



World Organisation Against Torture  
P.O. Box 21 - 1211 Geneva 8  
Switzerland  
Tel.: 0041/22 809 49 39 / Fax: 0041/22 809 49 29  
E-mail: [omct@omct.org](mailto:omct@omct.org) / Web: [www.omct.org](http://www.omct.org)

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## Seminar Report

# “Addressing the economic, social and cultural root causes of violence through the UN Special Procedures System”

Geneva, Switzerland  
23-27 June 2008

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Development and Cooperation (SDC), the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation and the Foundation for Human Rights at Work.



**Seminar participants and members of the OMCT secretariat at the conclusion of the special procedures seminar, 27 June 2008.**

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## **I. Introduction**

From 23 to 27 June 2008, OMCT hosted its second international seminar in Geneva on “Addressing the economic, social and cultural root causes of violence through the UN Special Procedures System”. This seminar, attended by representatives of national human rights NGOs from 14 countries, is an important element of OMCT’s three-year project on “Preventing Torture and Other Forms of Violence by acting on their Economic, Social and Cultural Root Causes” funded by the European Union, the Swiss Agency for Development and Cooperation (SDC), the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation (ICCO) and the Foundation for Human Rights at Work.

The OMCT project, now in its second year, focuses on developing concrete measures to address the economic, social and cultural root causes of violence, particularly torture and other cruel, inhuman or degrading treatment or punishment, including violence against women and children. The UN Special Procedures mechanism represents an important resource in this regard. It is, therefore, important that national NGOs addressing both human rights and development issues are aware of how to interact most effectively with this mechanism.

The 2008 seminar very much built on the experience gained during the first Special Procedures seminar in 2007. This first seminar focused on analysing and understanding the links between the violation of economic, social and cultural rights and violence, while the 2008 seminar gave greater emphasis to developing concrete recommendations to address the root causes of violence in specific cases.

The opening ceremony was addressed by Ms. Anne-Laurence Lacroix, OMCT Deputy Secretary General, Mr. Orest Nowosad, Coordinator, Civil and Political Rights Unit, Special Procedures Division, UN Office of the High Commissioner for Human Rights, Mr. Roberto Garretón, of the UN Working Group on Arbitrary Detention, and Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe and member of OMCT’s Scientific Council. Ms. Lacroix underlined the importance of efforts to address the economic, social and cultural root causes of torture and other forms of violence, Mr. Nowosad spoke of the Special Procedures system and the role of OHCHR in supporting it, and Mr. Garretón traced the development of the issue of economic, social and cultural rights in the UN system and underlined the importance of the emerging concept of human security. Mr. Berthelot concluded this session with a presentation that addressed the links between economics and human rights and drew attention to the central importance of issues of access to land and food, both in the present and for the future (see Appendix II).

The seminar was organised in parallel with the 14<sup>th</sup> annual meeting of the UN Special procedures mandate holders. This enabled seminar participants to meet and discuss with mandate holders responsible for Human Rights Defenders, Adequate Housing, Minority Issues, Indigenous People, the Right to Food and the Human Rights of Migrants. Participants also met with staff of the Office of the UN High Commissioner for Human Rights and attended a session of the Annual Mandate Holders Meeting at which the relations between Mandate Holders and NGOs were discussed.

The substantive framework for the discussions during the five-day seminar was provided by presentations from two invited experts: Mr. Yves Berthelot (see above), and Mr. Pierre de Senarclens, Professor of International Relations at the University of Lausanne, also member

of OMCT's Scientific Council and former Human Rights Director of UNESCO (see Appendix III).

OMCT would like to thank all the speakers who took time to share their insights and experience in the course of this seminar. It would also like to thank the staff of the UN Office of the High Commissioner for Human Rights for the support and guidance they provided. OMCT is also grateful to the funding bodies that make this project possible.

## II. The Participants

Fourteen NGO representatives from around the world were selected to take part in the seminar from among a large number of applicants. To facilitate this selection, OMCT invited candidates to submit a CV and brief statement outlining their interest in addressing the economic, social and cultural root causes of violence. Gender and geographic balance were also taken into account.

<b>Brazil</b>	Ms. Tamara Moreira Vaz de Melo, <i>Global Justice</i> ;
<b>Bulgaria</b>	Ms. Daniela Furtunova, <i>Bulgarian Helsinki Committee</i> ;
<b>Colombia</b>	Mr. Jesus Armando Arciniegas Jurado, <i>Fundación Desarrollo y Paz (FUNDEPAZ)</i> ;
<b>Congo-Brazzaville</b>	Mr. Christian Mounzeo, <i>Rencontre pour la Paix et les Droits de l'Homme (RPDH)</i> ;
<b>India</b>	Mr. George Pulikuthiyil, <i>Jananeethi Institute</i> ;
<b>Kenya</b>	Ms. Munini Mutuku, <i>Centre for Minority Rights and Development (CEMIRIDE)</i> ;
<b>Lebanon</b>	Mr. Ali-Marc Wazne, <i>Centre Libanais des Droit Humains (CLDH)</i> ;
<b>Mexico</b>	Mr. Juan Antonio Vega Báez, <i>Red por los Derechos de la Infancia en México</i> ;
<b>Mozambique</b>	Mr. Paulo Comoane, Faculty of Law, <i>Universidade Eduardo Mondlane</i>
<b>Nigeria</b>	Mr. Legborsi Saro Pyagbara, <i>Movement for the Survival of the Ogoni People (MOSOP)</i> ;
<b>Peru</b>	Ms. Maria del Pilar Raffo Lavalle de Quiñones, <i>Psychosocial Attention Center (CAPS)</i> ;
<b>Philippines</b>	Mr. Teodoro M. de Mesa, <i>Philippine Alliance of Human Rights Advocates (PAHRA)</i> ;
<b>Thailand</b>	Mr. Binota Moy Dhamai, <i>Asia Indigenous Peoples Pact Foundation (AIPP)</i> ;
<b>Uganda</b>	Ms. Sharon Lamwaka, <i>African Centre for Treatment and Rehabilitation of Torture Victims (ACTV)</i> .

