



**WORLD ORGANISATION AGAINST TORTURE**

## Alternative Reports to the United Nations Committee on Economic, Social and Cultural Rights

A guide to submitting information  
on torture and other forms of violence to the  
Committee on Economic, Social and Cultural Rights

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## Introduction

It is increasingly recognised that torture and cruel, inhuman and degrading treatment or punishment and other forms of violence are related in many ways to disrespect for economic, social and cultural rights.<sup>1</sup> If, therefore, these phenomena are to be effectively eliminated, then their economic, social and cultural root causes must be addressed.<sup>2</sup>

This paper is intended to serve as a guide to examining the economic, social and cultural root causes of torture and other forms of violence and preparing alternative reports to the Committee on Economic, Social and Cultural Rights on this topic. It outlines the purpose of the alternative reports in the UN treaty body system; examines some of the principal ways in which the denial of economic, social and cultural rights are linked to violence; and lists some of the most vulnerable categories of the population in this respect. It then briefly outlines State responsibilities *vis-à-vis* the enjoyment of economic, social and cultural rights, before examining some of the trends observed in the concluding observations of the Committee over the last ten years or so. These guidelines conclude with a proposed structure for the preparation of an alternative report to the Committee, together with suggested areas for investigation, and a number of practical issues relating to how the work should be organised.

## How can submitting an alternative report on torture and other forms of violence to the Committee on Economic, Social and Cultural Rights help?

The preparation and submission of alternative reports to UN treaty bodies is crucial to the functioning of the UN human rights treaty system and to using that system to bring about changes in countries.

Alternative reports are submitted to committee members at the same time as official State reports from governments in order to give a more balanced view of the situation in the country, spotlight serious violations and suggest recommendations that the committee in question can make to the government. These reports enable the committees to gain a more objective view of the situation in the country and provide the committee members with reliable information on which to challenge government conduct.

Submitting information explicitly addressing the root causes of torture and other forms of violence to the Committee on Economic, Social and Cultural Rights can provide the Committee with a solid basis on which to identify specific areas that require attention in order to reduce and eventually eliminate torture and violence. The Committee will thus be in a position to make appropriate recommendations to Governments and other authorities on how to reduce violence by, *inter alia*, acting on its root causes. Furthermore, the NGO community will be able to base its own national level action on those recommendations and use the

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<sup>1</sup> See OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, [www.omct.org](http://www.omct.org). In his role as UN Special Rapporteur on the Question of Torture, Sir Nigel Rodley noted, “As long as national societies and indeed the international community fail to address the problems of the poor, the marginalized and the vulnerable, they are indirectly and, as far as the risk of torture is concerned, directly contributing to the vicious circle of brutalisation that is a blot on and a threat to our aspirations for a life of dignity and respect for all”, UN Doc.A/55/290, Report of the Secretary-General transmitting 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, §37.

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

Concluding Observations to advocate for States to change their position on key issues. Appendix 1 includes concrete two illustrations of how NGO submissions related to issues of violence and torture have influenced the Concluding Observations of the Committee.

The possibility of an OMCT follow-up mission to a country to monitor the progress made in responding to the Committee's Concluding Observations and implementing its recommendations will strengthen the hand of the national NGOs and potentially influence the government authorities. In addition, the conclusions and recommendations of the Committee may prove useful in discussions with international development and financial institutions.

### **How are torture and other forms of violence related to economic, social and cultural rights?**

Understanding the ways in which torture and other forms of violence are related to the denial of economic, social and cultural rights is a crucial first step in identifying the areas in which strategic action can be undertaken to reduce or eliminate this 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.<sup>3</sup> This in turn helps create a climate of impunity favourable to continued torture and other forms of violence. In the words of the former Special Rapporteur on the Question of Torture, poor people are often “deprived of the means to claim and ensure the enforcement of their rights, including their right to legal representation and to obtain legal remedies such as compensation”.<sup>4</sup> Effective prevention of violence in this context requires that vulnerable groups and situations of risk be identified (for example, poor slum communities, 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.<sup>5</sup>*

Furthermore, poor and marginalised groups or individuals who have been submitted to torture, cruel, inhuman or degrading treatment or other forms of violence can face significant obstacles to seeking redress or lodging complaints. These obstacles may be as a result of direct costs involved in accessing justice and hiring a legal representative, or indirect costs (the cost of travelling to court, for example, or taking time away from work to attend a hearing). Discrimination may also constitute a significant obstacle to accessing justice for members of certain socio-economic, religious or ethnic groups

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<sup>3</sup> For more information on vulnerable groups and torture, see 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) and OMCT “Poverty, inequality and violence: The economic, social and cultural root causes of violence, including torture, a human rights perspective”, Geneva [www.omct.org](http://www.omct.org)

<sup>4</sup> U.N. Doc. E/CN.4/2001/66 para. 10 See also the above-cited OMCT Paper presented to the Committee Against Torture.

<sup>5</sup> 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](http://www.omct.org)

*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.<sup>6</sup> The Committee has also drawn attention to the situation of children in Albania who are prevented from going to school – and hence from enjoying their right to education - by the threat of violence as a result of “vendettas”.<sup>7</sup> A similar situation has been reported in Kenya, where poverty and frequent conflicts among pastoralist communities in the north of the country have prevented thousands of children from enrolling in schools and made them more likely to commit acts of violence.<sup>8</sup> 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.<sup>9</sup>

*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.<sup>10</sup> Identifying the link between the economic, social and cultural issues that provoke public protest and the failure to respect basic human rights inherent in the violent suppression of such protests will help the Committee to call attention to such incidents.

*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 in the former Yugoslavia, and their dwellings destroyed and burned, constituted acts of cruel, inhuman or degrading treatment in violation of the Convention Against Torture. Although the destruction was carried out by private individuals, the Committee found that the State Party was responsible for the violations of the Convention because the authorities acquiesced in the destruction.<sup>11</sup> Similar conclusions were reached by the European Court of Human Rights in the case of Selçuk and Asker vs. Turkey.<sup>12</sup>

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<sup>6</sup> E/C.12/NPL/CO/2, 30 April-18 May 2007, §10

<sup>7</sup> E/C.12/ALB/CO/1, 24 November 2006, §

<sup>8</sup> “KENYA: Insecurity, conflict affect education in northern region”, IRIN humanitarian news and analysis, 21 August 2007, [www.irinnews.org](http://www.irinnews.org) Humanitarian situation in Darfur, Sudan - MSF statement to the United Nations Security Council

<sup>9</sup> 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](http://www.msf.org)

<sup>10</sup> 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. OMCT’s study entitled “*Poverty, inequality and violence: The economic, social and cultural root causes of violence, including torture, a human rights perspective*” contains examples of such practices from countries such as Argentina, Egypt, Nepal and Uzbekistan.

