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## **Compilation of Urgent Appeals, Open Letters and Press releases**

### **Programme on children's rights**

**January – December 2003**

In cases of grave violations of children's rights, it is OMCT's task to establish a connection and create solidarity between groups, in the north as well as throughout the world, that are influential in the promotion and protection of human rights. However, transmission of all urgent communications pertaining to men, women and children sent out by OMCT to these various groups, without taking into account their needs, would be counter-productive since it would fail to achieve effective action and would be financially irresponsible. Since 1991, OMCT has been sending out urgent appeals under the heading "Child Concern" to a specific target audience who is most likely to take prompt and effective action concerning these cases. This is part of the strategy of maximising results: effectiveness is maximised by specifying the type of victim, thus making it possible to identify with increasing accuracy the organs which should receive the information concerned.

Launching urgent appeals specifically relating to violence against children both defends children that are at particular risk and raises awareness on their situation. It gives national NGOs an efficient instrument to let their voice be heard at the international level. More than 200 "Child Concern" urgent appeals have been circulated by OMCT since 1999. These appeals - which are circulated to several thousands recipients all around the world - are a support for the UN mechanisms who consider them as an important source of information

This compilation collates all urgent appeals, issued by the programme in 2003. Please note that the appeals can be identified by case numbers and headings referring to the country in which the violations have taken place. In the compilation, the appeals have been organised under broad thematic headings to make it easier to read through and locate information.

*For urgent appeals issued by other programmes at OMCT, on specific countries, issues or periods please refer to the website at [www.omct.org](http://www.omct.org)*

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## **1. Torture, or other cruel, inhuman or degrading treatment or punishment or other violations of international standards in the context of juvenile justice**

### **Case COD 270401.4CC : Release/Death penalty**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Democratic Republic of Congo**.

#### **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Comité des Observateurs des Droits de l'Homme (CODHO), a member of the OMCT network, of the release of two children formerly sentenced to death in Democratic Republic of Congo. According to the information received, 2 child soldiers, Jean Louis Basey and Diavanga Nkuyu, who had been condemned to death since 2000, were freed on 10th May, 2003. This release took place following the Presidential Amnesty Global Accord of 14th April 2003 that was signed in Pretoria.

However, no news were received concerning the other child soldiers that had been sentenced, namely Mbumba Ilunga, Mwati Kabwe, Banga Djuna and Nanasi Kisala (see urgent appeals 270401EE, 270401EE.1, 270401EE.2)

#### **Brief summary of the situation**

The International Secretariat of the OMCT had been informed by the CODHO of the 5 children who had been sentenced to death by the Cour d'Ordre Militaire (COM) of the Republic of Congo, an exceptional court in which no appeal is possible. Among those sentenced was Jean Louis Basey, sentenced in July 1999 for involuntary murder and Diavanga Nkuyu, sentenced in May 1999 for criminal association. In each case, the children were convicted as soldiers at the time of the facts. In May 2001, these children saw their death sentences commuted to life imprisonment. In August 2001, their life imprisonment sentences were in turn commuted to 5 years imprisonment.

However, Nanasi Kisala remained sentenced to death, as well as Babuya Oleko, another child, who did not live through his sentence. He died in September 2001 due to tuberculosis caused by poor detention conditions.

OMCT wishes to recall that according to article 39 of the Convention on the Rights of the Child, to which the Democratic Republic of Congo is party: "States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child."

The OMCT also wishes to recall that according to art. 37a of the Convention: "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither

capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.”

### **Action requested**

Please write to the authorities in Democratic Republic of Congo urging them to:

1. take all appropriate measures to promote the physical and psychological recovery as well as the social reintegration of the freed children : Jean Louis Basey and Diavanga Nkuyu, in conformity with art. 39 of the Convention on the Rights of the Child;
2. immediately revoke all death sentences passed on children under the age of 18 years, in particular the one against Nanasi Kisala, in conformity with the their international obligation established under art. 6, paragraph 5 of the International Covenant on Civil and Political Rights and reiterated in article 37 of the Convention on the Rights of the Child;
3. to amend the Congolese legislation in order to abolish death penalty and life imprisonment for children under the age of 18;
4. ensure that child prisoners in the DRC benefit from conditions of detention that are in keeping with the standards of the Convention on the Rights of the Child and with United Nations Rules for the Protection of Juveniles Deprived of their Liberty.
5. ensure that according to Article 37 of the Convention on the Rights of the Child, children in detention “shall be separated from adults unless it is in the child’s best interest no to do so.”
6. generally guarantee respect of human rights and fundamental freedoms of all children all over the country, in accordance with national laws and international standards, especially the Convention on the Rights of the Child.

Geneva, May 19, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case IND 151203.CC : Arbitrary detention/Torture</b>
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The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **India**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission HK, a member of the OMCT network, of the arbitrary detention and torture of **13-year-old Salauddin Sk.** by members of the Magrahat Police Station, South Parganas District, West Bengal, India.

According to the information received, on October 16<sup>th</sup> 2003, police officers came to Salauddin's home while searching for his older brother and arrested him instead. They brought him to the Magrahat police station, where he was stripped and beaten with sticks and fists. Then, some policemen tied a brick with one end of a rope, while tying the other end to his penis and testicles jointly. The young boy was held and tortured at the station during four days, until the police charged him with a fictitious case and brought him to the court on October 20<sup>th</sup> 2003. There he got released on bail.

Mr. Tamal Das, Officer-In-Charge of the Magrahat police station, reportedly claims to have no information about this case and said that he would proceed to an enquiry. However, no serious action has yet been taken by the police to investigate this case.

The detention and torture of Salauddin is in flagrant violation of Indian law, including the Constitution which states in Art. 22 (2) that "every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of 24 hours (...)" and the Indian Juvenile Justice Act of 1986, which states in its section 41 that "unnecessary mental or physical suffering shall be punishable (...)".

OMCT recalls that India is a State party to the Convention on the Rights of the Child, which states in its Art. 37 that (a): "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment and (b) no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."

The International Secretariat of OMCT is gravely concerned about the alleged brutal torture of the 13-year-old boy and urges the Indian authorities to launch an impartial investigation into the circumstances of this event, in order to bring perpetrators to justice and to award reparation to the victim.

### **Action requested**

Please write to the authorities in India urging them to:

order a thorough and impartial investigation into the circumstances of this arrest, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;  
guarantee that adequate reparation is provided to the victim of this abuse;  
intervene with the proper authorities to ensure that adequate medical and psychosocial assistance is provided as a matter of urgency to Salauddin;  
guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, December 15, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case IRN 130203 / IRN 130203.CC : Death penalty / Torture / Arbitrary detention**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Iran**.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source of the public hangings of four Iranians and reports of flogging and alleged arbitrary arrests in Iran.

According to the information received, on January 30<sup>th</sup>, 2003 four young men were hanged in Arak, in western Iran. The four prisoners, **Mohammed Saadat Fath, Nader Ebrahimi, Ali Farsameh and Davoud Jafari** were hanged in public at the same time but in different locations in the city. None of the executions was reported in state-run newspapers. It is thought that these executions were performed in order to put fear into Arak University students, who have been staging frequent demonstrations in recent months, as one of the four prisoners was executed in front of the university's main entrance.

The number of prisoners that have been executed or sentenced to death from the beginning of the year up until February 2<sup>nd</sup>, 2003, has now reached 46, with 20 persons executed and 26 on death row. The executions have been carried out across the country, including in Tehran, Ahwaz, Karaj, Gorgan, Shahroud, Ahar, Doroud and Dashti. The names of those that have been executed are reported as being as follows: **Kazem Ahmadi, Reza Hamrahi, Mahmood Gozali-Reihani, Mehdi, Akbar, Mehdi M., Assi Dehlavi, Karam Abdollahi, Nader Sadati, Seyed Khalil Pournvari, Khalil Mansouri, Ahmad Ali Golestaneh, Mostafa Ganjali, Ahmad (22 years old), Hossein Ali Amjadi, Mohammad Saadat Fath, Nader Ebrahimzadeh, Ali Farsameh, Davoud Jafari**, as well as **two unidentified persons**.

The persons that have been sentenced to death reportedly include: **Mohammad B.(Franki), Abdollah Z (Hatam), Hossein, Mohammad Bakhshesh, Davoud, Farhad (27 year old), Reza, Zeinab, Sasan Al Kanaan, Mohammad Soltan Hematyar, Foad A, Reza A., Ghader, Aziz Aria, Kheirolnesa, Mahmood Mafi, Hamid Reza R, Hadi, Davood (19 years old)**, as well as **a mother, her 16 year-old son and two other persons** whose identities remain unknown. Furthermore, two persons, identified as, **Azim and Alireza Bozorgi**, have been sentenced to double and triple execution respectively. This means that they will be hung until they are on the brink of death and then let down and hung again once they have recovered.

In another development, it has been reported on January 28<sup>th</sup>, 2003, that three restaurant employees, whose names have yet to be confirmed, were flogged in public in Tehran. In addition, a man in Mashad was reportedly sentenced to 99 lashes and 15 years in prison, having reportedly been charged with "hostage taking".

Furthermore, on January 29, 2003, it is reported that a senior commander of the paramilitary Bassij, a subsidiary arm of the Revolutionary Guards, announced that 223 people were arrested during an "extensive operation," comprising more than 600 security agents at 30 "corrupted" locations in Tehran, at which time "thugs" were arrested because of alcohol drinking and possession of pornographic material. He added that such arrests, many of which OMCT fears are of an arbitrary or politically motivated nature, would continue in the coming weeks.

OMCT recalls that it is strongly opposed to the death penalty, as an extreme form of cruel, inhuman and degrading treatment and a violation of the right to life, as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. OMCT also wishes to reiterate that the execution under any circumstances of persons who committed their alleged crimes under the age of 18 is a violation of the provisions of the United Nations Convention on the Rights of the Child and international customary law. More generally, OMCT is gravely concerned by the apparent worsening of the human rights situation in Iran and calls upon the authorities to halt the use of repressive measures that are violations of internationally accepted human rights laws and standards.

The International Secretariat of OMCT condemns the Iranian authorities use of arbitrary arrests and methods of punishment such as flogging, which at the very least constitute cruel, inhuman and degrading treatment and in most cases constitute torture. OMCT calls on the authorities to guarantee the physical and psychological integrity of the persons whose death sentences are pending.

### **Action requested**

Please write to the authorities in Iran urging them to:  
take all necessary measures to guarantee the physical and psychological integrity of all of the afore-mentioned persons;  
ensure that the currently pending death sentences are not carried out and abolish the death penalty in Iran;  
order the immediate release of all persons being detained as a result of the mass arrests in Tehran, due to the suspected arbitrary and politically motivated nature of these arrests;  
order a thorough and impartial investigation into the circumstances the afore-mentioned arrests in order to identify those responsible, bring them to trial and apply the penal, civil and/or administrative sanctions as provided by law;  
guarantee the respect of human rights and the fundamental freedoms throughout Iran in accordance with international human rights laws, notably the Convention on the Rights of the Child, and standards.

Geneva, February 13<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case KAZ 210103.CC : Torture /Due process including fair trial</b>
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The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Kazakhstan**.

### **Brief description of the situation:**

The International Secretariat of OMCT has been informed by a reliable source that three children, **Robert Molozhavskii**, **Dauren Sherimbetov** and **Nurken Zhunisov**, have been criminally convicted following proceedings affected by several violations of children human rights, and in particular resort to harassment, death threats, torture and other forms of ill-treatment.

**Robert Molozhavskii**, born 27 July 1986, is in detention since 7 June 2001. On 17 October 2002, the boy has been found guilty of repeated extortions carried out in groups with premeditation and sentenced by the Court n°2 based in the town of Shymkent in Kazakhstan to three years of imprisonment in a penitentiary institution. The sentence was confirmed by the appeal Court on 7 January 2003.

According to the information received, Robert Molozhavskii was ill-treated while in detention: at the time of his arrest, Robert was 14 and was reportedly beaten in the groin, on the neck and on his legs. Two police officers, Myrzabecov and Kasymov, then brought the boy in their office based in the Regional Division of internal affairs and hit him on the back

and head, and reportedly bent his fingers. Robert was then again ill-treated during the investigation by the same agents.

The source of information reports that Robert Molozhavskii was interrogated by the examining magistrate Mousambekov and was brought to sign a statement in the absence of a lawyer and of his legal representatives. Robert Molozhavskii, who was arrested on 7 June 2001, thus had access to his lawyer only on 16 July 2001, and to his mother, as his legal representative, on 17 July 2001. These facts have been reportedly brought to the attention of the prosecution and the Court but were allegedly not taken into consideration during the investigation.

In addition, S. Musaev, the detained boy's lawyer, did not access to several stages of the proceedings, in particular he did not assist to the indictment of the boy or to certain coercive measures, although his signature was appointed at the end of the minutes related to these stages. The Centre for forensic examination of the Ministry of Justice of Kazakhstan has however established that the signature was forged.

**Dauren Sherimbetov**, born on 3 October 1985, has reportedly also been found guilty of repeated extortions carried out in groups with premeditation and sentenced by the Court n°2 based in the town of Shymkent in Kazakhstan to three years of imprisonment in a penitentiary institution. The sentence was confirmed by the appeal Court on 7 January 2003.

According to the information received, Dauren was interrogated by the examining magistrate Mousambekov in the absence of a lawyer and of his legal representatives.

During the trial, Dauren Sherimbetov reportedly declared that he had been forced to make false statements under threat. Furthermore, he allegedly explained the circumstances surrounding these threats and indicated the names of those responsible. Still, the Court didn't take these declarations into account before pronouncing its judgement.

**Nurken Zhunisov**, born in 1985, was arrested on 4 March 2002 by the Division n°2 of the Shymkent's police. Nurken's mother was informed of her son's arrest on the next day and was only authorised to see him on 7 March. When they met, Nurken reportedly told his mother that he was forced under death threats to sign statements confessing his guilt.

According to the information received, Nurken Zhunisov, while in Shimkent's centre for preventive detention (SIZO-3), was visited by the examining magistrate of Division n°1, asking him to assume the responsibility for crimes which were until now not resolved. After having refused to do so, he was reportedly severely beaten.

For the time being, no investigation has been launched into the above-mentioned cases relating to the allegations of threats, torture and other forms of ill-treatment, and violations of judicial guarantees.

The International Secretariat of OMCT is strongly preoccupied by the attitude of the judicial authorities of Kazakhstan, in particular concerning the situation of Robert Molozhavskii, Dauren Sherimbetov and Nurken Zhunisov. OMCT condemns the Kazakh authorities' use of harassment, death threats, ill-treatment and torture. OMCT also condemns the violations of the three boys' judicial guarantees. In particular, OMCT wishes to recall that Kazakhstan is a

State party to the Convention on the Rights of the Child, which establishes the following rules:

Art. 37 (a): “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”.

Art. 37 (c): “Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty (...) shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances”.

Art. 37 (d): “Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance (...)”.

Art. 40 par. 1: “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society”.

Art. 40 par. 2 (b): “ States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees:

To be presumed innocent until proven guilty according to law; (...)

To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; Not to be compelled to give testimony or to confess guilt;”

### **Action requested:**

Please write to the authorities in Kazakhstan urging them to:

guarantee an immediate investigation into the alleged acts of torture and other cruel, inhuman and degrading treatment on **Robert Molozhavskii**, **Dauren Sherimbetov** and **Nurken Zhunisov**, identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law;

guarantee that a new fair trial by a competent, independent and impartial judicial body according to the law be opened whereby all their procedural rights be guaranteed, in particular their right to have legal or other appropriate assistance in the preparation and presentation of their defence;

ensure physical and psychological integrity of the three detained boys;

ensure the children's right to maintain contact with their families through correspondence and visits;

guarantee respect of human rights and fundamental freedoms in compliance with national laws and international standards, and particularly with the articles 37 and 40 of the Convention on the Rights of the Child.

Geneva, 21 January, 2002

Please inform us of any action undertaken in connection with this case, quoting the code of this appeal in your reply.

**Case MDA 250703.CC : Torture and other forms of ill treatment**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **the Republic of Moldova**.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source that Matei Guțu, a 14 year old child, was severely beaten by two police officers, Mr. Darie and Mr. Bivol, in the village of Cojușna, in the Republic of Moldova.

According to the information received, on 16 July 2003, Mrs. Guțu left her children, Ion (17 years old) and Matei (14 years old), alone at home. Ten minutes later, the policeman Mr. Darie, together with one of his relatives, came to the home and called Matei, telling him that he wanted to ask him some questions. When the child arrived, the two men seized him, pushed him into a car and took him to the Cojușna Police Station without informing his older brother about what was happening.

At the Police Station, Matei was reportedly interrogated in the absence of his parents. He was asked where he had been during the night of 19 June 2003. Mr. Darie and two other policemen accused him of having stolen money and valuables from a house in the village. They asked Matei to sign a confession and threatened to kill him if he did not want to. According to this confession, Matei would have accepted to pay 6000 lei to the victim of the theft. The boy denied the accusations and refused to sign any paper given to him

Thus, according to the information received, Mr. Darie took him to a room with no windows and beat him with a rubber stick over his head and body, demanding that Matei sign the confession. The child urinated because of the fear and pain, but the policeman continued to beat him and threatened to detain him in a cell with adult criminals. Then Mr. Darie locked Matei in the room for a while, but soon came back and continued torturing him.

At 6 pm, Matei was finally released from the Cojușna Police Station. He came back home in a very bad state of health. He allegedly suffered from headaches and giddiness, and he even vomited the water he drank. His mother took him to the "Ignatenco" Children's Hospital in Chisinau, where doctors were alarmed by the state of his health and decided to hospitalise him immediately. On July 23th, he was still in the hospital.

Matei's mother informed the Prosecutor's Office of these facts, but she was answered that the policemen' behaviour was legal and that the allegation of torture was not true.

The International Secretariat of OMCT is very concerned by this information and would like to remind, that as a signatory of the UN Convention on the Rights of Children (CRC), the Republic of Moldova is obliged to undertake all appropriate measures to protect children from torture or other cruel, inhuman or degrading treatment (art. 4 and 37).

## Action Requested

Please write to the authorities of the Republic of Moldova urging them to:

guarantee an immediate and thorough investigation into the alleged acts of torture on the afore-mentioned child, bring those responsible before a civil competent and impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law;  
guarantee adequate reparation to the victims and also physical and psychological recovery;  
guarantee all human rights and fundamental freedoms in accordance with international human rights standards, particularly the Convention on the Rights of the Child;

Geneva, July 25th, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case NPL 281003.VAW.CC : Violence Against Women/Gang-rape by armed-policemen**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Nepal**.

Brief description of the situation

The International Secretariat of OMCT has been informed by reliable sources, including the Asian Human Rights Commission (AHRC), a member of the OMCT network, of the rapes of **Ms. Janaki Chaudhari** and **Ms. Chinki Chaudhari**.

According to the information received, on 27 September 2003, 16-years-old girl Janaki Chaudhari and 14-years-old girl Chinki Chaudhari of Belawa 5, Mahadev Village, Bardiya District were brutally gang-raped and threatened by seven armed policemen of the police precinct of Kohalpur in Far Western region, Nepal. The names of the policemen are: Sub Inspector Judda Bahadur Shahi, Police Constable Upendra Khadka, Policemen Bhim Bahadur Chand, Ram Bahadur Sunar, Bhakta Bahadur Nepali, Mangit Oli and Hariji attached to the District Police Precinct Banke

The two girls were working as day labourers at the building construction site of the Armed Police in Rajhena, Banke. On the night of 27 September 2003, the two girls and a male worker were sleeping in a dormitory at the construction site when the policemen came to their place and asked how many people were in the room. After they had found out that there were two girls and one boy, the policemen entered the room, switched off the light, and threatened the male worker. Then, they forced the two girls to go outside with them.

The policemen took the girls to a nearby garden and gang-raped them. All seven policemen were involved in the rape. While raping the girls, the policemen threatened them that they would be killed if they shouted or made any noise. After the rape, the policemen told the girls to go back to the dormitory and remain quiet and work as usual.

With the assistance of the contractor of the construction site, Janaki Chaudhari and Chinki Chaudhari reported the incident to the police. On 30 September 2003, they filed a complaint against the perpetrators with the Banke District Police Precinct. The police took the girls to

the Kohalpur Medical College for medical examination. Following the complaint, the seven perpetrators were detained at the police station.

On 25 October 2003 in a first hearing, the Banke District Court ruled that the accused remain in detention until the beginning of the trial.

However, according to the information received, there are several indications that the police might not conduct a thorough investigation. Some police officers of the Banke District Police Precinct suggested to the girls that they should negotiate with their perpetrators in order to settle the case. When Janaki and Chinki met with the perpetrators, they were offered Rs. 5.000 (US\$ 67) each and asked to withdraw their complaint. The perpetrators also threatened the girls that they will have some difficulties if they would challenge the police.

The male worker, who was in the dormitory with the girls at the time of the incident has disappeared.

Moreover, the information received indicates that the Superintendent of Police, Mr. Shree Bahadur Ghale, said that he thought the policemen had sex with the girls with their consent, even though informally the perpetrators had admitted the crime. They later denied the crime and insisted that the contractor of the construction site was using the girls to make false accusations against them, because he has had bad relations with the police in the past. However, the accused admitted that they visited the construction site on 27 September 2003 while patrolling.

In a press release issued on 25 October 2003, the Armed Police Force (APF) denied that a group of seven policemen gang-raped the two girls. The APF headquarters stated that: " No staff from APF were involved in the reported rape nor anyone of the force has been arrested on rape charges."

OMCT expresses its grave concern over the security of the victims as well as the lack of willingness at the side of the police to conduct an adequate investigation into the crimes. According to reliable reports, in Nepal, there are numerous rape cases by the police who then continue at their jobs without any punishment or discipline. OMCT would like to remind the Nepal authorities that the Declaration on the Elimination of Violence against Women, in article 4(c), states that States should "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons." OMCT also wishes to recall that Nepal, as a State party to the Convention on the Rights of the Child, is bound to "protect the child from all forms of sexual exploitation and sexual abuse" (article 34).

### **Actions requested**

Please write to the authorities in Nepal urging them to:

- take all necessary measures to guarantee the physical and psychological integrity of Janaki Chaudhari and Chinki Chaudhari and intervene with the appropriate authorities in order to ensure that the adequate medical and psychosocial assistance is provided;
- order a thorough and impartial investigation into these rape cases, in order to identify those responsible, bring them to trial and apply the penal, civil and/or administrative sanctions as provided for by law;

- guarantee adequate reparation to both girls;
- guarantee the respect of human rights and the fundamental freedoms throughout Nepal in accordance with international human rights standards.

Geneva, October 28, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case NPL 281103 / NPL 281103.CC: Arbitrary detention / Torture</b>
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The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Nepal**.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source of the arbitrary arrests and recurrent torture of 2 youths in a Kathmandu police station in Nepal.

According to the information received, Raju Lama, a 22 year old, garment labourer from Kathmandu, and Manoj Rai, a 17 year old student of the Nandi Night School at Naxal, have been arbitrarily arrested and severely tortured, notably in Hanumandhoka district police office, Kathmandu.

Raju Lama has suffered recurrent arbitrary arrests and torture over the past 6 months. In April 2003, he was arrested for the first time by a group of some 7-8 policemen in uniform from Sorhakhutte ward police office and was kept in the custody for 17 days. He was produced in the District Administration Office, in Kathmandu, for remand extension three days after his arrest. During this period, the policemen beat him on his head with wooden sticks for two days, for 15 minutes at a time. After 17 days, he was released on bail after payment of 2000 rupees. Again on May 31<sup>st</sup>, 2003, at around 6 a.m., he was arrested by 7-8 policemen in uniform of Hanumandhoka and taken to Hanumandhoka District police office. He was taken to KERKAR (interrogation Section) and was beaten for one hour by 2-3 policemen. His hands were tied behind his back and he was forced to lie down and was beaten with a stick on his soles. A stick was kept under his knees and two policemen rolled over his thighs with wooden stick for 15 minutes. He fainted for some time. Again on the next day, he was taken to the same room and some 4-5 policemen beat him on his back with a stick for 15 minutes periods. He was released on June 15<sup>th</sup>, 2003 from the police station without any charge. He was asked to find other offenders involved in a robbery case which he said he knew nothing about. The police of Hanumandhoka arrested him again on August 2<sup>nd</sup>, 2003. He was interrogated about the robbery case and the police threatened to arrest his family members if he denied knowing the perpetrator of the robbery. He was released on August 18<sup>th</sup>, 2003.

Finally, he was arrested again on September 7<sup>th</sup>, 2003 at midnight while sleeping in his room. Some 8-10 plainclothes policemen arrested him. He was taken to the Hanumandhoka District Police Office and was beaten in the KERKAR for 3 days. Each day he was beaten for 1 hour with a small break in between. He was beaten with plastic pipe on his sole, scalp, thighs, back and knees. He was forced to confess the robbery as a result of the beatings. He was kept in custody in Hanumandhoka for two months without any letter of arrest. He was produced to the District Court of Kathmandu only on November 14<sup>th</sup>, 2003 on the charge of robbery, together with three other people: Kumar Lama, Hemkumar lama and Narayan Gharti who he says were not previously known to him.

As a result of the torture he has endured, he has two red wounds on his right knee and several black scars on his back. He feels pain on his soles and hands. He is not provided with any kind of medical treatment and medicine. He was not asked about torture when produced in court. He is still being held in Hanumandhoka. An NGO was reportedly able to visit him on November 25<sup>th</sup>, and filed an application for his physical and mental medical examination on November 26<sup>th</sup>, 2003.

Separately, Manoj Rai, a 17-year-old boy, was arrested on September 27<sup>th</sup>, 2003 at around 10 p.m. from Hattigaunda, Kathmandu. He was taken to the Hanumandhoka District Police Office. He has not been given a letter of arrest or produced before a court until now. According to his testimony, he was taken to the KERKAR (interrogation Section) where he was beaten for about 20 minutes with a bamboo stick on both of the soles of his feet, his back and thighs. They punched him in the head 4/5 times and he was not provided with food for two days. After four days, he was again taken to the same room and beaten for half an hour including slaps to both his ears and with a plastic pipe on his back. He was forced into telling the name of the thieves and was compelled to confess to a crime which occurred in the house of his landlord, Bal Kumar K.C. After 20 days of detention, he was again beaten for about 10-12 times with sticks on the soles of his feet, his head, back and especially his thighs. The police has since reportedly stopped beating him, but only provide him with the food brought by his father and they have not allowed him to meet with his father or any other relatives.

He now reportedly has difficulty walking due to pain in his soles, back and thighs and he has also lost hearing in his left ear. On the day of his arrest, due to the severe beating, he urinated blood. He is also suffering from insomnia. Some black scars and contusions could be seen on his back. An NGO reportedly visited him on November 26<sup>th</sup> and has filed an Habeas corpus petition on his behalf, as the police has been keeping him illegally in custody until now.

The International Secretariat of OMCT is gravely concerned by these cases of arbitrary arrest, detention and torture in Nepal. OMCT calls for the Nepalese government to launch impartial investigations into these cases and to immediately suspend the suspected perpetrators of the acts of torture, notably from Hanumandhoka district police office, Kathmandu. OMCT is especially concerned for the physical and psychological integrity of the victims. OMCT requests that urgent rehabilitation measures be taken. Concerning the case of Manoj Rai, OMCT recalls that Nepal, as a state party to the Convention of the Rights of the Child, is bound by the provisions that a child shall only be deprived of liberty “(...) as a measure of last resort and for the shortest appropriate period of time” (Art. 37 (b)), as well as the “guarantee to be presumed innocent until proven guilty according to law (i) and to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law (iii)” (Art. 40, §2.(b)).

### **Action requested**

Please write to the authorities in Nepal urging them to:

take all measures necessary to guarantee the physical and psychological integrity of Raju Lama and Manoj Rai;  
order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;

guarantee that they are granted access to legal representation and family visits;  
intervene with the proper authorities to ensure that adequate medical assistance is provided as a matter of urgency to them;  
order a thorough and impartial investigation into the circumstances of these events, notably the alleged acts of torture, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;  
guarantee that adequate reparation is provided to them, as victims of abuses;  
take all necessary measures to ensure respect for the international human rights instruments to which Nepal is party, which includes respect for the prohibition of torture and cruel, inhuman or degrading treatment and punishment.

Geneva, November 28<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case NPL281103.CC.1: Risk of torture/Disappearance</b>
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Follow-up of Case NPL 281103.CC

Geneva, December 2, 2003

The International Secretariat of OMCT has received new information regarding the following situation in **Nepal**.

New information

The International Secretariat of OMCT has been informed by a reliable source of the risk of further torture, disappearance and extra-judicial execution of **Manoj Rai, a 17 year old boy**, in Nepal.

According to the information received, Manoj Rai, who has been arbitrarily detained and tortured since September 27th at Hanumandhoka District Police Office, is reported missing. Manoj Rai was visited by an NGO and reported the torture he had suffered to a lawyer on November 26th. The lawyer had been alerted about his case by other detainees, as Manoj Rai himself was not in the police record. On November 28th, detainees reported to the lawyer that he is now missing. A guard confirmed that he was not in the custody of Hanumandhoka District Police Office anymore and that he had been released. However, Manoj Rai is nowhere to be found. His father who closely followed the detention, who regularly brought some food to the police station, and who has filed an Habeas Corpus, is now fearing for the life of his son.

Another Habeas Corpus was also filed in the Supreme Court by the NGO who visited Manoj Rai. However, the authorities neither acknowledge his arrest nor his supposed release. The court has asked the police authorities to reply whether they have arrested him and, if so, to produce the detainee before the court. The police authorities have not replied to the court yet.

The International Secretariat of OMCT is gravely concerned by this case of arbitrary arrest, detention and torture in Nepal. OMCT has been monitoring progress and is now fearing risks of further torture and extra-judicial execution of this young boy. OMCT urges the Nepalese government to pressure police authorities to immediately reply to the court and proceed further with the investigation into this case, while immediately suspending the suspected perpetrators

of the acts of torture from Hanumandhoka district police office, Kathmandu, in order to prevent further abuse against other detainees.

OMCT recalls that Nepal, as a state party to the Convention of the Rights of the Child, is bound by the provisions that (art. 37):

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. (...)

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child (...) shall have the right to maintain contact with his or her family through correspondence and visits(...);

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

In addition, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty reiterate that (art. 20) "no juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register."