Prior to the seminar, each participant submitted a five to ten page paper on the link between the denial of economic, social and cultural and violence in their own countries. Many participants provided documentation and reports in addition to their own written papers

### III. The Working Methodology

During the first two and a half days, the seminar was run as a plenary session. As noted, the substantive framework for the seminar was provided by presentations from Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe on the links between economics and human rights, and Mr. Pierre de Senarclens, Professor of International Relations at the University of Lausanne and former Human Rights Director of UNESCO. Mr de Senarclens discussed the concept of human rights as contained in the Universal Declaration, evolving perceptions of economic, social and cultural rights and contemporary approaches to addressing violence and inequality (Appendix III). OMCT staff also made presentations on the links between violations of economic, social and cultural rights and violence, how these issues are dealt with under the UN treaty bodies, and the preparation and application of urgent appeals (“Action Files”). Plenary also offered an opportunity for participants to introduce themselves and their organisations, and to outline the specific case studies they would address in the course of the week. In addition, participants met with a number of OMCT staff members in order to discuss the organisation’s programmes.

During the second part of the week, participants divided into working groups (two groups of five and one of four), during which case studies were discussed in detail and their economic, social and cultural root causes analysed collectively. Through a process of group reflection and mutual support, each participant developed a set of concrete recommendations to address their specific issue, and produced a list of possible addressees, including national governments, corporate actors, international development and financial institutions and international structures, including the UN special procedures system. Each then drafted an outline for an “Action File”, which they presented in plenary on the final day. Particular emphasis was given to developing concrete responses and to drawing up specific recommendations. These documents will be further refined by participants in their own countries and addressed to key national and international actors.

Throughout the week, participants also came together in plenary to meet and discuss with mandate holders from the Special Procedures system responsible for issues relating to Human Rights Defenders, Adequate Housing, Minority Issues, Indigenous Peoples, the Right to Food and the Human Rights of Migrants, as well as the assistant to the Special Rapporteur on Torture (see Section V). The participants explored how these mandates and others in the special procedures system could help them address the root causes of torture and violence in their countries. The round table discussions with individual mandate holders were complemented by the opportunity to attend public sessions of the 15<sup>th</sup> meeting of special procedures mandate holders at the Palais Wilson, Office of the High Commissioner for Human Rights. In the course of this meeting OMCT made a statement on the UN Special Procedures System, indicating, *inter alia*, that the NGO representatives participating in the Seminar encouraged the mandate holders to focus attention - both individually and collectively - on the root causes of violence in all their activities (see Appendix IV).

At the conclusion of the seminar an oral and written evaluation was conducted with the aim of identifying areas for improvement for subsequent seminars associated with the project. A summary of the written responses is included in Appendix VI.



## IV. The Case Studies

The fourteen cases developed in the course of the week can be classified under the following six broad headings:

- Indigenous communities subjected to gross human rights violations by private actors or private militia in connection with development projects. The forced eviction of indigenous communities without alternative resettlement and remedy;
- Violence generated by land grabbing and the inability of the dispossessed - often peasant farmers or pastoralists - to provide for themselves and their families;
- Omission by the State to correct gross inequalities and uneven distribution of resources, particularly as regards the most marginalised communities. Absence of mechanisms addressing inequality and of programmes to promote the enjoyment of economic, social and cultural rights. Demonstrations to protest against these poor living conditions are frequently met with violent repression;
- Violence against vulnerable groups including children, migrants and persons with mental disabilities. Lack of effective access to health and social services for these groups. Victims of torture denied access to rehabilitation services and social support;
- Criminalisation of poverty, leading to false charges against and imprisonment of the poor, suppression of legitimate social protest, and police impunity as regards arbitrary executions and violence against the poor;
- Widespread poverty and environmental damage caused by extractive industries, and violence directed at local populations when they call for respect for their rights and a fair share of revenues.

The individual cases presented by the participants indicated that, time and time again, the principal victims of violence come from the most vulnerable segments of society such as the poor, persons with disabilities, indigenous peoples, women and children, as well as economic, social and cultural rights defenders.

## IV. The Special Procedures Mandate Holders

### **An introduction to the special procedures by the UN Office of the High Commissioner for Human Rights**

"Special procedures" is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. The Office of the High Commissioner for Human Rights provides these mechanisms with personnel, logistical and research assistance to support them in the discharge of their mandates.

Special procedures' mandates usually call on mandate holders to examine, monitor, advise, and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates. Various activities can be undertaken by special procedures, including responding to individual complaints, conducting studies, providing advice on technical cooperation at the country level, and engaging in general promotional activities.

Special procedures are either an individual (called "Special Rapporteur", "Special Representative of the Secretary-General", "Representative of the Secretary-General", "Representative of the Commission on Human Rights" or "Independent Expert") or a working group usually composed of five members (one from each region) . The mandates of the special procedures are established and defined by the resolution creating them. Mandate-holders of the special procedures serve in their personal capacity, and do not receive salaries or any other financial retribution for their work. The independent status of the mandate-holders is crucial in order to be able to fulfil their functions in all impartiality.<sup>1</sup>

Practical information on submitting information to the Special Procedures system is provided in Appendix V of this report.

This section provides a brief overview of the key issues addressed by each of the mandate holders, particularly as regards the link between the violation of economic, social and cultural rights and violence, including torture, and other cruel, inhuman or degrading treatment or punishment.

