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## **Compilation of Urgent Appeals<sup>1</sup> and Open Letters**

### **Programme on Economic, Social and Cultural Rights**

**January – December 2003**

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<sup>1</sup> Urgent appeals related to the right to adequate housing are issued jointly with the Coordination Office of the Housing and Land Rights Network of Habitat International Coalition (**HIC-HLRN**)

The Programme on Economic, Social and Cultural Rights at the World Organisation Against Torture (OMCT) issues urgent appeals addressing violations of economic, social and cultural rights that are related to acts of torture and other forms of violence, as well as violations falling within OMCT's mandate in which economic and financial actors are involved.

Since July 2003, all urgent appeals related to the right to adequate housing are done in collaboration with the Coordination Office of the Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN).

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

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

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## **I. REPRESSION OF SOCIAL PROTESTS/ATTEMPTS TO MOBILIZE AROUND ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Case BOL 170103. ESCRC - **Bolivia**

Urgent Appeal - Economic, Social and Cultural Rights

Arbitrary arrests and detentions/ Disproportionate use of force/killings/Violations of economic, social and cultural rights

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

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

The International Secretariat of OMCT has been informed by the Asamblea Permanente de Derechos Humanos, a member of OMCT network, of violent repression by the police and the army, notably in the department of Cochabamba, against protests related to the enjoyment of economic, social and cultural rights. According to the information received, the police forces and the army have been using disproportionate and excessive force from January 13<sup>th</sup> till January 15<sup>th</sup> to curb demonstrations being held by persons from different sectors of society - including retired people, coca growers, farmers and students, resulting in the death of four persons, arbitrary detentions and reports of cruel, inhuman and degrading treatment.

The department of Cochabamba, and its different areas, including Aguirre, Parotani, Chimore and Colomi, have reportedly been particularly affected by the repression. It is reported three persons died on January 14<sup>th</sup> and one died on January 15<sup>th</sup> as a result of excessive and disproportionate use of force by the police and military forces, who used live ammunition against the demonstrators. Dozens of persons also have allegedly been wounded by live ammunition, including injuries to the head, as in the case of Esteban Garcia, who was wounded by a bullet that destroyed his lower jawbone. Due to the serious state of his health, Esteban Garcia has reportedly been transferred to Santa Cruz.

In addition to the excessive and disproportionate use of force, a wave of arbitrary arrests and detentions, affecting 165 persons (20 women and 145 men), also took place from January 14<sup>th</sup> to January 15<sup>th</sup> in the Cochabamba Department. Although all of these persons have been reportedly released, their transfer, following their arrest, to military facilities has been carried out in violation of the Bolivian Constitution and national laws. Moreover, according to detainees' testimonies, many of them are suffering from different type of injuries, highlighting the violence used by police agents and the military forces during their detention. It is also reported that the detainees' conditions of detention did not meet international standards, as they were reportedly held in hangars with corrugated iron roofs, without ventilation and without access to food, medical assistance and toilets for several hours. Today, charges are reportedly being held against 20 of the 165 released persons, including instigations to public delinquency, attacks against public transport and sedition.

The town of Calamarca has also reportedly been the theatre of repression carried out against a peaceful demonstration led by retired persons. It is reported that the authorities intervened against a demonstration launched by retired persons and forcibly transferred thousands of them, without their consent and using force, from the town of Calamarca to their place of origin. During the transfer, 11 persons, the majority of whom were retired people, died in a car accident on the way La Paz-Oruro.

### **Background information**

The excessive use of force by police and military force, along with recourse to arbitrary arrests and detentions occurs against the background of social protests launched on January 13<sup>th</sup> 2003 by

organisations from the civil society, including farmers, coca growers, students, retired peoples and trade unions.

This social mobilisation results from a long process of economic, social and cultural rights violations and responds to the deterioration of the socio-economic situation throughout the country, where an important part of the population lacks access to basic necessities.

Amongst others requests, the social movements are demanding fair distribution of land; the suspension of the forced eradication of coca plantations and the modification of law 1008; the end to impunity regarding the murderers of the landless peasants in Pananti; a new proposal for educational reform that corresponds to the requests formulated by Bolivian society; the rejection of the ALCA; the legal recognition of the autonomy for El Alto public university; the promulgation of a special law to support indebted persons; and the necessity of a national gas policy to benefit the population.

Bolivia is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) since 1982. In its 2001 concluding observations on Bolivia (U.N. Doc. E/C.12/1/Add.60), the Committee on Economic, Social and Cultural Rights, expressed its concern about, among other the highly uneven distribution of wealth throughout the country; the marginalisation and discrimination against indigenous communities who constitute the majority of the rural population and who suffer from inadequate access to basic education, adequate housing and health services; and the fact that land reform is not a top priority on the Government's agenda. In this respect, the Committee urged that the Bolivian Government ensure that the ICESCR is taken into account in the formulation and implementation of all policies concerning economic, social and cultural rights; to take remedial action against the marginalisation of and discrimination against indigenous populations; and to pursue land reform as a priority.

Case BOL170103.1 ESCR - **Bolivia**  
Urgent Appeal - Economic, Social and Cultural Rights  
Follow-up of Case BOL 170103. ESCR  
Killing/Violations of Economic, Social and Cultural Rights

Geneva, January 29<sup>th</sup>, 2003

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

#### **New information**

The International Secretariat of OMCT has been informed by the Asamblea Permanente de Derechos Humanos (APDH), a member of the OMCT network, of the killing of two persons as part of the confrontation that took place between the population and the police and military armed forces, in Bolivia.

According to the information received, on Thursday January 23<sup>rd</sup> 2003, in the Lonk'on region located on the road between Sucre and Tarabuco, 19-year old farmer Armando Medrano Flores was killed by the army while he was blocking the road with other farmers.

Moreover, on Sunday January 26<sup>th</sup> 2003, in the town of Matamojo, located in the Chapare region on the road between Cochabamba and Santa Cruz, 44-year old Roberto Leon Quinsamollo was reportedly killed by 4 bullets fired by the army.

It is reported that while the intensity of the blockades diminished from Monday January 20<sup>th</sup> to Sunday January 26<sup>th</sup> 2003, confrontations between the demonstrators and the army and police forces continued

to take place. In this respect, the APDH reports that on Tuesday January 21<sup>st</sup>, a group of unknown persons fired at a patrol, killing a 18-year old soldier and wounding 4 members of the army and police forces, while on Saturday January 25<sup>th</sup> 2003 a 19-year old soldier died in Rio Chico, 32 kilometres from Sucre.

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

These events follow the dramatic incidents that took place in Bolivia, and in particular in the Chapare region, where since January 13<sup>th</sup> 2003 the police forces and the army have been reportedly using disproportionate and excessive force to curb demonstrations and road blocks led by persons from different sectors of society - including retired people, coca growers, farmers and students. As a result, four persons have reportedly died and arbitrary arrests and detentions, as well as forms of cruel, inhuman and degrading treatment have been reported.

The department of Cochabamba, and its different areas, including Aguirre, Parotani, Chimore and Colomi, have reportedly been particularly affected by the repression. It is reported three persons died on January 14<sup>th</sup> and one died on January 15<sup>th</sup> as a result of the excessive and disproportionate use of force by the police and military forces, who used live ammunition against the demonstrators. Dozens of persons have also allegedly been wounded by live ammunition, including injuries to the head, as in the case of Esteban Garcia, who was wounded by a bullet that destroyed his lower jawbone. Due to the serious state of his health, Esteban Garcia has reportedly been transferred to Santa Cruz.

In addition to the excessive and disproportionate use of force, a wave of arbitrary arrests and detentions, affecting 165 persons (20 women and 145 men), also took place from January 14<sup>th</sup> to January 15<sup>th</sup> in the Cochabamba Department. Although all of these persons have reportedly been released, their transfer, following their arrest, to military facilities has been carried out in violation of the Bolivian Constitution and national laws. Moreover, according to detainees' testimonies, many of them are suffering from different type of injuries, highlighting the violence used by police agents and the military forces during their detention. It is also reported that the detainees' conditions of detention did not meet international standards, as they were reportedly held in hangars with corrugated iron roofs, without ventilation and without access to food, medical assistance and toilets for several hours. Today, charges are reportedly being held against 20 of the 165 released persons, including instigation to public delinquency, attacks against public transport and sedition.

The town of Calamarca has also reportedly been the theatre of repression carried out against a peaceful demonstration led by retired persons. It is reported that the authorities intervened against a demonstration launched by retired persons and forcibly transferred thousands of them, without their consent and using force, from the town of Calamarca to their place of origin. During the transfer, 11 persons, the majority of whom were retired people, died in a car accident on the way La Paz-Oruro.

These events occurred against the background of social protests launched on January 13<sup>th</sup> 2003 by organisations from civil society, including farmers, coca growers, students, retired peoples and trade unions.

This social mobilisation results from a long process of economic, social and cultural rights violations and responds to the deterioration of the socio-economic situation throughout the country, where an important part of the population lacks access to basic necessities.

Amongst others requests, the social movements are demanding fair distribution of land; the suspension of the forced eradication of coca plantations and the modification of law 1008; the end to impunity regarding the murderers of the landless peasants in Pananti; a new proposal for educational reform that corresponds to the requests formulated by Bolivian society; the rejection of the ALCA; the legal recognition of the autonomy for El Alto public university; the promulgation of a special law to support indebted persons; and the necessity of a national gas policy to benefit the population.

Bolivia is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) since 1982. In its 2001 concluding observations on Bolivia (U.N. Doc. E/C.12/1/Add.60), the Committee on Economic, Social and Cultural Rights, expressed its concern about, among other the highly uneven distribution of wealth throughout the country; the marginalisation and discrimination against indigenous communities who constitute the majority of the rural population and who suffer from inadequate access to basic education, adequate housing and health services; and the fact that land reform is not a top priority on the Government's agenda. In this respect, the Committee urged that the Bolivian Government ensure that the ICESCR is taken into account in the formulation and implementation of all policies concerning economic, social and cultural rights; to take remedial action against the marginalisation of and discrimination against indigenous populations; and to pursue land reform as a priority.

Case HND 230703. ESCR - **Honduras**  
Urgent Appeal - Economic, Social and Cultural Rights  
Right to Life/Killing/Threats

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

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

The World Organisation against Torture (OMCT) has been informed by a reliable source about the killing of Oscar Arturo Reyes on 18 July 2003 in the Rosario Municipality, Olancho Department, Honduras.

It is reported that on 18 July 2003, at 8:00 pm, three heavily-armed men shot and killed 23 years old Oscar Arturo Reyes while he was washing his face in the back yard of his house. Oscar Arturo Reyes was reportedly hit with 6 bullets during the attack. According to the information received, the three men, after having fired at Oscar Arturo Reyes, fled through a canal that leads to the river of the Rosario Municipality. According to the source, when Oscar Arturo Reyes' colleagues came to his house after having learned about the attack, they saw four trucks that were driving from the Rosario Municipality at high speed and were not transporting any wood, as it is usually the case. (for further details, see the Urgent Appeal Released by the Observatory for the Protection of Human Rights Defenders HND 002 / 0703 / OBS035)

Oscar Arturo Reyes was involved in the defence and promotion of the environment and was part of the 'Pastoral Social del Medio Ambiente', whose headquarters are located in Juticalpa, the main city of the Olancho Department. It is reported that in March 2003, Oscar Arturo Reyes had to move from the Guata to Rosario Municipality due to death threats that he had received. Following the 'Marcha pour la Vida', a list of names of environmentalist activists and leaders to be assassinated, including that of Oscar Arturo Reyes, has reportedly been circulated.

#### **Background Information**

The assassination of Oscar Arturo Reyes occurred against the background of serious threats, persecution and attempted killings targeted against environmental activists, in the Olancho Department (see Appeal HND 002 / 0703 / OBS035). According to the information received, these acts have been perpetrated by timber dealers in collusion with the authorities and are related to the exploitation of wood in the Department by timber enterprises and the related opposition to this that has been engendered within the affected communities.

According to the information received, these acts have seriously intensified following the refusal by President Ricardo Maduro to listen to and take into account the demands and concerns raised by the organisers of the 'Marcha por la Vida', which took place from June 20 to June 26, 2003.



The 'Marcha por la Vida' reportedly started on 20 June 2003 in Juticalpa, Olancho Department, and was supported by 27 workers, students, farmers, human rights and church-based organisations. It protested against the uncontrolled deforestation, forest exploitation and illegal cutting down of trees that are taking place in the Olancho Department. Among other claims, the supporters of the march were asking for an unconditional stop to the commercial cutting down of trees in the Olancho Department; the launching of an independent evaluation on the actual status of natural resources in the Olancho Department; and the establishment of an independent Commission to supervise and monitor the suspension of commercial cutting down of trees and to facilitate the evaluation of the situation.

According to the information received, the commercial cutting down of trees in the Olancho Department is carried out on a large scale and is having a serious impact on the affected communities, notably with respect to their access to natural resources and water reserves. It is reported that very often the Forest Administration (AFE-COHDEFOR) is delivering licences to timber enterprises to operate in the region without the adequate legal requisites.

## 1. Related to demands for redistribution of productive resources

Case BRA 170903 ESCR - **Brazil**  
Urgent Appeal - Economic, Social and Cultural Rights  
Murder of landless peasants / list of persons to be killed

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

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

The International Secretariat of OMCT has been informed by a reliable source that a reward has been offered for the murder of 8 persons and a list detailing the names of these persons has been released in the north eastern region of the Parana State, Brazil. Francisco Nascimento de Souza, a rural worker whose name appears on the list was killed on August 3<sup>rd</sup> 2003.

According to information received, the list was prepared during a meeting of 'fazendeiros' (landowners) that took place in Campo Mourao (Parana State) on April 21<sup>st</sup> 2003 . A reward of 8,000 to 10,000 reais (about 3,000 USD) has been offered for the murder of each person whose name appears on the list. Father Roque Zimmermann, who is the State Secretary for the Employment, Work and Social Promotion and also President of the Special Commission for Land Issues, has disclosed the existence of this list following the murder of Francisco Nascimento de Souza.

The body of Francisco Nascimento de Souza was found along a road, by Cicero Luis Dos Santos, at 8:00 am on August 4<sup>th</sup> 2003. Francisco Nascimento de Souza, a 27 year old rural worker with 4 children, lived in Nossa Senhora Aparecida village in the municipality of Mariluz (80 km from Campo Mourao, Parana State). He was shot while driving home with his motorbike after a meeting with friends in the city of Mariluz. The police sent his body to the medico-legal Institute of Cruzeiro do Oeste, where it was revealed that he had been shot in the head and that his body showed signs of torture. Francisco Nascimento de Souza was named on the list, along with 7 other people and a reward had been offered for his murder. The disclosure of the existence of the list appears to confirm of the involvement of fazendeiros (landowners) in the murder.

OMCT is gravely concerned about the safety of the 7 other persons who have been named on the list and for whose murder a reward has been offered. These persons are: Angelo Costa Quintanilha, Luis Alves, Paulo Sergio de Souza, Carlos Cartucho, Joao CBT and Paulo Carrero, and Jose Damasceno.

### **Background information**

The dissemination of the list, along with the murder of Francisco Nascimento de Souza occurred against the background of ongoing tension between the large landowners and landless persons in Parana. Private militia, organized by fazendeiros (landowners), are inciting violence against rural workers or landless peasants who try to occupy unutilised lands.

There have been numerous episodes of violence in the municipality of Mariluz in the last few years and in March 2003, the Premier Commando Rural (PCR), a militia organised by fazendeiros (landowners) was created and began to operate in this municipality. The PCR gets its inspiration from the Premier Commando of the Capital (PCC), a militia that spreads fear and terror in diverse regions of Brazil with the engagement of militia action against the landless peasants.

The fazendeiros (landowners) have accused the government of failing to take sufficient action to ensure the return of their lands. They have also reiterated their intention to use force to repress the landless peasants through the PCR, the National Trade Union of Rural Producers (SINAPRO), the Rural Democratic Union (UDR) and the Agriculture Federation of Parana State (FAEP).

Case BRA 081003. ESCR - **Brazil**  
Urgent Appeal - Economic, Social and Cultural Rights  
Killings related to a land conflict

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

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

The International Secretariat of OMCT has been informed by a reliable source that seven rural workers and a 'fazendeiro' (landowner) have been killed on September 19, 2003 180 kilometres away from the town of São Feliz dos Xingu, Para State, Brazil.

According to the information received, on September 12, 2003, heavily armed private security guards from the Primavera Farm killed the rural workers **Justino Pereira da Silva, Antônio da Conceição, Pedro Formiga, Elizeu, Maurício, Penteado** and **Baixinho Moreno**, along with 'fazendeiro' (landowner) Antônio **Vieira da Silva**. The killing reportedly took place after lunch in a house located on the premises of the Terra do Meio Farm.

The house where the killing took place is reportedly located in the neighbourhood of the Primavera Farm, which is owned by Tadeu Bitar. According to a witness who survived the killing, the private security guards from the Primavera Farm threatened the victims with death the day before the killing. It is reported that the killing was related to a land conflict between Antônio Vieira da Silva and Tadeu Bitar.

Reports highlight that the police took a long time to reach the place where the killing took place and that they had to borrow the vehicle of a third party to eventually reach it.

Two victim's bodies have been sent to Belém for an autopsy and the witness is reportedly under the protection of the police.

#### **Background information**

The killing of the seven rural workers and the 'fazendeiro' (landowner) took place in a region known as Iriri, which is located between the rivers of Iriri and Xingu, where grave cases of violence occur on a regular basis and are notably related to land conflicts.

Since January 2003, a total of 21 rural workers have been assassinated in the Para State, including the seven rural workers who were killed on September 12, 2003. These killings put Para State in first place in terms of the number of rural workers who have been assassinated in 2003. Overall, in most cases of rural workers' assassinations, the police remain reluctant in carrying out impartial and independent inquiries, in clarifying the causes of the assassinations and in apprehending those responsible. While between 1971 to 2002 a total of 726 assassinations of rural workers took place in the Para States, only 5 trials took place and only 7 condemnations were headed out.

Case Per 031203. ESCR - **Peru**  
Urgent Appeal - Economic, Social and Cultural Rights  
Excessive use of Force/Ill-Treatment/Freedom of Expression

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

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

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

### **Background Information**

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

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

To justify their acts, the police invoked the illegality of the demonstration, as it did not respect the municipal decree ("decreto de la Alcaldía") which prohibits public demonstrations in the centre of Lima. In order not to breach the decree, the working children's organisations decided to promote a non-violent protest with small groups entering the square in turns, calling for respect for children's rights and the acknowledgment and full citizenship of childhood as a subject of rights, as protagonist actors in the society. Reportedly, a police agent stated that the demonstrators "should not be considered according to their age" because they were only "pirañitas" ("children sleeping on the streets"), which would "anyway not behave themselves like children or adolescents when aggressing adults."

According to the last information received, the police forces - which belong to the "Unidad de Servicios de Control de Disturbios de la Policia" - arrested 13 individuals, including 3 adolescents at about 10:30 pm. The adults were released at 3:00 am in the absence of evidence of them carrying dangerous arms-objects, while the adolescents remained in custody. Allegedly, some of the adults were ill-treated during the detention. Jaramillo Enrique, the coordinator of GENERACIÓN, said at a Press conference on November 21<sup>st</sup> that Major Vergara hit and insulted him while in police custody.

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

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

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

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

## 2. Related to indigenous people's control/ownership over their ancestral land

### Caso COL 060503 ESCR – Colombia

Llamado Urgente - Derechos Economicos, Sociales y Culturales  
Asesinato / Comunidades Indígenas / Guerrilla y Paramilitares

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

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

El Secretariado Internacional de la OMCT ha sido informado por la Comisión Colombiana de Juristas, miembro de la red de la OMCT, del asesinato del Sr. **Augusto Lana Domicó**, líder del pueblo indígena Embera Katío y gobernador de la comunidad de Porremia, el día sábado 18 de abril, presuntamente por las Fuerzas Armadas Revolucionarias de Colombia (FARC-EP).

De acuerdo con la información recibida, el día sábado 18 de abril, en horas de la noche un grupo de hombres armados, que se identificaron como miembros de las Fuerzas Armadas Revolucionarias de Colombia ( FARC-EP), llegaron a la vivienda de Augusto Lana Domicó y después de hacerlo bajar del tambo (lugar de vivienda) donde se encontraba con su esposa y sus siete hijos (todos menores de edad), lo trasladaron a unos metros de su vivienda y le propinaron dos disparos que causaron su muerte. Esa misma noche otro grupo de hombres armados que al parecer pertenecen a esa misma organización guerrillera (FARC-EP) hicieron presencia en una fiesta comunitaria que se realizaba en Dozá. Luego de preguntar por algunos líderes, procedieron a buscarlos por todos los tambos de la comunidad y al no encontrarlos se dirigieron a sus viviendas, intimidaron a sus familiares y se llevaron sus bienes

#### **Antecedentes.**

Las violaciones a los derechos humanos al pueblo Embera Katío del Alto Sinú se vienen presentando desde el año de 1993, cuando el Estado colombiano otorgó, sin el proceso de consulta previo establecido en la normatividad nacional e internacional, la licencia ambiental para la construcción de una hidroeléctrica. Desde el inicio de la construcción de la hidroeléctrica Urrá en su territorio, el pueblo indígena ha enfrentado los graves impactos que sobre sus derechos económicos, sociales y culturales ha tenido la construcción y puesta en marcha de dicho proyecto.

El abandono del Estado en la protección de los derechos del pueblo indígena ha tenido también como consecuencia que los indígenas hayan sido víctimas de sistemáticas violaciones a sus derechos, por parte de todos los actores armados (fuerza pública, grupos paramilitares y grupos guerrilleros), traducidas en homicidios, desapariciones forzadas, amenazas, destrucción de sus bienes y desplazamiento de las comunidades que conforman el Pueblo. La situación del pueblo es tan grave que, la Comisión Interamericana de Derechos Humanos (CIDH) el día 4 de junio de 2001, solicitó al Gobierno colombiano la adopción de medidas cautelares urgentes concertadas con el pueblo Embera Katío, para establecer el paradero de Kimy Pernía Domicó (líder desaparecido forzosamente el 2 de junio de 2001 en la ciudad de Tierralta, Córdoba, presuntamente por paramilitares), proteger a los demás miembros de la comunidad indígena e investigar, juzgar y sancionar a los responsables de las violaciones a los derechos humanos del pueblo.

La omisión del Estado de cumplir con las medidas decretadas por la CIDH, agravó la situación del pueblo. Durante el año 2002 las violaciones a los derechos humanos de los miembros de pueblo continuaron: asesinatos, secuestros, tortura, desplazamientos forzados; debido a la acción de guerrilleros y grupos paramilitares.

El Estado colombiano no ha tenido nunca una respuesta efectiva de protección. No se conoce hasta el momento resultado alguno de investigaciones penales que permitan determinar responsables por los múltiples delitos. Nadie ha sido sancionado por los mismos y ninguna víctima reparada en sus derechos.

El Pueblo Embera ha denunciado siempre públicamente las violaciones de las que ha sido víctima y en el mes de mayo de 2002 los indígenas, respondiendo a una solicitud que les hizo el Gobierno, le presentaron una propuesta de protección, pero hasta el momento no se ha concretado su implementación.