Brief reminder of the situation

Manoj Rai was arrested on 27th September 2003 at around 10 p.m. from Hattigaunda, Kathmandu. He was taken to the Hanumandhoka District Police Office. He was neither given any letter of arrest nor produced to the court. According to his testimonial, he was taken to the KERKAR (interrogation Section) where he was beaten for about 20 minutes with bamboo stick on both of his soles of feet, back and thigh. They punched him on his head about 4/5 times. He was not provided food for two days. After four days, again he was taken to the same room and beaten for half an hour with slap on his both ears and with plastic pipe on his back. He was forced to tell the name of some thieves and was compelled to confess a crime which occurred in the house of his landlord, Bal Kumar K.C. After 20 days of his arrest, again he was beaten for about 10-12 times with sticks on his soles of his feet, head, back and especially on his thigh. In the following days, every morning he was forced to clean the floor. The police only gave him the food brought by his father and did not allow him to meet his father. He was not allowed to meet any other relatives.

On November 26th, he reported that he felt difficulties while walking due to pain on his soles, back and thigh and he had also lost listening power of his left ear. On the day of his arrest, due to the severe beating, he urinated blood. He also suffered from insomnia. Some black scars and contusions could be seen on his back.

Action requested :

Please write to the authorities in Nepal urging them to:

- i. pressure police authorities to immediately reply to the court's request pursuant to the two habeas corpus filed on the case of Manoj Rai;
- ii. take all possible measures to locate Manoj Rai and guarantee his physical and psychological integrity, as well as provide him with medical assistance and ensure his psychosocial rehabilitation and due reparation;
- iii. order a thorough and impartial investigation into the circumstances of his arbitrary arrest, torture and transfer or release, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iv. take all necessary measures to ensure respect for the international human rights instruments to which Nepal is party, especially the UN Convention on the Rights of the Child, which includes respect for the prohibition of torture and cruel, inhuman or degrading treatment and punishment.

Geneva, December 2, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case PAK 280803.CC: Death penalty**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Pakistan**.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source of the imminent execution of a young man, **Mohammad Amin**, who was 16 at the time of committing his offence.

The Supreme Court of Pakistan has upheld the death penalty awarded to Mohammad Amin although he was below 17 at the time of committing his offence. Pakistan recently abolished the death penalty against minors by introducing a new Juvenile Justice System Ordinance in July 2000. Also, under the Qisas and Diyat law, a minor cannot be awarded the death penalty. But in this case, the trial Court erroneously entered the age of the young man as 18 and he is now facing capital punishment imminently. At this critical time, only the President of Pakistan, General Pervaiz Musharaf, has the powers to commute his death sentence.

According to the information received, three persons entered a house in Rawalpindi and one of them, who was later recognized as Mohammad Amin, opened fire on the people present in the room. The shots resulted in the death of one person and injured two. The accused, including Mohammad Amin, were arrested and tried by an anti-terrorism court in Rawalpindi. The court sentenced Amin to death on Jan 21st, 2000. At that time, the Juvenile Justice System Ordinance had not yet been passed, and the death penalty was still applicable to minors in certain cases. However, sections 306 and 308 of Pakistan Penal code were in support of the accused, since minors are excluded from the list of offenders who are considered liable to Qisas (Life for life) as a major punishment. Yet, the issue of Mohammad Amin's age was not raised during the trial, and he was recorded improperly as being 18 both by the Court and in his medical report, merely on the basis of his appearance.

After the Juvenile Justice System Ordinance came into force, Mohammad Amin's lawyer decided to appeal. This first appeal was dismissed by the Rawalpindi bench of the Lahore High Court on 13<sup>th</sup> September 2001 on the grounds that the issue of age had not been raised before the trial Court. Moreover, the High Court confused the medical report of the boy with that of another person, Naseer Ahmad, who had received injuries during the events and therefore recorded him to be now 30 years old.

Hence, when the special presidential remission through which the death penalties of all juvenile offenders were converted into life imprisonment was announced in Dec 2001, Mohammad Amin could not benefit from it as he was incorrectly recorded as being 30.

The error of the High Court was raised before the Supreme Court, which turned down the plea on 19<sup>th</sup> March 2002, observing that the trial Court had raised the issue of the age of the accused as being 30 years old. This was a mistake as the trial Court had not raised his age and had recorded it as being 18. However, the Supreme Court confirmed its decision in a final review petition on 20<sup>th</sup> June 2003. The review petition was heard by a three-member bench of the Supreme Court headed by Chief Justice Sheikh Riaz Ahmad in Islamabad on 28<sup>th</sup> April. Judge Mian Mohammad Ajmal of the Supreme Court stated that according to the birth and school leaving certificates, the petitioner was born on June 5, 1981, and on the date of the offence, February 7, 1998, he was indeed 16. But he contended that the trial Court had mentioned the age of the defendant as being 18 and that the same age was mentioned in the medical report, however the Rawalpindi bench of the Lahore High Court had later erred in recording his age as 30. But since the petitioner's counsel had not raised the issue of his age before the trial Court, the Supreme Court would not accept his plea at the appellate stage. In its order, written by Judge Mian Mohammad Ajmal, the bench observed: "*Since the question of age of the petitioner has been appropriately considered and repelled by this court in the judgment under review, therefore, the same cannot be re-agitated and reargued in review petition.*"

From a legal perspective, the issue of Mohammad Amin's age should indeed have been raised and corrected in the first instance. The responsibility of an advocate is to assist the court, however it is the duty of the court or the presiding officer to gather and keep as much information as required in a particular case for a fair decision and the dispensation of justice. Hence, the court itself (the trial court as well as the appellate court) should have taken notice of the age of accused by using its suo moto powers.

The International Secretariat of OMCT expresses its grave concern about the inhuman consequences of the judgement and the approaching date of execution of Mohammad Amin. OMCT strongly supports the principles enshrined in the Convention on the Rights of the Child (CRC) ratified by Pakistan, and in particular article 37 which forbids the imposition of "*capital punishment (...) for offences committed by persons below eighteen years of age (...)*". OMCT has applauded the introduction of Pakistan's Juvenile Justice System Ordinance but it is deeply concerned about the authorities complying with it.

OMCT urges the President of Pakistan, General Pervaiz Musharaf, to commute his sentence on the grounds that he was a child at the time of the offence, as contended by the Supreme Court of Pakistan.

### **Action requested**

Please write to the President of Pakistan, General Pervaiz Musharaf, and other authorities concerned in Pakistan, urging them to commute the death sentence of Mohammad Amin.

Geneva, 10<sup>th</sup> September 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case PHL 260503 / PHL 260503.CC: Arbitrary arrest and detention / Torture**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Philippines.

Brief description of the situation

The International Secretariat of OMCT has been informed by Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the arbitrary arrest, detention and torture of five persons, including two children, in the Philippines.

According to the information received, on April 8th, 2003, five individuals, including two children, were arrested in Cotabato City, on the Southern Philippine island of Mindanao, in connection with the Davao International Airport and Sasa wharf bombings. Tohamie Urong (16 years old) was arrested in his home, while Ting Idar (20 years old) and Jimmy Balulao (15 years old) were arrested when they stopped to watch Mr. Urong's arrest. The three were forced into a waiting L300 van and blindfolded. Esmael Mamalankas (36 years old) was in his home with his wife and five children when he was arrested by armed men. He was then blindfolded, bound, and dragged towards the same L300 van. The four individuals alleged that the arresting officers, whom they believe to be members of the police and/or military, presented no warrant, no explanation for the arrest, and hit the men if they attempted to resist. The fifth individual, To Akmad (30 years old) was arrested, blindfolded and forced into a waiting police vehicle, shortly after docking his pump-boat.

The five detainees were reportedly brought to Awang airport in Cotabato City, where they were subjected to ill-treatment and tortured by officers trying to force them into confessing to having participated in the bombings. Mr. Urong was forced to admit that he was involved in the bombing, being hit every time that he denied involvement. He was reportedly hit on the chest with an armalite rifle and his head was wrapped in cellophane, which was only removed when he was close to suffocation. Mr. Idar was reportedly strangled with a rope, kicked, and electrocuted, but refused to admit any involvement in the bombing. His wallet, containing Php 3,000.00 and other documents, was confiscated, and his captors placed a metal object on his lap, informing him that it would explode if he moved from his seat. Mr. Akmad was also forced to admit involvement in the bombing in order to end his being subjected to ill-treatment and torture. His head was wrapped in cellophane, and his money, watch, and ring were confiscated. Mr. Akmad, who suffers from tuberculosis, was afraid that continued ill-treatment and torture might aggravate his condition. Mr. Balulao was reportedly strangled with his own belt, told that a metal object in his lap would explode if he left his seat, and forced to admit involvement in the bombing to end the ill-treatment and torture. Mr. Mamalankas' personal belongings were confiscated and he was beaten, forcing him to admit personal knowledge of the bombing.

According to the same source, on April 9th, 2003, the five detainees were blindfolded and taken to the Criminal Investigation and Detection Group at their Camp Domingo Leonor

headquarters in Davao City. On April 14th, 2003, the five victims were charged with multiple murder and multiple attempted murder in connection with the bombing. On May 5th, Mr. Bululao approached a DIDG investigator, Marcial Gabunada and informed him that he wished to retract his earlier statement regarding his involvement in the bombing incident. The investigator told Mr. Bululao that they would discuss it later, but has not spoken to him since. On May 8th, the TFDP staff were processing the victims affidavits when Investigator Gabunada confiscated the documents. TFDP was informed that the documents would be returned upon the Regional Police Director Isidro Lapena's approval. Subsequently, TFDP was informed that the affidavits had been lost and that TFDP would have to draft other affidavits.

The three men and two children continue to be detained at the office of the Criminal Investigation and Detection Group headquarters, pending their incarceration at Davao City jail. The May 9th arraignment was cancelled when the court granted the victims' legal counsel a motion to reinvestigate the case. On May 22nd, 2003, Ulong Sionga, 16-year-old Tohamie Urong's father requested TFDP's assistance in obtaining an order to remove the handcuffs that Tohamie Urong has been forced to wear.

The International Secretariat of OMCT is gravely concerned by the arbitrary arrest, detention, and torture of the five persons in Philippines. OMCT is concerned for the physical and psychological integrity of the detainees, particularly in light of the allegations of torture and because two of the detainees are children. OMCT recalls that the Government of the Philippines has signed the Convention on the Rights of the Child, which states that "No child shall be subjected to torture or any other cruel, inhuman or degrading treatment or punishment." OMCT calls for the immediate release of all the detainees in the absence of valid legal charges that are in line with international law, or, if such charges exist that the detainees be given a prompt and fair trial, and that their procedural rights be guaranteed at all times. OMCT also calls on the Philippine government to launch an immediate investigation into the allegations of torture, to punish the perpetrators, and provide the victims with appropriate reparation.

### **Action requested**

Please write to the authorities in Philippines urging them to:

- take all necessary measures to guarantee the physical and psychological integrity of Tohamie Urong, Ting Idar, Jimmy Balulao, Esmael Mamalankas, and To Akmad;
- order their immediate release in the absence of valid legal charges, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;
- order a thorough and impartial investigation into the allegations of torture in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- guarantee that adequate reparation is provided to the afore-mentioned detainees for any injuries that they have sustained as a result of their having been subjected to ill-treatment and/or torture;
- guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards, in particular the Convention on the Rights of the Child.

Geneva, May 26<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Philippines: Open Letter on the killing of 9 individuals including 2 children by the Army**

To Her Excellency Gloria Macapagal-Arroyo,  
President of the Republic of the Philippines,

Geneva, May 27<sup>th</sup>, 2003

Madame President,

The International Secretariat of the World Organisation Against Torture (OMCT), the world's largest network of NGOs fighting against torture, would like to express its concern regarding the killing of nine individuals, including two children in Sitio Mahayahay, San Isidro Kananga, Leyte Leyte Province, Philippines.

OMCT has been informed by the Task Force Detainees of the Philippines (TFDP) that on April 16<sup>th</sup>, 2003, there was an alleged encounter between members of the Philippine Army's 19th Infantry Battalion (IB) based in Brgy. Aguiting Kananga, Leyte and a group of persons that included the nine victims. The military reportedly claims that they were conducting foot patrols in the Sitio Mahayahay area when they noticed smoke on a hilltop. The soldiers headed towards the smoke and reported that on approaching the area, they were fired upon. The military claims that the victims were members of the New Peoples Army.

Relatives of the victims deny the allegations, reporting that the victims were not members of the New Peoples Army, but were civilians and members of SAGUPA (Samahan Han Mga Gudti Nga Parag-uma) a local farmers organisation. Residents in the area reported that nine dead bodies were recovered after approximately a 20 to 30 minute-long gunfight. The victims were **Rey Corpin** (13-years-old) of Bagalongon Kananga, Leyte; **Randy** (16-years-old); **Rowena Superior** (26-years-old) of Sitio San Antonio Brgy. Libongao, Kananga, Leyte; **Eugenio Tazan** (52-years-old) of Brgy. Cogon Ormoc City; **Teofilo Sumaya** (26-years-old) of Brgy. Cogon Ormoc City; **Joe Casinillo**; **Bebi Albuero**; and two unidentified bodies. Some of the victims' heads had reportedly been blown off. Several of the bodies also had burn marks on them. The victims' relatives believe that they may have been summarily executed.

Human rights groups remain unclear about the exact events of April 16<sup>th</sup>, 2003, since there are no available witnesses, beyond the military. OMCT calls on the Philippine government to order an immediate, detailed, and impartial investigation into these events, in order to identify those responsible and apply the sanctions that are provided for by law, as well as to provide the victims' families with adequate reparation. OMCT recalls that two of the victims were children and that the Philippines has signed and ratified the Convention on the Rights of the Child which states under Article 38, Paragraph 4) that: "In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict."

Thank you for the careful consideration that you will give this matter.

**Philippines: Open Letter on torture and detention of 16 year old boy by military forces**

To her Excellency Gloria Macapagal-Arroyo,  
President of the Philippines,  
New Executive Building, Malacañang, Palace Compound, J.P. Laurel St., San Miguel,  
Manila, Philippines, Fax no.: +632 929 3968 Email: opnet@ops.gov.ph or  
kgma@yahoogroups.com

26/8/2003

Ms President,

The International Secretariat of OMCT has been informed by the Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, about the recent case of a young boy who was arbitrarily arrested and tortured by military forces. Sixteen year old Jenny Rom, was one of four youngsters arrested by members of the 19th IB based in Brgy on February 13th , 2003. The military were conducting an intensified operation against rebels in the boundaries of Ormoc, when they encountered Jonathan Rom, Louie Rom, Jenny Rom, Genson Rom. They were handcuffed and accused of being rebels. Although the boys argued that they had just come from a day's work in the farm, the military conducted an interrogation. According to the information received, during the interrogation Jenny was punched and beaten every time he denied being a member of the NPA. Finally he was violently hit on the neck and left for dead by the military in an isolated place. Jenny woke up after a few hours and, despite his injuries, he managed to walk to his house. He was then rushed to the hospital by his uncle. The military arrived there and brought him to the Burauen Municipal Jail, having charged him with multiple homicide. Meanwhile, his three other friends were released after spending three days under military custody. No charges were filed against them.

Last July, Jenny was transferred to a detention cell for minors at the Leyte Sub Provincial Jail.

TFDP has recently written to the Secretary of the Social Welfare and Development to request his intervention in this case, and to the Chief of the Military of the Philippines to take action against the alleged perpetrators of these acts and is still awaiting an answer. The international Secretariat of the OMCT strongly supports this initiative and asks for your intervention. The use of torture in order to extract desired information from suspects is a violation of international norms and of the Constitution of the Republic of the Philippines. We welcome the recent rules and regulations for children enacted and promulgated by your government with the support of the national Commission on Human Rights (The Special Protection of Filipino Children, RA 7610; The Child and Youth Welfare Code, PD 603; Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders Pursuant to Article 209 of P.D. 603; Memorandum of Agreement on the Handling and Treatment of Children Involved in Armed Conflict, Police Handbook on the Management of Cases of Children in Especially Difficult Circumstances; the Rules on Juveniles in conflict with the Law and the Comprehensive Juvenile Justice System Bill) and we urge your government to implement them. In addition the Criminal Procedure of the Republic of the Philippines (Rule 113, Sec. 2, par. 2) outlines the duties of the peace officer or private person making the arrest, with or without a warrant. In effecting an arrest, the person making the arrest shall ensure that no violence or unnecessary force shall be employed and that the person arrested must not be subject to a greater restraint than is necessary for his detention.

OMCT is particularly alarmed by the practice of continuing torture and arbitrary detention of children in the Philippines and strongly supports the principles contained in the Convention on the Rights of the Child, ratified by Philippines in 1990 and particularly article 37 which requires that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment...

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. OMCT recalls that the Convention contains article 40 which states that:

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The International Secretariat of the OMCT asks your Excellency to order the immediate release of 16 year old Jenny Rom, allowing him to be placed under the custody of his parents, since it is clear that he was arrested only on the basis of suspicion. OMCT also asks you to contact the appropriate authorities in order to ensure that all charges being held against him are dropped; order a thorough and impartial investigation into the circumstances of his arrest and torture, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law; intervene to ensure that adequate medical and psychosocial assistance is provided as a matter of urgency to the above-mentioned boys and guarantee that adequate reparation is provided to him and his family. We thank you for the careful consideration that you will give these matters.

Your Sincerely,

**Case LKA 130803.CC : Torture**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sri Lanka**.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission HK, a member of the OMCT network, of the brutal torture of a 17-year-old by several police officers from Ankumbura Police Station and Gramma Arraksaka, Sri Lanka.

According to the information received, the Gramma Arraksaka came to the house of the victim, B.G. Chamila Bandara Jayaratne on 20 July 2003 at around 4.30pm and took him away in order to extract a confession to recent alleged thefts. Sergeant Pathnesiri reportedly struck the victim several blows to the face and the body. The victim saw his cousin, Upali, and a 14 year old boy Bandula Pathmakumara at this place. Two of the officers were in uniform. One policeman threatened to kill Upali if the victim did not confess. Then they were

allegedly taken to the Ankumbura police station at about 6pm. The Inspector of Police Senevirathna hit the victim and kicked him in the face.

The victim was released but the next day (21 July) he was taken away again to a room. There were several officers present and the officer in charge and another officer hit the victim on the soles of his feet with a cricket stump, cane and pole. When he refused to confess he was hit further. A polythene bag which had contained petrol was tied to his face. They reportedly threatened to burn and kill him. Then they put the victim's hands behind his back, tied his thumbs together and strung the victim up by his thumbs from a beam on the ceiling and continued beating.

Because of the extreme pain the victim informed who his friends were, confessed to the thefts and was made to state falsely to whom he had given the stolen items.

On 27 July, Upali, Saman, Salier, Bandula, and the victim were made to sign blank pages. Police officers obtained papers from a doctor at Ankumbura hospital but the victims were not allowed access to a doctor.

Then Salier and Upali were reportedly detained at Bogumbara prison hospital. The others were remanded in the prisons at Rajayagahavithiya. Later the victim learned that while he was in prison, his mother came, but she had not been allowed to see him.

On 30 July the victim was granted bail on ten thousand rupees surety. The next day, he received treatment in a hospital in Kandy for six days. The doctors told him that a nerve in his left hand had been stretched. His legs were swollen, his hands were numb, and he had headaches. A complaint was made to the hospital police. They asked the victim to go and make a complaint at the Ankumbura police station.

The International Secretariat of OMCT strongly condemns the Ankumbura police officers' acts of torture perpetrated against B.G. Chamila Bandara Jayaratne. OMCT wishes to recall that Sri Lanka, as a State party to the Convention on the Rights of the Child, is bound to the provision that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Art. 37 (a)). Furthermore, the Convention states that "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age." (Art. 37 (c)).

The Convention further states that " States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees:

- (i) To be presumed innocent until proven guilty according to law; (...)
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt;" (Art. 40 para. 2 (b))

OMCT is deeply concerned by the lack of due diligence of Sri Lankan political authorities despite their awareness of a recent wave of allegations of police abuse and torture. This is particularly disturbing in light of the fact that, under Sri Lankan law, torture is a crime punishable by a mandatory minimum sentence of seven years in prison.

As a result of the torture, AHRC reports that the victim cannot use his left arm. The police have reportedly falsely implicated him in the thefts. The date of the next hearing is 20 August 2003.

### **Action requested**

Please write to the authorities in Sri Lanka urging them to:

- i. order a thorough and impartial investigation into the circumstances of the arrests and the alleged acts of torture and other cruel, inhuman and degrading treatment on B.G. Chamila Bandara Jayaratne, in order to identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law;
- ii. guarantee that adequate reparation is provided to the victims;
- iii. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.
- iv. put an immediate end to all forms of torture, cruel, inhuman and degrading treatment of children in accordance with national and international legislation and particularly with articles 37 and 40 of the Convention on the Rights of the Child.
- v. guarantee that a fair trial by a competent, independent and impartial judicial body according to the law be opened whereby all their procedural rights be guaranteed, in particular their right to have legal or other appropriate assistance in the preparation and presentation of their defence;

Geneva, August 12, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply

<b>Case LKA 130803.1 CC : Torture and ill-treatment</b>
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Follow up to the case LKA 130803.CC

The International Secretariat of OMCT has received new information regarding the following situation in **Sri Lanka**

### **New Information**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission HK, a member of the OMCT network, of the decision of the Supreme Court of Sri Lanka to issue leave to proceed in the case of **Chamila Bandara**, a 17 years-old- boy tortured by several police officers from Ankumbura Police Station and Gramma Arraksaka, Sri Lanka.

After Chamila Bandara's hospitalisation, doctors at the Peredeniya Teaching Hospital declared that the torture has rendered Mr Bandara's left arm permanently useless, and the other disabled. According to medical reports, his spinal cord was also seriously damaged.

The victim's family filed complaints against the alleged perpetrators to the Sri Lankan authorities, and the Supreme Court has granted leave to proceed with the application relating to the violation of his fundamental rights. The respondents in the case have been given two

weeks to file an answer. The case is fixed for argument on 1st December 2003. Meanwhile, a special unit of inquiry is conducting investigations into his case. The case has received enormous local publicity, and a complaint has been made to the UN Special Rapporteur on Question of Torture and the other international bodies.

The alleged perpetrators, angry about these actions against them, have coerced local criminals into intimidating the victim and his family. The victim's mother has been directly threatened many times by the police and by people believed to be coerced by the alleged perpetrators. After being attacked by an unknown person, the mother left the village, and is now staying with her parents. A human rights NGO is taking care of Chamila Bandara.

The victim's family has learned that the OIC and other perpetrators attempted to fabricate the case by forcing some boys to testify that the victim's injury was caused by a fall. The boys did this out of fear, and several of them have already retracted their statements taken under duress. Meanwhile, the officer in charge, accused of being the chief perpetrator of the torture against the victim, is still working at the Ankumbura police station.

The International Secretariat of OMCT strongly condemns the Ankumbura police officers' acts of torture perpetrated against B.G. Chamila Bandara Jayaratne. OMCT wishes to recall that Sri Lanka, as a State party to the Convention on the Rights of the Child, is bound to the provision that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Art. 37 (a)) and that "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age." (Art. 37 (c)). The Convention further states that " States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (...) (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; (iv) Not to be compelled to give testimony or to confess guilt;" (Art. 40 para. 2 (b)).

### **Brief reminder of the situation**

The International Secretariat of OMCT had been informed by the Asian Human Rights Commission HK, a member of the OMCT network, of the brutal torture of a 17-year-old by several police officers from Ankumbura Police Station and Gramma Arraksaka, Sri Lanka.

According to the information received, B.G. Chamila Bandara Jayaratne was arrested on 20th July 2003. During police custody he was brutally tortured in order to extract a confession to recent alleged thefts. Sergeant Pathnesiri reportedly struck the victim several blows to the face and the body. One policeman threatened to kill the victim's cousin if he did not confess. They were allegedly taken to the Ankumbura police station where the Inspector of Police Senevirathna hit the victim and kicked him in the face. He was released but the next day (21st July) he was taken away again to a room. There were several officers present and the officer in charge and another officer hit the victim on the soles of his feet with a cricket stump, cane and pole. When he refused to confess he was hit further. A polythene bag which had contained petrol was tied to his face. They reportedly threatened to burn and kill him. Then

they put the victim's hands behind his back, tied his thumbs together and strung the victim up by his thumbs from a beam on the ceiling and continued beating.

Because of the extreme pain the victim informed who his friends were, confessed to the thefts and was made to state falsely to whom he had given the stolen items. On 27th July, the victim was made to sign blank pages. Police officers obtained papers from a doctor at Ankumbura hospital but the victim was not allowed to access to a doctor. On 30th July the victim was granted bail on ten thousand rupees surety. The next day, he received treatment in a hospital in Kandy for six days. The doctors told him that a nerve in his left hand had been stretched. His legs were swollen, his hands were numb, and he had headaches. A complaint was made to the hospital police. They asked the victim to go and make a complaint at the Ankumbura police station.

### **Action requested**

Please write to the authorities in Sri Lanka urging them to :

- i. guarantee the physical and psychological integrity of Chamila Bandara Jayaratne and his family;
- ii. ensure the impartiality of the investigation into the circumstances of the intimidation and threats against the victim's family in order to identify those responsible and bring them before a competent tribunal;
- iii. guarantee adequate reparations for the above-mentioned victim;
- v. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards;
- vi. put an immediate end to all forms of torture, cruel, inhuman and degrading treatment of children in accordance with national and international legislation and particularly with articles 37 and 40 of the Convention on the Rights of the Child.

Geneva, 2<sup>nd</sup> October, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case LKA 220803.CC : Torture/Arbitrary detention**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sri Lanka**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by a AHRC-HK, a member of the OMCT network, of the torture of two teenage boys and the fabrication of charges against them by Ankumbura Police in Sri Lanka.

Bandula Padma Kumara (14 years old) and Saman Kumara (17 years old) are brothers (address: c/o M.G. Karunawathie (Mother), Godahena, Dolaphihilla). Their parents are poor and their father works as a natamy (a workman carrying heavy loads for hire).

According to the information received, on 20 July, Bandula was arrested on suspicion of stealing a bunch of bananas. He was assaulted severely and kept in the police station for eight days. His mother went to the police station to see him but was not allowed in. Bandula's brother, Saman, was arrested while he was at home at about 7.00 pm on 22 July. He was kept

at the police station with his younger brother until 28 July 2003. While at the police station, he was hung by his thumbs by the officer in charge of the police and his legs were pulled down by a police officer while he was in that position. Later, he was positioned in the manner known as Dharma Chakkara - tying of hands in a way to cover the knees, putting a poll between the two arms and turning the person while being beaten on the soles.

The boys were forced to admit to offences that they knew nothing about. Bandula has been implicated in 13 fabricated cases and Saman in 12 charges. On 28 July they were brought to the Magistrate and remanded in custody. They were only released on bail on 15 August.

The International Secretariat of OMCT strongly condemns the Ankumbura police officers' acts of torture and fabrication of charges against Bandula Padma and Saman Kumara. OMCT is deeply concerned by the lack of due diligence of Sri Lankan political authorities despite their awareness of a recent wave of allegations of police abuse and torture. This is particularly disturbing in light of the fact that, under Sri Lankan law, torture is a crime punishable by a mandatory minimum sentence of seven years in prison.

OMCT urges that the matter be investigated immediately and the perpetrators be brought to justice. Furthermore, OMCT request that the fabrication of charges be investigated also, and the two young boys released from the charges which have been made falsely against them. OMCT wishes to recall that Sri Lanka, as a State party to the Convention on the Rights of the Child, is bound to the provision that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Art. 37 (a)). Furthermore, the Convention states that "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age." (Art. 37 (c)).

The Convention further states that " States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (...) (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; (iv) Not to be compelled to give testimony or to confess guilt;" (Art. 40 para. 2 (b))

#### Remarks

The earlier case of Chamila Bandara (Case LKA 130803.CC), who has now lost the use of his right arm after being tortured, happened at the same police station.

#### **Action requested**

Please write to the authorities in Sri Lanka urging them to:

- i. order the immediate release of charges which have been made falsely against the boys;
- ii. order a thorough and impartial investigation into the circumstances of their arrests and torture, and on other such acts allegedly undertaken at Ankumbura Police station, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iii. intervene with the proper authorities to ensure that adequate medical and psychosocial assistance is provided as a matter of urgency to the boys;

iv. guarantee that adequate reparation is provided to them and their family;

Geneva, 22 August 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case LKA 180903.CC : Torture**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sri Lanka**.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, of the brutal torture of **Dawundage Pushpakumara, 14-year-old**, by several police officers from Saliyawewa Police Station in Platum, Sri Lanka

According to the information received, at around 10:30pm on 1<sup>st</sup> September 2003, about six police officers from the Saliyawewa Police Post in Putlam, dressed in civilian clothes, came to Pushpakumara's sister's house and threatened to shoot their cousin if Pushpakumara did not go with them. They grabbed his neck and pushed him into their van, where Pushpakumara saw four bottles of liquor. According to Nisantha (Pushpakumara's cousin), police officers went to Pushpakumara's house after having drunk liquor and threatened to shoot Nisantha if he did not show them Pushpakumara's house.

Inside the van several police officers assaulted Pushpakumara, telling him to confess to stealing a chain. They took him to Saliyawewa Police Post and threw him into a cell. Then they tied his hands behind him and hung him on a beam, where the Officer in Charge (OIC) and several others assaulted him. Then they put him in a room full of ants with his hands still tied.

When his parents went to police station to see their son, they saw Pushpakumara hanging on a beam with his hands tied behind him with a fiber cord. His mother asked to see him, but a police officer told her that the OIC was not in the police post and to come the next day. Meanwhile, about ten to fifteen persons claiming to be the owners of the chain came to the police station and threatened to get the police to harm her son if he did not return the chain. The police officers did not react to any of the threats.

The next morning (2<sup>nd</sup> September), his mother and sister were allowed to speak to Pushpakumara and he showed them his hands (which had deep wounds), legs (ant bites), head and chest as places where they assaulted him. He added, "It is good that you came last night, otherwise I would have been killed." The OIC asked Pushpakumara whether he took the chain and he said no. Then the OIC allowed him to go home with the mother. After Pushpakumara went back home, he complained of headaches and fainted. The next morning the General Hospital of Putlam admitted him.

On 5<sup>th</sup> September the police officers told the mother and sister that Pushpakumara was not a thief and the real culprit had been arrested. The police officer told them to remove Pushpakumara from the hospital and asked the supposed owner of the chain to give one

thousand rupees to the mother. Two police officers and the owner of the chain took the mother and sister to the General Hospital, Putlam at about 7-8pm, but Pushpakumara had been forced to leave the hospital.

