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Seminar Report

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

Geneva, 18-22 June, 2007

“By knowing each other, we learn from each other, are encouraged, stand for each other and use the useful tactics of different countries in different situations”

Rosaline Costa, Hotline Human Rights, Bangladesh (seminar participant)



The European Union through the European Initiative for Democracy and Human Rights is providing substantial support for this project



Seminar participants and members of the OMCT secretariat at the conclusion of the special procedures seminar

What Have We Learned?: key points from the seminar

The participant in this seminar agreed that in order to reduce violence it is crucial for NGOs to identify and address its economic, social and cultural root causes. The UN special procedures mandate holders who attended the OMCT seminar were also clear in their conviction that violence and torture are linked to the denial of economic, social and cultural rights.

Reducing violence associated with the denial of economic, social and cultural rights not only involves examining how violence is generated in specific national contexts, but also understanding how global dynamics and the policies of international financial institutions are played out in local situations. Closer links between NGOs engaged in the promotion of human rights and those working in the area of development can enhance this understanding.

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

Addressing Key Questions

Seminar participants addressed four key questions during a series of “brainstorming” sessions.

- 1. What are the policies, programmes and projects that are causing or risk causing the poverty and inequality that lead to violence?**
- 2. What needs to be done at the national level to effectively address these root causes?**
- 3. How can the mandates of the UN special procedures system help address the economic, social and cultural root causes of torture and other forms of violence?**
- 4. What needs to be done to strengthen the capacity of national NGOs to address the economic, social and cultural root causes of torture and other forms of violence?**

The main points identified are set out below: a fuller account of the discussion is presented in Section XII of this report.

1. What are the policies, programmes and projects that are causing or risk causing the poverty and inequality that lead to violence?

Economic context:

- Globalisation, international movement of labour; international business interests can all contribute to inequality;
- Economic policies promoted by the World Bank, IMF and others, together with the agricultural policies of developed countries, fail to take into account the position of vulnerable groups including women, children and minorities;
- Corruption (including in state mechanisms), poor implementation of policies and conflict of interests all exacerbate poverty;
- Regional instability and regional disparities enhance inequality;
- Poorly implemented projects in the field reaching only a proportion of potential beneficiaries or creating socio-economic disparities;
- High expectations for service delivery, protection and economic improvement among populations, but slow delivery;
- High unemployment, inadequate social security;
- Privatisation of services and resources, including land and water, with no adequate compensation for those affected.

Social and cultural context:

- Programmes and policies implicitly or explicitly based on class and other forms of discrimination, including caste;
- Slow eradication of the system of bonded labour (Nepal) and the slow rehabilitation of those involved;
- Street children and large numbers of unschooled youths; orphaned and vulnerable children, institutionalisation and inadequate foster care;
- No or poor implementation of protection measures for women and children;
- Discrimination against indigenous peoples, evictions from their land etc;
- Inadequate post-conflict demilitarisation, demobilisation and decommissioning programmes.

Political and legal contexts:

- There are often inconsistencies between statutory and customary legal systems where the two of these co-exist;
- Limits on freedom of association and assembly;
- Emergency laws and their impact upon civil society;
- Use of misleading statistics (e.g. former Soviet Union) and investigations;

2. What needs to be done at the national level to effectively address these root causes?

Socio-economic policy

- Implement new economic models with emphasis on effective public policy, resource equity and employment generation;
- Adopt gender sensitive economic policies;
- Peace-building approach to resolution of conflict of interests;
- Implement human rights-oriented agrarian reform;
- Promote and protect minority rights;
- Ensure full social participation for all groups;
- Reform taxation policies that unfairly penalise the poor;
- Provide adequate salaries and employment security for public sector employees.

Legal measures

- Build capacity to ensure effective monitoring of corruption, and prosecution when necessary;
- Address impunity as an imperative;
- Ensure the independence of the judiciary through legal measures and financial independence;
- Strengthen the system of legal aid;
- Promote the introduction of local domestic laws prohibiting torture in countries that have not ratified the Convention against Torture;
- Introduce adequate firearms legislation and ensure its effective implementation, and better policing of borders to control illegal arms.

NGO action

- Re-align statutory and customary legal systems;
- Promote grassroots education, with particular emphasis on ESC rights;
- Engage in fact-finding missions on the ground;
- Reinforce the impact and strengthen the coordination of NGOs;
- Carry out human rights impact assessment for policies and projects;
- Monitor violations of ESC rights on a national level together with international NGOs;
- Conduct a national study of the criminal justice administration system (how effective is it?) With special emphasis on the perspective of the poor;
- Support freedom of government to ratify laws, be vigilant and communicate developments to the international level;
- Observe trial proceedings;
- Support an international review of questionable or misrepresentative national statistics;
- Provide, and promote adherence to, a clear and just universal definition of terrorism;
- Work to ensure that the absolute prohibition on torture is respected;
- Monitor justice delivery on torture by national human rights institutions.

3. How can the mandates of the UN special procedures system help address the economic, social and cultural root causes of torture and other forms of violence?

Special procedures mandate holders could:

- Incorporate a clear economic, social and cultural rights perspective in the planning, execution and follow-up of country visits;
- Take a cross-cutting approach to ESC rights in report preparation;
- Include consultations with development NGOs;
- Promote national, regional and international meetings on ESC rights and torture;
- Establish the link between violation of ESC rights and torture across countries eg. impact of World Bank policies in various countries;
- Address the limits imposed on civil and political rights in the context of the “war against terrorism”, especially in industrialised countries;
- Oversee national curriculum development to ensure adequate training and education on human rights;
- Monitor national systems of reforms to ensure equity;
- Monitor the administration of justice and ensure that the system is impartial;
- Call for the protection of human rights defenders working in the area of ESC rights.

How can NGOs support the work of the UN special procedures system and other UN mechanisms? (See section V for more detailed guidance from mandate holders)

- Add their voice to calls for country visits by the special procedures mandate holders and work to overcome government intransigence. OMCT can provide support for this. Can NGO networks pressure the UN system to provide funds for visits?;
- Check the meetings organised for mandate holders during a visit as well as ensure the integrity of the sources of materials and information. OMCT has a coordination role in contacting mandate holders and NGOs, monitoring the visits and ensuring NGO input into the programme;
- Provide material including country-specific information to support the special procedures mandate holders, complementing the information and knowledge of international NGOs;
- Ensure effective documenting of facts when the mandate holders collaborate with civil society on rights violations;
- Encourage mandate holders to take a horizontal approach to issues of violence and torture and make explicit their economic, social and cultural root causes in report drafting;
- Support the mandate holders to bring this information to the UN;
- Explore with mandate holders the possibility of making unofficial visits (lectures, training visits etc);
- Invite mandate holders and experts for thematic meetings with national NGOs, also with the involvement of universities and, importantly, of those directly affected.
- Monitor the treaty body reports submitted by their own countries and send their comments and observations to the relevant mandate holders through the OHCHR;
- Contribute to the UN Universal Periodic Review.

4. What needs to be done to strengthen the capacity of national NGOs to address the economic, social and cultural root causes of torture and other forms of violence?

Key measures to strengthen the capacity of national NGOs to address the economic, social and cultural root causes of torture and other forms of violence include:

- Monitoring and carrying out research on the links between violations of economic, social and cultural rights and torture by developing the capacity of resource persons at the grassroots level to investigate and address the links (enhance their knowledge, promote training and awareness raising);
- Creating databases of material pertaining to the links between violations of economic, social and cultural rights and torture;
- Assembling Special Procedures materials on violence, torture and ESC rights, and especially on issues of poverty and inequality ;
- Establishing links between human rights and development NGOs to better investigate and acting upon the links between violations of economic, social and cultural rights and torture;
- Developing networking both through the internet and by sharing printed materials;
- Producing periodic reports on the violation of ESC rights (this needs funding);
- Identifying funding sources for work on ESC rights (OMCT can support this by providing NGOs with information on grants from the international community for which they might qualify).

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I. Introduction

From 18 to 22 June 2007, OMCT hosted an international seminar in Geneva on “Addressing the economic, social and cultural root causes of violence through the UN Special Procedures System”. This seminar, attended by representatives of national human rights NGOs from 14 countries, was an important element of OMCT’s three-year project on “Preventing Torture and Other Forms of Violence by acting on their Economic, Social and Cultural Root Causes” funded by the European Union. Several of the organisations represented by the seminar participants also receive funding for their activities from the European Union.

In its interdisciplinary study “Attacking the Root Causes of Torture: Poverty, Inequality and Violence” OMCT clearly demonstrates the link between, on the one hand, the denial of economic, social and cultural rights and, on the other, torture and other forms of violence. This OMCT project is intended to develop concrete measures to act upon this link and reduce levels of violence associated with socio-economic conditions. The Special Procedures mechanisms represent a significant element in this regard. It is, therefore, important that national NGOs addressing both human rights and development issues are aware of how to interact most effectively with these mechanisms.

The NGO representatives - from Argentina, Bangladesh, Brazil, Burundi, Colombia, Egypt, Gambia, Georgia, India, Liberia, Nepal, South Africa and Zambia - held in-depth discussions with leading special procedures mandate holders responsible for issues relating to torture, indigenous peoples, the right to health, arbitrary detention, protection of human rights defenders and violations of human rights by private security forces. The participants explored how those mandates and the others in the special procedures system could help them address the root causes of torture and violence in their countries and discussed what national NGOs needed to do to help make the special procedures effective. Guest speakers also examined the macro-economic and political policies that need to be addressed to reduce inequality and the resulting violence and illustrated the ways that national NGOs, with international collaboration, can effectively act against government policies that risk increasing poverty.

The participants in the seminar concluded that in order to fight violence it is crucial for NGOs to identify and address its economic, social and cultural root causes; that NGO action can be effective in this regard, that the United Nations procedures can be of significant assistance if NGOs provide reliable and targeted information, and that it is important for OMCT to continue to develop its capacity to support national NGOs in this area.

OMCT would like to thank all the speakers who took time to share their insights and experience in the course of this seminar. It would also like to thank the staff of the UN Office of the High Commissioner for Human Rights for the support and guidance they provided. OMCT is grateful to the European Union and the Karl Popper Foundation for their financial support for this project.

II. Objectives and Programme of Work

Within the context of the OMCT programme on “Preventing Torture and Other Forms of Violence by Acting on their Economic, Social and Cultural Root Causes”, the objectives of this seminar were to:

- I. Build a common understanding of the economic, social and cultural root causes of violence and provide national NGOs with the basis to address the poverty – violence link, in particular, through the UN special procedures system;
- II. Dialogue with mandate holders to determine what they can do to address the poverty – violence link, what input they need and how NGOs can help;
- III. Design a strategy and timetable for action to help national NGOs address the poverty – violence link on the national level and through the UN special procedures system and lay the foundations for a network to provide continuing support to NGOs.

This was achieved by focusing on four key questions;

1. What are the policies, programmes and projects in the participant’s country that are causing or risk causing the poverty and inequality that leads to violence?
2. What needs to be done on the national level to effectively address those root causes?
3. How can the mandates of the UN special procedures system help address the economic, social and cultural root causes of torture and other forms of violence?
4. What needs to be done to strengthen the capacity of national NGOs to address the economic, social and cultural root causes of violence?

The detailed programme of work for the seminar is included in Appendix 1.

Methodology

Given that the seminar group was relatively small (14) and that interaction among participants was dynamic, activities throughout the week were carried out in plenary rather than working groups.

Issues for the Mandate Holders

On the first day of the seminar participants identified general themes and issues associated with the special procedures mechanisms that they were particularly keen to explore. Specifically, participants considered that the mandate holders might:

- i) indicate what national NGOs and human rights defenders can safely do to support the special procedures mechanisms to address issues of concern in their respective countries;
- ii) indicate what activists can do locally and how they should focus their work. Suggest means and mechanisms to achieve this;
- iii) express their views on the link between ESC rights and their individual mandates. Explain what they do to address these issues;
- iv) provide guidance as to how to ensure sustained and effective follow-up on the basis of the findings of their reports.

The participants met with six special procedures mandate holders (see Section V). Each meeting consisted of a presentation by the mandate holder and a round table discussion. Prior to meeting with the mandate holders, participants discussed the themes they wished to explore and how best to coordinate their approach.

The round table discussions with individual mandate holders were complemented by the opportunity to attend public sessions of the 14th meeting of special procedures mandate holders at the Palais Wilson, Office of the High Commissioner for Human Rights (see Appendix 5).

Participants also met with experts who were invited to give a macro-economic analysis of the issue of torture and violence and introduce an important development perspective (see Section VI). In addition, participants met with OMCT staff to discuss the organisation's programmes, and with the director of OMCT, to dialogue on how to strengthen the OMCT network.

In order to exchange experiences, each of the participants presented their country situation (see Section III). These presentations were followed by question and answer sessions in which the participants explored the economic, social and cultural roots of torture and violence in each of the countries discussed. Many participants provided documentation and reports, as well as their own written papers (available on the OMCT website www.omct.org). A number also brought videos, which were shown in the course of the week and which are also available on the OMCT website).

The latter part of the seminar was dedicated to drawing out the key issues and lessons learned in the course of the seminar (Section VI), and drawing up a timetable for future activities (see Section VII). To facilitate this, a number of participants formed an *ad hoc* working group.

At the conclusion of the seminar an oral and written evaluation was conducted with the aim of identifying areas for improvement for subsequent seminars associated with the project. A summary of the written responses is included in Appendix 7.

III. Setting the Context: Presentations by NGO participants

This section offers a brief introduction to the seminar participants. In addition to written papers (see OMCT website), each participant offered an overview of some of the key human rights concerns in her or his country and, in particular, to the link between violence and the situation as regards the enjoyment of economic, social and cultural rights. Participants were also invited to introduce their organisation and indicate whether it focuses predominantly on human rights or development issues.

Argentina: Mr. Gustavo Federico Palmieri, Centro de Estudios Legales y Sociales (CELS)

CELS was a “traditional” NGO founded during the dictatorship. It now addresses human rights violations under democracy and focuses largely on legal issues.

