violations of rights protected under the Convention, and 2. initiating inquiries into situations of grave or systematic violations of women's rights). Information on State reporting and the Committee's sessions are available at:

[www2.ohchr.org/english/bodies/cedaw/index.htm](http://www2.ohchr.org/english/bodies/cedaw/index.htm)

The Committee Against Torture (CAT) monitors the implementation of the *1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, while the Subcommittee on Prevention of Torture (SPT) monitors its optional protocol (visiting places where persons are deprived of their liberty in the States parties and establishing an independent mechanisms for the prevention of torture at the domestic level). Information on State reporting and the Committee's sessions are available at:

[www2.ohchr.org/english/bodies/cat/index.htm](http://www2.ohchr.org/english/bodies/cat/index.htm)

The Committee on the Rights of the Child (CRC) monitors the implementation of the *1989 Convention on the Rights of the Child* and its two optional protocols (1. involvement of children in armed conflict and 2. sale of children, child prostitution and child pornography). Information on State reporting and the Committee's sessions are available at:

[www2.ohchr.org/english/bodies/crc/index.htm](http://www2.ohchr.org/english/bodies/crc/index.htm)

The Committee on Migrant Workers (CMW) monitors the implementation of the *1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*. Information on State reporting and the Committee's sessions are available at: [www2.ohchr.org/english/bodies/cmw/index.htm](http://www2.ohchr.org/english/bodies/cmw/index.htm)

The Committee on the Rights of Persons with Disabilities (CRPD) monitors the implementation of the *2006 International Convention on the Rights of Persons with Disabilities*. Information on State reporting and the Committee's sessions are available at: [www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx)

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## **Annex 8**

### **Guidance by the Committee on Economic, Social and Cultural Rights on the participation of NGOs in the Committee's work**

Office of the United Nations High Commissioner for Human Rights  
(Copy of OHCHR webpage 26 05 10)

#### ***Participation of non-governmental organizations in the Committee on Economic, Social and Cultural Rights***

This document is also available as document [E/C.12/2000/6](#).

- I. Introduction**
- II. NGO participation in the Committee's consideration of State party reports**
  - A. General**
  - B. NGO participation following the submission of a State party's report**
  - C. NGO participation in the work of the pre-sessional working group**
  - D. NGO participation at the Committee session**
  - E. NGO participation in the Committee's follow-up to consideration of State party reports**
  - F. NGO participation in the Committee's consideration of the status of implementation of the Covenant in non-reporting States**
- III. NGO participation in the Committee's day of general discussion**
- IV. NGO participation in Committee activities relating to the drafting and adoption of general comments**
- V. Sources of information**

#### **I. Introduction**

The Committee on Economic, Social and Cultural Rights attaches great importance to cooperation with all non-governmental organizations (NGOs) active in the field of economic, social and cultural rights - local, national and international, those in consultative status with the Economic and Social Council and those without such status. The Committee constantly encourages their participation in its activities. In an effort to secure the most effective and widest possible participation of NGOs in its activities, the Committee adopted, at its eighth session, on 12 May 1993, a document entitled "[NGO participation in activities of the Committee on Economic, Social and Cultural Rights](#)" (E/C.12/1993/WP.14), which explains in a concise manner the modalities of NGO participation in the Committee's work. The basic principles set out in that document have since been supplemented, as the Committee's

practice evolved. These developments are reflected in the annual report of the Committee, in the chapter entitled "Overview of the present working methods of the Committee".

The present document serves to provide detailed guidelines for NGOs with a view to facilitating their cooperation with the Committee to enhance the effectiveness of the international monitoring, through its examination of State party reports, of the implementation of the International Covenant on Economic, Social and Cultural Rights by States parties.

The main activities of the Committee that are open to NGO participation are:

- (i) Consideration of State party reports;
- (ii) Days of General Discussion;
- (iii) Drafting of General Comments.