Pushpakumara fell very ill at home and the next day a person told him the thief was going to be released and that he would be arrested, so he should go back to the hospital. However, due to police pressure the hospital would not admit him. Attempts to get help from the child welfare office also failed for their fear of the police. A human rights organization reached the family and tried to take the child to a hospital outside the area. Meanwhile, the Child Rights Authority, which was informed of the situation took Pushpakumara to a hospital in Colombo where he was treated. Now the family is under severe pressure from the police to stop perusing complaints against the police officials.

The International Secretariat of OMCT strongly condemns the Saliyawewa police officers' acts of torture perpetrated against Dawundage Pushpakumara. OMCT wishes to recall that Sri Lanka, as a State party to the Convention on the Rights of the Child, is bound to the provision that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Art. 37 (a)). Furthermore, the Convention states that "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age." (Art. 37 (c)).

The Convention further states that " States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (...) (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; (iv) Not to be compelled to give testimony or to confess guilt;" (Art. 40 para. 2 (b))

OMCT is deeply concerned by the impunity enjoyed by policemen involved in this case of abuse and torture of a child, while under Sri Lankan law, torture is a crime punishable by a mandatory minimum sentence of seven years in prison.

### **Action requested**

Please write to the authorities in Sri Lanka urging them to:

- Order an impartial investigation into the circumstances of the arrest and the alleged acts of torture and other cruel, inhuman and degrading treatment, in order to identify those responsible and bring them before a competent tribunal;
- apply the penal, civil and/or administrative sanctions provided by law against the policemen involved;
- guarantee psychosocial support and further medial assistance to Pushpakumara and obtain compensations for him and his family;
- put an immediate end to all forms of torture, cruel, inhuman and degrading treatment of children in accordance with national and international legislation and particularly with articles 37 and 40 of the Convention on the Rights of the Child.

Geneva, 18<sup>th</sup> September 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case LKA 180903.1 CC : Torture/Threat Of Eviction</b>
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Follow-up to Case LKA 180903.CC

Geneva, 26<sup>th</sup> September 2003

The International Secretariat of OMCT has received new information and requests your **URGENT** intervention in the following situation in **Sri Lanka**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, that police officers of the Saliyawewa Police Station and a prominent local politician have threatened to burn down the home of **Dawundage Pushpakumara**, a 14-year-old torture victim, if his family pursued their complaints on this matter. The victim's family is extremely poor and will face deprivation and severe loss if their home is burnt down.

It has also been reported that police officials impeded Pushpakumara's access to medical treatment as they were afraid that the medical record of the victim's injuries could be used against them in a legal proceeding. According to the information received, the victim is currently in hiding and is being taken care of by a human rights organisation. The officer in charge of the police station, who was reported to be amongst those who tortured Pushpakumara, continues to occupy the same post.

OMCT is gravely concerned about the threats and efforts to intimidate Pushpakumara's family and for their safety and strongly condemns the continuing impunity of the police officers. The OMCT calls upon the Sri Lankan authorities to take immediate action to ensure the security and physical and psychological integrity of the victim and his family, to order a thorough and impartial investigation against those involved in the alleged torture of Pushpakumara and intimidation of his family, and award appropriate reparation to the victim and his family.

#### Brief Reminder of the Situation

According to the information received, at around 10:30pm on 1<sup>st</sup> September 2003, about six police officers from the Saliyawewa Police Post in Putlam, dressed in civilian clothes, came to Pushpakumara's sister's house and threatened to shoot their cousin if Pushpakumara did not go with them. They grabbed his neck and pushed him into their van, where Pushpakumara saw four bottles of liquor. According to Nisantha (Pushpakumara's cousin), police officers went to Puspakumara's house after having drunk liquor and threatened to shoot Nisantha if he did not show them Pushpakumara's house.

Inside the van several police officers assaulted Pushpakumara, telling him to confess to stealing a chain. They took him to Saliyawewa Police Post and threw him into a cell. Then they tied his hands behind him and hung him on a beam, where the Officer in Charge (OIC) and several others assaulted him. Then they put him in a room full of ants with his hands still tied.

When his parents went to police station to see their son, they saw Pushpakumara hanging on a beam with his hands tied behind him with a fiber cord. His mother asked to see him, but a police officer told her that the OIC was not in the police post and to come the next day. Meanwhile, about ten to fifteen persons claiming to be the owners of the chain came to the police station and threatened to get the police to harm her son if he did not return the chain. The police officers did not react to any of the threats.

The next morning (2<sup>nd</sup> September), his mother and sister were allowed to speak to Pushpakumara and he showed them his hands (which had deep wounds), legs (ant bites), head and chest as places where they assaulted him. He added, "It is good that you came last night, otherwise I would have been killed." The OIC asked Pushpakumara whether he took the chain and he said no. Then the OIC allowed him to go home with the mother. After Pushpakumara went back home, he complained of headaches and fainted. The next morning the General Hospital of Putlam admitted him.

On 5<sup>th</sup> September the police officers told the mother and sister that Pushpakumara was not a thief and the real culprit had been arrested. The police officer told them to remove Pushpakumara from the hospital and asked the supposed owner of the chain to give one thousand rupees to the mother. Two police officers and the owner of the chain took the mother and sister to the General Hospital, Putlam at about 7-8pm, but Pushpakumara had been forced to leave the hospital.

Pushpakumara fell very ill at home and the next day a person told him the thief was going to be released and that he would be arrested, so he should go back to the hospital. However, due to police pressure the hospital would not admit him. Attempts to get help from the child welfare office also failed for their fear of the police. A human rights organization reached the family and tried to take the child to a hospital outside the area. Meanwhile, the Child Rights Authority, which was informed of the situation took Pushpakumara to a hospital in Colombo where he was treated. Now the family is under severe pressure from the police to stop pursuing complaints against the police officials.

### **Action requested**

Please write to the authorities in Sri Lanka urging them to:

- Guarantee the integrity and security of Pushpakumara, his family and their home
- order an impartial investigation into the circumstances of the arrest; the alleged acts of torture and other cruel, inhuman and degrading treatment; intimidation and threats against the victim's family in order to identify those responsible and bring them before a competent tribunal;
- apply the penal, civil and/or administrative sanctions provided by law against the policemen involved;
- guarantee psychosocial support and further medial assistance to Pushpakumara and obtain compensations for him and his family;
- put an immediate end to all forms of torture, cruel, inhuman and degrading treatment of children in accordance with national and international legislation and particularly with articles 37 and 40 of the Convention on the Rights of the Child.

Geneva, 26<sup>th</sup> September 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case LKA 180903.2 CC. : Torture/Threats</b>
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Follow up to case LKA 180903.CC, LKA 180903.1 CC

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sri Lanka**.

**New information**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission HK, a member of the OMCT network, that the father and mother of torture victim Dawundage Pushpakumara (14 years old) have left their home due to threats from the police and a local politician after they made a complaint to human rights organizations. In end September, they had already received threats that their house would be burnt down (LKA 180903.1 CC.).

Dawundage Pushpakumara, 14, was severely tortured by the Officer In Charge (OIC) of the Saliyawewa police post, (Puttalm) and other police officers from 1 September to 2 September 2003. When he was released from the police station, the police impeded the victim's obtaining medical treatment because they were afraid that the medical record of the victim's injuries would be used against them in court. With the help of the Child Rights Authority of Sri Lanka and human rights organizations he was taken to Colombo for medical treatment. Thereafter he has been living in hiding for fear of returning back home due to threats from the police.

Meanwhile a fundamental rights violation case was filed on his behalf in the supreme courts of Sri Lanka. Now the father and the mother of Pushpakumara allegedly have been constantly pressured by the police and others to withdraw the case filed against the police. In an affidavit filed by the father of Pushpakumar, D.K. Kularatne, has set out the details of harassment by the police and stated that his wife has left the house in fear on 31 October 2003. Thereafter the Saliyawewa police post asked him to report to the police station on 3 November 2003. For fear of being harassed and tortured he has also fled his house and sought protection.

Complaints regarding such threats have been made earlier to the National Police Commission and the National Human Rights Commission and the Attorney General of Sri Lanka. However no effective action has been taken to guarantee the security for this family which is very poor and powerless. The officer in charge of the police station who is alleged to be the main perpetrator in the torture of Pushpakumara still continues to hold his post.

OMCT is gravely concerned about the continuing threats and efforts to intimidate Pushpakumara's family and for their safety and strongly condemns the continuing impunity of the police officers. The OMCT calls upon the Sri Lankan authorities to take immediate action to ensure the physical and psychological integrity of the victim and his family, to order a thorough and impartial investigation against those involved, and award appropriate reparation to the victim and his family.

**Brief reminder of the situation**

On 1st September 2003, Dawundage Pushpakumara had been taken by force from his home to the Saliyawewa Police Post in Putlam. There, he had been assaulted and told to confess to having stolen a chain. He was thrown into a cell, with his hands tied behind him and hung on

a beam. There the Officer in Charge (OIC) and several others assaulted him. Then he was put in a room full of ants with his hands still tied. His parents were prevented from seeing him and he continued to be threatened and assaulted until the next morning (2nd September), when the OIC finally allowed him to go home with the mother. After Pushpakumara went back home, he complained of headaches and fainted. The next morning the General Hospital of Putlam admitted him.

### **Action requested**

Please write to the authorities in Sri Lanka urging them to:

- take all measures necessary to guarantee the physical and psychological integrity of Dawundage Pushpakumara and his parents;
- put an end immediately to the harassment and threats perpetrated against them;
- apply the penal, civil and/or administrative sanctions provided by law against the policemen involved;

Geneva, November 7, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case LKA 071103.CC : Illegal arrest and detention/Torture/Death threats**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sri Lanka**.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission-HK, a member of the OMCT network, of the torture of a teenage boy **Hikkaduwa Liyanage Sandun Kumara, 16 years old**, and the fabrication of charges against him by Rathgama Police in Sri Lanka.

Hikkaduwa Liyanage Sandun Kumara lives in Temple Road, Pitiwella, Boossa. He had to leave school after his father's death to support his family, and started to work at the factory, owned by Piyasena Mudalali since August 2003. However, the work was so hard that the victim stopped his work at the factory.

On 10th September 2003, the victim's aunt was informed that the Rathgama police were looking for him. He came back home and went to the Rathgama Police Station on the morning of 12th September 2003. The police questioned him until 3:00pm to make him confess a theft. Then, they released him and told him to come back the next day.

On 13th September 2003, the Silva brothers, who are relatives of Piyasena Mudalali, for whom the victim used to work, took him to Piyasena Mudalali's house and called the Rathgama Police Station saying that they had caught the thief, took him there, and handed him over to Sub Inspector (SI) J.T. Ramyasiri.

SI. J.T. Ramyasiri assaulted the victim, holding him by his T-shirt collar and lifting him off the ground, demanding him to reveal the whereabouts of the goods that he had stolen. He kicked his legs and dropped him on to his back. Then, he trampled him with his shoes, hung him up on a tree, by the waistband of his trousers, and dropped him on to the ground.

In the following days, the police officers repeatedly assaulted and tortured the victim by applying chilli powder on his genitals, wrapping up his head and face with his T-shirt and pouring water on his face causing him to nearly suffocate, beating his back, buttocks and legs with their hands and wooden sticks. The police sergeant Silva hit the victim's head against a wall and struck his ears with his shoes and also kicked and trampled his legs. As a result, the victim is complaining of a loss of hearing and recurrent headaches until now. In Addition, the victim was threatened to be shot and also taken to a cemetery and ordered to dig a grave there. Moreover, the victim's mother was not allowed to meet her son until September 17<sup>th</sup> and the police refused her request to provide medical treatment to him.

The police finally produced the victim in court on 19th September, and he sent him to the Kithulampitiya Remand Home. The officers of the remand home admitted the victim to the Karapitiya Teaching Hospital on 21st September 2003. He was released, but admitted to the Karapitiya hospital again on 23rd September 2003 as a result of his complaining of severe headaches and chest pains.

On 24th September 2003, the victim was produced in the Galle Magistrate's Court and he was released on bail. After making the complaints, the victim's family has been receiving death threats by the perpetrators. The Officer In Charge and the other officers, who involved in torturing the victim, are still serving at the same police station

Meantime, the Supreme Court issued leave to proceed in fundamental rights filed on behalf of the victim. Court made order to the National Police Commission (NPC) to conduct disciplinary inquiry into this case.

The International Secretariat of OMCT strongly condemns the Rathgama police officers' acts of torture and fabrication of charges against Hikkaduwa Liyanage Sandun Kumara. OMCT welcomes the decision of the Supreme Court to proceed with the case, and urges the authorities to guarantee the impartiality of the inquiry, as well as the protection of the victim and his family while the inquiry is being carried out. OMCT wishes to recall that Sri Lanka, as a State party to the Convention on the Rights of the Child, is bound to the provision that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Art. 37 (a)). Furthermore, the Convention states that "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age." (Art. 37 (c)).

### **Action requested**

Please write to the authorities in Sri Lanka urging them to:

- order the impartial investigation into the circumstances of the boy arrest and torture undertaken at Rathgama Police Station, in order to identify those responsible, bring them to trial and apply the penal and /or administrative sanctions as provided by law;
- intervene with the proper authorities to ensure that adequate medical and psychosocial assistance is provided as a matter of urgency to the boy;
- guarantee that adequate reparation is provided to him and his family ;
- put an immediate end to all forms of torture, cruel, inhuman and degrading treatment of children in accordance with national and international legislation and particularly with articles 37 and 40 of the Convention on the Rights of the Child.

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case SDN 210503.VAW.CC: Violence Against Women/Child Concern**  
**Corporal Punishment/Risk of Torture**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in **Sudan**.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Sudanese Organisation Against Torture (SOAT), a member of the OMCT network, of the sentencing to 100 lashes of the whip of a 14 year old girl in the Al Wihida Neighbourhood (Unity) of Niyala in Darfour. Her name has been withheld for her security.

According to the information received, the girl was convicted on May 17th, 2003 of adultery under Article 146 of the Penal Code after having been arrested by a special police force established to “guard the public decency and morality of the nation.”

Article 146 of Sudan’s 1991 Penal Code is based upon the government’s interpretation of the Shari’a (Islamic law), and which states that whoever commits the offence of adultery shall be punished with:

1. Execution by stoning when the offender is married (muhsan);
2. One hundred lashes when the offender is not married (non-muhsan);

According to the information received, a 25 year old business man who was charged in connection with the girl’s case was found not guilty due to lack of evidence against him and was freed.

The case was brought against the girl because she is unmarried and nine months pregnant.

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of this girl. It notes with grave concern that corporal punishments, such as lashing, amputation and stoning are increasingly being carried out as punishments against the people of Darfour, especially girls and women (see urgent appeals SDN 040201VAW and its two follow ups, SDN 170602.VAW and SDN 261102.VAW).

OMCT unreservedly condemns the use of such punishments, which clearly violate international human rights standards that prohibit torture and ill treatment. OMCT recalls that Sudan has ratified the Convention on the Rights of the Child, which states that “No child shall be subjected to torture or any other cruel, inhuman or degrading treatment or punishment.” Sudan is also a State Party to the International Covenant on Civil and Political Rights, which prohibits torture and cruel, inhuman or degrading treatment in Article 7. Sudan has not signed the Convention on the Elimination of All Forms of Discrimination Against Women, a signal of the government’s failure to adequately protect women’s rights.

**Actions requested**

Please write to the Sudanese authorities urging them to:

- Immediately repeal the sentence of 100 lashes of the whip for the 14 year old girl;
- Take all necessary measures to ensure respect for the international human rights instruments to which Sudan is party, which includes respect for the prohibition of

torture and cruel, inhuman or degrading treatment and punishment, such as the practice of corporal punishment;

- Guarantee girls and women their human rights, including their right to be free from discrimination, their right to legal counsel and a fair trial, and their right to be free from torture and cruel, inhuman or degrading treatment or punishment, in line with international laws and standards;
- Ratify the Convention on the Elimination of All Forms of Discrimination Against Women as well as the Convention against Torture;
- Ensure in all circumstances the full respect for human rights and fundamental freedoms in accordance with international laws and standards.

Geneva, 21 May 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply

**Case SDN 100603.CC.VAW : Child concern / Violence against women/Corporal punishment**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sudan**.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Sudanese Organisation Against Torture (SOAT), a member of the OMCT network, of the sentencing to 30 lashes of the whip of a 15 year-old girl in Nyala, Western Darfour, in Sudan.

According to the information received, on June 1<sup>st</sup>, 2003, **Ms. Aziza Salih Adam** was sentenced to 30 lashes of the whip by the District Court (Mahkamat Al-Muhafiza), in Nyala, Western Darfour, for not wearing socks. The sentence was carried out on the same day.

Ms. Aziza Salih Adam is an assistant to a street vendor selling tea in the Wehda district of Nyala. The Police for Community Security (Police Amn Al-Mujtama) arrested Aziza on the street where she was working for not wearing socks. Regulations require all female street-vendors, particularly those selling food and tea, to wear socks to cover their feet. Aziza attempted to defend herself, explaining that she could not afford to buy socks.

The International Secretariat of OMCT notes with grave concern that corporal punishments, such as flogging, amputation and stoning are increasingly being carried out as punishments against the people of Darfour, especially girls and women (see urgent appeals SDN 210503.VAW.CC, SDN 040201.VAW and its two follow-up appeals). Strict adherence to impractical dress codes is often enforced with severe punishments as the consequence for disobedience.

OMCT believes that any case of amputation and stoning is a case of torture under any circumstance, and that flogging amounts to torture in most cases. These punishments are unlawful as they clearly violate international human rights standards that prohibit torture and ill treatment. OMCT recalls that Sudan has ratified the Convention on the Rights of the Child, which states that “No child shall be subjected to torture or any other cruel, inhuman or degrading treatment or punishment.” Sudan is also a State Party to the International Covenant

on Civil and Political Rights, which prohibits torture and cruel, inhuman or degrading treatment in Article 7. Sudan has not signed the Convention on the Elimination of All Forms of Discrimination Against Women, a signal of the government's failure to adequately protect women's rights.

### **Action requested**

Please write to the authorities in Sudan urging them to:

take all necessary measures to guarantee the physical and psychological rehabilitation of Ms. Aziza Salih Adam;

ensure that adequate reparation, including access to medical assistance, is provided to Ms. Aziza Salih Adam;

take all necessary measures to ensure respect for the international human rights instruments to which Sudan is party, which includes respect for the prohibition of torture and cruel, inhuman or degrading treatment and punishment, such as the practice of corporal punishment;

guarantee girls and women their human rights, including their right to be free from discrimination, their right to legal counsel and a fair trial, and their right to be free from torture and cruel, inhuman or degrading treatment or punishment, in line with international laws and standards;

ratify the Convention on the Elimination of All Forms of Discrimination Against Women as well as the Convention against Torture;

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, June 10<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case SDN 231003.CC : Risk Of Torture**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sudan**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by the Sudanese Organisation against Torture, a member of the OMCT network, of the sentencing of a 16-year-old child to cross-amputation in Sudan.

According to the information received, on 14 October 2003, Nyala Special Court in Darfour sentenced **Mohamed Hassan Hamdan**, a 16-year-old nomad belonging to the Ja'afra tribe, to 'cross' amputation (amputation of the right hand and left foot). Mohamed Hassan Hamdan was convicted under article 167 of the Penal Code (1991) for armed robbery (Hiraba). He was arrested near Rehaid Albirdi area, south west of Nyala, in August 2003 with another 5 individuals. All of them were accused of armed robbery, but Mohamed Hassan Hamdan was the only one convicted.

His lawyer will submit an appeal to the Appeal Court in Nyala. The sentence of cross amputation will be carried out if his appeal is rejected.

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of **Mohamed Hassan Hamdan**. OMCT wishes to emphasize that, under international human rights conventions ratified by Sudan, torture, such as amputation, is prohibited under any circumstance. This form of corporal punishment remains prohibited, even when it is imposed as a criminal sentence. OMCT is particularly concerned by the fact that the Nyala Special Court does not allow for fair trials and that the victim is a child as defined by the UN Convention on the Rights of the Child. As such, he is entitled to the particular protection afforded by article 37 of the Convention, which absolutely prohibits any form of torture or other cruel, inhuman or degrading treatment.

### **Action requested**

Please write to the authorities in Sudan urging them to:

Immediately revoke the sentence to which **Mohamed Hassan Hamdan** was condemned;  
Ensure that **Mohamed Hassan Hamdan** be tried in a manner consistent with international standards of fair trial and juvenile justice.

Take all necessary measures to ensure respect for the international human rights instruments, in particular the UN Convention on the Rights of the Child, to which Sudan is party, which includes respect for the prohibition of torture and cruel, inhuman or degrading treatment and punishment, such as the practice of corporal punishment;

Geneva, October 23<sup>rd</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case SDN 311003 / SDN 311003.CC : Incommunicado detention / Torture / Death penalty**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Sudan**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by a Sudanese Organisation against Torture, a member of the OMCT network, of the arrest and ill treatment of 22 Ma'alia tribe members, two of whom have been subjected to torture, in Sudan.

According to the information received, on October 6<sup>th</sup>, 2003, 22 people belonging to the Ma'alia tribe were arrested by the Armed Forces in Adila province, southern Darfour state. They were arrested under suspicion of murdering a man belonging to the Reziegat tribe in mid-September 2003. The arrests took place in the Abujabra, Garadaya and Adila areas. The detainees were imprisoned in Adila police station for 12 days with out any official charges or questioning. During their detention, 2 of the detainees, one of whom is a minor, were reportedly subjected to torture by members of the Armed Forces - they are: **Mahmoud Abdella Adam** (16 years old, nomad, lives in Garadaya) and **Alrehaima Yousif Suliman** (19 years old, farmer, lives in Abujabra).

The two men were flogged on their backs and burnt with cigarettes and hot metal poles on their hands, arms and chests, and were beaten with sticks on their arms and legs and all over

the body. Approximately 10 officers were involved in torturing the detainees; one of the officers was named as Madibo. The detainees were reportedly tortured in order to extract a confession concerning the murder of the man belonging to the Reziegat tribe.

The 20 other detainees have reportedly been subjected to ill treatment: they have been imprisoned in a small cell without ventilation or adequate illumination, and have not been provided with a sufficient amount of food during detention. They have also been denied any visits by their relatives. The 22 detainees were transferred to Nyala prison on 21 October 2003 and continue to be detained to this day. The 22 detainees' identities are as follows:

1. Alrehaima Yousif Soulieman, 19 years old; 2. Mahmoud Abdella Adam, 16 years old; 3. **Mohamed Ibraheam Mohamed**; 4. **Alsadig Adam Ismaeal**; 5. **Mohamed Yousif Ali**; 6. **Alkhair Mohamed Ahmed**; 7. **Ibraheam Ahmed Mohamed**; 8. **Ahmed Mohamed Ibraheam**; 9. **Ibraheam Mohamed Abdel rahman**; 10. **Adam Gamer Aldean**; 11. **Hamad Alsharief**; 12. **Hamid Mohamed Ibraheam**; 13. **Mahmoud Abdella**; 14. **Jibreel Adam Hamad**; 15. **Awadella Adam Hamdan**; 16. **Alzain Ahmed Ali**; 17. **Makky Ahmed Mohamed**; 18. **Abdella Shaigora**; 19. **Asim issa Mohamed**; 20. **Ibraheam Azabain (omda)**; 21. **Taj Aldean Ismaeal Ahmed**; 22. **Ahmed Hamid Mohamed**

There is a possibility that the case will be sent to the Special Court when the Attorney General completes the investigation. The detainees are at risk of being sentenced to death if convicted of murder under Article 130 of the Penal Code (1991).

The International Secretariat of OMCT is therefore gravely concerned for the physical and psychological integrity of these 22 persons who have all been subjected to ill-treatment, and in particular the two persons who have already been subjected to torture, one of whom is a 16-year old child. OMCT wishes to emphasize that, under international human rights conventions ratified by Sudan, torture is prohibited under any circumstance. In addition, Article 37(a) of the Convention on the Rights of the Child, specifies that “Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age”.

OMCT is also gravely concerned that these persons run the risk of being sentenced to death as the result of a trial by a Special Court that does not meet internationally recognised fair trial standards and guarantees. OMCT calls on the authorities to ensure these persons personal integrity, to release them in the absence of valid legal charges or, if these exist, to guarantee that they receive a fair trial before an impartial court. OMCT also calls on the authorities to investigate the allegations of torture and ill treatment, identify the perpetrators and bring them to justice, and award adequate reparation to the victims of these abuses.

### **Action requested**

Please write to the authorities in Sudan urging them to:

take all measures necessary to guarantee the physical and psychological integrity of the aforementioned persons;  
order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;

order a thorough and impartial investigation into the circumstances of these events, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;  
guarantee that adequate reparation is provided to the victims of these abuses;  
guarantee that the detainees are granted access to legal representation and family visits;  
guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, October 31<sup>st</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

<b>Case RUS 050902.4 CC : Torture and other forms of ill-treatment</b>
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Follow up to case RUS 050902.3 CC

Geneva, September 23<sup>rd</sup>, 2003

The International Secretariat of OMCT has received new information regarding the following situation in the Russian Federation.

### **New information**

The International Secretariat of OMCT has been informed by a reliable source that juveniles **Andrei Victorovitch Osenchugov** and **Alexei Vladimirovitch Shishkin**, who have been detained in the Nizhny Novgorod Regional Pre-Trial Detention Centre IZ-52/1 since 5<sup>th</sup> March, 2002, again run a high risk of ill treatment and potentially torture.

According to the information received, the case of the two teenagers was reopened by the Nizhny Novgorod Region Prosecution Office (Prokuratura Nizhegorodskoi oblasti) on August 19<sup>th</sup>, 2003. The authorities investigating the case have clearly shown their desire to abandon further investigation of the case, and have even put pressure on Andrei Osenchugov's father to write a request to halt the investigation on behalf of his son.

On September 19<sup>th</sup>, 2003 Andrei Osenchugov's father submitted a written statement to the NNCAT. In the statement he informed them that he had visited Andrei in the Arzamas juvenile correction facility (Arzamasskaya vospitatelnaya koloniya), where Andrei had told him that on September 16<sup>th</sup>, 2003 he and Aleksei Shishkin had been visited by Major Martynov. Major Martynov requested that Andrei Osenchugov and Aleksei Shishkin write a request to halt the criminal procedure concerning this case. Andrei and Aleksei both refused to do this, after which Major Martynov threatened them with being transferred back to the Nizhny Novgorod Pre-Trial Detention Center IZ -52/1, where they would be forced to sign a request to stop the procedure.

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of Andrei Victorovitch Osenchugov and Alexei Vladimirovitch Shishkin. The fact that the investigating authorities are continuing to exercise pressure on the victims and their relatives in order to close the case gives rise to fears that they may again subject the two juveniles to ill-treatment and torture. OMCT calls on the Russian authorities to guarantee their personal integrity to launch an impartial investigation into the circumstances of these events, in order to bring perpetrators to justice and to award reparations to victims.

## **Brief reminder of the situation**

The International Secretariat of OMCT has been informed by a reliable source that Andrei Victorovitch Osenchugov and Alexei Vladimirovitch Shishkin have been subjected to serious ill-treatment while detained in Nizhny Novgorod regional pre-trial detention center.

According to the information received, the adolescents were arrested on March 5<sup>th</sup>, 2002, together with two other minors, on suspicion of robbery, and were transferred two days later, on the order of the prosecutor of the Sormovski District of the City of Nizhny Novgorod, to the Nizhny Novgorod regional pre-trial detention center (sledstvennyi izolyator) IZ –52/1, in Novgorod.

In the pre-trial detention center, Osenchugov was put in a cell together with other minors and an adult person, Mr. Mikhail Petrov Germanovitch. On the 27<sup>th</sup> and 28<sup>th</sup> July of 2002, allegedly following an order given by a prison guard, Petrov, joined by another adult named Sergei, severely ill-treated and tortured Osenchugov in order to force him to confess his involvement in several other robberies, which he finally did as a result of the treatment. On 30 July, Shishkin was moved into the cell where Sergei and Petrov were detained and was beaten until he confirmed Osenchugov's statements.

On August 5<sup>th</sup>, 2002, the parents of Osenchugov and an aunt of Shishkin filed a complaint to the prosecutor of Sormovski district and to Mr. Topanov, chief officer of the pre-trial detention center, alleging the ill-treatment of the two adolescents and calling for an investigation. On August 12<sup>th</sup>, 2002, the families received a letter, signed by Mr Topanov, which informed them that the officers of the pre-trial detention center IZ-52/1 checked the claim and found no reason to initiate an investigation.

The International Secretariat of OMCT was later informed that a criminal procedure had been opened by the Prosecutor's office regarding the serious ill-treatment of Osenchugov and Shishkin and an official investigation had been launched. Finally, the two 17 years-old adolescents and the two others were found guilty of robbery and sentenced to 8 years of imprisonment by the judge of the Sormovski district court of Nizhny Novgorod, Mr. Grigoriev, on October 21<sup>st</sup>, 2002. The official investigation, launched at the beginning of October by the prosecutor's office, has confirmed the fact that Andrei continued to be subjected to ill-treatment between August and October 2002. Andrei was also forced to give false statements denying his ill-treatment.

According to the information received, on November 13<sup>th</sup>, 2002, investigator Elena Valer'evne Zhebko, came to visit Andrei at the detention centre. Andrei requested her presence and assistance to write a statement explaining that he had himself asked Petrov and Shulaev to torture him and that his previous declarations were all made up. Later Andrei declared that he had given this new statement of his own will and without his parents' consent. During a short conversation alone with his father, Andrei confessed that he decided to change his statement following threats of further violence. On November 21<sup>st</sup>, 2002, Andrei's parents received a letter from their son, in which he strongly asked his father to address a petition calling for the end of further investigation to the Soviet District Department of Interior.

## **Actions requested**

Please write to the authorities of Russia urging them to:

- i. guarantee the physical and psychological integrity of Andrei Victorovitch Osenchugov and Alexei Vladimirovitch Shishkin;
- ii. guarantee them access to family visits and legal representation;
- iii. ensure an immediate and impartial investigation into the above-mentioned alleged acts of intimidation and torture in order to identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law;
- iv. guarantee adequate reparations for the above-mentioned victims;
- v. put an immediate end to all forms of torture, cruel, inhuman and degrading treatment of children in accordance with national and international legislation and particularly with articles 37 and 40 of the Convention on the Rights of the Child.

Geneva, September 23<sup>rd</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply

**Case TUN 060303 / TUN 060303.CC: Torture / Child concern**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Tunisia**.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by a reliable Tunisian source of acts of torture committed against seven Internet users.