The problems faced in Argentina today are closely related to the economic crisis of the 1990s. In the early 1990s, 5 per cent of the population of Buenos Aires was unemployed, while 10 per cent lived in poverty. By 2001, these figures had risen to 25 per cent and 65 per cent respectively. The emphasis of government economic policy is shifting from ensuring employment to attracting investment and promoting industry. There is extreme social stratification. Shanty towns for the poor and “private” towns for the rich are expanding and the crime rate is rising. Due to its political and historical heritage, the police is geared for control and is poorly structured to address organised crime. The rising crime rate also contributes to prison overcrowding, as does the recent increase in maximum sentences. The independence of the judiciary on the federal level has been improving in recent years, but lower levels of the justice system still demonstrate high levels of corruption. Regarding the UN special procedures, Argentine NGOs are not accustomed to dealing with this system, and would more often use the Inter-American system. Mr Palmieri stressed the importance of building alliances between human rights NGOs and NGOs representing victims of the dictatorship.

Bangladesh, Ms. Rosaline Costa, Hotline Human Rights

Hotline Human Rights has a strong focus on human rights. It works closely with tribal and indigenous peoples.

Ms Costa underlined that there are significant links between religious fundamentalism, widespread gender discrimination and repression in Bangladesh. Phenomena such as kidnapping, acid attacks, honour killings, child labour and sexual abuse all have social and economic root causes and, to the extent that these phenomena become internalised, also have a cultural dimension. Marginalisation of tribal groups in Bangladesh is a serious concern, as the government seeks to occupy their lands. Arbitrary arrests of journalists, NGO workers, HR defenders and other activists have also taken place in the country. Trafficking of women and children is common and is often carried out with police cooperation. Since 2001 in particular, there have been killings carried out by special Islamic forces and government troops, with no accountability. The causes of violence in Bangladesh include corruption (the gap between rich and poor is widening) and the misuse of political power. The government is unaccountable to the electorate. There is a lack of transparency, especially as regards budgetary issues and law enforcement. Funding for education is being misappropriated and youth are being ideologically primed, in particular to target “un-Islamic” locations. Low levels of literacy exacerbate these

phenomena. Although the Convention Against Torture has been ratified, it is not implemented.

Brazil, Ms. Eulange de Sousa, Movimento Nacional de Meninos de Rua (MNMR)
MNMR works on both legal and development issues and, in particular, focuses on sustainable solutions.

There are now four generations of street children in Brazil, and there is a lack of consistent measures to reduce these numbers because successive governments change approach. The situation is exacerbated by the fact that NGO activities are generally not coordinated and do not necessarily work in a complementary fashion. Ms. de Sousa indicated that this situation calls for a new and coordinated strategy for addressing the issue of street children and pointed out that recently the number of street children has been decreasing thanks to long-term (10 to 15 years) efforts supported by UNICEF and other UN agencies. Education lies at the heart of an effective response and, indeed, education for children is the key to building a society of informed citizens. The issue of street children is closely linked with institutional issues in Brazil. The children possess a culture of survival and learn to play off various actors, including the Church, politicians and the police. Drug dealing also has a strong impact on their life, and many children are forced to distribute narcotics. They thus live in an extremely violent social context. In 2006, for example, the state of São Paulo, one of the most populated and economically important states in Brazil, experienced violent attacks by criminal organizations that resulted in the death of some 70 police officers. In response, a number of poor black youths in the outskirts of the City of São Paulo were killed in acts of execution consistent with those carried out by groups inside Brazil's security system. In the context of the discussion on street children with other participants, it was noted that in Egypt children may be deliberately mutilated to "enhance" their capacity to beg on the street. Children are also trafficked for begging. In Burundi, street children come from all three ethnic groups in the country. Their situation is closely linked to poverty and HIV/AIDS. In Zambia, a growing number of girls are living on the street, increasing their vulnerability to violence. They sniff glue to reduce hunger.

Burundi, Mr. Didace Kanyugu, Action by Christians for the Abolition of Torture (ACAT)

ACAT activities emphasise advocacy – especially advocacy for the establishment of an institution to address crimes of the past. ACAT also provides assistance to victims of violence.

Burundi is emerging from a decade of civil war and is now enjoying political stability, however Mr. Kanyugu pointed out that there are real threats to the progress made to date. The evictions and killings that took place during the war left many orphans, a large number of whom took to living on the street, where their rights were often violated. This group represents a potential source of violence, especially since political groups can easily manipulate these young people for their own goals. Furthermore, decommissioning of weapons has not been carried out effectively, and demobilization took place without disarmament. (South Africa is also faced with an ongoing problem of demobilisation of ex-combatants, as well as the arrival of others from Zimbabwe and Mozambique). Those involved in crimes related to the war enjoy impunity, and this creates frustration among victims and potentially leads to violence. Cultural discrimination is apparent with respect to the Batwa minority, which experiences particular economic hardship. There is a

pressing need to improve the efficiency of the justice system and ensure the independence of the judiciary. To date torture has not been criminalised under Burundi's law, although there is now a draft law to this end.

Colombia, Father Emigdio Cuesta Pino, Conferencia Nacional de Organizaciones Afrocolombianas (CNOA)

CNOA pursues an integrated approach to human rights for Afrocolombians and indigenous peoples.

Colombia faces war, drug trafficking, natural disasters, political corruption and paramilitary oppression. Inequality and poverty are widespread, and there are 22 million poor. Social and political violence is commonplace, as is racial discrimination. The Colombian State estimates that Afro-Colombian people make up 10.5 per cent of the population, while NGOs estimate between 25 and 26 per cent. They live mostly on the Pacific coast, along with many of Colombia's indigenous peoples (who constitute approximately 5 per cent of the country's population). Colombia is engaged in a concerted drive toward economic development, resulting in severe pressure on the resource-rich Pacific Coast (largely in the form of extraction and infrastructure projects). State attempts to crush guerrillas groups and destroy drug crops by spraying (with *glifosato*) also have a negative impact of the entire population of the region. Father Pino emphasised the importance of the special mechanisms giving consideration to the situation of Afro-Colombians and indigenous peoples, as well as to that of women and children in Colombia.

Egypt, Ms. Shaima Rezk, Land Center for Human Rights

The Land Centre for Human Rights is an NGO committed to supporting groups affected by land reform

The geo-political position of Egypt greatly influences the economic and social conditions in the country and hence the prevalence of violence and torture. A large part of the territory is desert and productive land is scarce. Water is also a highly valuable resource. Meanwhile cotton production, one of the country's most important economic activities, is being undermined by trade tariffs and the policies of the WTO and other international financial institutions. Agrarian reform policies began in 1987 and saw the liberalization of prices for crops such as wheat and peanuts. Through the 1990s, this liberalization was applied to other crops. The Government also ended subsidies for seeds, pesticides and fertilizers. Furthermore, laws have been changed to favour large-scale agricultural producers, and there is severe pressure on small-scale farmers to leave their land. Land reform introduced in the 1990s saw large increases in the level of rent for agricultural land. The implementation of the agrarian reform law (1992) was accompanied by violence on the part of the State (murders, injuries and arrests) throughout the 1990s, and into the early years of this century. Tourism is also important to the economy, and access to tourist locations and resorts for Egyptians is tightly controlled (road blocks, police check points etc). In all, the poor are becoming both economically marginalised and spatially controlled.

The Gambia, Mr. Sheikh E.T. Lewis, International Society for Human Rights (ISHR), Gambia Section

ISHR is one of the biggest human rights centres in the Gambia. It uses both law and development as tools to promote human rights.

The Gambia is a small country with a population of some 1.8 million. Gambia belongs to the group of Heavily Indebted Poor Countries (HIPC), there are no natural resources, and some 60 per cent of the population is very poor. The human rights situation is serious, and in many ways comparable to that of Nigeria. The current president came to power in a military coup in 1994 that banned political activity. A new constitution was drawn up in 1996, and presidential elections took place in the same year. The president exerts a disproportionate amount of influence over public life. Unemployment levels in Gambia are particularly high, especially among the country's youth, and this contributes significantly to violence and insecurity. According to the Constitution, education is free and compulsory, but in practice, the Government lacks the funds to realise this.

Georgia, Ms. Nino Abashidze, Human Rights Information and Documentation Centre (HRIDC)

HRIDC provides economic, social and above all legal information and consultation to the public.

Challenges associated with ESC rights in Georgia include health and access to health services – there is a two-tier hospital system consisting of a number of high-technology facilities for the rich, and run-down facilities for the rest of the population. Furthermore, the poor have no health insurance, which effectively means that they receive no care. Illness thus becomes a potential source of violence since members of the population will go to extreme lengths to obtain the money they require for treatment. Similarly, the majority of schools are in very poor condition, and there is no free education. Many children live on the street, and this too can lead to violence – some will rob to be able to pay for school. Conditions in prisons are also poor and, as is the case with medical care, there is a two-tier system with regard to these facilities. Ms. Abashidze explained that legislation to protect the individual is problematic and, for example, under the law someone who dies in prison is assumed guilty. Georgia depends to a large extent on Russia for trade, and there is significant illegal immigration to Russia.

India, Mr. Henri Tiphagne, People's Watch - Tamil Nadu

People's Watch was founded in 1975, with a strong focus on human rights. It has now expanded to some 20 or 30 states in the country. It recognises the need to reach out to civil society organisations engaged in development.

Mr. Tiphagne indicated that India, like many big democracies, is good at making the record appear straight even when it is not. For example, there are many institutions in place with the task of protecting and promoting human rights (including the National Institution on Human Rights and an institution to address Dalit issues). These are well able to respond to any rights-related issues that are raised, but effectively they make no difference on the ground. The judiciary can appear to be liberal and progressive when it wants, but is fundamentally anti-poor. Similarly, the Indian Government expresses its belief in the rule of law and claims to protect fundamental freedoms. Paradoxically, despite these principles and in contradiction to government insistence that it no longer exists, the caste system continues to permeate the whole country. India also trains

neighbouring countries in tactics for oppression, a reflection of its “big brother” attitude toward the region. Mr. Tiphagne explained that globalisation is having a profound impact on the country, not least in the establishment of Special Economic Zones, which involve taking land away from small-scale owners and suppressing any opposition. Situations such as these clearly illustrate the importance of human rights NGOs working together with development NGOs.

Liberia, Mrs. Ellen Z. Whyte, Independent National Commission on Human Rights (INCHR)

INCHR works on both legal and economic issues.

In Liberia, the human rights situation has progressively improved since the Peace Agreement of 2003, however a culture of impunity has seriously affected the development of democracy and little progress has been made in addressing war crimes in the domestic courts. There are serious implications for the respect of ESC rights in the post-conflict context. Areas of concern include security reform and inadequate demobilisation procedures (including for child soldiers), the downsizing of the civil service (where corruption and impunity are commonplace), and relocation/clearance of markets and traders in urban areas. All these factors contribute to insecurity and violence. In 2005, for example, former fighters who should have been demobilized engaged in violent protest when benefits were not paid. Ms. Whyte also explained that the judicial system is weak, detention without trial is a major human rights abuse in the country, and prison conditions are extremely poor.

Nepal, Dr. Sarba Raj Khadka, Rural Reconstruction Nepal (RRN)

RRN was established in 1988 to deal with rural reconstruction. It now works to challenge the current development paradigm in the region, promoting ESC rights and linking these to other rights.

The People’s War in Nepal (waged from 1996) found great support among the rural population in particular. This was partly to do with ideological sympathy, but also very much due to long-term problems that had been inadequately addressed, including access to health services, water, infrastructure and a strong emphasis on urban-focused development at the expense of rural areas. In 2005 the King dissolved parliament and declared a state of emergency, imprisoned party leaders, and assumed power. He retained absolute power until April 2006 when, in the light of mass protests by the opposition and Maoists, he allowed the parliament to reconvene. Following the November 2006 peace accord between the government and the Maoists, an interim constitution was promulgated and the Maoists were allowed to enter parliament in mid-January 2007. Nepal continues to experience extreme poverty and there have been localised mass uprisings. Violence, insecurity and lack of respect for human rights can largely be attributed to the urban-centred development model and the political system. Dr. Khadka noted that Nepalese society demonstrates high levels of prejudice, including caste and gender discrimination.

South Africa, Ms. Amanda Dissel, Centre for the Study of Violence and Reconciliation (CSVR)

CSVR develops and implements human security interventions based on social justice and fundamental rights for people who are vulnerable or excluded.

Since 1994 South Africa has had a Constitution strongly oriented toward respect for human rights – but delivery is slow. Gross domestic product is growing, but so too is wealth disparity and unemployment. Neo-liberal economic policies, together with race equity targets, have led to the development of huge economic discrepancies and the formation of a very small black elite. The issue of criminal violence is particularly serious and the murder rate is extremely high (18000 murders per year in a population of 45 million). There is also much violent crime, including interpersonal crime (55000 cases of rape are reported to the police every year, but this is perhaps only 10 per cent of the real figure). Property crime was seen as a means of redistributing wealth under Apartheid, and is still considered justified by many. High rates of alcohol and substance abuse are also linked to violence. There is a large number of firearms, some of which are imported from other countries in the region. Regarding the criminal justice system, police and prosecution have difficulty with the evidence-based approach and are over-reliant on confessions. There is a large prison population, and challenges to reintegrating offenders. Community protests regarding housing and other issues, as well as trade union actions, have at times ended in violence and the police have opened fire. The Government has budgetary resources, but lacks the ability to spend them effectively. Corruption is widespread, and government officials are seen to be involved in accepting bribes. Ms. Dissel noted that national human rights institutions are powerful and that South African NGOs are committed and work well with government. Internationally, there is little engagement with the structures of the UN and the special procedures, and interaction is more often with regional structures.