Las graves denuncias del Pueblo en el sentido de que, ante su posición de autonomía y de no colaboración con ningún actor armado, habían sido amenazados por el grupo guerrillero, motivaron la decisión del Estado colombiano de promover una visita humanitaria al territorio,

Entre el 27 y 28 de marzo de 2003 se desplazaron a Tierralta y al territorio indígena, a la comunidad de Beguidó, representantes de la Defensoría del Pueblo, de la Vicepresidencia de la República, de la Procuraduría General de la Nación y de la Red de Solidaridad Social acompañados de representantes de la Oficina del Alto Comisionado para los Refugiados en Colombia (ACNUR) y de la Comisión Colombiana de Juristas. La Comisión Humanitaria pudo constatar en el territorio indígena la situación de temor y riesgo en que se encontraba el pueblo y recomendó:

“Que el Estado, con base en la situación de riesgo que afrontan las comunidades del pueblo indígena Embera Katío del Alto Sinú, concrete y materialice los mecanismos de protección solicitados por la comunidad a la mayor brevedad”.

Desafortunadamente la recomendación de la misión no fue atendida por el Gobierno y la propuesta de protección hecha por el pueblo Embera, hasta el día de hoy, más de una semana después del asesinato de Augusto Lana Domicó (18 de abril de 2003), no ha sido implementada. Otros Gobernadores del Pueblo Embera se encuentran amenazados por el grupo guerrillero y algunos de ellos han tenido que desplazarse forzadamente con sus compañeras, hijas e hijos menores de edad para salvaguardar sus vidas.

Case PHL 230103.ESCR – **Philippines**  
Urgent Appeal - Economic, Social and Cultural Rights  
Killing/Use of force/Distribution of land

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

**Brief description of the situation**

The International Secretariat of OMCT has been informed by Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the alleged police involvement in the shooting of 6 farmers in the city of Panabo (Mindanao Island), on January 6<sup>th</sup> 2003. This shooting incident, which resulted in five people being seriously wounded and one death, occurred against the background of a conflict between different farmer organisations over a contested portion of land in a banana plantation.

According to the information received, on January 6<sup>th</sup> 2003 at about 2.00 pm., a group of around 100 persons – including security guards from the Octagon and Nakasaka security agency as well as 2 village councillors (barangay kagwad)- started shouting at farmers who constructed a fence to delineate the portion of the banana plantation they are claiming.

The group of around 100 persons allegedly defends the interests of the Dapco Agrarian Reform Beneficiaries Cooperative (DARBCO), while the farmers who constructed the fence are being represented by 2 organisations: the Plantation Original Farm Workers Agrarian Reform Beneficiaries Association (DOFARBA) and the United Davao Abaca Plantation Agrarian Reform Beneficiaries Association (UDARBA).

It is reported that the group of around 100 persons threatened the DOFARBA and the UDARBA farmers that they would climb over the fence, which was eventually destroyed. Following the fence's destruction, the 2 village councillors Ronald Melencio and Winnie Orellaneda reportedly ordered the security guards to attack the DOFARBA and the UDARBA farmers. Immediately afterwards, a certain Eugenio Aban, armed with a 38 calibre pistol, reportedly shot at the DOFARBA and the UDARBA farmers, along with 2 security guards, wounding 5 persons:

- **Leonardo Abrío**, 58 years old, married with 2 children who was hit in the jaws and brought to Davao Medical Centre, in Bajada, Davao City;
- **Carlito Maratas**, 26 years old, single: hit in his left knee and treated at Davao Medical Centre, in Bajada, Davao City;
- **Constancio Daño**, 63 years old, married, with 6 children: hit in his left leg and brought to Davao medical Centre;
- **Prudencio de los Arcos Jr.**, 32 years old, single: hit in his left arm and treated at Davao Medical Centre but only as an out-patient;
- **Wendell Bedaño**, 25 years old, single: hit in his left thigh and treated at Davao Medical Centre.

**Dominador Morales** (51 years old, married with 4 children), who was hit in his kidney and brought to Davao Medical Centre in Bajada, Davao City, reportedly died 7 days later.

According to the information received, including victims' testimonies, 3 policemen were allegedly present during the shooting incident, wearing plainclothes (their identity still has to be verified). Moreover, according to the victims, one of the alleged policeman, standing about 10-15 meters from the scene, reportedly fired a warning shot and shouted "pulis ni" (I am a policeman), but did not intervene in order to stop the shooting.

It is also reported that the Chief Investigator in charge, Police Chief Inspector Napoleon Muñoz, who was located around 100 meters from the scene, took no action to stop the shooting. The police investigator was reportedly in a white mobile police patrol vehicle with number plate SET 712, accompanied by 2 other police vehicles, a blue one with number plate LES 816 and a red one with number plate IDP 161. All these vehicles were reportedly parked around 100 meters from the place of the incident.

According to the information received, one of the DOFARBA and the UDARBA farmers' leader, Mr. Rebaja, received a short message on January 5th 2003 stating that someone wanted to harass them. This message also reportedly prompted the DOFARBA and the UDARBA farmers to fence the land they are claiming and to guard it.

In the Minando Daily Mirror, published on January 8<sup>th</sup> 2003, the Panabo City Police reported that it is preparing charges against the DOFARBA and the UDARBA farmers for destroying crops and creating trouble inside the banana plantation. In the newspaper, the police also accused the DOFARBA and the UDARBA farmers of being armed with handguns and of having been the ones who fired at one of the security guards. The police further reported that no one was injured by gunshots and that the DOFARBA and the UDARBA farmers were "neutralized" by the arrival of the police, led by Chief Inspector Napoleon Muñoz.

In turn, the police investigation report reportedly states that the police was supposedly present at the scene in response to a request from DARBCO. However, the report fails to explain why the policemen



present during the incident did not intervene to put an end to the shooting. Moreover, the report allegedly affirms that the police left the police station at 11:30 am. Knowing that the incident happened at about 2:00 pm and that it takes 15 to 20 minutes to travel from the police station to the place of the incident, the report doesn't provide any information about the police's activities during this 2-hour gap.

Overall, and according to the information received, the police investigation report and the police's statement in the media contradict the version given by the Police Investigator in an interview conducted on January 8<sup>th</sup> 2003 by a representative of TFDP. Indeed, the Police Investigator reportedly said in the interview that when the police reached the area where the incident took place, the wounded victims were already fleeing and the shooting incident was already finished. Overall, it should be noted that these different versions given by the police contradict the victim's testimonies.

Currently, it is reported that charges of grave coercion are being filed by the police against the DOFARBA and the UDARBA farmers.

### **Background information**

This shooting incident occurred against the background of a conflict between different farmer organisations over a contested portion of land, in a banana plantation of 1400 hectares.

The parties to the dispute involve 3 farmer organisations: on one hand, the Dapco Agrarian Reform Beneficiaries Cooperative (DARBCO) and, on the other hand, the Plantation Original Farm workers Agrarian Reform Beneficiaries Association (DOFARBA) and the United Davao Abaca Plantation Agrarian Reform Beneficiaries Association (UDARBA).

With respect to the 1004 hectares, the DORARBA and UDARBA farmers were reportedly identified by the Department of Agrarian Reform (DAR) as being qualified to be the beneficiaries of the Comprehensive Agrarian Reform Program (CARP). In this respect, the UDARBA farmers have allegedly been occupying a portion of these 1400 hectares since the 1980s, with documentation from the Department of Agrarian Reform (DAR) legitimising this. However, when the Department of Agrarian Reform (DAR) issued a certificate of land ownership award (CLOA), DORARBA and UDARBA farmers were excluded.

It is reported that in 1998, following their exclusion, DORARBA and UDARBA farmers filed a petition within the Department of Agrarian Reform's (DAR) central office in Manila, challenging the legality of the certificate of land ownership award (CLOA). On September 24 2001, the DORARBA farmers reportedly occupied the underdeveloped and abandoned portion of the 1004 hectares and started cultivating bananas collectively on a portion of 8 hectares.

This occupation, along with the presence of UDARBA farmers in the 1004 hectares is being allegedly contested by DARBCO, the farmer organisation that benefited from the agrarian reform and holds the Certificate of Land Ownership Award (CLOA) issued by the Department of Agrarian Reform (DAR).

On November 13 2002, the National Department of Agrarian Reform (DAR) reportedly issued a memorandum to the Provincial Agrarian Reform Officer Pedro Gumbao, in Panabo City, asking him to clarify the process, which has led to the exclusion of DORARBA and UDARBA farmers as beneficiaries from the Comprehensive Agrarian Reform Program (CARP). Until now, and according to the information received, this directive has not been implemented yet.

### 3. Affecting farmers

Case MMR 230603.ESCR – **Myanmar**  
Urgent Appeal - Economic, Social and Cultural Rights  
Arbitrary arrest and detention / Torture / Impunity

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

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

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission, a member of the OMCT network, of the arrest and torture of a 78-year-old farmer in Kyeikmayaw Township in Myanmar.

According to the information received, **Nai La**, a 78-year-old farmer from the Kyeikmayaw Township, Mon State, Myanmar, was arrested by militiamen on March 4th, 2003, for failing to meet the paddy quota. Mr. La was detained at the Tarana police post in Kyeikmayaw Township for three nights before being transferred to Nyaung Pin Zoet Police Station on March 7th. At the Police Station, Deputy Sub-inspector Maung Toe (#LA-120798) reportedly handcuffed Mr. La in this cell and beat and kicked him until he lost consciousness.

Mr. La's arrest was the result of his inability to provide the expected paddy quota to the state. Mr. La and his wife have farmed fourteen acres in Kyeikmayaw Township for over 38 years. Each year they have given the required portion of their harvest to the state. This year Mr. La's quota was set at 168 baskets. Mr. La's crops were destroyed by floods this year and, as he reported to the local headman Nai Kyan Kyit, he could only provide twenty baskets. The headman has already reportedly unlawfully fined Mr. La 560,000 Kyat (about US \$560) for this.

When Mr. La was sent in critical condition to Kyeikkmayaw hospital on March 8th, following his torture at Nyaung Pin Zoet Police Station, news of the case spread to the local community. On March 10th, Reverend Wareinda, the local secretary of the Buddhist Monks' Association, an official body under the State Sangha Maha Nayaka Council, went to Kyeikmayaw Chief of Police Aye Thaung, insisting that the perpetrator of the human rights violations in question be punished.

On March 11th, 2003, as a result of the pressure, the police held a disciplinary tribunal, chaired by the Kyeikmayaw Chief of Police, Sub-inspector Aye Thaung (#La-102825) and also heard by Deputy Sub-inspectors Tun Than (#La-1131217) and Myint Tun (#La-131231). The tribunal heard the testimony of Mr. La and his wife, and four police officers. The tribunal found that Maung Toe was drunk on the night he tortured Nai La and legal action should be brought against him.

On March 21st, 2003, twelve monks under Reverend Silawanta submitted a letter to the Chairman of the Mon State Peace and Development Council and Chairman of the Mons State Southeast Command, General Myint Aung regarding the matter. On March 23rd, 2003, the New Mon State Party also lodged a letter of complaint with local military officials, demanding action. On March 25th, 2003, Nai La wrote to the Chairman of the Mon State Eace and Development Council.

Local officials detained Nai Kyan Kyit for a week while investigating the case. Following pressure from local monks, the Kyeikmayaw Chief of Police visited Nai La's house to conduct further inquiries. Mr. La's family has reportedly been kept in isolation since the police report was leaked to the community. Deputy Sub-Inspector Maung Toe has not yet been punished. OMCT condemns the

impunity that the perpetrators of human rights violations enjoy and calls on the authorities to ensure that, in this case, Deputy Sub-Inspector Maung Toe is brought to justice.

The International Secretariat of OMCT is gravely concerned by the arbitrary arrest, detention, and torture of 78-year-old Mr. La. OMCT calls on the authorities to guarantee an immediate investigation into the circumstances of these events, notably the allegations of torture, in order to identify those responsible, bring them before a civil competent and impartial tribunal and apply the penal and/or administrative sanctions provided by law. Further to this, OMCT calls on the Myanmar government to guarantee that Mr. La receives adequate reparation for the injuries sustained during these events.

#### 4. Related to the implementation of development projects

Case TUR 260303.ESCR – **Turkey**  
Urgent Appeal - Economic, Social and Cultural Rights  
Arbitrary arrests and detentions/Harassment/Right to adequate housing/Right to food/Right to work

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

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

The International Secretariat of OMCT has been informed by a reliable source of the human rights violations, including arbitrary detentions and arrests, related to the implementation of the Azerbaijan-Georgia-Turkey pipeline project, which consists notably in the construction of the Baku-Tbilissi-Ceyhan (BTC) oil pipeline in Turkey.

According to the information received, arbitrary arrests and detentions in the north-eastern region of Turkey have increased markedly over the last few months, along with a pattern of constant surveillance, evident human rights abuses, military harassment and intimidation along the pipeline route. In this respect, concerns have been expressed that the construction of the BTC pipeline is having a detrimental effect on the security and human rights situation in the north-eastern region of the country.

An international fact-finding mission conducting an impact-assessment of the BTC oil pipeline project between Sivas and Posof was reportedly detained twice on Friday 21<sup>st</sup> 2003.<sup>2</sup> It is reported that during a visit to a village near Ardahan, the gendarmerie and the Turkish military arrested the members of the fact-finding mission, took their passports and detained them for over an hour. According to the information received, after their release, the members of the fact-finding mission were followed for approximately half an hour before being ordered to return to the gendarmerie where they were detained again. After their release, the members of the fact-finding mission were followed back to their hotel where they discovered that all of their luggage (except one) had been searched. Overall, the members of the fact-finding mission reportedly have been followed during their mission by up to fifteen plainclothes security men and uniformed officers. These circumstances rendered the fact finding mission's task of interviewing locally affected peoples by the BTC pipeline virtually impossible. Moreover, fears have been expressed about the personal security of those persons who were interviewed by the fact-finding mission.

##### **Background Information**

Turkey is planning to construct a 1000 kilometre-long oil pipeline running from the Georgian border to the Mediterranean coast on behalf of a consortium of oil companies, known as the BTC Co. and led by British Petroleum (BP). The nationalised Turkish pipeline company BOTAS has been contracted, for an agreed price, to construct the pipeline. According to the information received, the construction of the pipeline is planned to start in April-May 2004.

BP's Chief Executive John Browne reported that BP would only build the pipeline if "free money" were offered by governments. Indeed, only 30% of the US\$ 3.3 billion cost of the pipeline will come from the oil companies involved, the remainder coming from the International Finance Corporation (part of the World Bank) and the European Bank for Reconstruction and Development.

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<sup>2</sup> The fact-finding mission included representatives of the Corner House, the Kurdish Human Rights Project (KHRP), the Bar Human Rights Committee, Campagna per la Riforma della Banca Mondiale and Platform

According to the information received<sup>3</sup>, several irregularities surround the implementation of the BTC pipeline project and include, among others, flaws in both the consultation and compensation policies, which have serious implications on the enjoyment of a whole range of economic, social and cultural rights including the right to adequate housing, the right to adequate food and the right to work.

Indeed, while many communities and groups have been consulted as part of the BTC Co.'s and BOTAS' Public Consultation and Disclosure Plan (PCDB), numerous inadequacies and failures have been reported, therefore limiting the possibility to take into account the concerns, fears and demands of the affected communities. Moreover, several rural and fishing communities that will be directly affected by the project have reportedly not been consulted at all, despite the fact that these communities were listed by BTC Co. and BOTAS as having been consulted. Overall, it should also be noted that the consultation did not take into account the situation of the minorities living in the region, including the Kurdish one, nor the current context prevailing throughout the country and in which any critique regarding a project sponsored by the government can result in prosecution for a crime against the State.<sup>4</sup>

Concerning the issue of compensation, the BTC Co. has reportedly committed itself to pay compensation to anyone affected by the project, regardless of whether those affected hold a title to land. However, it is reported that BOTAS has repeatedly stated to villagers along the pipeline road that it will only compensate formally registered land owners. In some villages, this would result in only five or six land users being compensated out of a total of 50-60 affected. Other problems related to compensation notably include the absence of updated land registry; the risk that compensation, when provided, is below the full and market value of the land; inadequate information about compensation mechanisms; and lack of knowledge about possible recourses.

Overall, it should also be noted that under the Host Government Agreement (HGA), the Turkish Government granted to BP the power to refuse to implement any new environmental, social or any other law affecting the BTC pipeline that may be introduced in the next forty years, the lifetime of the HGA.

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<sup>3</sup> For further information, please see the preliminary report of the international fact-finding mission (Campagna per la Riforma della Banca Mondiale, Kurdish Human Rights Project, the Corner House, Ilisu Dam Campaign and Platform), *Azerbaijan, Georgia and Turkey Pipeline Project: Turkey Section*, August 2002

<sup>4</sup> Mr. Mahmut Vefa, the General Secretary of the Diyarbakir Bar Association, is currently facing trial and accused of "overtly insulting the moral integrity of the government and the military and the security forces" for having highlighted the impact of the the Ilisu Dam on surrounding populations.

## II. LABOUR RIGHTS AND DISPUTES

Case CHN 020703. ESCR – **China**  
Urgent Appeal - Economic, Social and Cultural Rights Concern  
Labour rights/Arbitrary Detention/Fair Trial

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

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

The International Secretariat of OMCT has been informed, by a reliable source, that on June 27, 2003 the appeals of the workers Yao Fuxin and Xiao Yunliang against their May 9, 2003 sentences were dismissed in a closed hearing at the Liaoyang City Detention Centre, Liaoning province, China.

It is reported that Yao Fuxin's lawyer, Mo Shaoping, was not notified of the appeal hearing and became aware of it only the night before (June 26, 2003) after a friend of Yao Fuxin's saw a notice of the hearing posted outside the municipal court and reported it to Yao Fuxin's family. Xiao Yunliang's lawyer, Zhang Fusheng, was reportedly notified of the judgment after the hearing took place.

Moreover, according to the information received, family members and supporters who tried to attend hearing were refused entry by prison officials. Indeed, family members reportedly came to the detention centre at 8:00 a.m. on June 27, 2003 and were told that they could not enter and that the hearing would be postponed from 9:00 a.m. until 10:30. It is reported that at approximately 9:15 a.m. several official cars allegedly carrying provincial and municipal officials who attended the hearing left the centre. According to the information received, an official at the detention centre confirmed that the appeal hearing did begin at 9:00 a.m. and was completed within 30 minutes.

Approximately 200 retired and retrenched workers from the Ferro-Alloy Factory were also reportedly present at the detention centre to show support. However, approximately 100 armed police allegedly blocked the entrance to the prison.

### **Background Information**

According to the information received, on May 9, 2003 Yao Fuxin was sentenced to 7 years and Xiao Yunliang was sentenced to 4 years on charges of subversion for their leadership in the movement protesting corruption at the Liaoyang City Ferro-Alloy Factory, for seeking payment for wages in arrears when the factory went bankrupt in October 2001 and for seeking relocation subsidies and unemployment compensation from the government. Currently the two men are being detained at the Liaoyang City Detention Centre in the Liaoning province.

I Yao Fuxin had reportedly long been involved in the struggle against corruption in the Liaoyang factories, a phenomenon the workers believe has led to a string of plant closures and put thousands out of work. In this respect, Yao Fuxin was reportedly secretly detained on March 17, 2002 after leading a demonstration of several thousand workers on March 12, 2002. It is reported that his family was not notified until four days after his arrest and that it was not until March 29, 2002 that he was formally charged with "gathering a crowd to disrupt social order," a crime punishable by imprisonment under Article 290(1) of the Chinese Criminal Code.

Xiao Yunliang was reportedly arrested on the 20<sup>th</sup> of March, after organizing a demonstration on March 18, 2002 to protest Yao Fuxin's detention that was attended by over 40,000 workers from more than 20 factories.

According to the information received, family members of Yao Fuxin and Xiao Yunliang have been, since their arrest, subject to harassment and intimidation. On March 3, 2003, the Public Security Bureau (PSB) reportedly detained Yao Dan and Xiao Yu, the daughters of Yao Yunliang and Xiao Yunliang, while they were in Beijing attempting to meet with Yao's lawyer, Mo Shaoping. According to the information received, the PSB burst into their hotel room in the early hours of March 3 2003 and put them on a train home to Liaoyang. When they arrived in Liaoyang at 9:00 a.m., PSB officers reportedly met them, took them to the police station and interrogated them for 12 hours before releasing them. Moreover, on April 21 2003, the police reportedly stormed the homes of Yao Fuxin and Xiao Yunliang without presenting any warrants or legal documentation and remained there, monitoring their family members until at least 9:00 p.m. that same night.

It is further reported that other workers in the Ferro-Alloy struggle have been subjected to harassment. According to the information received, Wang Zhaoming and Pang Qingxiang, were arrested in March 2002 for their role in organizing a demonstration to protest Yao Fuxin's detention, but were released shortly before Yao Fuxin's January 15, 2003 trial.

According to the information received, over the weekend ending April 21, 2003, Wang Zhaoming, Pang Qingxiang, and a third worker, Wang Dawei, as well as other workers, were detained by police and warned not to have any contact with foreign reporters and American diplomats during an upcoming visit the province to meet with labour leaders. Wang Zhaoming, Pang Qingxiang and Wang Dawei, had reportedly entered negotiations with municipal authorities in Liaoyang in February 2003 seeking the release of Yao Fuxin and Xiao Yunliang and an agreement on payment of wages in arrears and other benefits.

The health of both Yao Fuxin and Xiao Yunliang is reported to be deteriorating in prison, raising concerns about their treatment and access to medical care. Yao Fuxin has reportedly suffered a heart attack and shows signs of a possible stroke. It was reported in March 2003 that Xiao Yunliang was spitting up blood and has since become blind in one eye. Recently, officials reportedly notified Xiao's wife, Su Anhua, that his health has further deteriorated.

In December 2002, the United Nations Working Group on Arbitrary Detentions declared, in its opinion No. 15/2002, that the detention of Yao Fuxin was arbitrary.

In March 2003, the Governing Body of the International Labour Organization (ILO), of which China is a member, adopted the report of the Committee on Freedom of Association, which in Case No. 2189 cited serious abuses committed by the Chinese government concerning its detention and prosecution of the Ferro-Alloy workers. In adopting the report, the Governing Body formally endorsed the Committee's recommendations calling upon the Chinese authorities to release all Ferro-Alloy workers still in detention, drop any charges against them and institute an impartial and independent investigation into the detentions.

Case COL 240203. ESCR – <b>Colombia</b> Urgent Appeal - Economic, Social and Cultural Rights Use of Force/ Arrests/Violations of trade union and labour rights
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The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Colombia**.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Central Unitaria de Trabajadores de Colombia (CUT), a member of the OMCT network, of the attack launched by the Colombian army on

February 21st 2003 against the workers of ECOPETROL (Empresa Colombiana de Petroleros), in Barrancabermeja, Departement of Santander in Colombia.

According to the information received, on February 21st 2003 the army entered the premises of the ECOPETROL refinery in Barrancabermeja following instructions of the President of ECOPETROL Mr. Isaac Yanovich and brutally repressed the workers. It is reported that the following nine persons have been wounded in the operation, including fractures to the skull, the jaw, the arm and the collarbone, due to shootings and the use of butts of guns and bayonets: **Carlos Antonio Madero; Carlos Ramírez; Orlando Saenz; William Ariza; Martín Emilio Rondón ; Richard Díaz; Alexander Torres; Pedro Zambrano ; Dario Barrera.**

Moreover, according to the information received, the following nine persons have also been arrested in the operation: **Eliécer Ortiz; Jose Leonidas Mantilla; Ezequiel Benitez; Ciro Pinzón ; Ardulfo Díaz; Jorge Munera; Hector Salazar ; Eloy Martínez; Ramón Gómez.**

### **Background information**

The intervention by the Colombian Army occurs against the background of a labour dispute opposing the direction of ECOPETROL with its workers, including workers who are affiliated with the Oil Workers Union (USO). This intervention also reportedly occurs in the context of an ongoing campaign of persecution and harassment against the members of USO by paramilitary groups.