**Ms. Margaret Sekaggya, Special Rapporteur on Human Rights Defenders**, emphasised that all human rights are interrelated and that no distinction should be made between economic, social and cultural rights and civil and political rights, nor between those who defend these rights. She added that denials of economic, social and cultural rights are systematically the cause of violence. She also underlined that both categories of rights must be justiciable. There are often high levels of impunity associated with violence and violations of economic, social and cultural rights because of the collusion between private sector and state actors. Since taking up this mandate on 1 May, Ms. Sekaggya has issued some 60 communications, many of which have had an economic, social or cultural rights dimension. She draws particular attention to human rights violations provoked by land issues, employment policies, the activities of multinationals, access to health and education, and environmental conditions. She underlined the importance of addressing groups of human

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<sup>1</sup> See "Special Procedures Assumed by the Human Rights Council", <http://www.ohchr.org/english/bodies/chr/special/index.htm>

rights defenders who experience specific forms of vulnerability, including women, children, indigenous persons, persons with disabilities and those protecting the rights of lesbian, gay, bisexual, transsexual and intersexual persons. Ms. Sekaggya stated that civil society organisations have a key role to play in promoting human rights and protecting human rights defenders and stated that, “In my vision, we need to strengthen the relation with CSOs all over.” She added that there is a need to provide training to human rights defenders and to build their capacity, but recognised that it is unlikely in many cases that the State will assume this role. She drew attention to the large amount of material available on the internet, from OHCHR and international NGOs, and called upon these actors to be innovative in finding ways to build the capacity of human rights defenders.

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**Ms. Raquel Rolnik, Special Rapporteur on Adequate Housing**, emphasised that housing is, above all, a human right and should not be regarded simply as an economic resource. She added that the very fact of living in a slum is a violation of human rights, since it implies living in a highly vulnerable situation, both psychologically and physically. Ms Rolnik underlined that “life [is perceived] to have less worth in a slum” and asserted that most slum dwellers have a highly ambiguous legal and social status that keeps them outside legal, economic, social and political systems. In this respect, “living in an ambiguous status is much worse than living in an illegal status”. Indeed, having an unclear status represents a source of legal uncertainty that, in turn, compromises the enjoyment of human rights and leads to exposure to abuses, including violence. She affirmed that inequality and exclusion is in a sense much worse than poverty alone, since they create the context in which violence occurs. Marginalisation also has a strong physical dimension in urban areas, and the link between housing conditions and violence is heavily influenced by this territorial exclusion.

Ms Rolnik also drew attention to the link between exclusion and housing policy, referring to the “principle of being outside or inside the system”. In this regard, she came to the conclusion that the poor remain outside the system since they are kept outside the urban order. She added that housing opens access to a network of opportunities, and as such should not simply be regarded as a place with “four walls and a roof”. Housing policies should therefore be closely connected to other economic, social and cultural dimensions, including integration. Ms Rolnik concluded that, in order to break the vicious circle of poverty and exclusion, it is necessary to recognise fully existing informal settlements and promote their integration. In so doing, it is indispensable to adopt a holistic approach that addresses all denials of economic, social and cultural rights.

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**Mr Safir Syed, Assistant to the Special Rapporteur on the Question of Torture**, discussed the issue of country visits and highlighted that, in general, the terms of reference for the selection of a country depend upon various factors, including the scale of concerns, the consistency of allegations and the process of ratification of OPCAT. He also emphasised the sensitive nature of the mandate of the Special Rapporteur on Torture - the oldest mandate - and explained that the visits carried out by the Special Rapporteur are often regarded by States as intrusive, especially when it comes to visiting prisons. Even in cases where they enjoy unlimited access to prisons, there is always a risk that the authorities will take steps to improve conditions temporarily prior to a visit. Mr Syed concluded by underlining that, despite the challenges, the Special Rapporteur has the possibility of being invited to a country, checking the situation in prisons and reporting it publicly. This opportunity in itself represents an achievement. He also added that, in principle, every invitation should be free from conditions and should be accompanied by the freedom of inquiry.

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**Mr. Vernor Muñoz, Special Rapporteur on Education**, traced how violence can lead to the denial of economic, social and cultural rights. In particular, he deplored the fact that in conflict situations children are often deprived of their right to education and emphasised that, “besides the humanitarian response, and besides providing shelter, water and food, we must also guarantee the right to education for children.” He also drew attention to the potential of education to reduce violence and emphasised that, for this to happen, the content and quality of education must be considered from a human rights perspective. Under his mandate, Mr. Muñoz focuses particularly on educational opportunities for populations who experience discrimination and exclusion and has produced reports on inclusive education for persons with disabilities, the right to education in emergency situations and the right to education of migrant populations. His next study will address the right to education of persons in prison.

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**Mr. James Anaya, Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples**, noted that the history of indigenous peoples is a history of violence, to the extent that it is one of the elements that define them. They are almost invariably among the poorest and most excluded populations. Frequently, the violence to which indigenous peoples are exposed derives from the influence of outsiders, private actors and development interests. In some cases, violence is perpetrated by the State itself, often in response to indigenous demands for legitimate rights, such as land rights. He underlined that, “the root cause of this violence is again the recognition of the economic social and cultural rights of indigenous peoples”. He affirmed that violations of the economic, social and cultural rights of indigenous peoples are often systemic rather than “one off” incidents, and that this calls for an approach that analyses and addresses the root causes of these violations. Such violations are often located in the nexus of issues over access to land, use of resources, cultural expression and the destruction of cultural symbols. There is also violence within and between indigenous communities. This is generally driven by poverty, and there is a strong gender dimension. The root of these problems lies in the generations of oppression experienced by indigenous peoples. Mr. Anaya views the UN Declaration on the Rights of Indigenous Peoples as a point of reference for his work and an important set of standards. He calls on states to take appropriate affirmative measures to protect and promote the human rights of indigenous communities, including the provision of education in traditional languages.

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**Mr. Olivier De Schutter, Special Rapporteur on the Right to Food**, drew attention to the fact that, around the world, those who are hungriest are also those who produce food. The recent increase in food prices has not benefitted small farmers (who are now paying more for the food they consume), but rather the intermediaries between producers and consumers. Many of those demonstrating against rising food prices are the urban poor, who are generally better connected to government. In contrast, as a group, smallholder farmers have difficulty coordinating and organising. This raises a policy question: to focus on the calls of protesters, or focus on the situation of smallholders. Mr. De Schutter asserted that the solution to this situation lies in agrarian reform and resolving land issues. Land, in turn, is linked to the right to housing. Furthermore, he added that, “there is a link between globalisation and violation of land rights. Food has become an international commodity but land is not an infinite resource. This creates conflict.”