Uzbekistan

The collapse of the Soviet Union had both negative and positive repercussions as regards ESC rights in Uzbekistan. On the one hand, the Soviet regime left a legacy of high literacy and a strong school system (there is 99 per cent adult literacy in Uzbekistan), and certain aspects of women's rights were respected (domestic violence was, however, a serious issue). Today Uzbekistan promotes democratic slogans, but in effect the economy remains a planned one and the political structure is unchanged and unresponsive. The country produces large quantities of cotton, and is rich in resources, including gold, copper and uranium, but a large proportion of the wealth leaves the country (directed toward fiscal paradises) and the minimum monthly salary is \$14 US. Corruption is widespread [citing Mr. Peter Eigen, chair of Transparency International: "Corruption is a major cause of poverty as well as a barrier to overcoming it. The two scourges feed off each other, locking their populations in a cycle of misery"]. The Government exercises a high degree of control over the economy, and inequality of income distribution has increased since independence in 1991. The abandonment of children is a significant problem, and many minors are exploited or engaged in forced labour. Torture is reported to be systematic and widespread.

Zambia, Mr. Muziula Kamanga, Women in Law and Development in Africa

Focusing on both law and development issues, Zambia's Women in Law and Development in Africa forms part of a 24-member group of women's NGOs in the continent.

Mr. Kamanga explained that Zambia is enthusiastic in ratifying international instruments, but less good at implementing them. Furthermore, successive administrations have argued against the promotion of economic, social and cultural rights. Women constitute a particularly vulnerable group: they appear to be most affected by the erosion of the formal sector and by unemployment, their participation in political and public life is limited, and they are underrepresented at all levels of decision-making. The Constitution of Zambia provides that no one shall be subjected to torture or any inhuman or degrading punishment, but this provision does not define torture, nor does it provide for an act of torture as a crime. Impunity of the perpetrators of torture is a major challenge in Zambia. Furthermore, courts will accept exhibits as evidence in a trial even if these exhibits were obtained by the police using torture. There is no limit to the length of pre-trial detention, and detainees may remain under remand for over four years. These long periods of pre-trial detentions increase the vulnerability of detainees to torture. Furthermore, Zambia's prisons are extremely overcrowded and conditions are very poor.

IV. Opening Session

Ms. Soussan Raadi-Azarakhchi, Chief, Special Procedures Branch, OHCHR (*see Appendix 2 for full text*)

Ms. Raadi-Azarakhchi drew attention to the importance of understanding and acting upon the link between poverty, inequality and torture and underlined the need to look at torture and violence from an integrated and multidisciplinary perspective. She suggested that this approach has a number of advantages: it facilitates a greater focus on prevention by addressing the root causes of torture and other forms of violence: it underlines the indivisibility of civil, political, economic, social and cultural rights: and, above all, it helps to identify concrete steps that can be taken by actors in the human rights sphere to link concepts to operations, policy and practice.

Ms. Raadi-Azarkhchi indicated that the link between poverty and violence is becoming increasingly evident in the work of the special procedures, both in their reports and in their communications and encouraged NGOs to work with them to develop this area still further. In particular, she invited NGOs to help strengthen cooperation with the special procedures by supporting:

- i) Thematic studies – providing information and evidence, even if the study theme does not explicitly address poverty or torture;
- ii) Country visits – contributing to the agenda for and planning of a visit, identifying trends and developments in the country (and, in particular, drawing attention to alarming trends);
- iii) Communications – providing information to the special procedures that can become the subject of a communication.

Mr. Eric Sottas, Director, OMCT

Mr. Sottas pointed to the crucial link between respect for economic, social and cultural rights and civil and political rights on the one hand, and the prevalence or absence torture and violence on the other. He underlined that this link has the potential to produce either a vicious or a virtuous cycle. NGOs have a key role in promoting action around this link, however while this action may be local and thematic, it is important to maintain a global vision, since the root causes of rights violations are part of a global process and are not confined within the borders of a given country.

Mr. Yves Berthelot, former Executive Secretary, UN Economic Commission for Europe and President of the OMCT Scientific Council (*see Appendix 3 for full text*)

Mr. Berthelot asserted that, while the link between respect for economic, social and cultural rights and torture is coming to be widely recognised, the OMCT study is significant in that it adds an empirical dimension to this analysis. He cited forced evictions to make way for large scale development projects, international trade policies that result in hunger among poor farming communities, oppressive labour laws, low wages and poor working conditions and the destruction of places and objects of cultural significance as examples of policies involving human rights violations that ultimately lead to violence. He suggested that the situation is likely to become worse in the future, with increasing competition for resources (including land), the growing global population, and economic liberalisation (role of WTO).

To prevent this escalation of violence, human rights NGOs and development NGOs must work together. Jointly they must raise the awareness of officials (local authorities, police,

lawyers, etc) as regards the link between violence and denial of economic, social and cultural rights and train them on international and regional instruments and laws. Development NGOs have the capacity to alert human rights NGOs to potentially problematic projects and indicate the economically weak and vulnerable groups most likely to be affected; in a reciprocal manner, human rights NGOs can inform their counterparts in the development field of the mechanisms available for the protection of human rights. Finally, together they can work with authorities to ensure that human rights are not compromised by a given project and inform the vulnerable groups.

V. Special Procedures Mandate Holders

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

"Special procedures" is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Currently, there are 28 thematic and 10 country mandates. The Office of the High Commissioner for Human Rights provides these mechanisms with personnel, logistical and research assistance to support them in the discharge of their mandates.

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

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

The opportunity for participants to engage directly with a number of special procedures mandate holders was central to the seminar. The following texts capture the key points made by each of the mandate holders, and also incorporate responses to specific questions posed by the participants. Details regarding the procedure for submitting individual complaints to the special procedures are provided in Appendix 4.

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

Special procedures mandate holders and joint missions

Ms. Federica Donati, Human Rights Officer, OHCHR and assistant to Mr. Jean Ziegler, Special Rapporteur on the Right to Food informed the group that it is of the utmost importance to document what underpins human rights violations eg, documenting in detail how a dam has affected a population, not just an individual. Special procedures mandate holders try to make more and more use of joint initiatives and in this way to uncover the economic, social and cultural root causes of human rights violations. Mandate holders can also write to financial institutions, including the World Bank, and directly to governments. This need not only be to express their concern over human rights violations, but also to promote the fulfilment and respect of rights and the principle of no harm (in eviction cases, for example). Joint missions by mandate holders are more complicated to organise and coordinate, but they have the advantage of being able to address a complete issue and not just aspects thereof.

In addition to these meetings, the seminar participants attended the fourth day of the 14th Meeting of Special Procedures Mandate Holders (21 June 2007) at the Palais Wilson, Geneva. This session discussed enlarging the network of civil society actors working with special procedures and strengthening collaboration. A summary of the day's proceedings, compiled by the Office of the High Commissioner for Human Rights, is included in Appendix 5.

Mr. Rodolfo Stavenhagen, UN Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous Peoples²

Due to conclude his six-year term (special procedures mandate-holders are generally appointed for a period of three years, with the possibility of a three-year extension), Mr. Stavenhagen has made some ten official and several unofficial visits during his time as mandate holder. Special procedures mandate holders must receive an invitation from the relevant Government to visit a country. Some countries issue an open invitation and will accept all mandate holders. Others issue specific and individual invitations. Certain Governments will indicate that it is “not the right time” for a visit, while still others will ignore all requests for an invitation.

Mr. Stavenhagen emphasised that the only way that special procedures can operate effectively is through close working relations with civil society organisations.

Specifically:

- i) Given that official missions need an invitation from the government, it is imperative that NGOs work and lobby to ensure that this invitation is forthcoming;
- ii) NGOs can provide information to the UN and special procedures on human rights violations. Also, academic research available is often not human-rights oriented. At the same time, NGOs have “their finger on the pulse” as regards country situations and can be invaluable for providing special procedures with a “feel” for what is going on;
- iii) Special procedures can cooperate with NGOs in organising a visit, something that requires interplay among governments, the UN and NGOs. Governments will provide a suggested agenda and mandate holders can consult with NGOs on its suitability and negotiate on this basis;

² contact Mr Luis Rodrigues-Pinero, lrodriguez-pinero@ohchr.org

- iv) NGOs can organise in-country meetings for special procedures, however not all NGOs speak with the same voice and there can be friction and competition. Mandate-holders therefore try to meet with as many NGO representatives as possible. They also ask NGOs to prepare information (written documents, videos etc). NGOs can also make oral presentations, but these are less valuable. Alternatively, material can be sent to the Special Rapporteur immediately after the visit;
- v) Once the report is prepared, it is issued as an official UN document and sent to the relevant Government which, in turn, has the right to comment on it. Special Rapporteurs may therefore request NGOs to provide a “counter-comment”. There is also the question of follow-up: special procedures experience frustration because they do not know what will subsequently happen to the report and have no idea of the impact of the recommendations it contains. It is therefore incumbent upon NGOs and other relevant stakeholders to see that there is follow-up and to organise meetings to assess the next steps to be taken.

Regarding monitoring and follow up, OHCHR is poorly funded and does not have the means to carry this out (although, where available, OHCHR field offices can take a leading role in monitoring the implementation of recommendations made by special procedures). In this regard, Mr. Stavenhagen was active in the launching of a pilot project to follow-up on recommendations of his reports on Mexico and Guatemala, funded by the EU.

Mr. Stavenhagen further explained that one cannot understand indigenous peoples without an understanding of the importance of ESC rights. This is related to the historical and structural context of indigenous peoples, the removal of their land and their systematically being placed in positions of inferiority, discrimination and unequal treatment. As a result they are underrepresented as regards to access to health services, housing etc. He also emphasised that in the case of indigenous peoples, it is imperative to consider collective/group rights and questions of collective autonomy and decision-making.

Concerning the connection between the denial of ESC rights and torture, Mr. Stavenhagen asserted that this link is constantly present. He explained that it is particularly relevant for indigenous communities, citing, for example, indigenous peoples’ struggle for recognition, land, natural resources, access to justice and access to social services. Pressure on indigenous peoples, often fuelled by development imperatives, leads to conflict, violence and protest. As a consequence, indigenous peoples may be subjected to physical repression, torture, killing and internal displacement. In an escalating cycle of violence, violations of the human rights of indigenous peoples produce further social protest, triggering still more repressive measures by governments or paramilitary groups.

With regard to globalisation – an issue of particular concern to the participants – Mr. Stavenhagen indicated that it is difficult to say if any recommendations from special procedures have modified the policies of the World Bank, WTO etc, however there are cases of indigenous peoples successfully complaining to the World Intellectual Property Organisation that their traditional knowledge had not been given sufficient recognition.

Mr. Paul Hunt, UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health

In addition to access to health care and health care facilities, the mandate of the Special Rapporteur also covers access to other underlying determinants of health such as access to drinking water and adequate sanitation. He explicitly considers the right to health in the context of poverty and discrimination and, when a member of the UN Committee on Economic, Social and Cultural Rights, engaged in developing a statement on poverty and ESC rights. Under his mandate, the Special Rapporteur is required to submit an annual report to the Human Rights Council (HRC) and an interim report to the General Assembly. He also undertakes country missions and submits reports thereon to HRC. The Special Rapporteur regularly receives allegations of violations of the right to health and, in that respect, he writes communication letters (letters of complaints) and requests appropriate action from the respective Governments.

Mr. Hunt described a distinct cycle whereby people with health problems are more likely to become poor because of i) the impact of medical costs and ii) lack of access to gainful employment. At the same time, the poor are more vulnerable to disease, disability and violence. Furthermore, the effects of violence include a range of forms of suffering that generate costs and hence impoverish people. Women in particular are vulnerable to violence (in many cases this violence is also a breach of their sexual and reproductive health rights). Their vulnerability is closely linked to the issue of HIV/AIDS. He recalled that the state has a human rights duty to address gender violence. Sexual minorities are also subject to a high degree of discrimination, violence, suffering and stigmatization. Mr. Hunt noted that there is always a risk that issues of mental disability and mental health are overlooked. People suffering from these conditions are highly vulnerable, in particular to abuse within their families or in institutions. In some institutions, health workers subject patients to violence, but in certain cases health workers are also subject to abuse as, for example, in the case of Iraq. The cost of medicine is another crucial point, and the state has the duty to provide essential medicines as a human right. Similarly, pharmaceutical companies have an obligation to enhance access to essential medicines for the poor (this could involve differential pricing). Mr. Hunt also addressed the serious issue of skills drain, whereby poor countries effectively subsidise rich countries by sending them trained medical staff without receiving adequate compensation.

Mr Hunt calls for all states to provide integrated primary health care for all, including access to basic clean water and sanitation. The right to the highest attainable standard of health is subject to progressive implementation and the availability of resources. States should direct as many resources as possible to this end.

Ms. Leila Zerrougui, Chairperson-Rapporteur, UN Working Group on Arbitrary Detention³

Ms. Zerrougi has visited 22 countries since the creation of the Working Group in 1991. The Group is not a treaty-based mechanism and it belongs to the special procedures. The Working Group considers deprivation of liberty to be arbitrary if any of the following criteria are fulfilled :

- a person is detained without legal basis whatsoever;

³ contact Mr. Miguel De La Lama, mdelalama@ohchr.org

- a person is detained because she or he peacefully exercised specific rights entrenched in the UDHR e.g. freedom of opinion, expression, assembly.
- the case involves serious violations of the right to a fair trial.

Given that its procedures allow it to exercise a control over the legality of all forms of deprivation of liberty, the Working Group regards itself as a “universal *habeas corpus* procedure”. Its mechanism (five members who represent the five regions of the UN and the major families of legal systems: common law, continental European, Islamic, etc.) is particularly effective for this topic. A pronouncement from the Working Group in this area is likely to enjoy more authority than that of an individual expert.

The tools available to the Working Group include:

- urgent appeals on a humanitarian basis, when there is real concern about the condition of a person in detention;
- country visits, which allow the Working Group to study a selected national system;
- individual communications – this is a quasi-judicial procedure whereby the Working Group can receive communications from anywhere in the world. The Working Group communications procedure is universal in scope, i.e. it does not depend on the ratification of any human rights treaty by the country concerned. Many communications are received from the Arab world, China, the United States, Vietnam and Africa. There is no pre-requisite that domestic remedies should have been exhausted, nor is there a prerequisite for admissibility – which is helpful for local NGOs that do not have legal expertise;
- deliberations and (general) legal opinions on matters of a general nature, in order to develop a set of guidelines and support States in their efforts of preventing arbitrary deprivation of liberty. Deliberations have covered, for example, house arrest; detention of immigrants and asylum-seekers; issues related to psychiatric detention; deprivation of liberty linked to or resulting from the use of the internet.