According to the information received, the intervention of the Colombian Army on February 21st 2003 has been preceded by the revocation, on December 31st 2002, of the Labour Agreement by ECOPETROL's executive, leading to a conflict between the ECOPETROL's executive and employees.

#### **Caso COL 240203.1.ESCR – Colombia**

Urgent Appeal - Derechos Economicos, Sociales y Culturales

Seguimiento del Caso COL 240203.ESCR

Uso de la Fuerza / Arrestos / Violación de derechos sindicales y laborales / Amenaza

Ginebra, 13 de mayo de 2003

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

### **Nueva información**

El Secretariado Internacional de la OMCT ha recibido nueva información de parte de la Central Unitaria de Trabajadores (CUT), la Comisión Colombiana de Juristas, el Comité de Solidaridad con los Presos Políticos, la Corporación Reiniciar y el Colectivo de Abogados « José Alvear Restrepo », todos miembros de la red de la OMCT, sobre el hostigamiento y amenaza contra miembros de la USO, la Unión Sindical Obrera de la Industria del Petróleo.

De acuerdo con la información recibida, el día 6 de mayo de 2003 fue recibido a través del correo electrónico de un miembro de la USO de la Seccional Cartagena (Bolívar) el siguiente mensaje:

*« Señores USO Cartagena,*

*la presente es para comunicarles de los resultados de la investigación donde comprobamos (sic) que en la Unión Sindical Obrera (USO) laboran vandidos (sic) de las FARC y del ELN.*

*Las medidas tomadas por el bloque central de las Autodefensas Unidas de Colombia son:*

*declaramos objetivo militar a todos los lideres sindicales e hijos de trabajadores suscritos a las uso, ya comenzamos nuestras acciones contra los hijos de los trabajadores.*



*Vean que al sindicalista Aury Sara tambien le dimos previo aviso y miren lo que le paso por sapo.*  
*Carlos Castaño*  
*Jefe Politico »*

Se informa también de la nueva judicialización contra el dirigente del sindicato **Hernando Hernández**, quien actualmente se encuentra en detención domiciliaria, y del inicio de casi 60 procesos disciplinarios en contra de los trabajadores de la estatal petrolera por hacer efectivo el ejercicio de su actividad sindical.

#### **Antecedentes**

De acuerdo con la información recibida, este mensaje aparece después de 5 meses de haberse presentado el *Pliego de Peticiones* por parte de la Unión Sindical Obrera de los Trabajadores del Petróleo -USO- a la Administración de la Empresa Colombiana de Petróleos –ECOPETROL. Como indican nuestras fuentes, el 31 de diciembre de 2002, el ejecutivo de ECOPETROL revocó el Acuerdo Laboral, lo que condujo a un conflicto entre los ejecutivos de ECTOPETROL y los trabajadores.

Se informa que, hasta hoy, la administración de dicha empresa no muestra un ánimo de conciliación y que en su lugar responde con el llamamiento a un Tribunal de Arbitramento y a la militarización de las refinerías de Barrancabermeja y Cartagena, presentándose detenciones y agresiones contra trabajadores del Sindicato.

De acuerdo con nuestras fuentes, el 21 de febrero de 2003, el Ejército entró en las instalaciones de la refinería de ECOPETROL en Barrancabermeja, siguiendo instrucciones del Presidente de ECOPETROL, el Sr. Isaac Yanovich, y reprimió brutalmente a los trabajadores. Se reporta que nueve personas fueron heridas en la operación, incluyendo fracturas del cráneo, la mandíbula, el brazo y otros, debido a disparos, golpes de culata y bayonetas. Nueve personas también fueron arrestadas en la operación. Todo esto en el contexto de una continua campaña de persecución y hostigamiento contra miembros de la USO por parte de grupos paramilitares.

<p>Caso COL 080503 ESCR – <b>Colombia</b> Llamado Urgente - Derechos Económicos, Sociales y Culturales Asesinato</p>
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El Secretariado Internacional de la OMCT solicita su intervención **URGENTE** a propósito de la siguiente situación en **Colombia**.

#### **Breve reseña de la situación**

El Secretariado Internacional de la OMCT ha sido informado por la Central Unitaria de Trabajadores de Colombia – CUT -, miembro de la red de la OMCT, del asesinato del Sr. **Juan de Jesús Gómez**, afiliado al Sindicato Nacional de la Industria Agropecuaria – SINTRAINAGRO – y Presidente de la Subdirectiva Minas en el Municipio de San Martín, Departamento del Cesar, al Norte del país, el día 1º de mayo de 2003, en el Municipio de San Alberto, en el mismo Departamento.

De acuerdo con la información recibida, el Sr. Gómez lideraba en la actualidad una importante negociación colectiva para los trabajadores dedicados a la explotación de la Palma de Aceite, con la Empresa Palmas del César S.A.

La OMCT reitera su preocupación ante la agudización del conflicto en Colombia, con la lamentable incidencia que este tiene en la población civil y en quienes legítimamente la representan y defienden sus derechos, en este caso los sindicalistas. Según nuestra fuente, ya son 14 los sindicalistas asesinados este año en sus organizaciones afiliadas.

La OMCT hace un llamado a las autoridades colombianas para que este hecho no quede impune y se vele por la seguridad e integridad física y psicológica de quienes están involucrados en actividades sindicales, fuera de toda vinculación con el conflicto armado.

Case EGY 290703. ESCR – **Egypt**  
Urgent Appeal - Economic, Social and Cultural Rights  
Violation of Labour Rights/Forcible Resignation of Workers

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

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

The International Secretariat of OMCT has been informed by a reliable source that between 25 May and 1 June 2003 the Daewoo Motor Car Factory, located in Sixth of October City, Giza Province, Egypt, pressured 125 workers to resign from their positions by making false accusations against those who objected and threatening them with being fired.

It is reported that on 25 May 2003 the company called 125 workers to its Department of Labourer's Affairs and told them they were no longer needed. Daewoo Motor Car Factory reportedly offered the workers two months' salary for each year they worked at the company plus LE 1000 (USD 164 at current exchange rates). It is reported that at the 25 May 2003 meeting, two workers objected to the forced resignations and were threatened with being fired under false accusations of stealing and bringing drugs to the workplace, a threat that carried the consequence of greatly reduced benefits from unemployment insurance. Faced with this pressure, 45 workers reportedly signed resignations on 25 May 2003. It is reported that some of the workers contacted the Labour Bureau, but officials did not respond to workers' request for involvement.

According to the information received, on 29 May 2003, the remaining workers who had been pressured to resign staged a 2-hour strike inside the factory, which they agreed to end after the police's arrival and promise to assist in ending the dispute. Following the strike, it is reported that the workers were again threatened with being fired if they did not resign. In response to this pressure, by 1 June 2003 another 67 workers resigned, bringing the total to 112. Many of the workers who resigned reported that they accepted the settlement due to financial pressure because they could not withstand a lengthy lawsuit to enforce their rights against the employer.

It is reported that Daewoo Motor Car Factory forced workers to resign because Egyptian labour law, in force in May 2003, prohibited employers from laying off workers for economic reasons. According to the source, Daewoo Motor Car Factory wanted to replace the 125 workers, who had seniority and collected a relatively high salary of LE 1000 per month, with lower wage workers. The company reportedly forced the resignations to avoid lawsuits under the labour laws then in force. It is reported that a new law allowing lay-offs for economic reasons was to take effect in June 2003, so Daewoo Motor Car Factory's actions on the 25<sup>th</sup> of May 2003 were unlawful.

According to the information received, in addition to the 112 workers who were forced to resign, eight were actually fired, while another five workers deny that they agreed to resign and allege that Daewoo Motor Car Factory forged their resignation documents.

According to the information received, a total of 13 workers have filed lawsuits, including the eight workers who were fired and the five who allege that Daewoo forged their resignations. It is reported that on 2 June 2003, the eight workers who were fired filed complaint no. 748 with the Labour Office alleging that they were fired without cause. This complaint has been transferred to the court under No.

904/2462003 and as the workers await consideration of their case, they currently have no work or income. It is reported that some of the workers forced to resign are over 50 years old and fear that due to their age they will not be able to obtain other jobs and that other workers suffer work-related back injuries and diseases such as tuberculosis.

According to the information received, Daewoo Motor Car is owned by Mr. Hosan Abu el Fetoh and is a sub-contractor for Daewoo, a car manufacturer based in Korea. The factory reportedly employed approximately 1000 workers prior to the aforementioned forced resignations.

### **Background information**

According to the information received, there have been other labour problems at the Daewoo Motor Car Factory. It is reported that in 2001, three workers attempted to form a union committee and the company responded by making false criminal accusations against the workers, setting the stage to fire them at a later time. One worker, Ahmed Hassan, reportedly was falsely accused of stealing camera equipment from the factory and was arrested by Daewoo Motor Car Factory security officers.

It is reported that workers in the car-covering department are exposed to chemicals and Daewoo has not provided adequate ventilation or masks to protect the workers, providing them with only paper masks. Some workers have reportedly developed respiratory and stomach ailments as a result of the exposure.

Case GTM 270103. ESCR – **Guatemala**  
Urgent Appeal - Economic, Social and Cultural Rights  
Attempted killing/ Right to Food/Labour Rights

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

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

The International Secretariat of OMCT has been informed by the Latino American Commission for the Rights and Freedoms of the Workers and Peoples (CLADEHLT), a member of the OMCT network, that the owner of the El Arco Farm attempted to kill one of his worker, wounding him in the head, in Guatemala.

According to the information received, on January 17<sup>th</sup> 2003, at around 6.00 pm, the owner of El Arco Farm, Jesus Salazar Pivaral (hereafter Mr. Enrique Salazar), fired 2 bullets at his 59 years old worker Marcos Alvarez Tzoc.

It is reported that Mr. Enrique Salazar shot two bullets at his worker Marcos Alvarez Tzoc after having discovered that he was selling bananas. Mr. Enrique Salazar reportedly started to insult and beat Marcos Alvarez Tzoc, took his gun and shot at him twice, hitting him in the head. It is reported that after having been held during approximately 7 hours in Mr. Enrique Salazar's office, Marcos Alvarez Tzoc was eventually transported to the National Hospital of Mazatenango.

### **Background Information**

According to the information received, Marcos Alvarez Tzoc was selling bananas in order to get enough money to feed himself. It is reported that the majority of the workers employed by Mr. Enrique Salazar on El Arco Farm are suffering from hunger because they don't have enough resources to buy food for themselves and their families.

Moreover, Mr. Enrique Salazar is reportedly constantly harassing and repressing his employees, he fails to pay them the minimum wages and to provide them with other benefits that they are entitled to receive by law, including holidays.

Case GTM 270103.1 ESCR – **Guatemala**  
Urgent Appeal - Economic, Social and Cultural Rights  
Follow-up of Case GTM 270103. ESCR  
Attempt killing/Right to Food/Labour Rights/Intimidation

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

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

#### **New information**

The International Secretariat of OMCT has been informed by the Latin-American Commission for the Rights and Freedoms of the Workers and Peoples (CLADEHLT), a member of the OMCT network, of the of the intimidation of Marcos Alvarez Tzoc and his family by the owner of the El Arco farm, in order to get them to drop the charges being pressed against him in Guatemala.

According to the information received, Mr. Jesus Salazar Pivaral, the owner of the El Arco farm is currently exercising pressure on Marcos Alvarez Tzoc and his family for them to declare that he is not the one who fired two bullets at Marcos Alvarez Tzoc on January 17<sup>th</sup> 2003, giving rise to fears for their physical and psychological integrity. In this respect, it is reported that Mr. Mr. Jesus Salazar Pivaral also declared to the judge in charge of the case that he is not the one who fired at Marcos Alvarez Tzoc.

Moreover, it is also reported that Mr. Jesus Salazar Pivara denounced his workers for the alleged theft of 38 quintals of bananas.

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

On January 17<sup>th</sup> 2003, at around 6.00 pm, the owner of El Arco Farm, Jesus Salazar Pivaral (hereafter Mr. Enrique Salazar), fired 2 bullets at his 59 years old worker Marcos Alvarez Tzoc.

According to the information received, Mr. Enrique Salazar shot two bullets at his worker Marcos Alvarez Tzoc after having discovered that he was selling bananas. Mr. Enrique Salazar reportedly started to insult and beat Marcos Alvarez Tzoc, took his gun and shot at him twice, hitting him in the head. It is reported that after having been held during approximately 7 hours in Mr. Enrique Salazar's office, Marcos Alvarez Tzoc was eventually transported to the National Hospital of Mazatenango.

Marcos Alvarez Tzoc was reportedly selling bananas in order to get enough money to feed himself. It is reported that the majority of the workers employed by Mr. Enrique Salazar on El Arco Farm are suffering from hunger because they don't have enough resources to buy food for themselves and their families.

Moreover, Mr. Enrique Salazar is reportedly constantly harassing and repressing his employees, he fails to pay them the minimum wages and to provide them with other benefits that they are entitled to receive by law, including holidays.

Case GTM 270103. 2 ESCR – **Guatemala**  
Urgent Appeal - Economic, Social and Cultural Rights  
Follow-up of Case GTM 270103. ESCR  
Attempt killing/Harassment/Labour rights/Right to food

Geneva, June 27, 2003

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

#### **New information**

The International Secretariat of OMCT has been informed by the Latino American Commission for the Rights and Freedoms of the Workers and Peoples (CLADEHLT), a member of the OMCT network, of the repeated harassment and attacks against workers of the El Arco farm by the farm's owners on June 1<sup>st</sup> and June 5<sup>th</sup> 2003, in Guatemala.

According to the information received, on Sunday 1<sup>st</sup> June 2003, at about 11:30 pm, Mr. Jesús Salazar Pivaral, the owner of the El Arco farm, along with his wife, Mr. Miguel Ángel Noriega and other individuals, came into the farm armed with firearms, shooting at the workers that were there, endangering pregnant women's lives, children and elderly people who, in order to safeguard their physical integrity, took shelter in the coffee plantations, during a heavy rainstorm. It is reported that a complaint concerning these events was filed to the Ministerio Público (Public Prosecutor's Office).

Later, on Thursday 5<sup>th</sup> June 2003, at around 10:00 am, Mr. Salazar reportedly once again attacked the farm workers. He allegedly insulted and violently hit an old woman and ran after other persons with the intention of attacking them. It is reported that he said he was not afraid of the Policía Nacional Civil (National Police), nor of the Ministerio Público (Public Ministry). According to the information received, both authorities were informed about this fact.

OMCT is very concerned about the physical and psychological integrity of the workers of the El Arco farm who, in addition to the direct attacks by the owner of the farm, have also reportedly received death threats.

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

On January 17<sup>th</sup> 2003, at around 6.00 pm, the owner of El Arco Farm, Jesus Salazar Pivaral, fired 2 bullets at his 59 years old worker Marcos Alvarez Tzoc. It is reported that Mr. Salazar shot two bullets at his worker Marcos Alvarez Tzoc after having discovered that he was selling bananas. Mr. Salazar reportedly started to insult and beat Marcos Alvarez Tzoc, took his gun and shot at him twice, hitting him in the head. It is reported that after having been held during approximately 7 hours in Mr. Salazar's office, Marcos Alvarez Tzoc was eventually transported to the National Hospital of Mazatenango.

According to the information received, Marcos Alvarez Tzoc was selling bananas in order to get enough money to feed him. It is reported that the majority of the workers employed by Mr. Salazar on El Arco Farm are suffering from hunger because they don't have enough resources to buy food for themselves and their families.

Following this event, Mr. Salazar has reportedly been exercising pressure on Marcos Alvarez Tzoc and his family for them to declare that he is not the one who fired the two bullets. In this respect, it is reported that Mr. Mr. Jesus Salazar Pivaral also declared to the judge in charge of the case that he is not the one who fired at Marcos Alvarez Tzoc.

Mr. Salazar is reportedly constantly harassing and repressing his employees, he fails to pay them the minimum wages and to provide them with other benefits that they are entitled to receive by law, including holidays.

Case KHM 270603.ESCR – **Cambodia**  
Urgent Appeal - Economic, Social and Cultural Rights Concern  
Labour rights/Use of force

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

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

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, of the police killing of a factory worker when they opened fire into a peaceful demonstration of workers seeking enforcement of labour rights, in Chack Ang-Re From in the southern part of Phnom Penh, Cambodia.

According to the information received, on June 13, 2003, a group of up to 1000 workers of the Terratex Knitting and Garment Factory, Ltd. were demonstrating peacefully for a fifth day outside the factory seeking reinstatement of a union leader who had been fired. It is reported that this union leader played a key role in supporting the factory workers' request for time off, the removal of a senior manager considered to be corrupt and better working conditions, including a reduction in forced overtime work and an increase of their monthly salary from USD 30 to USD 45.

It is reported that the demonstration was initially policed by approximately 30 local officers who were later reinforced by about 200 Intervention Police who blocked the demonstrators from marching to the city centre and attempted to disperse the crowd. According to the information received, this resulted in a clash between the police, using batons and guns, and the workers, who were armed with stones. Officers with assault rifles reportedly fired shots into the air and at the ground, while factory workers reportedly retaliated by throwing stones, some of them attacking the factory and trying to set it alight.

According to the information received, the violence resulted in the deaths of a factory worker, Mr. Mao Vuthey (30 years old), known at the factory as Yim Ry. It is reported that the police shot Mao Vuthey, while the reported cause of Mao Vuthey's death varies from a bullet in his spine, to a gun blast to his chest. It is also reported that a municipal police officer, Sok Sovanara (42 years old), died of head injuries sustained during the confrontation. It is reported that 26 people were injured, 18 of them being police officers. In the aftermath of the confrontation, a kilometre-long stretch of road was reportedly strewn with spent AK-47 shells and abandoned sandals, as the workers fled from the gunfire. It is reported that 34 demonstrators were arrested for their alleged participation in the protest.

According to the information received, on June 14 2003, a march by the workers at the Terratex factory to mourn the death of their colleague resulted in further violence and arrests. It is reported that the police fired into the air to disperse the workers, and 500 police armed with AK-47s and electric batons battled with about 250 workers, who again threw rocks.

### **Background information**

According to the information received, on June 11, striking workers marched to the Commerce Ministry and on June 12, workers demonstrated outside the Meanchey District Facility and then brought their case to the Ministry of Labour. It is reported that the workers accused managers of abusing labour law and engaging in anti-union discrimination. The workers reportedly planned to seek assistance from the Commerce Ministry to reinstate fired workers and attain fair salaries and overtime pay. According to the information received, Morm Nhim, president of the Independent

Federation Textile Union of Cambodia, the factory management was unwilling to negotiate to find a solution to workers' complaints.

It is reported that Terratex is one of 10 large garment factories in the south of Phnom Penh, most of which are foreign-owned. The garment industry is Cambodia's main source of foreign revenue, with about 200,000 people working in more than 200 factories. Garment factories produced around US\$1.1 billion in exports in 2001, which is about 77 percent of the country's total; most of the clothes go to the US to be sold by Nike, Adidas and Gap. Terratex reportedly produced clothing for the Gap.

Case PHL290103. ESCR – **Philippines**  
Urgent Appeal - Economic, Social and Cultural Rights  
Excessive use of force/Unlawful arrest/Violations of labour rights

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

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

The International Secretariat of OMCT has been informed by Task Force Detainees of the Philippines, a member of the OMCT network, of the alleged use of force to break up a union demonstration and the unlawful arrest of workers on January 9, 2003, in Tinaan, Naga, Cebu, Philippines.

According to the information received, on January 9, 2003, around 400 members of the *Naphil Arrastre & Stevedoring Services, Inc. Employees Independent Union* were occupying the premises (a port) of the Apo Cement Company in Tinaan Naga (Cebu), in protest of the termination of work by the said company. It is reported that at around 1:30 p.m. a security officer, Adolfo Loayon, approached Tomas Alferez, a leader of the said union, and ordered the group to vacate the premises. When Tomas Alferez demanded if the security guard could support his demand with a court order, the said officer reportedly grabbed him and put a 9mm pistol to his head. It is reported that following this incident, policemen officials aimed their guns at the protesting workers, and pushed them towards a tugboat.

It is also reported that another worker, Lucio Panasacala, and his companions, were denied access to the docks when they tried to bring food to these workers occupying the premises. Maritime Patrol Craft No. 9 reportedly ran into their boat in order to prevent them from docking, causing damage to the boat. The police reportedly threatened to shoot the occupants of the boat if they brought food to the workers occupying the premises. Reports included the presence of two helicopters, which were seen hovering above the company's premises.

Moreover, according to the information received, around 80 workers were forced to board a police tugboat at gunpoint and were brought to the Naga Philippine police (NPC) wharf, located about two kilometres away from the said corporation.

According to the information received, the members of the union filed a complaint on January 13, 2002 with the Office of the Ombudsman Visayas for allegations of grave abuse of authority, serious misconduct, grave threats, grave coercion and unlawful arrest against Chief Supt. Rolando Garica, Supt. Maximo Calimlim, Chief Inspector Teofilo Siclot, Supt. Sales Zaragusa, Capt. Ranulfo Zaragusa, Police Officer Jeffery Magdamit, Chief Inspector Renato Malzarte and the members of the Naga Philippine police.

#### **Background information**

The events that led to the unlawful arrest of the striking workers began on November 11, 2002, when the Apo Cement Company issued a letter to the *Naphil Arrastre and Stevedoring Inc. Employees Independent Union* stating that their services would no longer be needed as of December 11, 2002 in

the company's private port. *The Naphil Arrastre and Stevedoring Inc. Employees Independent Union* is a labour organization that is registered with the Department of Labour and Employment. The termination by Apo Cement Company reportedly affected 400 members of the union.

It is reported that the company planned to replace the workers with workers from another labour group, the *Millennium Engineering and General Services*. According to the information received, the affected union believes that they were terminated because of their political association with the political opponent of the mayor of Naga, Mayor Ferdinand Chiong. Indeed, the workers were reportedly promised that they would be rehired if they joined the new agency. The union reportedly issued a Notice of Strike against the Apo Cement Company on November 19, 2002 at the National Conciliation and Mediation Board for non-payment of tariff rate, union busting and termination of the union's employees.

According to the information received, on December 4, 2002, the members of the union occupied the bridge leading to the premises in order to demonstrate and prevent the workers who were to replace them from entering the site. A series of protest rallies were also reportedly conducted by the union against the Apo Cement Company. On January 4, 2002, the company's management of the company reportedly sent a letter to the union ordering them to clear the premises. Following the letter, a Maritime Patrol Craft and members of the 703<sup>rd</sup> Regional Mobile Group were reportedly present along the perimeter of the company's grounds. As of the evening of January 8, 2002, hundreds of policemen and armed security guards were allegedly seen near the picket sight.

**Philippines – Open Letter to President  
Gloria Macapagal-Arroyo**

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

Ms. President,

The International Secretariat of OMCT has been informed by the Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the forced removal and intimidation of vendors and drivers at the Cebu International Port. As a result of this decision, 981 families and 5886 persons have been deprived of their means of subsistence and face hunger and deprivation.

OMCT would like to draw your attention to the fact that since August 22, 2003 the Cebu Port Authority has banned the entry of vendors and trisikad (bicycle cart) drivers in to the port and locked all the gates except those for passengers, cargo trucks and other vehicles. It was reported that the Cebu Port Authority used police members and security guards carrying long firearms to intimidate and threaten the people, who made a living from small jobs such as selling items of food or driving bicycle carts, to leave the area. A thousand families had to move outside the new security zone and have lost their only means of subsistence, which was to sell goods and services to persons frequenting the port.