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**Ms. Gay McDougall, Independent Expert on Minority Issues**, emphasised that racism and minority issues affect every region of the world and, while there may be cultural and linguistic differences, the experience of marginalisation is the same. She emphasised that the poor who belong to minorities groups represent the poorest of the poor – indeed, she regards poverty as a tool of exclusion. The MDGs call for poverty to be halved by 2015, but few if any governments are looking at eradicating poverty from a perspective that includes all populations and communities in their countries. Consequently “it is indispensable to bring the issue of minorities within the Millennium Development Goals”. Regarding violence, she warned against the simplistic formula: “minorities = violence”, and suggested instead that minorities must be understood as the *target* of violence.

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**Mr. Jorge Bustamante, Special Rapporteur on the Human Rights of Migrants**, focused on the specific case of raids by police and Immigration and Customs Enforcement (ICE) personnel in the US against illegal Mexican migrants (and, in some cases, legal residents and American citizens). These raids are part of a strategy to document these migrants and, in most cases, return them to Mexico. This strategy is, in turn, related to US homeland security policy. Mr. Bustamante reported that the police use force to enter homes and arrest and remove adults. Children - who are most often American citizens - are therefore left alone, or are obliged to follow their parents when they are repatriated. In many cases these children have never before been to Mexico, and may not even speak Spanish. Nothing is being done to protect the rights of these children. According to Mr. Bustamante, the presence of illegal immigrants in the US is at least a bilateral issue, but the US defines it as a “domestic problem” and adopts a unilateral approach. Mr Bustamante also drew attention to the situation of undocumented immigrants in Europe. This group is effectively treated as criminals, despite meeting a demand for cheap labour.

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All mandate holders emphasised the need to enhance the relationship between the Special Procedures System and national NGOs, especially when addressing the economic, social and cultural root causes of violence and other human rights violations.

## V. Conclusions

Taken together, the case studies presented and developed by the participants during the seminar clearly demonstrate that the relationship between poverty and violence is a mutually reinforcing one (see figure 1). Participants agreed that in order to reduce violence it is crucial for NGOs to identify and effectively address its economic, social and cultural root causes. At the same time, the converse equally applies: acting to reduce levels of violence in a given society is a fundamental step toward ensuring the widespread enjoyment of economic, social and cultural rights.

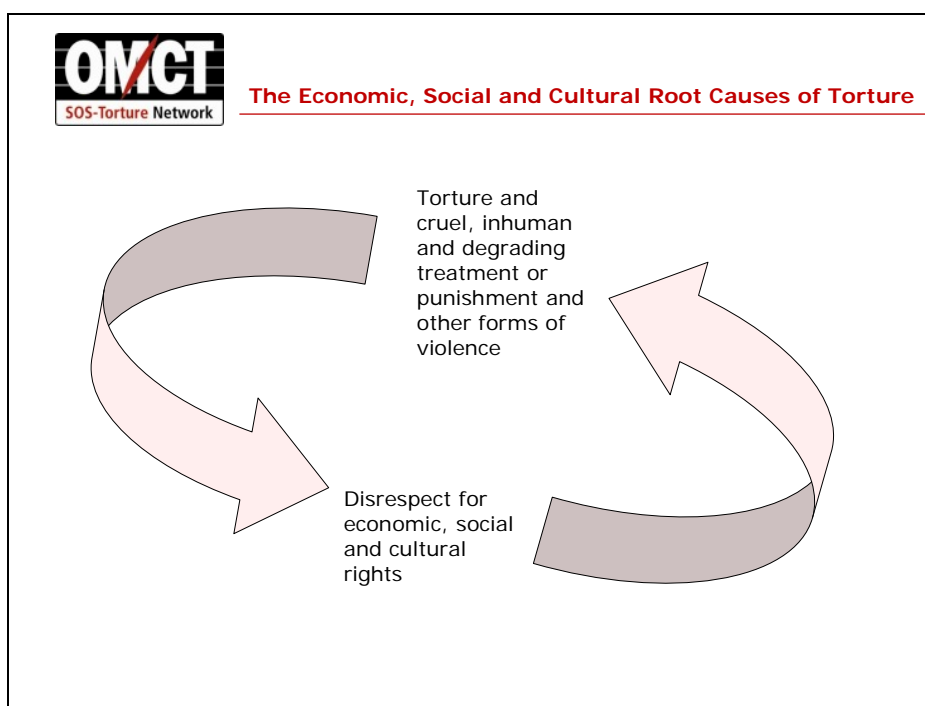


Figure 1: the relationship between poverty and violence is mutually reinforcing

The UN special procedures mandate holders who attended the OMCT seminar were also clear in their assertion that violence and torture are closely linked to the denial of economic, social and cultural rights, and that this link operates in a number of ways. They also emphasised the importance of receiving support and reliable information from NGOs that have national expertise. At the same time, NGOs can benefit from the exposure that the special procedures system can give to specific issues in the forum of the UN and beyond.

The case studies examined during the seminar also demonstrate that reducing violence associated with the denial of economic, social and cultural rights involves a careful examination of how this violence is generated in specific national contexts. In many cases it calls, in addition, for an understanding of how global dynamics, economic interests and the policies of international financial institutions are played out in local situations. It is this in-depth understanding of a given situation that allows concrete recommendations and realistic solutions to be developed and progress to be made in reducing levels of violence, including torture and cruel, inhuman or degrading treatment or punishment around the world.