## ***II. NGO participation in the Committee's consideration of State party reports***

### ***A. General***

The stages in the consideration of State party reports in which NGOs can participate are the following (detailed information is provided below):

- (i) Entry into force of the Covenant : once a State party has ratified the Covenant, national NGOs working in the field of economic, social and cultural rights are encouraged to establish contact with the Committee secretariat (the contact address is given at the end of the present document);
- (ii) From the receipt of a State party's report until its consideration : submission of any relevant information (placed in country files established and maintained by the secretariat);
- (iii) Pre-sessional working group : submission of information directly to the member of the Committee responsible for drafting the list of issues (with copy to the secretariat) and/or submission of written information to the secretariat and/or oral presentations before the pre-sessional working group;
- (iv) Session at which a State party's report is scheduled for consideration : submission to the secretariat of a written statement and/or of information in the form of a report, and/or oral presentations before the Committee, within the framework of the Committee's "NGO hearings"; observing the Committee's dialogue with the State party delegation;
- (v) Follow-up to the Committee's concluding observations : submission of information to the secretariat on the implementation of the concluding observations of the Committee in the State party concerned.

It is important that all information submitted to the Committee is: (a) specific to the Covenant; (b) relevant to the matters under consideration by the Committee or its pre-sessional working group; (c) based on documentary sources and properly referenced; (d) concise and succinct; and (e) reliable and not abusive. NGOs can submit information

relating to all the articles of the Covenant, in which case it is useful to follow the ["Revised general guidelines regarding the form and content of reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights" \(E/C.12/1991/1\)](#), which are intended to assist States parties in the drafting of their reports. This lends itself to a parallel report format that resembles the structure of the official report and facilitates the members' comparative review of the parallel information. NGOs may also provide information on some articles or just one article.

It is recommended that national NGOs collaborate, coordinate and consult when submitting information to the Committee. It is worthwhile, whenever possible, to produce a single consolidated submission representing a broad consensus by a number of NGOs. That could be accompanied by shorter, more targeted and detailed submissions by individual NGOs on their own priority areas. This kind of coordinated activity will help the secretariat and the Committee members to obtain a clearer picture of the current status of implementation of the Covenant in a given State party. Most importantly from the NGO perspective, joint submissions also eliminate the possibility of duplication and contradictions in the NGO information presented. The former creates inefficiency and increases the burden on Committee members, and the latter can undermine the credibility of the NGO submissions. Both duplicative and contradictory information from NGOs can weaken the NGOs' position and arguments. On the other hand, consistency and accuracy, as well as demonstrated coordination, enhance the professionalism of presentations, increase credibility and ensure the NGOs' intended outcome.

NGOs wishing to attend the sessions of the Committee, the pre-sessional working group meetings or the Committee's NGO hearings should request accreditation from the secretariat in advance. Identity photo-badges valid for the duration of the session may be obtained by all delegations from the United Nations Office at Geneva (UNOG) Security and Safety Section at the Villa "Les Feuillantines", 13, avenue de la Paix, Geneva, between 8 a.m. and 2.30 p.m., Monday to Friday, upon presentation of a letter of accreditation and an identity document. NGOs wishing to speak should also indicate whether they require audio-visual equipment. This will help the secretariat to plan related activities, and to ensure that all participants have adequate time and equipment for their interventions. The average speaking time allotted to any one NGO is 15 minutes, although the speaking time varies in function of the number of NGOs wishing to speak.

The working languages of the Committee are English, French, Spanish and Russian. A document provided in English will reach the widest audience. However, the financial means of the NGO permitting, it is useful to submit at least a summary of the information in the working languages of the Committee other than the language of submission of the document.

Prior to and during the session, the secretariat provides the Government concerned with a copy of all written information provided to the Committee by NGOs, through the country's Permanent Mission to the United Nations Office at Geneva .

### ***B. NGO participation following the submission of a State party's report***

When a State ratifies the Covenant, it commits itself to reporting regularly (the initial report is due two years after the entry into force of the Covenant and periodic reports are due at five-year intervals thereafter) to the Committee on measures it has taken towards the realization of the economic, social and cultural rights enshrined in the Covenant, including efforts

undertaken through international cooperation. Reports prepared by the State party should conform to the revised general guidelines referred to [above](#).

The process leading to the consideration of a State party's report by the Committee begins when the State party submits its report to the secretariat. Once the secretariat has received the report, it sends it for translation into the six official languages of the United Nations (English, French, Spanish, Russian, Arabic and Chinese). The report is issued as a United Nations document only when all language versions are ready, which may take up to 12 months. In the meantime, the secretariat of the Committee establishes a list of national NGOs working in the field of economic, social and cultural rights and contacts these NGOs in writing to solicit information from them regarding the implementation of the Covenant in the country in question. Relevant documents (core document, State party report, list of issues, revised general guidelines, guidelines on NGO participation) are enclosed with the letter sent to NGOs. National NGOs interested in cooperating with the Committee are encouraged to contact the secretariat once the Covenant has entered into force for their country. This will assist the secretariat at a later stage, when it seeks to solicit information from national NGOs regarding a State party's report.