The Cebu Authority decided the phasing out of all vendors and drivers for security reasons as they fear terrorist attacks against the second largest and busiest port of the Philippines. One factor prompting the operation was that the community of informal workers operating in the port would "made it conducive hideouts and havens for terrorists within and under the noses of likely targets". Such a move, however, deprives these persons of their means of livelihood without any alternative solution. Despite promises by the Cebu Port Authority to offer them alternative jobs at several port departments, so far no real alternative has been put forward. Moreover, in such a case, the majority of small vendors and drivers would not be provided for as only those who have skills would be offered another job.



While OMCT does not question the legitimate concerns of your government to ensure security, we believe that the implementation of such measures should respect the principles of proportionality and necessity. Given their disproportionate effect on the informal workers who used to work in the port, along with the fact that these workers haven't been presented with any alternative solution, this raises serious concern regarding these measures' compliance with both principles.

OMCT would urge your government to ensure and guarantee that the implementation of measures to maintain the security of the Cebu International Port do not disproportionately affect the workers and their families, as is currently the case.

We thank you in advance for your careful consideration of this matter.

Yours Sincerely,

Eric Sottas  
Director

Case THA 030703. ESCR – **Thailand**  
Urgent Appeal - Economic, Social and Cultural Rights  
Labour rights/Dismissal and deportation of migrant workers

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

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, that on June 23<sup>rd</sup> 2003, 420 Burmese workers were deported by the Thai immigration officials to Myanmar following their dismissal that occurred on the same day and was due to a labour dispute with their employer, the King Body Concept Co. Factory in Mae Sot, Tak Province, Thailand.

According to the information received, on June 18<sup>th</sup> 2003, the Burmese workers of the King Body Concept Co. Factory sent a statement to their employer demanding higher wages and an improvement of their working environment. All these Burmese workers were reportedly legally registered under the Thai Ministry Labour scheme.

It is reported that the owner of the factory did not respond to the workers' letter. On June 20<sup>th</sup> 2003, the Burmese workers reportedly sent a formal letter of complaint to the Tak Labour Protection and Welfare office, which said that they would send an official on June 23<sup>rd</sup> 2003 to mediate the problem.

On the same day the Burmese workers sent the formal letter of complaint (June 20<sup>th</sup> 2003) the factory managers reportedly told the Burmese workers that there was no work for them until June 22<sup>nd</sup> 2003, even though they usually worked on Saturdays and Sundays.

According to the information received, on June 23<sup>rd</sup> 2003, the labour official held a meeting with the factory owner and 10 Burmese workers' representatives. Prior to the meeting, the factory owner reportedly called the local and immigration police and Border patrol soldiers. The factory owner then reportedly said that he wanted to dismiss the Burmese workers because they did not report to work for three days.

According to the information received, the workers then asked that the factory owner pay them two months compensation, as they were entitled to under the Thai legislation. The factory owner

reportedly refused to pay the two months salary and paid the workers only their last month's salaries. It is reported that the workers were then sent, on the same day (June 23<sup>rd</sup> 2003) to the immigration detention centre and deported to Burma, in violation of a Thai law providing that registered workers have 7 days to find a new job before they lose their registration and might be subject to deportation.

### **Background information**

According to the information received, the Burmese workers of the King Body Concept Co. Factory were facing poor living and working conditions at the factory.

In term of the working conditions, while all of the Burmese workers mentioned herein are reported to have been legally registered under the Thai Ministry of Labour scheme, the factory owner withheld the original copy of the Burmese workers' permits, in violation of Thai immigration law according to which registered workers must keep their permit at all times.

The King Body Concept Co. factory reportedly paid the Burmese workers only 55 baht per day with 5 baht per hour for overtime, while the minimum wage in the Tak province is 133 baht per day with 25 baht per hour for overtime work. According to the Thai legislation, registered workers in Thailand are entitled to the same rights and protections as Thai workers.

The normal working hours at the factory were reportedly from 8:00 a.m. to 10:00 p.m., the workers being frequently forced to work overtime. It is also reported that during peak production hours, the workers were sometimes forced to work until 3:00 a.m.

In term of living conditions, the Burmese workers were reportedly living in the factory's overcrowded dormitories equipped with inadequate water for drinking and bathing and where the toilets were filthy and stinking. In this respect, it is reported that factory owner charged the workers 300 baht per month for basic housing and rice and levied an unexplained 3% tax on their salaries.

### III. FORCED EVICTIONS AND HOUSE DEMOLITIONS

Case AZE 070203. ESCR – **Azerbaijan**  
Urgent Appeal - Economic, Social and Cultural Rights  
Forced Eviction/Treat of Eviction/Cruel, Inhuman and Degrading Treatment

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

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

The International Secretariat of OMCT has been informed by the Human Rights Center of Azerbaijan, a member of the OMCT network, of the forced eviction and demolition of houses of 10 families in the Bailovo settlement of Baku, Azerbaijan, on January 10 2003.

According to the information received, on January 10 2003, 10 families living on Azer Nasirov Street, in the Bailovo settlement of Baku, were forcibly evicted from their houses by the Sabail District police forces of the Department of Internal Affairs of Baku. Representatives of the Sabail District of Baku reportedly assisted to the eviction.

It is reported that the 10 families' houses were destroyed with bulldozers, that their belongings were taken into the street and that children, women and old people were cruelly beaten by the police forces. In this respect, one woman's ribs were reportedly broken, while severe injuries were inflicted on other persons.

According to the information received, the eviction was carried out without a court order and the 10 families haven't, so far, received any compensation or indemnity. It is reported that the eviction rendered the 10 families homeless as it drove them into the street where they are currently leaving.

#### **Background information**

The Bailovo settlement in Baku is located on a hillside of the city. After the recent earthquake and landslide that occurred on January 8, 2003, the houses of the 10 families were reportedly considered as dangerous and the decision to evict them was reportedly taken for safety reasons. In this respect, it is reported that the authorities stated that they would rather evict the population than to have it buried alive.

**Colombia** – Open Letter to President  
Alvaro Uribe Velez

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

Mr. President,

The International Secretariat of OMCT has been informed by two members of its network, the Central Unitaria de Trabajadores (CUT) and the Corporacion Colectivo de Abogados 'José Alvear Restrepo', of the worrying situation faced by the Alto Ariari communities (municipalities of El Castillo and Lejanías, Meta Department) since May 2002.

A series of human rights violations, including torture, enforced disappearances, killings, arbitrary detentions, threats, burning and destruction of houses, as well as stealing of property and cattle, has led

to the forced displacement of more than 80 percent of the Alto Ariari population, which is mostly made up of peasants. Approximately 300 families were forced to leave the region and found refuge in different parts of the country, most of them ending up in Villavicencio and Bogota, where they are living in total destitution with hardly any support from the authorities.

OMCT would like to bring your attention to the fact that the occurrence of the afore-mentioned violations, along with the subsequent forced displacement, are related to the launching, in May 2002, of operation "Conquista" by the National Army 's 21 Vargas battalion, with the participation of the Rapid Deployment Forces "Fudra" (Fuerzas de Despliegue Rápido) and the National Police.

This operation also reportedly allowed the 'Autodefensas Unidas de Colombia' (AUC) paramilitary group to operate in the region and to take part to the afore-mentioned human rights violations. Overall, the authorities' answers to these violations have been to intimidate and threaten the victims' relatives, while the military forces are not taking effective action to stop paramilitary advances or abuses.

A list of cases, sorted by date, is annexed to this letter and highlights an ongoing pattern of massive human rights violations that have occurred in the region since June 2002, and have mostly been conducted by the paramilitary and tolerated by the army. Accordingly, between June 2002 and mid-March 2003, 31 persons have been killed, 3 have disappeared and 3 have reportedly been tortured. In addition, among the 31 persons who have been killed, 7 of the bodies showed strong evidence of torture. It should be noted, that due to a climate of terror, this list remains a non-exhaustive one, given that many victims or their relatives are simply not complaining about the abuses they are facing out of fear of repression.

Regarding the situation of the population that remains in the area, OMCT is particularly concerned about the impact of the ongoing economic blockade enforced by the Colombian Army. While the stated objective of this measure is to suspend food supply for the guerrilla, it ends up in restricting the food supply for the whole civilian population that remains in the area, as well as in prohibiting the exit of products from the region. Both effects have a serious impact on the peasants' revenue, as well as on their ability to get adequate food for themselves and their families.

In view of these considerations and of the list of cases attached to this letter, OMCT hopes that your Government will take immediate measures to ensure that the rights of the persons living in the municipalities of El Castillo and Lejanías are protected and upheld, including their right to be protected from torture, summary executions, enforced disappearances, cruel, inhuman or degrading treatment or punishment, as well as their economic, social and cultural rights.

OMCT also hopes that these measures will be accompanied by the provision of adequate compensation, reparation and rehabilitation to all the victims. Finally, OMCT urges your Government to take all appropriate steps in order to guarantee that an immediate investigation is launched into these violations in order to identify those responsible, bring them before a competent and impartial tribunal, and apply the penal, civil and/or administrative sanctions provided by law.

We thank you in advance for your careful consideration of this matter, and remain,

Yours Sincerely,

Eric Sottas  
Director

Case IND-FE 241203 – **India**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
New Massive Eviction in West Bengal: 75,000 People Made Homeless

The International Secretariat of OMCT and the Coordination Office of HIC-HLRN request your **URGENT** intervention in the following situation in **India**.

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

The Asian Human Rights Commission (AHRC), a member of the OMCT network, and Eviction Watch – Asian Coalition for Housing Rights, a member of HIC-HLRN network, have informed the International Secretariat of OMCT that on 15 December 2003, the West Bengal Government and the Kolkata Municipal Corporation forcibly evicted around 1500 families who were living in the canal settlements in the Bagbazar and Cossipore area, Kolkata Municipality, West Bengal.

According to the information received, heavily armed policemen and paramilitary forces carried out the operation. Most of the men living in the settlement were reportedly absent at the time of the eviction, being at work. As a result, women and children were left alone to face the brunt of the violent operation. It is estimated that almost 75,000 people became homeless due to this eviction, which was carried out in the absence of prior notice and resettlement plan. All the evicted families had been living at the Bagbazar and Cossipore area for 40 to 50 years. They had ration cards showing the address of this area as a proof of their legal permanent possession and residence. They even voted for elections from this address.

#### **Background information**

This violent eviction is not an isolated incident. On 22 September 2001, about 20,000 people were evicted from Tolly Nullah. On 2 Feb 2003 around 7,000 Dalits were evicted from Belilious Park, 129 Belilious Road, Howrah. After the eviction, these families had to settle in the Belgachia garbage dump, where they have been facing horrendous conditions. They have been living on the open street with no shelter from the sun, no drinking water and no sanitary facilities. As a result, M. Shiva, a 3-year-old child, died due to starvation. Until now, the West Bengal State Government has not provided any compensation to the victims and has failed to resettle them (see OMCT and HIC-HLRN joint urgent action appeals IND-FE 240703 and IND-FE 240703.1).

OMCT and HIC-HLRN are very concerned by the repeated massive evictions that the West Bengal administration has been carried out, especially as they have been extremely brutal

#### **Human rights, international law, and treaty violations**

The eviction of the 1500 families, as well as their current living conditions, contravene, *inter alia*, the inhabitants' right to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure; access to public and environmental goods and services; information; freedom from dispossession; participation; compensation, restitution and rehabilitation; and physical security. All are elements of the right to adequate housing as recognised in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 10 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the right to adequate housing, but also in art. 16 and 39 of the Convention on the Rights of the Child (CRC) that it accessed to on 11 January 1993

Case MON-FE 240703 – **Mongolia**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
Risk of Forced Eviction of 5 families

The International Secretariat of OMCT and the Coordination Office of HIC-HLRN request your **URGENT** intervention in the following situation in **Mongolia**.

### **The situation**

The Asian Human Rights Commission (AHRC), a member of the OMCT network, has informed the International Secretariat of OMCT that, between 28 May and 28 June 2003, officials of the Bayanzurkh District Land Office and the police made four attempts to seize the land of five families in Bayanzurkh District, Ulan Bator, Mongolia. It is reported that the families gained legal title to the land on 5 May 2003 under Mongolia's new Land Privatisation Law, and are now forced to fight a wrongful attempt by local officials to transfer the land to another, commercially interested party.

According to the information received, the five families have been living on this land since 1965. The members of the families are comprised of five pensioners (aged 57– 90), eight children under the age of 16, four students, 21 adults, of whom two are disabled. It is reported that the adults are unemployed and the average family income is USD 25 per month.

When Mongolia's Land Privatisation Law reportedly came into effect on 1 May 2003, representatives of the five families (Messrs. Lkhagvadorj, Battumur, Altangerel, Amgalanbayar and Mrs. Norjmaa) applied to the Bayanzurkh District Land Office for reregistration of their existing land certificates. It is reported that, on 5 May 2003, the District Land Office properly awarded each applicant ownership of the 0.03 hectares of land on which they lived, and informed them that the Capital City Governor's Office would issue them a land ownership certificate three months later. The distribution of the land to the resident families conforms with the April 2003 Capital City Council decision, under the privatisation plan, that all families legally residing on a plot of land would receive unconditional title to that land.

Meanwhile, on 25 April 2003, the Mayor of Ulan Bator, Mr. M. Enkhbold, issued Decision 159 that allegedly distributed the land to the Mongolian United Federation of the Owners of Small and Medium Enterprises (MUFOSME). According to the information received, the contents of Decision 159 have remained secret since it was issued.

As a consequence of Mayor Enkhbold's decision, on 28 May 2003, the Bayanzurkh District Land Officer, a police officer, and an official from MUFOSME reported to the families' residence and presented an order by the Capital City General Architect Mr. Tselmeg to vacate the land, citing Decision 159. It is reported that the families were not allowed to see Mayor Enkhbold's Decision 159 and were not given any information as to its exact contents. When the families protested the eviction order, officials reportedly threatened to use force, and the inhabitants overheard the officers and the MUFOSME official saying that it would be easy to move the five families from their lots.

Following four attempts to evict them, the MUFOSME, headed by Mr. Odonchimed, a member of the Parliament and of the ruling Mongolian People's Revolutionary Party, filed a complaint claiming title to the land with the Bayanzurkh District Court. The five families must now respond to the complaint, but they do not have the money to hire a lawyer. It is reported that they have not been given access to information about the eviction, reimbursement or resettlement plans, or their rights as land owners.

### **Human rights, international law, and treaty violations**

The attempts to evict these five families from their land contravene, *inter alia*, their rights to adequate housing; i.e., to a secure place to live in peace and dignity. The Mongolian authorities especially violate these citizens' formal entitlements to security of tenure, the right to information, freedom from

dispossession, participation, compensation, and physical security. All are elements of the right to adequate housing, as recognised in international law. Specifically, the authorities have breached their treaty obligations under articles 2, 4, and 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Mongolia ratified on 18 November 1974. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 & 7 on the right to adequate housing. Also, by these eviction attempts, Mongolia violates articles 12, 13, 17, 18 and 19 of the Universal Declaration of Human Rights.

Case YUG 140203. ESCR – **Serbia and Montenegro**  
Urgent Appeal - Economic, Social and Cultural Rights  
Threat of Eviction

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

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

The International Secretariat of OMCT has been informed by the Humanitarian Law Centre (HLC) of the possible eviction of two ethnic Albanian families, including 10 children, in Kotor, Serbia and Montenegro.

It is reported that seven members of the Kriezij family and eleven members of the Agushis family have until February 18<sup>th</sup> 2003, 11:00 am, to leave the public bathhouse where they are living, if they do not want to be evicted by the police.

According to the information received, the decision to evict the 2 families follows a High Court's decision (P# 371/99), in which the Executive Judge Ms. Suzana Calanovic-Todorovic, decided that the two families had to be evicted on January 21<sup>st</sup> 2003. The eviction reportedly did not take place on that date because the police could not be present to carry it out. It is reported that the eviction was then rescheduled for February 14<sup>th</sup> 2003 and that following the intervention of the HLC the police left the two families until February 18<sup>th</sup> 2003 to leave the premises.

According to the information received, the two families have been living in the public bathhouse, located in the old part of Kotor, for almost 20 years. It is reported that both families have paid their bills and their rent regularly and that they were officially registred at this address.

If the eviction takes place, the two families (18 individuals) will reportedly be left homeless as no alternative housing will be provided for them. According to the information received, when the HLC's attorney informed Executive Judge Ms. Suzana Calanovic-Todorovic about the obligations of Serbia and Montenegro under the International Covenant on Economic, Social and Cultural Rights (ICESCR) -and notably the fact that evictions should not result in rendering individuals homeless and that the government must, therefore, ensure that adequate alternative housing or resettlement is available- she was not aware of these obligations and commented that they are not binding for her as the ICESCR's provisions have not been incorporated into national law.

#### **Background Information**

The eviction of the 2 families occurs following a lawsuit lodged by Mr. Vojin Krtolica with respect to the bathhouse's ownership.

Indeed, according to the information received, the local authorities of Kotor, the original owner of the public bathhouse, gave the building in question to Mr. Vojin Krtolica in compensation for his expropriated land. However, the same authorities reportedly had, at that time, ceded the public bathhouse to the Public Utilities Enterprise.

With regard to the case in question, the Court decided to give the bathhouse to Mr. Vojin Krtolica and to evict the 2 families.

Case TKM-FE 220703 - **Turkmenistan**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
Forced Eviction of Dual Russian-Turkmen Citizens

The International Secretariat of OMCT and the Coordination Office of HIC-HLRN request your **URGENT** intervention in the following situation in **Turkmenistan**.

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

The Kyrgyz Committee for Human Rights, a member of the OMCT network, has informed the International Secretariat of OMCT and HIC-HLRN that, during the month of June 2003, Turkmenistan Ministry of National Security (MNS) officials confiscated approximately 30 apartments of persons holding dual Russian-Turkmen citizenship.

According to the information received, an unidentified official from the MNS was observing dual citizenship holders and, when residents were away from their homes for a few days, MNS officials confiscated and occupied their apartments. It is reported that the majority of these evictions took place in the capital Ashgabat and that a small number took place in Chärdjou, northeastern Turkmenistan.

It is reported that MNS officials prevented the victims from entering their homes, confiscated all of their possessions and made no provisions for compensation or alternative housing. It is reported that there has been no investigation into the confiscations, and that officials informed of the confiscations have taken no actions against the MNS officers involved. The names of those affected cannot be given due to fear of reprisals.

Reportedly, when residents attempted to return to their homes, officers presenting their MNS identity card, returned them, and forced them out of the apartments. It is reported that some apartment owners, desperate to regain their homes, protested on the street in front of their building, joined by relatives and some neighbours. Representatives of municipalities, prosecutor's offices and police departments who reportedly went to the demonstration sites spoke with residents and warned them to stop the demonstration, and find refuge with family, or face "serious measures."

#### **Background information**

According to the local source, apartment issues are officially handled by Hyakimlik (local administration) and questions such as dispossession are normally a concern for the courts. However, it is reported that these dispossessions are carried out by the MNS, which has assumed unlimited authority as a security policy put in place following an alleged attempt on President Niyazov's life on 25 November 2002.

It is reported that, following the alleged assassination attempt, President Niyazov indicated his belief that the opposition forces that threaten his regime were located in a foreign country, and that easy border crossing, therefore, posed a security threat. According to the information received, people with dual citizenship are considered a threat because of the ease with which they can enter and depart the country and their ability to carry information outside of Turkmenistan. Consequently, dual citizenship was reportedly abolished and the confiscation of dual-citizenship holders' apartments has been an effect of this policy.

According to the information received, at least 100 apartments of opposition leaders and their families have been confiscated from the alleged assassination attempt in November 2002.



**Human rights', international laws', and treaties' violations**

House confiscation and forced eviction contradict, *inter alia*, the affected people's rights to freedom of movement and to adequate housing, especially including security of tenure, the rights to information, freedom from dispossession, participation, compensation, and security. All are elements of the Right to Adequate Housing, and recognised as such in international law. Hereby, the Turkmenistani authorities, through the Ministry of National Security, violate articles 2, 4, 11 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the Turkmenistani State accessed to on 1 May 1997. The State has breached these human rights treaty obligations, specifically those spelled out in General Comments No. 4 & 7 on the Right to Adequate Housing, as well as articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), which it accessed to on 29 September 1994.

## 1. Related to Development Projects

Case CHN 100103.ESCRC – **China**  
Urgent Appeal - Economic, Social and Cultural Rights  
Threat of eviction/ Violations of the right to adequate housing/ Cruel, Inhuman and degrading treatment

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

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

The International Secretariat of OMCT has been informed by a reliable source of the attempt to evict five families in the Fengtai District (Beijing), along with police retaliation against these families as a result of them protesting about their imminent forcible eviction.

According to the information received, in the early hours of January 4, Christian activist Hua Huiqi and his family, along with members of four other families marched from Hua's home to Tiananmen Square to protest against the forced clearance of their neighbourhood and the cutting-off of electricity and water to their homes as a tactic to speed their departure. The Public Security Police reportedly intercepted them before they could reach Tiananmen Square.

According to the information received, soon after the circulation of the reports of the aborted protest in the media, on January 5 at approximately 8 p.m., around 10 unidentified men burst into Hua's house and forced all of the occupants to the floor, including Hua's elderly parents. The intruders then allegedly removed all of the portable heaters from the house and mockingly said to Hua "Why don't you go on another protest to Tiananmen!".

According to the information received, all this occurred while Hua's home was surrounded by police officers. According to Hua Huiqi and other observers, the intruders were sent by the police and could even have been plain-clothes policemen. It is reported that Hua's home in the Fengtai district remains surrounded by a dozen police officers led by the head of the Fengtai division of Beijing's Public Security Bureau. A friend who tried to visit the family reported that a police officer warned him "if you come here again we will arrest you and take you away". The current living conditions in Hua's home are reportedly very harsh given that, in addition to the absence of electricity and water, the intruders removed all the heaters and Beijing's temperature has dropped well below freezing.

Following the assault, Hua's elderly parents, Hua Zaichen and Shuang Shuying reportedly went to protest outside of the Government office at Zhongnandai, where the Public Security Police manhandled them into a police vehicle and escorted them back to their home.

### **Background information**

According to the information received, Hua Huiqi and his family, along with other families from the Fengtai District, are under heavy pressure to leave their home. At the end of 2002, officials allegedly told Hua Huiqi and several other families living in Fengtai that the neighbourhood was being cleared for redevelopment and that they would have to move by December 31. Given that they have no other alternative than to live on the streets, five families, including Hua Huiqi's, refused to leave and staged the aforementioned protest that was headed to Tiananmen Square.

The Hua Huiqi's reportedly moved into their current house in the Fengtai after their forcible removal from their previous neighbourhood, where their house was demolished. At that time, the Hua Huiqi family protested for some time against the redevelopment of their neighbourhood and the need for

them to make a payment of more than RMB 100'000.-- (approximately USD 12'200.--) to be relocated to alternative housing, an amount they could not afford. Consequently, Hua Huiqi family was forcibly removed to temporary accommodation in Fengtai, where they are again under threat of eviction.

**China** – Open Letter to President  
Hu Jintao  
OMCT and HIC-HLRN

Geneva-Cairo, 11 November 2003

Mr. President,

The International Secretariat of the World Organisation against Torture (OMCT) and the Coordination Office of the Habitat International Coalition's Housing and Land Rights Network (HIC-HLRN) are deeply concerned about the repression, prosecution and ill-treatment of people who are being forcibly evicted and displaced by the Shanghai urban redevelopment projects, and of others who are attempting to aid them.

OMCT and HIC-HLRN have received information from Human Rights in China that Mr. Zheng Enchong, a lawyer who assisted individuals and families displaced by the Shanghai urban redevelopment projects, has been sentenced by the Shanghai Intermediate People's Court to three years imprisonment for "passing state secrets to foreigners".

