



**Fighting torture and other forms of ill-treatment
by preparing reports and complaints
to international bodies addressing their economic, social and
cultural root causes**

**An invitation to submit nominations to participate in OMCT's
Latin American Regional Seminar
on addressing the economic, social and cultural
root causes of torture and other forms of violence
(Buenos Aires, Argentina 18 to 22 May 2009)**

The World Organisation Against Torture (OMCT) invites nominations for participation in the Latin American Regional Seminar on addressing the economic, social and cultural root causes of torture and other forms of violence to be held in (Buenos Aires, Argentina from 18 to 22 May 2009). The Latin American Regional Seminar is being organised with the Centro de Estudios Legales y Sociales (CELS) and it is the second of three regional seminars on this issue scheduled as part of a project supported by the European Union.¹

OMCT research has demonstrated the strong links between failure to respect economic, social and cultural rights and violence, including torture, cruel, inhuman and degrading treatment, summary or arbitrary executions, forced disappearances, violence against women and violence against children. And it has also shown that acting on those root causes can reduce violence.² Annex 1 contains information on how disrespect for economic, social and cultural rights can lead to torture and other forms of violence.

OMCT seeks to address the root causes of violence by strengthening the capacity of national NGOs to address those root causes directly with their own national authorities and internationally through alternative reports to United Nations (UN) Treaty Bodies (Annex 2 contains information on alternative reports) and OMCT urgent appeals and action files addressed to UN Special Procedures mandates, governments, development institutions, the private sector and the institutions of the European Union (Annex 3 contains information on these interventions). An information bulletin giving an overview of the activities of this project is available (on request from OMCT or on www.omct.orgLink?).



The European Union, through the European Initiative for Democracy and Human Rights, provides substantial support for this project which is also generously supported by the Interchurch Organisation for Development Cooperation, the Karl Popper Foundation, and the

¹ See www.omct.org for the report on the African regional Seminar, Maputo, Mozambique, 7 – 11 May, 2008

² See the OMCT publication “*Attacking the Root Causes of Torture, Poverty, Inequality and Violence: an Interdisciplinary Study*” (Geneva, September 2006), and the Report of the International Conference “*Poverty, Inequality and Violence: Is there a Human Rights Response?*” (Geneva, 4 to 6 October 2005) both available at www.omct.org.

Foundation for Human Rights at Work.

Objectives

The principal objective of the Latin American Regional Seminar is to help NGOs prepare action files for submission to the UN or other organisations and/or elements for inclusion in alternative reports for submission to UN Treaty Bodies containing recommendations for practical action to stop or prevent torture and other forms of violence by dealing with their economic social and cultural root causes. An important objective for OMCT is to build partnerships with NGOs to work together on these issues over the long term. The seminar, in particular, will seek to:

- help NGOs understand the various ways violations of economic, social and cultural rights are linked to violence and how acting on those root causes can reduce violence;
- help NGOs to develop their own capacity to address the economic, social and cultural root causes of violence;
- identify how action on the root causes of violence could relate to the specific circumstances of the participants' countries;
- assist participants in preparing action files for submission to the UN and other organisations;
- assist participants in preparing elements for including in alternative reports to UN Treaty bodies and in submissions to other institutions (for example the European Union) containing information on the link between the denial of economic, social and cultural rights and torture along with recommendations for specific action; and
- identify new and emerging issues for attention.

Methods of work

The seminar's work will be built principally around a discussion and refinement of draft action files or elements for alternative report prepared in advance by each participant in order to ensure that the participants leave the seminar with practical action to take on returning home. Particular emphasis will be placed on the potential for human rights and development NGOs to bring about change through collaborative projects. In addition, participants will be encouraged to exchange experiences and challenges and describe the methods that they have used to address the seminar's issues.

Selection of participants

Eighteen representatives from Latin American NGOs will be selected to participate. Nominations are invited from members of OMCT's SOS-Torture Network and other NGO working closely with OMCT. Nominations are also invited from NGOs active in the fields of economic, social and cultural rights and development that wish to address the economic, social and cultural root causes of violence from their own perspective. Organisations combating torture and those working for economic, social and cultural rights and development may wish to submit joint nominations (2 participants) with a view to working together in the future on these issues.

Organisations wishing to nominate a participant are requested to provide a short explanation of the relevance of participation in the seminar to their work. The participants selected to take part in the regional seminar must prepare and submit in advance of the seminar a 5 to 10 page paper addressing the economic, social and cultural root causes of torture and other forms of violence in their country. This paper should include the elements for an action file or for elements for inclusion in an alternative report; joint approaches by human rights and development NGOs are encouraged. The annexes to this note provide information on these issues and further guidance is available on request from OMCT.