<sup>11</sup> United Nations Committee Against Torture, Communication No 161/2000: Yugoslavia, submitted by Hajrizi Dzemajl. Document CAT/C/29/D/161/2000

<sup>12</sup> In the case of Selçuk and Asker v. Turkey, the European Court of Human Rights had to deal with allegations that the applicants’ property had been destroyed by Turkish security forces. The Court concluded that the treatment suffered by the applicants in this case was so severe as to constitute a violation of article 3 of the

*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 this decision does not deal with an issue of torture or other ill-treatment directly, it illustrates an important way in which States can be made responsible for failure to respect economic, social and cultural rights.<sup>13</sup>

*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 publication *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*<sup>14</sup> contains examples of public policies in the economic and social fields that have 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. For example, in Egypt, land reform policies and privatization of state owned firms were identified as having greatly increased poverty and violence, including torture; in Uzbekistan, poverty and violence have resulted from the economic and social policies associated with the transition from the Soviet system; and in Argentina, poverty and violence stemmed from the failure to adopt adequate economic and social policies in response to the economic crisis.<sup>15</sup> Similar links have been reported by other sources, including the United Nations Special Rapporteur on the Question of Torture.<sup>16</sup> NGOs have, on occasion, acted successfully to modify or stop projects that threatened a broad range of human rights.

### **Who are most vulnerable to torture and other forms of violence linked to the denial of economic, social and cultural rights?**

Based on OMCT research, certain sectors of society are particularly vulnerable to torture, cruel, inhuman and degrading treatment and other forms of violence and should, consequently, be given special attention in an alternative report. These include:

- the poor or extremely poor;
- women, especially those belonging to marginalised groups;
- children, and especially children who have lost or been separated from their parents;
- peasants and smallholders;

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European Convention on Human Rights. Article 3 which provides that no person “shall be subjected to torture or to inhuman or degrading treatment or punishment”. 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](http://www.ohchr.org)

<sup>13</sup> The European Court, in the *Öneryildiz v. Turkey* case, found that permitting people to live in houses next to a garbage dump when there was a clearly recognised danger of an explosion rendered the State liable, under the European Convention on Human Rights, for the deaths of individuals killed in such an explosion. *Eur. Court HR, Case of Öneryildiz v. Turkey, judgement of 18 June 2002*

<sup>14</sup> [www.omct.org](http://www.omct.org)

<sup>15</sup> See in particular, the chapters and case studies relating to Argentina, Egypt, Nepal and Uzbekistan.

<sup>16</sup> 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)

- landless farmers;
- workers (including domestic workers);
- trade unionists;
- forced labourers/slaves;
- national minorities;
- indigenous peoples (and their leaders);
- migrants and migrant workers;
- refugees;
- internally displaced persons;
- persons with physical or mental disabilities;
- people living with HIV/AIDS;
- persons with dependency on alcohol or drugs;
- elderly persons;
- homosexuals and same sex couples; and
- persons belonging to disadvantaged sectors of society (discriminated castes, etc).

### **State responsibility**

Economic, social and cultural rights 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.<sup>17</sup> Furthermore the adoption of an optional protocol to the ICESCR to provide for an international individual and groups complaints procedure is now all but certain. As regards the responsibility of States parties under the ICESCR, the following points are widely accepted:

*The States parties to the International Covenant on Economic, Social and Cultural Rights cannot rely on their internal legislation to justify failure to implement the Covenant.*

*The States parties to the Covenant have an obligation of conduct and must, in particular, take all legislative, administrative, financial, educational and social measures that are appropriate to give effect to the terms of the Covenant.*

*The States parties also have an obligation of result in that they must move as expeditiously and effectively as possible towards the realization of the rights contained in the Covenant, using their available resources to the maximum.*

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<sup>17</sup> There are a number of issues which international and national monitoring or enforcement organs take into account in establishing state responsibility for violence resulting from failure to respect economic, social and cultural rights. Addressing these issues in the present document would make the text unnecessarily long and they will thus be dealt with as they arise during the preparation of the economic, social and cultural elements of alternative reports. For a discussion of some of these elements in relation to the justiciability of economic, social and cultural rights, see Chapter 14 of the publication *Professional Training Series No. 9, Human Rights in the Administration of Justice, a Manual on Human Rights for Judges, Prosecutors and Lawyers*, United Nations, Office of the High Commissioner for Human Rights and the International Bar Association, Geneva. For national and international jurisprudence on the right to housing, see the case law database at [www.cohre.org](http://www.cohre.org)



*Every State party has a legal duty immediately to ensure the minimum core obligations of each of the rights contained in the Covenant.*

*Even in situations of demonstrably inadequate resources, the States parties have to prove that they are striving to ensure the widest possible enjoyment of the rights contained in the Covenant.*

*States parties have a legal duty to give effect to the Covenant by using all means at their disposal. This duty comprises the provision of means of redress or remedies enabling individuals effectively to vindicate their economic, social and cultural rights at the domestic level.<sup>18</sup>*

### **What has the Committee on Economic, Social and Cultural Rights said about the root causes of torture and other forms of violence?**

An examination of concluding observations from the Committee indicates that up until the end of the 1990s, there was little reference made to the link between the denial of economic, social and cultural rights and the root causes of torture and other forms of violence. Where reference to violence was made, it was often with respect to domestic violence against women and children, however there was generally no link made with the economic status of these groups. Since the late 1990s, the Committee has continued to demonstrate a consistent concern regarding domestic violence and has at times indicated possible underlying socio-economic causes.

*The Committee expresses its deep concern about the high incidence of domestic violence [in Serbia and Montenegro], often resulting from psychological distress caused by unemployment [...].<sup>19</sup>*

*Most low-paid workers and 80 per cent of the unemployed [in Ukraine] are women. They are also frequently victims of violence in the family and of sexual harassment in the workplace.<sup>20</sup>*

The Committee has also made regular references to trafficking of women and children and to child labour.

Another theme frequently addressed by the Committee is that of ethnic minorities and other vulnerable populations, especially indigenous peoples. In particular, the Committee has drawn attention to the situation of the Roma in a number of countries, emphasising the discrimination they experience and their vulnerability to forced evictions.

*The Committee is concerned that ethnic minorities in Albania, in particular the Roma and the Egyptian communities, suffer from discrimination and serious disadvantages in access to services and only enjoy a limited protection of their economic, social and cultural rights. The Committee is also seriously concerned about the reports of ill-treatment and excessive use of*

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<sup>18</sup> p.705, *Professional Training Series No. 9, Human Rights in the Administration of Justice, a Manual on Human Rights for Judges, Prosecutors and Lawyers*, United Nations, Office of the High Commissioner for Human Rights and the International Bar Association, Geneva.

<sup>19</sup> E/C.12/1/Add.108, 23 June 2005, §23

<sup>20</sup> E/C.12/1/Add.65, 24 September 2001, §10

*force by law enforcement officials vis-à-vis these persons, notwithstanding the explanation provided by the State party that they are isolated incidents.*<sup>21</sup>

In the case of indigenous peoples, the concluding observations of the Committee have tended to draw attention to concerns regarding the forced eviction of indigenous peoples from their land.