On 26 August 2003, the Observatory for Human Rights Defenders (a joint programme of FIDH and OMCT) issued an urgent appeal for the release of Mr. Zheng Enchong, who was being tried in secret before the Shanghai Intermediate People's Court. He was arrested on 6 June 2003, after assisting displaced families in more than 500 cases relating to Shanghai's urban redevelopment projects. According to the information received, Mr. Zheng's license was revoked in 2001 in relation to cases he was handling for people who have been displaced by Shanghai urban redevelopment schemes. Despite the prohibition against his practising law and the increasing official persecution against him, Mr. Zheng has continued to provide legal advice to affected people, even though he could not represent them in court. Most recently, Mr. Zheng was advising families involved in a lawsuit alleging corruption and collusion between officials and Mr. Zhou Zhengyi, a wealthy property developer. Mr. Zhou Zhengyi had allegedly relocated 2,159 residents of a property in West Beijing Road to a fringe district with very poor transportation and communication links, without paying anything for a 70-year land lease on the property.

Human Rights in China has also informed OMCT and HIC-HLRN that more than ten persons involved in repeated protests against Shanghai's redevelopment and relocation scheme will soon be sentenced to 'Re-education Through Labor' (RTL) on charges of "illegal assembly." These protesters were among approximately 85 people whom Shanghai Police rounded up on 29 September 2003 while they were in Beijing to petition the authorities over forced relocations, unjust conditions attached to the redevelopment projects and inadequate compensation of the displaced residents. After reportedly having been forcibly returned to Shanghai, the arrestees were kept in various detention centres throughout the city. According to the information received, the police have subjected a number of the detainees to torture and other protestors to ill-treatment, harassment and surveillance.

These reports are the latest in a series documenting the harassment, repression and intimidation of displaced residents who attempt to voice their grievances and seek assistance from the central government. Since early March this year, police have dispersed a number of peaceful protests, prevented victims from travelling to Beijing to complain to the central government, or rounded them

up and forcibly sent them back on their arrival in Beijing. According to the information received, Shen Ting, a Hong Kong resident, was in Beijing to petition the central authorities on behalf of her displaced parents. Two Beijing police officers who had been keeping her under surveillance allegedly stole her handbag, which contained her identification papers, her money and credit cards, plane ticket, camera and other belongings. As a result of the theft, Shen Ting is unable to return to Hong Kong.

We would like to bring to your attention that the authorities have failed to provide public consultations with affected inhabitants in planning the redevelopment of portions of the city, and a fair assessment procedure for determining compensation. According to the information received, residents are often offered a very low compensation that is insufficient to allow them to obtain other housing in the city or as in the situation leading to the lawsuit, moved to fringe district that have poor transportation links. Human Rights in China has documented a number of suicides, deaths and serious injuries that have resulted because of the forced evictions.

It is also reported that the majority of the evictions are illegal, as occupants have not agreed to vacate the property (Chinese law only allows for forced evictions if a resident refuses to vacate a property after signing an agreement to do so). Despite these provisions, the residents have been unable to get objective and independent judicial recourse.

We hope that your government will intervene to ensure that redevelopment projects are undertaken in a manner that does not violate China's obligations under numerous international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights.

In this respect, we refer in particular to the General Comment No. 4 of the UN Committee on Economic, Social and Cultural Rights, that expressly states that "forced evictions are prima facie incompatible with the provisions of the Covenant and can only be carried out under specific circumstances." Moreover, in its General Comment No. 7 (1997), the Committee emphasized that, under international human rights law, these exceptional circumstances in which forced evictions could be carried out impose certain requirements to which State parties to the Covenant must adhere to.

First, prior to carrying out any eviction, States must ensure that all feasible alternatives are explored in consultation with the affected persons, with a view of avoiding, or at least minimizing, the need to use force. Secondly, legal remedies or procedures should be provided to those who are affected by eviction orders, along with adequate compensation for any property, both personal and real, which is affected. Thirdly, in those rare cases where evictions are considered justified, they should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with the general principles of reasonableness and proportionality. Additionally, in these rare cases where evictions are considered justified, they should not render individuals homeless or vulnerable to the violations of other human rights. Governments, therefore, must ensure that adequate alternative housing or resettlement is available for all those affected by the urban redevelopment projects.

OMCT and HIC-HLRN strongly urge your government to ensure that the conviction and sentence passed against Mr. Zheng Enchong are appealed and his prosecution for passing state secrets to foreigners challenged and withdrawn in appellate proceedings. We also urge drop all charges against the protestors, who will soon be sentenced to Re-education Through Labor (RTL) on charges of "illegal assembly," and to secure their release.

In view of these considerations, OMCT and HIC-HLRN hope that your Government will take immediate measures to ensure that the rights of these individuals and their families are protected and upheld, and in particular their right to peaceful assembly, adequate housing, as well as their right to be protected from any cruel, inhuman or degrading treatment or punishment, in conformity with the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the General Comments No. 4 and No. 7 of the U.N.

Committee on Economic, Social and Cultural Rights, respectively, on the right to adequate housing and forced evictions.

OMCT and HIC-HLRN also hope that these measures will be accompanied by the provision of adequate compensation, reparation and rehabilitation to all the victims. Finally, OMCT and HIC-HLRN urge your Government to take all the appropriate steps to guarantee an immediate investigation into the circumstances of these events, identify those responsible for these violations, bring them before a competent and impartial tribunal and apply penal, civil and/or administrative sanctions provided by law.

We thank you in advance for your careful consideration of this matter.

Yours Sincerely,

Habitat International Coalition, Housing & Land Rights Network (HIC-HLRN)  
World Organisation against Torture (OMCT)

Case IND 040603. ESCR – **India**  
Urgent Appeal - Economic, Social and Cultural Rights  
Risk of Forced Displacement of Adivasis Communities/Threats and Intimidation

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

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Indian Centre for Human Rights and Law, a member of the OMCT network, of the risk of eviction of around 15'000 families as a result of a decision to increase the Sardar Sarovar Dam on the Narmada River from 95 metres to 100 metres.

According to the information received, on May 14<sup>th</sup> 2003, the Narmada Control Authority (an Indian inter-state committee) has given the clearance to increase the water level in the Sardar Sarovar Dam on the Narmada River from 95 metres to 100 metres. This approval would reportedly enlarge the area covered by the water and increase the number of dwellings that will be submerged during the monsoon season, resulting in flooding several Adivasis communities living near the reservoir. According to the information received, around 3000 families in Maharashtra and around 12'000 families in Madhya Pradesh will be in danger of having their homes submerged as a result of the heightening water level, while no proper resettlement has been planned for them. It is reported that there is simply no arable land available where they could be resettled.

It is also reported that the police has intimidated and threatened the Adivasis communities, mentioning that they will be forced to leave their villages because the houses located on the banks of the Narmada will be destroyed. The police also reportedly issued notices warning the Adivasis communities to vacate the villages prior to the raising of the water margin.

Medha Paktar, the leading activist for the Narmada Bachao Abndolan organisation who is fighting for the rights of the Adivasis communities affected by the construction of the Sardar Sarovar Dam, started an indefinite hunger strike on May 30<sup>th</sup> 2003 to protest the government's refusal to provide adequate rehabilitation for the Adivasis families who are in danger of having their homes submerged. It is reported that on June 4<sup>th</sup> 2003, 5 days after the beginning of her hunger strike, Medha Paktar's health is worsening considerably, giving rise to fears for her personal integrity.

### **Background Information**

On October 18 2000, the Supreme Court of India upheld the Narmada Tribunal Award, stipulating that those displaced by the project must be resettled and rehabilitated land-for-land six months prior to any rise in the dam's height. As such, the decision of the Narmada Control Authority appears to be in clear violation of the orders of the Supreme Court of India.

Due to the implementation of the Sardar Sarovar Dam project, thousands of Adivasis victims of previous raisings of the dam's water levels are still waiting for rehabilitation. In Madhya Pradesh, the majority of the 35'000 families that have been ousted have yet to received rehabilitation. In Maharashtra, at least 3'600 families, or tens of thousands of men, women and children, have yet to be given their rightful land-for-land rehabilitation.

Reality has shown that previous victims of the dams in the Narmada Valley are now living on the streets and in the slums of major cities such as Mumbai, facing disease, malnutrition, inadequate or no housing, and even death.

OMCT is deeply concerned over the continued blatant apathy expressed by government officials on this matter, especially in light of the indefinite hunger strike begun by Medha Patkar.

Case IND 040603.1 ESCR – **India**  
Urgent Appeal - Economic, Social and Cultural Rights  
Follow-up of Case IND 040603. ESCR  
Risk to personal integrity/Risk of Forced Displacement of Adivasis Communities/Threats and Intimidation

Geneva, June 5<sup>th</sup> 2003

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

### **New information**

The International Secretariat of OMCT has been informed by a reliable source that on June 4<sup>th</sup> 2003 Narmada Bachao Andolan leader Medha Paktar, the Narmada Bachao Andolan leader was admitted to the civilian hospital in Nashik, India.

According to the information received, Medha Paktar was admitted to hospital due to the deterioration of her health after 6 days of indefinite hunger strike. The police reportedly forcibly took Medha Paktar to the hospital after the Nashik divisional revenue commissioner and the district civil surgeon took stock of her condition. According to the information received, Medha Paktar is pursuing her hunger strike.

Medha Paktar, the leading activist for the Narmada Bachao Abndolan organisation who is fighting for the rights of the Adivasis communities affected by the construction of the Sardar Sarovar Dam, started an indefinite hunger strike on May 30th 2003 to protest the government's refusal to provide adequate rehabilitation for the Adivasis families who are in danger of having their homes submerged.

OMCT is deeply concerned over the continued blatant apathy expressed by government officials concerning this matter, especially in light of the indefinite hunger strike begun by Medha Patkar, and is therefore gravely concerned for her physical and psychological integrity. More generally, OMCT is concerned for the plight of the Adivasis families who risk being affected by plans to raise the dam's water levels.

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

On May 14th 2003, the Narmada Control Authority (an Indian inter-state committee) has given the clearance to increase the water level in the Sardar Sarovar Dam on the Narmada River from 95 metres to 100 metres. This approval would reportedly enlarge the area covered by the water and increase the number of dwellings that will be submerged during the monsoon season, resulting in flooding several Adivasis communities living near the reservoir. According to the information received, around 3000 families in Maharashtra and around 12'000 families in Madhya Pradesh will be in danger of having their homes submerged as a result of the heightening water level, while no proper resettlement has been planned for them. It is reported that there is simply no arable land available where they could be resettled.

It is also reported that the police has intimidated and threatened the Adivasis communities, mentioning that they will be forced to leave their villages because the houses located on the banks of the Narmada will be destroyed. The police also reportedly issued notices warning the Adivasis communities to vacate the villages prior to the raising of the water margin.

On October 18 2000, the Supreme Court of India upheld the Narmada Tribunal Award, stipulating that those displaced by the project must be resettled and rehabilitated land-for-land six months prior to any rise in the dam's height. As such, the decision of the Narmada Control Authority appears to be in clear violation of the orders of the Supreme Court of India.

Due to the implementation of the Sardar Sarovar Dam project, thousands of Adivasis victims of previous raisings of the dam's water levels are still waiting for rehabilitation. In Madhya Pradesh, the majority of the 35'000 families that have been ousted have yet to received rehabilitation. In Maharashtra, at least 3'600 families, or tens of thousands of men, women and children, have yet to be given their rightful land-for-land rehabilitation.

Reality has shown that previous victims of the dams in the Narmada Valley are now living on the streets and in the slums of major cities such as Mumbai, facing disease, malnutrition, inadequate or no housing, and even death.

Case IND-FE 180803 - **India**

OMCT/HIC-HLRN, Joint Urgent Appeal

Forced evictions/House demolitions,/Illicit use of force/Arbitrary arrests and detentions/ Deprivation of the means of subsistence

The Coordination Office of the Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) and the International Secretariat of the World Organisation against Torture (OMCT) request your **URGENT** intervention in the following situation in **India**.

According to the information received from local, national and international sources, including the *Narmada Bachao Andolan* (NBA<sup>5</sup>, or *Movement to Save the River Narmada*), a member of HIC-HLRN, the waters of the Narmada River have been rising at alarming rates since 26 July 2003, resulting in the submergence of villages and acres of crops in Maharashtra and Madhya Pradesh states, in India.

The Narmada Control authority increased the height of the Sardar Sarovar Dam to 100 meters, and opened the Tawa Dam's floodgates, increasing the water level at Sardar Sarovar Dam to 108.3 meters

<sup>5</sup> For regularly updated and detailed information concerning the situation in the Narmada Valley and the struggle of the people there to defend their lives and rights, you can read NBA press releases at this address: <http://www.narmada.org/nba-press-releases>.

and causing the submergence. Hundreds of people affected by the submergence when the dam's height was 80m, 85m, 90m, and 95m still have not been rehabilitated. Forced evictions, house demolitions, destruction of crops and other property by police forces, as well as arbitrary arrests and detentions, threats and beatings have also been reported in several villages, as in the case at Chimalkhedhi.

The police are using force to remove the villagers in the absence of adequate rehabilitation and resettlement; therefore, violating the October 2000 decision of the Supreme Court of India, which mandated land-for-land compensation and rehabilitation.

OMCT and HIC-HLRN are very concerned about this continuing, grave situation, as the governments of Maharashtra and Madhya Pradesh have failed to act in order to guarantee the mandated land-for-land rehabilitation for the affected people and the ones threatened with submergence. Local and international groups have proposed rightful solutions and undertaken many actions to defend the affected people's rights, from peaceful demonstrations and hunger strikes to international missions and appeals; however authorities have been unresponsive. They have resorted to repression and illicit use of force against the Narmada Valley villagers. In addition, OMCT and HIC-HLRN fear that, as the water level is expected to go up to 120 meters soon, the 1,500 families in Maharashtra and 12,000 families in Madhya Pradesh affected by the Sardar Sarovar Dam Project (SSP) will have their homes and farms submerged this year, along with the four Jeevanshalas (schools of life) run by NBA since 1992. Meanwhile, no proper rehabilitation plan is in place and implemented.

### **The situation**

According to the information received, on 27 July 2003, while the Narmada River's level behind the Sardar Sarovar Dam was increasing alarmingly, the Government of Maharashtra sent police forces, along with hired laborers from the Kevadiya Colony, forcibly to evict the inhabitants of the Chimalkhedhi village and demolish their houses. They seized their belongings and removed the inhabitants to "relief" camps. On the night of 28 July, police forces arrested 74 people of this village, including 11 women and a number of children. The police had beaten the villagers during their detention. Police then took the 74 people to Akkalkuva, where they released them. There the villagers conducted a peaceful sit-in there, in front of the Nandurbar Collector Office on 1 August 2003 to protest against the Maharashtra Government's attitude and behavior and in order to get their demands approved, which included declaring the undeclared but entitled claimants, updating land records, identifying and sharing the alternative agricultural land sites and immediate relief for loss of property. One of the villagers, an adivasi, took to fast. At this point, the Nandurbar District police arrested 42 of them (41 men and one women activist), and sent them to Dhule Jail. There the authorities charged them with offenses under Indian Penal Code Section 353 (obstructing a public servant from performing his duty), Section 143 (member of an unlawful assembly) and Section 147(rioting). The Nandurbar police released the 42 people after four days detention.

It is reported that the Narmada waters have entered other villages located on the river's banks in Maharashtra, including Manibeli, Dhankhedhi, Dhanale, Mokhdi, Bharad (also entering one of the jeevanshalas), Domkhedi and Nimgavan, resulting in the submergence of thousands of acres of land with standing crops and tens of houses. Dan waters have also inundated in villages located on the opposite bank of the river, in Madhya Pradesh, including Alirajpur, Jalsindhi, Sugat, Jalsindhi, Anjanwada, Kakrana, Jhadana, Bhitada, Dubkheda and Bada Amba, submerging houses and standing crops. Reportedly, waters were also just a few feet away from flooding the hamlets in Anjanwada, Dubkheda, Bhitada and Jhandana. Located on the nearby plateaus, each hamlet has an average of 30-40 houses. The villages of Pichodi, Bijasen, Sondul, Nisarpur, Chikalda, Rajghat Kasrawad, and the Adivasi (indigenous peoples) villages of the Nimad region with thousands of families and solid houses are also under the threat of submergence.



## **Background<sup>6</sup>**

The SSP is one of the 30 large dams of the Narmada Valley Development Project (NVDP) that began implementation in the late 1980s. The NVDP also counts 135 medium dams, and 3,000 small dams, in order to harness the Narmada River and its tributaries. On 18 October 2000, the Indian Supreme Court in its final verdict allowed construction of SSP up to its planned height of 139 meters. However, it stipulated that the dam height would be allowed to increase in stages of five meters at a time, and only after clearance by several controlling authorities. The Supreme Court also upheld the Narmada Water Disputes Tribunal Award that stipulates that the project-affected people must be awarded alternative land for the land that they will lose to the dam, and be resettled and rehabilitated six months prior to any increase in the dam's height. 35,000 families in Madhya Pradesh and 3,600 families in Maharashtra are affected by this project at full height. The majority has yet to receive rehabilitation. Nonetheless, the Resettlement and Rehabilitation (R&R) Subgroup on the Narmada Control Authority decided to raise the water height in the Sardar Sarovar Dam to 95 meters in May 2002, and up to 100 meters in May 2003. The concerned State governments have compromised the interests of the oustees.

## **Human Rights, International Law, and Treaty Violations**

Through its failure to respect, protect, promote and fulfill the affected people rights to land, housing, health, and the special rights of the indigenous peoples (as part of the affected people is tribal), the Indian State violates numerous articles of five of the six UN human rights treaties to which it is bound, especially the International Covenant on Economic, Social and Cultural Rights that it acceded to on 10 July 1979<sup>7</sup>. The application and consequences of the Narmada Valley Development Project blatantly deny entitlements that constitute the human right to adequate housing, including security of tenure; access to public and environmental goods and services; as well as location and cultural appropriateness in the rehabilitation sites; habitability; freedom from dispossession; damage and destruction; but also information; participation and capacity-building; resettlement; compensation; safe environment; and physical security. All these rights and entitlements are recognized in the international law and treaties to which India is a party.

**India** – Open Letter to Prime Minister  
Shri Atal Bihari Vajpayee

To the Honourable Shri Vajpayee,

We, a coalition of international nongovernmental organizations, working in consultation with the United Nations to promote and protect human rights throughout the world, have been closely monitoring with great concern the continued development of the Narmada Valley dam system.

We take this opportunity to voice our collective alarm at the raising of the Sardar Sarovar dam, in contravention of the Indian Supreme Court decision of 18 October 2000 and various national laws and international human rights standards and norms. As you are well aware, the Supreme Court of India, as the highest court in the nation, upheld the Narmada Tribunal Award that mandated land for land rehabilitation of *all* affected families six months prior to any increase in the dam height. The Adivasis currently living in the dam-affected areas and who will surely be flooded in this season's monsoons if

<sup>6</sup> Most background information quoted here are extracted from HIC-HLRN Fact-finding Mission Report No 7: "The Impact of the 2002 Submergence on Housing and Land Rights in the Narmada Valley" that you can find at [http://www.narmada.org/sardarsarovar.html#rehab\\_status](http://www.narmada.org/sardarsarovar.html#rehab_status), and the website [www.narmada.org](http://www.narmada.org), as well as from OMCT previous appeals on this case (see IND 040603. ESCR and IND 040603.1 ESCR). A summary of further background details is also available at: [www.omct.org](http://www.omct.org)

<sup>7</sup> The UN Special Rapporteurs on the right to adequate housing, to health, and on the rights of indigenous people recently sent a joint letter of concern on this subject to Indian Prime Minister Vajpayee.

the Sardar Sarovar dam is raised have not received proper land-for-land rehabilitation. According to the Supreme Court decision, until such time as such land-for-land rehabilitation is assured and implemented, the height of the dam must not be raised. Despite this, it appears that the dam height has indeed been raised from 95 meters to 100 meters, and we have learned that work on this dam is underway.

We also would like to bring to your attention that numerous reports indicate that the police are intimidating and actually threatening the Adivasis communities living near the reservoir. They are coercing the inhabitants by announcing that the villages will be forcibly depopulated as state officials will destroy their houses located on the banks of the Narmada. The police also reportedly issued notices warning the Adivasis communities to vacate the villages in the wake of submergence.

We are deeply concerned over the continued blatant apathy of government officials on this matter, especially in light of the indefinite fast begun by Medha Patkar, an internationally recognized and highly admired activist.

Medha is fasting on behalf of all those who are voiceless in the struggle. We stand in solidarity with her struggle and the mounting numbers of victims in the Narmada Valley..

We need not remind you of those who will be affected by the raising of the Sardar Sarovar dam. Thousands are still waiting for rehabilitation, victims of previous raisings of the dam. In Madhya Pradesh, the majority of the 35,000 Adivasis families have yet to receive rehabilitation. In Maharashtra, at least 3,600 families, that is, tens of thousands of men, women and children, have yet to be given their rightful land for land rehabilitation.

The current illegal raising of the dam will result in the submergence of the homes and lands of at least 3,000 families in Maharashtra and 12,000 families in Madhya Pradesh.

This is a clear violation of the Supreme Court, and the State of India's treaty obligations set forth under numerous international human rights instruments that India has ratified. The State is in clear violation of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights International, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination and the ILO Convention No. 169.

In this respect, we refer to the General Comment No. 4 of the UN Committee on Economic, Social and Cultural Rights, that expressly states that "forced evictions are *prima facie* incompatible with the with the provisions of the Covenant and can only be carried out under specific circumstances". Moreover, in its General Comment No. 7(1997), the Committee emphasized that, under international human rights law, these exceptional circumstances in which forced evictions could be carried out impose certain requirements to which State parties to the Covenant must adhere to.

First, prior to carrying out any eviction, States must ensure that all feasible alternatives are explored in consultation with the affected persons, with a view of avoiding, or at least minimizing, the need to use force. Secondly, legal remedies or procedures should be provided to those who are affected by eviction orders, along with adequate compensation for any property, both personal and real, which is affected. Thirdly, in those rare cases where evictions are considered justified, they should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with the general principles of reasonableness and proportionality. Additionally, in these rare cases where evictions are considered justified, they should not render individuals homeless or vulnerable to the violations of other human rights. Governments, therefore, must ensure that adequate alternative housing or resettlement is available for all those affected by the building of the dam.

We also bring your attention to the standards and guidelines set forth in India's agreements with the World Bank. Though funding from the World Bank has been halted due to the intense controversy

over the resettlement and environment components of the project, we note that the agreements for monies already received still stand, which include adequate rehabilitation and resettlement. Additionally, we call your attention to the recommendations for adequate land for land resettlement as set forth in the Maharashtra Government's Task Force Report and of the Justice Daud Commission.

These rights and recommendations apply to all Adivasis and indigenous people of the Narmada Valley and the Sardar Sarovar region. In this respect it is also vital that those who have yet to be declared project affected Adivasis, or PAFs, such as those living in canal areas, who will also be displaced by the raising of the dam, and are included in decision for mandatory land for land resettlement as per the Narmada Water Dispute Tribunal Award, be identified as such, and also provided with proper rehabilitation and resettlement.

The raising of the dam, and the ousting of the thousands of Adivasis people in that region without adequate and proper land for land rehabilitation, will result not only in the above rights being violated, but in the destruction of their livelihoods, dignity and their very lives.

Reality has shown that previous victims of the dams in the Narmada Valley are now living on the streets and in the slums of major cities such as Mumbai, facing disease, malnutrition, inadequate or no housing, and even death. We implore you to keep this from happening by following the land-for-land policy as set forth by the Narmada Water Dispute Tribunal and upheld by the Supreme Court in October of 2000. It is imperative that the land be adequate for agricultural purposes, for, as you know, the Adivasis know no other way of life than farming, and without such land, they cannot and will not survive.