Furthermore, the Working Group adopted Legal Opinions on allegations of detention ordered by the International Criminal Tribunal for Rwanda and on the deprivation of liberty of persons detained in the naval base of Guantánamo Bay. In 2006, it adopted a legal opinion on preventing arbitrary detention in the context of international transfer of detainees, particularly in countering terrorism.

The Working Group does not have the resources to address the multitude of individual cases, and consequently it advises NGOs and other sources to select the most representative or most problematic cases. NGOs can also group five or six individual cases together. The Working Group, like all non treaty-based UN human rights mechanisms, has no power to force governments to comply with its recommendations. The mechanisms do, however, have moral credibility under international law, and can play an important role in helping those on the ground who are struggling for the protection of human rights. The opinions of the Working Group can be used to sensitise and influence public opinion. Ms. Zerrougui explained that the Working Group alone cannot change the situation in a country – but wider influence and persistence can lead to change. There is scope for coordination with other special procedures, and the possibility of issuing joint urgent appeals. The Working Group also involves other special procedures mandate holders in their investigations.

Interaction with NGOs is extremely important (as is interaction with civil society, including bar associations, intellectuals and lawyers). The Working Group cannot act

without the information NGOs provide, and well-documented information can lead to action in the form of urgent appeals, individual communications or inclusion in the annual report. The Working Group also seeks information regarding trends and changes in national laws. Furthermore, NGOs can support in organising visits, indicating where to go and whom to contact. Following a visit, the Working Group will issue recommendations. NGOs can exert pressure to see that these recommendations are implemented, inform the Working Group of progress in this respect and also indicate if there are further violations.

Arbitrary detention is not torture but, Ms. Zerrougui explained, there is a clear link. She also indicated that there are new and worrying trends with regard to arbitrary detention, and in a climate of international insecurity, it is increasingly a challenge to maintain the *status quo*, let alone improve the situation. Conditions of detention fall outside the brief of the Working Group, but they try to bring it within their remit and competence by linking it with the issue of violations of the right to fair trial, including treatment received in police stations. In particular, it is important to keep detainees separated from the investigating authorities, otherwise there is a real risk of ill-treatment, or at least that strong pressure is applied. Impunity ensures that violations such as these are perpetuated. With reference to countries under emergency laws (the case of Egypt and Bangladesh, for example), the Working Group considers arbitrary detention to be one of the most serious issues. Any special or exceptional national law must be implemented according to the principles established under article 4 of the ICCPR and other international standards. On the question of disappearances, Ms. Zerrougui explained that according to the Working Group's methods of work, if there has been no news of a person for more than three months, this could be regarded as a disappearance. In this case, the Working Group first sends a letter to the government inquiring as to the status of that individual. If the government indicates that it has no knowledge of him or her, the Working Group concludes that a "disappearance" has indeed taken place. For example, there have been many such cases in Nepal. For those arrested by militia or private security firms, the Working Group has no mandate (its mandate applies to states only). The cases are sent to the Working Group on disappearances.

Of the 9 million in detention around the world, 1 million are children. The majority of these are in pre-trial detention. Juvenile justice calls for special protections, however the Working Group has given less attention to the issue of children because of the near universal ratification of the Convention on the Rights of the Child and the work of the CRC Committee. Nonetheless, in country visits the Group consistently checks on the situation of children and determines whether a country has a specific juvenile justice system, juvenile police or juvenile prosecutors. An effective system of juvenile justice generally results in less children being held in detention. In countries where there is no a juvenile justice system, there must be strong protection for minors under the law. This issue is addressed in every Working Group report on a country visit.

Concerning the link between violations of ESC rights and torture and violence, Ms. Zerrougui indicated that the poor are more likely to face detention, prosecution and harsh sentencing. They are also more likely to be found to be violating laws, especially in "well-organised" countries. All over the world, crackdowns on crime tend to focus on poor areas. It is, in addition, difficult for the poor to protect themselves since it is harder for them to pay for a lawyer, and they are less likely to be able to afford bail. In practice, legal aid, while available in many countries, is often ineffective. The criteria for staying out of jail, Ms. Zerrougui explained, include being able to provide a permanent address,

prove employment and prove financial resources – all of which are more problematic for the poor. In turn, those who are compelled to remain in police stations because of their socio-economic situation – or, indeed, cultural identity - are more likely to be subjected to torture. It is important that detainees are not left alone with the police. NGOs can ask for visits, or independent investigations. National human rights institutions can also be very effective – under the Paris Principle, they have the authority to carry out investigations and communicate with and influence government.

Ms. Zerrougi drew attention to the vicious circle whereby the police focus their activities on poor neighbourhoods and hence make more arrests in these areas. At the same time, the required guarantees and rules are not respected. If the police do not have sufficient evidence to bring cases to court, they make seek to obtain confessions. In some countries, the situation is exacerbated by the fact that police officers assigned to poor areas are more likely to be less competent, inexperienced or, indeed, on probation having already infringed rules. All this can be exacerbated by racist attitudes. This inequality within the justice system can in turn lead to violence – either by those accused of committing crimes, or by those whose role is to control crime. Furthermore, the background of the police can influence the likelihood of violence, for example, when police forces have a military connection or history, or are involved in fighting opposition and social groups, there is a greater likelihood that they will be violent.

Individuals who are detained for crimes and do not have means to achieve pre-trial liberty have a higher chance of going to prison. In some cases, the rich never go to prison and, since prisoners lose their right to vote, this is not a political issue. The poor, in turn, are more likely to suffer inside prison. They may be far from their families, who cannot afford to visit or to give them money. This lack of resources means that the poor in prison must find other ways of meeting their needs, working as slaves, prostitutes, etc. Moreover, if there is corruption in the prison system, the poor cannot afford to engage in this corruption and buy protection or privileges.

Regarding the possibility of acting upon the link between the violation of ESC rights and torture, Ms. Zerrougui acknowledges that it is difficult to put budgetary pressure on governments, however there is the possibility of the special procedures mechanisms making recommendations. The nature of these recommendations depends upon the country in question. In Canada, for example where a strong legal aid system is provided for the poor, it is the moderately poor who are unprotected because they do not receive legal aid and often they cannot afford to pay a lawyer. In a case such as this, the Working Group can ask the government concerned to take into account the socio-economic vulnerability of the group in question. The Working Group raises the issue of the availability of legal aid in every country it visits.

Globalisation is a crucial issue, and Ms. Zerrougui encouraged everyone to fight the harmful aspects of global investment and trade. She recognised, however, that while the UN gives the issue much consideration, it does not have the means to address it efficiently. The Working Group is not mandated to address the issue unless, for example, it is looking at detention following anti-globalisation demonstrations. She suggested that within the special procedures, those working most closely to the issue of extreme poverty come closest to covering globalisation in their mandate.

Mr. Manfred Nowak, UN Special Rapporteur on the Question of Torture⁴

While Mr Nowak indicated that he sensed the high expectations of the participants, he emphasised that in reality it is difficult to address many of the issues that are of concern to the group.

The question of torture mandate was established in 1985 (only the third thematic mandate established under the special procedures) to examine torture from a global perspective. The mandate is charter-based, and since all nations adhere to the UN Charter, the ratification of other international instruments by governments does not have bearing.

The Special Rapporteurs fulfil the function of unpaid experts. Some manage to find external funding in order to employ staff etc., but the UN budget is only sufficient to permit two country visits per year (and this to address not only torture, but also cruel, inhuman and degrading treatment). Country visits are carried out on invitation from governments. These are most likely to be forthcoming from those countries with better human rights records. In other cases, Mr. Nowak explained, Special Rapporteurs try to solicit invitations, but country responses are varied – Egypt, for example, does not respond at all. If there is strong internal pressure against torture in a country, his visit may not be necessary. Mr Nowak expects minimum standards for a country visit including the right of unannounced visits to detention facilities, the opportunity to talk to NGOs, governments, and victims of torture at liberty, those in prison and those recently tortured (together with a forensic expert). There also needs to be the guarantee of being able to speak in private with detainees.

Mr. Nowak selects countries for visits through his own sources, including individual complaints received. He sends the allegations in a letter to the relevant government, indicating that the government is under obligation to investigate and asking what is being done. In some cases he sends an urgent appeal. The Office of the High Commissioner first checks the reliability of the source, the letter is then authorised and sent to the relevant Ministry of Foreign Affairs. The specific response depends upon the government involved: some respond and investigate, others give *pro forma* responses or no answer, and still others respond listing the alleged crimes of the detainee.

Mr. Nowak recalled the very high levels of torture allegations being issued by NGOs with respect to Nepal and explained that this was a strategic decision on the part of NGOs in order to draw international attention to the situation. The Government of Nepal subsequently issued an invitation for him to make a visit. He conducted a mission there in September 2005 and found a very serious situation – the only case he had personally discovered of the systematic use of torture. He noted that the situation in Nepal has improved since then. Mr Nowak remarked that his predecessor, Mr Theo Van Boven, found systematic use of torture in Uzbekistan and added that the Uzbek government is now flooding the Office of the High Commissioner with material indicating that they are implementing all the necessary recommendations, but in practice there is no follow-up or monitoring.

Regarding terrorism, there is a serious concern that efforts to prevent terrorism are undermining states' anti-torture position. This is not only the case in the US, but also in Russia and European countries. In particular the Bush administration has "broken the

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taboo” on torture, although it chooses to limit the definition of its activities to cruel, inhuman and degrading treatment, and argues that this is a necessary ill to ensure national security. Use is also being made of secret places of detention, and countries such as Egypt are clearly cooperating with the CIA. The UK has signed a memorandum of understanding with Libya, Jordan and Lebanon aimed at circumventing the prohibition of refoulement.

Like Mr. Stavenhagen and Ms. Zerrougi, Mr. Nowak sees a clear link between violation of ESC rights and torture. He reiterated that the poor are more vulnerable throughout the entire judicial system, and where torture is widespread, the judicial system is clearly not working. In many situations, there is strong pressure on the police from judges and prosecutors to obtain a confession (confession being the best means to achieve a conviction). The rich have access to lawyers and are not detained pre-trial because they have the possibility of paying bail. Furthermore, in situations where the police are poorly paid, and judges and prosecutors have low salaries, there is scope for bribery and corruption, and the rich can buy their way out.

Pre-trial detainment periods can be long and detainees are often not separated from convicted prisoners. In Nigeria pre-trial detainment can be as long as 8 or 9 years, and of 40 000 detainees, 20 to 25 000 should be released because they have spent more than the maximum term for the crime of which they are accused in pre-trial detention. The result is severe overcrowding, an overloaded system, no resources to provide food or medicine, and prevalence of disease, including HIV/AIDS and tuberculosis. Mr Nowak echoed Ms. Zerrougi’s point that prisoners must rely on family or friends to provide food etc., but that this is difficult when the family is poor or far away. Some prisoners therefore become dependent upon other detainees for food, medicine etc, with the risk that this leads to slavery or prostitution – Paraguay, for example, has explicit prison categories and divisions according to wealth.

Ms. Hina Jilani, UN Special Representative on Human Rights Defenders

There are strong interests associated with the violation of human rights, and especially ESC rights. This means that human rights defenders in this area are potentially more exposed to risk than others (see text box below), however even within the human rights movement there is still much to be done to have this category fully recognised. Indeed, these individuals do not always recognise themselves as defenders of human rights. ESC rights activists might more readily associate themselves with social movements. Ms. Jilani emphasised that we therefore need to adopt an inclusive approach to HR defenders, and for this reason she refuses to provide a definition of a human rights defender (they might be, for example, community leaders or environmental workers). She asserted, however, that in all cases it is through these defenders that action can be developed and taken forward.

Protection is crucial for human rights defenders. The recognition by a national human rights institution of the relationship between human rights defenders and that institution is a form of protection. It is also important for human rights defenders to become part of a network, indeed, as a human rights defender, Ms. Jilani’s own sense of security does not come from the UN, but from the people around her at the national, regional and international levels. These networks can provide different kinds of support at different times, as required. They also serve as information conduits for geographically remote human rights defenders.

In her capacity as Special Representative, Ms. Jilani considers that working on individual cases is important for the protection of human rights defenders. She does that with the communications she addresses to Governments and the replies received. In 2006, for instance, she sent some 360 communications to over 70 Governments.

Internal national pressure is essential to bring about change, since the UN human rights system has “no teeth” – it is unable to issue sanctions and can do no more than exert continuous pressure. Similarly, special procedure mandate holders can only play a supporting role. Change must therefore come from within, from the people. If the people need support, then the international community should give it and apply pressure. For this reason the focus should always be on the better implementation of international standards.

Some governments are obsessed by their external image and consequently apply themselves to the ratification of international and regional instruments and the setting-up of institutions, however, Ms. Jilani concluded, this will have only limited impact if there are flaws, a lack of real will, or if other institutions or procedures are weak.

Defenders of Economic, Social and Cultural Rights

Ms. Jilani’s report on human rights defenders to the 4th session of the Human Rights Council in 2007 explicitly addresses the situation of human rights defenders working in the field of economic, social and cultural rights. Specifically, chapter 2 of the report gives an overview of the legal context for the activities of these defenders and provides a description of the different economic, social and cultural rights defenders are currently working to promote. This chapter also highlights violations against the rights accorded to these defenders by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights (Declaration on Human Rights Defenders). The report is available at:

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/104/17/PDF/G0710417.pdf?OpenElement>

Mr. José Luís Gómez del Prado, Chairperson-Rapporteur of the UN Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination

Increasingly, the UN has to address the question of private security forces violating human rights. The 5-member Working Group was established in 2005, replacing the Special Rapporteur who addressed mercenaries in the more traditional sense. The Group’s reference instrument is the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The Group has assumed the role of a treaty body and is pushing for ratification.