*The Committee is concerned about the large housing shortage [in Bolivia], the incidence of forced evictions with respect to peasants and indigenous populations in favour of mining and lumber concessions, and the absence of effective measures to provide social housing for low-income, vulnerable and marginalized groups.*<sup>22</sup>

A relatively new development in the concluding observations has been the identification of specific national projects that risk violating economic, social and cultural rights and which have, or may have, implications as regards violence and the suppression of opposition by force. These have included comments regarding forced evictions in Greece in the lead up to the 2004 Olympic Games in Athens, similar comments regarding China's preparations for the 2008 Olympic Games in Beijing, as well as China's Three Gorges dam project and the La Parota dam project in Mexico (see Appendix 2).

A recent example that unequivocally links violence with and the denial of economic, social and cultural rights on the other comes from the Committee's 2007 concluding observations on El Salvador:

*The Committee notes with concern that, owing to a lack of economic opportunities, nearly one out of every three Salvadorans emigrates, and that this has negative consequences, such as the disintegration of the family, lack of protection for families, particularly women, who are forced to be heads of single-parent families, and children and adolescents, who do not receive adequate care, as well as the increase in violence and the spread of youth gangs (maras).*<sup>23</sup>

Despite this encouraging evolution, there are still several areas where the economic, social and cultural root causes of torture and other forms of violence could be developed (and hence, where alternative reports can emphasise this link). These include violence and torture associated with the rights to work, to strike and to belong to a trade union, as well as with health issues and access to education.

For a full discussion of the implications of the Committee's concluding observations as regards the root causes of torture and other forms of violence, see Appendix 2 of this document.

### **Information that might be submitted to the Committee**

The alternative report should be submitted for the session of the Committee on Economic, Social and Cultural Rights at which a given State party's report is scheduled for consideration.

<sup>21</sup> E/C.12/ALB/CO/1, 24 November 2006 §20

<sup>22</sup> E/C.12/1/Add.60, 21 May 2001, §21

<sup>23</sup> E/C.12/SLV/CO/2, 27 June 2007, §21

This report should provide a supplementary or alternative interpretation, or second opinion, concerning the status of implementation of the economic, social and cultural rights enshrined in the Covenant in that country.<sup>24</sup>

The actual information included in an alternative report and how it is presented will depend on the particular circumstances of the country being considered. It is, above all, essential that the information submitted is factual and reliable.

Since the principal objective of the report is to encourage the Committee to reflect and comment on the economic, social and cultural roots of torture, it is a good strategy to follow the structure of the Covenant itself and insert information under its general headings. Thus an alternative report may include the following headings (please note that these headings and the accompanying notes are *suggestions*, and there is no requirement that your organisations' submission to the alternative report address all these issues):

*Preliminary Observations:*

Addressing the country's international commitments, the regional and international instruments it has ratified and the covenants and conventions to which it is party.

*General Observations*

These can include:

- i) An outline of the socio-economic situation in the country. The national partner may wish to provide information on poverty and inequality in the country, its increase or decrease and the impact on vulnerable sectors of the population. It may also draw attention to any particular characteristics of the national economy and their implications for the population (eg economic transition, high levels of international debt, the existence of a caste system or bonded labour).
- ii) information on the justiciability of economic, social and cultural rights in the national context.
- iii) available information on the level of violence, including torture and ill-treatment, experienced by the population in general, and vulnerable groups in particular.<sup>25</sup> The national partner may wish to present, if available, disaggregated data on the victims of torture, cruel, inhuman or degrading treatment or punishment, and other forms of violence, such as domestic violence. If such data are not available, information based on the experience of the national partner and other reliable sources could be provided to help identify the victims with more precision.
- iv) information on any discriminatory domestic legislation that prevents certain groups from fully enjoying their economic, social and cultural rights.
- v) policies or programmes – including anti-poverty programmes - being implemented or proposed by the government, development agencies or private actors that could significantly increase the risk or level of violence.

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<sup>24</sup> <http://www.ohchr.org/english/bodies/cescr/NGOs.htm#ai>

<sup>25</sup> As noted, these groups include These groups include the poor or extremely poor, women, children, peasants, landless farmers, workers, trade unionists, domestic workers, forced labourers/slaves, national minorities, indigenous peoples (and their leaders), migrants, migrant workers, refugees, internally displaced persons, persons with physical or mental disabilities, people living with HIV/AIDS, persons with dependency on alcohol or drugs, elderly persons, and persons belonging to disadvantaged sectors of society (discriminated castes, etc).

### *The Situation of Women*

This section might include information on the legal situation of women (including discriminatory legislation, legislation on domestic violence and legislation affecting their rights to own property). It might also include information on women's economic and social status, their opportunity to receive education and find employment, and the violence they experience in the public and private spheres. Other issues might include sexual exploitation, trafficking, and the impact of armed conflict.

### *The Situation of Children*

This section might provide information on the legal situation of children (for example, whether the human rights of children are protected under a specific domestic children's act). It might also address how the social and economic situation of children makes them vulnerable to different forms of violence, including violence at the hands of the police. Certain groups may be especially vulnerable, including children from ethnic and religious minorities, children with disabilities, and children affected by HIV/AIDS. Issues of particular concern might include children living on the street, child trafficking and unacceptable forms of child labour.

### *The Right to Work*

Issues for examination under this heading might include the general employment situation, wage levels, working conditions, discrimination, and how these are linked to protest and violent action by the State. Specifically, national partners may wish to draw attention to the impact of low wage levels on the enjoyment of economic, social and cultural rights, identify categories of workers that are particularly vulnerable to ill treatment or violence, or examine the link between unemployment, crime and violence in the country, including the presence of gangs.

National partner may also wish to provide information on protests or demonstrations linked to the right to work or to working conditions that have resulted in violence. Similarly, national partners may wish to examine the impact of bi-lateral and multi lateral trade agreements, the hardship such agreements can bring for local economies, and the violent oppression of any protest these conditions may provoke by public or private security forces.

In situations where lack of work has encouraged significant overseas migration, national partners may wish to draw attention to the implications of this situation as regards, for example, family disintegration, delinquency, and ill-treatment and violence directed against nationals working overseas.

### *The Right to Form and Join Trade Unions and the Right to Strike*

This section might address efforts by the State to suppress trade union activities by violent means and the difficulties faced by trade unionists and trade union members (attacks, harassments, arbitrary arrests, obstacles to their work, etc). In this section national partners can also address violence directed against strikers and their communities by security services.

### *The Right to an Adequate Standard of Living*

This heading covers a number of issues, and in particular the right to adequate food and housing.

The right to adequate food not only implies having the economic means to purchase food, but also includes access to safe drinking water, to land on which food can be produced and to

water resources for fishing. Similarly, adequate housing implies the possibility of having appropriate shelter, access to land and protection from violent or unlawful evictions.

National partners may wish to provide information on protests or demonstrations linked to claims for housing, land, food production or access to water, or directed at specific development projects, that have involved violence or that been violently suppressed by public or private security forces (the police, military, private security firms etc). They may also provide information on harassment of communities or groups that have made these claims, or on the arbitrary arrest and detention of their leaders.