The Committee also encourages Governments to consult with NGOs and civil society in general on matters concerning the Covenant's implementation, including the reporting process. NGOs may find it opportune to contact the relevant government ministry for information, including reporting dates and related documents.

Following the submission of a State party's report and until its consideration by the Committee, NGOs can submit any type of information to the secretariat of the Committee (press clippings, NGO newsletters, video tapes, reports, academic publications, studies, joint statements etc). This information will be included in the country file established and maintained within the secretariat. The country files contain information obtained by the secretariat from all available sources (United Nations organs, specialized agencies, the media, regional institutions, academic publications, the NGO community, etc.). On the basis of the information contained in the relevant country file, the secretariat prepares for the Committee a country profile, a working document which attempts to provide insights into the situation in the State to be examined, to complement the information provided by the State party in its report.

### ***C. NGO participation in the work of the pre-sessional working group***

A pre-sessional working group of the Committee, composed of five of its members, meets in private after each Committee session for a week to prepare for the next session. Typically, the pre-sessional working group considers five State party reports at each of its sessions. Each member of the group serves as a "country rapporteur", with the task of drafting a list of issues concerning one of the five reports. A list of issues contains questions addressed to the State party, formulated on the basis of the documents submitted by the State party (core document, report, annexes to the report) and on information made available to the Committee from all other sources, including NGOs. At the session of the Committee at which the report is considered, the country rapporteur is also responsible for drafting concluding observations, on the basis of the State party's report and the dialogue between the Committee and the State party.

In the pre-sessional working group, each country rapporteur presents his or her draft list of issues to the other members of the group. The working group discusses each draft, and adopts a final list of issues for each of the five countries under discussion. The list of issues is made available to the State party immediately after its adoption, through its Permanent Mission to the United Nations Office at Geneva . The State party is requested to provide written replies to the list of issues well in advance of the session at which its report is scheduled for consideration, in order to allow sufficient time for their translation into all the working languages of the Committee. The lists and the replies to the lists are also made available to the public on the Web site of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (address at the end of the document).

There are three possibilities for NGOs, international or national, to contribute to the work of the pre-sessional working group:

(i) Prior to the meeting of the working group, relevant information may be submitted directly to the country rapporteur concerned;

(ii) Prior to the meeting of the working group, relevant information may be submitted to the secretariat for distribution to the full working group;

(iii) Oral statements may be made by NGO representatives in person during the first morning of the pre-sessional working group meeting.

(i) Submission of information to country rapporteurs

NGOs can submit relevant information on a particular country directly to the country rapporteur responsible for drafting the list of issues. In this event, the NGO should contact the secretariat or consult the OHCHR Web site for a list of the State party reports that are pending consideration by the Committee at its future sessions. The pre-sessional working group discusses and adopts the list of issues regarding a given State party report 6 to 12 months prior to the consideration of the report by the Committee.

Accordingly, an NGO wishing to submit information on a State party directly to the country rapporteur responsible for drafting the list of issues should obtain from the secretariat the name and address of the country rapporteur concerned. It is recommended that a copy of any document that the NGO submits to the country rapporteur be also sent to the secretariat for distribution to other pre-sessional working group members at the working group meeting.

(ii) Submission of written information to the pre-sessional working group

NGOs may also submit written information to the pre-sessional working group, through the secretariat. This information should be made available in the form of a report discussing the implementation of the Covenant in the State party on an article-by-article basis. It is particularly helpful to formulate, at the end of each section specific questions which the pre-sessional working group may consider incorporating in the list of issues with respect to the State party concerned. Ten copies of the report (and a summary) should be delivered to the secretariat one week before the pre-sessional working group meets, for distribution to its members.

(iii) Oral statement to the pre-sessional working group

20. NGOs are also encouraged to make an oral presentation at the first meeting of the pre-session working group, which is usually held on a Monday from 10.30 a.m. to 1 p.m. The statement should be specific to the articles of the Covenant, focusing on the most pressing issues from the NGO perspective and providing suggestions for specific questions that the pre-session working group may consider incorporating in the list of issues with respect to the State party concerned.