In the context of a globalising economy, governments directly undertake fewer activities and look more to outsourcing. In military terms, this trend became increasingly apparent during the wars in former Yugoslavia, Afghanistan and Iraq. In some cases they have been used where the US has demonstrated a desire to take a role in foreign policy without directly implicating itself (eg. using private security forces to train and act with the Croatian army during the war against Serbia). Australia, UK and others also make extensive use of military outsourcing. This has led to an explosion of demand, in turn

encouraging the recruitment of personnel – especially former military - from developing countries. The mother company – normally based in the US, UK or elsewhere - sub-contracts personnel from other countries, and already makes a profit from this sub-contraction. There are currently some 50 000 private soldiers providing security to contractors in Iraq. Most are employed under contracts that have jurisdiction outside their country of origin, e.g. in the US, creating a significant obstacle should they need to make a complaint.

Many private soldiers come from the US, UK, Australia, Canada and South Africa. In terms of recruitment, preference is given to countries with experience of counter-insurgency. Popular source countries include Bulgaria, Colombia, El Salvador, Fiji, Chile, Nepal, Peru, the Philippines, Pakistan, Romania, the Russian Federation and Ukraine, among many others. The Working Group is currently collecting information from Latin America and has visited Chile, Ecuador, Honduras and Peru. The Working Group can also investigate private security police if it is believed that they are having an impact on human rights.

The creation of security companies also takes place at the national level in order to ensure internal control of a country. These security forces might, for example, provide protection for national or transnational companies in conflict with local population such as indigenous communities.

The Working Group operates using visits and questionnaires (it has based its method of work on that of the Working Group on Arbitrary Detention). When the Group receives a communication, the members research it and, if there are found to be grounds, they send it to the relevant government (responsibility for mercenaries lies with the “exporting” country). A government then has 60 days in which to reply, after which the Working Group compiles the information it has collected and sends it to the original source. It also makes a report to the General Assembly (Honduras, Ecuador, Peru and Chile have all replied). In addition, the Working Group undertakes urgent actions.

Group discussion on independence of judges and lawyers

In the absence of **Mr. Leandro Despouy, the UN Special Rapporteur on the Independence of Judges and Lawyers**, who was unable to attend the seminar due to last-minute difficulties, participants engaged in collective discussion of this issue. A common concern expressed was that while the rule of law exists “on paper” and legal justice mechanisms exist (“structural independence”, as in the case of Zambia, where the Constitution clearly states that judges should be independent), this relies on the effective functioning of the criminal justice system and on judges and lawyers themselves acting according to the rule of law. The degree of independence of judges and lawyers might depend upon their personal vision, as well as their vulnerability to threats and intimidation. The financial independence of the judicial system is another important factor in ensuring the independence of the judiciary. A different scenario – and one seen in Uzbekistan, for example - involves judges being appointed by the President and given no independence to reflect or act. With regards to lawyers in Uzbekistan, they face difficulties in gaining access to detainees and lack protection (36 lawyers are known to be on death row). In Bangladesh, the fact that the Chief Justice is appointed by the President, who is in turn elected by the ruling party, results in a high degree of corruption in the system.

VI. Expert Contributions

The participation of the special procedures mandate holders in the OMCT seminar was complemented by two presentations offering new perspectives on the issue of the economic, social and cultural root causes of torture and violence.

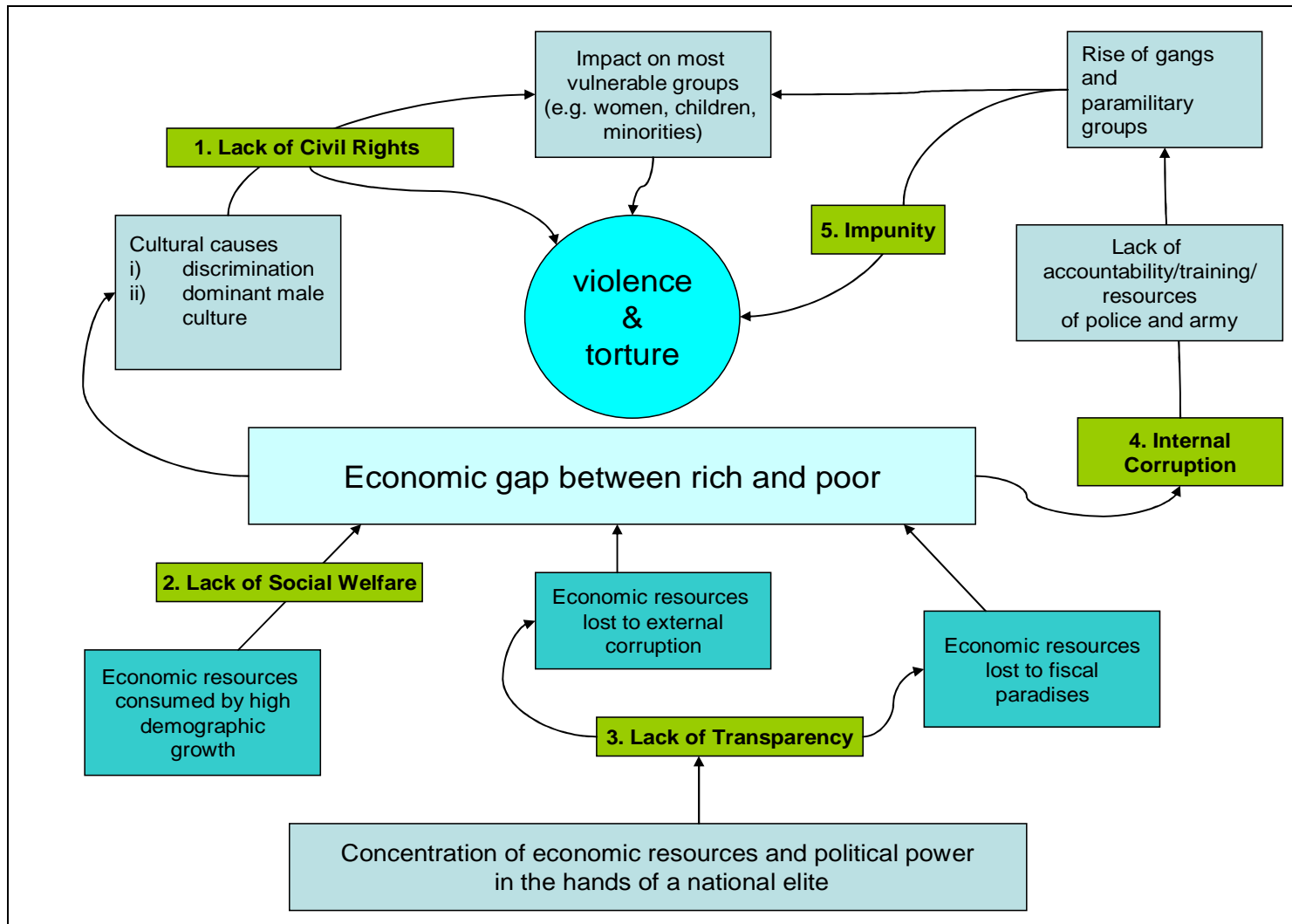
A macro-economic perspective on the root causes of torture and other forms of violence

Mr. François Beaujolin, President of the Foundation for Human Rights at Work

In addressing the economic, social and cultural root causes of torture and violence, it is important to understand why, in spite of economic growth, “the poor are poorer” in developing countries (see figure below). One reason for this is high population growth in these countries which absorbs perhaps 2 per cent of GDP growth per annum. Another reason is the diversion of capital (perhaps 5 per cent of growth per annum) into fiscal paradises abroad; these funds are therefore not subject to taxation in the home country, nor are they reinvested in the economy in which they were produced (50 per cent of money earned around the world is held in fiscal paradises). In addition, capital leaves the country through external corruption. Thus, even when a developing economy grows at 8 per cent a year, little is left to raise the actual living standards of the people.

Another crucial issue in determining the extent and degree of poverty is who controls resources: in democratic systems, the state, property owners and multi-nationals tend to be separated and their interaction regulated, while in less democratic states the links between the three groups tend to be stronger and resources are concentrated in the hands of a few. NGOs have an important role in monitoring how governments spend money and allocate budgets. Furthermore, countries that sell their natural resources without processing or refining them lose GDP since only a small percentage of the value of these resources comes back to the country. At the same time, these countries are more likely to buy elements of infrastructure (factories, roads etc) from abroad. Economic policy is also linked to cultural practices – for example, where no state pension is provided, children are regarded as a social support system for their parents.

Some of the key elements contributing to the economic gap between rich and poor in developing countries and their link to torture and other forms of violence are explored in the following diagram.



Tracing the economic and social roots of violence and torture

FIAN: bringing together human rights and development to address the root causes of torture and violence

Ms. Sandra Ratjen, UN coordinator of the Food First Information Network (FIAN)

Founded in 1986, FIAN interprets the right to food as “the right to feed oneself” – in compliance with human dignity - as opposed to “the right to be fed”. Its mandate includes addressing issues of access to land, seed etc for sustainable cultivation. The organisation’s original focus on economic rights broadened as it became clear that rights were interdependent. FIAN’s work is based on international law and especially the 1976 International Covenant on Economic, Social and Cultural Rights, with its reference to adequate food and housing. The UN Food and Agriculture Organization voluntary guidelines on the right to food, which have been adopted by all member states including the USA, are also an important reference and incorporate all food-related rights. A monitoring tool for state policies has been developed on the basis of these guidelines. Other NGOs can contribute to the work of FIAN through networking and the provision of information (FIAN has a form for documenting cases). FIAN can also carry out fact finding with other social actors.

There are some 850 million people hungry or chronically malnourished in the world today: the issue is one of access to food rather than the quantity of food produced globally. The groups upon which FIAN focuses include marginalised and small-scale peasants, the urban poor, children and fishing communities. In particular, FIAN works on documenting violations, carrying out interviews, sending protest letters and running campaigns. This is accompanied by advocacy, press work and representation to ministers. FIAN only intervenes on request. Specific issues addressed include forced evictions in rural areas, denial of minimum wage, denial of social security, pollution and depletion of fishing grounds, and the availability of water supply for agriculture. In almost all cases there is violence or the potential for violence, often provoked by landlords who resist land redistribution, mining companies, police etc.

Ms. Ratjen discussed in particular the case of La Parota in Mexico (with accompanying video), in which a hydro-electric curtain dam project promoted by CFE – the public electricity company – and state and federal governments - threatens to flood indigenous communities and rural populations. It is estimated that 25 000 people will be displaced or evicted, and another 100 000 people affected indirectly, in addition to damage to the ecosystem. The planning process has been marked by irregularities, including inadequate or absent community consultation, or illegal forms of consultation with selected audiences. Furthermore, to date there appears to be no rehabilitation scheme for the residents of the area affected. There have been intimidatory acts of violence, tensions with the police are running high and there have been four deaths. Mexican civil society organisations, supported by FIAN and Habitat International Coalition incorporated the La Parota case in the civil society parallel report on ESC rights in Mexico to the Committee on ESC Rights. It is also recruiting the support of special procedures mandate holders, including Mr. Jean Ziegler (Special Rapporteur on the Right to Food), Mr Miloon Kothari (Special Rapporteur on Adequate Housing) and Mrs. Hina Jilani (Special Representative on Human Rights Defenders). In addition, it is working with the UN Office of the High Commissioner for Human Rights, the International Labour Organization and through the World Social Forum.

VII. Addressing the Key Questions

1. What are the policies, programmes and projects that are causing or risk causing the poverty and inequality that lead to violence?

This section provides abbreviated responses from a collective “brainstorming” session, together with selections of more detailed information drawn from the participants’ papers. Participants’ responses have been grouped into three broad categories: economic, socio-cultural, and political and legal contexts. These categorisations are not intended to be definitive, and in many cases a given policy or programme will have several dimensions.

Economic context:

- Globalisation, international movement of labour; international business interests can all contribute to inequality;
- Economic policies promoted by the World Bank, IMF and others, together with the agricultural policies of developed countries, fail to take into account the position of vulnerable groups including women, children and minorities;
- Corruption (including in state mechanisms), poor implementation of policies and conflict of interests all exacerbate poverty;
- Regional instability and regional disparities enhance inequality;
- Poorly implemented projects in the field reaching only a proportion of potential beneficiaries or creating socio-economic disparities;
- High expectations for service delivery, protection and economic improvement among populations, but slow delivery;
- High unemployment, inadequate social security;
- Privatisation of services and resources, including land and water, with no adequate compensation for those affected.

Social and cultural context:

- Programmes and policies implicitly or explicitly based on class and other forms of discrimination, including caste;
- Slow eradication of the system of bonded labour (Nepal) and the slow rehabilitation of those involved;
- Street children and large numbers of unschooled youths;
- Orphaned and vulnerable children, institutionalisation and inadequate foster care;
- No or poor implementation of protection measures for women and children;
- Discrimination against indigenous peoples, evictions from their land etc;
- Inadequate post-conflict demilitarisation, demobilisation and decommissioning programmes.

Political and legal contexts:

- There are often inconsistencies between statutory and customary legal systems where the two of these co-exist;
- Limits on freedom of association and assembly;
- Emergency laws and their impact upon civil society;
- Use of misleading statistics (eg former Soviet Union) and investigations;

In many cases, the denial of economic, social and cultural rights can be linked directly to privatisation policies and freemarket liberalisation. This is clearly the case in **Egypt**, for example, where the implementation of the agrarian reform law was accompanied by violent activities committed by state institutions against land tenants. Such violence continued until the end of 2003. Throughout 1997, there were about 100 murdered, 1000 injured and more than 1000 arrested. In 1998-99, violent activities led to 87 killed, 545 injured and 798 arrested. Violence committed against farmers was applied by the state institutions as a guarantee for the implementation of the law. From 1992 to 1998, farmers and some social movements organized protests that led the security forces to randomly arrest and torture farmers. Some of those farmers filed lawsuits in addition to appealing the unconstitutionality of law no. 96 of 1992 before the Supreme Constitutional Court in order to receive their rights. Unfortunately, there was no sentence issued concerning this lawsuit although it was presented more than five years ago. Land issues are also significant in rural areas, and informal settlements and economically poor areas may be violently cleared in order to free land for development purposes. In **Liberia**, a large proportion of the population has resorted to petty trading, hawking, peddling, and marketing in and around the capital city of Monrovia as a means of economic survival. In an apparent attempt to reduce the resulting overcrowding and pressure the citizens who have migrated to Monrovia because of the war to return to their place of origin, the government has supported measures to forcefully remove the traders from the city. The effect of this policy has been to compound the already high incidence of poverty in the country since the population of Monrovia's hinterland depends on the economic support of those who find work in the capital.