# Appendix I

## Programme of Work, 23-27 June, 2008

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### Monday 23 June

#### *Morning session*

- Registration
- Opening Ceremony: Ms. Anne-Laurence Lacroix, Deputy Secretary General, OMCT; Mr. Orest Nowosad, Coordinator, Civil and Political Rights Unit, Special Procedures Division, UN Office of the High Commissioner for Human Rights; Mr. Roberto Garretón, UN Working Group on Arbitrary Detention; and Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe, and member of OMCT's Scientific Council
- Plenary: Setting objectives, introductions and case study outlines

#### *Afternoon session*

- Plenary: introductions and case study outlines (cont.)
- Plenary: Setting the context: how disrespect for economic, social and cultural rights can lead to violence - Dr. Michael Miller, Director, Research and Development, OMCT
- Plenary: Introduction to OMCT's work and staff

#### *Evening*

- Reception
- 

### Tuesday 24 June

#### *Morning session*

- Plenary: Mr Vernor Munoz, Special Rapporteur on Education
- Plenary: Influencing the UN system - Dr. Michael Miller, Director, Research and Development, OMCT

#### *Afternoon session*

- Plenary: Mrs Margaret Sekaggya, Special Rapporteur on Human Rights Defenders
  - Plenary: Economic, social and cultural rights and violence - Prof. Pierre de Senarclens, University of Lausanne, member of OMCT's Scientific Council and former Director of Human Rights, UNESCO
  - Plenary: Discussion of contribution to OMCT statement to the annual mandate holders' meeting
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### Wednesday 25 June

#### *Morning session*

- Plenary: Ms Raquel Rolnik, Special Rapporteur on Adequate Housing
- Plenary: Supporting the Special Rapporteur on the Question of Torture - Mr Safir Syed, OHCHR

*Afternoon session*

- Plenary: Mrs Gay McDougall, Independent Expert on Minority Issues
  - Working Groups: Case studies - analysing the root causes
  - Plenary: Seminar “half-way” evaluation
- 

**Thursday 26 June**

*Morning Session*

- Plenary: Mr James Anaya, Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples
- Working Groups: Case studies – preparing the Action Files

*Afternoon session*

- Plenary: Mr Olivier De Schutter, Special Rapporteur on the Right to Food
  - Attendance at the 15th Meeting of Special Procedures Mandate Holders, Palais Wilson
- 

**Friday 27 June**

*Morning session*

- Plenary: Mr Jorge Bustamante, Special Rapporteur on the Human Rights of Migrants
- Plenary: Case studies – reporting back

*Afternoon session*

- Plenary: General conclusions, final evaluation and closure



## Appendix II

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### **Violation of Economic Social and Cultural Rights and Torture: Necessity of a dialogue between development and human rights NGOs<sup>2</sup>**

**By**  
**Mr. Yves Berthelot**  
**Member of the OMCT Scientific Council and**  
**Former Executive Secretary of the Economic Commission for Europe**

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The United Nations Special Rapporteur on Torture, the United Nations Independent Expert on Human Rights in Extreme Poverty, and several specialised NGOs conclude on the basis of their observations and research that, in the majority of cases torture is not inflicted for ideological reasons, but in reaction to social tensions caused by profound inequalities, growing poverty, and an increasing number of people who are unable to provide for themselves and their families. This is another illustration of the way in which human rights are indissociable.

Moreover, the World Organisation Against Torture (OMCT), on the basis of hundreds of cases throughout the world, established strong correlations between the failure to respect economic, social, and cultural rights, and violence, including torture. It observed that most victims of torture, arbitrary detentions, summary executions, enforced disappearances, and other forms of cruel, inhuman or degrading treatment or punishment come from the underprivileged sectors of society. These treatments are imposed on poor people who protest because they have been deprived of their land or their homes to construct dams for the production of electricity, to develop intensive plantations in order to produce competitive agricultural commodities for industry and export or to build apartments for middle and upper classes. The economic measures, taken on by private or public actors, are economically rational; their consequences are dramatic. The work of the OMCT is a strong argument in favour of dialogue and cooperation between economists and specialists of human rights, academics, civil servants and NGOs.

Such a dialogue would be mutually beneficial to economic development and the fulfilment of human rights. Human rights bring values, objectives and instruments to economics. The values, first, are *duty* and *responsibility* that could balance the absolute virtue that liberal economists give to the free exercise of individual preferences. In addition to the ethical dimension attached to the sense of responsibilities, the clarification of their rights and duties permits each economic actor (national and local authorities, enterprises and civil society organisations) to exercise his responsibilities and to enter into partnerships necessary to the good functioning of the economy.

Secondly, the Universal Declaration of Human Rights and the subsequent International Covenant on Economic Social and Cultural Rights give legitimacy to the objective of social justice and development for all advocated by some economists. Those legal instruments also

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<sup>2</sup> Statement delivered to OMCT's Special Procedures Seminar, Geneva 23 – 27 June 2008

prioritise the objectives to be pursued in identifying the elements of human dignity and an adequate standard of living. As for the application of the instruments, human rights rely on institutions and the possibility for individuals or groups to have recourse to justice if their rights are not respected, protected or fulfilled. Indeed, the good functioning of the economy requires also institutions and access to justice. But human rights instruments go further as they empower the people and do not consider them as mere consumers or workers. Conversely, economics brings to human rights a long-term perspective on how to fulfil human rights.

Looking ahead, it seems that it will matter that economic decisions be checked against their impact on human rights. The issue of access to land illustrates it. To feed a growing world population and to meet the new consumption pattern of the middle and reach classes of emergent countries, as well as to meet the demand for agro-carburant, will require either more land or higher productivity. Despite the evidence demonstrating that small family farms can dramatically increase their productivity with limited chemical inputs, many argue that the easiest way to increase productivity is to rely on industrial farms benefiting from private research and abundant use of water, fertiliser, fungicide and pesticide. Without strong political pressure, it is likely that governments will favour industrial farms against family farms and that the number of poor peasants without land will increase dramatically. The growing price of land, the hiring or buying of land by investors, sovereign funds or governments in developing countries, and the increasing number of peasants expelled from their land are signals.

The mobilisation of development and human rights NGOs is urgent to invite governments to develop policies in favour of small efficient family farms. If this is not done, protests will multiply as will violence against protesters by the police and private militias.