According to the information received, the following 7 out of 20 young Internet users, who had been arrested in Zarzis on February 8<sup>th</sup> 2003, appeared before the investigating judge of the 11th office of the Court of First Instance in Tunis on March 3<sup>rd</sup> and 5<sup>th</sup>:

**Abderrazek Bourguiba** (17 years old student)

**Abdelghaffar Ben Guiza** (20 years old)

**Amor Rached** (student)

**Ridha Hadj Brahim** (teacher)

**Amor Chalendi** (student)

**Hamza Mahroug**

**Ayoub Sfaxi** (currently in hiding)

These persons are accused of "criminal organisation, partaking in unauthorised meetings and robbing and acquiring products for the manufacturing of explosives ..." under Articles 131, 132 and 133 of the Criminal Code.

According to the information received, the defence lawyers were not granted access to the details of the case. The items produced in evidence are a CD-ROM and a tube of glue.

According to our sources, the accused declared that they had been arrested on February 8<sup>th</sup> in Zarzis (around 500 km from the capital), while the minutes of the initial hearing state that the arrest took place on February 26<sup>th</sup> in Tunis. On February 19<sup>th</sup>, the lawyers for the defence

reportedly filed a complaint with the Public Prosecutor concerning violations relating to the length of pre-trial detention and the use of incommunicado detention.

Several other violations of the defendants' rights have been noted by the lawyers, notably the lack of territorial jurisdiction of the judge who is hearing the case, the falsification of dates and places of the arrests as mentioned in the minutes, as well as the refusal to keep 17-year old Abderrazak Bourguiba in a juvenile prison. However, the judge has refused to include these observations as part of the proceedings.

Furthermore, all of the Internet users declared before the judge that they had been tortured in the premises of the State Security during several days, until they agreed to sign minutes that they had not been able to read. These documents were then used by the judge in order to force them to give signed statements at the so-called April 9<sup>th</sup> Prison (prison du 9 avril) in Tunis.

OMCT is concerned about the considerable number of Internet users that are currently being arrested in Tunisia, while the government, which seems to show great interest in new information technologies, is actively preparing the World Summit on the Information Society, which is to be held in Tunis in 2005.

OMCT is very gravely concerned by the degradation of the situation of human rights in Tunisia, particularly by the systematic use of torture, for which this case is another example.

#### **Action requested**

Please write to the authorities in Tunisia urging them to:

guarantee the physical and psychological integrity of **Abderrazek Bourguiba, Abdelghaffar Ben Guiza, Amor Rached, Ridha Hadj Brahim, Amor Chalendi, Hamza Mahroug, Ayoub Sfaxi**;

order their immediate release, notably in light of the many procedural violations that have led to their continuing detention;

immediately launch a prompt and impartial investigation into the alleged acts of torture in order to identify those responsible, bring them to trial, apply the penal, civil and/or administrative sanctions as provided by law and guarantee that adequate reparation is provided to the victims;

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards, particularly the international Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that was ratified by Tunisia on September 23rd 1988.

Geneva, March 17<sup>th</sup> 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case TUN 060303.1 / TUN 060303.1.CC: Torture / Child concern**

Follow-up of Case TUN 060303 / TUN 060303.CC

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Tunisia**.

## New information

The International Secretariat of OMCT has been informed by a reliable Tunisian source of the following developments.

According to the source, 8 family members of those youths arrested in Zarsis February 8<sup>th</sup>, 2003, started a hunger strike June 19<sup>th</sup> in protest of the dismal judiciary treatment of their children.

This same source also reports that six of the detainees were brought before the investigating judge on March 3<sup>rd</sup> and 5<sup>th</sup>, 2003, and haven't been seen again since that date.

Furthermore, Mr. **Ayman Mecharek**, who is of dual citizenship Tunisian and German, was arrested in the same case at the Tunis/Carthage airport March 16<sup>th</sup> 2003 and was brought before the judge March 18<sup>th</sup>.

Since these respective dates, none of the youths in this case have been brought before the court. Also, the medical attention sought by their lawyers was never granted.

Furthermore, the police authorities refused their lawyers' requests to submit complaints regarding acts of torture that occurred June 14<sup>th</sup>, 2003.

Otherwise, from this same source, detainee **Abderrazek Bourguiba** (age 17) was never transferred to a detention centre for minors.

The International Secretariat of OMCT expresses its deep concern regarding the physical and psychological integrity of the above-mentioned persons and urges the Tunisian authorities to release them immediately in view of the numerous irregularities in this case and in their treatment. Moreover, OMCT asks that an impartial investigation be launched immediately concerning the alleged acts of torture in order to identify those responsible, bring them to trial, apply the penal, civil and/or administrative sanctions as provided by law.

## Brief reminder of situation

7 out of 20 young Internet users who were arrested in Zarsis on February 8<sup>th</sup> 2003 appeared before the investigating judge of the 11th office of the Court of First Instance in Tunis on March 3<sup>rd</sup> and 5<sup>th</sup>:

**Abderrazek Bourguiba** (17 years old student)

**Abdelghaffar Ben Guiza** (20 years old)

**Amor Rached** (student)

**Ridha Hadj Brahim** (teacher)

**Amor Chalendi** (student)

**Hamza Mahroug**

**Ayoub Sfaxi** (currently in hiding)

These persons are accused of "criminal organisation, partaking in unauthorised meetings and robbing and acquiring products for the manufacturing of explosives ..." under Articles 131, 132 and 133 of the Criminal Code.

The defence lawyers were not granted access to the details of the case. The items produced in evidence are a CD-ROM and a tube of glue.

According to our sources, the accused declared that they had been arrested on February 8<sup>th</sup> in Zarzis (around 500 km from the capital), while the minutes of the initial hearing state that the arrest took place on February 26<sup>th</sup> in Tunis. On February 19<sup>th</sup>, the lawyers for the defence reportedly filed a complaint with the Public Prosecutor concerning violations relating to the length of pre-trial detention and the use of incommunicado detention.

Several other violations of the defendants' rights have been noted by the lawyers, notably the lack of territorial jurisdiction of the judge who is hearing the case, the falsification of dates and places of the arrests as mentioned in the minutes, as well as the refusal to keep 17-year old Abderrazak Bourguiba in a juvenile prison. However, the judge has refused to include these observations as part of the proceedings.

Furthermore, all of the Internet users declared before the judge that they had been tortured in the premises of the State Security during several days, until they agreed to sign minutes that they had not been able to read. These documents were then used by the judge in order to force them to give signed statements at the prison in Tunis, April 9<sup>th</sup>.

Action requested

Please write to the authorities in Tunisia urging them to:

guarantee the physical and psychological integrity of **Abderrazek Bourguiba, Abdelghaffar Ben Guiza, Amor Rached, Ridha Hadj Brahim, Amor Chalendi, Hamza Mahroug, Ayoub Sfaxi** (in hiding) and **Ayman Mecharek**, as well as the family members involved in the hunger strike;

order their immediate release, notably in light of the many procedural violations that have led to their continuing detention

immediately launch a prompt and impartial investigation into the alleged acts of torture in order to identify those responsible, bring them to trial, apply the penal, civil and/or administrative sanctions as provided by law and guarantee that adequate reparation is provided to the victims;

provide physical and psychological rehabilitation to **Abderrazek Bourguiba** in accordance with article 39 of the Convention on the Rights of the Child, ratified by Tunisia January 30th, 1992.

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards, particularly the international Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that was ratified by Tunisia on September 23rd 1988.

Geneva, le June 25<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case TKM 160603.CC: Cruel, inhuman and degrading treatment**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Turkmenistan.

## **Brief description of the situation**

The International Secretariat of OMCT has been informed by a reliable source of the incident that took place on the Turkmen-Uzbek border on May 3rd 2003. These events are linked to an incident that took place on April 14th 2003, when Bagliboj Saparboev, a child of Uzbek citizenship living in Grulanskij district was herding the cows and sheep near the border. The Turkmen border guards called the boy over to the check post and started to insult him, and when he tried to run away they caught him and beat him.

The following day, the boy was found unconscious by his parents. On April 15th 2003, he was taken to the hospital where he was diagnosed with a dislocated shoulder, a broken leg and finger. According to the information received, an enquiry was started upon the father's request by the Public Prosecutor. The Turkmen authorities were asked to start an enquiry but this request was turned down. Instead, the same authorities asked the victim to designate the culprits. On May 3rd 2003, 9 members of the boy's family went to the Turkmen border post and asked for the culprits to be punished. As an answer, the border guards started shooting in the air and asked them to leave under the threat of their guns. In the meantime, the Uzbek border guards did not intervene.

The International Secretariat of OMCT strongly condemns the actions of the Turkmen authorities and would like to remind that the Convention on the Rights of the Child, which was ratified by Turkmenistan, provides in Section 37 (a) that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment (...)." OMCT is greatly preoccupied by the impunity from which the Turkmen guards benefit and urges the Turkmen authorities to institute proceedings against those responsible for the violations.

OMCT is also concerned by the lack of intervention of Uzbek authorities to protect Bagliboj Saparboev and urges them to take the necessary measures to rehabilitate the boy. OMCT would also like to remind that the Convention on the Rights of the Child, to which Uzbekistan is a party, stipulates in Section 39 that "States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child."

## **Action requested**

Please write to the authorities in Turkmenistan urging them to:

- i. Put an immediate end to all forms of torture, cruel, inhuman and degrading treatment, in accordance with national and international legislation;
- ii. Order a thorough and impartial investigation into the circumstances of these forms of ill-treatment in order to identify those responsible, bring them to trial and apply the penal, civil and/or administrative sanctions as provided by law;
- iii. Guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with international human rights standards, in particular with the Convention on the Rights of the Child.

Please write to the authorities in Uzbekistan asking them to:

- i. To take all necessary measures for the rehabilitation of Bagliboj Saparboev;
- iii. Take all necessary measures to guarantee the physical and psychological integrity of children in Uzbekistan.

Geneva, June 12th 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case USA 010403.CC : Juvenile Death Penalty**

The International Secretariat of OMCT requests your **urgent** intervention in the following situation in **Oklahoma, United States of America**.

Brief description of the situation

The International Secretariat of OMCT is very concerned about the scheduled execution of **Scott Hain**, a juvenile offender, on April 3, 2003.

Scott Hain was sentenced to death in May 1998 by a Tulsa court for the 1987 murders of Michael William Houghton and Laura Lee Saunders in Tulsa. In 1993, he successfully appealed based on an error in jury instructions. However, one year later, the state sentenced him to death again.

According to prosecutors, Hain, along with his co-defendant Robert Lambert, kidnapped Michael William Houghton and Laura Lee Saunders on October 6, 1987, robbed them, put them in the trunk of Saunders' car, and set the car on fire. Hain was 17 years old when he committed the crime.

In light of the mitigating evidence in the case, Hain's upbringing, as well as the substance abuse troubles that he endured as a result of exposure to drugs and alcohol at an extremely young age, contributed to his poor-decision making. Hain's father introduced him to marijuana when he was 9 or 10 years old, and physically abused him as a child. In addition to this, as a child, Hain suffered sexual abuse from his babysitter, he was involved in a burglary and theft by his father, he spent time in juvenile detention for property offenses and he also lived on the streets. When he met Robert Lambert, who was 4 years older, he also became involved in criminal activities in order to buy drugs.

The International Secretariat of OMCT expresses its grave concern about this situation, and particularly about the approaching date of execution of Scott Hail. There is no doubt that any person convicted of a crime should receive the appropriate sentence and sanction. Nevertheless, OMCT strongly supports the principles enshrined in the Convention on the Rights of the Child (CRC), and in particular article 37 which forbids the imposition of "capital punishment (...) for offences committed by persons below eighteen years of age (...)".

It should be emphasized that while the United States are not a party to the CRC, OMCT believes that the prohibition is a norm of international customary law and of *jus cogens* (which indicates that it is binding on United State as well). This is further supported by the statements made by the Inter-American Commission on Human Rights of October 22, 2002 in the case of Michael Domingues: “The Commission is therefore of the view that a norm of international customary law has emerged prohibiting the execution of offenders under the age of 18 years at the time of their crime. Moreover, the Commission is satisfied based upon the information before it, that this rule has been recognized as being of sufficiently indelible nature to now constitute a norm of *jus cogens* (...)” (par. 84-85).

Action requested

Please write to the authorities concerned in the United States of America, urging them to:

commute Scott Hain’s sentence taking into account international children’s rights standards.  
abolish the application of death penalty to juvenile offenders in the United States of America.

Geneva, 1 April 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Press Release: USA: Execution and imprisonment of juvenile offenders shatters hopes of justice**

Geneva, April 30th 2003

The International Secretariat of OMCT is greatly concerned by the deplorable state of the juvenile justice system in the United States of America, especially in relation to the imposition of the death penalty as well as life imprisonment without parole and adult proceedings applied to offenders who committed crimes when they were under 18. As the UN Commission on Human Rights drew to an end last Friday, the United States attempted once again to omit any reference to death penalty in the resolution on children’s rights, which met the opposition of the entire international community.

### **Execution of juvenile offenders continues**

Scott Hain was executed on April 3<sup>rd</sup> 2003 by lethal injection and was declared dead at 8:39 p.m., after the US Supreme Court overturned a stay of the execution that had been granted by the 10th US Circuit Court of Appeals in Denver in the previous day. The Oklahoma Pardon and Parole Board also denied Scott's request for clemency. His lawyer, Steven Presson, appeared at the hearing with Scott, but Presson said he could not present a credible case for clemency because of a lack of funds. In May 1988, Scott (at the age of 17) was sentenced by a Tulsa court for the 1987 murders of Michael William Houghton and Laura Lee Saunders in Tulsa, but in 1993, he successfully appealed based on an error in jury instructions. Yet, one year later, the state sentenced him to death again.

The International Secretariat of OMCT condemns this execution and considers that it is incompatible with international children’s rights law. The Secretariat is also greatly concerned for the 79 other juvenile offenders that await execution in the United States.

OMCT strongly supports the principles enshrined in the Convention on the Rights of the Child (CRC), and in particular article 37 (a) which forbids the imposition of “capital punishment (...) for offences committed by persons below eighteen years of age (...)”. While the United States are not party to the CRC, OMCT considers that they are nonetheless bound by this prohibition. As stated by the Inter-American Commission on Human Rights, “a norm of international customary law has emerged prohibiting the execution of offenders under the age of 18 years at the time of their crime.(...)” and “(...)this rule has been recognized as being of sufficiently indelible nature to now constitute a norm of *jus cogens* (...)”.

### **Life imprisonment applied without pity**

Lionel Tate, a 14 year old boy, was sentenced to life imprisonment without parole on March 9<sup>th</sup> 2001. He was found guilty of the murder of Tiffany Eunick, a 6-year-old girl. Tiffany died on July 28<sup>th</sup> 1999 at Lionel’s home, after he had beaten her, when he was 12 years old. On August 11<sup>th</sup> 1999, the Grand jury indicted Lionel and charged him as an adult, with first-degree murder. On January 16<sup>th</sup> 2001, the trial began and on March 9<sup>th</sup> 2001 the judge sentenced him to life in prison without parole. He is currently in the Okeechobee Juvenile Offender Correction Centre, where he will remain until he is 16, after which he will finish his sentence in an as yet unknown adult penitentiary. It should also be noted that the State Governor is empowered to commute his sentence.

In April 1999, Rebecca Falcon was sentenced to life imprisonment without parole at the age of 15. She was indicted as an adult and convicted under Florida law for the felony murder of Richard Phillips, a cab driver. On November 19<sup>th</sup> 1997, Rebecca had gone out in the evening with a 14-year-old friend from school and his 18-year-old cousin, Clifton Gilchrist. The three of them took a taxi cab. Clifton, who is known to be usually armed, had a gun with him. That night, the cab driver was shot that evening and he died six days later. Before being indicted, Rebecca was sent to a juvenile detention facility and she was then transferred to an isolation cell at the Bay County Jail. She currently resides at the Lowell Women’s Prison.

OMCT considers that these two cases of imprisonment of juvenile offenders (as well as other similar cases) are an infringement of international children’s rights law, and in particular of article 37(a) of the CRC which forbids the imposition of “life imprisonment without possibility of release (...) for offences committed by persons below eighteen years of age”. In addition, article 37(b) of the CRC calls upon states to use imprisonment against a child, that is a person under 18 years of age (art.1 CRC), "only as a measure of last resort and for the shortest appropriate period of time".

OMCT deems that detention on death row, as well as life imprisonment without possibility of release, amount to torture or cruel, inhuman and degrading treatment, which is prohibited by the international instruments ratified by the United States, when applied to particularly vulnerable persons such as children (who are in the critical stages of their development). Children sentenced to death or to life imprisonment are subjected to severe psychological suffering and their long term social and emotional development is deeply affected.

### **Adult proceedings imposed on juvenile offenders**

Lee Boyd Malvo was arrested on October 24<sup>th</sup> 2002 with John Allen Muhammad at a highway rest facility. They are suspected in the series of Washington area shootings that killed 10 people and wounded three others last October. Malvo was transferred to an ordinary

court and on January 22<sup>nd</sup> 2003 he was indicted as an adult with three charges under Virginia law, namely for murder of more than one person in three years, murder as an act of terrorism, and using a firearm during a felony. This indictment makes him eligible to the death penalty, as Virginia has no minimum age at which juveniles can be subjected to such sentences.

Increasingly, across the United States children are being tried as adults when they commit serious crimes. In fact, it is considered that some types of crimes are so serious that they do not belong in a juvenile justice system that is designed to promote the child's reintegration and holding of a constructive role in society. For this reason, many states have recently resorted to adult courts instead of juvenile courts when such crimes were being considered.

OMCT is greatly concerned about this recent trend and is also deeply preoccupied by the fact that trying juveniles as adults can make them eligible for severe punishments which have no rehabilitative purpose, such as the death penalty or life imprisonment.

According to article 40(3) of the CRC, “States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law (...)”.

As a consequence, OMCT urges the United States authorities to abolish the death penalty and life imprisonment without parole that is imposed for offences committed by persons below 18 years of age and to abolish laws which allow children to be tried as adult.

More specifically, OMCT calls on the United States authorities to commute the sentences handed down to Lionel Tate, Rebecca Falcon and other juveniles that have been sentenced to life imprisonment without parole, to commute the sentence of the 79 juvenile offenders on death row, and to guarantee that Lee Boyd Malvo (and all minors having committed serious crimes) will not be tried as an adult.

**Case UZB 080803.CC : Arbitrary Arrest /Incommunicado Detention / Torture /Fair Trial**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Uzbekistan**.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by a Human Rights Watch – Uzbekistan that Chingiz Suleimanov, who was born in 1986, has reportedly had his appeal against a five-year sentence rejected by the Tashkent Province Court, which upheld the initial verdict in spite of the fact that even the prosecutor was asking for a suspended sentence. There are serious concerns that the initial trial and the subsequent appeal trial did not meet internationally recognised fair trial standards. Chingiz Suleimanov has reportedly been subjected to beatings during his detention.

According to the information received, Chingiz Suleimanov was arrested on May 8th, 2003, at his home, by ten police officers from the Akhangaran District Police Station, Tashkent Province, Uzbekistan, because he was allegedly involved in a fight in January. Chingiz Suleimanov was first taken to the Akhangaran District Police Station, before being taken to Tashkent prison. In a conversation with his father on May 18th, Chingiz Suleimanov said that

he had been beaten on the head by second lieutenant Sherzod Umirov while he was being held at the Akhangaran District Police Station. He also said that he had been beaten with rubber batons at the Tashkent prison. Chingiz Suleimanov had had only one meeting with his father before his trial and had not had any meetings with his lawyer. Chingiz Suleimanov has complained to prosecutor Ergashev at the Tashkent Province Prosecutor's Office and to the Ombudsman to no avail. His father believes that the arrest of his son is connected with a complaint that he made to the Akhangaran District Prosecutor's office. The father wanted the prosecutor's office to take action against adults who send minors on board trains to steal at the local train station. The prosecutor's office refused to do anything, according to the father.

The criminal case against Chingiz Suleimanov was heard by judge Urunov A.S. at the Akhangaran District Court in Tashkent Province, Uzbekistan. During the trial, Chingiz Suleimanov told the judge that second lieutenant Sherzod Umirov beat him and banged his head against a wall in the Akhangaran District police station. In response to the father's question about what the judge would do with these allegations of torture, the judge reportedly answered that the police don't beat. On June 25th, 2003, Chingiz Suleimanov was sentenced to five years in prison for violation of article 277, 2, b (hooliganism), and article 164, 3, v (theft) of the Uzbek criminal code.

After the verdict, Chingiz Suleimanov was taken to the Akhangaran District police station, before being transferred to Tashkent prison (Tashturma). When the father saw Chingiz Suleimanov in Tashturma on July 8th, he said that between June 25th and June 27th, Umirov had beaten him again in the basement of Akhangaran District police station, as punishment for saying in court that he had been tortured. Chingiz Suleimanov has launched an appeal before the Tashkent Province Criminal Court. On July 31st, 2003, the Tashkent Province Criminal Court rejected a request from Chingiz Suleimanov's lawyer that he should be allowed to attend his own appeal case.

Chingiz Suleimanov's appeal was decided on August 7th, 2003, by the Tashkent Province Court, which upheld the initial verdict in spite of the prosecutor even asking for a suspended sentence. The judge refused to allow Chingiz Suleimanov to be present in court, even though his lawyer demanded that he be present, and a written statement from him, saying that he wanted to be present. The lawyer was also not given the opportunity to fully read through all the documents in relation to the case, the case was adjourned for this purpose and a time set down for him to come to court to read all the documents, however, court officials wouldn't let him in to read the documents and told him to come back later. This occurred twice, and by the time he was allowed in to read the documents, it was the day before the next hearing and he was only allowed to spend a couple of hours reading and didn't have the chance to consult with his client and look at the documents further. The final hearing was held without the presence of the lawyer, even though the parents requested that it be adjourned so that the lawyer could attend. So there was no summing up of arguments by the defence lawyer. The prosecution asked for a 3-year suspended sentence, but the judge confirmed the original decision of 5 years imprisonment and made no other changes.

The International Secretariat of OMCT is gravely concerned for Chingiz Suleimanov's physical and psychological integrity, given that, subsequent to his arbitrary arrest, he has been subjected to beatings while in detention on at least two occasions, and is thought to still be at risk of further treatment of this kind. In addition, OMCT is gravely concerned by the allegations that the trial and subsequent appeal have not been conducted in line with internationally fair trial standards. OMCT calls on the Government of Uzbekistan to guarantee

Chingiz Suleimanov's personal integrity at all times and to order his immediate release. Finally, OMCT calls on the Uzbek authorities to launch an immediate and impartial investigation into the circumstances of these events, in order to identify those responsible and bring them to justice.

OMCT recalls that the Convention on the Rights of the Child, to which Uzbekistan acceded on June 19th 1994, states that "the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time" and that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. (...)"

Action requested

Please write to the authorities in Uzbekistan urging them to:

- i. take all necessary measures to guarantee the physical and psychological integrity of the afore-mentioned persons;
- ii. order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;
- iii. guarantee an immediate investigation into the circumstances of these events, in order to identify those responsible, bring them before a competent and impartial tribunal and apply the penal and/or administrative sanctions provided by law;
- iv. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, August 8<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case VEN 141003.CC: Arbitrary Detention/Ill-Treatment/Intimidation**

The International Secretariat of OMCT requests your urgent intervention in the following situation in **Venezuela**.

**Brief description of the situation**

The international Secretariat of OMCT has been informed by the Red de Apoyo por la Justicia y la Paz, of the arbitrary detention and ill-treatment inflicted to **Deivy Jaspe Gutiérrez, 16 years old**, as a presumed means of intimidation for the claim of the Pico Gutiérrez family against the policemen Sergio Rodríguez and Noda Maximiliano for the death of Carlos Miguel Pico Gutiérrez.

According to the information received, Carlos Manuel Pico Gutiérrez was murdered on the 12<sup>th</sup> April 2003 under unknown circumstances. His dead body was taken to the hospital Pérez de León de Petare. The corpse showed firearm wounds on the thorax, arm and abdomen, as well as bruises all over the body. Neighbours testified that Carlos Miguel had been injured by a police unit formed by four men, one of them identified as Sergio Rodríguez.

On the 5<sup>th</sup> October 2003, around 2:00 a.m., five members of the Police of Sucre halted a bus from Sucre to Higuero and ordered Deivy Jaspe Gutiérrez, Ives Pico Gutiérrez, Frankil Jesús Gutiérrez (cousins) and Luis Enrique Mendoza to come out of the vehicle. As the

police did not give any reason for these actions, the youngsters did not obey the order at first. However, after a second appeal from the police, they came out to avoid further problems. One policeman arrested Deivy Jaspe Gutiérrez for offering resistance to the police. The others, as well as Angela Gutiérrez (who had been averted of the situation by her son, Ives) tried to convince the policemen not to take Deivy Jaspe with them. During the discussion, Ives Pico recognised the policeman Sergio Rodríguez, as the alleged murderer of his brother Carlos Miguel, to whom he shouted: “Murder, murder, you killed my brother”. Finally, Deivy was arrested and taken to the police station in Carmen de Petare with his cousin Berlín del Carmen Gutiérrez. There, Deivy was hit several times and was liberated at 3:00 a.m.

The International Secretariat of OMCT fears that this incident is framed within an intimidation plan against the Gutiérrez family for having lodged a complaint against Sergio Rodríguez and Noda Maximiliano for the murder of Carlos Miguel Pico Gutiérrez. Furthermore, OMCT condemns the arbitrary detention, ill-treatment and intimidation inflicted by the police of Sucre to the Gutiérrez family.

OMCT wishes to recall that Venezuela, as a State party to the Convention on the Rights of the Child, is bound to the provision that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment” as well as “no child shall be deprived of his or her liberty unlawfully or arbitrarily” (art. 37 a and b).

#### **Action requested**

Please write to the authorities in Venezuela urging them to:

- i. assure a thorough and impartial investigation into the circumstances of the death of Carlos Miguel Pico, in order to identify the those responsible, bring them to trial and apply the sanctions provided by law;
- ii. adopt all necessary measures to guarantee the safety and physical and psychological integrity of Deivy Jaspe Gutiérrez, Ives Pico Gutiérrez, Frankil Jesús Gutiérrez, Luis Enrique Mendoza and Ángela Gutiérrez;
- iii. order a thorough and impartial investigation into the circumstances of the arbitrary detention and ill-treatment inflicted to Deivy Jaspe, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iv. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards, mainly the Convention on the Rights of the Child.

Geneva, October 14, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Caso VEN 141003.1.CC: Derechos Del Niño /Detención arbitraria / Maltrato / Intimidación**

(only available in Spanish)

El Secretariado Internacional de la OMCT solicita su intervención **URGENTE** en la siguiente situación en **Venezuela**.

#### **Breve descripción de la situación**

El Secretariado Internacional de la OMCT ha sido informado por la Red de Apoyo por la Justicia y la Paz, miembro de la red de la OMCT, de la detención arbitraria, tortura y maltrato, intimidación y amenazas a Ives Pico Gutiérrez, el 13 de octubre de 2003 en Venezuela, en lo que parece ser un plan intimidatorio contra su familia por haber denunciado a los funcionarios Sergio Rodríguez y Noda Maximiliano por el homicidio de Carlos Miguel Pico, su hermano.

Según la información recibida, el 13 de octubre del 2003, una comisión motorizada de la Policía Municipal de Sucre compuesta por 8 funcionarios, irrumpió en la casa de **Ives Pico Gutiérrez**, de manera arbitraria, sin ninguna orden de allanamiento, lograron entrar al cuarto donde él se encontraba acostado, le apuntaron con un arma de fuego y lo subieron a la carretera.

El reporte señala que la familia enardecida trató de evitar que se lo llevaran, intentando hacer entrar en razón a los funcionarios, pero los mismos hicieron caso omiso y se lo llevaron arrestado, supuestamente para realizar averiguaciones. Lo trasladaron en una moto hasta el módulo de Polisucre, ubicado cerca de la Iglesia el Carmen, sector Matadero de Petare y allí lo retuvieron como media hora. En ese momento, dice el informe, un funcionario lo reconoció y le dijo: “*Tú eres el que estás acusando a mi compañero*”, refiriéndose al funcionario Sergio Rodríguez (alias Pimentón). El funcionario le propinó varios golpes en el pecho. Posteriormente lo introdujeron en un Jeep, el cual se dirigía hacia la sede de Polisucre, ubicada en el coliseo.

Según los informes, a mitad de camino, el Jeep se estacionó a un lado de la autopista. Los funcionarios le dijeron que agachara la cara y, en seguida, los efectivos se bajaron del vehículo. Luego subió un funcionario al vehículo y le dijo a Ives Pico: “*Voltea, observa*”. En el momento en que Ives volteó, se percató de que el funcionario era Sergio Rodríguez (alias Pimentón).

Los informes señalan que posteriormente el funcionario le comenzó a decir: “*Tú mamá me denunció ante la fiscalía y no me importa, tú eras el que me estabas acusando la otra vez de que yo maté a tu hermano, no?. Nosotros sí matamos a tu hermano; si tu mamá sigue con la denuncia, el próximo serás tú*”. Seguidamente el funcionario Sergio Rodríguez (alias Pimentón) se bajó del vehículo y entonces subieron los anteriores agentes. Posteriormente lo trasladaron hasta el Coliseo y lo subieron a uno de los dormitorios para policías (pues habían diferentes literas). Los funcionarios colocaron un colchón en el piso, luego le amarraron un jean en los brazos, sobre el cual le colocaron las esposas. Seguidamente lo acostaron en el colchón para posteriormente montársele un policía encima mientras otro funcionario lo golpeaba en los pies con un palo de escoba. Luego lo levantaban y lo obligaban a caminar. Posteriormente lo obligaron a levantar los brazos y a respirar profundo, mientras que lo golpeaban por las costillas. Luego lo volvieron a acostar en el colchón y lo comenzaron a golpear por la espalda nuevamente, colocándole también el palo de escoba en el oído, presionándolo. Después le colocaron una bolsa plástica negra en la cara y lo trasladaron a una oficina. Es en ese momento cuando los funcionarios lo comenzaron a amenazar, diciéndole: “*Esto te pasa porque tu mamá está denunciando a un compañero de nosotros. Nosotros no creemos en fiscales ni en nadie, ellos no te van a salvar de esta paliza. Vamos a matar a tu mamá, la primerita que se va a morir es ella, y tú le vas a llevar el mensaje a tu mamá. Nosotros matamos a tu hermano y no hay pruebas de nada, dile a tu mamá que quite la denuncia o el próximo vas a ser tú, si la retira no nos metemos más contigo.*”

Según nuestras fuentes, siguieron asfixiándolo, luego lo sacaron de la oficina y lo volvieron a llevar al dormitorio de policías. En seguida lo sentaron en un rincón, le soltaron las esposas y finalmente lo dejaron en libertad.