Submitting nominations

If your organisation would like to nominate a participant, please submit the nomination to OMCT by 10 April 2009 and include a short explanation of the relevance of participation in the seminar to your organisation's work. Participants who have been selected will be informed by 17 April 2009.

Practical information

OMCT will cover travel costs (including visa fees) and living expenses in accordance with OMCT's established practice. The seminar will be conducted in Spanish.

Nominations should be sent to Tom McCarthy by email (tmc@omct.org) or by fax to +41 22 809 49 29

Geneva,
24 March 2009

Annex 1

How disrespect for economic, social and cultural rights can lead to torture and other forms of violence

There are a number of ways in which violations of economic, social and cultural rights can lead to torture and cruel, inhuman and degrading treatment or punishment and other forms of violence. These linkages also indicate the areas in which strategic action can be undertaken to reduce or eliminate violence:

- ***The poor, excluded and other vulnerable groups – including women and children - are often the first and most numerous victims of violence, including torture and cruel, inhuman and degrading treatment. This is because of the marginalization they experience in society, and because their poverty does not allow them to defend themselves and demand their rights.***

Effective prevention of violence in this context requires that vulnerable groups and situations of vulnerability be identified (for example, poor informal settlements, ethnic minorities or communities affected by large-scale infrastructure projects). In these situations affirmative preventive action should be taken, for example, through special police training or education, monitoring by the authorities of the conduct of police and others, and special attention by the authorities to ensure that vulnerable communities are legally recognized, protected and receive basic public services.³

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

Trade unionists, workers, human rights defenders and citizens in general in the exercise of their legitimate human right to demonstrate, strike or otherwise claim respect for basic economic, social or cultural human rights are often subject to violent attacks by official and private forces. Arrested, they also risk being subjected to cruel, inhuman and degrading treatment and even torture.⁴

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

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

³ See for example the Argentine case study “The Village” in the OMCT study, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*. www.omct.org

⁴ For a more detailed description see the Paper OMCT Presented to the United Nations Committee against Torture “Torture and violations of Economic, Social and Cultural Rights : Appraisal of the Link and Relevance to the Work of the United Nations Committee Against Torture”, OMCT Geneva (November 2001), in particular sections 2 & 3.

authorities acquiesced in the destruction.⁵ Similar conclusions were reached by the European Court of Human Rights in the Selcuk and Asker case.⁶

- ***Certain violations of economic, social or cultural rights can be characterized as cruel, inhuman and degrading treatment, or in some cases a denial of the right to life.***

The European Court of Human Rights has recognized that a State's failure to ensure safe housing can, in certain circumstances, render it responsible for a violation to the right to life. While the decision did not deal with an issue of torture or other ill-treatment directly, it does illustrate an important way States can be made responsible for failure to respect economic, social and cultural rights.⁷

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

The OMCT study *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*⁸ contains examples of public policies in the economic and social fields that directly increased poverty and inequality in large sectors of society and, in turn, resulted in a very significant increase in violence, including ill-treatment and torture.⁹ Similar links have been reported by other sources, including the United Nations Special Rapporteur on the Question of Torture.¹⁰ NGOs have, on occasion, acted successfully to modify or stop projects which threatened a broad range of human rights.

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

The Committee on Economic, Social and Cultural Rights has, for example, noted that the efforts of the Government of Nepal to comply with its obligations under the Covenant on Economic, Social and Cultural Rights have been impeded by the consequences of the violent conflict in the country.¹¹ The Committee has also drawn attention to the situation of children in Albania who are prevented from going to school – and hence from enjoying their right to education - by the threat of violence as a result of “vendettas”.¹² In Darfur, the widespread violence has created a climate of fear and intimidation that has severely limited the ability of displaced populations to seek assistance, including medical and health care.¹³

⁵ United Nations Committee Against Torture, Communication No 161/2000: Yugoslavia, submitted by Hajrizi Dzemajl. Document CAT/C/29/D/161/2000

⁶ For a description of this case as well as other jurisprudence in this area and a discussion of the justiciability of economic, social and cultural rights, see chapter 14 of the manual of the United Nations Office of the High Commissioner for Human Rights and the International Bar Association, *Professional Training Series No. 9, Human Rights in the Administration of Justice, a Manual on Human Rights for Judges, Prosecutors and Lawyers*. Geneva, www.ohchr.org

⁷ Eur. Court HR, *Case of Öneriyildiz v. Turkey*, judgement of 18 June 2002

⁸ www.omct.org

⁹ See in particular, the chapters and case studies relating to Argentina, Egypt, Nepal and Uzbekistan.