## Appendix III

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**Addressing the economic, social and cultural root causes of  
torture and other forms of violence:  
Philosophical bases of human rights and the role and limits of human rights  
NGOs  
Some questions<sup>3</sup>**

**By  
Mr. Pierre de Senarclens  
Professor of International Relations, University of Lausanne,  
Member of the OMCT Scientific Council and former UNESCO Director of Human  
Rights**

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The World Organisation Against Torture (OMCT) has recognized for a long time that violations of economic, social and cultural rights are very often the root causes of the torture and other cruel, inhuman and degrading treatment, and that it should fight against these human rights violations. It has called for concerted action at the national and international levels in collaboration with other civil society partners to identify, address and act upon those root causes along with those violations of civil and political rights that make torture and other cruel, inhuman and degrading treatment.

OMCT's engagement is founded on the Universal Declaration of Human Rights and on the various legal instruments that have been inspired by this Declaration. In other words, it is a legally based position. This legal position is also closely associated with a certain representation of politics and this is the reason why human rights issues have always been hotly debated within the United Nations and are still highly contested by some of its Member States.

The Universal Declaration of Human Rights embodies a liberal conception of a legitimate political order. The State should respect the rule of law and should be organized on the principle of separation of powers. It should protect and promote human dignity, political freedom, equality and social justice. It entails a conception of national sovereignty that is intimately associated with the political participation of the citizens. National sovereignty is not identical with State sovereignty, but with popular sovereignty. The Declaration defines freedom by reference to classical civil and political rights. It covers therefore the protection of individual integrity and autonomy, i.e. the right not to undergo torture or arbitrary arrest, the right to express one's beliefs, to participate in associations and in the public affairs of one's country.

The individualism of the Declaration is tempered to a great extent by the concept of equality. Freedom is closely connected to a political goal, namely to the provision of a minimum standard of economic and social security for all citizens. The range of material and cultural freedoms defined in the Declaration goes far beyond the requirements of classical liberalism. The ideals of social democracy and distributive justice are explicitly and coherently integrated

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<sup>3</sup> Statement delivered to OMCT's Special Procedures Seminar, Geneva 23 – 27 June 2008

in the Declaration. Obviously its fundamental principles and ideals reflect the philosophy of the European Enlightenment.

In the 1940s it was imagined that the model of the liberal State that the western Allies had fought to restore in Europe, as well as the project of the Welfare State, could be universalized. However, when the Universal Declaration was adopted in 1948, the rationalist and secular inspiration of the Declaration's human rights was not accepted by some States, in particular by Saudi Arabia, and the Soviet Union did not like its liberal inspiration. Moreover, governments of recently independent states and political movements that had been or were still under the yoke of colonial powers, insisted on the necessity to integrate the peoples' right to self-determination into the definition of human rights, which was finally done in both International Covenants in 1966.

The drafters of the Universal Declaration defined certain principles of politics, an ideal representation of what should be the common good, but they did not provide us with a clear perspective of what kind of policies had to be implemented in order to attain these objectives. The policy that ensures the realization of negative liberties is easier to define than is the one necessary to implement positive liberties. In other words, the State has an obligation to abstain from torturing, but what type of policies should it pursue to insure the full employment and economic growth that are necessary to promote universal welfare?

This lack of precision also explains why human rights have always been a source of polemics and political turmoil. In the 1940s, the so-called western world claimed that the free market was the only way to insure the implementation of social, economic and cultural rights, whereas the Soviet Union defended the principle of state ownership of all the productive means and promoted a rigid command of the economy.

Although few would dispute today the overall benefits of the market economy, the confrontations within the United Nations on the best way to promote the norms of the International Covenant on Economic, Social, and Cultural Rights are not over. Far from it! Within the ILO there are some voices that insist on reducing the normative requirements of some conventions in order to promote the best economic conditions for employment.

In order to reduce violence and inequality it is crucial for donors, States, Intergovernmental Organizations and NGOs to identify and address its economic, social and cultural root causes. But can we agree on the precise definition of these causes, on a hierarchy of the most important variables explaining misery, inequality, violence? How can one ascertain the precise link between tyrannical government and underdevelopment? Tyrannical governments entail by definition gross and massive violation of human rights. These regimes are also incapable of protecting and promoting economic, social and cultural rights.

By the same token, no one can dispute the fact that there is a close correlation between misery, inequality, the destruction of the environment and different types of violence, including the widespread use of torture. In other words, we can assert that violence and torture are linked to the denial of economic, social and cultural rights, to bad institutions and lack of good governance. But can we reach an agreement on the ways and means to promote these rights, and on the proper institutional setting? No one disputes the importance and benefits of the Millennium Development Goals, but we still disagree on the ways and means to implement these objectives. Can we agree on the policies of international financial institutions, on the level of their conditionality? What are the benefits of the liberalization of

trade and finance? What is the role of the State versus the role of the market? What is the role of Official Development Assistance (ODA), of the Bretton Woods institutions, of OECD countries? Can we agree how to reform the architecture of the United Nations system?

The United Nations and the World Bank insist rightly on good governance. Corruption, bad administrative practices and the lack of access to justice are usually correlated with an absence of checks and balances, dictatorship and denial of the basic needs for the majority of the population. It is, however, difficult to assess whether the misery in Africa has been the consequence of too many Mugabe-type-regimes, or whether these regimes are mainly the consequences of the struggle for survival in this part of the World. National sovereignty and democracy is supposedly the best regime to protect human rights. Yet in many parts of the world, in Bosnia and Kosovo for example, as well as in many countries of Africa, the best institutional mechanisms and the best economic policies necessary for the implementation of this conception of sovereignty have yet to be defined. What kind of policies should we advocate to ensure that states fulfil their responsibilities to protect human rights? These are very complex issues.

One issue facing human rights NGOs today is the resurgence of ideologies, religious beliefs and practices that grossly affect the secular meaning of universality. From a social science perspective, religious fundamentalism is a consequence of personal and collective insecurity. When the socioeconomic conditions of existence are too difficult to bear, human beings invent all manner of religious and ideological illusions in order to cope with these realities. Therefore, the defence of universality requires also the protection and promotion of economic, social and cultural rights.