### **Antecedentes**

Según fuimos informados por la Red de Apoyo por la Justicia y la Paz, Carlos Miguel Pico Gutiérrez, hermano de Ives, fue asesinado en circunstancias desconocidas el 12 de abril de 2003. Su cadáver fue llevado al hospital Pérez de León de Petare, presentando heridas por arma de fuego en el tórax, brazo derecho y región abdominal, así como contusiones y hematomas en diferentes partes del cuerpo. Los vecinos testificaron que Carlos Miguel había sido herido por una patrulla de cuatro funcionarios de la policía, uno de los cuales fue identificado como Sergio Rodríguez.

El 5 de octubre de 2003, sobre las 2:00 de la madrugada, la Policía Municipal del Municipio Sucre interceptó un autobús que se disponía a recorrer el trayecto del Barrio Unión (Municipio Sucre, Estado Miranda, Venezuela) hacia el poblado de Higuero. La unidad policial, compuesta por cinco funcionarios policiales y cuyas siglas incluían los números 295, ordenó descender del vehículo a Deivy Jaspe Gutiérrez, Ives Pico Gutiérrez, Frankil Jesús Gutiérrez (todos primos) y Luis Enrique Mendoza. En una primera instancia, los jóvenes se negaron a obedecer debido a que los policías no les comunicaron las causas. Tras una segunda orden, los pasajeros accedieron para evitar problemas.

Uno de los funcionarios detuvo a Deivy Jaspe Gutiérrez por resistencia a la autoridad. Los demás jóvenes, así como Ángela Gutiérrez (avisada de la situación por su hijo Ives), intentaron convencer a los policías para que no llevaran detenido a Deivy Jaspe Gutiérrez. Durante la discusión, Ives Pico reconoció a uno de los funcionarios policiales, Sergio Rodríguez, presuntamente involucrado en el homicidio de su hermano Carlos Miguel, al que gritó: *“asesino, asesino, tú mataste a mi hermano”*.

Finalmente, Deivy Jaspe fue detenido y llevado en compañía de su prima, Berlín del Carmen Gutiérrez, al módulo policial ubicado en el Sector el Carmen de Petare. Allí la policía le propinó una serie de golpes y fue liberado a las 3:00 de la madrugada.

El Secretariado Internacional de la OMCT está sumamente preocupado, pues este nuevo incidente refuerza la tesis de un plan intimidatorio contra la familia Pico Gutiérrez, por haber denunciado a los funcionarios Sergio Rodríguez y Noda Maximiliano por el homicidio de Carlos Miguel Pico. Asimismo, condena la detención arbitraria, maltratamiento e intimidación efectuada por la Policía Municipal de Sucre contra los miembros de la familia Pico Gutiérrez, y en este caso particular, Ives.

La OMCT desea recordar una vez más que Venezuela, Estado parte en la Convención de los Derechos del Niño, debe velar por que “ningún niño sea sometido a torturas ni a otros tratos o penas crueles, inhumanos o degradantes” así como por que “ningún niño sea privado de su libertad ilegal o arbitrariamente” (art. 37 a y b).

### **Acción solicitada**

Por favor escriban a las autoridades en Venezuela urgiéndolas a :

tomar inmediatamente todas las medidas necesarias para garantizar la integridad física y psicológica de los miembros de la familia Pico Gutiérrez ;  
ordenar una investigación pronta, exhaustiva e imparcial en torno a los eventos mencionados, con el fin de identificar a los funcionarios adscritos a la Policía Municipal del Municipio Sucre que intervinieron en esta presunta violación de los derechos humanos de Ives Pico Gutiérrez y de sus familiares, llevarlos a juicio y aplicar las sanciones penales, y/o administrativas estipuladas en la ley ;  
garantizar que la investigación sobre la muerte de Carlos Miguel Pico Gutiérrez sea exhaustiva e imparcial, con el objeto de identificar a los responsables, llevarlos a juicio y aplicarles las sanciones correspondientes; además de otorgar una reparación adecuada a sus familiares;  
velar por el respeto efectivo de los derechos humanos en todo el país, conforme al derecho interno y las normas internacionales ratificadas por el Estado Venezolano, en particular la Convención sobre los Derechos del Niño.

Ginebra, 17 de octubre de 2003

Sírvanse informarnos de cualquier acción emprendida, citando el código de este llamado en su respuesta.

## 2. Violations of the rights of unaccompanied and/or migrant children

### **Case GRC 200103 / GRC 200103.CC : Arbitrary detention / Ill-treatment**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Greece**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by Greek Helsinki Monitor, a member of the OMCT network, of the systematic and potentially very widespread detention for longer than the 3-month lawful maximum detention period, of aliens who have entered Greece illegally, as well as the unlawful and irregular treatment of asylum seekers, notably the forced transfer of 30 applicants from the Rhodes reception centre to Athens on December 27th, 2002 without any provisions having been made for their hosting upon arrival. This lack of provisions has reportedly resulted in 7 men and 2 children aged between 7-8, who could not be accommodated by Medecins du Monde and the Sisters of Calcutta, being left homeless in freezing conditions. In addition 9 more of them were left homeless on New Year's Eve and New Year's Day 2003, while 3 more persons followed on January 3<sup>rd</sup>, 2003.

Reports indicate that 30 aliens and asylum seekers, comprising 12 aliens arrested in Simi on September 6<sup>th</sup>, 2002 (10 from Afghanistan and 2 from Iran) and 18 aliens (all from Afghanistan), who had been arrested in Rhodes on September 8th, 2002, had completed three months of detention in a temporary refugee detention facility but were still being detained in Rhodes, and this despite claims from Konstantinos Boutsikos, the Public Prosecutor in Rhodes, that on December 24<sup>th</sup>, 2002 he gave an oral order to Hellenic Police (EL.AS.) to terminate the unlawful detention of aliens beyond the three-month period.

These 30 aliens were reportedly released by EL.AS. in Rhodes, in the most unacceptable of ways, on December 26th, 2002. EL.AS. released the 30 aliens, but also forced them to immediately board the boat to Piraeus Port, threatening that they would not receive their pink cards if they did not comply. When they arrived at Piraeus, on the morning of December 27th, 2002, EL.AS. informed them that they should find themselves a place to stay, and the Greek Council for Refugees (GCR) reportedly stated its complete inability to take any measures and requested that the aliens visit them the following week, in order to deal with them at that time. This occurred despite standard procedure guidelines, under which the Ministry of Public Order should first alert the Ministry for Health, which should in turn alert GCR, and a hosting area should be found before any transfer of aliens can be performed. Thanks to the hospitality of Medecins Du Monde and the Sisters of Calcutta, the women and some of the children were sheltered at their centres, however, 7 men and 2 young boys aged 7-8 were left homeless in very cold temperatures for several days and nights before they were able to find adequate shelter.

12 more aliens have reportedly been detained illegally in Rhodes by EL.AS. The group comprises citizens of Iran, Iraq and Afghanistan who entered Greece unlawfully on September 22nd, 2002 via the island of Simi. On October 10th, 2002, they were transferred to Rhodes and immediately filed asylum applications. They were detained for over three months by EL.AS., in the same facility, instead of being provided with the necessary pink cards and released, as should be the case with asylum seekers. EL.AS. claims that following the end of

the three-month period, they were regarded as being "under supervision" rather than in detention, although those who requested to leave the premises have not been allowed to do so. Furthermore, an alien who left without permission was reportedly arrested by EL.AS.

The 12 asylum-seekers were released from detention on December 31st, 2002, but were forced to board the boat departing at 8 pm. from Rhodes to the Piraeus Port, Athens, and told to then present themselves at the Medecins Du Monde Refugee Reception Center, which was not informed of their arrival and did not have the capacity to host them. EL.AS. in Rhodes agreed for only three of the aliens to remain in the reception centre in Rhodes, but the remaining 9 boarded the ship and only arrived in Piraeus at 1:30 in the morning on January 2nd, 2003, with the prospect of spending at least the first few days of 2003 homeless in Athens. The three persons who had been allowed to stay in Rhodes were reportedly shipped to Piraeus without a place to stay on January 2<sup>nd</sup>, 2003.

Before their departure, each person was served a two-page document in Greek, which they could not read, granting the 12 asylum-seekers temporary residence permits in Greece for a six month duration, starting on December 22<sup>nd</sup>, 2002 – the end of their legal three-month detention period. Therefore, EL.AS., by detaining them 10 additional days over the three-month period, was not only breaching the law but was also in contempt of the General Secretariat of the South Aegean Region's decision which EL.AS itself had requested.

Six more asylum seekers that had been detained by the police authorities in Rhodes since October 14<sup>th</sup>, 2003, when they entered illegally Greece, were also released, with a day of delay, after the expiry of the three month detention limit, on January 15<sup>th</sup>, 2003. The names of all the afore-mentioned persons are available upon request.

Moreover, EL.AS in Rhodes reportedly refused to receive the applications of asylum-seekers that arrived in three groups after mid-October 2002, an action that is against the law and has reportedly been criticized by the Greek Ombudsman when it had previously happened in Rhodes in early 2002 (one of the groups comprising 13 persons should be released on January 19<sup>th</sup>, 2003 when they complete three months of detention).

Furthermore, the police authorities in Rhodes - ignoring relevant recommendations made by the Ombudsman and claiming to be acting on an official order from the Ministry of Public Order - on January 7<sup>th</sup>, 2003 denied access to the detention area to a representative of the Rehabilitation Centre of Torture Victims of Rhodes (also visiting under her capacity of GHM representative), although four detainees had specifically asked her to visit them, as she spoke their mother-tongues. One of the asylum seekers had kidney pain, which increased considerably after he had allegedly been ill-treated by a drunk policeman during his detention on the island of Simi, while another had reported blood in his urine.

In addition, there are also reports indicating that around 1,000 aliens who also entered Greece illegally and are being hosted in the area of Thrace, are being held in conditions that constitute ill-treatment, with many of them thought to be being held beyond the 3-month period. Similar information was reported in the mainstream newspaper "Eleftherotypia" on December 23<sup>rd</sup>, 2002 for some 100 asylum seekers in the island of Chios. A great number of them have reportedly been detained for more than three months.

The International Secretariat of OMCT therefore requests that the Greek authorities take all necessary measures to guarantee the rights of all aliens and asylum-seekers, in particular by

providing the currently homeless individuals in question with appropriate shelter. OMCT urges the authorities to make sure that such persons are accommodated as soon as possible, as was finally the case with two children between the ages of 7 and 8. Furthermore, OMCT requests that the authorities ensure that unlawful detention exceeding the three-month period in all of Greece's reception centres, such as that found in Rhodes, be immediately halted, as this represents violations of both Greek law and European and International human rights laws and standards. OMCT recalls that Greece currently holds the EU Presidency and has announced that amongst its priorities is the issue of refugees and immigrants. In light of this, OMCT calls upon the Greek authorities and the Greek Ombudsman to launch an immediate investigation into the afore-mentioned violations and that the authorities immediately release all aliens being detained illegally throughout Greece.

### **Action requested**

Please write to the authorities in Greece urging them to:

take all necessary measures to guarantee the physical and psychological integrity of the above-mentioned aliens and asylum-seekers, notably those who are without shelter;  
guarantee an immediate investigation into the circumstances of these events, identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law, and provide those detained illegally with adequate compensation as prescribed by law;  
take all necessary measures to ensure that aliens who enter illegally in Greece are treated with full respect of human rights; that their asylum applications are duly accepted and registered; that they are not detained while awaiting answers to those applications and in any way beyond the lawful three months, and that they are provided with adequate shelter;  
guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws international human rights standards, particularly the Convention on the Rights of the Child.

Geneva, January 20<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case GRC 190203.CC : Arbitrary detention/Fair trial**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Greece**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by Greek Helsinki Monitor, a member of the OMCT network, of the illegal proceedings against and arbitrary detention of a child seeking asylum in Greece.

According to the information received, Hormez Wisam, 17 year old, has been sentenced to 4 months imprisonment for illegal entry in Greece, following the obstruction of his asylum-seeker application by Greek authorities. Hormez Wisam is an Iraqi citizen, born on August 28th, 1985. A Christian Catholic, he and his family had to flee from Iraq in fear of their lives.

They crossed Turkey and on July 5th, 2002, they entered Greece illegally from the northern Greek Turkish borders in Evros and then came to Athens where they have been residing at the suburb of Peristeri at an address known to the authorities. On November 4th, 2002, Hormez Wisam went to the Aliens' Department of West Attica in order to submit his application for political asylum. He filled in the required form, but was not allowed to submit it. Instead, a civil servant of the Department stamped his application and added, in hand writing, the date of December 20th, 2002, 8.00 a.m., for a new appointment when Hormez Wisam should proceed with his application and have his fingerprints taken. He came to the Aliens' Department on that date but was again not allowed to submit his application and was not given a renewal of his appointment in writing. The following weeks, he tried unsuccessfully to submit again his application but he was constantly prevented from doing so.

On February 10th, 2003, while waiting at a bus stop, Hormez Wisam was arrested by a police officer for lack of legal documents. His request for application still dated December 20th, 2002, was invalid and seemed to indicate that he had not appeared before the Aliens Department as he was supposed to. He was tried *in flagrante delicto* before the B' Misdemeanors Court of Athens the same day, without legal representation by a defence lawyer. The court sentenced him to 4 months imprisonment for illegal entry in the country, suspendable upon execution of his deportation. Ever since he has been held at the detention facilities of the Police Station of Peristeri area, awaiting deportation, although deportation to Iraq is impossible because of the international embargo. Due to inconsistencies in the definitions of a child within the Greek legislation, including that under civil law a minor is a person who has not reached age 18 while under penal law a minor is a person who has not reached 17, Hormez Wisam has reportedly been arrested, tried, sentenced and detained as an adult. On the contrary, the prosecutor ordered his transfer, expected to take place on February 21st, 2003, to Avlona prisons for minors in order to serve his sentence.

Greek Helsinki Monitor reported the case of Hormez Wisam to the Greek Ombudsman on February 17th, 2003, following the letter it had previously submitted on February 8th, 2003, concerning the general practice of preventing asylum-seekers from accessing Greek public services, thus depriving them of the opportunity to submit their applications and of their rights deriving from asylum-seeker status. The U.N. High Commissioner for Refugees, Mr. Ruud Lubbers, who recently visited Greece, reportedly supported these allegations and asked the government to take well into consideration the relevant international conventions.

The International Secretariat of OMCT is strongly preoccupied by the attitude of the authorities of Greece concerning asylum-seekers, and in particular children. OMCT condemns the Greek authorities' obstruction to the submission of Hormez Wisam's asylum-seeking application. OMCT also condemns the violation of Hormez Wisam's judicial guarantees and arbitrary detention. In particular, OMCT wishes to recall that Greece is a State party to the Convention on the Rights of the Child, which establishes the following rules:

Art. 22 par. 1: States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, (...) receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

Art. 37: States Parties shall ensure that: (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in

conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Art. 40 par. 2 (b): States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees: (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

In addition, OMCT wishes to recall the concluding observations of the UN Committee on the Rights of the Child following its consideration of the Greek report in April 2002 (CRC/C/15/Add.170). The Committee recommends that Greece:

Par. 30 (a) Clarify the age of majority, with particular regard to penal law and the international practice that juvenile justice standards are extended to children up until age 18;

Par. 79 (a) Develop laws, policies and mechanisms for all children under 18 and provide adequate resources to ensure the full implementation of juvenile justice standards (...); (d) Ensure respect for all juvenile justice standards including the rights of children during arrest and detention procedures, minimum conditions of detention, the non-restricted rights of appeal and to legal representation, free interpretation where needed and other relevant assistance; (e) Ensure that detention, including pre-trial detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention;

Par. 69: (a) Consider means to reduce delays in the consideration of asylum requests and in subsequent administrative and judicial proceedings, which affect children, and to avoid the detention of children; (b) Ensure that child asylum-seekers or refugees, and their families, have access to legal aid;

### **Action requested**

Please write to the authorities in Greece urging them to:

- i order the immediate release of Hormez Wisam;
- ii take all necessary measures to ensure that his asylum application is duly registered and examined in conformity with legal administrative proceedings; that he is not detained while awaiting the answer to this applications; and that he is provided with adequate protection and assistance;
- iii. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws international human rights standards, particularly the Convention on the Rights of the Child.
- iv act in accordance with the recommendations of the UN Committee on the Rights of the Child

Geneva, February 19, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case GRC 190203.1 CC: Arbitrary detention/Fair trial**

Follow-up of Case GRC 190203.CC

Geneva, June 26<sup>th</sup>, 2003

The International Secretariat of OMCT has received new information regarding the following situation in **Greece**.

New information

The International Secretariat of OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, of the illegal proceedings in the trial of a child asylum seeker that had been arbitrarily arrested and detained in Greece.

According to the information received, Hormez Wisam was acquitted on appeal on 4 June until which point he was in prison, awaiting deportation. His lawyer had dropped him before the first appeal's date on 5/5/2003, without informing the NGOs that had shown interest in the case. In addition, the first appeal had been postponed because of the absence of an interpreter, which resulted in his staying for another month in prison. In the second appeal an interpreter was provided but he only translated the questions posed by the court to the defendant and the answers given by the defendant in reply.

During the court proceedings, the President of the Court accused the defence witness and spokesperson of GHM of challenging the existence and credibility of the police against the boy's statements while, in the context of the correspondence exchanged between the Greek police and the Ombudsman on the case, the police had admitted that as an asylum seeker Hormez Wisam should not have been arrested, but claimed that he had not mentioned that he was an asylum seeker. The President of the Court further commented that "Greece is flooded with foreigners". Finally, the court refused to consider the legal motion for compensation for wrongful detention filed by the defendant's lawyer, who will thus have now to file for cassation.

Wisam is now free and the whole family have been legally registered as asylum applicants by the Greek authorities but OMCT believes that there was a lack of due process and supports the Greek Helsinki Monitor initiated motion for compensation.

Brief reminder of the situation

Hormez Wisam, 17 year old, had been sentenced to 4 months imprisonment for illegal entry in Greece, following the obstruction of his application for asylum by the Greek police. Hormez Wisam is an Iraqi citizen, born on August 28th, 1985. A Christian Catholic, he and his family had to flee from Iraq in fear of their lives. They crossed Turkey and on July 5th, 2002, they entered Greece illegally from the northern Greek Turkish borders in Evros and then came to Athens where they had been residing at the suburb of Peristeri at an address known to the authorities. On November 4th, 2002, Hormez Wisam went to the Aliens' Department of West Attica in order to submit his application for political asylum but he was constantly prevented from doing so.

On February 10th, 2003, while waiting at a bus stop, Hormez Wisam was arrested by two police officers for lack of legal documents. His application for asylum was considered to be invalid as it seemed to indicate that he had not appeared before the Aliens Department as he was supposed to on 20/12/2002 (although, according to Wisam, he had appeared just to be prevented from entering the relevant office in order to submit his application, as GHM has recorded happening regularly with potential asylum seekers). He was tried in flagrante delicto before the Second Misdemeanors Court of Athens two days after, without legal representation by a defence lawyer. The court sentenced him to 4 months imprisonment for illegal entry in the country, suspendable upon execution of his deportation. Due to inconsistencies in the definitions of a child within the Greek legislation, including that under civil law a minor is a person who has not reached age 18 while under penal law a minor is a person who has not reached 17, Hormez Wisam had reportedly been arrested, tried, sentenced as an adult, but detained as a minor.

**Action requested :**

Please write to the authorities in Greece urging them to guarantee adequate compensation to Hormez Wisam.

Geneva, June 26<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case GRC 260803.CC : Asylum seeking children/Arbitrary detention**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Greece**.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, of the 100-day delay in the case of 2 unaccompanied Somali children seeking asylum in Greece and trying to be re-united with their mother currently residing lawfully in Sweden.

According to the information received, these two Somali children, aged 6 and 13, have been held in Rhodes for three months, in a single room along with adults, due to Greek and Swedish authorities' negligence.

Fuad (Nur) Shueb Hassan and Abdul Khadir Shueb Hassan, sons of Shueb Hassan and Fozia Mohammed Ali, born, as they stated, in 1991 and 1997 respectively, citizens of Somalia, entered Greece illegally, through the island of Leros, on 23/5/2003 and were transferred to Rhodes on 28/5/2003. There, they were hosted under detention in the former "Voice of America" facility, along with other adults.

The children told GHM and Medical Rehabilitation Centre of Torture Victims (MRCT), that when civil war broke out in Somalia, their parents fled the country leaving them and their other brother, Jelani, aged 11, in the care of their grandmother. Their grandfather asked a family friend to look for the children's mother and arrange for their transfer. The children were transferred to Syria, where "...we boarded a boat to leave. Our middle brother (Jelani,

*aged 11) stayed back in Syria. On the boat we met with our half brother Abdel Hakim. He gave us some food and then we fell asleep. The boat brought us here".* On 26/6/2003, the Swedish Red Cross (SRC), via the Greek Red Cross, contacted GHM and MRCT and asked for their mediation in order to help the two children reunite with their mother who was looking for them through SRC's missing persons service. The children's mother is a permanent resident of Sweden, on humanitarian grounds, since 1/10/2002, after filling an asylum application on 29/11/00. Under Swedish law, the children can be reunited with their mother.

Local Greek police authorities failed to inform the Prosecutor's Office in Rhodes of the presence of unaccompanied alien minors, in order for the Prosecutor's Office to take the necessary actions as far as their custody status is concerned under Greek law. On the contrary, on 26 May, Hellenic Police (EL.AS.) issued an effectively illegal deportation order ref. no. 6634/2/03/295b for them along with orders for the 19 other adult aliens that were on the same boat. EL.AS. had arbitrarily decided that their custody was at the hands of the children's half brother who was with them on the boat, and thus ordered the deportation of the three, as in the case of children accompanied by their parents.

Once informed by GHM, UNHCR in Athens, wrote on 15 August to the Secretary General of the Ministry of Public Order that the Greek Council of Refugees (GCR) would host the children once they are transferred in Athens, in an appropriate reception centre run by GCR, in Pikermi, near Athens. An asylum application was in the meantime filed by GHM and MRCT, ref. no. 5401/2/879, on 14/7/03; on the same day, asylum applications for the 19 adults were also filed by GHM and MRCT. Despite this, Greek authorities did not cancel the deportation orders. On 25 July, EL.AS. in Rhodes issued them with the temporary residence ("pink") cards for asylum seekers -which, incidentally, mentioned an inaccurate date of birth for the youngest Somali. However, these cards were given to the 21 asylum seekers only on 24 August: their detention was thus prolonged illegally for a month even though they had legal residence papers. On 18 August, the General Secretary of the Region of Southern Aegean gave a six month suspension to the deportation orders mainly because deportation was not feasible. Such decision is illegal as deportation orders should not be issued for asylum seekers; especially for unaccompanied children, who require the agreement of the Prosecutor who has their custody. In addition, EL.AS. assigned the children and their half-brother to a different asylum seekers' facility in Sperheiada, some 200 km away from Athens. Only because of the intervention of GHM and MRCT arrangements were made so that the three Somalis end up in the GCR hosting facility on 26 August 2003.

GHM had also contacted the Swedish Embassy, on 8/7/03, to initiate the procedures for transferring the children in Sweden. The Embassy replied that it was "booked" until October. Later on, following the intervention of UNHCR and the Swedish Red Cross, the Swedish Embassy started the procedures which are now at the hands of the Swedish Migration Board.

Moreover, on 15/7/03, GHM had reported the case to the newly established Deputy Greek Ombudsman for children's rights. The latter - jointly with the Deputy Greek Ombudsman for human rights - sent a letter "*of utmost urgency and of immediate priority*" to Hellenic Police (EL.AS.) on 30/7/2003. He requested the competent EL.AS. services "*to take action in order to re-unite the children with their mother as soon as possible and to transfer their asylum applications to Sweden without delay, prioritizing the examination of their asylum applications over the applications of the remaining adults in the group with whom they had*

*entered the country*". EL.AS. did not comply with the legal obligations that the Ombudsman reminded them of, notably to separate the case of the children from that of the adults; in fact, until 26 August, EL.AS. had not even replied to the letter. The children are thus still not in the legal custody of the Prosecutor or anyone else to look after their best interest. The reunion procedures, moreover, are following a very slow pace both in Greece and in Sweden.

### **Action requested**

Please write to the authorities in Greece and in Sweden urging them to:

bring this urgent issue to the attention of the prosecuting authorities of Athens (the children are under their jurisdiction) in order to assume temporary custody of the two children in Athens, as provided under law, and to take all necessary actions in order to ensure that their rights are fully respected,

urge the Swedish Migration Board to speed up re-unification with their mother as soon as possible.

cancel the illegal deportation orders against the 21 asylum seekers

iv. investigate the indifference and possible illegal actions of the authorities involved, as described above.

Geneva, August 26, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case GRC 120903.CC : Asylum seeker/Arbitrary detention**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Greece**.

#### Brief description of the situation

The International Secretariat of OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, that an unaccompanied minor, **Nagar Ali Abdyin**, citizen of Sudan, who states to be born in 1988, has been illegally held in detention in the former "Voice of America" facility along with adults, for the last 15 days. He arrived in Rhodes with 24 other aliens on 25<sup>th</sup> August 2003. His sister, Emtithal Ali Abdein Mohamed Ahmed, and her husband Abuobeida Abdalla Eljak, are legal residents of Denmark. Nagar Ali Abdyin is entitled to be set free immediately in Greece and file for reunification with his sister but is still currently held in detention by the Greek authorities.

According to the information received there has been no mobilization from the part of the police authorities of Rhodes, which detain the minor asylum seeker along with adults. They have not interviewed him in order to proceed, as provided by relevant legislation, to further action, such as informing the Prosecutor's Office, according to the Greek legislation. Greek Police (ELAS) of Rhodes, when asked on 8 September, claimed ignorance about the presence of an unaccompanied minor among the detainees.

GHM requested the Greek Ombudsman and the Minister of Justice's Office for their contribution in securing the minor's best interest, as they had also shown interest in the

previous case of the two unaccompanied minors from Somalia (see OMCT appeal GRC 260803.CC).

OMCT is concerned by this case, as it is the second one taking place in the last three months. It demonstrates the urgent need for all ELAS services to be fully informed of the relevant procedures to be followed in cases of unaccompanied minors entering Greece, seeking asylum or reunification with their families residing in another EU country.

### **Remarks**

In reference to case GRC 260803.CC, OMCT welcomes the fact that Swedish authorities have finally provided the two Somali minors with the necessary documents and that they are now in the process of being reunited with their mother.

Action requested

Please write to the authorities in **Greece** and in **Denmark** urging them to:

bring this urgent case to the attention of the prosecuting authorities of Rhodes in order to assume temporary custody of the child, as provided under law, and to take all necessary actions in order to ensure that his rights are fully respected and that he is soon reunited with his sister;

urge the Danish Authorities to speedily and favorably review the reunification application;

take all necessary measures to ensure that aliens who enter illegally in Greece are treated with full respect of human rights; that their asylum applications are duly accepted and registered; that they are not detained while awaiting answers to those applications and in any way beyond the lawful three months, and that they are provided with adequate shelter; and that children are not held with adults and unaccompanied children are not held at all but placed in appropriate reception centers;

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws international human rights standards, particularly the Convention on the Rights of the Child.

### **Case GRC 091003.CC : Arbitrary detention**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Greece**.

Brief description of the situation

The International Secretariat of OMCT has been informed by Greek Helsinki Monitor, a member of the OMCT network, that the arbitrary detention of unaccompanied minors seeking asylum in Greece continues.

According to the information received, eleven new cases of unaccompanied minor detained together with adults in asylum seekers' reception centres in Mytilini and Rhodes in Greece have been recorded.

Four Afghan children are held in Mytilini reception centre:

KHUDADAD AHMADI, child of AHMAD ALI and QAMAR, born in 1988, detained since 09/07/2003

YASIN JAMALI, child of M.ABRAHIM and FATIMEH, born in 1986, detained since 24/06/2003

AHMAD MOSTAFA, child of SHAFIN NAJIBA, born in 1986, detained since 05/07/2003

HADI REZAYI, child of JAN IOHAM. NASUMA, born in 1987, detained since 02/07/2003

One Palestinian child is held in Mytilini reception centre:

HASSAN ALMASRY, child of ABDELATAH GAMEILA, born in 1987, detained since 16/07/2003

Four Afghan children are held in Rhodes reception centre:

AMIRI ESMAEEL, born in 1987, detained since 19/08/2003

RAHMANI ABDU AL., born in 1986, detained since 19/08/2003

MAHMADI DAWOOD, born in 1986, detained since 19/08/2003

JAFARI JAVID, born in 1985, detained since 19/08/2003

Two Palestinian children are held in Rhodes reception centre:

AMER MOHAMAD child of DEEB born in 1987, detained since 17/9/2003

AHMED SABRY child of MOHAMAD born in 1985, detained since 17/9/2003

Together with the three previous cases signalled by OMCT (urgent appeals GRC 120903.CC and GRC 260803.CC), 14 children have been deprived of their right to adequate protection in the last few months. This amounts to 10% of the overall asylum seekers' population in reception centres in the two islands. In addition, many more minors with parents are held together with other adults.

A new police circular reminding its services of international standards dated 4th July 2003 was distributed to NGOs by UNHCR in September. But this circular did not refer to the special situation and rights of unaccompanied children. Hence, the police as well as prosecutors remain unaware of the need for a special procedure.

Greek Helsinki Monitor has alerted the police, the Minister of Justice and the Greek Ombudsman for children. OMCT reiterates its concern about this situation and urges the government of Greece to urgently inform all concerned services of the relevant procedures to be followed in cases of unaccompanied minors entering Greece, seeking asylum or reunification with their families residing in another EU country.

Action requested

Please write to the authorities in Greece urging them to:

take all necessary measures to immediately guarantee the adequate reception and protection of the unaccompanied minors seeking asylum ;  
engage in a proactive campaign directed at all police and justice services dealing with asylum seekers informing them of the specific rights of and procedures for unaccompanied minors to be implemented in accordance with Greek law and EU regulations ;  
guarantee the respect of children's rights throughout the country in accordance with national laws and international human rights standards.

Geneva, October 9<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case ESP 220803.CC : Expulsion Of Moroccan Children / Best Interests Of The Child**

Follow-up to cases ESP021100.CC, ESP021100.1CC, ESP210801.CC, ESP061101.EE, ESP210802

The International Secretariat of OMCT requests your **URGENT INTERVENTION** in the following situation in the autonomous community of Melilla in **Spain**.

**Brief description of the facts**

The International Secretariat of OMCT is deeply concerned about the conditions in which several Moroccan street children were expelled to Morocco from the autonomous community of Melilla in Spain during the first week of August.