#### ***D. NGO participation at the Committee session***

##### **1. Submission of a written statement**

NGOs in general or special consultative status with the Economic and Social Council, or on the Roster (1) may submit a written statement to the Committee at the reporting session. An NGO without consultative status with the Economic and Social Council may submit a written statement provided that it is sponsored by an NGO in consultative status with the Council. The procedure is identical to that used at the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights: the statement should be no more than 2,000 words long for NGOs in general consultative status with ECOSOC and no longer than 1,500 words for NGOs in special consultative status and on the Roster, and it should be double spaced. It will be translated into all the working languages of the Committee and issued as a United Nations document if the secretariat of the Committee receives it no later than three months in advance of the session for which the statement is intended.

##### **2. Submission of a report**

For the session at which a given State party's report is scheduled for consideration, NGOs can submit written information in the form of a "parallel" report, providing a supplementary or alternative interpretation, or second opinion, concerning the status of implementation of the economic, social and cultural rights enshrined in the Covenant in that country. Where possible, it is useful to submit a summary of the report in all the working languages of the Committee. NGOs should deliver 25 copies of their report and summary to the secretariat a week prior to the session for distribution to Committee members: one for each member (18), three for the secretariat and four for the interpreters.

##### **3. Oral statement at the Committee's NGO hearings**

NGOs can also voice their concerns during the NGO hearings which take place on the first day of each reporting session, from 3 p.m. to 6 p.m. The average time limit for NGO statements is 15 minutes. In their statements, NGOs are invited to:

State their opinion about the government report;

Indicate whether or not there was any domestic government/NGO consultation or cooperation through the reporting process;

Discuss the main critical points of the parallel report;

Identify prevailing trends relevant to economic, social and cultural rights in the country;



Present any new information that has become available since the NGO written report was submitted;

Propose solutions to problems encountered in the implementation of the Covenant;

Report any positive examples of problem-solving by the Government in implementing the Covenant.

States parties concerned are informed of the NGO hearings and are invited to attend hearings as observers. States parties will have an opportunity to comment on the statements made by NGOs during the Committee's consideration of their report.

#### 4. Observing the consideration of State party reports

As part of the consideration of a State party report, the Committee engages in a dialogue with the government delegation. Committee members pose questions on the implementation of the Covenant in the country, based on the State party report, the core document, the replies provided by the State party to the list of issues, and any additional information submitted to the Committee. During the dialogue between the State party delegation and the Committee, NGOs cannot intervene, but it is useful for them to remain in the conference room to observe the dialogue.

#### *E. NGO participation in the Committee's follow-up to consideration of State party reports*

At the end of its consideration of a State party report, the Committee adopts concluding observations which reflect the Committee's position with respect to the status of implementation of the Covenant by the Government concerned. The concluding observations contain, inter alia, recommendations regarding the further implementation by the State party of the Covenant. The concluding observations are made public, usually on the last day of the Committee session at noon. Soon thereafter, they are translated into and issued in all the official languages of the United Nations as a separate document. They are also placed on the OHCHR Web site. The concluding observations are made available to the State party concerned and are included in the annual report of the Committee.

The role of NGOs is crucial after the Committee issues its concluding observations. They can assist by providing the Committee with reports on follow-up measures taken by the Government in response to the recommendations contained in the concluding observations. NGOs can give publicity to the concluding observations locally and nationally, and monitor the Government's performance in implementing the Committee's recommendations. NGOs reporting back to the Committee on the basis of their local monitoring and awareness-raising activities would contribute to more effective follow-up on the part of the Committee by keeping the Committee informed of developments in the country after the consideration of the State party report.

It would also be useful for local and national NGOs actively involved in the monitoring activities of the Committee to prepare a document on their experiences and on the working methods of the Committee, with comments, advice for other NGOs and suggestions for improvement of the system. Such a document, if distributed widely within the country and sent to the secretariat of the Committee, would serve as a tool for awareness-raising, and would assist the Committee and the secretariat in improving their performance.

### ***F. NGO participation in the Committee's consideration of the status of implementation of the Covenant in non-reporting States***

In situations where an initial State party report is significantly overdue, the Committee applies a procedure of reviewing the situation concerning the status of implementation of the Covenant with respect to that State party. The Committee notifies the State party of its intention to consider the status of economic, social and cultural rights in the territory under its jurisdiction at a specified future session, and encourages the State party to submit its report as soon as possible. In the absence of a report, the Committee proceeds with the consideration as scheduled, on the basis of all information available to it.