In conclusion, we can plead for closer links between NGOs engaged in the promotion of human rights and those working in the area of development, but we are not sure that we can go further than to call for this rapprochement. In other words, human rights organizations should not be confused with development organisations. Their comparative advantage is not in defining a precise economic strategy in the fight against poverty and violence. Their role, rather, is to stick to their legal instruments and to denounce conditions that affect human dignity and that violate the rights of minorities, women, and children. Their engagement lies in their capacity to mobilise public opinion and oblige governments to respect and promote their legal commitments. Human rights can and must inspire individuals and political movements. Government policies should be evaluated in relation to the standards set up by these norms. One should not forget, however, that these rights, although they have a political meaning, are based on international conventions and legal obligations and procedures. One should not forgo their specific legal characteristics for the sake of being politically more relevant.

## Appendix IV: OMCT statement to 15<sup>th</sup> Annual Special Procedures meeting

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### **World Organisation Against Torture**

P.O. Box 21- 8, rue du Vieux Billard  
CH 1211 Geneva 8, Switzerland  
Tel.: 0041/22 809 49 39 / Fax: 0041/22 809 49 29  
E-mail: [omct@omct.org](mailto:omct@omct.org) / Website: [www.omct.org](http://www.omct.org)

### **Intervention**

### **15th Annual Meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council**

### **Item VII: Consultation with NGOs and NHRIs**

**26 June 2008**

Madam Chair,

OMCT follows with great interest the work undertaken by the Special Procedures mandate holders within the framework of their annual meetings and welcomes the opportunity to share its comments and experiences.

The relationship between NGOs and the Special Procedures is a symbiotic one: the Special Procedures mechanism is reinforced when mandate holders receive support and reliable and well-targeted information from NGOs, and these same NGOs benefit from the exposure that the Special Procedures system can give to specific issues in the forum of the UN and beyond. The challenge in reinforcing this mutually-beneficial arrangement lies to a large extent in the issue of follow-up.

In light of this, OMCT would like to raise the following issues:

#### **1/ Communications**

OMCT welcomes the increase in joint communications issued by the Special Procedures as highlighted in various mandate holders' annual reports. In terms of follow-up, OMCT understands that the response depends upon the government involved: while some respond and investigate, others give *pro forma* responses or no answer, and still others respond by listing the alleged crimes of the detainee. OMCT would like to know if joint communications have increased the response rate of States or, indeed, changed the nature of the responses received?

#### **2/ Country visits**

OMCT understands that joint country missions by mandate holders are more complicated to organise and coordinate, but it firmly believes that they have the advantage of being able to address a complete issue and not just aspects thereof. OMCT welcomes the next joint mission by the Special Rapporteur on the question of torture and the Special Rapporteur on violence

against women to Moldova in July 2008 and would like to know if further joint missions are planned in the coming months.

From the same perspective, OMCT would like to know if joint missions with regional Special Procedures mechanisms are also planned in addition to that to Togo by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur of the African Commission on Human and People's Rights on human rights defenders in Africa.

In last year's report on the Special Procedures mechanism<sup>4</sup>, it was mentioned that, in an effort to increase the impact of the work of Special Procedures and improve follow-up to country visits recommendations, several mandates have developed a follow-up procedure which includes sending questionnaires to the Government representatives and civil society actors met during the visit. OMCT would like to know if this procedure is being adopted by other Special Procedure mandates and whether an assessment of this procedure is already available. Could this tool become "formalised" element of the Special Procedures?

OMCT believes OHCHR field offices can also take a leading role in monitoring the implementation of recommendations made by Special Procedures, in particular in the absence of relevant feedback from the States. Has there been any such collaborative initiative to date, and is there any assessment available?

### **3/ UPR**

OMCT welcomes the discussion initiated by the Special Procedures on the UPR and would like to share the following: The OHCHR compilation reports include the number of interventions sent to States and the response rate. However, there is no mention of the nature of these responses. In her last report, Ms. Hina Jilani makes a detailed analysis of the nature of responses that she received (para 41 and following). OMCT believes it would be worthwhile asking OHCHR to integrate this aspect in the next UPR country compilations.

On another level, OMCT would like to suggest that Special Procedures consider the possibility of taking into account relevant commitments made by States in the UPR process, provided it falls within their mandate, for example, extending invitations.

### **4/ Code of conduct**

In light of the Human Rights Council reforms and the adoption of the code of conduct, OMCT would like to know if a first assessment of the constraints linked to the adoption of the code of conduct could be shared. Are there any restrictions in the definition of an urgent appeal and the way it is transmitted? Could you share examples of countries with which diffusion of communications through the Foreign Affairs Ministries has been maintained and, on the contrary, countries that have requested that communications be sent only through their diplomatic missions in Geneva?

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<sup>4</sup> Report entitled *Enlarging the network of civil society actors working with special procedures and strengthening the collaboration between special procedures mandate holders, OHCHR special procedures branch and civil society actors.*

Finally, the NGO participants from 14 countries from around the world currently taking part in the OMCT Seminar “Addressing the economic, social and cultural root causes of violence through the UN Special Procedures System” here in Geneva encourage the mandate holders to focus attention, individually and collectively, on dealing with the root causes of violence in all their activities, including follow-up. They also wish to thank both those mandate holders who have met or will meet with them and the Secretariat for having facilitated these important exchanges.

Thank you.



## **Appendix V: Special procedures of the Commission on Human Rights - individual complaints**

*The following text comes from the website of the Office of the High Commissioner for Human Rights, [www.unhchr.ch/html/menu2/2/special-complaints.htm](http://www.unhchr.ch/html/menu2/2/special-complaints.htm)*

Some special procedures mechanisms intervene directly with Governments on specific allegations of violations of human rights that come within their mandates. The intervention can relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process, in general, involves the sending of a letter to the concerned Government requesting information and comments on the allegation and that preventive or investigatory action to be taken.

The decision to intervene is at the discretion of the special procedure mandate holder and will depend on the various criteria established by him or her. The criteria will generally relate to: the reliability of the source and the credibility of information received; the detail provided; and the scope of the mandate itself. However, it must be emphasized that the criteria and the procedure involved in responding to an individual complaint vary, so it is necessary to submit a complaint in accordance with the specific requirements established by each special procedure.