According to the information received from a reliable source, as of August 22<sup>nd</sup>, 12 children, whose names are unknown, have been expelled from Melilla. During the first week of August, 5 mothers were also expelled with some of their children.

8 year old Young Milud was arrested more than two weeks ago and taken to a residential care centre (the Eladio Alonso Centre) where he resides, separated from his mother. A child care worker has been appointed to look after him all day. Milud is not allowed to leave the premises and can only remain in his room or in the collective lounge of the centre, on the grounds that he could escape. According to the information received, the boy is crying, calling for his mother, and willing to escape in order to join her.

On Friday 8<sup>th</sup> August 2003, the police detained the three teenage girls that had been in hiding since the raid. They transferred them to a residential care centre and waited for their mothers to appear. The mothers indeed came when they received the news and were allowed to cross the frontier to retrieve the girls. Before releasing them, the police threatened that they would “*put them in jail for beggary*” if they were to see them in Melilla again.

According to the information received, the expelled mothers and children remain in the Moroccan frontier area and wish to come back to Melilla where they have lived several years. Among the women is Milud’s mother, who intends to cross the frontier to fetch her son, but is not allowed by the Spanish police as she does not have a Moroccan passport.

**Background**

For the past five years, campaigns of expulsion of children living in Melilla have been initiated every year at the end of July. According to the information received, the campaign starts just one day before the annual closure of tribunals, political vacations, and the annual replacement of the prosecutor by a substitute, which makes procedures for the defence of minors problematic and postpones negotiations until the second half of September. A few days prior to the expulsions, the media initiate a campaign of “public desensitisation” asserting that street children are delinquents and that, as a “matter of great concern” and in their “best interests”, they should leave with their families. This campaign of “cleansing” of the city from street children, their families, immigrants, and prostitutes, is undertaken in the context of the city’s preparation for the Nautical Week of Melilla.

Yet, this policy of “*eradication of juvenile beggary*” using police forces has resulted in the separation of families as mothers have been “invited” to leave the country with some of their

children, while the other children have remained alone on the street in the city. These children are finally taken to residential care centres, until their mothers come back to collect them, and are expelled together.

OMCT welcomes the fact that, unlike in previous years, the government undertook to expel these children to Morocco with guarantees of family reunification and without creating risks of torture or other inhumane and degrading treatments by the Moroccan authorities. However, the OMCT wishes to recall that, when it ratified the Convention on the Rights of the Child on 6 December 1990, Spain committed itself to guarantee that in all its actions concerning children “the best interests of the child shall be a primary consideration” (art.3 par.1) and to “ensure the rights set forth in the (...) Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s (...) national, ethnic, or social origin” (art.2 pr.1). OMCT therefore requests Spain not to expel foreign children from Melilla when this is contrary to their best interests, in particular as they are integrated in Melilla where they have lived for several years.

In the concluding observations of its session of 20 May-7 June 2002, the UN Committee on the Rights of the Child recommended that Spain urgently take the necessary measures in order to:

46.a) Ensure the implementation of Organizational Act 4/2000 and other laws by providing to unaccompanied foreign children access to residential care, education, emergency services and other health care, and temporary residency documents;

46.f) Provide unaccompanied foreign children with information about their rights under Spanish and international law, including the right to apply for asylum;

46.g) Take all necessary measures to improve the conditions and safety of residential centres and adequately train residential centre staff;

### **Actions requested:**

Please write to the Spanish authorities asking them to:

not to expel foreign children from Melilla when this is contrary to their best interests, in particular when they are fully integrated in Melilla;

take all necessary measures to protect, educate, and rehabilitate street children and prevent their criminalisation;

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards and, in particular, the Convention on the Rights of the Child.

Geneva, 22 August 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **3. Lack of due diligence by the State in instances of violence against children**

#### **Case CMR 220503 : Ill Treatment**

The International Secretariat of OMCT requests your URGENT INTERVENTION in the following situation in Cameroon.

#### **Brief description of the situation**

The International Secretariat of OMCT was informed by the Movement for the Defence of Human Rights and Liberties (MDHRL) about the neglect and maltreatment of “child-witches” in Cameroon. According to the information received, «child-witches» were abandoned by their parents placed in the care of the «Civic Re-education Centre» owned by the Marabout Mal Bakary in the Doualaré district in Maroua, where they were maltreated and exploited. In fact, children in this centre were forced, with chains at their feet, to break and pick up rocks in the mountains many times per day and they suffered from maltreatment performed on grounds of exorcism. Following their escape from the centre during the night of January 25th 2003, eight children were found by their «master», while five others were taken care of at the MDHRL’s headquarters, that is Hamadou Bachirou (12 years old), Mohama Bladi (14 years old), Yaya Aboubakar (16 years old), Mouktar Abba Boura (17 years old) et Ali Boukar (17 years old). The Attorney General of the Republic has prosecuted the Marabout Mal Bakary, but the situation remains unchanged and the children which were taken back by the Centre still remain maltreated and exploited.

OMCT is very concerned about the fate of the eight children taken back by their «master» and also about any other child who may reside at the Centre. Moreover, OMCT is preoccupied by the lack of adequate care for the five children who escaped and currently reside at the MDDHL, and also by the lack of measures undertaken to facilitate their return to their families. Finally, OMCT is alarmed by the impunity of the Marabout Mal Bakary.

The phenomenon of the so-called «child-witches» is present throughout Africa. It exists in Benin, in Nigeria, in Liberia, in Angola, in South Africa and in Cameroon. In fact, difficult children are sometimes considered by their parents or by their relatives as having evil powers and they are then rejected, marginalized by the society or placed in re-education centres. Some children end up in police stations, in search of protection, while others are arrested for theft or vagrancy. The living conditions of these children are precarious and they are often victims of abuse or maltreatment.

The International Secretariat of OMCT is alarmed by the problem of the so-called «child-witches» in Africa and strongly supports the principles contained in the Convention on the Rights of the Child (signed and ratified by all African States), and particularly article 19 which requires that “State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation (...)” and article 39 which requires that “States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.”

OMCT recalls that the African Charter on the Rights and Welfare of the Child, ratified by Cameroon in 1997, contains article 21 which requires that « States Parties (...) take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child (...) ».

### **Action requested**

Please write to the authorities in Cameroon urging them to:

intervene in the case of the five children residing at the MDHRL's headquarters in order to provide them with shelter, health services and adequate assistance in view of their reintegration in families and in society.

free all children which are maltreated in the «Civic Re-education Centre» owned by Mal Bakary and to ensure their social and family reintegration.

develop protection programmes for the so-called "child-witches" in Cameroon.

initiate judiciary proceedings against any person which commits acts of torture, or cruel, inhuman and degrading treatments against children on grounds of witchcraft.

Geneva, May 20th 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case COD 120803.CC : ill-treatment and murder**

The International Secretariat of OMCT requests your URGENT INTERVENTION in the following situation in Democratic Republic of Congo.

### **Brief description of the situation**

The International Secretariat of OMCT was informed by LIZADEEL, le Centre d'Assistance Judiciaire et Psychosociale pour l'Enfant et la Mère « CAJEM », about the severe ill-treatment and murder of a "child-witch" in Mont Ngafala, Democratic Republic of Congo. According to the information received, because of maltreatment and burns suffered on the 23<sup>rd</sup> of June 2003, the victim, Nsumbu, an eleven year old boy, died on the 27<sup>th</sup> of June 2003 in a university hospital. The perpetrators accused Nsumbu of being a "Child-witch" after the death of a young student Kabibi, a member of their family. Despite warnings following the incidents, the police acted against the young boy. He and his mother were arrested, but no proceedings have been initiated against the alleged perpetrators.

The phenomenon of the so-called « child-witches » is present throughout Africa. It exists in Benin, Nigeria, Liberia, Angola, South Africa, Cameroon and the Democratic Republic of Congo. In fact, difficult children are sometimes considered by their parents or by their relatives as having evil powers and they are then rejected, marginalized by society or placed in re-education centres. The living conditions of these children are precarious and they are often victims of abuse or maltreatment.

The International Secretariat of OMCT is alarmed by the problem of so-called « child-witches » in Africa and strongly supports the principles contained in the Convention on the Rights of the Child (signed and ratified by all African States), and particularly article 19 which requires that "State Parties shall take all appropriate legislative, administrative,

*social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation (...)*

OMCT recalls that the Convention, ratified by the Democratic Republic of Congo in 1990, contain article 6 which states that: "*States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child (...)*" and article 37 "*No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment (...)*" which must be respected.

Even if the D.R.C has not yet signed and ratified the African Charter on the Rights and Welfare of the Child, OMCT recalls that article 21 requires that « *States Parties (...)* take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child (...). »

### **Action requested**

Please write to the authorities in the Democratic Republic of Congo urging them to:

- guarantee an immediate judicial investigation to identify those responsible and to bring them before a competent tribunal;
- apply the penal, civil and/or administrative sanctions provided by law against policemen involved;
- guarantee support and assistance and obtain compensations for the victim's family;
- develop protection programmes for so-called "child-witches" in D.R.C.
- establish preventative action and initiate judicial proceedings against any person who commits acts of torture, or cruel, inhuman and degrading treatment against children on grounds of witchcraft.

Geneva, August 15, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply

**Case HND 241001.4/HND 241001.4 CC :Extra-Judicial Killings**

Follow-up of cases HND 241001.CC

Geneva, 21 January 2003

The International Secretariat of OMCT requests your URGENT intervention in the following situation in **Honduras**.

Brief description of the situation

The International Secretariat of OMCT has been informed by Casa Alianza, a member of the OMCT network, of the continuing killing of children and youths under the age of 23 in Honduras.

According to the information received, another 64 children and youths were killed during December 2002 making it one of the bloodiest months of the year in the Central American country which comprises just over 5 million people. Fifty-nine males (92%) and five females were murdered, most of them by gunfire.

Among the victims, Casa Alianza mentioned the case of two street children, Junior Edgardo Lopez (15) and Belsin Edgard Rivero Gonzalez (14), who were watching people celebrating Christmas as they wandered hungrily around the suburb of Barrio Sipile on 27 December 2002. A group of several unidentified males started running after them, shooting directly at them. The children were able to stay ahead for a few blocks in the vicinity of the general cemetery, but were then struck by the hail of bullets. They both died immediately.

According to Casa Alianza's statistics, one third of the December murders occurred outside the two principal cities of Tegucigalpa and San Pedro Sula, signaling that this phenomenon is a growing trend throughout the country. There were 5 murders in Comayagua; three in Tela, Atlantida; two in Tocoa, Colon; and one each in Choloma, Danli, Trujillo, El Progreso, Pespire, Villa Nueva and Santa Cruz de Yojoa.

On 13 January 2003, OMCT was also informed by Casa Alianza that Ariel Alexis Garay (17) was killed as he was walking through the Galindo market in the middle of Comayaguela, a city adjacent to the capital of Tegucigalpa. He was approached by two unidentified males, who opened fire and shot him twice. Ariel died shortly afterwards from the wounds.

Since Casa Alianza started collecting statistics in January 1998, more than 1,500 children and youths under the age of 23 have been killed in this way.

The Honduran Government has not been able to protect these children and youths despite promises to do so. A much-lauded "zero tolerance" campaign used as an election promise by President Ricardo Maduro in early 2002 has remained ineffective. A special investigative unit of the Honduran police was set up in September of last year but not one of the 15 initial cases given to them to investigate by Casa Alianza's Legal Aid Program has led to a conviction.

The International Secretariat of OMCT expresses its deep concern about the killing of children and youths and wishes to draw attention to the fact that by ratifying the Convention on the rights of the child, Honduras has recognised that "every child has an inherent right to life" (Article 6).

OMCT deems that extrajudicial executions, even when the perpetrators are not identified, may engage State responsibility for lack of due diligence. Due diligence imposes various positive measures that States Parties must adopt in conformity with international human rights standards, including the obligations to prevent, to stop, to investigate and to punish violations of human rights, as well as to provide adequate compensation and to promote recovery and reintegration of the victim.

#### Brief reminder of the situation

Since October 2001, the International Secretariat of OMCT has been regularly informed by Casa Alianza of cases of killings of children and youths under the age of 23.

From 6 to 16 August 2001, Ms Asma Jahangir, the United Nations Special Rapporteur on extrajudicial, arbitrary or summary executions was in Honduras to investigate the increasing and consistent reports of killings of children, some of which were directly attributed to the security forces. In a press release she expressed among other concerns: "There are documented reports of sixty-six minors killed in the first six months of this year. Human rights organizations put the number higher than official figures. There is a general perception

that all such killings have been carried out by rival “gangs” of children. Statistics defy that perception. The vast majority of these cases remains unsolved. The perpetrators are unknown groups or individuals who target and kill street children. Government records show that some of these children have in fact been killed by the security forces, and I have received assurances that the accused will be brought to justice. My observation is that a number of such killings remain unreported.”

Action requested

Please write to the authorities of Honduras urging them to:

take all necessary measures to guarantee the right to life, as well as the physical and psychological integrity of all children and young adults in Honduras, including those who live on the streets;

guarantee an immediate investigation into the circumstances of the deaths in order to identify those responsible, bring them to trial and apply the penal, civil and/or administrative sanctions as provided by law;

guarantee respect for human rights and fundamental freedoms throughout the country in accordance with national law, regional and international human rights standards, in particular the Convention on the Rights of the Child.

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case Per 031203.CC/ESCR :Economic, Social and Cultural Rights/Excessive use of Force/III-Treatment/Freedom of Expression**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Peru**.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source of the brutal repression by police forces of a public demonstration of around 150 children and adolescents living and/or working on the streets in Lima (Peru) on November 20<sup>th</sup> 2003, the anniversary of the Convention of the Rights of the Child. Most of the demonstrators were between 14 and 17 years old. They were accompanied by some adults, including educators and volunteers working with street and working youths.

### **Background Information**

The demonstration was organized by four associations of children working and/or living in the street (Movimiento Nacional de Niños y Adolescentes Trabajadores organizados del Perú – MNNATSOP, Movimiento de Niños y Adolescentes Trabajadores Hijos de Obreros Cristianos - MANTHOC, Instituto de Formación para Educadores de Jóvenes Adolescentes y Niños Trabajadores de America Latina y el Caribe - IFEJANT, GENERACIÓN), which promote children’s right to work in safe and dignified conditions. More generally, they are fighting for better acceptance and broader participation of (street and working) children and adolescents in civil society. Among other issues, they want the Convention on the Rights of the Child to be amended in a sense that would better take their views and needs into account.

According to the information received, the demonstration remained peaceful until the police came to dissolve it by force at Plaza Mayor. Policemen used tear gas, beat the protestors with sticks and kicked them. Several persons lost consciousness and/or suffered contusions resulting to this harsh intervention. Some newborn babies were also hit by policemen while in their mothers arms.

To justify their acts, the police invoked the illegality of the demonstration, as it did not respect the municipal decree ("decreto de la Alcaldía") which prohibits public demonstrations in the centre of Lima. In order not to breach the decree, the working children's organisations decided to promote a non-violent protest with small groups entering the square in turns, calling for respect for children's rights and the acknowledgment and full citizenship of childhood as a subject of rights, as protagonist actors in the society.

Reportedly, a police agent stated that the demonstrators "should not be considered according to their age" because they were only "pirañitas" ("children sleeping on the streets"), which would "anyway not behave themselves like children or adolescents when aggressing adults."

According to the last information received, the police forces - which belong to the "Unidad de Servicios de Control de Disturbios de la Policia" - arrested 13 individuals, including 3 adolescents at about 10:30 pm. The adults were released at 3:00 am in the absence of evidence of them carrying dangerous arms-objects, while the adolescents remained in custody.

Allegedly, some of the adults were ill-treated during the detention. Jaramillo Enrique, the coordinator of GENERACIÓN, said at a Press conference on November 21<sup>st</sup> that Major Vergara hit and insulted him while in police custody.

The 3 minors, one 14 year old girl and two boys (10 and 12 year old), all of them street children, were transferred to a preventive detention centre and were released on November 22<sup>nd</sup>. They were liberated after a meeting of MNNATSOP' and Generación' delegates with María Isabel Rosas Ballinas, the Vice-Minister of the Ministry for Women and Social Development (MIMDES) who assured that she would urge Fernando Rospigliosi, the Minister of Interior to order an investigation of the case. However, according to the information, such an investigation has still not been launched yet.

The International Secretariat of OMCT is gravely concerned about the brutality of the police intervention against these adolescents, as they were peacefully demonstrating for their rights and better protection and urges the authorities to launch an impartial investigation into the circumstances of these events, in order to bring perpetrators to justice and to award reparations to the victims.

OMCT recalls that the Peru is a state party to the Convention on the rights of the child which states that children have the right to express their views freely (Art.12(1), Art.13(1)) and the right of peaceful assembly (Art 15), while the right to participation is one of the overarching principles of the whole convention. In addition, Art. 37 (b) states that "the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort (...)". Peru is also a party to the International Covenant on Economic, Social and Cultural Rights, which stipulates that state parties have to undertake steps to achieve progressively economic, social and cultural rights.

Further, Peru is a state party to the International Covenant On Civil and Political Rights, which ensures the right of peaceful assembly in its Art. 21, and to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which prohibits ill-treatment and degrading treatment under all circumstances.

### **Action requested**

Please write to the authorities in Peru urging them to:

order a thorough and impartial investigation into the circumstances of these events, in order to bring the responsible to trial and apply the penal and/or administrative sanctions as provided by law;

provide a compensation to the victims;

develop guidelines to fully ensure the safety of individuals (and especially minors) during any police action;

guarantee the respect of human rights and the fundamental freedoms, including economic, social and cultural rights throughout the country in accordance with national laws and international human rights standards.

Geneva, 3<sup>rd</sup> December, 2003.

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case YUG 300603.CC: Sexual abuse/Impunity**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Serbia and Montenegro**.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Humanitarian Law Centre (HLC) that a 10 year old Roma child, victim of sexual abuse, was deprived of legal representation so that prosecution against the perpetrators of the abuse was abandoned.

The power of attorney that had been given to a lawyer of HLC, Veroljub Djukić, to represent the ten-year-old Roma child, A.J, victim of sexual abuse, has been revoked by the Center for Social Work in Veliko Gradište, which has effectively abandoned prosecution of the perpetrators. In its official explanation, signed by guardian Vera Mišćević, the Center for Social Work states that A.J. is a “an unstable child”, and that “any further involvement of him in these proceedings would aggravate his existing condition”. Due to the Center for Social Work’s decision to revoke the HLC lawyer’s power of attorney, the District Court in Požarevac has rejected his request for the investigation of a further three young men who took part in abusing A.J, along with Vladimir Petrašković (26) and Miodrag Radović (33). The decision of the Center for Social Work in Veliko Gradište is only one in a series of “irresponsible” actions made by the competent authorities, who have done nothing to protect young A.J. and punish the offenders.

In the middle of November 2002, several persons sexually abused the boy at various locations in town, but the investigation of Petrašković and Radović began only two months later, despite the fact that all the town's residents knew about what had happened. The public prosecutor's office and the police in Veliko Gradište did not act according to their authority within the shortest possible time, so that the suspects were able to flee the country in the meantime.

The district public prosecutor's office in Požarevac showed a complete lack of interest throughout the entire procedure, and dropped the investigation of Petrašković and Radović in March 2003 "due to lack of evidence". For this reason, the HLC, as the underage victim's representative, sent a request for additional investigation to the District Court in Požarevac, proposing that new witnesses be questioned. The District Court in Požarevac, however, imposed groundless procedural requirements on the HLC, in contradiction to the Law on Criminal Procedure. Thus, on several occasions lawyer Veroljub Djukić had to submit official confirmation to the court that he possessed a valid power of attorney to represent A.J, even though this was completely obvious.

While the International Secretariat of the OMCT shares the concern for the protection and best interest of the child, which implies that child-sensitive procedures should be used in this process, it is also greatly preoccupied by the impunity enjoyed by the alleged perpetrators and calls for an investigation to be launched on the basis of which any person found to be responsible for these acts be brought to justice.

The International Secretariat of the OMCT would like to remind that, as a signatory of the UN Convention on the Rights of Children (CRC), Serbia and Montenegro is obliged to "*protect the child from all forms of sexual exploitation and sexual abuse*" CRC Art.34 and to "*take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment(...)*." CRC Art.39.

In addition, OMCT would like to recall that further to one of its two general days of discussion on "Violence against Children" (2000, 2001), the Committee on the Rights of the Child recommended that "*urgent attention be given to establishing effective systems to monitor the treatment of children and to report and investigate cases of suspected ill-treatment, and that such systems should : Ensure that the perpetrators of violence are appropriately held accountable, including, when warranted, suspension or dismissal and the bringing of criminal charges*" (Report of the CRC day of general discussion 2001, Para. 733 j).

Finally, OMCT would like to remind the authorities of Serbia and Montenegro of the non-discrimination principle of the CRC enshrined in its article 2, and notably par.1 stating that : "*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*"

### **Action Requested**

Please write to the authorities of Serbia and Montenegro urging them to:

- guarantee an immediate investigation into the alleged ill-treatment of the aforementioned child, identify those responsible, bring them before a civil competent and

impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law;

- establish as a matter of urgency child-sensitive procedures to be used in any investigation on reported cases of abuse, ill-treatment, inhuman or degrading of children;
- guarantee adequate reparation to the victims and also physical and psychological recovery;
- ensure that the rights set forth in the Convention on the Rights of the Child be applied without any discrimination against Roma children;
- guarantee all human rights and fundamental freedoms in accordance with international human rights standards, particularly the Convention on the Rights of the Child;

Geneva, June 30<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

#### **4. Torture, or other cruel, inhuman or degrading treatment or punishment or other forms of violence against children in armed conflict and/or the fight against terrorism**

**Case EGY 270303 / 270303.VAW / 270303.CC : Violence Against Women / Child Concern/Arbitrary arrests and detention / Disproportionate use of force / Ill treatment and torture/ Risk of torture / Threats of Rape / Fair trial**

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Egypt**

Brief description of the situation

The International Secretariat of OMCT has received information from the Egyptian Organisation of Human Rights (EOHR), a member of the OMCT network, and other reliable sources, concerning the violent repression of anti-war demonstrators in Cairo, as well as the arrest of many demonstrators and the ill-treatment and torture of several of their number.

According to the information received, demonstrations broke out in Cairo as the war in Iraq began on March 20<sup>th</sup>, 2003. Tens of thousands of demonstrators gathered in Tahrir Square in downtown Cairo and were met with violent repression by the police. It is reported that the police use disproportionate force in order to keep the demonstrators back from the American and British embassies, causing injuries to many demonstrators. The police also reportedly began arresting large numbers of people during protests held over subsequent days. According to the information received, protests broke out in Al-Azhar Mosque, Talaat Harb Square, Ramses Street, and the State Broadcasting Corporation on March 21<sup>st</sup>, 2003.

According to the information received, on March 21<sup>st</sup>, the police began to beat demonstrators who were pushing against a barrier on Talaat Harb Street. Police reportedly fired water cannons into the crowd, beat demonstrators with clubs and made many arrests. According to the information received, the police also occupied the Egyptian Bar Association for almost six hours, and arrested more than 15 lawyers, some of whom were beaten during this time. Many of these lawyers had reportedly previously defended anti-war demonstrators.

According to the information received, Members of Parliament **Mohammed Farid Hassanein, Hammdeen Sabahi, Abdel Azim al-Maghrabi, and Haidar Baghdadi** were also subjected to beatings by the police. A decision was reportedly made on March 24<sup>th</sup> that Hamdeen Sabahi and Mohammed Farid Hasaneen were to be detained for 15 days pending investigation for their participation in the anti-war demonstrations. According to our sources, this violates their parliamentary privilege, which states that: "No member of the People's Assembly shall be subject to a criminal prosecution without the permission of the Assembly except in cases of *flagrante delicto*." According to information received, Mohammed Farid Hassanein is suffering from multiple injuries including a concussion, a retinal tear of his left eye, as well as retinal detachment in his right eye, cuts on the head, face and nose, and multiple injuries to both arms and legs. It is also reported that he has twice previously undergone heart surgery and suffers from high blood pressure. OMCT is consequently gravely concerned for his personal integrity.

On March 22<sup>nd</sup>, 2003, it is reported that three female college students - **Marwa Faroq, Shaymaa Samir, and Nourhan Thabet** - were arrested on their way to a demonstration at

Cairo University. Nourhan Thabet is pregnant, and was reportedly beaten by the police, blindfolded, and bound. Our sources report that her current location is unknown, leading to grave concerns for her integrity.

According to the information received, **Manal Ahmad Khalid** was detained on March 21<sup>st</sup> in Tahrir Square. She was reportedly beaten, and as a result sustained a serious eye injury. She has reportedly been denied medical attention, and has been threatened with rape by the authorities. Another demonstrator, **Ziyad 'Abd al-Hamid al-'Uleimi** was beaten by security forces after having been arrested at the premises of the Egyptian Bar Association. He received injuries to his left arm, and claims to be suffering from pain in his legs.

According to the information received, the following demonstrators have been arrested at El Tahrir Square, Cairo and are being tried by the Qasr El Nil Public Prosecution:

Hamdi Ahmed Morsi, Karim Mohamed Abdel Aleem Ibrahim, Ahmed Nageh Abou El Hamd Ibrahim, Abdel Baqi Mohamed Ismail, Mohamed Ahmed Salem, Mahmoud Abdel Kader Ahmed Hassan, Khaled Fathi Abdullaah Muhamed, Ashraf Fathi Ahmed Hussein, Ashraf Wagdi Adbel Hamid, Yaser Fawzy Abdel Ghane Abd El Aal, Ahmed Abd El Maqsoud Ahmed Gebreel, Mostafa Ismael Mostafa, Ahmed Hanafy Ahmed Tahir, Sherif Abd El Hamid Ismael, Alaa Abd El Azim Mohamed Mustafa, Mohamed Ahmed Ali El Sayid, Alaa Mohamed El Mohamadee El Morse, as well as Mohamed Hegazy Abdel Wahaab (a minor, exact age unknown).

Below are the names of those arrested and being tried by the al-Gamileya Public Prosecution:

**Mohamed Mahmoud Abd El Aty, Mona Mina (Doctor), Magda Mohamed Abd El Rahman (Journalist in El Arabi Nasiri Newspaper), Abdullah Abd El Rahman (Worker in poultry industry), Mohamed Said, Mohamed Rageb Abd El Satar (Journalist at El Tagamaoh Newspaper), Mohamed Osman, Essam Mohamed Hassan, Mohamed Mostafa, Shady Gamal Assad (Editor at El Esboah Newspaper), Abd El Gawad Mostafa Abd El Motee (Student at Technical Industrial Institute), Al Farouq Omar Mohamed (Student at Al Ashar University), Abd El Gawad Mahdi, Nagy Mohamed Sayid Ahmed (Accountant).**

Below are names of the detainees that are being tried by the State Prosecution:

**Mo hamed Farid Hasanein (Member of People's Assembly), Hamdin Sabbahi (Member of the People's Assembly), Kamal Abou Aita (Trade unionist), Sayid El Touchee (Lawyer), Abd El Aziz El Hussein, Tamim El Bargousey (student), Nadah El Kasas (Journalist), Abeer El Asceree (journalist), Walid El Sayid, Khalid Kamel, Hasan Mahmoud, Ibrahim Hussein, Wael Tawfiq, Remon Zacaria, Magdy Abass, Wael Khalil, Gamal Abd El Fatah (Pharmacist), Ghunem Nawafil, Ahmed Awad, Ahmed Diaa, Hussein Hasan Hanafee.**

The following are the names of those arrested at the Bar Association demonstrations and who are being tried by the Azbakeya Prosecution:

**Gamal Abd El Aziz (Lawyer), Ahmed Abd El Selem (Director of a construction company), Yaser Farag (Lawyer). Zeid Abd El Mageed Zaky (Attorney), Issam Fadl (Journalist at El Beyen Newspaper Marat), Hamada Ali Abdullah (Journalist), Mohamed Ibrahim Abd El Atee (Journalist), Mahmoud Ali Mahmoud (Driver), Manal Ahmed Khalid (Director's Assistant), Niveen Ahmed Samir (Director At Hamdin Sabahee's Office), Hamada Gazy, Mahmoud Mohamed Zaky, as well as Marian Bakry (a minor, exact age unknown).**

According to the information received, over sixty-nine detainees have been sent to the prosecutor already. Thirteen demonstrators were reportedly sent to the al-Azbekiya Public Prosecutor's office on March 22<sup>nd</sup>, where they received four-day detention orders, which were extended for an additional week on March 25<sup>th</sup>. Forty-nine persons were sent to the Qasr al-Nil and al-Gamaliya Public Prosecution offices on March 22<sup>nd</sup>, where they received detention orders for fifteen days. According to the information received, the remaining detainees were sent to the State Security Prosecution Office on March 23<sup>rd</sup>. These detainees face trials before the State Security Court, the verdicts of which cannot be appealed and can only be overturned by an order from the office of the President of the Republic.

The detainees have reportedly been charged with "participating in an illegal assembly of more than five people," under the Egyptian Illegal Assembly Law. Other charges include the destruction of public property; blocking traffic; transmitting propaganda that could disturb public safety and harm public interests; and assaulting law enforcement personnel. According to the information received, demonstrators have alleged that much of the destruction of property during the rallies, including the torching of a fire truck near Tahrir Square, was the work of police.

According to information received, there has been a large incidence of torture within the detention centers where the demonstrators have been held. Reports include the use of electric shocks, beatings that included the use of sticks and clubs, as well as the threat of rape towards the women, giving rise to grave concerns that the detainees in question here are being or risk being subjected to such treatment.

The International Secretariat of OMCT is gravely concerned by the reports of mass arrests, ill-treatment and torture of anti-war demonstrators in Egypt, including the ill treatment of a pregnant woman and threats of rape against another woman, and condemns the authorities' repressive actions. OMCT would like to recall that Egypt is a State Party to international human rights instruments which prohibit and punish torture and ill-treatment, including the Convention Against Torture and the International Covenant on Civil and Political Rights. Egypt is also party to the Convention on the Elimination of All Forms of Discrimination Against Women, which prohibits discrimination against women.

OMCT is in particular gravely concerned for the physical and psychological safety of the afore-mentioned people, especially **Mohammed Farid Hassanein, Nourhan Thabet, Manal Ahmad Khalid, and Ziyad 'Abd al-Hamid al-'Uleimi** as well as all persons who are being detained incommunicado and those who require urgent medical assistance. OMCT is particularly concerned for the integrity of the two children that have been arrested and calls for them to be released immediately. OMCT calls for the immediate release of all persons being detained as a result of the demonstrations unless there are valid legal charges that are in line with international law. OMCT calls on the authorities to guarantee the detainees' procedural rights at all times and to guarantee that they be given fair trials.