Sometimes these issues can have a distinct urban or rural dimension. For example, in rural areas, communities, including indigenous groups, may be forced off their land in order to make way for development projects, with no alternatives or compensation offered to them. Likewise many poor urban communities are driven out of their homes and their neighbourhoods destroyed in order to clear land for development.

#### *The Right to the Highest Attainable Standard of Health*

Under this heading national partners might wish to explore the links between poverty, ill-health and violence. For example, the poor are not only more vulnerable to disease, disability and violence, but also struggle to obtain the health services they require. In turn, ill-health exacerbates poverty.

National partners might wish to explore how forced evictions from housing or land, inadequate housing, and lack of access to safe water and adequate food can have serious health implications for individuals and communities. It would also be relevant to draw attention to any cases where communities experience such extreme discrimination that they are unable to, or are afraid to, access public health services.

Health issues also have a clear gender dimension. For example, women and girls are particularly vulnerable to violence, both in the home and outside, and since this violence is often sexual, their vulnerability is also linked to HIV/AIDS.

National partners might also consider it relevant to address the situation of persons with a mental disability or mental health problems. These groups are often at a high risk of violence and abuse, particularly within their families and in institutions.

#### *The Right to Education*

National partners may wish to explore the links between poverty, lack of education and violence in the national context. For example, it is often the case that the poorest members of society are not only most likely to become victims of torture and other forms of violence, but are also those who have received least education. National partners may be able to identify a correlation between women's level of education and their vulnerability to violence: it is often the case, for example, that uneducated women are more likely to be victims of violence, including domestic violence than their more educated peers.

Similarly, the poorest and most vulnerable children (those who are forced to work, who live on the street or who have lost their parents as a result of armed conflict or HIV/AIDS, for example) are less likely to receive the education that is their right and are more exposed to violence. This can contribute to a cycle of poverty that is transmitted from one generation to the next.

In certain cases, the levels of violence in society may be such that children are afraid to go to school and are consequently denied their right to education.

*Measures to prevent acts of torture and other forms of violence by acting on their economic, social and cultural root causes*

Under this heading information can be provided on measures that have been, or should be taken in the area of economic and social rights, or in the field of non-discrimination, to address the root causes of torture and other forms of violence. Has the government established programmes to help prevent torture and ill-treatment of vulnerable groups? If not, what forms should such programmes take? How can education and training contribute to reducing the victimisation of the poor and other vulnerable groups? What measures have been taken, or should be taken, to protect individuals, families and groups from the worst effects of extreme poverty? How can steps be taken to protect housing, land and livelihoods?

Information might also be provided on steps taken to support the police to carry out their work efficiently and in a way that respects human rights. Have measures been implemented to minimise police corruption, including appropriate training, capacity-building and allocation of an adequate budget for police salaries? Is there an independent and effective system in place to monitor the police and the military, as well as to deal effectively with complaints against them?

*Recommendations*

A key element of an alternative report is the recommendations prepared by the national partners. These should be included in the final part of the report as a concise list of points. The recommendations should reflect the concerns highlighted in the alternative report by the national partners and indicate measures to enhance the enjoyment of economic, social and cultural rights in the country. They should remain broadly applicable rather than refer to specific cases. The recommendations represent an opportunity for the national partners to suggest concrete responses to the human rights concerns expressed in the alternative report. They also provide an important opportunity to encourage the Committee to include elements in its final recommendations to the State party that would otherwise be overlooked.

## **Some Practical Issues**

*Timetabling*

To maximise the impact of an alternative report, a list of issues or a brief preliminary report should be submitted to the appropriate pre-sessional meeting of the Committee on Economic, Social and Cultural Rights. This pre-sessional meeting generally takes place between 6 and 12 months prior to the meeting at which the national report and the alternative reports will be considered by the Committee. The UN Office of the High Commissioner issues deadlines for the submission of these reports prior to the relevant meeting. The programme of work to produce an alternative report must therefore take this timetable into account.

In the case of the Philippines, the pre-sessional meeting is scheduled for 26-30 November 2007, and submissions must reach the UN Office of the High Commissioner by 1 November. This being the case, we would hope to have inputs from our national partners by 20 October at the latest, to give us time to consolidate and present them.

### *Identifying issues*

While OMCT is happy to support national partners in identifying issues to address in the alternative report, it is principally the knowledge and experience of these partners that will shape the report and indicate in which specific areas the social, economic and cultural roots of torture and others forms of violence are most evident, and hence upon which it is important to focus. National partners are invited to submit to OMCT a list of the issues on the basis of their specific areas of competence and interest. OMCT will undertake to coordinate these contributions and draft an overall structure for your approval.

### *Length of contribution*

OMCT encourages national partners to keep contributions as concise as possible and to maintain a focus on identifying and discussing the economic, social and cultural roots causes of torture and other forms of violence in your country. The precise length of contributions can be agreed during preliminary discussions. OMCT will provide editing support and integrate contributions when more than one national partner is involved in the project. OMCT may also, if necessary, shorten contributions to meet printing restrictions

### *Financial and technical support*

Regarding the production of alternative reports, OMCT is unfortunately not in a position to give direct financial support to national partners. Our budget does, however, foresee the possibility of a member of OMCT's staff carrying out a preparatory mission to meet and discuss with national NGOs prior to the drafting of the report. The staff member would meet with NGOs over a number of days to discuss the content of the report, each NGO dealing with its area of expertise. The report will be drafted on the basis of the submissions of the national partners, and OMCT is able to fund translation into one national language, should this be necessary, in addition to other UN languages as appropriate. The published version will include the conclusions and recommendations of the Committee to maximise the usefulness of the report at the national level.

OMCT will also undertake to edit, translate, publish and distribute the report. National partners will, of course, receive recognition for their contribution. We can, in addition, provide funding for the presentation of the report to the Committee on Economic, Social and Cultural Rights together with a maximum of two representatives of the national partners. OMCT will organise the participation of these representatives in the committee sessions relative to the report and organise advocacy opportunities in Geneva.

### *Follow-up*

Follow-up missions involve staff of OMCT travelling to the country concerned to discuss with national NGO and government authorities the implementation of the recommendations of the treaty body concerned. Effective follow-up maintains the momentum behind the committee recommendations and helps sustain pressure for reform. Missions usually take place within four months of a country's report having been considered by the committee.

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## Appendix 1

### Influencing the Concluding Observations of the Committee by submitting alternative reports: Mexico and Canada

#### *Mexico: the Case of the La Parota hydroelectric station– State of Guerrero*

In its State Report from 2006, Mexico indicates that the Mexican Constitution recognizes and guarantees the right of indigenous peoples to self-determination and, consequently, recognizes their autonomy to decide on their social, economic, political, juridical and cultural organization. Furthermore, Mexico draws attention to the Article 3 of the General Social Development Act providing that the Social Development Policy shall be subject, *inter alia*, to the principles of freedom and participation in society, sustainability, transparency, respect for diversity, free self-determination and autonomy of indigenous peoples and their communities (means of preserving and improving their habitat; preferential access to natural resources; election of representatives in local authorities and full access to the jurisdiction of the State).