In such cases, information provided by NGOs becomes especially valuable to the Committee, in view of the absence of materials from the State party. Thus, any relevant information is welcomed, and the most useful way to intervene is to submit a report discussing article by article the implementation of the Covenant by the State party. In addition, it is highly recommended that NGOs participate in the Committee's NGO hearings and provide information orally regarding the situation in the country under review. Information regarding the review by the Committee of the status of implementation of the Covenant in States whose reports are long overdue is available on the OHCHR Web site or from the secretariat.

### ***III. NGO PARTICIPATION IN THE COMMITTEE'S DAY OF GENERAL DISCUSSION***

At each session, the Committee devotes one day, usually the Monday of the third week of the session, to general discussion of a particular right or of a particular aspect of the Covenant. The purpose is twofold: (i) to assist the Committee in developing in greater depth its understanding of the relevant issues; and (ii) to enable the Committee to encourage inputs into its work from all interested parties.

NGOs specialized in the topic scheduled to be addressed by the Committee during its Day of General Discussion can participate in two ways. First, they can provide the Committee with a background document, which should be submitted to the secretariat no later than three months in advance of the session at which the Day of General Discussion is scheduled to take place. The document, which should not be more than 15 double-spaced pages in length, will be translated into all the working languages of the Committee and issued as a United Nations document. Second, specialized NGOs can send their experts to participate in the Day of General Discussion. Information on the topics for discussion at future Days of General Discussion can be obtained from the secretariat.

### ***IV. NGO PARTICIPATION IN COMMITTEE ACTIVITIES RELATING TO THE DRAFTING AND ADOPTION OF GENERAL COMMENTS***

The Committee endeavours, through its General Comments, to make available for the benefit of all States parties the experience gained continuously through the examination of State party reports. General Comments provide an authoritative interpretation of the rights contained in the Covenant and States parties' obligations and assist and promote the further implementation of the Covenant by providing guidance to States parties on practical ways and means to respect, protect and fulfil specific economic, social and cultural rights. The

14 General Comments adopted by the Committee as of 1 June 2000 are listed in the annex to the present document. The texts of the General Comments may be found, in English, French and Spanish, on the OHCHR Web site. Information regarding the scheduled discussion and adoption of General Comments can be obtained from the secretariat.

During the stages of the drafting and discussion of a General Comment, specialized NGOs can address the Committee in writing. During discussions, NGOs can make short oral statements on specific points of the draft general comment. It is preferred that any recommendations as to the text of a draft general comment be presented also in written form (and on electronic diskette) for ease of eventual incorporation in the document.

## ***V. SOURCES OF INFORMATION***

Information on State reporting and the Committee's sessions is available on the OHCHR Web site at: [www2.ohchr.org/english/bodies/cescr.htm](http://www2.ohchr.org/english/bodies/cescr.htm)

On-line versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at <http://tb.ohchr.org/default.aspx>

Search is available from the secretariat of the Committee at the following address:

Susan Mathews  
Secretary of the Committee on Economic, Social and Cultural Rights,  
phone: 0041-22-917 91 54,  
fax: 0041-22-917 90 22,  
e-mail: [smathews@ohchr.org](mailto:smathews@ohchr.org)

Office of the United Nations High Commissioner for Human Rights  
Office 1-025, Palais Wilson  
Palais des Nations  
8-14 Avenue de la Paix  
1211 Geneva 10  
Switzerland

## ***Annex***

### ***Reference Documents***

Fact Sheet No. 16/Rev.1 contains the International Covenant on Economic, Social and Cultural Rights, and information on the working methods of the Committee.

"NGO participation in activities of the Committee on Economic, Social and Cultural Rights" (E/C.12/1993/WP.14)

"Revised general guidelines regarding the form and contents of reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights" (E/C.12/1991/1)

"Preparation of the initial parts of State party reports 'core documents') under the various international human rights instruments" (HRI/CORE/1\*)

"Status of the International Covenant on Economic, Social and Cultural Rights and reservations, withdrawals, declarations and objections under the Covenant" (E/C.12/1993/3/Rev.4)

<http://tb.ohchr.org/default.aspx>

"Selected bibliography of published material relating to the International Covenant on Economic, Social and Cultural Rights and the work of the Committee" (E/C.12/1989/L.3/Rev.2)

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(1) General consultative status is assigned to NGOs with broad interest in most Economic and Social Council activities. Special consultative status is assigned to NGOs with interest in special spheres of Council activities. NGOs in the position to make occasional and useful contributions to the work of the Council or its subsidiary bodies or other United Nations bodies within their competence, may be placed on the Roster.