In order to adequately conduct the land for land rehabilitation, we, as representatives of the international community, request that an independent body be established to implement the land for land rehabilitation, consisting of nationals and international experts who will be able to oversee the rehabilitation process fairly and impartially. This independent and impartial body is vital for the effective implementation of the Narmada Water Dispute Tribunal and the Supreme Courts decision, the standards set forth by the World Bank investigation, and in line with the rights set forth in international human rights agreements.

In the event of the claim that no adequate land exists, as made by the Minister of Madhya Pradesh, the same can be corroborated by this body, and adequate monetary compensation can be given in an amount determined by this body, in consultation with all stakeholders, including those displaced. This would provide an acceptable system within minimal human rights standards, the Narmada Water Dispute Tribunal and supporting Supreme Court decision.

The decision to raise the water and flood the Adivasis' land, as well as the mobilisation around Medha Patkar's fast, is raising growing concern among our constituencies in all our countries. In this context, we are making this letter known publicly to our constituencies.

*We hope that the Indian authorities, at all levels, understand the urgency to act quickly and responsibly.* In solidarity with Medha Patkar and the people of the Narmada Valley, we urge you to take immediate action, to comply with your obligations pursuant to the laws of your nation, the laws of the international community, and the fundamental tenets of human rights. We demand the lowering of the Sardar Sarovar dam height to allow sufficient time for the adequate and just land-for-land rehabilitation to allow those displaced to maintain their livelihoods, realize their rights, and live a life of security and dignity.

Please accept the assurances of our highest considerations,

Habitat International Coalition, Housing & Land Rights Network, World Organisation against Torture (OMCT)

Case IDN-FE 011203 - **Indonesia**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
More than 20,000 People Evicted in Indonesia.

The Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) and World Organisation against Torture (OMCT) request your **URGENT** intervention in the following situation in **Indonesia**.

### **Brief Description of the Situation**

Urban Poor Consortium, a member of HIC-HLRN, has informed HIC-HLRN and OMCT that the Indonesian authorities have forcibly evicted more than 20,000 people in Jakarta and Sulawesi in the past four months. Most of those evicted have not received any compensation for the loss of their homes, property and lands. The authorities have also failed to provide any alternatives for resettlement and rehabilitation of the people who have been forcibly evicted. According to the information received, more evictions may be carried out to clear land for several “development” projects in East and North Jakarta. Through these evictions, Indonesian authorities do take sufficiently into account the inhabitants’ human right to housing.

These two latest cases illustrate the pattern of forced evictions in the region. On 23 October 2003, security officers and police, demolished 429 homes in three villages located on the bank of Cipinang River, evicting 1,800 people. Authorities demolished 44 houses in Cipinang Muara village, 237 in Cipinang Besar Utara, and 148 in Cipinang Besar Selatan to clear land for the Banjir Kanal Timur (East Jakarta Flood Canal) project. The flood canal will be used to control floods in East and North Jakarta and protect industrial infrastructure but 13 villages will be cleared for the project.

The Japan Bank of International Corporation (JBIC) funds parts of this 4.124 trillion rupiahs (US\$ 487 million) project, of which Rp. 2.18 trillion (US\$ 257.6 million) has been budgeted for taking over the communities’ land. According to Mr. Parimin Napitupulu, the assistant for economic affairs of East Jakarta government, Cipinang riverbank has to be “clean” before the flood comes.

On 22 October 2003, 1,000 local security officers evicted approximately 4,000 residents (700 families) of Kali Adem, Muara Angke Kampung, located on the bank of Angke River. Kali Adem residents reported having received several warning letters from North Jakarta Mayor Effendi Anas, asking them to destroy their own houses. However, official statements had affirmed that there was no need for any evictions and, in any event, no eviction would be carried out before alternative land was available.

Six hours before the eviction, the Governor of Jakarta Mr. Sutiyoso accompanied by the mayors of North, East and West Jakarta—who have been evicting thousands of people in their areas in the past months—had stated that there would be no eviction until *Id al-Fitr* (a Muslim feast at the end of the holy month of Ramadan). A news report in *Kompas*, the biggest Indonesian daily newspaper, on 3 November 2003, stated that the Government had a “plan of rehabilitation” for the victims of Kali Adem, but hundreds of inhabitants in other areas would be evicted to build flats for them. To date, the people who were forcibly evicted from Kali Adem are still living in the swamps, on their boats.

HIC-HLRN and OMCT are deeply concerned by official statements that have affirmed that evictions will resume now that *Id* has passed. The example of Kali Adem also contradicts the official assertion that evictions would not be carried out during Ramadhan. Moreover, there is reason to believe that the number of evictions could greatly increase once the holy month is over. HIC-HLRN and OMCT are also seriously concerned that more forced evictions will be carried out under the excuse of new planning of Jakarta. The situation is all the more urgent as Agus Subardono, the head of the Planning and Space Development Division of Jakarta’s city Planning Agency, has announced that Jakarta needs 200 new shopping centers. This justification has been already used in the case of the Kampung Baru, West Jakarta evictions (see background information below). According to Urban Poor Consortium, the

core problem is the absence of a national local government's policy that guarantees the rights to housing of the poor instead of favoring capital interests.

### **Background Information**

The two examples of forced evictions, reported above, are not isolated incidents. Forced evictions in Indonesia have multiplied in the past months, and except for a few people in Tegal Amur, none of the victims have been compensated. On 16 October 2003, 200 police officers and anti-demonstration troops demolished 20 homes in Karuwisi, Makassar, South Sulawesi, where 100 people used to live. The people who had been living there since the Japanese occupation (1942), bought the land and have been paying land/building taxes ever since. They have been disputing the land since 1994 to a land mafia called Harmunis, who reportedly has spent 1.2 billion rupiahs over the years to evict the poor people of Kurawisi. The demolition followed a Supreme Court ruling denying the people's appeal to cancel Harmunis' certificate of ownership over the land.

The West Jakarta government has decided to "clean" two of 60 hectares of land owned by General Funeral Agency to broaden graveyard areas in Tegal Alur, West Jakarta. This clearing operation is planned despite demands from the the National Commission for Human Rights, National Commission for Women's Rights and National Commission for Children's Rights that forced evictions should be stopped. On 15 October 2003, security officers ordered 284 households (900 inhabitants) in Tegal Alur to demolish their own homes. The people did so with the belief that they would receive compensation from the Agency. They also wanted to keep the building materials of their houses to build new ones somewhere else, instead of seeing them ruined by a forced eviction operation. While some people have received the promised compensation, others are still waiting for the payment. The major of West Jakarta Mr. Sarimun Hadisaputral stated that the planned eviction was legal as he had sent warning letters (as required under the existing laws).

On 2 October 2003, 4,500 security and municipal officers, police force and hundreds of civilian militiamen, demolished 520 houses in Kampung Sawah, Tanjung Duren, West Jakarta, where 2,500 people used to live.

On 17 September 2003, 2,000 security officers and hundreds of gangsters (who were designated as civilian militia) demolished 700 houses in Kampung Baru, evicting 3,100 people. The residents of Kampung Baru had been invited in by Governor Sutiyoso to farm on this land, owned by PERUMNAS, a State-owned enterprise that is supposed to provide houses for middle-class and lower-class people. According to the information received, the residents had received several warning letters since June because governors, the major of West Jakarta and the owner have been conspiring to build a housing and shopping complex in the area.

On 2 September 2003, North Jakarta municipality security officers knocked down 189 houses, making 550 people homeless, in Sunter Jaya Tanjung Priok, North Jakarta; land that is still disputed between the owner, Anton Tjahya Wikarta, a Jakarta businessman, and the inhabitants. He reportedly offered a compensation equivalent to US\$ 60 for the houses that would be demolished.

On 26 August 2003, 12 cars full of security officers, 11 cars of anti-mass demonstration police, two cars of firemen and five trucks full of gangsters, under the command of West Jakarta police office, attacked 2,000 households, evicting 7,500 people from Jembatan Besi, West Jakarta. Many of the residents had lived there since 1994, and the others had settled after the economic crisis. Since 2002 when they started to be threatened, they organised an anti-eviction group, held mass demonstrations in front of the local House of Representatives (HoR), and met and negotiated with HoR members. The community has managed to resist three attempts to burn down the kampong, following three warning letters from West Jakarta major ordering them to demolish their own houses.

### **Housing and Land Rights' Violations**

These official practices contravene the Indonesian people's human right to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. In

particular, the authorities violated their entitlements to security of tenure, participation and self-expression in urban planning and development, adequate compensation for violations and losses, and physical security. All are elements of the human right to adequate housing as recognized in international law. It should be noted that the State bears the legal obligation to ensure all these elements in an environment of rule of law, self-determination, nondiscrimination, gender equality and nonregressivity.

Specifically, the State has violated its obligations as elaborated in the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which it ratified on 13 October 1984, namely its article 14; articles 16, 27 and 39 of the Convention on the Rights of the Child (CRC), which it ratified on 5 October 1990; and articles 8, 12, 13, 17, 18, 19, 21, 23 and 25 of the Universal Declaration of Human Rights, which is considered to be customary public law. Through these actions, Indonesia has also violated its own laws, namely Law No.4 (1992) Article 5(1) guaranteeing every citizen “the right to occupy and/or enjoy and/or own a decent house in a healthy, safe, harmonious and orderly environment.”

**Indonesia – Open Letter to Governor Sutiyoso, Jakarta**

Cairo-Geneva, 29 December 2003

Dear Governor Sutiyoso:

The Coordination Office of the Habitat International Coalition’s Housing and Land Rights Network (HIC-HLRN) and the International Secretariat of the World Organisation against Torture (OMCT) would like to express their deep concern about the multiple eviction operations that your local government has been carrying out, and plans still to pursue, under pretexts of “urban overcapacity,” “security,” “development” and “beautification.” This reasoning already has resulted in depriving 15,000 Jakarta inhabitants of their well-being and rendered them homeless. Your government has used undue violence against these impoverished inhabitants and proposed no alternative plan. Almost none of the evicted people has received any compensation.

While the evictions slowed during Ramadhan, after numerous operations in the previous four months, Jakarta authorities violently resumed them since the 26 November. On 18 December 2003, the mayor of Jakarta instructed 300 municipal security officers to demolish 15 houses in the riverbank of West Sunter, West Kelapa Gading (North Jakarta). Currently, an important number of communities are facing serious threats of eviction, including the inhabitants living under the highway in North Jakarta, who live in the surrounding area of Ria Rio Dam, in Pulo Mas; the residents along the riverbanks on which the Jakarta Canal Project is taking place; and the tens of thousands living in the settlements under the high-way.

In this respect, HIC-HLRN and OMCT are particularly concerned about the statement that you made at Koran Tempo, 20 December 2003, asserting that Jakarta's population now is “overcapacity” and, thus, “enforcing law and order” is needed. However, without any adequate alternative plan and compensation-and-rehabilitation scheme, any “law enforcement” in the form already demonstrated simply denies Jakarta’s inhabitants their basic human rights, violates Indonesian obligations under international law and deepens the impoverishment of those affected.

OMCT and HIC-HLRN strongly urge your government to compensate and rehabilitate the victims and to consider responsible alternate plans to ensure the well-being of those under your renewed threat. Namely, proposed alternative measures like bus services to alleviate traffic jams, proper garbage disposal and other services should be seriously taken into account, if “order” is indeed an objective. In

any of the numerous options potentially available, consultation with the affected population is essential to the legitimacy of government efforts.

Moreover, HIC-HLRN and OMCT are very concerned by the 2004 annual budget that you proposed to local parliament two weeks ago. The programs for “maintaining order and security” are undertaken in all five municipalities of Jakarta province, and funded with more than 8 billion rupiahs, whereas the construction program of new housing is only implemented in four municipalities, with a budget that is 3,38 billion rupiahs. This suggests a tragic misplacement of public priorities and seriously puts in question the official rationale to conduct eviction, destruction and property confiscation. When the Jakarta authorities will spend one rupiah for building, they will have more than two for destruction.

In view of these considerations, OMCT and HIC-HLRN hope that your government will take immediate measures to ensure that the human right to adequate housing of Jakarta’s impoverished inhabitants is protected and upheld, along with their right to be protected from any cruel, inhuman or degrading treatment or punishment. These obligations arise from Indonesia’s ratification of international treaties, including the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Article 16), which it ratified on 27 November 1998, and the Convention on the Rights of the Child (Article 27.3), which it ratified already on 5 October 1990.

OMCT and HIC-HLRN also hope that, in applying the relevant treaty obligations, your government’s remedial measures will be accompanied by the provision of adequate compensation, reparations and rehabilitation to all the victims.

We thank you in advance for your careful consideration of this serious matter. We also look forward to receiving information regarding the measures taken by your government to address this situation in accordance with international human rights law.

Yours Sincerely,

Habitat International Coalition, Housing & Land Rights Network (HIC-HLRN)  
World Organisation against Torture (OMCT)

**Sri-Lanka** – Open Letter to President  
Chandrika Bandaranaike Kumaratunga

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

Ms. President,

The International Secretariat of the World Organisation Against Torture (OMCT) would like to bring your attention to the situation of the 168 families originating from Oliyamulla, in the Wattala Electorate, who, since July 2002, have been facing ongoing violations of their right to adequate housing, along with acts of cruel, inhuman and degrading treatment perpetrated by the police.

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of OMCT network, that on July 11<sup>th</sup> 2002 the Urban Development Authority, along with Urban Council officials and the police evicted these 168 families who were located in Oliyamulla, in the Wattala Electorate, close to the Negombo Road. On that date, bulldozers reportedly demolished the 108 houses where these families were living, giving them only three hours to leave the place. Given that most of the inhabitants were away at work and that children were attending school, all of their belongings were destroyed in the operation.

It must be noted that these families have been living on that land for a period of two years before the eviction, paying tax bills to the local authorities and getting electricity and water supplied to their houses. Indeed, while the land belongs to the Urban Council Wattala, a local member of the Parliament gave the land to these families and the administration allowed them to build houses. Following a change of Government in December 2001, their residence there was put into question and they were eventually asked and then threatened to leave in June 2002, as the land had been earmarked for the construction of a playground by a business magnate.

Following their eviction, these families have been living for 10 days on the side of the main highway running from Colombo to the airport. While they were living there, on the 14<sup>th</sup> of July 2002, two of them, Ajith and Rita Vanderstaten, were taken by the police to the Wattala Police Station. The police reportedly burnt Rita's hand with a cigarette, while one policeman made some immoral suggestions to her.

The Buddhist priests and monks intervened on their behalf before the National Human Rights Commission (NHRC), which conducted an inquiry into these events and ordered that the 168 families be allowed to go back to Oliyamulla and to rebuild their houses. Following the families' return in Oliyamulla, the police came back and evicted them a second time on July 24<sup>th</sup> and 25<sup>th</sup>. In this respect, when the decision of the NHRC was communicated to the officer in charge of the Wattala Police Station, he allegedly refused to comply with the decision and stated that he had orders from above.

After their second eviction, the families returned to the the main highway and then stayed for a period of 2 weeks at the Sudarmaramaya Temple in Telengapatha, Wattala. Some people, who had relatives elsewhere, moved in with them. In parallel, and with the help of a lawyer and the support of Buddhist and Christian groups, they filed a Fundamental Rights Application (FRA) with the Supreme Court against the police and the Urban Development Authority.

On the 2<sup>nd</sup> of September 2002, the families tried to re-enter the land, with the permission of the NHRC, but the police intervened, dispersed them and threatened to arrest anyone entering the area.

On September 3<sup>rd</sup> 2002, State officials promised alternative land to the families who moved to Kerawalapitiya. The land allocated to them is a marshland, where they are living in temporary sheds with no access to safe drinking water and where the children have no school to attend. On the 5<sup>th</sup> of September 2002, the Divisional Secretary visited the premises and promised to look into their situation and to provide them with water. Moreover, Government officials also promised to fill the swamp in order to make it habitable. However, no action was carried out in order to implement these promises or to find alternative settlements.

In this respect, when this issue was discussed further with the authorities, the resolution of the situation became dependent on the families withdrawing the case they filed against the police and the Urban Development Authority with the Supreme Court. So far, the families have refused to do so and continue, therefore, to live in destitute conditions in Kerawalapitiya. As they are very poor, most of them being casual workers, they cannot afford alternative housing and have no choice but to remain where they are.

In view of these considerations, OMCT hopes that your Government will take immediate measures to ensure that the rights of these families are protected and upheld, and in particular their right to adequate housing, as well as their right to be protected from any cruel, inhuman or degrading treatment or punishment, in conformity with the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the General Comments No. 4 and No. 7 of the U.N. Committee on Economic, Social and Cultural Rights respectively on the right to adequate housing and forced evictions.



OMCT also hopes that these measures will be accompanied by the provision of adequate compensation, reparation and rehabilitation to all the victims. Finally, OMCT urges your Government will take all the appropriate steps in order to guarantee an immediate investigation into the circumstances of these events, identify those responsible, bring them before a competent and impartial tribunal, apply the penal, civil and/or administrative sanctions provided by law.

We thank you in advance for your careful consideration of this matter, and remain,

Sincerely yours,

Eric Sottas  
Director

Case TIB-FE 011203 - **Tibet**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
China forcibly resettles thousands of Tibetan nomad families to “protect the environment”

The Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) and the World Organisation against Torture (OMCT) request your **URGENT** intervention in the following situation in **Tibet**.

#### **Situation**

The Tibetan Center for Human Rights and Democracy, a partner of HIC-HLRN, has informed HIC-HLRN and OMCT that the Chinese government has plans to displace and resettle 27,679 nomads currently living in the Golog and Yushu Tibet Autonomous Prefectures (TAP) in Qinghai Province, to a fenced-off area of 1,540 mu (103,180 km<sup>2</sup>) in Amdo, another part of this province. Typically, the Government of China claims “environmental protection,” “reforestation” and “poverty alleviation” as justifications for such practices. The authorities issued a directive on 16 April 2003, giving as a pretext for resettlement that 70% of the grasslands in Matoe County of Golog (TAP) is now barren.

Chinese authorities have broadened their resettlement policy through campaigns like the National Natural Forest Protection Project to redress their previous policies of deforestation and overuse of land in the TAP. Indeed, deforestation at the headwaters of the rivers that flow from the Tibetan plateau into China is the cause for the deadly 1998 floods in China that affected 20 million people. OMCT and HIC-HLRN are concerned that the broadening of the Chinese resettlement policy will result in the Tibetans suffering new consequences for previous Chinese policies of deforestation and overuse of land, that only the indigenous Tibetan nomads know how to maintain.

In addition, OMCT and HIC-HLRN are also concerned by the fact that environmental concerns may be secondary to the real reasons for relocating Tibetan nomads. Chamdo, which is located in the Tibet Autonomous Region (TAR), and the Tibet Autonomous Prefectures<sup>8</sup> are Tibet’s richest areas for mineral extraction. For example, reports indicate that mining activities extend from the Yulong copper mine to the nearby areas in Gonjo (Chamdo, TAR). Reports from the area show that mining machinery and equipment from the large Yulong copper mine have been transferred to and from nearby areas in Gonjo. The State had built the Yulong Mine with a smelter, a town for mine workers, roads leading east, and a refurbished military airstrip. According to the report, *Raiding the Treasure House: Oil and Mineral Extraction in China's Colonisation of Tibet*, by Andre Carothers, Yulong has “an ore body of more than 700 million tons, it is considered a world-class deposit.” This could indicate that some of the mining activities related to this important mine are extended into Gonjo county. As

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<sup>8</sup> The TAR is only half of what used to be Tibet. The rest of it has been annexed to Chinese provinces like Sichuan, and divided into so called “autonomous prefectures” or TAPs.

Yulong is unfit for cultivation anyway, the Chinese workers will be completely dependant on Gonjo for subsistence. This implies the usual twofold process that China has been using to take over land from the Tibetans: (1) forcibly evicting indigenous Tibetans and (2) implanting Chinese settlers.

Overall, OMCT and HIC-HRLN are deeply concerned about the effects of this forcible resettlement policy on the affected families and communities. Indeed, these communities have long maintained an economic system and ecology compatible with their nomadic way of life, and their religious practices are closely linked with their ancestral lands and surrounding mountains. Forcibly moving them to another area, even within the Tibetan prefectures, disrupts their whole way of life.

### **Background**

These examples of forced eviction of the Tibetan nomads follow a systematic pattern, and are not isolated incidents. According to reliable sources, the Chinese authorities are evicting Tibetan nomads and farmers from their traditional land located in Gonjo, Jomda and Markham (east of Chamdo Prefecture in the Tibet Autonomous Region—TAR), and Derge (TAP in the Sichuan province) to resettle them in Kongpo Prefecture (Nyingtri in Chinese) located in the southeast of the TAR. The newspaper *China Daily* recently reported that authorities already have moved nearly 1,000 families out of Chamdo. In the same way, according to Xinhua News Agency, Chinese authorities have evicted 948 people (148 families) from Gonjo County, in Chamdo Prefecture, to Bomi, Nyingtri and Menling counties in December 2001. The forced evictions that took place in Gonjo, Jomda and Markham obviously are directly linked to the Yulong Mine.

The Chinese authorities use financial inducements and other forms of pressure to push the Tibetans to move. Affected people have reported that many are being resettled against their will, and that the original inhabitants of the relocation areas complain about the influx of new, unwanted neighbors. At the beginning of 2003, the Chinese authorities built ten villages in Kongpo/Nyingtri Prefecture to resettle nomads, farmers and agropastoralists of Chamdo and Sichuan. The authorities promised them job opportunities<sup>9</sup> and better lands, but the land of the resettlement areas in Kongpo has proved to be of poorer quality.

The so-called “environmental protection” policies can not be considered to be a more-legitimate reason to forcibly resettle Tibetan nomads than mining. Tibetan nomads and farmers were not responsible for making these areas barren. Between 1950 and 1985 alone, China reduced Tibet’s forest from 25.2 million hectares to 13.57 million hectares. In 1976, indigenous Tibetan ownership of land and animals ceased altogether. Intensified food crop and livestock production has led to extensive destruction of fragile grasslands.

Around 1980, China reversed the communization of nomads and distributed land and animals to families. This brought a new policy of resettling nomads, requiring them to exchange their tents for assigned housing on fenced plots that the authorities *leased* to them. The concentration of such resettlement areas in more fragile areas has led to further overgrazing.

The current policy now seeks to promote grassland and forest regrowth by banning nomads from these areas. This is a punitive policy that disregards the indigenous people’s rights, as well as their wisdom and intense desire to sustain the grasslands and wildlife as before. Hence, the combined impacts of erosion, fencing, engineered sedentarisation, demographic manipulation, debt, poverty, taxation, chemical poisoning, social exclusion and the absence of basic human services destroy the indigenous Tibetan nomads’ ecological way of life and their livelihood, as well as having destructive environmental consequences.

### **Housing and Land Rights’ Violations**

These practices contravene the Tibetan nomads’ human right to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Chinese

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<sup>9</sup> According to officials such as former Chairman Legchog of the TAR People’s Government.

authorities especially violate Tibetans' entitlements to security of tenure; access to, and benefit from environmental goods, namely land and water; habitability and livelihood on the resettlement lands; location; cultural appropriateness; participation and self-expression; and adequate compensation for violations and losses. All are elements of the human right to adequate housing as recognized in international law. It should be noticed here that all these elements, to be considered as respected, should be obtained in an environment of self-determination, non-discrimination, gender equality, rule of law, and non-retroaction.