In **South Africa**, the shift in government economic policy from the Reconstruction and Development Programme (RDP) to the neo-liberal Growth, Employment and Redistribution Policy (GEAR) adopted in 1996 has resulted in economic growth for the country but has failed to achieve economic development and parity. Despite adopting a discourse of poverty reduction and development, there is increasing inequality in South Africa as measured by the Gini coefficient, and a dropping rating on the Human Development Index. According to the 2004 census statistics, 39 per cent of the population are unemployed, the majority of whom are from disadvantaged groups. Most high-income households are still white (75 per cent) and most low-income households remain overwhelmingly African (75 per cent).⁵ Similarly in the **Gambia**, expectations that decentralization, privatisation and targeting would make social services more readily available to the poor in rural areas, for example, or their delivery more equitable and effective, have not been fully met. Shortcomings in the distribution, maintenance, quality, and coverage of services continue to hamper the gains in social indicators at the macro level.

In **Colombia**, a similar economic logic has seen the construction of infrastructure "megaprojects" to facilitate the exploitation of natural resources (including forestry and minerals) and promote the development of agro-industry (eg palm oil) and fishing on an industrial scale. This economic model, and the projects it supports (Carretera Hacia Centroamérica, gas pipeline, Carretera Istmina Puerto Marú, Puerto de aguas profundas de Bahía Málaga, Puerto en la Ensenada de Utria, Proyecto Arquímedes) represent a serious threat to the country's indigenous and Afro-Colombian communities who are the residents of the areas under threat. These communities have also been affected by recent laws passed in Colombia that have tended to favour large scale investors and foreign capital while

⁵ Devan Pillay (2007) *Between predation and development: the stunted growth of a developmental state discourse in SA*, p.4. (forthcoming in *Africanus*).

compromising the autonomy and self-regulation of these traditional communities (see, for example, recent laws on forestry, on justice and peace, rural reform and the mining code).

In **Brazil**, social exclusion has long been associated with the country's economic, political and social development. In the 1990s and much of the first decade of the 21st century, the neoliberal politics adopted in Brazil were characterized by policies that did not prioritize social justice and that, consequently, had a strong impact on the enjoyment of human rights. This social exclusion is apparent in high levels of unemployment and skewed income policies, as well as in sexual and racial discrimination and in the lack of value given to human life. This is manifest through torture and the extermination of groups such as adult prisoners, adolescents submitted to social-educational actions, black people and poor young people.

In **Nepal**, the neo-liberal economic model dominated 'development' thinking throughout the late 1980s and early 1990s, mainly under the influence of the international development agencies and lending institutions. The weakness of this strategy became increasingly apparent as investment failed to take place and the export boom of the early 1990s ended. Much of the 'development strategy' adopted throughout was *ad hoc* and based on a combination of models derived from other country experience or simply from the standardized recipes of the IMF and World Bank; it reflected a deep failure on the part of planners and decision-makers in national and international agencies to appreciate the real dynamics of Nepalese economy and society. Nepal started receiving foreign aid in the early 1950s, and since then has become increasingly aid dependent. Furthermore, the ratio of grants to loans has steadily declined over time. In 1975-76, 74 per cent of total Official Development Assistance was represented by grants. This declined to 27 per cent in 1990 and was around 30 per cent during 1998-1999.⁶ If compared with the other five countries of South Asia over the period 1980 to 1996, Nepal stands out as having the highest proportion of foreign aid to Gross National Product. In 2004-2005, Nepal's outstanding loans totalled 219 billion rupees (US\$ 2.9 billion) representing 43.18 per cent of total Gross Domestic Product. The country is currently spending nearly 15 per cent of its annual budget to pay the interest (People's Daily Online, 2006).

While in many cases unregulated economic liberalism has created challenges for the enjoyment of economic, social and cultural rights, in other cases the enjoyment of these rights have been jeopardized by restrictive government policy and extreme protectionism. In **Uzbekistan**, following the collapse of the Soviet Union, the government failed to undertake major reforms. An unstable and unclear tax system and strong intervention by governmental agencies in business regulations has created an unfavorable environment for foreign direct investments that would normally generate employment. The economy grew by only 0.3 per cent in 2003, according to the IMF, and GDP per capita has fallen every year since 1998, reaching just US \$350 per capita in 2003. This indicator is one of the lowest among the countries belonging to the Commonwealth of Independent States (CIS).⁷

Participants agreed that gender and power inequalities at home and in the work lead to violence, torture, cruel, inhuman and degrading treatment and arbitrary arrests, illegal detention, extortion, disappearances and execution. Many, including participants from **Bangladesh, Brazil, Burundi, Colombia, Egypt, India, Liberia, Nepal and Zambia**, drew attention to the vulnerability of women and children to economic, social and cultural rights abuses including in relation to nationality, property rights, trafficking and sexual abuse,

⁶ Sharma, S. K., 2000. Some aspects of dependency crisis in Nepal. In Kumar (ed.), domestic conflicts and crisis of governability in Nepal. Centre for Nepal and Asian Studies, Kathmandu: 220-221.

⁷ See www.imf.org

education, employment, and health including reproductive health rights, marriage and family, legal procedure and court proceedings. The participants from **India** and **Nepal** also emphasised the significance of caste discrimination. In **Burundi**, the Batwa minority experiences severe socio-economic discrimination. In **Bangladesh**, vulnerable groups (identified by gender, religion and economic status) effectively enjoy no protection. An elite which is mostly involved in politics or business sometimes becomes the cause of “artificial” poverty. At the same time, inequality in dignity, values and respect are often due to religious influence, and in cultural terms, society is male-dominated. Women, the landless, poor day-labourers and children become the victims of violence at home and workplaces. Inequality in occupying and possessing property is also a deep-rooted cause of domestic violence. Inequality of property division between male and female as per Islamic code, and non-respect for equal economic, social and cultural rights are often the causes of violence. At the same time, however, in Bangladesh the domination of the law-enforcement and intelligence agencies is sufficient to prevent the rise of widespread or organised violence. Power, including the use of violence and torture, is so greatly concentrated in favour of the government that even recourse to courts of law will not bring redress against officially sponsored or state violence. Similar concentrations of power can be observed in **Liberia**, where the head of the judiciary is appointed by the country’s President, in **Uzbekistan**, where the President appoints and dismisses judges from the regional, district and city courts of law, and in **Zambia**, where laws have granted so significant discretionary power to the political establishment at the expense of the majority of the population. In **Burundi**, impunity for violence committed since independence in 1962 continues, and governments have failed to put in place the institutions necessary to deal with these crimes (specifically an independent truth commission). The sense of injustice and frustration that this generates among the population constitutes a potential source of violence.

In contrast, **South Africa** is a constitutional democracy that can be said to enshrine and protect civil and political, social and economic, and to some extent environmental rights. Many of these rights are recognised in legislation and policies of various government departments. There is widespread acknowledgement that major social and economic progress has been made since 1994. Key areas have included the delivery of potable water to tens of millions of South Africans; allocation of housing subsidies; heavy spending on education; and redistribution of land. In practice, however, there are many shortcomings – often through inadequately designed policy, or lack of implementation. Sometimes competing intentions have adverse effects on the groups they are meant to benefit. For example, the UN Expert on Adequate Housing noted that the housing policy to promote development, gentrification, and even housing for the poor, may sometimes result in evictions of people currently residing in the area, denying them the right to housing.⁸ Other issues are linked with the under-spending of government budgets. This in turn is caused by a lack of competence, skills and capacity to deliver on socio-economic improvements. At the same time, increased spending and resource allocation has had disappointing results in some areas, notably in education where the quantity and quality of graduates is insufficient for the development needs of South Africa.⁹ Indeed, Southall (2007) argues that South Africa’s aspiration towards a developmental state is critically threatened by certain dysfunctional aspects of state, which occurs at different levels.

⁸ Miloon Kothari (2007) “UN Expert on Adequate Housing Concludes visit to South Africa”, press release following the Special Rapporteur’s visit to South Africa in April 2007. www.unhchr.ch/hurricane.nsf/ accessed on 12 June 2007.

⁹ Roger Southall (2007) “Introduction: the ANC state, more dysfunctional than developmental?”, in Sakhela Buhlungu, John Daniel, Rodger Southall & Jessica Lutchman (eds). *State of the Nation: South Africa 2007*. Human Sciences Research Council: Pretoria. pp 1 – 27.

State security policies can also have a direct impact upon the enjoyment of economic, social and cultural rights. To return to the example of **Colombia**, the state employs a policy of *seguridad democrática* with the aim of resolving the country's internal conflict that has been going on for more than fifty years. The result has been the militarisation of many aspects of life, and the reinforcement of the power of the military forces at the expense of civil society and its organisations. In an attempt to control drug production in Colombia, the government also sprays tracts of land with herbicide, provoking the displacement of indigenous and Afro-Colombian communities, damaging their crops and putting at risk the food supply of the poorest populations in Colombia.

Countries in post-conflict situations can face specific human rights challenges directly associated with violence and torture. In **Burundi**, following the ceasefire agreement in 2003, the Government introduced a policy of demobilisation for former combatants from both rebel groups and government forces. This, however, has not included adequate measures for the reintegration of the former combatants, with the result that many are unemployed and lack the skills necessary to compete on the job market. Furthermore, disarmament was ineffective. These former combatants are easily recruited to serve in militias, and as such represent a serious threat to the security and stability of the country. In **Liberia**, following the end of the war in 2003, the implementation strategy of the security sector reform led to the total disbandment of the Armed Forces, with the result that some 5000 trained soldiers are now unemployed. Furthermore, approximately 100,000 fighters are said to have been demobilized, however, while some of these fighters took advantage of various vocational/skills training and academic programmes, the vast majority of them are yet to be fully reintegrated and are therefore not gainfully engaged, economically (the unemployment rate in Liberia is currently 85 per cent). This contributes to a situation of high insecurity. In **Nepal**, the peace process is focused upon Kathmandu. This process is thus top-down and dominated by political elites based in the capital and other urban centres. There are no sincere efforts to share the "peace dividend" with people living in war-affected rural and Nepal. As a result, there are heightened frustrations amongst Dalits, tribal groups including the Madhesi, ethnic minorities, youths and other traditionally marginalised communities in conflict-affected Nepal. This is provoking localised uprisings in various parts of the country and a proliferation of armed groups.

2. What needs to be done at the national level to effectively address these root causes?

Socio-economic policy

- Implement new economic models with emphasis on effective public policy, resource equity and employment generation;
- Adopt gender sensitive economic policies;
- Peace-building approach to resolution of conflict of interests;
- Implement human rights-oriented agrarian reform;
- Promote and protect minority rights;
- Ensure full social participation for all groups;
- Reform taxation policies that unfairly penalise the poor;
- Provide adequate salaries and employment security for public sector employees.

Legal measures

- Build capacity to ensure effective monitoring of corruption, and prosecution when necessary;
- Address impunity as an imperative;
- Ensure the independence of the judiciary through legal measures and financial independence;
- Strengthen the system of legal aid;
- Promote the introduction of local domestic laws prohibiting torture in countries that have not ratified the Convention against Torture;
- Introduce adequate firearms legislation and ensure its effective implementation, and better policing of borders to control illegal arms.

While many participants gave country-specific responses in their papers, the points included here are those with broad relevance. Many, for example, indicated the importance of promoting **effective education policies** for laying the foundation of a just, equitable and peaceful society, reducing economic disparities and raising awareness of human rights. Many also indicated that **socio-economic policy** – including taxation policy - should to be re-examined with a view to giving greater emphasis to the interests of the poor and excluded. Connected with this is the importance of examining government implementation of its social development goals, both in terms of quality and quantity, and in terms of who is benefiting from the programmes. Health and income and employment generating programmes may, for example, be devised for the poorest groups in society.

The **land rights** of small-scale farmers, indigenous groups and others must be respected, and their survival should not be put at risk by large-scale projects or agrarian reform. The justice system should foresee mechanisms to protect these groups and their ways of life. A development project, if judged necessary, should be sustainable and must not compromise the survival of the inhabitants of the area affected. This involves providing these groups with full information on development projects that may affect them, and carrying out real and meaningful consultation with them. Decision making should be done in a transparent manner and all due processes should be respected. If, after a transparent process of reflection, a project is approved, those affected should receive sufficient compensation (in terms of land, housing or money) to ensure that they can continue to live with dignity and provide for their families.

Non-discrimination and respect for all groups should not only be incorporated into national laws, but implemented effectively. In the case of women, this includes legislating against domestic violence and other forms of abuse (acid throwing, dowry deaths and honour killings in **Bangladesh**, for example). This justice must also be accessible to victims. Other vulnerable groups to whom protection should be extended include children, indigenous groups (such as the Batwa in **Burundi**), persons with disability and ethnic and religious minorities. To the extent that economic resources allow, specific funds and programmes can be created for these groups. Policies directed at vulnerable groups should not only be created to protect their rights, but also to ensure their full participation as citizens.

For **South Africa**, it was also suggested that legislation against violence be complemented by strengthening and rolling out more **violence prevention programmes** aimed primarily at youth. These should focus on life skills development, conflict management, HIV/AIDS awareness. These programmes should aim to promote a sense of meaning and belief in the future in the participants to find ways of including them in the mainstream of society, and to promote resilience. Programmes such as this are equally valid for many countries.

Real commitment to **eradicating corruption** is also important. **South Africa**, for example, has demonstrated determination to combat corruption at the highest level. Specific measures include the Prevention of Corruption and Combating of Corrupt Activities Act of 2003, improving the professionalism of the Revenue Service and the office of the Auditor General, and requiring public officials and politicians to disclose private financial interests. South Africa recently announced its intention to ratify the Anti-Bribery Convention of the Organization for Economic Cooperation and Development (OECD), which outlaws the bribery of public officials in international business transactions. This message, however, is undermined by a number of high profile corruption charges against key figures in politics and the South African Government's weak response to them.¹⁰ There is an indication that corruption is becoming increasingly pervasive in society.