However, the alternative report submitted by the Mexican NGO Coalition<sup>26</sup> denounces the case of *La Parota* hydroelectric station, in the State of Guerrero, which is reportedly affecting the economic, social and cultural rights of the *comuneros* and *ejidatarios* communities.

*La Parota* is a hydroelectric dam that the Mexican government is constructing across the Papagayo River. According to the alternative report, “this large-scale project will imply the flooding of 17.000 hectares, including cultivation lands, highways and bridges” and around 25,000 people will be displaced. The construction of *La Parota* dam “has been rejected by a wide group of *comuneros* and *ejidatarios* of the area, who consider this project to be a threat to community life given its high ecological, social and economic costs.” The alternative report goes on to say that “the dam will indirectly affect more than 75 thousand people who live in the lower part of the river. This project will impact the daily lives and income of thousands of people, since there are numerous *comunero* families, *ejidatarios* and residents who live from what they cultivate [...] as well as raising animals. Furthermore it will have serious environmental impacts, and in particular it will cause irreversible damage to the ecosystem and the extinction of an endemic species, as well as possible harm to public health as has occurred in the case of other dams. [...] all of this represents serious potential violations of the economic, social, cultural and environmental rights of the *comuneros*”.

The Committee includes in its Concluding Observations the following paragraph:<sup>27</sup>

“The Committee is concerned about reports that members of indigenous and local communities opposing the construction of the *La Parota* hydroelectric dam or other projects under the Plan *Puebla-Panama* are not properly consulted and are sometimes forcefully prevented from participating in local assemblies concerning the implementation of these projects. It is also concerned that the construction of the *La Parota* dam would cause the flooding of 17,000 hectares of land inhabited or cultivated by indigenous and local farming communities, that it would lead to environmental depletion and reportedly displace 25,000 people. It would also, according to the Latin American Water Tribunal, violate the communal land rights of the affected communities, as well as their economic, social and cultural rights.”

<sup>26</sup> [http://www.ohchr.org/english/bodies/cescr/docs/info-ngos/mexico-coalition\\_En.pdf](http://www.ohchr.org/english/bodies/cescr/docs/info-ngos/mexico-coalition_En.pdf)

<sup>27</sup> E/C.12/MEX/CO/4, 9 June 2006, §10



*Canada: the impact of child support policies*

The State Report submitted by Canada lists the National Child Benefit Supplement (NCBS) among the positive measures undertaken by the Government within the framework of the family-related benefits legislation. According to the State Report, the NCBS is an instrument intended to benefit low-income families.<sup>28</sup>

Nevertheless, the alternative report from the African Canadian Legal Clinic (ACLC)<sup>29</sup> indicates some adverse impacts related to the NCBS measure: “Instead of providing more assistance for this group of people, the provinces are taking away from them. This shameful claw back has significant adverse impact on African Canadians that are disproportionately poor, especially vulnerable and dependent on social assistance because of their disproportionate unemployment and underemployment.”

The ACLC specifies that one of the greatest threats to African Canadian families arises from the combination of “child poverty, racial discrimination, racial profiling and the criminalization and over-incarceration of Black youths”. The ACLC’s alternative report states that “Black children were more likely than other children to be living in low-income households [...] children are poor because their parents are poor. And it is the poverty of women that is behind the poverty of so many of our children. The poverty of families has broader implications for the welfare, happiness, safety, and upbringing of children. The poverty of families also puts enormous stress on familial bonds. African Canadian children are often taken from their families because of the family’s socio-economic circumstances, such as inadequate housing, clothing or meals.”

Furthermore, Amnesty International’s alternative report, addressing the situation of Aboriginal Peoples in Canada, points out that “The Federal Government has acknowledged that indigenous children are four to six times more likely than non-indigenous children to be removed from their families and placed in the care of the state”.<sup>30</sup>

The Committee, in the Concluding Observations on Canada, includes the following paragraphs:<sup>31</sup>

“The Committee is deeply concerned by the discriminatory impact of the National Child Benefit “claw back system” on the poorest families in Canada, in particular single-mother-led families.”

“The Committee notes with concern that low-income families, single-mother-led families and Aboriginal and African Canadian families, are overrepresented in families whose children are relinquished to foster care. The Committee is also concerned that women continue to be forced to relinquish their children into foster care because of inadequate housing.”

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<sup>28</sup> E/C.12/CAN/5, 30 August 2005, §168

<sup>29</sup> <http://www.ohchr.org/english/bodies/cescr/docs/info-ngos/ACLC.pdf>

<sup>30</sup> <http://www.ohchr.org/english/bodies/cescr/docs/info-ngos/amnesty.pdf>

<sup>31</sup> E/C.12/CAN/CO/4, E/C.12/CAN/CO/5 22 May 2006, §23 and §24

## Appendix 2

### **The link between economic, social and cultural rights and violence: observations from the Committee**

The notion of violence, as dealt with by the Committee ESCR (the Committee) over recent years, is based to a great extent on domestic violence, understood as family violence against women and children. Nevertheless, in various cases the Committee addresses its concerns regarding aspects of violence and the use of force related to the socio-economic climate in a specific country. Such aspects can be clustered as follows: marginalised groups and minorities (e.g. Indigenous peoples, Roma, and marginalised and vulnerable groups affected by business and development projects), forced evictions and right to adequate housing, child labour and human trafficking, along with an assortment of diverse specific cases.

#### **Domestic Violence**

References to domestic violence are frequently disconnected from the particular socio-economic context examined in the Concluding Observations. The Committee systematically emphasises, country by country, its concerns on the persistence of widespread domestic violence which, in a number of national situations, goes unreported. In this respect, two sorts of legal concerns were registered:

##### *1. Absence of Specific Legislation:*

The Committee in some cases stresses that domestic violence is poorly defined as a specific crime under national legislation and therefore it is not regarded as an offence.

In the concluding observations on Canada, the Committee regrets “that domestic violence as a specific offence has not been included in the Criminal Code”.<sup>32</sup> As for Malta, the Committee indicated that despite the fact that “various forms of assistance are provided to victims of domestic violence, the Committee is concerned that domestic violence is currently not defined in law as a specific crime, which makes it more difficult for victims of violence to claim their rights.”<sup>33</sup>

Similarly, for Latvia, the Committee expresses concern about “the absence of specific legislation on domestic violence and of a coherent strategy to support victims of domestic violence.”<sup>34</sup>

##### *2. Absence of Legislation on Specific Figures of Domestic Violence*

In other cases, despite the fact that domestic violence is disciplined by the law, some of its specific figures (e.g. sexual violence, spousal rape, incest, etc.) are overlooked.