¹⁰ See section 3 of the OMCT paper presented to the United Nations Committee Against Torture “Torture and violations of Economic, Social and Cultural Rights: Appraisal of the Link and Relevance to the Work of the United Nations Committee Against Torture”, OMCT Geneva (November 2001)

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

¹² E/C.12/ALB/CO/1, 24 November 2006, §

¹³ See, for example, Medecins sans Frontiers, “Humanitarian situation in Darfur, Sudan - MSF statement to the United Nations Security Council”, 24 May 2004, www.msf.org

State responsibility

Economic, social and cultural rights are “real” human rights, that is, in many cases they are subject to enforcement by courts, they are justiciable. Courts on the national level are increasingly enforcing economic, social and cultural rights in ways similar to civil and political rights as are international monitoring organs, as the cases mentioned above illustrate.¹⁴ There are a number of issues which international and national monitoring or enforcement organs take into account in establishing state responsibility for violence which results from failure to respect economic, social and cultural rights.¹⁵

NGOs can make a difference

Participants in the OMCT international conference “Poverty, Inequality and Violence: is there a human rights response?” held in Geneva in October 2005 reported a growing realization that NGOs, by means of complaints, advocacy, lobbying and information campaigns, can be effective in changing policies and programmes that pose a threat to economic and social rights and thereby in reducing the risks of torture, ill-treatment and other forms of violence including violence against women and children.

¹⁴ For a discussion of the justiciability issue, see Chapter 14 of the above-mentioned *Manual on Human Rights for Judges, Prosecutors and Lawyers*. For national and international jurisprudence on the right to housing, see the case law database at www.cohre.org

¹⁵ See the above-mentioned *Manual on Human Rights for Judges, Prosecutors and Lawyers*.

Annex 2

Joining with OMCT to prepare alternative reports to United Nations treaty bodies on the economic, social and cultural root causes of torture and other serious forms of violence

The preparation of alternative reports for submission to United Nations Treaty Bodies¹⁶ in connection with a Committee's review of state party respect for human rights has been shown to be a powerful tool in helping committees better understand the situation in the country and in formulating well targeted recommendations. There is a growing awareness by UN Treaty Bodies that violations of economic, social and cultural rights can lead to torture and other serious forms of violence.

OMCT has significant experience in preparing with national NGO alternative reports to UN Treaty Bodies and under the EU sponsored project OMCT prepares a number of alternative reports focussing attention on the economic, social and cultural root causes of violence.

The purpose of alternative reports is to raise awareness of the economic, social and cultural root causes of torture and other forms of violence in a national context and, above all, to *promote change* by influencing the Committee's concluding observations and recommendations to the government. Thus, the report must respond to the particular needs and level of awareness of each Committee and provide recommendations for *feasible and concrete steps* that the state party can take to address the root causes of violence the report has identified. This requires the report to be as *specific as possible* – both in terms of identifying challenges and proposing remedies. This also facilitates monitoring government implementation of committee recommendations.

In addition to being submitted to United Nations Treaty Bodies, the information and recommendations developed in connection with alternative reports can be submitted to other procedures, for example the Human Rights Council's Universal Periodic Review of respect for human rights by UN Member States and to the institutions of the European Union.

Alternative reports are prepared in close collaboration with national partners which have the best knowledge of the situation in the country concerned. This usually involves preparatory missions to the country concerned and, as relevant, training seminars. National NGOs may also wish to organise forums at which those directly affected by the violence resulting from failures to respect economic, social and cultural rights can provide testimony and recommend remedial action for transmission to the Committee.

Representatives of national partner NGOs are invited to take part in the presentation and discussion of the alternative report to the Committee concerned, and OMCT can also organise follow-up missions to examine the government's implementation of Committee recommendations.

¹⁶ In preparing alternative reports, OMCT focuses on three main Committees; the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, and the Committee Against Torture

OMCT for its part, provides the “*Geneva perspective*”, its knowledge of the United Nations system and the best ways of working with the various Committees and their members, and its knowledge, through its Brussels Office, of European Institutions.