Regarding **law and order** responses to violence, public security ensured by accountable agents is an essential dimension of social policies and the building of citizenship. In some cases – such as **Brazil** – the quality of policing might be improved through training initiatives based on human rights principles, higher salaries and improved working conditions. In a number of countries – including **Argentina** – repressive police methods also have historical roots that must be addressed. In still other cases, such as **Bangladesh**, the police, army and elite forces are manipulated by the parties in power and have been directed at political opposition, religious and ethnic groups. Responses require greater accountability and transparency and, crucially, must address the issue of impunity. Other measures could include establishing or strengthening national human rights institutions, reviewing the criminal justice system and reinforcing the investigatory capacity of the police so that there is a greater reliance on evidence rather than confession. The longer an individual is held in detention, the more likely he or she is to experience torture or other forms of abuse, therefore individuals held on remand should be incarcerated for the shortest time possible. This also involves improving the capacity of the courts to deal with cases and minimising the backlog.

In addition to responses from national government to address the economic, social and cultural root causes of torture and other forms of violence, the seminar participants reflected

¹⁰ Southall, p. 9.

on the ways in which NGOs can contribute to this effort. The key points are included in the box below:

NGO action

- Re-align statutory and customary legal systems;
- Promote grassroots education, with particular emphasis on ESC rights;
- Engage in fact-finding missions on the ground;
- Reinforce the impact and strengthen the coordination of NGOs;
- Carry out human rights impact assessment for policies and projects;
- Monitor violations of ESC rights on a national level together with international NGOs;
- Conduct a national study of the criminal justice administration system (how effective is it?) With special emphasis on the perspective of the poor;
- Support freedom of government to ratify laws, be vigilant and communicate developments to the international level;
- Observe trial proceedings;
- Support an international review of questionable or misrepresentative national statistics;
- Provide, and promote adherence to, a clear and just universal definition of terrorism;
- Work to ensure that the absolute prohibition on torture is respected;
- Monitor justice delivery on torture by national human rights institutions.

3. How can the mandates of the UN special procedures system help address the economic, social and cultural root causes of torture and other forms of violence?

Special procedures mandate holders could:

- Incorporate a clear economic, social and cultural rights perspective in the planning, execution and follow-up of country visits;
- Take a cross-cutting approach to ESC rights in report preparation;
- Include consultations with development NGOs;
- Promote national, regional and international meetings on ESC rights and torture;
- Establish the link between violation of ESC rights and torture across countries eg. impact of World Bank policies in various countries;
- Address the limits imposed on civil and political rights in the context of the “war against terrorism”, especially in industrialised countries;
- Oversee national curriculum development to ensure adequate training and education on human rights;
- Monitor national systems of reforms to ensure equity;
- Monitor the administration of justice and ensure that the system is impartial;
- Call for the protection of human rights defenders working in the area of ESC rights.

Information exchange was a key theme identified by seminar participants. Some participants expressed a desire to see improved two-way communication to ensure that victims of torture and oppression can have their voices heard in the UN special procedure system, and that information reaches these groups and individuals from that System. It was suggested that reports produced by the special procedures system should also be made available in a consistent manner to national human rights commissions, the police and prison authorities. In addition, some participants called for a more effective use of **national human rights networks** by the special procedures mandate holders to raise awareness of their work and recommendations. It was felt that working with these networks would also provide a degree of security to their members.

In a country like **Zambia**, where the culture of human rights is relatively new, it was considered important that the special procedures mandate holders support the advocacy work in which local NGOs are already engaged. This support might take the form of material development, programme design, staff training etc. Participants also urged the mandate holders to include in their research and reports an **explicit dimension addressing the economic, social and root causes of torture and other forms of violence** and to advocate for the fairer distribution of economic resources. They also recognised that some mandate holders already explicitly addressed these roots. In **South Africa**, for example, the Special Rapporteur on Adequate Housing focused on the implementation on socio-economic rights (in this case, housing), and indicated that a lack of housing for women is often linked to the ongoing perpetration of violence against women and vulnerability to HIV infection,¹¹ an issue that several NGOs have also highlighted.¹²

¹¹ Miloon Kothari (2007) “UN Expert on Adequate Housing Concludes visit to South Africa”, press release following the Special Rapporteur’s visit to South Africa in April 2007. www.unhchr.ch/hurricane.nsf/ accessed on 12 June 2007.

¹² Emdon, E. (2007). *Expanding Abused Women's Access to Housing*. Research report written for the Centre for the Study for Violence and Reconciliation, available on <http://www.csvr.org.za/papers/papemdon.htm>

Participants also saw the mandate holders having a role in **promoting national, regional and world-wide meetings on the theme of the economic, social and cultural rights**, with the participation of governmental and non-governmental representatives. International conferences would also contribute to the identification of common links regarding the ESC rights and torture across countries in order to build up a thematic perspective to complement individual country studies. A particular concern among participants was to better understand and act upon the broad impact of the policies of **international financial institutions and the effects of globalisation**. These can only be fully understood by incorporating a global dimension. While recognising that follow-up does take place, and acknowledging the restrictions imposed by limited resources, participants encouraged the establishment of a **formal system to follow-up mandate holders' recommendations** and obtain regular reports from countries on what measures have been taken to implement these recommendations. The mandate holders might, for example, report to the Human Rights Council on the implementation of their recommendations. It was also suggested that country visits have a cycle (for example every 5 years) so that the mandate holders could regularly review progress.

Importantly, many of the suggestions that emerged from this session referred to how NGOs can support the work of the special procedures system to address the economic, social and cultural root causes of torture and other forms of violence. It was felt that OMCT had a key role as intermediary between local NGOs and the special procedures mechanisms. The suggestions made by the seminar participants are summarised in the box below.

How can NGOs support the work of the UN special procedures system and other UN mechanisms?

- Add their voice to calls for country visits by the special procedures mandate holders and work to overcome government intransigence. OMCT can provide support for this. Can NGO networks pressure the UN system to provide funds for visits?;
- Check the meetings organised for mandate holders during a visit as well as ensure the integrity of the sources of materials and information. OMCT has a coordination role in contacting mandate holders and NGOs, monitoring the visits and ensuring NGO input into the programme;
- Provide material including country-specific information to support the special procedures mandate holders, complementing the information and knowledge of international NGOs;
- Ensure effective documenting of facts when the mandate holders collaborate with civil society on rights violations;
- Encourage mandate holders to take a horizontal approach to issues of violence and torture and make explicit their economic, social and cultural root causes in report drafting;
- Support the mandate holders to bring this information to the UN;
- Explore with mandate holders the possibility of making unofficial visits (lectures, training visits etc);
- Invite mandate holders and experts for thematic meetings with national NGOs, also with the involvement of universities and, importantly, of those directly affected.
- Monitor the treaty body reports submitted by their own countries and send their comments and observations to the relevant mandate holders through the OHCHR;
- Contribute to the UN Universal Periodic Review.

4. What needs to be done to strengthen the capacity of national NGOs to address the economic, social and cultural root causes of torture and other forms of violence?

Key measures to strengthen the capacity of national NGOs to address the economic, social and cultural root causes of torture and other forms of violence include:

- Monitoring and carrying out research on the links between violations of economic, social and cultural rights and torture by developing the capacity of resource persons at the grassroots level to investigate and address the links (enhance their knowledge, promote training and awareness raising);
- Creating databases of material pertaining to the links between violations of economic, social and cultural rights and torture;
- Assembling Special Procedures materials on violence, torture and ESC rights, and especially on issues of poverty and inequality ;
- Establishing links between human rights and development NGOs to better investigate and acting upon the links between violations of economic, social and cultural rights and torture;
- Developing networking both through the internet and by sharing printed materials;
- Producing periodic reports on the violation of ESC rights (this needs funding);
- Identifying funding sources for work on ESC rights (OMCT can support this by providing NGOs with information on grants from the international community for which they might qualify).

Participants agreed that **developing stronger links between national human rights NGOs and development NGOs** is a key strategy for addressing the economic, social and cultural root causes of violence. They also recognised that effective efforts to address these root causes would require both technical and financial support.

The **safety of human rights activists** engaged in highlighting the root causes of torture and other forms of violence was also a concern. Participants agreed that their security could be better ensured if they are backed and supported by international human rights NGOs and maintain regular contact with them. With this international backing, local NGOs can disseminate information, educate and raise awareness regarding the economic, social and cultural root causes, and promote measures to address these causes.

Networking and the dissemination of information at various levels were also considered to be crucial. At a national level, networks facilitate investigations, support concerted efforts to address the economic, social and cultural root causes of torture and other forms of violence and provide a means to disseminate and apply new knowledge and strategies (for example, a network member who has participated in this seminar might offer training to network members on working with the UN special procedures). In addition they offer an additional level of support and protection to their members. Furthermore, networks offer an important means of communicating human rights issues to the general population. This may partly be achieved by means of the internet, but print media and other forms of communication (including radio) in appropriate local languages should not be overlooked, given the very limited access to internet in many countries.

At a regional or international level, networks provide opportunities to bring together human rights defenders from various countries to share knowledge, experiences and tactics. The

effective functioning of networks, be it at the national or international level, requires adequate financial, technical and political support.

VIII. Proposed Next Steps, with Timetable, for “Reaching Victims by Strengthening NGOs and Sharing Information through OMCT”

1. NGOs compile a qualitative and quantitative index of research to establish the links between violations of ESC rights and torture at a global level.

2 months to form the group to carry this out, 6 months to compile the index, which will be reviewed every 2 years.

2. OMCT collates standards from existing reports, or reports by local NGOs. This should be a compact and well-edited study. This should be translated into local languages, and also disseminated through other media, including posters, leaflets and audio.

3 months for compilation and editing. Translations provided by local NGOs.

3. Regional training programmes on national, regional and international mechanisms, organised by OMCT and jointly sponsored together with local host. Involve as many special procedures mandate holders as possible for training and lectures. Fundraising can be done jointly. Invite participants from other regions to facilitate exchange of ideas and experiences (be aware of visa issues).

6 months to plan, venues should include South Asia and Africa.

4. In addition to complaints, look at reports, documents, reports from public hearings, videos etc as source material for special procedures mandate holders. OMCT should create a staff focal point to repackage this material and send it to the mandate holders, acknowledging the input of the local NGOs.

Over the next 12 months, 3-5 reports per participant for follow up (with activity focused in the first 6 months). These reports can be thematic or cross-thematic.

5. Analyse complaints to understand the economic, social and cultural roots. NGOs will write these up and send them to OMCT, which will, in turn deliver them to a number of (3) special procedure mandate holders.

3 to 5 complaints analysed by each NGO.

NB This calls for concrete outputs and evidence of the responses from the mandate holders.

6. Establish links with development NGOs, women’s groups, children’s groups and other vulnerable groups (eg Dalits), trade unions and political activists and people working with judges, lawyers, health professionals etc. in order to begin linking the various issues around torture. The resources for this may be found locally, or through OMCT. Aim for mutual incorporation of human rights and development link by all these groups.

Possibly looking at one category per country

Use these links to create awareness of human rights and development among the population through education (eg publications, leaflets, bullet points etc from NGOs)

IX. The Way Ahead

The participant in this seminar agreed that in order to reduce violence it is crucial for NGOs to identify and address its economic, social and cultural root causes. The UN special procedures mandate holders who attended the OMCT seminar were also clear in their conviction that violence and torture are linked to the denial of economic, social and cultural rights.

Reducing violence associated with the denial of economic, social and cultural rights not only involves examining how violence is generated in specific national contexts, but also understanding how global dynamics and the policies of international financial institutions are played out in local situations. Closer links between human rights NGOs and development organisations can enhance this understanding. It can also increase the capacity of these organisations not only to identify areas in which the denial of economic, social or cultural rights lead to, or risk leading to violence, but also to develop effective responses to these situations.

This interaction between development and human rights NGOs is particularly important given the specific challenges associated with the progressive realisation of economic, social and cultural rights. The capacity to identify the socio-economic roots of torture and other forms of violence can help to influence where and how governments assign their limited resources. This same capacity also offers a means to exert pressure on governments to sustain their commitment to realising the economic, social and cultural rights of their country's citizens. Where the analysis of NGOs coincides with or is supported by that of the UN special procedures, the potential to influence government strategies becomes greater still.

The relationship between NGOs and the special procedures of the UN is a symbiotic one. In other words, the special procedures mechanism is reinforced when mandate holders receive support and reliable and well-targeted information from NGOs that have national expertise. This can include input for the preparation of country visits. At the same time, these same NGOs can benefit from the exposure that the special procedures system can give to specific issues in the forum of the UN and beyond. The challenge in reinforcing this mutually-beneficial arrangement lies to a large extent in the issue of follow-up. NGOs are not always clear what happens to an issue once it has been submitted to the special procedures, while special rapporteurs, representatives, special representatives, independent experts and working group members do not always receive information on the repercussions of their reports on the people most affected. International NGOs such as OMCT have a role in working to narrow this communications gap.

An important strategy in moving ahead on the issue of the economic, social and cultural roots of torture and other forms of violence – and one on which all participants agreed – is to promote the explicit inclusion of this theme in research and reports. This includes reports produced by NGOs and by the UN special procedures system. Such documents are not only valuable in their own right, but also provide the foundation for international, regional and national network that focus on these issues

Appendix 1

Programme of Work, 18-22 June, 2007

Monday 18 June

Morning session

- Registration
- Opening Ceremony: Ms. Soussan Raadi-Azarakhchi, Chief, Special Procedures Branch, OHCHR; Mr. Eric Sottas, Director, OMCT; Mr. Yves Berthelot, former Executive Secretary, United Nations Economic Commission for Europe, and member of OMCT's Scientific Council
- Introduction of participants, discussion and agreement on objectives and methods of work and identification of additional issues to be dealt with
- Preparation for meetings with special procedures mandate holders and OHCHR staff (discussion of the system, relevance, issues to be raised etc.)