Specifically, the authorities have breached their treaty obligations under articles 1, 2, 11, 12 and 15 of the International Covenant on Economic, Social and Cultural Rights (CESCR), which China ratified on 27 June 2001. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 on the right to adequate housing and 7 on forced eviction. By these practices against Tibetan nomads, China also has breached articles 1, 19, 21, 22, and 25 of the International Covenant on Civil and Political Rights (CCPR) that it signed on 5 October 1998; articles 1 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination that it accessed to on 28 January 1982; and articles 12, 17, 18, 19, and 21 of the Universal Declaration of Human Rights.

## 2. Related to Exclusion/Racial Discrimination

**Bangladesh** – Open Letter to Prime Minister  
Mrs. Khaleda Zia

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

Ms. Prime Minister,

The International Secretariat of the World Organisation Against Torture (OMCT) would like to bring to your attention the demolition of houses belonging to members of the Hindu community of the Chakribakri, Madhukhali, Radhanagar, Bigordana and Parmadhukhali villages (Khulna district) by the police, as a form of punishment for their alleged support for so-called terrorist groups.

OMCT would like to inform you of the fact that 8 houses have been ransacked and damaged by the police between January 5<sup>th</sup> and January 18<sup>th</sup> 2003, with the personal values, belongings, furniture and worship shrines of the victims having been destroyed and around 20 persons –including women and children- having been wounded during the operation.

Police Inspector and the Officer-in-Charge of the Paikgachha police station, Mr. Golam Mohammad, along with six Sub Inspectors - Mr. Babar Ali, Mr. Abdur Rauf, Mr. Abdul Aziz, Mr. Akul Bishwas, Mr. Md. Ibrahim and Mr. Dev Brat- and about 12 other police officers raided these houses on suspicion that their occupants were giving shelter to so-called terrorists.

In this respect, on January 5<sup>th</sup> 2003, the police attacked the houses of Nirapad Sirkar and Khitish Candra Dhali in the Chakribakri village. On January 6<sup>th</sup> 2003, the police reportedly ransacked the house of Goshai Bairagi in the village of Madhukhali, as well as the house of Pravash Mondol in the village of Parmadhukhali. On January 8<sup>th</sup> 2003, it is reported that the police attacked the house of Abdul Kashem Gazi in the Radhanagar village. In the same village, on January 15<sup>th</sup> 2003, the police reportedly looted the houses of Manoj Mondol and Pankoj Kanti Bishwas. Eventually, on January 18<sup>th</sup> 2003, the house of Rabindarath Mondol, in the Bigordana village, came under attack by the police.

As previously mentioned, around 20 persons have been wounded in these operations, including Mrs. Sonamoti Rani (40 years old), Mrs. Laxmi Rani Dhali (32 years old), Momita Bishwas (12 years old), Mrs. Shanchita Sirkar (35 years old), Mrs. Maloti Rani Mandol (48 years old) and Bishnupado Bishwas.

These acts are affecting members of the Hindu community living in villages that are adjacent to the Indian border. These villages are characterised by backward communications systems and infrastructures, along with a high level of violence including rape, kidnapping, smuggling and money extortion. According to reliable sources, part of the problem is related to the operations of the so-called terrorist groups, which are forcing the villagers to give shelter to their members and are taking advantage of the lack of infrastructure and the proximity of the Indian border to develop their activities. Reports from reliable sources indicate that the victims have no link with the terrorists and are, in fact, living in constant fear of being targeted either by the police or by the so-called terrorists.

Since January 2003, the Officer-in-Charge of the Paikgachha police station, Mr. Golam Mohammad, has been denying the police's involvement in these incidents. On the other hand, Mr. Babar Ali, a Sub-Inspector of the Paikgachha police station, did not deny the police's involvement but explained that their actions was performed in order to ensure respect for human rights.

In view of these considerations, OMCT hopes that your Government will take immediate measures to ensure that the rights of these afore-mentioned victims are protected and upheld, in particular their right to adequate housing, as well as their right to be protected from any cruel, inhuman or degrading treatment or punishment, in conformity with the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the General Comments No. 4 and No. 7 of the U.N. Committee on Economic, Social and Cultural Rights respectively on the right to adequate housing and forced evictions.

OMCT also hopes that these measures will be accompanied by the provision of adequate compensation, reparation and rehabilitation to all the victims. Finally, OMCT urges your Government to take all the appropriate steps in order to guarantee that an immediate investigation is launched into the looting of the houses, identify those responsible, bring them before a competent and impartial tribunal, and apply the penal, civil and/or administrative sanctions provided by law.

We thank you in advance for your careful consideration of this matter, and remain,

Yours Sincerely,

Eric Sottas  
Director

Case GRE 050203. ESCR – <b>Greece</b> Urgent Appeal - Economic, Social and Cultural Rights Right to Adequate Housing/Racial Discrimination
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The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Greece**.

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, of the arbitrary seizure, by the Nea Alikarnassos Municipality (adjoining the city of Heraklion in Crete), of a resettlement site destined for the local Roma community in Greece.

According to the information received, in mid January 2003 the Mayor of the Nea Alikarnassos Municipality, Mr. Sissamakis, authorized municipal employees to break into a site attributed to the resettlement of the local Roma community, including forcing the entrance lock and placing iron props inside.

The site in question has reportedly been selected for the resettlement of the Roma community living within the administrative borders of the Nea Alikarnassos Municipality. In this respect, it is reported that part of the necessary infrastructure has already been constructed, while it is planned to build prefabricated homes on the site. Overall, the whole project of resettlement is managed by the Eastern Crete Development Organisation (O.A.N.A.K.) and is funded by central government resources.

According to the information received, Mr. Sissamakis is opposed to the resettlement of the Nea Alikarnassos Roma community in this site, arguing that it belongs to the municipality and that it is simply not possible to create a Roma settlement next to a basketball court constructed with the budget of the 2004 Olympics. In place of the Roma settlement, Mr. Sissamakis reportedly proposed the construction of a parking lot for the adjoining basketball court.

In addition to its opposition to the resettlement, Mr. Sissamakis stated in an interview to the daily "Eleftehrotypia" (27.01.03) that Roma blemish one's sense of good taste, that they deal drugs, that he does not want them in his municipality and that they should not be accorded any privilege –such as the creation of a settlement-, that they could rent houses in Heraklion or Nea Alikarnassos.

### **Background Information**

This arbitrary seizure of the resettlement site destined for Nea Alikarnassos Roma reportedly occurs against the background of ongoing attempts to drive the Roma away and to oppose any resettlement plan that would take place within the Nea Alikarnassos administrative borders.

The resettlement plan, opposed by the newly elected Mayor Mr. Sissamakis, concerns around 500 Roma who are currently living in a camp situated within the Nea Alikarnassos municipality's administrative borders in the locality of Dyo Aorakia, between the highway and the industrial zone, about 500 meters away from the nearest habitation in the municipality. According to the information received, this camp was created around 15 years ago by a decision of the Heraklion Prefecture with the idea of reassembling all the scattered camps into one large one. This move was reportedly tolerated by the municipality of Nea Alikarnassos.

This camp is reportedly made of shanty houses with no water supply, electricity, sewage system or organised garbage collection. This absence of basic services has been reportedly used as a siege tactic, by the municipality authorities, in order to get rid of the Roma. Indeed, it is reported that since the establishment of the camp, the Nea Alikarnassos authorities are doing their best to drive the Roma away. For instance, the authorities refuse to have the Roma registered in the municipal list even if most of them live there permanently and despite the fact that 200 children were born there. Roma children were also reportedly not able to attend local schools from 1987 to 1998 because the camp was not within the enrolment boundaries of any school. Following 1998 and the efforts of the Heraklion Prefecture, a school for Roma children was eventually founded away from the municipality of Nea Alikarnassos, as part of the 34th Elementary School of Heraklion. In 2002, some children who attended the school for Roma went to regular schools in the municipality of Nea Alikarnassos but most of them dropped out very quickly; no Roma child of the camp has graduated from elementary school.

According to the information received, the Nea Alikarnassos municipality took a firmer stand, since 1997, regarding the Roma community living in the camp. It is reported that on December 17<sup>th</sup> 1997, the municipality issued an order of administrative eviction, claiming that it owns the land where the camp is located and asking 102 Roma families living there to vacate the area within 30 days. The families reportedly challenged the eviction order before the Heraklion County Court, which found the order abusive and cancelled it in its decision 975/1999 of November 12<sup>th</sup> 1999. The Court acknowledged that while in principle the municipality, as the owner of the land, had the right to issue an eviction order, its move was abusive because the affected Roma were living therein expecting their relocation that has been announced by the State.

This scenario was reportedly repeated in August 10<sup>th</sup> 2002 when the Roma were again served with an eviction order dated June 20<sup>th</sup> 2002 (Ref. 3754), asking them to vacate the area within 30 days. Again, the Roma challenged the eviction order before the Heraklion County Court, which, as in 1999, found the order abusive and cancelled it.

Since 2000, no other eviction attempts have been reported, although the police reportedly performs regular raids in the camp.

### **The Roma Situation and the 2004 Olympic Games**

The arbitrary seizure of the resettlement site destined for Nea Alikarnassos Roma is also related to the preparation of the 2004 Olympic Games. Indeed, the Mayor of Nea Alikarnassos Municipality, Mr. Sissamakis, clearly stated that the establishment of a Roma settlement was inappropriate next to a basketball court built with the budget of the 2004 Olympics.

It is not the first time that Roma communities are facing threats of eviction, actual evictions, or violations of their right to adequate housing as part of the preparation for the 2004 Olympics. For instance, the Roma communities that have settled in the various areas of Athens and surroundings (area of Aspropyrgos) have been facing repeated threats of, and actual forced evictions, notably in July 2000 and September 2001. Moreover, the local authorities in Aghia Paraskevi, Ano Liosia, Halandri and Marousi have openly claimed that they want the land on which the Roma have settled, or were meant to be settled, to build sport facilities for the 2004 Athens Olympic Games. In this respect, the National Commission for Human Rights noted in its 2001 report that “It is a fact that with the opportunity of the Olympic Games the eviction of the Gypsies from many areas has been organized.”

There are fears, therefore, that as the date for the Olympics draws nearer, municipalities that want to evict their Roma communities will increasingly invoke the Olympics in order to evict the Roma without causing public censure or reactions from the Greek central authorities. With respect to this situation Mr. Alvaro Gil-Robles -the Council of Europe’s Human Rights Commissioner- requested the Olympic Organising Committee to publish the list of the sites that have been selected for the 2004 Olympic games in order to prevent that pressure is being put on the Roma that have settled or wish to settle in those areas. According to the Greek Helsinki Monitor, this request remains, so far, unanswered. Similarly, OMCT’s appeals to the International Olympic Committee in this respect (May 2001 and February 2002), have so far remain unanswered.

GRE 290403. ESCR – **Greece**

Urgent Appeal - Economic, Social and Cultural Rights

Threat of Unlawful Eviction of a Roma Community/Denied Access to Basic Services

The World Organisation against Torture (OMCT) requests your **URGENT** intervention in the following situation in **Greece**.

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

OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, of a police attempt to evict a Roma community living in the Nea Zoi area of Aspropyrgos, located at approximately 15 kilometres west of Athens (Attica), Greece. This incident occurred while the Roma community living in Aspropyrgos is still awaiting the provision of water and electricity, as promised by the Greek authorities and officially announced to the Council of Europe in September 2002.<sup>10</sup>

According to the information received, on April 21<sup>st</sup> 2003, at around 3.00 p.m., a Hellenic Police (EL.AS.) car arrived at the Roma settlement located in Aspropyrgos. Two police officers reportedly said that “*the plot was bought and the proprietor sent us to tell you to move out because he wants to clean it up and enclose it*”. It is reported that the Roma were given two weeks time to gather their belongings and leave. While the police officers reportedly had with them certain documents that they showed to the Roma, they did not give any official eviction order.

A few days earlier, an individual claiming to be the proprietor of an adjacent plot where Roma are also living, reportedly asked them to leave his alleged property within twenty days and threatened that otherwise he would be forced to “call the police”.

According to the information received, on the following day, (22 April 2003), a representative of GHM, who is also a member of SOKADRE (Coordinated Organizations and Communities for Roma Human Rights in Greece), called the Aspropyrgos Police Station in order to get some more

<sup>10</sup> Council of Europe, Office of the Commissioner for Human Rights, “Report by Mr Alvaro-Gil Robles, Commissioner for Human Rights, on his Visit to the Hellenic Republic, 2-5 June, 2002”, Strasbourg, 17 July, 2002, para. 24, available at: [http://www.commissioner.coe.int/docs/CommDH\(2002\)5\\_E.htm](http://www.commissioner.coe.int/docs/CommDH(2002)5_E.htm)

information on the incident. The police officer reportedly claimed that he was unaware of the incident and suggested in called his chief, saying however that the Police Station frequently receives complaints by the residents in the surrounding areas asking the Police to intervene in order to drive away the Roma living in the wider area of Nea Zoi. On April 23<sup>rd</sup> 2003, the Chief of the Aspropyrgos Police Station reportedly stated to the representative of GHM and SOKADRE that he was unaware of the incident and referred him to other officers, who were unable to provide any concrete information. Following this event, SOKADRE reportedly sent a letter to the Aspropyrgos Police Station on April 23<sup>rd</sup>, asking them to provide any documentation that could justify the actions of the police officers. So far, the police has provided no further documentation.

This incident occurred while the Aspropyrgos Roma community is reportedly awaiting the provision of water and electricity as promised by the Greek authorities. Despite the assurances given by the Greek delegation to the Council of Europe on September 11<sup>th</sup> 2002 that “*all necessary measures have been taken in order that the Roma/Gypsy settlement of Aspropyrgos is provided with all public facilities*”, the settlement still does not have running water and electricity.

The guarantee provided last September by the Greek authorities that all necessary measures have been taken in order to ensure that the Roma/Gypsy settlement of Aspropyrgos is provided with all public facilities, seriously contrasts with the actual denial of such services by the Municipality, along with the attempted eviction that took place on April 21<sup>st</sup> 2003.

#### **Background information**

This attempted eviction, along with denied access to water and electricity (despite the Greek authorities’ guarantee that they have provided these services to the Aspropyrgos settlement) takes place in a context of ongoing harassment against the Roma population living in Aspropyrgos, including notably attempted and actual forced evictions, as well as living conditions failing to meet international standards related to the enjoyment of economic, social and cultural rights.

Besides the absence of running water and electricity that has already been mentioned, the Roma living in the Nea Zoi area of Aspropyrgos are living next to a defunct rubbish tip and in the midst of warehouses and small industrial facilities. Only about 6 families live in the settlement in question at the moment, although when Mr. Robles, the Council of Europe Commissioner for Human Rights, visited it in June 2002, there were about 20. The other families were forced to move out either due to the frequent police raids or due to the lack of infrastructure and problems with drugs. During his visit to Greece, Mr. Robles went to the settlement and stated the following in his report: “*Words fail me in saying that I am grateful to the families for their reception, as these people live under conditions very remote from what is demanded by respect for human dignity, in particular without running water supplies among other essential services.*”<sup>11</sup>

Attempted forced evictions or actual forced evictions of Roma living in Aspropyrgos are reported with alarming frequency. As highlighted by the following examples, attempted or actual forced evictions that are carried out by the Aspropyros Municipality include a certain number of similar characteristics, including the disregard for national and international law, the absence of eviction orders, the lack of alternative housing and compensation to the victims, as well as the absence of prompt and impartial investigation into the actions of the Aspropyros Municipality.

- On February 16, 1999, a municipality of Aspropyrgos crew, escorted by the two deputy mayors of Aspropyrgos and police, entered the Nea Zoe settlement with a water tanker, two bulldozers, a jeep, and three police cars. The municipal employees tore down five sheds with the two bulldozers and set the rubble on fire. The settlement comprised twelve buildings altogether, with around one hundred inhabitants. The Roma were not given enough time to

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<sup>11</sup> *Ibid.*



remove their possessions. Some of the Romani residents were not present at the time of the operation.<sup>12</sup>

- On July 14, 2000, the municipal authorities of Aspropyros, equipped with a bulldozer, entered a settlement of Romani tent-dwellers. In the presence of the Mayor of Aspropyros and the police, they demolished most of the homes in the camp belonging to Greek and Albanian Roma, which contained their personal belongings. According to eyewitnesses, no eviction warrants or orders were presented to the Roma families. The operation was carried out without the authorisation or presence of a public prosecutor, as is required under Greek law in cases of invasion of privacy and the domicile. The action taken by the Municipality of Aspropyros resulted in the expulsion of the Roma from their encampment and in the demolition of their homes. According to eyewitnesses, only eight homes escaped demolition; elderly persons or people with health problems who could not move immediately were in these homes. After the demolition, the inhabitants moved to a vacant place nearby, in the wider area of Aspropyrgos. Mr N.A., a 35-year-old Romani man who witnessed the destruction of his home as well as many others, told that the inhabitants were not given time to remove their possessions from the huts and described how the bulldozers not only levelled the shacks, but used their blades to push the debris into the ground and cover it over with earth, burying the contents of peoples homes. According to Mr N.A., the demolition crew of the municipality proceeded to set ablaze the remains, mainly pieces of cardboard and wooden planks, which lay above the surface.<sup>13</sup>
- On July 17 and 18, 2001, two municipal police officers and two state police officers visited one of the makeshift settlements, next to a refuse dump, and told the Romani families there to leave the area within three days. According to Ms Dionysia Panayotopoulou, a Romani woman who had resettled with her family next to the refuse site and a representative of the community to the non-governmental umbrella group SOKADRE, the officers did not present any papers and threatened the families that if they did not leave within three days, they would send in their special forces to take care of them. The authorities never acted on the threat and the Roma are still living beside the refuse site.<sup>14</sup>
- On the morning of September 13<sup>th</sup> 2001, the municipal authorities of Aspropyrgos, under the orders of Aspropyrgos' Mayor G. Liakos, proceeded to destroy 6 homes together with all their contents and damage another. The destroyed homes allegedly belong to 4 Greek and 3 Albanian Roma families. A bulldozer belonging to the municipality of Aspropyrgos, accompanied by both state and municipal police officers, began demolishing dwellings belonging to Roma. One of the residents reportedly approached the police officers and asked them for the documents authorising the eviction. According to Mr V.A., one of the municipal officials reportedly told him that they had no papers. One of the state police officers reportedly stated that he thought an eviction protocol existed, but that he could not remember. Mr V.A. related that he informed the officers that the eviction action was illegal without proper authorisation. The municipal authorities of Aspropyrgos put an end to their operation following the intervention of the Greek Ombudsman and the Greek Helsinki Monitor. According to the intervention received, a police car stood by during the destruction of the homes without intervening.<sup>15</sup>
- On September 28<sup>th</sup> 2002, a bulldozer belonging to the municipality of Aspropyrgos, together with a municipal patrol car carrying four municipal police officers, visited a Romani man, Mr S.K., living in the Nea Zoe area. The Romani man was erecting a shed on a plot of land he

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<sup>12</sup> For further details on this case, please refer to the report published by the European Roma Rights Center (ERRC) and the Greek Helsinki Monitor (GHM), *Cleaning Operations: Excluding Roma in Greece*, [http://www.greekhelsinki.gr/bhr/english/organizations/ghm/greeceE\\_2003.rtf](http://www.greekhelsinki.gr/bhr/english/organizations/ghm/greeceE_2003.rtf)

<sup>13</sup> *Supra* note 3

<sup>14</sup> *Supra* note 3

<sup>15</sup> *Supra* note 3; See also OMCT Urgent Appeal Case GRE 200901. ESCR (20 September 2002)

owned when the bulldozer and the municipal police arrived and told him that they would have to tear his shed down. Ms Panayotopoulou asked them whether any decision had been issued by the local Town Planning Bureau, authorising the demolition. The municipal police officers responded that there was such a decision, concerning all the illegal dwellings in the area, but it had not been issued yet and hence they could not provide her with a copy. When further asked by Ms Panayotopoulou whether they had been sent there by the mayor, the municipal police responded that they were carrying out orders from the Town Planning Bureau. This is unlikely, as in such cases the town planning authorities solicit the assistance of the Greek state police and not of the municipal police forces. It is also unlikely, given that if in fact the municipal authorities had requested the intervention of municipal police, that a representative of the town-planning bureau would not be present. Finally, September 28, 2002, was a Saturday, a day when the regional authorities (to which town planning authorities belong) are closed. In the end, the municipal police and the bulldozer left, with officers telling Mr S.K. that he had time until Monday to tear down his shed himself, otherwise they would do so. The municipal police did not carry out their threat and on September 30, 2002, the *SOKADRE* submitted, on behalf of the Nea Zoe community, a complaint to the Ombudsman's office. On October 24, 2002, the Ombudsman's office addressed a letter (Ref. No. 19000.2.2) to the Aspropyrgos municipality, soliciting the municipal authorities' view on the issue at hand. The latter responded on February 12, 2003, (Ref. No. 3205), alleging that no municipal employees had been involved in any such activity on that particular day. The municipality of Aspropyrgos letter ended by offering its version of what actually had happened, namely that ... some individuals unknown to them, maybe even private security guards, presented themselves as municipal police officers, whereas they were not. The *SOKADRE* contacted both Ms Panayotopoulou and Mr S.K.'s wife, Ms G.K., (who was also present during the incident) who reconfirmed their version of the events. Ms G.K. also added that one of the municipal police officers was an acquaintance of her husband, so it is impossible she was mistaken as to the officers' identity. On February 21, 2003, the *SOKADRE* submitted a complaint to the Ombudsman's office in which it claimed that the municipality's reply was inadequate.<sup>16</sup>

The rate with which attempted or actual forced evictions of Roma occur in Aspropyrgos, along with an overall policy of harassment and denial of access to basic services suggest a systematic practice of keeping Roma permanently from long-term settlement and integration in the Municipality.

Case GRE 290403. 1 ESCR – **Greece**  
Urgent Appeal - Economic, Social and Cultural Rights  
Follow-up of Case GRE 290403. ESCR  
Threat of eviction of a Roma community

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

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

#### **New information**

The International Secretariat of OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, of a police threat to evict the Roma community living in the Nea Zoi area of Aspropyrgos, located approximately 15 kilometres west of Athens (Attica), Greece.

According to the information received, three Greek police (EL.AS) cars – one jeep and one patrol car, each with 3-4 police officers on board, and a van with about eight police officers in blue military style

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<sup>16</sup> *Supra* note 3

clothes- visited the Roma settlement on Sunday May 11<sup>th</sup>, 2003 at around four o'clock in the afternoon.

It is reported that the Roma initially thought that the police officers were merely patrolling the area, looking for illicit transactions. The two police vehicles allegedly entered the settlement and then made a U-turn in order to leave. However, it is reported that shortly before leaving, they stopped and asked the Roma for how long they had been staying there. It is reported that upon receiving the Roma's answer, the police officers told them to leave as "the mayor has decided that you should leave". According to the information received, the Roma were not presented with any eviction orders and the police vehicles drove away.

According to the information received, the police orally denied these facts to the Greek Ombudsman, while the municipality of Aspropyrgos denied having taken such action, in an oral communication with GHM. However, as in previous cases, no investigation was carried out to identify the perpetrators, even though the Roma have in every case stated that they can identify them.

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

The Roma of Aspropyrgos are regularly the victims of such eviction threats, coming either from Greek Police officers or the Aspropyrgos Municipal Police force.

No later than April 21st 2003, at around 3.00 p.m., a Greek Police (EL.AS.) patrol car arrived at the Roma settlement located in Aspropyrgos. Two police officers reportedly said that "the plot was bought and the proprietor sent us to tell you to move out because he wants to clean it up and enclose it". It is reported that the Roma were given two weeks time to gather their belongings and leave. While the police officers reportedly had with them certain documents that they showed to the Roma, they did not give them any official eviction order.