As for Mexico, while acknowledging the various legislative projects and policies under adoption to combat domestic violence, the Committee remained “deeply concerned about the fact that the definition of incest in the laws of a number of federated states does not adequately protect victims of incest, especially children.”<sup>35</sup>

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<sup>32</sup> E/C.12/CAN/CO/4, E/C.12/CAN/CO/5, 22 May 2006, §25

<sup>33</sup> E/C.12/1/Add.101, 14 December 2004, §19

<sup>34</sup> E/C.12/LVA/CO/1, 22 May 2007, § 21

<sup>35</sup> E/C.12/MEX/CO/4, 9 June 2006, §19

Regarding Hungary, the Committee individuated the “absence of criminal law provisions specifically prohibiting domestic violence and spousal rape.”<sup>36</sup>

### *3. Absence of Implementation*

In other cases, domestic violence is disciplined and criminalised by the criminal code, yet the provisions are not concretely and effectively implemented. As a result, the perpetrators of domestic violence remain unpunished. In this case, the Committee indicates that law enforcement officers, police and judges, should be trained to enforce the existing provisions.

In the case of Slovenia, the Committee expresses concerns on the absence of “specific legal mechanisms to deal with domestic violence, particularly violence against women”, and consequently stresses that “victims of such violence may not be adequately protected by current legislation”. The Committee recommends the State to train judges and raise awareness of the criminal nature of domestic violence.<sup>37</sup>

As for Morocco the Committee notes with concern that the Moroccan Criminal Code contains no specific provision making domestic violence a punishable offence. Thereafter, the Committee invites the State party to provide “law-enforcement personnel and judges with training on the criminal nature of domestic violence.”<sup>38</sup>

Likewise, the Committee urges Azerbaijan<sup>39</sup> and Lithuania<sup>40</sup> to provide “training to law enforcement officials and judges on the serious and criminal nature of domestic violence, in particular, violence against women.”

Interestingly, for the Former Yugoslav Republic Of Macedonia, besides expressing concern about the high incidence of domestic violence against women and children, the Committee emphasised the “reluctance of victims to report cases of domestic violence and spousal rape” and the “frequent failure of the police to investigate complaints and prosecute perpetrators of such violence, and the requirement of proof of penetration and active resistance by victims for convictions of rape”.<sup>41</sup>

In order to overcome the above mentioned concerns, the Committee Recommendations focus on encouraging States parties to take all necessary measures to protect victims of domestic violence, *inter alia* by setting up prevention and early assistance centres, counselling services and temporary shelters, and by promoting information campaigns in order to increase public awareness, including training and sensitization of law-enforcement officials and medical personnel on the criminal nature of domestic violence.<sup>42</sup>

### **Direct Links between Poverty and Violence**

In a number of cases, the Committee explicitly connects economic inequality/poverty and the use of violence.

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<sup>36</sup> Ref.: E/C.12/HUN/CO/3 - 22 May 2007, §19

<sup>37</sup> E/C.12/SVN/CO/1, 25 January 2006, §18

<sup>38</sup> E/C.12/MAR/CO/3, 4 September 2006, §50

<sup>39</sup> E/C.12/1/Add.104, 14 December 2004, §49

<sup>40</sup> E/C.12/1/Add.96, 7 June 2004, §43

<sup>41</sup> E/C.12/MKD/CO/1, 24 November 2006, §19

<sup>42</sup> E.g.: Tajikistan (E/C.12/TJK/CO/1, 24 November 2006, §58) and Uzbekistan (E/C.12/UZB/CO/1, 24 January 2006, §55)

Concerning El Salvador, the Committee clearly spells out that the lack of economic opportunities increases violence and the spread of youth gangs (*maras*) whose members are economically marginalised young men. The committee also highlights that most of the gangs have arisen due to problems such as unemployment and child labour:

**Concluding Observations – El Salvador, 27 June 2007<sup>43</sup>**

“The Committee notes with concern that, owing to a lack of economic opportunities, nearly one out of every three Salvadorans emigrates, and that this has negative consequences, such as the disintegration of the family, lack of protection for families, particularly women, who are forced to be heads of single-parent families, and children and adolescents, who do not receive adequate care, as well as the increase in violence and the spread of youth gangs (*maras*).”

“The Committee is concerned that, in spite of the País Seguro (Safe Country) plan, violence in El Salvador has increased, and that women have been the principal victims. It also notes with concern that the youth gangs (*maras*) are composed mainly of socially and economically marginalized young men, and that most of the gangs have arisen owing to problems such as unemployment, the use of child labour, urban violence and family disintegration.”

Analysing the situation in Ukraine, the Committee draws attention to the high number of women who are unemployed or receive low-pay, stressing that this category is also frequently exposed to domestic violence and sexual harassment:

**Concluding Observations – Ukraine, 24 September 2001<sup>44</sup>**

“The Committee continues to express concern at the situation of women in society and the insufficient measures taken by the State party to eliminate discrimination against them. Most low-paid workers and 80 per cent of the unemployed are women. They are also frequently victims of violence in the family and of sexual harassment in the workplace.”

As for Greece, the Committee links domestic violence against women with economic dependency on husbands:

**Concluding Observations – Greece, 7 June 2004<sup>45</sup>**

“While noting that the State party has established a national observatory on the elimination of violence against women, as well as two reception centres for victims of domestic violence in Athens and Piraeus, the Committee expresses its concern about the high incidence of domestic violence and marital rape, which often remain unreported for cultural reasons and the economic dependency of wives on their husbands.”

In the case of Finland, the Committee examines the link between violence and economic inequality from a different perspective, highlighting that victims of violence frequently lack accommodation:

**Concluding Observations – Finland, 1 December 2000<sup>46</sup>**

“The Committee notes with concern the lack of affordable accommodation, especially in the Helsinki metropolitan area, for the homeless, a group consisting mainly of alcoholics, drug abusers, victims of domestic violence and the mentally ill.”

In the case for Serbia and Montenegro the Committee makes an explicit link between domestic violence and psychological distress caused by unemployment.

<sup>43</sup> E/C.12/SLV/CO/2, 27 June 2007, § 21 and 22

<sup>44</sup> E/C.12/1/Add.65, 24 September 2001, § 10

<sup>45</sup> E/C.12/1/Add.97, 7 June 2004, §16

<sup>46</sup> E/C.12/1/Add.52, 1 December 2000, §18

**Concluding Observations – Serbia and Montenegro, 23 June 2005<sup>47</sup>**

“The Committee expresses its deep concern about the high incidence of domestic violence, often resulting from psychological distress caused by unemployment (...).”

**Direct Links Referring to Specific Circumstances:**

In a number of cases the Committee emphasises the direct link between violence and economic inequality with reference to specific groups or situations.

*1. Marginalised and Vulnerable Groups of People:*

Marginalised and vulnerable groups, such as ethnic minorities or the poorest strata of society, often suffer discrimination as a result of State policies or at the hand of State agents. They are also often victims of violence and undue force due to their status. The Committee expresses concern as regards Roma, indigenous peoples, and migrants.

In the case of Ukraine, the Committee clearly acknowledges the link between the economic inequality, discriminatory treatment and violence as referred to minorities.

**Concluding Observations– Ukraine, 24 September 2001<sup>48</sup>**

“The Committee notes with concern de facto discrimination against ethnic minorities, such as the Crimean Tatars and Roma, and harassment of foreigners of African origin by law enforcement officials.”