Afternoon session

- Group discussion on independence of judges and lawyers
- Presentation and discussion of country papers

Evening

- Reception
-

Tuesday 19 June

Morning session

- Mr. Rodolfo Stavenhagen, Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous Peoples
- Presentation and discussion of country papers (cont.)

Afternoon session

- Presentation and discussion of country papers (cont.)
 - Mr. François Beaujolin, President, Fondation pour les droits de l'homme au travail (Foundation for Human Rights at Work)
 - Mr. Paul Hunt, Special Rapporteur on the Highest Attainable Standard of Physical and Mental Health
-

Wednesday 20 June

Morning session

- Ms. Leila Zerrougi, Chairperson-Rapporteur, Working Group on Arbitrary Detention
- Evaluation of programme so far and suggestions for improvement
- Presentation and discussion of country papers (cont.)

Lunchtime session

- Video presentations from Colombia and Brazil

Afternoon session

- Ms. Sandra Ratjen, FIAN International Secretariat, UN Coordinator, and video on the La Parota dam project, Mexico
 - Ms. Federica Donati, Human Rights Officer, OHCHR and assistant to Mr. Jean Ziegler, Special Rapporteur on the Right to Food
 - Mr. Boris Wijkström, Mr. Patrick Mützenberg, Ms. Delphine Reculeau & Ms. Mariana Duarte: Presentation of OMCT programmes and discussions with OMCT staff
 - Mrs. Hina Jilani, Special Representative on Human Rights Defenders
-

Thursday 21 June

Morning Session

- Mr. Manfred Nowak, Special Rapporteur on the Question of Torture
- Presentation and discussion of country papers (cont.)
- Attendance of the fourth day of the 14th Meeting of Special Procedures Mandate Holders to discuss enlarging the network of civil society actors working with special procedures and strengthening collaboration, Palais Wilson

Afternoon session

- Attendance of the fourth day of the 14th Meeting of Special Procedures Mandate Holders to discuss enlarging the network of civil society actors working with special procedures and strengthening collaboration, Palais Wilson
 - Mr. José Luís Gómez del Prado, Chairperson-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination
-

Friday 22 June

Morning session

- Discussion on strengthening the OMCT network with Mr. Eric Sottas, Director, OMCT
- Brainstorming on the four key questions of the seminar (see above)

Afternoon session

- Conclusions and recommendations
 - Presentation and discussion of country papers (cont.)
 - Evaluation
 - Close
-

Appendix 2

**Statement to the opening ceremony of the OMCT Seminar
Poverty, Inequality and torture:
Addressing the root causes of violence through the UN special procedures system
by
Ms. Soussan Raadi-Azarakhchi
Chief, Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights**

- I am very glad to have the opportunity to meet with you today, as you are starting this seminar which addresses a very important issue, the relationship between poverty, inequality and torture, as well as violence of all types.

OHCHR welcomes the recognition of the need to look at torture and violence from an integrated and multidisciplinary perspective, as it presents multiple advantages: it allows to switch the focus from cure to prevention by addressing root causes of torture and other forms of violence; it also illustrates the fact that no distinction can be made between civil, political, economic, social and cultural rights and that the enjoyment of one right is depending on the fulfilment of other rights. And, most importantly, it helps identify concrete steps that can be taken together by the various key actors in the human rights sphere to link concepts to operations, and policy and practice. In this context I am particularly glad that the seminar focuses on how you as important civil society actors, can work with and through UN special procedures to address this challenge.

As highlighted in the excellent OMCT study which provided the conceptual framework for the present project, together with the 2005 International Conference, the link between poverty and violence is becoming more and more evident in the work of special procedures. Not only the special rapporteur on torture has devoted special attention to it – and I hope you will have a chance to discuss this with him directly - but many other mandates have addressed this link in their work, including the special rapporteur on violence against women, the special rapporteur on indigenous people, the special rapporteur on the right to food, the special rapporteur on the sale of children, just to mention a few. They have all stressed in their reports how poverty, inequality, lack of opportunities and often gender discrimination put people in a situation of great vulnerability to violence. Likewise, a number of mandates have highlighted the need to ensure that poverty does not represent an obstacle to the enjoyment of human rights, for example access freedom of opinion and expression or education. Others, when addressing issues of impunity, have often pointed to economic and social problems resulting in a lack of means for an effective social justice and judicial system.

The link between extreme poverty, lack of enjoyment of economic social and cultural rights and violence is also increasingly evident in the communications sent by special procedures. Just as a way of illustration, I briefly looked at the cases sent by the special rapporteur on torture in the first months of 2007 and several of them were sent jointly with the special rapporteur on education, adequate housing and other special rapporteurs on economic, social and cultural rights. Finally, it is worth mentioning that on Human Rights Day last December, mandate holders of special procedures jointly issued a public statement highlighting poverty as a grave denial of a person's right to a range of basic

capabilities and stressing how poverty exacerbates the occurrence of human rights violations, reinforces discrimination and denies individuals the ability to claim their rights and seek remedy..

- Of course there is more that special procedures can do to make the link become more evident and study relevant issues in depth and there is a lot you can do to cooperate with them in this endeavor. Let me just briefly mention a few areas in which such cooperation can be strengthened:
- Thematic studies: suggestions from civil society are crucial to identify issues of interest. You can encourage special procedures to study relevant issues and assist by providing information. Furthermore, even when the theme of the report is not explicitly related to the link between poverty and violence you can highlight this link in the information you provide.
- Country visit: similarly, suggestions can be provided prior to country visit so that the need to look into the link between poverty and violence is taken into account from the planning stages and the itinerary and agenda are planned accordingly. Again, the information you provide during and after the visit is essential for relevant issues to be reflected in the report and recommendations
- Communications: you can provide relevant information to special procedures which can then become the subject of a communication. Communications are important not only as a protection tool, but also because through the analysis of them specific trends can be identified and brought to the attention of the international community.
- These were just a few examples of how much you can do through special procedures. I look forward to hearing about the outcome of your discussions, as I am sure many other good ideas for strengthened cooperation will come out of it. My Branch and Special procedures themselves count enormously on the support of the civil society, without which the work of the special procedures wouldn't be half effective. During this week the 14th annual meeting of special procedures is taking place so you have a unique opportunity to establish links with the mandate-holders themselves and the staff of my Branch. We remain open to engage in further discussion with you in the future.
- I wish you all the best for a successful and fruitful seminar.

Appendix 3

**Introductory Remarks to the opening ceremony of the OMCT Seminar
Poverty, Inequality and torture:
Addressing the root causes of violence through the UN special procedures system
by
Mr. Yves Berthelot
former Executive Secretary, United Nations Economic Commission for Europe
and member of OMCT's Scientific Council**

*...the overwhelming majority of those subjected to torture and ill-treatment are [...] from the lowest strata of society.*¹³

*... poverty and other denials of human rights, can greatly increase the risk of instability and violence..., conflict leads to abuse of human rights and sets back development...*¹⁴

The first quote is a statement of fact: those who are most often victims of violence and torture come from the poor and from the most vulnerable groups. The second explains the mechanism whereby those whose economic, social and cultural rights are violated become victims of torture and ill-treatment.

The link between the violation of economic, social and cultural rights and torture has been highlighted by an empirical study conducted by OMCT using data from more than sixty countries. This serious statistical research draws attention to a number of strong correlations that confirm what case studies already suggested. It demonstrates that torture today is less often used to make people talk, and more often employed to keep them quiet.

Victims of rights violations are those who are forced out of their homes by large-scale projects or real estate speculation without being rehoused: they are those who are driven off their land for the construction of dams, by the expansion of urban areas or in order to make way for the establishment of large agro-industrial projects without being given new land or provided with another means of survival: they are those who suffer from hunger – most often small-scale farmers who see the price of their products collapse because they must compete with subsidised products imported without duty: they are those who are compelled to accept a job that neither assures the necessary means to provide for their family, nor meets any of the norms of the International Labour Organisation: and they are those who see the symbolic places and objects of their culture destroyed without being able to save a single element. These injustices are sometimes carried out in a brutal manner. They are the result of the abuse of power, be it the power of the state or the power of money. And it happens that the victims respond by protesting, demonstrating and leading revolts. These protests in turn provoke repression and arrests followed by ill-treatment, even torture, carried out against the ringleaders in particular. This is the mechanism that links the violation of economic, social and cultural rights with torture and ill-treatment.

¹³ U.N. Doc. A/55/290, Report by the Secretary General, incorporating the Report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, 11 August 2000, § 35.

¹⁴ Statement by Ms. Louise Arbour, United Nations High Commissioner for Human Rights, to the Open-ended Working Group on the optional protocol to the International Covenant of Economic, Social and Cultural Rights, Geneva, January 2005, www.ohchr.org

The lesson we can draw from this statement of fact and this analysis is simple: organisations for the defence of human rights and development NGOs must work together to prevent this chain of violence. Together, they must raise the awareness of the authorities as regards the indivisibility of human rights and the consequences that their violation can provoke. Development NGOs have the task of identifying the national and international policies and projects that risk compromising the enjoyment of economic, social and cultural rights by the poorest and most vulnerable members of society, and they can alert human rights organisations to this. Together, development NGOs and human rights organisations can call the attention of the authorities to the situation to ensure that the rights of every individual are respected and that the populations under threat are aware of their rights. If necessary, they can alert international public opinion, as has happened with China's Three Gorges Dam, as well as with deforestation projects in Brazil and India and in numerous other cases. From this point of view, the adoption of the optional protocol to the International Covenant on Economic, Social and Cultural Rights enabling violations of these rights to be brought before international mechanisms would encourage governments to take more care over the implementation of such projects.

As necessary as cooperation between human rights organisations and development NGOs may be shown to be, it does not happen spontaneously. These organisations have different cultures and approaches and their communication is limited. Furthermore, the same thing can be seen among international organisations: the United Nations, which had been promoting human rights since the end of the 1940s waited until the major conferences of the 1990s to effectively link the two dimensions in its reflections. And Mary Robinson, then High Commissioner for Human Rights, struggled to convince the heads of agencies and economic departments to include human rights in their concerns. It is one of the objectives of this week to encourage you, on returning to your countries, to approach development NGOs and cooperate with them in order to prevent the chain of events that leads to the violation of economic, social and cultural rights, ill-treatment and torture.

Appendix 4

Special procedures of the Commission on Human Rights: Individual complaints

The following text comes from the website of the Office of the High Commissioner for Human Rights, www.unhchr.ch/html/menu2/2/special-complaints.htm

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

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

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

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

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

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

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

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

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

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

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

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

Extrajudicial, summary or arbitrary executions

www.unhchr.ch/html/menu2/7/b/execut/exe_info.htm

Violence against women

www.unhchr.ch/html/menu2/7/b/women/womform.htm

Arbitrary Detention

www.unhchr.ch/html/menu2/7/b/arb_det/ardintro.htm#question

Enforced or involuntary disappearances of persons

www.unhchr.ch/html/menu2/7/b/disappea/explanote.htm

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

[www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.1999.64.En?OpenDocument#guidelines](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.1999.64.En?OpenDocument#guidelines)

Sale of children, child prostitution and child pornography

www.unhchr.ch/children/contact.htm

Torture

www.unhchr.ch/html/menu2/7/b/torture/torquest.htm

Human Rights Defenders

www.unhchr.ch/html/menu2/7/b/mdefguide.htm

Appendix 5

Summary of written seminar evaluations

I. Content and organisation of seminar

	Good	Average	Poor
Adequacy of substantive material and information provided prior to seminar	90%	10%	-
Clarity of seminar aims and objectives	60%	40%	-
Quality and pertinence of presentations by invited speakers	78%	22%	-
Quality of background documentation provided during seminar	73%	27%	-
Organisation of time	50%	30%	20%
Management of discussions	50%	40%	10%
Overall length of meeting	40%	60%	-
Benefit of collective reflection and experience sharing	90%	10%	-
Achievement of personal aims and objectives	50%	50%	-
Achievement of seminar aims and objectives	70%	30%	-
Clarity regarding next steps	38%	62%	-
Overall usefulness of seminar	70%	30%	-
SUMMARY	63%	34%	3%

II. Administration and logistics

Provision of practical information (hotels, flights etc)	90%	10%	-
Administrative support	80%	20%	-
Suitability of venue	70%	30%	-
SUMMARY	80%	20%	-

Seminar participants' written comments and suggestions

1. The follow-up will be indicative of the success of the seminar. It is very important to keep strong cooperation with NGOs of participants, especially in fundraising.
2. Tom and his team were also very excellent. The staff were also great when they came to talk to us.
3. The administration [organisation] of this seminar was very timely and good the third countries therefore I would like to appreciate Tom and his entire [team] for the good work so far.
4. Thank you for this opportunity to share ideas and experiences! I learned many important things that will be implemented in my future work. It would be more useful to have the group having a better understanding of the UN system. This way we could use our time even more effectively without losing our time on discussing what UN special procedures cannot do due to their limitations in mandates!
5. I found very helpful this seminar. I would like to thank once more OMCT for this great opportunity. I hope [to] meet you all again and for that time I expect to improve my English and participate more.
6. The seminar has been extremely well organised. Perhaps in five [...] days I suggest include more experts speaking in general approach and theoretical approach. And on the other hand perhaps we could advance more about strategies to deal with violence through economic, social and cultural perspective and to deal with inequality using instruments traditionally used in violence issues.
7. The efforts of bringing human rights defenders/workers like this will strengthen the network of OMCT and also the individual persons/NGOs present for the future. The effort should be "ongoing" from both sides – OMCT & NGO Network members. Some victims could be invited to this kind of platform to share their experiences, especially a detained and tortured victim, a women or an indigenous victim which would enrich the experience of participants.
8. Might have been better to better facilitate [take less time for] the country presentations, providing more opportunity for working groups to have functioned. Would have been good to have had some informal meetings with the assistants to some special rapporteurs. Would have been good to insist on discipline within the session so that we have people present throughout the sessions. Very good facilitation by OMCT.
9. The venue could have been less noisy and with microphones to facilitate clear listening.