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## Annex 9

### Guidance by the Committee Against Torture on the participation of NGOs and NHRI in the Committee's work

Office of the United Nations High Commissioner for Human Rights  
(Copy of OHCHR webpage 26 05 10)

#### The mandate of the Committee against Torture

Under article 19 of the Convention against Torture (the Convention), the Committee against Torture (CAT) is mandated to consider reports on the measures that States parties are taking to implement the provisions of the Convention. CAT's mandate also includes the possibility, among other functions, to undertake confidential inquiries when reliable information is received with well founded indication that torture is being systematically practiced in a State party is received (article 20) and to consider individual complaints (article 22) which is only applicable with regard to States parties that have recognized the competence of the Committee to receive such complaints.

When a State party's report is submitted to CAT (article 19), the Committee will analyse the report, upon which a list of issues (LOI) will be drafted, especially by two members of the Committee chosen as rapporteurs for this particular country, and sent to the State party prior to the consideration of the report. The State party will reply to the LOI in writing and will send a delegation to Geneva to engage in an interactive constructive dialogue with the Committee.

CAT meets for a three-week session twice a year in Geneva, normally in April/May and November. During these sessions, the Committee meets with NGOs and NHRIs before meeting with the State party's delegation to consider the report. Following the consideration of a State party's report, in a dialogue with the State party's delegation, the Committee adopts concluding observations. These include concerns and recommendations, some of which are to be followed-up within one year. The concluding observations reflect the Committee's position with respect to the status of the implementation of the Convention in the State party as well as of its previous recommendations. They are transmitted to the State party for implementation, made public on the last day of the session and posted on the website.

#### Participation of NGOs and NHRIs

The Committee receives information from NGOs at different stages of the reporting process and also meets with them. These briefings take place on the day immediately preceding the consideration of the State party's report. The Committee has long recognized the work of NGOs and expresses its appreciation for their reports and participation in these briefings, especially with regard to local and national NGOs, which provide direct country-specific information to the members of the Committee.

NHRIs are bridges between the national and international protection mechanisms and treaty bodies should have procedures that allowed them to hear their views during the reporting process, as recommended by the Chairpersons and Inter-Committee Meetings. NHRIs should also have the opportunity to address the treaty bodies separately from the State party's

delegation and NGOs. Thus, the Committee also receives information from NHRIs and, since 2005, has also met with them. Similarly to NGOs, this meeting also takes place on the day immediately preceding the consideration of the State party's report.

The ways in which NGOs and NHRIs may engage with the Committee include:

- Written information for the LOIs;
- Written information for the consideration of the State party's report;
- In-session briefings prior to the consideration of the State party's report;
- Written information in respect of the follow-up to the Committee's recommendations.

### **1. Written information for LOIs**

The Committee adopts LOIs one session ahead of the session during which it will consider the State party's report and meets with the State party's delegation. For example, LOIs are adopted at the May session for reports that will be considered at the following November session. The States parties' reports are available on the website under each respective **session**.

The written information that NGOs and NHRIs wish to submit to the Committee for the LOIs must be received by the Secretariat (see contacts below) no later than **two months before the session**. Once adopted by the Committee, the LOIs are sent to the State party and posted on the website. The State party's replies to the LOIs are also posted on the website.

Note that the Committee does not adopt LOIs for the examination of initial reports, nor for reports submitted under the new optional **reporting procedure**.

### **2. Written information for the consideration of the State party's report**

The written information submitted by NGOs or NHRIs to the Committee for the consideration of the State party's report, must be received no later than **two weeks before the opening of the session. The Committee will not accept any written information after this deadline**. The working languages of the Committee are English, French, Russian and Spanish. However, if NGOs or NHRIs cannot provide the information in all the languages of the Committee, documents provided in English would reach more members of the Committee, especially as these documents are not translated. The working languages of the rapporteurs for the particular country are also important to consider. The information must be submitted electronically and is posted on the website, thus made public. In exceptional cases, duly justified, confidential reports may be accepted.

