

The World Organisation Against Torture's (OMCT)
Intervention before the African Commission on Human and Peoples Rights, during the 34th Ordinary
Session, Banjul, The Gambia, November 6th to 20th, 2003

Item 9.a of the Agenda: The situation of Human Rights in Africa

Thank you Mr. Chair,

M. Chair, honourable Commission, distinguished delegates and participants, as the world's largest coalition of non governmental organizations fighting against arbitrary detention, torture, summary executions, forced disappearances and all other forms of cruel, inhuman or degrading treatment, the World Organisation Against Torture (OMCT) would like to share with you its grave concern about the situation of Human Rights prevailing in the African continent.

The African continent remains blighted by widespread human rights violations, notably in the case of torture, which is being used in most African of countries. Torture is being perpetrated by State agents at security service offices, police stations and prison facilities, as well as by non state actors, and these perpetrators act unabated in a climate characterised by intolerable levels of impunity.

Throughout Africa, thousands of people continue to be arbitrarily arrested, detained incommunicado, sentenced as the result of trials that fail to meet the internationally recognised guarantees of fair trial, and are exposed to torture and inhuman treatment, as well as summary or extra-judicial executions. Moreover, practices of corporal punishment, which are contrary to international and regional instruments, are being reported in several countries throughout the continent. OMCT wishes to place particular stress on these acts, as it feels that they constitute the hard core of human right violations and must therefore occupy a predominant position within this Commission's work.

During 2003 alone, OMCT has issued urgent appeals concerning victims of these various practices in **Algeria, Cameroon, Chad, the Democratic Republic of Congo, Egypt, Ivory Coast, Kenya, Mauritania, Morocco, Nigeria, Rwanda, Sudan, Togo, Tunisia, Yemen and Zimbabwe.**

Given the serious problem that the use of torture represents in many of Africa's countries, OMCT calls upon the African Commission for Human and Peoples' Rights to adopt a resolution that:

- 1) reaffirms that none should be subjected to torture;
- 2) that torture can never be justified under any circumstances;
- 3) that freedom from torture is a non-derogable right, affirmed by all relevant international instruments;
- 4) that flogging, stoning and amputation and other forms of corporal punishment amount to torture;
- 5) and that condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, stating that such acts are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified;

In view of the current international climate, OMCT believes that the resolution on Torture and other cruel inhuman or degrading treatment should explicitly reaffirm the *jus cogens* nature of the prohibition against torture.

In addition, OMCT urges all African States to ratify the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the Optional Protocol to this Convention. OMCT urges the States, the National institutions, the Commission and the NGO community to undertake all necessary efforts to ensure compliance by the States of their obligations under international and regional instruments regarding the prohibition of torture, and to put an end to all forms of corporal punishment.

OMCT wishes to bring to the particular attention of the Commission the situations prevailing in the following countries:

In the Democratic Republic of Congo, numerous harrowing reports concerning grave violations have reached OMCT from its network, including massacres of civilians, notably in North Katanga, Ankoro, Malemba and Nkulu, the frequent use of arbitrary arrests and torture, the constant deterioration of the conditions of detention in various prisons, where detainees suffer from malnutrition and a lack of medical attention, as well as the systematic use of torture and other forms of ill treatment, and summary or extra-judicial executions, that have lead to a large number of custodial deaths. Violent repressive measures are also used in an unmitigated way against political opposition members. Civil society actors, notably human rights defenders and journalists are

also subjected to threats and harassment throughout the country. Of particular concern is the continuing use of child soldiers, despite a June 2000 presidential decree for their demobilisation. Child soldiers are present within all armed forces that have been engaged in the conflict, constituting an estimated 20% of all armed forces and tribal militias, and are subjected to forms of ill-treatment that constitute torture. In addition there are thousands of women that are the victims of rape and other forms of sexual violence by all parties to the conflict, notably in Kindu, Fizi, Uvira, Goma and Bukavu.

Of particular concern is the situation prevailing in Eastern DRC, particularly in Bunia and Ituri, which includes massacres and reports of cannibalism against pygmies, that have been perpetrated by several parties.

While OMCT welcomes any progress that is made under the auspices of the transitional government, it must underline with concern the involvement within this authority of persons known to be responsible for the perpetration of massive human rights violations. OMCT calls on the Government of the DRC to make a commitment to fighting against the widespread impunity as a matter of priority within the context of developments towards peace, notably by launching impartial investigations into allegations of grave violations and by bringing those responsible to justice, in line with its international obligations.

Concerning Sudan, OMCT welcomes the progress made in the human right situation in the north of the country, notably the release of political detainees from Kober prison, including members of the PNC. OMCT also welcomes the progress in the peace programme and the signing of the security arraignment agreement between the GoS and the SPLA/M in Kenya.

OMCT however remains gravely concerned by the human rights situation in the region of Darfur, particularly the marked increase this year of arbitrary arrests, detention and systematic torture or ill treatment of detainees belonging to the African tribes. OMCT recalls that it has issued 36 urgent appeals concerning men, women and children in Sudan in 2003 alone, a significant portion of which concern the Darfur region.

OMCT is alarmed by the use of the death penalty as punishment in this region: this year, over 200 persons have been sentenced to death, including at least two children, over 20 have been executed, and there are over 100 persons awaiting conviction, who face execution should their appeal fail. In addition, OMCT condemns the use of corporal punishment in the country this year: four women have been sentenced to lashes of the whip for adultery, without any recourse to an appeal; over 20 persons have been sentenced to amputation or cross-amputation of the left arm and right leg, including a 16-year old child last month. Most of these sentences have been handed out by Special Courts that do not meet international standards for fair trial (including no legal representation prior to the appeal stage). These courts have now been abolished, but the criminal courts that replace them still follow the same special procedures.

OMCT recommends that the Commission:

Sets up an independent and impartial international committee to investigate allegations of war crimes, the killing of civilians, torture and other human rights abuses committed by either party to the conflict,

And to urge the Sudanese authorities to:

Disarm the militias in the Darfur region, and allow for unlimited access to the region by human rights and humanitarian organisations.

Concerning the situation of Women and Children in Africa, OMCT invites the Commission to give particular consideration to allegations of torture and other cruel, inhuman or degrading treatment or punishment directed against women and children, and conditions conducive to such torture; to make appropriate recommendations concerning the prevention and redress of gender specific forms of torture, including rape or any other form of sexual violence, and to co-operate with all relevant human rights mechanisms, and in particular with the recently appointed independent Expert for the United Nations Study on Violence Against Children.

OMCT also calls on the Commission to adopt a mechanism for the protection of Human Rights Defenders who are targeted due to their involvement in the promotion and protection of human rights and for denouncing the afore-mentioned violations, as it has been advocating within the framework of its joint program with FIDH, the Observatory for the protection of Human Rights Defenders and in line with recommendations made by the recently held NGO Forum.

Thank you for your kind attention