### **Action Requested**

Please write to the Egyptian authorities urging them to:

take all necessary measures to guarantee to physical and psychological integrity of the aforementioned people, especially Mohammed Farid Hassanein, Nourhan Thabet, Manal Ahmad Khalid, and Ziyad 'Abd al-Hamid al-'Uleimi;  
intervene with the proper authorities to ensure that adequate medical assistance is provided as a matter of urgency to all detainees that require it, especially Nourhan Thabet who is pregnant and whose location is unknown, and Mohammed Farid Hassanein who suffers from a heart condition;  
order the immediate release of the afore-mentioned people in the absence of valid legal charges, or if such charges exist, bring them before a competent and impartial court and guarantee their procedural rights at all times;  
guarantee an immediate investigation into the circumstances of these events, identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal, civil, and/or administrative sanctions provided by law;  
provide adequate reparation to the afore-mentioned persons;  
put an immediate end to the persecution and harassment of anti-war protestors;  
guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance international human rights laws and standards, particularly the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child.

Geneva, March 27<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case ISR 050401.3 CC :Torture and cruel, inhuman or degrading treatment or punishment**

Follow-up of Case ISR 050401CC

Geneva, February 10, 2003

The International Secretariat of OMCT has received new information regarding the following situation in **Israel/Occupied Territories**.

New information

The International Secretariat of OMCT has been informed by DCI/Palestine Section, a member of the OMCT network, that the situation of child detainees worsened in 2002 in Israel/Occupied Territories.

According to the information received, the year 2002 was characterized by a 57% increase in the overall number of prisoners under 18, a 38% increase in the youngest prisoners (aged 13-14) and a 100% increase in sentences over one year of imprisonment imposed on children. By the end of 2002, figures indicate that the average number of child prisoner cases handled by DCI/PS throughout the year was 290, compared with 185 in 2001.

According to the same source, child prisoner living conditions have generally deteriorated over the last quarter of the year. Cells are often poor, cramped, cold and unhygienic, while the authorities do not provide enough food, leading to incidences of anemia as a result of malnutrition. Healthcare and education are frequently seen by the Israeli prison authorities as

a luxury, rather than a legal right, for the child detainees. In addition, many of the children are traumatized either by physical or psychological torture or other forms of cruel, inhuman or degrading treatment, ranging from restraint in uncomfortable positions for a period of time, threats, and beating.

Child prisoners also suffer from a lack of visits due to travel restrictions which prevent their relatives (apart from Jerusalem ID holders) from visiting Israel and from bringing them clothing or food from outside. Meanwhile, the Red Cross is also obstructed from bringing educational materials, pastimes and clothing into all the prisons.

The most concerning situations are the following:

#### Telmond Prison

According to DCI/PS, on 21 January 2003, children detained in Telmond Prison were raided by around 100 prison guards and soldiers using batons, clubs and stun guns. Each child was taken to a different cell and those who objected or asked for the reasons for this raid, were beaten. Three children suffered various fractures from the attack. It emerged that the soldiers were searching for mobile phones inside the children's rooms. In the process they confiscated prayer mats, cooking equipment and personal belongings, including family photos, personal notes and hand-made items made by the children. In addition the guards and soldiers tore and threw the Koran on the floor, and ripped other books.

#### Ketziot prison

According to DCI/PS the reopening of Ketziot military prison in the Negev desert last April has brought about some of the worst living conditions for Palestinian child detainees. The tent structures of the prison are inadequate for the cold desert winter, while there is a shortage of clothes and blankets for around fifty 16-18 year olds imprisoned there alongside some 750 other adult inmates. In conformity with military order number 132, the military authorities deal with the children as adults.

The same source also mentions that the prison holds around 20 child administrative detainees, who can be held without charges for up to six month periods.

Parents are prevented from visiting their children, while the administration makes it extremely difficult for lawyers to visit the prison. In addition, two prisoners, **Wi'am Harriri** and **Ghassan Rateb** require medical treatment which is being denied by the authorities. Wi'am requires surgery, while Ghassan has bullets in his hands and legs, but is only receiving pain killers.

#### Megiddo Prison

This military prison, made up of 5 rooms and numerous tents, houses around 1000 prisoners, around 70-100 of whom are between 16-18 years old. As in Ketziot, these children are dealt with as adult prisoners.

Winter conditions are hard inside the prison, with problems of extreme cold, leaks in the tents and lack of clothing and blankets. Due to a ban on family visits and difficulties with Red Cross visits, prisoners are unable to obtain these things from outside, while the prison

authorities refuse to supply them. The prison authorities also refuse to give the prisoners a heater, because they say it could constitute a threat to prison security.

During the last three months, the authorities have continued to raid the prisoners on a frequent basis, often without mentioning what they were looking for. They often have confiscated possessions, and rip and tear personal belongings in these raids.

#### Remarks

OMCT wishes to recall that the Convention on the Rights of the Child, to which Israel is party, provides that:

“States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. (...);

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.” (art. 37)

#### **Action requested**

Please write to the authorities in Israel/Occupied Territories urging them to:

put an immediate end to all forms of torture, cruel, inhuman and degrading treatment, in accordance with national and international legislation;

take all necessary measures to guarantee the physical and psychological integrity of all Palestinian children being held in Israel;

place the children (any persons below the age of 18) in a separate section from criminal and adult prisoners, except when it is in the best interests of the child to detain them together;

order a thorough and impartial investigation into the circumstances of these forms of ill-treatment in order to identify those responsible, bring them to trial and apply the penal, civil and/or administrative sanctions as provided by law;

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with international human rights standards, in particular with the Convention on the Rights of the Child.

Geneva, February 10, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case ISR 190203 / ISR 190203.CC: Extra-judicial killings**

The International Secretariat of the OMCT requests your **URGENT** intervention in the following situation in the Occupied Territories.

**Brief description of the situation**

The International Secretariat of the OMCT has been informed by the Palestinian Society for the Protection of Human Rights (LAW), a member of the OMCT network, of extra judicial killings that have taken place in Israel on February 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup>, 2003.

According to information received, on Sunday, February 16<sup>th</sup>, 2003, Israeli troops killed three Palestinians in Nablus during an operation to arrest **Taysir Khaled**, a member of the Democratic Front for the Liberation of Palestine (DFLP) and three of his associates. It is reported that Israeli troops accompanied by armoured personnel carriers (APCs) attacked a Nablus building where the DFLP offices are located. Troops reportedly used megaphones to order Mr. Khaled and his associates to surrender. According to the information received, the Israeli forces then opened fire on a crowd killing **Ayman Abu Zant** (17), **Mohammad Takruri** (35), and **Firas Mabruka** (22).

According to the information received, on February 17<sup>th</sup>, 2003, it is reported that that **Riyad Abu Zeid**, a Hamas activist, was extra-judicially killed in the Gaza strip, as well as two other Palestinians whose identities are not currently known.

In addition, on February 18<sup>th</sup>, 2003, 28-year old **Mohammad Murr**, a Hamas activist wanted by Israel, was extra-judicially executed in Yatta, a village south of Hebron City. It is reported that Israeli Special Forces disguised as Arabs and regular Israeli troops entered the village and surrounded Mr. Murr's home. Mr. Murr attempted to flee his home and the Special Forces reportedly opened fire on him, wounding him in the left leg as he was running for his neighbour's garden, causing him to fall to the ground bleeding. A soldier then reportedly approached him and, at a distance of 10 meters, shot and killed Mr. Murr. It is reported that Mr. Murr was unarmed at the time of his death. According to a report from the scene of the crime, Mr. Murr's body contained a number of bullets, including three in his chest.

Furthermore, on February 19<sup>th</sup>, 2003, **Nasser Abu Sufiyyeh** (32) was reportedly killed after being forced at gunpoint to leave his elderly father in the hands of Israeli soldiers who had beaten the old man. According to the information received, at around 6am Nasser Abu Sufiyyeh was heading to his workplace in the Jasmine quarter in Nablus' old city with his father, who is over 70 years old. An Israeli jeep stopped them, and after checking their ID cards, detained them and began beating Nasser's elderly father. The soldier ordered Nasser at gunpoint to leave the area without his father. Nasser began to leave, but when he was at a distance of 40 meters from the soldiers, one opened fire at him without any justification. He was shot three times in the back and died of severe internal bleeding before his father's eyes.

Finally, at around 12:30 in the afternoon of February 19<sup>th</sup>, 2003, 15-year old **Mohammad al-Saber** was shot in the shoulder while standing on the roof of an apartment building in the Ras al-Ein area. An Israeli sniper shot the boy, apparently from a higher position, as the bullet travelled down his body and settled in his mid-thigh. He was killed instantly. Seven others were injured, including four children: **Said al-Bouz** (16); **Sabrine al-Tak** (16); **Mohammad**

**Qadiri (17); Ahmad al-Badawi (17); Amid Ayyad (19); Tawfiq al-Najjar (20); and Samir Asmar (24).**

LAW's figures indicate that at least 125 Palestinians have been killed through extra-judicial executions during the ongoing second Intifada, not including bystanders. At the beginning of October 2002 the figures stood at at least 166 Palestinians killed in extra-judicial executions committed by Israel, including 63 Palestinian bystanders.

The International Secretariat of OMCT is gravely concerned by continued reports of further extra judicial executions by the Israeli authorities and calls on the authorities to immediately halt the use of such means. OMCT recalls that these "targeted assassinations" are carried out without recourse to even the most basic judicial procedures and no attempt is made to arrest the individuals in question. These extra-judicial killings constitute a gross and systematic violation of the right to life, the right to a fair trial and other human rights laws and standards. Not only are they clearly in violation of several of the provisions of the International Covenant on Civil and Political Rights, but, as wilful killings, they also constitute grave breaches of the Fourth Geneva Convention.

Furthermore, the circumstances under which most extra-judicial executions are carried out, suggest reckless disregard for civilian lives. OMCT recalls that under Paragraph 1. c. of Resolution 2444 (XXIII) of the United Nations General Assembly, 19 December 1968, it is stated "that distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible." In addition, under Article 51 of the Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 it is stipulated that:

Paragraph 4) - "Indiscriminate attacks are prohibited. Indiscriminate attacks are: (...) (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction."

Paragraph 5) - "Among others, the following types of attacks are to be considered as indiscriminate: (...) (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."

OMCT considers that such acts of incidental injury to civilians represent flagrant violations of the elements cited above, which also constitutes international customary law, and as such should to be respected and upheld by Israel.

Finally, OMCT recalls that Israel is a State Party to the Convention on the Rights of the Child, which states under Article 38, Paragraph 4) that: "In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict."

### **Action requested**

Please write to the authorities in Israel urging them to:

immediately halt the use of extra-judicial executions;  
guarantee adequate reparation to the victims' families;  
guarantee an immediate investigation into the circumstances of these events, identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal, civil and/or administrative sanctions provided by law;  
guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards, notably the Convention on the Rights of the Child.

Geneva, February 19<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Press Release: Israel: an insufficient number of Palestinian children figure in the recent releases linked to the roadmap peace plan**

Geneva, August 7<sup>th</sup>, 2003

The World Organisation Against Torture (OMCT) joins with Defence for Children International-Palestine Section, a member of OMCT's network, in deploring the low number of Palestinian children who were released by the Israeli authorities on August 6th, 2003, as part of the so-called roadmap peace plan.

Of the approximately 340 persons who were released, only 13 were children, and 9 of the latter had almost served their sentences at the time of their release, while the other four were being held under administrative detention.

OMCT considers that the Israeli authorities have missed a significant opportunity to make a strong and positive gesture, given that some 350 children were being held in Israeli detention centres when the afore-mentioned releases took place.

As a result, OMCT urges the authorities to order the unconditional release of all minors that remain in detention, bearing in mind that children are a group that is particularly vulnerable within the context of the occupation.

OMCT recalls that the Convention on the Rights of the Child, which was ratified by Israel on October 3rd, 1991, states that "the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."

**Case ISR 121103 / 121103.CC: Arbitrary detention/Incommunicado detention/ Risk of torture/Torture**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Israel.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by a Public Committee Against Torture in Israel (PCATI), a member of the OMCT network, of the incommunicado detention and torture of detainees in Israel in Israel/Occupied Territories.

According to the information received, on September 15<sup>th</sup>, 2003, Ibrahim Yusuf Atiya was arrested and has since been held in the GSS Interrogation Unit at the Petah Tikva Detention Center. On September 16<sup>th</sup> an Order Prohibiting Meeting with Counsel valid for 5 days was imposed against Mr. Atiza. On September 17<sup>th</sup>, his lawyer, Husam Younis, submitted a pre-petition letter to the State Attorney's office asking that the order be immediately lifted and inquiring as to the physical and psychological integrity of Mr. Atiya. He received no reply. On September 18<sup>th</sup>, Attorney Younis represented PCATI in filing an urgent petition to the High Court of Justice on behalf of the victim demanding that the order be lifted so that Mr. Atiya could meet with counsel (HCJ 8494/03 Ibrahim Yusuf Atiya vs. The Minister of Defense and the General Security Service). On September 21<sup>st</sup> the petition was withdrawn after PCATI was informed that the order would be lifted and that Mr. Atiya would be allowed to meet with counsel that day.

Mr. Atiya reports that he was not subjected to in treatment during his incommunicado detention and that he was only interrogated on one occasion after his arrest. His detention was extended by 22 days (until October 22<sup>nd</sup>, 2003) and is currently being held at the Sharon Detention Center. No official charges have been brought against him.

In a separate case, Osama Husam Mohammed Balalam (age 17) was arrested October 10<sup>th</sup>, 2003, and taken to the Hawara Detention Camp for one day before being taken to the GSS Interrogation Unit at the Petah Tikva Detention Center, where he is still being held. On October 15<sup>th</sup>, an Order Prohibiting Meeting with Counsel valid for 6 days was imposed against him. As a result of this order, Mr. Balalam's attorney, Muhammed Abid, was unable to meet with him, speak with him or advise him regarding his rights at the hearing on the extension of his detention that was held that day. Attorney Husam Younis represented Mr. Balalam on the matter of his incommunicado detention and spoke with a police interrogator who appeared at the hearing and was informed that Mr. Balalam was not prohibited from meeting with counsel during the first days of his detention.

On October 16<sup>th</sup>, Attorney Younis represented PCATI filed an urgent petition to the High Court of Justice on behalf of Mr. Balalam demanding that the Order Prohibiting Meeting with Counsel be lifted immediately (HCJ 9270/03 Osama Husam Mohammed Balalam vs. The Minister of Defense and the General Security Service). On October 20<sup>th</sup>, the petition was withdrawn after PCATI was informed that the order would be lifted and that Mr. Balalam would be able to meet with counsel that day.

Mr. Balalam met with Attorney Younis on October 21<sup>st</sup>. Attorney Younis collected an affidavit on November 2<sup>nd</sup> in which Mr. Balalam states that he was severely beaten and kicked by the soldiers who arrested him while on the way to the Hawara Detention Camp. He adds that at the Hawara Camp, he was placed next to a wall and beaten while blindfolded and handcuffed behind the back. Mr. Balalam states that his interrogation went on for 25 days and that his hands were always bound behind his back during interrogation. He also reports that his interrogators swore at him, humiliated him, and threatened to arrest his family and demolish their home. He is still being held at the Petah Tikva Detention Center.

In another case of incommunicado detention, Mr. Iyad Wadia Toufik Abu Zahara was arrested on September 15<sup>th</sup>, 2003, and has since been held at the same detention center, the GSS Interrogation Unit at the Petah Tikva Detention Center. Mr. Zahara had an Order Prohibiting Meeting with Counsel valid for 7 days imposed against him, and Attorney Younis petitioned on his behalf. On September 18<sup>th</sup>, Attorney Younis again filed an urgent petition representing PCATI to the High Court of Justice on behalf of Mr. Zahara (HCJ 8490/03 Iyad Wadia Toufik Abu Zahara vs. The Minister of Defense and the General Security Service). On September 22<sup>nd</sup> this petition was rejected on grounds of regional security and "the good" of the interrogation. In addition, the Order Prohibiting Meeting with Counsel was extended by 6 days through September 9<sup>th</sup>. Mr. Zahara was finally permitted to meet with his attorney on October 1<sup>st</sup>.

Attorney Younis collected a sworn affidavit from Mr. Zahara on November 22<sup>nd</sup> detailing his treatment in custody. Mr. Zahara reports that he was handcuffed and blindfolded immediately upon arrest and interrogated on the spot by an IDF officer by the name of Manir who also beat him and knocked his head against the jeep he was taken to. Manir also beat Mr. Zahara in front of his family, threatening his mother that he would blow up their home if Mr. Zahara did not confess. During his first few days at the Petah Tikva Detention Center, the victim was beaten on his face, stomach, and chest in spite of the fact that he informed his interrogators that he suffers from asthma and chest pains due having undergone lung surgery and that these abuses could endanger his life. He was also forced to sit on a small chair and bend backwards. On one occasion, an interrogator pulled his arms down forcefully several times so that the victim thought his back was breaking and fell from the chair. The interrogators also tightened his manacles until he bled and forced him to sit in painful positions. They swore at him and threatened to destroy his home and arrest members of his family, particularly his mother. They threatened to break his back and cause him permanent injury and disability.

Mr. Zahara's interrogation went on for more than 48 days, during which he did not sleep for more than 4 hours a day. On some occasions he was interrogated several times between noon and 8 am the following morning.

At the second hearing on the extension of Mr. Zahara's detention, the victim informed the judge that he had been tortured as a means of extracting confession. This was included in the protocol of the hearing. The victim asked the judge to relay his complaint to the responsible authorities. When he returned from court to the detention center, the interrogators threatened the victim to not make such statements again in court, and that if he did, they would subject him to further torture and abuse. The interrogators told him that they had a permit from the High Court of Justice to use force against him at will and did not inform him that a petition was filed to the High Court of Justice against his incommunicado detention.

Mr. Zahara informed Attorney Younis that his confession had been extracted by force after his interrogators shows him confessions of other detainees that denounced him and ordered him to confess to the actions mentioned in those other confessions. Mr. Zahara confessed only after undergoing severe physical pressure that he could no longer tolerate and hoping that the interrogations would come to an end. Mr. Iyad Wadia Toufik Abu Zahara is still being held at the Petah Tikva Detention Center.

The International Secretariat of OMCT condemns the actions of the GSS interrogators and their use of torture against these detainees, as well as the use of these Orders Prohibiting Meeting with Counsel, all of which are clearly violations of the detainees' human rights. OMCT is gravely concerned for the physical and psychological integrity of Mr. Ibrahim Yusuf Atiya and Mr. Iyad Wadia Toufik Abu Zahara, but especially Mr. Osama Husam Mohammed Balalam, who is a juvenile. OMCT calls for their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, that they be brought before an impartial and competent tribunal and guarantee their procedural rights at all times.

### **Action requested**

Please write to the authorities in Israel/Occupied Territories urging them to:

- i. take all measures necessary to guarantee the physical and psychological integrity of the afore-mentioned persons;
- ii. order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;
- iii. order a thorough and impartial investigation into the circumstances of these events, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iv. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, November 12<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case ISR 101203.CC: Torture**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Israel and the Occupied Territories.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Public Committee Against Torture in Israel (PCATI), a member of the OMCT network, of the torture to which a child was subjected during detention in Israel and the Occupied Territories.

According to the information received, at around 2 pm on April 24th 2003, 16-year-old Mejad Abdalatif Fatah Sabach was arrested by Israel Defence Forces (IDF) soldiers near Kfar Geva/Jenin. He was in a taxi on the way to school. The soldiers handcuffed him, stripped him of his clothes down to his underpants and hit him all over his body, including on the head. They reportedly subsequently tightened his handcuffs so much that the marks were still visible two and a half months later, when he submitted his complaint.

While they were transporting him blindfolded to the prison facility at Araba, the soldiers beat him again. When they arrived, they threw him into the camp with his hands and feet tightly handcuffed. He was left that way until 10 pm, without receiving any food or drink. He was then transferred to the Salem detention facility. On arrival, four soldiers beat him on the head, the face, the stomach and the legs until he bled, using the butts of their rifles and sticks. This lasted until 2 am.

Mejad was subsequently taken to the Kishon Detention Center, where he was questioned for three hours while seated on a small chair, with his hands and feet handcuffed and his body bent backwards. After this, he was put in solitary confinement for one week. During this time he was interrogated twice, once for 6 hours and once for 3 hours.

He was then taken to the Megiddo Prison. After having been held there for 15 days in a tent with 20 other prisoners, he was sent back to the Kishon Detention Centre for another week in solitary confinement. On the 7th day of detention there, he was taken for an interrogation which lasted from 10 am to 5 pm. During this interrogation Mejad was placed in a painful position, his back stretched backwards, with his interrogator kicking him in the legs. The following day, he was again interrogated for three hours, seated in the same position. The many kicks that he received made it difficult for him to stand. After this interrogation, he was taken back to his cell, where he remained until June 20<sup>th</sup> 2003, when he was taken to the Sharon Prison, where he is still being held.

### **Background Information**

Over the past month, the International Secretariat of OMCT has been informed by PCATI and Defence for Children International/Palestine Section (DCIPA), another member of the SOS-Torture network, of the alarming situation of many other Palestinian children in detention. OMCT is gravely concerned by the high number of allegations of unlawful arrests and detention, torture and ill-treatment of children while in police custody or in Israeli detention facilities, as well as the poor and often inhuman living conditions there.

PCATI reported several cases of arbitrary detention, such as that of Salim Za'ul who was arrested on October 25th 2000. He was 14 years old at that time and was taken away from his home at 3:00 am by Israeli soldiers who told his father that they would take him away for some 15 minutes. During an interrogation session they insulted and tortured Salim into admitting that he had thrown some stones. Among other torture techniques, they beat him and threatened to arrest his brother. Later, he was transferred by ambulance to a clinic. The doctor saw that his head was swollen as a result of the beatings and gave him medicine.

After this, he was held in solitary confinement and refused any contacts with his family during 8 days. On November 1st 2000 he was transferred to Telmond Prison, where he was detained with criminal prisoners. Some of them tried to rape him, but Salim called out to the wardens who came to his rescue. Three days later, he reported the incident to the officer in charge of the unit, who refused to transfer him to another one. A week later, while in the courtyard, Salim had his left leg cut with a razor blade by another inmate. As a result of this, he was finally released on May 13th 2001. According to his mother, he refused to return to school and remained at home most of the time. He now wants to start working, although he is still reportedly traumatised by these events.

The International Secretariat has also been informed by DCI of the case of 17 year old Muhammad al-Sinawi from Azariya. He was arrested and brought to Atzion Military Detention Centre by members of the Israeli forces at 1:00 am on September 4<sup>th</sup>, 2003. During the detention, his mother gave medical reports to the soldiers, saying that he was sick, but the soldiers just tore them up. At Atzion Detention Centre he was severely beaten in the face, on the hands and the legs by 4 plain-clothes policemen. They tied his hands and legs with cuffs and opened his legs with force to hit him on and around his genitalia. Additionally, Muhammad was tortured with electric shocks and a dog was used to scare him.

Before Muhammad was arrested, he had suffered severe medical problems, including cancer (of the lungs, lymph gland and blood). He had been treated over 2 years and had to stay in hospital for one and a half years. Today, he is still recovering and requires regular check-ups to monitor his condition. On September 29<sup>th</sup>, 2003 he should have gone to the hospital for his treatment, but he missed the appointment as he remained in detention. Since his arrest, his treatment has been stopped and he has not received any further treatment. To date, OMCT has not received further information about his situation.

DCI has also informed OMCT of the continuing inhuman living conditions in Israeli detention facilities for Palestinian children and reported that their situation has not improved during recent months. Although the treatment of detainees vary between facilities, serious overcrowding, bad and insufficiently sanitary installations and very poor food in quality and quantity are a problem in most facilities. See also OMCT, Urgent Appeal ISR 050401.3CC: <http://www.omct.org/displaydocument.asp?DocType=Appeal&Index=701&Language=EN>

The end of the Road-Map peace process at the end of August 2003 was reportedly accompanied by increased arbitrary detentions in the Occupied Palestinian Territories, which accentuates the problem of overcrowding (see also OMCT press releases from 11.02.2003 and 7.08.2003:

<http://www.omct.org/displaydocument.asp?DocType=Appeal&Index=2895&Language=EN>  
<http://www.omct.org/displaydocument.asp?DocType=Appeal&Index=3473&Language=EN>)

Due to overcrowding in permanent facilities, so-called "temporary centres" without special provisions for minors continue to hold child detainees for prolonged periods of time. This even concerns child prisoners who have been tried, even though they are supposed to be moved to permanent facilities under Israeli rules. In Atzion Military Detention Centre outside Bethlehem, 7 prisoners are being held in cells of 2,5m x 2,5m, with no distinction made between adults and children. Moreover, Atzion is reported to be the facility with the harshest living conditions. Apart from the very serious and continuing allegations of torture and ill-treatment, inmates are refused basic hygiene, adequate food and access to toilets.

Overcrowding in the Ramle Women's Prison, where 10 girls were detained in October 2003, means that up to 8 women are held in each cell, and the number of skin diseases is reportedly increasing as a result of those conditions. The quality of food is reported to be extremely bad and helpings have been halved in the last weeks. The administration has even prohibited schoolbooks and other academic material, which the inmate's families used to bring for them. Detainees who have not been sentenced are not allowed to have any books at all. These restrictions are in complete contradiction with Israeli civil law and International law.

At Telmond Prison, the prison personnel reportedly conduct intimate searches and complete strip searches before visits, and when prisoners have refused this treatment, they have been subjected to beatings and solitary confinement.

The International Secretariat of OMCT is gravely concerned by the living conditions and use of torture and ill-treatment in Israeli detention centres. OMCT calls on the Israeli authorities to order the immediate release of all detainees being held in the absence of valid legal charges in line with international law, or if such charges exist, to ensure that the detainees are detained in adequate conditions and receive a prompt and fair trial. OMCT recalls that the behaviour of the interrogators described above is in flagrant breach of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It also violates Israeli law, notably clauses 277 (1), 277 (2), and 427 (A) of the Criminal Law, 1977.

OMCT urges the Israeli government to respect these laws and to specifically ensure that child prisoners are detained in conditions that meet guarantees outlined in Art. 37 of the Convention on the Rights of the Child: (a) "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment"; (b) "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time"; (c) "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances".

### **Action requested**

Please write to the authorities in Israel urging them to:

- take all measures necessary to guarantee the physical and psychological integrity of Mejad Abdalatif Fatah Sabach, Muhammad al-Sinawi and of all the other detained persons, especially the children;
- order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;
- order a thorough and impartial investigation into the allegations of torture, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- guarantee that adequate reparation is provided to the victims of these abuses;
- guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, December 10<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

## **Case MYS 191103 / MYS 191103.CC: Arbitrary detention**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Malaysia.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by Suara Rakyat Malaysia (SUARAM), a member of the OMCT network, of the arrest of 13 students under the Internal Security Act (ISA), which allows for indefinite detention without trial. Three of them are still children: Nurul Mohd Fakri bin Mohd Safar, Faiz Hassan bin Kamarulzaman (both 17 years old) and Muhammad Tarmizi Nordin (16 years old). The others are: Ahmad Muaz bin Al Bakry (20), Muhammad Radzi bin Abdul Razak (19), Mohd Akil bin Abdul Raof (21), Eddy Erman bin Shahime (19), Muhammad Ariffin bin Zulkarnain (18), Abi Dzar bin Jaafar (18), Mohd Ikhwan Abdullah (19), Ahmad Firdaus Kamaruddin (18), Amin Ahmad (20), Shahrul Nizam Amir Hamzah (21).

According to the information received, they are all students in Karachi (Pakistan), where they were arrested on September 20<sup>th</sup>, 2003 – together with 2 Indonesians – on suspicion of being Islamic militants. The Malaysian Deputy Home Minister Chor Chee Heug said on September 25<sup>th</sup>, 2003, that the 13 Malaysians could be “future leaders” of the regional terror network Jemaah Islamiah (JI).

On November 10<sup>th</sup>, 2003, Pakistani security forces deported the 13 students to Malaysia, where they were immediately arrested and detained under the ISA. Two days later, Prime Minister Abdullah Ahmad Badawi defended the detention without trial, stating that they had been “arrested under the Act to facilitate police investigations” concerning their alleged involvement in JI.

On November 17<sup>th</sup>, OMCT was informed that the police had granted legal access to 9 of the 13 detainees, including the three children. However, the lawyer will only be allowed to meet them on Friday the 21<sup>st</sup> of November - after 11 days of detention. Although legal assistance to detainees under the ISA is already an improvement in itself, we recall that “in normal cases, those arrested have to be brought to court within 24 hours”, as the lawyer charged with the case declared. He will only have 15 to 20 minutes to talk to each of the 9 detainees, which is “definitely insufficient,” according to his statement. In addition, he fears that the meetings will most likely be monitored by the police. OMCT is concerned by these conditions.

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of these detainees, notably the three children. OMCT recalls that Malaysia, as a state party to the Convention of the Rights of the Child, is bound by the provision that a child shall only be deprived of liberty “(...) as a measure of last resort and for the shortest appropriate period of time” (Art. 37 (b)), as well as the “guarantee to be presumed innocent until proven guilty according to law (i) and to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law (iii)” (Art. 40, §2.(b)). We consider that Malaysia - despite the large number of reservations it made - has to fully respect the principles of the Convention. As stated by other state parties, the said reservations are incompatible with the object and purpose of the Convention and are accordingly inadmissible and without effect under international law.

## **Fight against terrorism**

OMCT recalls its position that all counter-terrorism efforts must fully respect fundamental human rights norms and standards, in particular basic guarantees that provide protection to persons in detention. In this respect, OMCT is extremely concerned that, particularly since 11<sup>th</sup> of September 2001, the Malaysian authorities have frequently used the pretext of counter-terrorist actions to curtail certain fundamental rights. OMCT has received information regarding numerous cases of arbitrary detention, torture and other forms of ill-treatment by law enforcement bodies. Most of the persons concerned were detained under the ISA, which additionally enables impunity for state agents.

## **Action requested**

Please write to the authorities in Malaysia urging them to:

take all necessary measures to guarantee the physical and psychological integrity of the 13 detained students, notably the three children;

order their immediate release in the absence of valid legal charges or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards and, in particular, the Convention on the Rights of the Child.

Abolish the ISA or adapt it to conform with international human rights standards (including to the Convention on the Rights of the Child).

Geneva, November 19<sup>th</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case PHL 290803/PHL 290803.CC: Extrajudicial execution**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Philippines.