If NGOs or NHRIs wish to have paper copies of their reports distributed to all the members of the Committee, 15 hard copies must also be received by the Secretariat no later than **two weeks before the session** (see contacts below).

### **3. In-session briefings before the consideration of the State party's report (dialogue with the State party's delegation)**

NGOs and NHRIs that have submitted written information to the Committee in respect of a given State party may also meet with the Committee. These briefings take place one day prior to the dialogue with the State party's delegation, in private, with interpretation between the respective working languages of the Committee. If needed, NGOs and NHRIs may bring their own interpreters.

During these one-hour briefings, one for NGOs and another for NHRIs, the representatives have approximately 30 minutes to address the Committee, the remaining time being used for the members of the Committee to pose questions. In the course of these briefings NGOs and NHRIs should not repeat the written information provided but highlight and update its most important issues. NGOs are also expected to coordinate their presentations in order not to repeat each others information.

NHRIs that have submitted written information and wish to brief the Committee but are unable to come to Geneva to attend the session may contact the Geneva Representative of the International Coordinating Committee (ICC) of NHRIs. The ICC Representative is available to represent "A status" NHRIs before the Committee. NHRIs may contact the National Institutions Unit of the Office of the High Commissioner for Human Rights (OHCHR) for further information (see contacts below).

In order to participate to the session, representatives of the NGOs and NHRIs have to be accredited by the Secretariat and enroll as speakers for the briefing. The **accreditation form [E] | [F]** has to be filled out and sent to the Secretariat two weeks before the session (see contacts below).

For the consideration of a State party's report, the Committee meets with a delegation of the State party in an interactive constructive dialogue. Committee members ask questions to the delegation regarding the implementation of the Convention, based on the State party report, the replies to the LOIs, and any additional information they might have, including from NGOs and NHRIs.

During this dialogue, neither NGOs nor NHRI may intervene but, as these meetings are public, accredited representatives of NGOs and NHRIs may attend as observers, even if they have not submitted any information to the Committee.

#### **4. Written information for the follow-up to the Committee's recommendations**

In May 2003, the Committee adopted a follow-up procedure, which specifically identifies a number of concerns and recommendations in the concluding observations that are serious, protective and can be achieved within one year. States parties are asked to provide information on the measures taken to give effect to these follow-up recommendations. Information that is submitted by States parties under the follow-up procedure is made public, as are the letters from the Committee's Rapporteur for follow-up.

NGOs and NHRIs may also submit written information to the Committee under this follow-up procedure on the implementation of these recommendations by the State party.

#### **Presentation of information**

The Committee encourages NGOs and NHRIs to present their information organized under the articles of the Convention and/or thematic issues, including relevant concerns and recommendations.

The Committee also encourages NGOs to coordinate their inputs and to submit consolidated reports with factual, reliable, precise, and clear information. The information must identify the submitting NGO, as anonymous information is not accepted, and be drafted in a non-abusive language. It must be relevant to the mandate of the Committee and the consideration of the State party's report.

The information submitted by NGOs and NHRIs must be sent electronically to the Secretariat within the mentioned deadlines, as well as the hard copies to be distributed to the members.

Additional information for NGOs and NHRIs may be found on OHCHR website **about us**, including the **handbook for Civil Society** on how to work with the Office of the United Nations High Commissioner for Human Rights.

OHCHR does not send letters of invitation to NGOs or NHRIs to attend the sessions and cannot assist nor fund their travel to Geneva.

National NGOs may wish to contact Geneva based NGOs for additional information and/or assistance.

### **Secretariat of the Committee**

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Email addresses:

- For the submission of information/**reports**: [jnataf@ohchr.org](mailto:jnataf@ohchr.org) and [registry@ohchr.org](mailto:registry@ohchr.org)
- For individual **complaints**: [TB-petitions@ohchr.org](mailto:TB-petitions@ohchr.org) and [registry@ohchr.org](mailto:registry@ohchr.org)
- For **accreditation** to the sessions and briefings: [bcorvalan@ohchr.org](mailto:bcorvalan@ohchr.org)

Postal address:

Secretariat of the Committee against Torture  
UNOG-OHCHR



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**National Human Rights Institutions Unit**

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