Pre-sessional analytical lists of issues

The UN Treaty Body system has evolved so that the consideration of a State party’s respect for human rights by the relevant Committee is strongly conditioned by the preliminary list of issues and questions raised by Committee members during pre-sessional discussions many months before the actual consideration of the State party’s report. The Committee sends the list of questions to the government to help prepare the discussion of the State party report.

For greatest impact, it is important to raise emerging issues such as the link between respect for economic, social and cultural rights and torture and other forms of violence in relatively detailed substantive submissions during the pre-sessional consideration of the state party report. Thus, OMCT, working with its national partners, prepares and submits analytical lists of issues to the relevant committee at its pre-sessional consideration of the State party report. The analytical list of issues summarises the available information relating to the economic, social and cultural root causes of violence and places it in the context of the relevant sections of the State party’s report to facilitate comparison.

Recent alternative reports and analytical lists of issues

In 2006 OMCT, in partnership with a national NGO, submitted to the Committee Against Torture information on the economic, social and cultural root causes of torture in Guatemala along with specific recommendations for practical action.

In 2007 OMCT, working with national NGOs, submitted an alternative report on Uzbekistan to the Committee Against Torture. During 2008, three alternative reports to UN treaty bodies were submitted. Regarding Kenya, one report was submitted to the Committee on Economic, Social and Cultural Rights and another report to the Committee on Torture. Each responded to the mandate of the respective committee and they were designed to be complementary and to encourage mutually reinforcing recommendations aimed at the economic, social and cultural root causes of violence. A third report was submitted to the Committee on Economic, Social and Cultural Rights relating to the Philippines.

Alternative reports prepared by OMCT have influenced the conclusions and recommendations made to governments by a number of Committees and the submission of pre-sessional analytical lists of issues has had a clear impact on the list of issues and questions sent by the Committee on Economic, Social and Cultural Rights to the governments of Kenya and the Philippines in preparation for the review of their reports.

Follow-up missions

Following the review of a state’s report by a UN Committee, OMCT also is able to organise in selected cases follow-up mission to the countries. These take place several months after the adoption of recommendations by the committee and work with national partners and government agencies to monitor and support the implementation of the recommendations

NGOs interested in working with OMCT on alternative reports should contact Michael Miller at mm@omct.org.

Annex 3

Working with OMCT to prepare Urgent Appeals and Action Files calling for action against the economic, social and cultural root causes of violence

The purpose of OMCT urgent appeals and action files is to halt or prevent torture or other forms of violence within OMCT's mandate.¹⁷ This is done by calling for preventive and/or remedial action in relation to situations, policies or projects involving violations of economic, social and cultural rights that cause violence or that present a real and substantial risk of causing violence. This includes calling on governments or others to take protective action in relation to vulnerable groups or situations.

Urgent appeals and action files are prepared in cooperation with reliable national NGOs including members of the OMCT SOS-Torture Network. They include recommendations for specific action, are sent to the competent United Nations Special Procedures mandate holders¹⁸ and to government authorities with direct responsibility. In addition, international financial and development institutions, trans-national corporations and banks are seized when they are involved in projects that cause or risk causing violence.

Urgent appeals and action files are also sent to the 282 members of the SOS-Torture Network and other NGOs in OMCT's database along with requests for action on their part. In addition, the information and recommendations developed in connection with these interventions can be submitted to other procedures, for example the Human Rights Council's Universal Periodic Review of respect for human rights by UN Member States and to the institutions of the European Union. OMCT follows-up on these interventions to monitor action or renew the appeal.

An important objective of urgent appeals and action files is to give voice on the international level to marginalised and vulnerable communities and groups that might otherwise remain voiceless. Cases are selected based on a number of criteria including the severity of the threat, the number of persons affected, the quality of information submitted or the possibility of developing good information in cooperation with the national partner, the potential for bringing about change (including the existence of a UN mandate or mandates or other procedure that would be willing to act on the information) and factors such as the sensitivity to pressure of the government, the international development/financial institutions or private actors involved. The importance as a test case and as a good example for others to follow is also taken into consideration. Other elements such as geographic balance are taken into account, but are not determinant.

¹⁷ OMCT's mandate includes torture, cruel, inhuman and degrading treatment, summary or arbitrary executions, forced disappearances, violence against women and violence against children.

¹⁸ United Nations Special Procedures mandates deal with a wide range of issues including violence against women, trafficking in persons, migrants, racism, torture and other cruel, inhuman or degrading treatment or punishment, mercenaries and private security forces, minority issues, internally displaced persons, indigenous people, independence of judges and lawyers, human rights defenders, the right to health, the right to food, freedom of opinion and expression, extrajudicial and summary executions, the sale of children, arbitrary detention and enforced or involuntary disappearances. In urgent cases these procedures can intervene rapidly with Governments.