“The Committee recommends that the State party strengthen the provisions in its legal order with respect to the prohibition of discrimination in accordance with article 2 (2) of the Covenant, in particular on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Recalling the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary steps to prevent incidents of racially motivated ill-treatment and ensure that timely and thorough investigations and effective prosecutions are carried out.”

In addition, in the Concluding Observations on China, the Committee expresses his concerns on “reports of forced abortions and forced sterilizations imposed on women, including those belonging to ethnic minority groups, by local officials in the context of the one-child policy, and about the high maternal mortality rate as a result of unsafe abortions”<sup>49</sup>

*- Roma:*

As regards Roma, the Committee’s concerns mainly address the persistent discrimination concerning the access to services and enjoyment of their economic social and cultural rights. Attention is also drawn to the reported use of force and ill-treatment by law enforcement officials. In the case of Greece, the Committee expresses its deepest concerns about “the persistent discrimination against Roma people in the fields of housing, health and education. It is particularly concerned about reported instances of police violence against Roma, sweeping arrests, and arbitrary raids of Roma settlements by the police.”<sup>50</sup>

As for Albania, the Committee was even more explicit in its concerns:

**Concluding Observations – Albania, 24 November 2006<sup>51</sup>**

“The Committee is concerned that ethnic minorities in Albania, in particular the Roma and the Egyptian communities, suffer from discrimination and serious disadvantages in access to services and only enjoy a

<sup>47</sup> E/C.12/1/Add.108, 23 June 2005, §23

<sup>48</sup> E/C.12/1/Add.65, 24 September 2001, §12 and §22

<sup>49</sup> E/C.12/1/Add.107, 13 May 2005, §36

<sup>50</sup> E/C.12/1/Add.97, 7 June 2004, §11

<sup>51</sup> E/C.12/ALB/CO/1 - 24 November 2006, §20 and §32

limited protection of their economic, social and cultural rights. The Committee is also seriously concerned about the reports of ill-treatment and excessive use of force by law enforcement officials vis-à-vis these persons, notwithstanding the explanation provided by the State party that they are isolated incidents.”

“The Committee is concerned about the reports of discriminatory treatment by the authorities against members of Roma and Egyptian communities by the State party with respect to forced evictions and in the provision of alternative accommodation or compensation. The Committee regrets the lack of sufficient information concerning forced evictions and the specific conditions under which they can occur. The Committee also expresses concern about the housing conditions in which the rural population, the Roma and the Egyptian community live, which is aggravated by the lack of basic infrastructure and access to basic services.”

### - *Indigenous peoples*

Indigenous peoples are frequent victims of violations and denials of their economic, social and cultural rights. In a number of cases, the enjoyment of their rights is jeopardised by business and development projects.

In the case of Mexico, the Committee underlines the negative impact of a dam project on the livelihood of the indigenous and local communities:

#### Concluding Observations – Mexico, 9 June 2006<sup>52</sup>

“The Committee is concerned about reports that members of indigenous and local communities opposing the construction of the La Parota hydroelectric dam or other projects under the Plan Puebla-Panama are not properly consulted and are sometimes forcefully prevented from participating in local assemblies concerning the implementation of these projects. It is also concerned that the construction of the La Parota dam would cause the flooding of 17,000 hectares of land inhabited or cultivated by indigenous and local farming communities, that it would lead to environmental depletion and reportedly displace 25,000 people. It would also, according to the Latin American Water Tribunal, violate the communal land rights of the affected communities, as well as their economic, social and cultural rights.”

In other cases, including Ecuador and Bolivia, the Committee expresses its concerns on the indigenous people’s property rights on ancestral lands repeatedly endangered by forced evictions:

#### Concluding Observations – Ecuador, 07 June 2004<sup>53</sup>

“The Committee is concerned that, despite the constitutional guarantees of the right of the indigenous people to own property communally, the State party does not provide effective protection for the indigenous people against forced evictions from their ancestral lands.”

#### Concluding Observations – Bolivia, 21 May 2001<sup>54</sup>

“The Committee is concerned about the large housing shortage, the incidence of forced evictions with respect to peasants and indigenous populations in favour of mining and lumber concessions, and the absence of effective measures to provide social housing for low-income, vulnerable and marginalized groups.

...

The Committee recommends that the State party address the problems of the large housing shortage, the high incidence of forced evictions and the lack of social housing for low-income, vulnerable and marginalized groups. The Committee requests the State party, in its second periodic report, to give detailed information on the number and nature of forced evictions having taken place in Bolivia, in accordance with General Comment No. 7 of the Committee.”

Interestingly, in the case of Canada, the Committee lists low-income families along with Aboriginal and African families as “overrepresented in families whose children are

<sup>52</sup> E/C.12/MEX/CO/4, 9 June 2006, §10

<sup>53</sup> E/C.12/1/ADD.100, 07 June 2004, §28

<sup>54</sup> E/C.12/1/Add.60, 21 May 2001, §21 and §41

relinquished to foster care. The Committee is also concerned that women continue to be forced to relinquish their children into foster care because of inadequate housing.”<sup>55</sup>

*- Migrant workers*

Migrant workers are also particularly vulnerable to exploitation and abuse. In the case of the Philippines the Committee expresses concern with respect to on the situation of overseas workers, “especially women who often face hardship and humiliation. It notes that significant problems of family disintegration and juvenile delinquency can accompany such massive exportation of labour.”<sup>56</sup>

As the Committee unequivocally declared for Kuwait, migrant workers can be subjected to harsh and poorly-paid working conditions and sometimes deprived of their freedom of movement:

Concluding Observations – Kuwait, 7 June 2004<sup>57</sup>

“The Committee is also deeply concerned about the situation of domestic workers, in particular migrant workers who are excluded from the application of the Labour Code. These workers are subjected to conditions not dissimilar to forced labour, are insufficiently remunerated and are often unable to benefit from their right to rest. They are also sometimes deprived of their freedom of movement because their passports are held by their employers.”

*2. Forced Evictions and Right to Housing:*

The right to adequate housing is often violated or denied to the most vulnerable and marginalised groups. In the absence of adequate housing, these groups, live in illegal settlements and are therefore vulnerable to eviction, as the Committee affirmed for Chile:

Concluding Observations – Chile, 26 November 2004<sup>58</sup>

“The Committee urges the State party to take effective measures to promote the right to housing, especially among the disadvantaged and marginalized groups, and to ensure that adequate protection is afforded to people living in illegal settlements who are liable to forced evictions.”

In other cases, the Committee links the risk of eviction to the economic incapacity to pay rent. Obviously, in such cases, the poorest and most vulnerable strata of society are the most affected:

Concluding Observations – Norway, 23 June 2005<sup>59</sup>

“The Committee notes with concern the increasing number of evictions carried out in the State party, especially in Oslo, mainly as a consequence of unpaid rent. The Committee is also concerned that the disadvantaged and marginalized groups in society are particularly affected by the privatization of municipal social housing and rising housing prices.”