## **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC-HK) and Task Force Detainees of the Philippines (TFDP), both members of the OMCT network, of the extrajudicial execution of an indigenous Mangyan family - comprising a pregnant mother, 2 infants and their father - by army personnel in Philippines.

According to the information received, on 21st July 2003, Roger Blanco, 8-month pregnant Olivia Blanco, Kevin John Blanco (3 years old) and Dexter Blanco (1 1/2 years old) were killed in Sitio Talayob, Nicolas, Magsaysay, Occidental Mindoro during what was claimed by the military to be an 'encounter' between the 16th Infantry Battalion (IB) of the Philippine Army (PA) and the New People's Army. During the 'encounter', soldiers fired

indiscriminately at the Blanco's house, and Roger and Olivia Blanco, and their children, were killed.

According to the information received, there was no encounter between the military and the New People's Army, and the attack on the Blanco family was unprovoked. The only witness to the event was told to put his signature on a scrap of paper (the foil insert from a cigarette packet). The witness was not aware of what was subsequently added to the paper, and the piece of paper with the witness' signature on it was produced the following day.

Indigenous peoples in the Philippines are repeatedly the victims of violations at the hands of the military, and the Mangyans are often unjustly accused of being members, sympathizers and supporters of the New People's Army.

The International Secretariat of OMCT is gravely concerned about the unnecessary and discriminatory use of force by the 16th Infantry Battalion (IB) of the Philippine Army (PA), which has resulted in the death of the whole Blanco family. OMCT strongly condemns the extrajudicial executions and impunity of the perpetrators. OMCT urges the authorities of the Philippines to grant adequate reparation to the community of the deceased. Furthermore, OMCT urges the Government to take all necessary measures to guarantee an immediate, impartial and effective investigation into the circumstances of these events, identify those responsible, bring them before a competent and impartial tribunal, and apply the sanctions provided for by law. OMCT recalls that two of the victims were children, and that their mother was 8-months pregnant. The Philippines has signed and ratified the Convention on the Rights of the Child, which states, under Article 6, that "State Parties recognise that every child has the inherent right to life" and under Article 38, Paragraph 4) that: "In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict."

### **Action requested**

Please write to the authorities in Philippines urging them to:

- i. order a thorough and impartial investigation into the circumstances of these events, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- ii. put an immediate end to the persecution and harassment of the Mangyan community;
- iii. provide adequate reparation to the bereaved community;
- iv. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, August 29th, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Philippines.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by KARAPATAN (Alliance for the Advancement of People's Rights), a member of the OMCT network, of the torture and Extra-judicial execution of four members of the Anakbayan organisation and Anak ng Bayan party, two of whom are children, as well as the abduction and ill-treatment of a Bayan Muna Cebu regional coordinator, Philippines.

Anakbayan is a mass organization composed of youths and students (as well as community youth) and is a member organization of Bayan (Bagong Alyansang Makabayan or the New Patriotic Alliance) an umbrella organization of progressive groups in the Philippines. Anak ng Bayan is a newly established political party of Anakbayan, which intends to participate in next year's elections and garner a seat as Partylist representative (similarly, Bayan Muna has been established by Bayan as its political party).

According to the information received, on September 19<sup>th</sup>, 2003, at about 3:30 in the afternoon, Lito Doydoy (male age 24, Community Organizer of Anakbayan), Marjorie Reynoso (female age 18, Municipal Coordinator of Anak ng Bayan), Jonathan Benaro (male age 16, member of Anak ng Bayan), and Ramong "Jong-jong" Regase, Jr. (male age 17, motorcycle driver), were stopped while on the way home from a birthday party in Davao City. The four were on board a skylab motorcycle when two vehicles, reportedly a red and white Tamaraw FX, blocked them somewhere in Maco, a few kilometres away from the 1101<sup>st</sup> military outpost. According to witnesses, two of the male victims tried to get away but were shot in the legs by their abductors before being dragged into the vehicle with the others. The perpetrators are suspected to be Willy Javier and other agents of the Military Intelligence Group. Prior to the incident, another skylab driver reports having stopped in his vehicle by Willy Javier at the Maco crossing terminal, during a search for an alleged rebel named Toto Rama.

An hour after the abduction, Gloria Reynoso, Marjorie's mother, tried to contact her daughter via her mobile phone. A recording responded initially, then later she fell upon a man who laughed at her and hung up, and then rang her back, before turning the phone off. The four victims remained missing until the morning of September 23<sup>rd</sup>, 2003, when a banana plantation worker named "Tata," a security guard Juanilo Labaco, and Ernesto Aralan found their bodies in a makeshift shallow grave at the Selecta Farms, Area 307, Purok 1, Crossing Blanco, Brgy, Osmena, Compostella, Compostella Valley Province. Their bodies were piled up on top of each other, with Marjorie at the top.

The victims' bodies revealed signs of torture. Marjorie's mouth was covered with masking tape and her tongue was sticking out, indicating that she may have been strangled. There were also marks around her neck. Her eyes were wide open and she had sustained two gunshot wounds on the left side of her head. Her chest and lower armpit also revealed several bruises.

The three male victims were stripped down to their underwear. They had bruises on different parts of their bodies and a number of what witnesses believed to be stab wounds.

Separately, 45-year-old Mr. Mario "Mayong" Auxillo, a Regional Officer of Bayan Muna (People First), was abducted on September 26<sup>th</sup>, 2003. He was on the way home from a meeting of the Bayan Muna chapter in Sitio Riverside, Inawayan, Cebu, when a dark green L-300 van without license plates blocked his path on the sidewalk. Armed persons in plain clothers, thought to be agents of the Regional Intelligence and Investigation Division of the Philippine National Police, Region 7 Office, descended upon Mayong and dragged him into the van.

He was reportedly then taken to a safe house near the Mactan Airbase in Lapu-Lapu City, where he underwent tactical interrogation about the activities of the New People's Army and Bayan Muna until the next day. The agents also asked him about specific individuals from the region that are involved in the New People's Army. During the interrogation, Mayong's captors punched him in the stomach and struck him on his head if he failed to answer their questions. During this time, Mayong was neither informed of his basic rights nor the reason for his arrest. He was released the following day.

The International Secretariat of OMCT is gravely concerned by the torture and Extra-judicial execution of Lito Doydoy, Marjorie Reynoso, Jonathan Benaro and Ramong "Jong-jong" Regase, Jr., notably as two of them are children, and the abduction and ill-treatment of Mr. Auxillo. OMCT calls on the authorities to immediately order a thorough and impartial investigation into the alleged use of torture and the circumstances of the victims' death, as well as Mr. Auxillo's abduction and the violation of his personal integrity, in order to identify those responsible, bring them to trial, apply the penal and/or administrative sanctions as provided by law. OMCT also calls upon the authorities to guarantee that adequate reparation is provided to Mr. Auxillo and the families of the deceased.

### **Action requested**

Please write to the authorities in Philippines urging them to:

order a thorough and impartial investigation into the alleged use of torture and the circumstances of the victims' death, as well as Mr. Auxillo's abduction and the violation of his personal integrity, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;

guarantee that adequate reparation is provided to the victims of these abuses and their families;

put an immediate end to all forms of torture, cruel, inhuman and degrading treatment in accordance with national and international legislation as well as article 2 of the Convention Against Torture and particularly with article 37 of the Convention on the Rights of the Child.

guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, October 3<sup>rd</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

## **Case PHL 081003.CC:Shooting/Arbitrary detention**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Philippines.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the shooting of one youth and the arbitrary arrest and detention of a minor in Sitio Hayangon, Brgy. Magtikol, Toboso, Negros Occidental, in the Philippines.

According to the information received, Elmer Muñoz, 18, a first year high school student at Bug-ang National High School, and Bongcaoil Entroliso, 16, have been respectively shot at and arbitrarily arrested by unidentified members of 11th Infantry Battalion, Philippine Army belonging to 303rd Infantry Brigade PA Headquarters in Mambukal, Murcia. The alleged motive for this aggression is that they are suspected to be members of the New People's Army.

On September 28, 2003 at about 7:30 in the evening, Elmer, Bongcaoil and a certain Renato were walking home, a kilometer away from where they had just watched a video show in a nearby community. Upon reaching the main road, they saw a ford fierra with signboard Minapasok – Sagay coming towards them. It stopped two meters from where they were standing. The vehicle was in dim light but the victims managed to see about 10 armed persons in uniform on board the jeep. The victims identified the driver as Casio Antipuesto.

The victims continued walking but before they reached the parked fierra they were fired upon by the uniformed men on board. Elmer Muñoz was instantly hit on his right and left arm and on his right leg. He lost consciousness. When he woke up he found himself in the hospital bed at Sagay District Hospital in Sagay City. He was transferred to the Doña Corazon Locsin Montelibano Memorial Hospital in Bacolod City where to date he remains awaiting for an operation to remove the bullets embedded on his wounds. Elmer claimed that he is not a member of New People's Army as reported in the newspaper. His class adviser and teacher at Bug-ang National High School in Toboso is willing to testify that he is an active student in the school and not a rebel.

Bongcaoil Entroliso is currently detained at Toboso PNP Jail, in northern part of Negros Occidental. Renato was at large.

The NPA Boy Gatmaitan Command in a statement released today in local newspapers denied that the victims were their members. However Major Nelson Gerona, 303rd Infantry Brigade spokesman insist that they were indeed rebels.

OMCT urges that the matter be investigated immediately and the perpetrators be brought to justice. OMCT wishes to recall that the Philippines, as a State party to the Convention on the Rights of the Child, are bound to the provision that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Art. 37 (a)). Furthermore, "States Parties shall, in particular, ensure that every child alleged as or accused of having infringed the penal law has at least the following guarantees:

- (i) To be presumed innocent until proven guilty according to law; (...)
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt;" (Art. 40 para. 2 (b))

### **Action requested**

Please write to the authorities in Philippines urging them to:

- i. order a thorough and impartial investigation into the circumstances of these events, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- ii. order the immediate release of Bongcaoil Entroliso in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring him before an impartial and competent tribunal and guarantee his procedural rights at all times in accordance with art. 37 and 40 of the Convention on the Rights of the Child;
- iii. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, October 9, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

### **Case PHL 121103.CC:Shooting/Unlawful killing**

The International Secretariat of OMCT requests your URGENT intervention in the following situation in the Philippines.

### **Brief description of the situation**

The International Secretariat of OMCT has been informed by the Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the extrajudicial killings of two youths by army soldiers in Sitio Doqa Aniceta, Barangay San Roque, Catarman Samar, in the Philippines.

According to Mr. Nestor Corong Sr, the victims' father, who witnessed the killings, Mitchie Boy Vega Corong (16 years old) and Nestor Vega Corong, Jr.(13 years old) were shot dead by units of the PA/CAA 803rd Infantry led by Major Dominggo B. Gobway in Catarman, Samar.

### **Background Information**

According to the information received, on October 19, 2003 at around 3:00 am, Mr. Nestor Corong Sr, a fisherman and his two sons were on the way home after fishing. A few meters away from the shoreline, crossing the road, they were shot at. The two boys died instantly. The father was not hit and shouted for help.

An armed man, later identified as Major Domingo Gobway, asked, "Who are you?" Nestor Sr. responded that they were fishermen heading home and asked him why the soldiers fired at them. According to the information received, Major Domingo Gobway did not reply and appeared to be drunk.

About one to two hours later, two police officers from the Barangay Police Station and a Barangay Councillor came to the incident place. When they arrived, three armed men, in civil clothes suddenly appeared and introduced themselves as members of Major Domingo Gobway's unit. They claimed that the boys were hit during cross-fire with members of the Waray-Waray Gang of suspected criminals. The local police report, signed by the Police Senior Inspector Antonio Villareal Artuz, stated the same. The army claimed that the two teenage boys were members of that gang. Nestor Sr stated that there was no such encounter and that the three were merely returning home from fishing.

Reportedly, the army unit was ordered to conduct an operation in Metro Manila, but it was operating in Sitio Doqa Aniceta, Barangay San Roque, Catarman Samar. Senior Inspector Artuz is reported to have stated in an interview that the military unit was out of its jurisdiction. The unit also did not inform the local police that it was in pursuit of suspected criminals.

OMCT recalls that the Philippines is a state party to the Convention on the rights of the child which ensures that "every child has the inherent right to life." (Art.6(1)). The Philippines is also party to the International Covenant On Civil and Political Rights which states at Art. 6 (1), that "no one shall be arbitrarily deprived of his life".

OMCT is gravely concerned about the large number of gross human rights violations that have been noted in the Philippines and urges that this matter be investigated immediately by an impartial panel. Further, the perpetrators should be brought to justice and punished. We also call upon the government of the Philippines to develop strict guidelines to fully ensure the safety of civilians (especially children) during any military or police action.

### **Action requested**

Please write to the authorities in the Philippines urging them to:

- i. order a thorough and impartial investigation into the circumstances of these events, in order to bring the responsible to trial and apply the penal and/or administrative sanctions as provided by law;
- ii. provide a compensation to the victim's family;
- iii. develop guidelines to fully ensure the safety of civilian people during any military or police action;
- iv. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Please also write to the embassies of the Philippines in your respective country.

Geneva, November 12, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

**Case PHL 281103 / PHL 281103.CC:Arbitrary and incommunicado detention / Torture  
/ Extra-judicial execution**

The International Secretariat of OMCT requests your URGENT intervention in the following situations in the Philippines.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Alliance for the Advancement in People's Rights (KARAPATAN), a member of the OMCT network, of several cases of illegal detention, torture and extra-judicial executions committed by the Army of the Philippines. The first incident took place in San Dinisio Maddela, Quirino, Isabela, and the second in Silio Pasto, Sani Isidrio, Mabini, Bohol, Philippines. Both cases are related to the fight against the New Peoples Army (NPA) rebel group.

According to the information received, 5 youths (including a child) - Leon Punzillan (16 year old), Joana Marie Anacan (19), Melchor Santos (23), Jasmin Agbauag (20), and Marcelo Tumbali (20) were detained after an alleged encounter on November 10<sup>th</sup> between the NPA and members of the 52<sup>nd</sup> and 53<sup>rd</sup> Infantry Battalion of the Philippine Army (IBPA), under the command of Col. Rosete's 502<sup>nd</sup> Brigade. They were brought to a military base called Camp Melchor, where a team of human rights defenders and the victims' families attempted to visit them. It was difficult for them to get access to the detainees and they were threatened and had to wait for a long time before seeing the youths. They did not get to see 16-year old Leon until November 25<sup>th</sup>.

On November 12<sup>th</sup>, KARAPATAN was informed that Joana and Melchor were injured and had been brought to the camp's military hospital. At 11:00 am, they visited Joana, who had a hip injury. During the visit, they were constantly disturbed by unknown men in plain clothes who took pictures of them. The team was also allowed to talk to Melchor at 4:00 pm. He had reportedly been severely tortured and was forced into admitting that he was a rebel. The team also wanted to visit Jasmin that day, but they were told that she had been brought to the Philippine National Police (PNP) in Echague and was then going to be transferred to the PNP in Maddela. Jasmin, however had remained in the camp throughout.

On November 13<sup>th</sup>, Jasmin's father was able to talk to her, and she told him that she had been held in solitary detention since she being brought to the camp on November 10<sup>th</sup> and that she had only been allowed out of her cell on one occasion. Joana's parents were also allowed to talk to their daughter (at the military hospital), but they were guarded by soldiers during the visit. She told them that the military forced her to sign a waiver indicating that the detainees were requesting to be detained indefinitely at the camp. No information was available concerning Leon and Marcelo at this time.

On November 15<sup>th</sup>, Melchor claimed to have seen Marcelo in the camp, with bruises all over his body. The next day, Marcelo was allowed to meet with his father and stated that he had been tortured by soldiers. On November 17<sup>th</sup>, he was again placed into incommunicado detention and the military said that he would be transferred far away and charged. 16-year old Leon was finally allowed to see his parents on November the 25<sup>th</sup>, but they were guarded by soldiers during their meeting.

The five detainees were reportedly charged on November 19<sup>th</sup> for “illegal possession of firearms and explosives” and “direct assault”. It was also reported that a "directive" would enable Colonel Rosete to have custody over them during the time of investigation. The detainees have still not been brought before a court and remain at the camp, with access to the lawyers and their families often being obstructed.

Separately, at around 2:00 am on November 19<sup>th</sup>, 8 members of the NPA came to the Asas family house in Silio Pasto, San Isidro, Mabini, Bohol to drink water. They were then invited by Martiniano Asas to spend the rest of the night there. At 5:30 AM, when the NPA members were leaving the house, soldiers from the Philippines Army’s "Alpha Company" opened fire on the house. Martiniano's wife Bebiana and 2 of their 4 children were injured: Bebiana received a wound to the stomach and her sons Junrey and Marvin were hit in the shoulder and head respectively. After an exchange of fire lasting around 30 minutes, the family was interrogated by soldiers. Others went to the back of the house, where they saw two injured NPA members, with arms raised in surrender. The soldiers reportedly stood over the men, Ronilo Cabacoy (20) and Buenaventurado Potane (42), and shot them. They later justified their acts by saying that they had to ensure that the rebels were not just playing dead. The soldiers then ordered Martiniano’s son Jerry (20) to carry off the bodies on his cart towards the town centre.

The International Secretariat of OMCT is gravely concerned by these serious human rights violations and urges the authorities to: guarantee the physical and psychological integrity of all concerned persons under all circumstances; to launch an impartial investigation into the circumstances of these events, in order to bring perpetrators to justice; and to award reparations to the victims and their families.

OMCT recalls that the Philippines signed the Universal Declaration on Human Rights and are a state party to the major Human Rights instruments such as the Convention on the Rights of the Child which establishes minimum guarantees for detained children in its Arts. 37 and 40. The Philippines are also party to the International Covenant On Civil and Political Rights which states in its Art. 6 (1), that “no one shall be arbitrarily deprived of his life” and to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which prohibits torture under all circumstances.

### **Action requested**

Please write to the authorities in Philippines urging them to:

- guarantee the physical and psychological integrity of the detainees, guarantee them access to family visits, appropriate medical assistance and legal representation, and immediately bring them before a competent and impartial civilian court;
- order a thorough and impartial investigation into the circumstances of these events, in order to bring the responsible to trial and apply the penal and/or administrative sanctions as provided by law;
- provide adequate reparation to the afore-mentioned victims and the families of the deceased;
- guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, November 28<sup>th</sup>, 2003.

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

## **Case PHL 221203.CC:Torture/Attempted Execution/Illegal detention**

The International Secretariat of OMCT has been informed by Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the ongoing detention without trial of 16-year-old Jenny Rom in the Philippines. He was severely tortured and shot at by members of the Philippine Army on February 13<sup>th</sup>, 2003 and was subsequently illegally detained with adults for more than 6 months. In August 2003, OMCT sent an Open Letter to the Philippine President Ms. Gloria Macapagal-Arroyo, urging her to guarantee the procedural rights of the boy and to launch an investigation into the circumstances of his case. However, the boy remains in custody. Yet, there are hopes that the Department for Justice will include his name in the list of prisoners the President will pardon this year on Christmas day.

### **Background Information**

According to the information received, Jenny Rom was arrested on February 13<sup>th</sup>, 2003, by members of the 19<sup>th</sup> Infantry Battalion of the Philippine Army (IBPA) based in Barangay. They were conducting an intensified operation against rebels in the boundaries of Ormoc, when they encountered him. He was handcuffed and, accused of being rebel, asked to pinpoint alleged NPA camps in the area. During this interrogation session, he was punched and beaten every time he denied being a member of the NPA. Finally, the soldiers shot him in the neck and left him in an isolated place, assuming that he was dead.

As Jenny woke up, he was able to reach the neighbouring village where he received assistance and the next day his uncle took him to the hospital. However, instead of receiving medical assistance, he was reportedly interrogated by the police regarding his gunshot wound. Then, the army members who had tortured and shot at him the day before, came and took him to the Burauen Municipal Jail, charging him with multiple homicide.

The 19<sup>th</sup> IBPA claims that Jenny was hit during an encounter between the army and the NPA on January 30<sup>th</sup> 2003, in Sitio Bilisong, Barangay Damuloan in Burauen. They allege that his gunshot wound in the neck is a result of that incident. The complaint was, however, only presented at the Burauen Municipal Trial Court on February 17<sup>th</sup>, 17 days after the alleged encounter and 2 days after Jenny's arrest.

According to the information received, the Public Attorney's Office filed a motion to place Jenny in the custody of his parents on March 5<sup>th</sup>. But Jenny remained at Burauen Municipal Jail.

On July 14<sup>th</sup>, the Social welfare Officer II Alicia Bolante from the DSWD (Department of the Social Welfare and Development) issued a study report on the case, after having received an order to do so from the presiding judge on March 27<sup>th</sup> and after requests from TFDP. This report stated that (1) Jenny was indeed a member of the NPA, (2) that he was grateful that the military rescued him from the hostile attitude of the NPA and (3) that he was a victim of wrong ideology and forced membership. Despite this, the DSWD also appealed for his temporary release. But the court merely ordered to transfer him to a detention cell for minors at the Leyte Sub Provincial Jail - after more than 6 months of illegal detention in an adult detention facility. Today, he is still detained there and is charged with "multiple frustrated homicide".

The International Secretariat of OMCT has never received an answer to its open letter to President Ms. Gloria Macapagal-Arroyo and remains deeply concerned about Jenny Rom's

situation for the following reasons: Firstly, the case description above reveals various incoherencies and issues of concern. In its report from July 14<sup>th</sup>, the DSWD confirmed the allegation of Jenny being a NPA member. Despite that, he was only charged with a common crime: multiple frustrated homicide. It remains unclear, if he committed these alleged crimes in the quality of NPA member or for any other reason. Although the DSWD report mentioned above was ordered by the presiding judge, the court did not apply its recommendation to temporarily release the boy. The motion of the Public Attorney's Office for placing Jenny under custody of his parents was also not retained by the court. Serious concerns about Alicia Bolante's impartiality were expressed by some sources.

OMCT urges the Philippine authorities to take action in order to consider these incoherencies and to guarantee the impartiality of the investigation.

Secondly, despite Jenny's transfer to a cell for juveniles in July 2003, OMCT remains concerned about his conditions of detention. OMCT calls upon the Philippine authorities to fully respect international standards for minor detainees, including the "United Nations Rules for the Protection of Juveniles deprived of their liberty" which state that: "Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. (...) When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention (§17)". They shall be guaranteed the presumption of innocence and all detained juveniles "should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training" (...) (§18 (b)). This is essential to fulfil the duty of "counteracting the detrimental effects of all types of detention and to fostering integration in society" (§3). "The need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities" shall be assured in the detention centres (§32). Finally, " every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmologic and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community" (§ 49).

OMCT also calls upon the Philippine authorities to provide reparation to Jenny Rom for the time spent in illegal detention in a facility for adults, as well as for the acts of torture he suffered. The perpetrators of these acts should be brought to justice.

Lastly, there reportedly exists the possibility that Jenny Rom will be on the Philippine Department for Justice's list of detainees which will be pardoned by the President Ms. Gloria Macapagal-Arroyo at the end of the year. OMCT strongly supports this proposition and calls upon the Philippine President to do so, especially in the light of his young age, the harsh living conditions under which he was illegally detained, the torture and the gunshot wound he suffered and the fact that his alleged crimes have still not been proved in a fair and impartial trial.

## **Remarks**

TFDP has already taken action regarding the case, asking President Ms. Gloria Macapagal-Arroyo in a letter to grant the boy clemency and release. They have also called upon the Philippine authorities to consider release on humanitarian grounds for some other detainees, including Irene Plagtiosa, Lucena Lagado and Antonieta Pegoria, all women living in jail with their young children, as well as Eutiquio Cherreguene, a 67-year-old woman in detention since 1986. OMCT supports these efforts and calls upon the Philippine authorities to closely consider these cases.

### **Action requested**

Please write to the authorities in Philippines urging them to:

- guarantee the impartiality of further investigations into the circumstances of the aforementioned events, in order to bring the responsible to trial and apply the penal and/or administrative sanctions as provided by law;
- guarantee adequate conditions of detention for Jenny Rom if he is proved to be responsible for the alleged acts in a fair trial and sentenced to deprivation of liberty or, otherwise, release him immediately;
- consider granting clemency and releasing Jerry Rom at the end of the year;
- provide him with adequate reparation for the illegal detention and acts of torture endured;
- guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Geneva, December 22<sup>nd</sup>, 2003

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

## 5. Alternative reporting to the Committee on the Rights of the Child

### **Press release: OMCT publishes 18 country reports on the rights of the child**

in

**Ethiopia, Egypt, Democratic Republic of the Congo, Turkey, Guatemala, Paraguay, Cameroon, Kenya, Bahrain, Spain, Switzerland, Tunisia, Argentina, Sudan, Ukraine, the Czech Republic, Haiti and Italy**

International Day in Support of Victims of Torture  
June 26<sup>th</sup>, 2003

Since 2001, in partnership with local NGOs and members of the OMCT network, and supported by the European Commission Democracy Programme, Misereor, and the Fondation de France, the World Organisation Against Torture (OMCT) has produced 18 alternative country reports presented to the UN Committee on the Rights of the Child, now available to the public in English, French and Spanish.

The goal of these reports is to highlight the deficiencies or the improvements of national legislation regarding the international commitments made by governments in protecting the rights of the child, as well as to denounce practices contrary to these commitments. These reports were presented orally before the UN Committee on the Rights of the Child and widely circulated.

Several of these reports showed that the practice of torture and other ill treatment against children, often in police stations or detention centres, remains all too frequent. OMCT denounced practices such as sexual abuse, blows to sensitive parts of the body, cigarette burns, keeping children standing in the hot sun, food and sleep deprivation, as well as placing them in solitary confinement. Moreover, OMCT also denounced the inhuman conditions of detention in which many children are held. They are often detained with adults and are kept in overcrowded establishments where sanitary conditions are often disastrous, access to basic care very limited or non-existent, and education, protection and rehabilitation opportunities rarely provided.

Several reports also showed that children's vulnerability to torture and ill treatment increases when children belong to groups that are marginalised either economically or socially or to minorities: for example, street children in Guatemala and Honduras, Kurdish children in Turkey and children belonging to the Shiite minority in Bahrain.

In some instances, state of emergency as well as exceptional state security measures have paved the way for abuses of power, arbitrary arrests and detention of children (Turkey), or even disappearances and summary executions in the worst cases (Cameroon).

Gender discrimination is another major cause of torture and violence against children that OMCT reports highlighted. The situation of girls is particularly worrying in that they are more frequently exposed to attacks on their physical and psychological integrity than boys. Female genital mutilation has long been considered a traditional practice not directly involving the international human rights defence mechanisms. Nonetheless, this situation has begun to change over the last few years and it is now more widely agreed that these mutilations may in

some cases be deemed tantamount to torture. OMCT focused on this practice in its reports on countries such as Egypt, Ethiopia, Cameroon and Kenya.

The administration of corporal punishment on children in detention, in school or within the family is still widely tolerated in certain cultures. The administration of blows resulting in death in schools was reported in Kenya, and sentencing to corporal punishment is still legal in detention centres in Ethiopia.

Trafficking in children for the purpose of sexual exploitation or forced labour is also an extremely worrying phenomenon that OMCT has noted in several of its reports. Ukraine and the Czech Republic, for example, are major source or transit countries for this inhuman trade. OMCT also denounced the attitude of authorities in certain destination countries, such as Italy, which tend to treat these children as illegal immigrants rather than as the victims of serious abuse.

In Spain, OMCT condemned the arrest and arbitrary expulsion of street children of Moroccan origin in Ceuta and Melilla. In Switzerland, OMCT denounced the possibility of placing in administrative custody juvenile asylum seekers over the age of 15, whose request has been rejected.

The Committee on the Rights of the Child has, on several occasions, expressed and appreciated the usefulness and accuracy of the information submitted by OMCT, and taken into account the recommendations proposed. The drafting of the report in partnership with OMCT's members has been instrumental in fostering follow-up of the recommendations at national level. The reports have as well been transmitted to the other relevant international and regional human rights mechanisms that acted as multipliers.

Each of the reports ends with OMCT conclusions and recommendations intended as tools for the treaty bodies, States, human rights NGOs, child rights organisations, members and non-members of the OMCT SOS-Torture network and anyone concerned by the rights of the child at all levels. They also include the Concluding Observations of the Committee on the Rights of the Child.

These reports are now available in English, French and/or Spanish on OMCT's website [www.omct.org](http://www.omct.org) or can be ordered by phone or fax to OMCT

For further information concerning OMCT's Children's Rights Programme please contact : Séverine Jacomy [sj@omct.org](mailto:sj@omct.org) or Sylvain Vité [sv@omct.org](mailto:sv@omct.org)

**Press Release: Bangladesh, Georgia, Madagascar and Pakistan examined at the UN Committee on the Rights of the Child**

Geneva, October 2nd, 2003

As the 34<sup>th</sup> session of the UN Committee on the Rights of the Child draws to a close, OMCT expresses deep concerns about most serious violations of children's rights in Bangladesh, Georgia, Madagascar and Pakistan.

OMCT is concerned about numerous aspects of juvenile justice in these countries. In Pakistan and Bangladesh, children are considered *criminally responsible at the age of 7*, exposing them to imprisonment and ill-treatment. Young girls, who have been *sexually abused or married at an early age*, face *severe punishments* for unlawful sexual intercourse. Minors who have committed petty offences can be sentenced to several years of imprisonment or corporal punishment. In these two countries as well as in Madagascar, *living conditions of detentions are unacceptable*. Severe overcrowding, poor sanitary conditions and inadequate nutrition impede the positive development of children.

In all four countries, OMCT has documented disturbing trends such as extended periods of detention and ill-treatment both in police custody and pre-trial facilities. Instances of *torture of children by the police* have been reported in each country. There is extensive recourse to *pre-trial detention, where conditions are often worse than in post-trial detention centres*.

*Children who are victims of poor socio-economic situations, neglect and/or sexual exploitation but have not committed any offences are routinely deprived of their liberty* on the grounds of protection.

At the session of the Committee on the Rights of the Child, the governmental delegations of Bangladesh, Georgia, Madagascar and Pakistan made *minor commitments to improve this dreadful situation*. OMCT urges the Committee on the Rights of the Child to issue strong recommendations to support these efforts, to request further change and to ensure *full and immediate implementation* of the Convention on the Rights of the Child, with particular attention to its articles 2 (non-discrimination), 19 (violence), 37 (torture and deprivation of liberty) and 40 (juvenile justice).

These reports are now available on OMCT's website [www.omct.org](http://www.omct.org) (<http://www.omct.org/displaydocument.asp?DocType=Report&Index=2135&Language=EN>) or can be ordered by phone or fax to OMCT.

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