The following minimum information must be provided for all special procedures in order for the complaint to be assessed:

- Identification of the alleged victim(s);
- Identification of the alleged perpetrators of the violation;
- Identification of the person(s) or organization(s) submitting the communication (this information will be kept confidential);
- Date and place of incident
- A detailed description of the circumstances of the incident in which the alleged violation occurred.

Other details pertaining to the specific alleged violation may be required by the relevant thematic mandates (e.g. past and present places of detention of the victim; any medical certificate issued to the victim; identification of witnesses to the alleged violation; any measures undertaken to seek redress locally, etc.).

As a general rule, communications that contain abusive language or that are obviously politically motivated are not considered. Communications should describe the facts of the incident and the relevant details referred to above clearly and concisely.

To facilitate the examination of reported violations, questionnaires relating to several mandates are available to persons wishing to report cases of alleged violations. It should, however, be noted that communications are considered even when they are not submitted in the form of a questionnaire.

For specific information concerning the individual complaint procedures of each special procedure mandate please consult the thematic mandates or country mandates lists.

After consulting the requirements established by each mandate for the submission of individual complaints, a complaint can be submitted by fax to +41 22 917 90 06, by e-mail to [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org), or by postal mail to:

**OHCHR-UNOG**  
**8-14 Avenue de la Paix**  
**1211 Geneva 10**  
**Switzerland**

Please specify which special procedure mechanism the complaint is addressed to in the subject line of the e-mail or fax, or on the cover of the envelope.

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Guidelines and pre-prepared questionnaires are available for a number of mandates at the following web addresses:

**Extrajudicial, summary or arbitrary executions**

[www.unhchr.ch/html/menu2/7/b/execut/exe\\_info.htm](http://www.unhchr.ch/html/menu2/7/b/execut/exe_info.htm)

**Violence against women**

[www2.unhchr.org/english/issues/women/rapporteur/form.htm](http://www2.unhchr.org/english/issues/women/rapporteur/form.htm)

**Arbitrary Detention**

[www.unhchr.ch/html/menu2/7/b/arb\\_det/ardintro.htm#question](http://www.unhchr.ch/html/menu2/7/b/arb_det/ardintro.htm#question)

**Enforced or involuntary disappearances of persons**

[www.unhchr.ch/html/menu2/7/b/disappea/explanote.htm](http://www.unhchr.ch/html/menu2/7/b/disappea/explanote.htm)

**Promotion and protection of the right to freedom of opinion and expression**

[www2.unhchr.org/english/issues/opinion/complaints.htm](http://www2.unhchr.org/english/issues/opinion/complaints.htm)

**Sale of children, child prostitution and child pornography**

[www.unhchr.ch/children/contact.htm](http://www.unhchr.ch/children/contact.htm)

**Torture**

[www.unhchr.ch/html/menu2/7/b/torture/torquest.htm](http://www.unhchr.ch/html/menu2/7/b/torture/torquest.htm)

**Human Rights Defenders**

[www.unhchr.ch/html/menu2/7/b/mdefguide.htm](http://www.unhchr.ch/html/menu2/7/b/mdefguide.htm)

## Appendix VI: Summary of seminar evaluations

### I. Summary of written evaluations

#### *Content and organisation of seminar*

	<b>Good</b>	<b>Average</b>	<b>Poor</b>
Adequacy of substantive material and information provided prior to seminar	93%	7%	
Clarity of seminar aims and objectives	93%	7%	
Quality and pertinence of presentations by invited speakers	93%	7%	
Quality of background documentation provided during seminar	100%		
Organisation of time	67%	33%	
Management of discussions	92%	8%	
Overall length of meeting	79%	21%	
Benefit of collective reflection and experience sharing	93%	7%	
Achievement of personal aims and objectives	86%	14%	
Achievement of seminar aims and objectives	93%	7%	
Clarity regarding next steps	54%	46%	
Overall usefulness of seminar	100%		
<b>SUMMARY</b>	<b>87%</b>	<b>13%</b>	

#### *Administration and logistics*

Provision of practical information (hotels, flights etc)	85%	15%	
Administrative support	86%	14%	
Suitability of venue	86%	7%	7%
<b>SUMMARY</b>	<b>86%</b>	<b>12%</b>	<b>2%</b>

## II. Seminar participants' written comments and suggestions

- Thank you so much!!
- Provide practical information on how to use Special Procedures.
- In the future, perhaps material such as printer and copier should be made available to facilitate affective participation around the meeting venue.
- Please make arrangement for coffee/tea/juice at the venue during the sessions.
- I appreciated especially the link between the seminar thematic areas and the Special Rapporteurs' contributions along with the flexible attitude of the seminar management on languages matters. And at least I think the agenda could be held in four days instead of five.
- Overall, the workshop was extremely good. I particularly liked the sharing of the Special Rapporteurs. These strike me as extremely busy people so, for OMCT to bring them on board, is indeed very considerable. Attending the Special Procedure meeting also made the workshop very practical as one is able to inter-relate workshop discussions and what actually goes on within the UN mechanisms.
- For other opportunities [in the future....] send information regarding provisions (hotel, flight) earlier because, in my personal case, I had problems with VISA because I did not have the information.
- For the Latin-American people is necessary to make the invitation at least two months [in advance], because of the visas which normally takes two months to make an appointment.
- If you can add more sessions on international human [rights] law and torture definition in the CAT.
- Thank you a lot, the three of you, for organizational efforts, the speakers and personal attention. Apart from the time management issue, Michael is a very talented facilitator which I really appreciated.
- Great work and looking forward to pushing forward the mandates!!!
- Poverty and torture/violence are linked and must not be artificially separated, it's my conclusion.
- It was an excellent space provided by OMCT for feed-back from different regional, professional, political scopes and experiences.
- We identified common issues, problems, fights, and proposals. Differences were respected and enriched the dialogue.
- Thank you to OMCT and the organizing committee.
- Thank you very much for linking torture, etc to ESCR violations. It is very timely in the situation of anti-terrorism and globalization.
- Perhaps, the next steps could have been discussed more to push further the momentum created by the seminar workshop.