Violations of economic, social and cultural rights that lead or risk leading to violence occur in many varied circumstances that require appropriate reactions. Some involve immediate violence that requires OMCT to react rapidly with, for example, an *urgent appeals* aimed at saving lives.

Other situations require in-depth research and analysis of the factual, technical, legal and other aspects of the case and detailed presentation of the recommended action. Because of the extensive nature of the information, analysis and recommendations in these cases, they are prepared in the form of **OMCT Action Files**.

During 2007 and 2008 OMCT issued a number of *Action Files* relating to the economic, social and cultural root causes of violence. The following were some of the cases dealt with:

- A village located on coastal backwaters in Tamil Nadu State, *India* in which the villagers, in attempting to speak out against the negative impacts of an illegally-located aquafarm on their health and economic status, have been subjected to police violence and harassment and have had false charges of a serious nature brought against them by the owner of this farm. October 2007 (IND041007.ESCR)
- The peaceful opposition by local communities and indigenous people to mining that violates their rights and endangers their way of life on Island of Sibuyan in the *Philippines*. Their objections have been met with violence resulting in the killing of some 17 persons, the most recent the shooting of the leader of a protest movement by a mining company security guard. November 2007 (PHL301107.ESCR)
- The construction of two large-scale hydropower dams in the Northern Nile Valley in *Sudan* that has led to repeated violent clashes between local communities and security forces and resulted in a number of civilian deaths. November 2007 (SDN301107.ESCR)
- A proposed open-pit coal mine at Phulbari in *Bangladesh* that risked seriously affecting the lives of between 50,000 and 500,000 people, including a number of indigenous communities. Many of those affected would have been forced to leave their homes and land. The mine had been planned without those directly concerned having been fully informed or adequately consulted and public protests had been met with violence. November 2007 (BGD211207.ESCR). The Government, the multinational coal company responsible, banks financing the project, including the Asian development Bank (ABD) were seized with the file. Subsequently, OMCT met with the international coal company at the company's request to discuss the problems involved and OMCT has learned of bank disinvestment in the project and the denial of a large loan to the project by the ADB.
- Counter-insurgency operations in Surigao del Sur in which 500 *Philippine* military personnel were reportedly stationed in and around the homes of members of the Lumad indigenous communities. The civilians were used as shields, schools and other buildings appropriated as military barracks, children questioned by soldiers, community members denied access to their fields, families forced to seek shelter in makeshift evacuation centres and individuals forcibly enrolled as military guides. December 2007 (PHL031207.ESCR)
- A forced eviction in Kolkata, *India*, carried out violently and in breach of international standards. The victims, including children, women and elderly persons, were physically ill-treated and subjected to violence, and homes and belongings were destroyed by the police. The evictees were not properly informed and were offered neither compensation nor alternative housing. December 2007 (IND141207.ESCR)

- Severe violations of human rights, including torture and extrajudicial killings by the *Kenyan* Army and Police in the Mount Elgon District in the Western Province of the country. At the root of this conflict lies the question of land ownership and competing claims over land title, particularly in the Chebyuk settlement area of Mount Elgon. June 2008 (KEN060608.ESCR).
- An Arson attack on indigenous Jumma community in Sajek Union, the Chittagong Hill Tracts in *Bangladesh* in which Bengali settlers, with military support, set fire at night to the homes of the indigenous community in at least 7 villages with some 76 homes destroyed. August 2008 (BGD 290808.ESCR)
- The denial of the economic, social and cultural rights of the tribal peoples of Wayanad District, Kerala, *India* that risked generating further violence. OMCT reported on ongoing tensions and police harassment of members of local adivasi community following the breach by the Agricultural University of Kerala of conditions attached to a transfer of land from that community to the University for the construction of a veterinary college. These conditions were intended to compensate the indigenous community for the appropriation of their land by re-housing them and by providing employment. As a result, the affected adivasi families have been left homeless and have lost their livelihood and their protests are met with police harassment, intimidation and ill-treatment of community members. August 2008. (IND 180808.ESCR)

Urgent appeals and action files are available on the OMCT website (www.omct.org). Selected appeals are translated into Arabic, French and Spanish.

NGOs wishing to work with OMCT on preparing interventions are asked to contact Michael Miller, mm@omct.org.