Concluding Observations – Italy, 14 December 2004<sup>60</sup>

“The Committee urges the State party to take effective measures to ensure that forced evictions of Roma and tenants who cannot pay their rents comply with the guidelines established by the Committee in its General Comment No. 7 and to provide more housing units to cater for the needs of the disadvantaged and marginalized groups, including older persons, people with disabilities and immigrants.”

<sup>55</sup> E/C.12/CAN/CO/4, E/C.12/CAN/CO/5 22 May 2006, §24

<sup>56</sup> E/C.12/1995/7, 7 June 1995, §14

<sup>57</sup> E/C.12/1/Add.98, 7 June 2004, §17

<sup>58</sup> E/C.12/1/Add.105, 26 November 2004, §24

<sup>59</sup> E/C.12/1/Add.109, 23 June 2005, §18

<sup>60</sup> E/C.12/1/Add.103, 14 December 2004, §47

### 3. *Child Labour and Human Trafficking:*

The Committee's observations draw also the attention to the challenges associated with child labour particularly as regards poorest level of society:

#### Concluding Observations – El Salvador, 27 June 2007<sup>61</sup>

“The Committee urges the State party to increase its efforts to combat child labour, in particular in domestic service. It encourages it to take appropriate measures, including the provision of financial assistance, for families living in poverty in order to enable them to provide adequate care and protection for such children. The Committee requests the State party to provide information on this question in its next periodic report.”

In the case of China, the Committee reaffirms the urgency “to make every effort, including the adoption of preventive measures, to ensure that those children who engage in labour do not work under conditions that are harmful to them.”<sup>62</sup>

The Committee also addresses the problem of human trafficking, especially of women and children, for purposes of sexual exploitation and forced labour and as in the case of Serbia and Montenegro it reports incidents of police involvement.<sup>63</sup>

Concerning Greece, the Committee highlights “the high numbers of trafficked women and children who are subjected to forced labour and sexual exploitation, and who are often deported to their countries of origin rather than being granted a residence permit, reportedly in an expeditious manner and without the necessary procedural safeguards.”<sup>64</sup>

### 4. *Violence Impeding the Enjoyment of Economic, Social and Cultural Rights*

In some cases, the Committee notes that conflict situations and violence threats could hamper the full enjoyment of economic, social and cultural rights

In the concluding observations on Albania the Committee points out that violence threats could prevent children from enjoying their economic, social and cultural rights: “The Committee also regrets the lack of specific information provided by the State party about measures taken to address the situation of children in rural areas and children prevented from attending school due to threats of “vendetta” violence.”<sup>65</sup>

Seemingly, in the case of Nepal, the Committee underlines that the violence of a political situation obstructs the full enjoyment of the economic social and cultural rights:

#### Concluding Observations – Nepal, 18 May 2007<sup>66</sup>

“The Committee takes note that the State party's efforts to comply with some of its obligations under the Covenant are impeded by the consequences of the divisive and violent conflict, namely a large numbers of victims and families of victims, the large numbers of displaced persons, a severely damaged physical infrastructure that hinders the mobility of persons, goods and essential public services.”

Likewise, in Algeria the Committee observes that the violence that exploded after 1992 together with acts of terrorism have prevented the enjoyment of economic social and cultural rights:

<sup>61</sup> E/C.12/SLV/CO/2, 27 June 2007, §42

<sup>62</sup> E/C.12/1/Add.107, 13 May 2005, §52

<sup>63</sup> Tajikistan: E/C.12/TJK/CO/1, 24 November 2006, §30 and Serbia and Montenegro E/C.12/1/Add.108, 23 June 2005, §25

<sup>64</sup> E/C.12/1/Add.97, 7 June 2004, §18

<sup>65</sup> E/C.12/ALB/CO/1, 24 November 2006, §36

<sup>66</sup> E/C.12/NPL/CO/2, 30 April – 18 May 2007, §10



#### Concluding Observations – Algeria, 30 November 2001<sup>67</sup>

“The Committee takes note of the general climate of violence that has prevailed in Algeria since 1992, as well as of the country’s serious economic and social crisis. The consequences of acts of terrorism, as well as the political and economic crises, have been disastrous for the situation in the country in general and for the enjoyment of economic, social, cultural and political rights in particular.”

In Bosnia and Herzegovina, the Committee stressed the link between the extent of poverty among those who suffered violence during the armed conflict.

#### Concluding Observations – Bosnia And Herzegovina, 24 January 2006<sup>68</sup>

“The Committee is deeply concerned about the extent of poverty in the State party, especially in rural areas and among the following individuals and groups, namely internally displaced persons, minority returnees, families headed by single parents, victims of sexual violence suffered during the armed conflict, children without parental care, older persons, pensioners, persons with disabilities, the Roma people and members of other ethnic minorities, whose specific needs are not sufficiently addressed in the Mid-Term Development Strategy for 2004-2007.”

“The Committee recommends that the State party ensure that victims of sexual violence suffered during the armed conflict of 1992-1995 obtain the status of civilian war victims, to devise and implement a coherent strategy at State level to protect the economic, social and cultural rights of victims of sexual violence and their family members, and to ensure the participation of victims of sexual violence in any decision-making processes affecting them.”

### Indirect Links

In some cases the linkages between violence and the denial of economic, social and cultural rights are less obvious; however, connections can be traced in the context of the overall situation as examined by the Committee in the Concluding Observations on Nepal and Argentina:

#### Concluding Observations – Nepal, 18 May 2007<sup>69</sup>

“The Committee regrets that most of its 2001 recommendations in relation to the initial report have not been implemented, and that the State party has not addressed in an effective manner the following principal subjects of concern, which continue to be relevant:

- the extent of poverty in Nepal, in particular in rural areas where poverty and discrimination against women are most pronounced, and the lack of disaggregated data on the incidence and depth of poverty;
- the continuing inequalities that exist between men and women in Nepali society, despite legislative guarantees of equality, as reflected in the low representation of women in public service, the high female illiteracy rate and the unequal wages for equal work;
- the large number of women and girls being trafficked for prostitution, and the absence of a demonstrably effective response from the State party with regard to this practice;
- the high rate of domestic violence and the absence of specific legislation in this field;
- the high unemployment and underemployment rates in Nepal and the lack of skills-oriented education;
- the problems faced by emancipated Kamaiyas, including lack of housing, land, work, and education for their children;
- the inadequacy of the legal minimum wage to provide an adequate standard of living for workers and their families, in particular in the agricultural sector; and
- the high incidence of child labour in Nepal, especially in rural areas.”

#### Concluding Observations – Argentina, 8 December 1999<sup>70</sup>

“The Committee notes with concern that various de facto discriminatory practices against women exist, particularly in the areas of employment and equal pay.”

<sup>67</sup> E/C.12/1/Add.71 - 30 November 2001, §8

<sup>68</sup> E/C.12/BIH/CO/1, 24 January 2006, §23 and §41

“The Committee also notes with concern the increasing incidence of violence against women, in particular domestic violence.”

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<sup>69</sup> E/C.12/NPL/CO/2 -, 30 April – 18 May 2007, §11

<sup>70</sup> E/C.12/1/Add.38 - 8 December 1999, §17 and §25