These incidents occur while the Aspropyrgos Roma community is reportedly awaiting the provision of water and electricity as promised by the Greek authorities. Despite all assurances given by the Greek delegation to the Council of Europe on September 11th 2002 that "all necessary measures have been taken in order that the Roma/Gypsy settlement of Aspropyrgos is provided with all public facilities", the settlement still does not have any running water and electricity. In an answer to a parliamentary question, the government has laid the blame solely on the mayor of Aspropyrgos who has repeatedly ignored government letters and a grant worth around 30'000 Euro that has been awarded in 1999 to carry out such infrastructure work. However, the government has always refrained from sanctioning the mayor or requesting an explanation as to the use of these funds.

The International Secretariat of OMCT is gravely concerned by these attempted forced evictions of the Roma living in Aspropyrgos, as well as by their alarming frequency. These have all similar characteristics, including the disregard for national and international law, the absence of eviction orders, the lack of alternative housing and compensation to the victims, as well as the absence of prompt and impartial investigation into the actions of the Aspropyros Municipality.

<p>Case GRE-FE 110803 - <b>Greece</b> OMCT/HIC-HLRN, Joint Urgent Appeal Criminal Charges against 27 Roma and Destitute Living Conditions in the Roma Settlement of Glykeia</p>
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The International Secretariat of the World Organisation against Torture (OMCT) and the Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) request your **URGENT** intervention in the following situation in **Greece**.

### **The situation**

The Greek Helsinki Monitor (GHM), a member of the OMCT network, has informed the International Secretariat of OMCT that Greek authorities have initiated criminal charges against 27 Roma living in Glykeia, Municipality of Nea Tiryntha, Prefecture of Argolida, Southern Greece. According to the information received, the Prefecture has accused them of violating national sanitary provisions regulating living conditions in temporary settlements. It is reported that these charges do not have adequate grounds for prosecution and have been brought even though the court acquitted the same 27 Roma of the same charges in 1999.

These new charges indict the 5 men and 22 women for having intentionally violated the Minister of Internal Affairs and Minister of Health's Decision entitled, "Sanitary Provision for the organized relocation of wandering nomads" (A5/696/25.4-11.5.83), from November 1998 to 17 July 1999. The indictment reportedly specified violations of Article 1 paragraphs 1 and 2 of the Sanitary Provision, which prohibit the "unchecked, without permit, encampment of wandering nomads (athinganoi, etc.);" but authorizes the temporary encampment "provided that there is a prior relevant decision of the Prefect and a permit."

According to the information received the Prefecture Council of Argolida settled the Roma in Glykeia in 1986, where they have been living since then. As it is the Prefecture that settled the Roma in Glykeia, their settlement complies with the cited sections of the Sanitary Provision that allow encampments with "a prior relevant decision of the Prefect," rendering the present charges groundless.

It is reported that the Roma settlement in Glykeia is adjacent to the Open Air Prison Facility of Tiryntha and that it was the Chief Warden of the prison who asked for the prosecution by sending a letter (document Ref. No. 6787/27-11-1998) to the Prosecutor. The dates of November 1998 and 17 June 1999 cited in the indictment reflect the period running from the Chief Warden's letter to Prosecutor's office until the Police Station of Nafplio reported, without any investigation, the names of the 27 Roma to the Prosecutor's office. The 27 Roma involved in the pending trial were reportedly tried and acquitted on the same charges on 21 June 1999, the same month the current indictment was filed.

The GHM and SOKADRE (Coordinated Organizations and Communities for Roma Human Rights in Greece) are currently supporting the Roma. However, GHM has indicated, for lack of funds, the 27 Roma currently do not have legal representation..

The Roma are scheduled for trial in the Misdemeanour Court of Nafplio (the seat of the Prefecture of Argolida) on 22 September 2003 and face penalties of up to three months imprisonment and/or a fine.

### **Background information**

These charges come in the context of Prefecture of Argolida officials' history of failure to carry out their responsibilities to provide services to the Roma community in Glykeia on an equal basis with other citizens. They also follow a pattern of segregated living conditions for the Roma in Greece.

As the Prefecture Council of Argolida settled the Roma in Glykeia, the Prefecture had a duty, under the Sanitary Provision, to provide sanitary facilities to them. However, the Prefecture has failed to perform this duty. Specifically, Article 3 paragraph 4 of the Sanitary Provision requires that "the organized encampments must have the necessary infrastructure that would allow for healthy living, such as facilities for drinking water, sanitary toilets, containers for garbage collection and disposal and, preferably, facilities for individual cleaning in commonly used baths and laundry facilities."

However, the Roma settlement in Glykeia is one of the most destitute settlements GHM has visited. Besides being located next to the Tiryntha Prison, it lies next to a factory and fields where garbage and rubble are dumped. The site has no electricity or telephone service, and it has only three taps providing poor-quality water. It is also reported that municipal police frequently set up checkpoints on the roads, at which they verbally abuse the Roma inhabitants.

Discrimination against the Roma is apparently common in local institutions. It is also reported, for example, that the local hospital has a segregated postnatal recovery room for Romani mothers. The Greek National Commission for Human Rights (NCHR) and the Chair of the Council of Europe's Specialist Group on Roma/Gypsies have stated that a considerable number of Roma in Greece live under "apartheid" conditions, in racially segregated ghettos that stand in stark contrast to other residential areas in Greece.

### **Human rights, international law, and treaty violations**

The living conditions of the Roma community in Glykeia, as well as the criminal charges against the 27 Roma contravene, *inter alia*, the inhabitants' right to water and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Greek authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements to the right to the human right to adequate housing are enshrined in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Greece acceded to on 16 August 1985. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the human right to adequate housing, and in General Comment No. 15 on the right to water. Greece has also breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), which it ratified on 18 July 1970.

Case GRE-FE 110803.1 - **Greece**

Follow-up to Case GRE-FE 110803

OMCT/HIC-HLRN, Joint Urgent Appeal

Criminal Charges against 27 Roma and Destitute Living Conditions in the Roma Settlement of Glykeia

Geneva-Cairo, 18 September 2003

The International Secretariat of the World Organisation against Torture (OMCT) and the Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) request your **URGENT** intervention in the following situation in **Greece**.

### **New Information**

The Greek Helsinki Monitor (GHM), a member of the OMCT network, has informed the International Secretariat of OMCT that on 22 September 2003, 27 Roma will be on trial before the Misdemeanour Court of Nafplio (the seat of the Prefecture of Argolida), facing penalties of up to three months imprisonment and/or a fine.

According to the information received, 27 Roma, who are living in Glykeia (Municipality of Nea Tirynta, Prefecture of Argolida), are accused of violating national sanitary provisions regulating living conditions in temporary settlements. These charges do not have adequate grounds for prosecution and have been brought even though the court acquitted the same 27 Roma of the same charges in 1999.

These new charges indict the five men and 22 women for having intentionally violated the Minister of Internal Affairs and Minister of Health's Decision entitled, "Sanitary Provision for the organized relocation of wandering nomads" (A5/696/25.4-11.5.83), from November 1998 to 17 July 1999. The indictment reportedly specified violations of Article 1 paragraphs 1 and 2 of the Sanitary Provision,

which prohibit the “unchecked, without permit, encampment of wandering nomads (*athinganoi*, etc.)” but authorizes the temporary encampment “provided that there is a prior relevant decision of the Prefect and a permit.”

The GHM and SOKADRE (Coordinated Organizations and Communities for Roma Human Rights in Greece) are currently supporting the Roma. GHM’s legal counsel will represent the Roma during the trial, the European Roma Rights Centre (ERRC) providing the necessary funds.

### **Brief Reminder of the Situation<sup>17</sup>**

According to the information received, the Prefecture Council of Argolida settled the Roma in Glykeia in 1986, where they have been living since then. As it is the Prefecture that settled the Roma in Glykeia, their settlement complies with the cited sections of the Sanitary Provision that allow encampments with “a prior relevant decision of the Prefect,” thus, rendering the present charges groundless.

The Roma settlement in Glykeia is adjacent to the Open Air Prison Facility of Tiryntha, and it was the Chief Warden of the prison who reportedly formally sought prosecution by sending a letter (document Ref. No. 6787/27-11-1998) to the Prosecutor. The dates of November 1998 and 17 June 1999 cited in the indictment coincide with the period from the date of the Chief Warden’s letter to Prosecutor’s office until the Police Station of Nafplio—without any investigation—reported the names of the 27 Roma to the Prosecutor’s office. The 27 Roma involved in the pending trial were reportedly tried and acquitted on the same charges on 21 June 1999, the same month the current indictment was filed.

### **Human rights, international law, and treaty violations**

The pending trial and the criminal charges against the 27 Roma contravene, *inter alia*, the inhabitants’ right to adequate housing and due process. The Greek authorities especially violate those citizens’ entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements to the right to the human right to adequate housing are enshrined in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Greece acceded to on 16 August 1985. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the human right to adequate housing, and in General Comment No. 15 on the right to water. Greece has also breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), which it ratified on 18 July 1970.

The current indictment also violates domestic penal procedure provisions. For example, no investigation was undertaken to confirm that the 27 Roma currently indicted were living in the settlement during the period referred to above. Moreover, the Prosecutor appears to have merely asked the police to forward him the names of the 27 Roma that had been indicted and acquitted on 21 June 1999. Finally, it should be noted that, even if the Roma were acquitted on 22 September 2003, these duplicative criminal prosecutions would still amount to harassment aimed at forcing the Roma to abandon their settlement by virtue of incurring upon them expenses that they cannot afford.

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<sup>17</sup> For more information, please see Urgent Appeal Case GRE-FE 110803, released by OMCT and HIC-HLRN at [www.omct.org](http://www.omct.org)

Case IND-FE 240703 - **India**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
Forced Eviction of 7,000 Dalits

The International Secretariat of OMCT and the Coordination Office of HIC-HLRN request your **URGENT** intervention in the following situation in **India**.

**The situation**

The Asian Human Rights Commission (AHRC), a member of the OMCT network, has informed the International Secretariat of OMCT that, on 2 February 2003, a heavily armed Rapid Action Force of approximately 500 police officers evicted over 7,000 Dalits from their residences at Belilious Park, 129 Belilious Road, District Howrah, Calcutta, West Bengal.

It is reported that the evictions took place without adequate consideration of the inhabitants' legal status of, and tenure claims to their residences, and without prior notice of the eviction, or information on a plan for compensation or resettlement.

According to the information received, in the morning hours of 2 February 2003, the approximately 500-strong Rapid Action Force, accompanied by ambulances, fire brigades and two or three bulldozers, forcibly entered the Dalit community in Belilious Park, demolishing hundreds of brick houses, a school building, temples and statues, and evicted over 700 families. It is reported that the Howrah Municipal Authority was acting under an order of the Calcutta Division Bench of High Court, calling for the removal of "trespassers" from Belilious Park. According to the reports, the Howrah municipality has launched a development and beautification scheme that includes extension of the park in favour of commercial interests.

The Dalits residing in the Belilious Park area were not trespassers, as alluded, but permanent residents. Indeed, the Dalit community reportedly had been living there for around 100 years, since Dalit workers, prohibited from renting in the upper-caste areas of the town, settled in the park. It is reported that residents of the community have produced supporting documents, such as identity cards, ration cards, service records, and birth and death certificates that the Howrah Municipal Authority had issued, specifying permanent addresses in 129 Belilious Park. However, the municipal authorities ignored these claims, and maintained that the residents were "trespassers."

According to the information received, the evicted families are now living in the Belgachia garbage dump under horrendous condition. It is reported that the people are living on the open street with no shelter from the sun, no drinking water and no sanitary facilities. It is feared that the rainy season will further aggravate these conditions, and may cause an outbreak of disease. It is reported that four people already have died due to the living conditions at Belgachia.

**Human rights, international law, and treaty violations**

The eviction of the 7,000 Dalits, as well as their current living conditions, contravene, *inter alia*, the inhabitants' right to water and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements of the right to adequate housing as recognised in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 19 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the right to adequate housing, and General Comment No 15 on the right to water. India also has breached

articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 4 January 1969.

Case IND-FE 240703.1 - **India**  
Follow-up to Case IND-FE 240703  
OMCT/HIC-HLRN, Joint Urgent Appeal  
Death of a 3-year old child due to starvation following the forced eviction of 7,000 Dalits

23 December 2003

The International Secretariat of OMCT and the Coordination Office of HIC-HLRN request your **URGENT** intervention in the following situation in **India**.

#### **New Information**

The Asian Human Rights Commission (AHRC), a member of the OMCT network, has informed the International Secretariat of OMCT that in the morning of December 18, 2003 E. M. Shiva, a 3 year old child, died due to starvation. His family is one of 7,000 Untouchables who were forcibly and illegally evicted on February 2003 from their residences at Belilious Park, 129 Belilious Road, District Howrah, Calcutta, West Bengal.

The example of E. M. Shiva's death highlights the miserable and destitute conditions in which the 7,000 Untouchables have been living since their eviction by the administration.

Indeed, following their eviction, these families had to settle in the Belgachia garbage dump, where they have been facing horrendous conditions. They have been living on the open street with no shelter from the sun, no drinking water and no sanitary facilities. Until now, the West Bengal State Government has not provided any compensation to the victims and has failed to resettle those who are currently living in miserable conditions.

#### **Brief Reminder of the Situation**

In the morning hours of 2 February 2003, the approximately 500-strong Rapid Action Force, accompanied by ambulances, fire brigades and two or three bulldozers, forcibly entered the Dalit community in Belilious Park, evicted over 700 families, demolishing hundreds of brick houses, a school building, temples and statues. The eviction was carried out without prior notice and in the absence of a resettlement plan. According to the reports, the Howrah municipality has launched a development and beautification scheme that includes extension of the park in favour of commercial interests.

The Dalits residing in the Belilious Park area were not trespassers, as alluded, but permanent residents. Indeed, the Dalit community reportedly had been living there for around 100 years, since Dalit workers, prohibited from renting in the upper-caste areas of the town, settled in the park. It is reported that residents of the community have produced supporting documents, such as identity cards, ration cards, service records, and birth and death certificates that the Howrah Municipal Authority had issued, specifying permanent addresses in 129 Belilious Park. However, the municipal authorities ignored these claims, and maintained that the residents were "trespassers".

#### **Human rights, international law, and treaty violations**

The eviction of the 7,000 Dalits, as well as their current living conditions, contravene, *inter alia*, the inhabitants' right to water and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation,



compensation, and physical security. All are elements of the right to adequate housing as recognised in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 19 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the right to adequate housing, and General Comment No 15 on the right to water. India also has breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 4 January 1969.

### 3. Affecting Indigenous People

Case IND 280203. ESCR – **India**  
Urgent Appeal - Economic, Social and Cultural Rights  
Violent Attack/Forced Eviction of Tribal peoples/Destruction of Property

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

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

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC) and the India Centre for Human Rights and the Law, two members of the OMCT network, of a violent attack, by the police and the forest protection staff, against more than 1'000 Adivasis that was launched in order to evict them from the Muthanga Wildlife Sanctuary located in Wayanad in the southern State of Kerala, India.

According to the information received, during the evening of February 19th 2003, the police and the forest protection staff launched a violent gunfire attack against more than 1'000 Adivasis (tribal peoples), including elderly persons, women and children, to evict them from the Muthanga Wildlife Sanctuary in Wayanad, a place that they had been occupying since January 4th 2003. The Adivasis, rallied under the banner of the Adivasi Gothra Maha Sabha (AGMS), which is the apex organisation of about 35 indigenous communities in Kerala, reportedly resisted this violent move with bows and arrows and other rudimentary weapons.

It is reported that the police fired several rounds of rubber bullets in the morning to evict the Adivasis. Later in the evening, as the AGMS took two forest protection staff members as hostages, hoping to cause the advancing police force to retreat, the police reportedly opened fire indiscriminately against them.

According to the information received, 16 people (15 Adivasis and one policeman) were killed and more than 50 people were seriously injured by the shooting and fighting. A huge contingent of policemen reportedly beat up men, women and children and pulled down and set fire to their makeshift tents made of bamboo, grass and plastic sheets, even as the Adivasis tried to push back the attack with their bare hands and farm implements. It is also reported that the police has been using excavators to bury the dead in the area, which has been made off-limits to the public and the press since the shooting.

#### **Background information**

According to the information received, on Jan. 4, 2003, a total of 1,100 Adivasi families entered this area in protest against the failure of the Kerala government to implement its commitment that was based upon an agreement it had reached with the Adivasis on October 16th 2001. On this date, a committee headed by the chief minister agreed that (a) landless Adivasis and those having less than one acre of land would be given five acres of land each, (b) the state government would, by a cabinet resolution, declare all tribal habitations in Kerala as scheduled areas under Article 244, (c) the Supreme Court judgement on the 1999 act would be implemented and (d) a tribal mission would be constituted to implement the agreement.

On the basis of this agreement, the government reportedly identified 22'491 landless Adivasi families and 30'981 families with less than one acre of land. Thus, a total of 53'472 families were identified as being eligible to receive five acres of land each. However, as of January 1, 2002, only a total of 59'452 acres of land had been identified for being handed over to the Adivasis, which amounted to less than 2.2 percent of the total land required for allotment under the agreement.

On the basis of this identification, land allocation started on January 1st 2002. However, according to the information received, less than 600 families were allotted a total of 950 acres of land, meaning that the land they received was less than 30% of their entitlement. Overall, less than 1.6 percent of the land identified for allotment to the Adivasis was actually handed over to them, while land allotment stopped after the initial allotment to handful families.

After having given the government over a year to implement the agreement, the AGMS declared that the Adivasis would implement what the government agreed upon but failed to execute. It is in this context that the Adivasis entered in the Wayanad Wild Life Sanctuary on January 4, 2003.

Case IND 280203.1 ESCR – **India**  
Urgent Appeal - Economic, Social and Cultural Rights  
Follow-up of Case IND 280203. ESCR  
Right to Life/Disappearances/Harassment/ Violent Attack/Killings/Forced Eviction/Destruction of Property

Geneva, March 10, 2003

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

**New information**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, of the ongoing harassment of Adivasis (tribal peoples) by the police, along with the fact that an important number of persons have disappeared since February 19<sup>th</sup> 2003 in the Muthanga Wildlife Sanctuary located in Wayanad in the southern State of Kerala, India.

According to the information received, the police has been, since February 19<sup>th</sup> 2003, terrorising and harassing the Adivasis in the region with policemen entering their settlement, arresting the men arbitrarily, beating them and dragging them away.

It is also reported that many Adivasis, including men, small children, women and old peoples have been missing since February 19<sup>th</sup> 2003, their relatives being unable to locate them and having no idea about their whereabouts. A list of 65 missing Adivasis women and children is attached to this appeal.

In this respect, the police and other government officials involved in the operation of February 19<sup>th</sup> 2003 have been reportedly secretly disposing the bodies of dead Adivasis in the forest, raising concern that the official number of Adivasis killed in the incident is incorrect.

Moreover, it is reported that journalists and cameramen have been threatened and intimidated by the authorities, while the whole place has been closed to the media during fifteen hours following the incident.

**Brief reminder of the situation**

According to the information received, during the evening of February 19<sup>th</sup> 2003, the police and the forest protection staff launched a violent gunfire attack against more than 1'000 Adivasis including elderly persons, women and children, to evict them from the Muthanga Wildlife Sanctuary in Wayanad, a place that they had been occupying since January 4<sup>th</sup> 2003. The Adivasis, rallied under the banner of the Adivasi Gothra Maha Sabha (AGMS), which is the apex organisation of about 35 indigenous communities in Kerala, reportedly resisted this violent move with bows and arrows and other rudimentary weapons.

It is reported that the police fired several rounds of rubber bullets in the morning to evict the Adivasis. Later in the evening, as the AGMS took two forest protection staff members as hostages, hoping to cause the advancing police force to retreat, the police reportedly opened fire indiscriminately against them.

According to the information received, 16 people (15 Adivasis and one policeman) were killed and more than 50 people were seriously injured by the shooting and fighting. A huge contingent of policemen reportedly beat up men, women and children and pulled down and set fire to their makeshift tents made of bamboo, grass and plastic sheets, even as the Adivasis tried to push back the attack with their bare hands and farm implements. It is also reported that the police has been using excavators to bury the dead in the area, which has been made off-limits to the public and the press since the shooting.

### **Background information**

According to the information received, on Jan. 4, 2003, a total of 1,100 Adivasi families entered this area in protest against the failure of the Kerala government to implement its commitment that was based upon an agreement it had reached with the Adivasis on October 16th 2001. On this date, a committee headed by the chief minister agreed that (a) landless Adivasis and those having less than one acre of land would be given five acres of land each, (b) the state government would, by a cabinet resolution, declare all tribal habitations in Kerala as scheduled areas under Article 244, (c) a Supreme Court judgement on the 1999 act would be implemented and (d) a tribal mission would be constituted to implement the agreement.

On the basis of this agreement, the government reportedly identified 22'491 landless Adivasi families and 30'981 families with less than one acre of land. Thus, a total of 53'472 families were identified as being eligible to receive five acres of land each. However, as of January 1, 2002, only a total of 59'452 acres of land had been identified for being handed over to the Adivasis, which amounted to less than 2.2 percent of the total land required for allotment under the agreement.

On the basis of this identification, land allocation started on January 1st 2002. However, according to the information received, less than 600 families were allotted a total of 950 acres of land, meaning that the land they received was less than 30% of their entitlement. Overall, less than 1.6 percent of the land identified for allotment to the Adivasis was actually handed over to them, while land allotment stopped after the initial allotment to handful families.

After having given the government over a year to implement the agreement, the AGMS declared that the Adivasis would implement what the government agreed upon but failed to execute. It is in this context that the Adivasis entered in the Wayanad Wild Life Sanctuary on January 4, 2003.

Case IND-FE 270803 - **India**

OMCT/HIC-HLRN, Joint Urgent Appeal

Demolition of around 200 homes and more than 1000 acres of crops belonging to 200 Adivasi families in the municipalities of Puntamba, Shingva and Rustapur of Ahmednagar District

The International Secretariat of the World Organisation against Torture (OMCT) and the Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) request your **URGENT** intervention in the following situation in **India**.

### **The situation**

The Asian Human Rights Commission (AHRC) and Hotline Asia, both members of the OMCT network, have informed the International Secretariat of OMCT that on 21 July 2003 around 100 police

and officials of the Maharashtra State Farming Corporations (MSFC) demolished about 200 homes and more than 1000 acres of crops belonging to 200 Adivasi (indigenous) families in the municipalities of Puntamba, Shingva and Rustapur, in Ahmednagar District, Maharashtra State, India. It is reported that the families did not receive any prior notice of the eviction and that they were not presented with an eviction order. Also, the authorities failed to provide compensation, alternative housing, or food.

According to the information received, the police force, led by Police Inspector Gavit from the Rahata Taluka of Ahmednagar District, guarded the area while officials from the MSFC carried out the demolition that began at 10:00 am on 21 July 2003. In doing so, they used tractors and axes to destroy the huts. They also burned some huts down. Officials pushed many residents aside and, in some cases, destroyed or confiscated their possessions. In the Shingva municipality, a small child, the grandson of Suman Barde, was alone in his hut when the police demolished it.

It is reported that the MSFC controls the land that the Adivasis were occupying, and demolished their homes under claims of trespass. The Adivasis have cultivated and occupied the land for many decades and have laid claim to ownership of the land, in line with a Bombay High Court ruling allowing landless encroachers to stake claims of ownership over vacant government land. The demolition occurred while the legal appeals relating to these claims of legal title to the land were pending before the Revenue Commissioner and the High Court.

It is also reported that on the same day of the demolition the police detained, without charges, Mr. John P. Abraham, a leader in the Adivasi struggle. Mr. John P. Abraham was detained from 10:00 a.m. until 7:30 p.m. at the police station in Rahata, Ahmednagar District. According to the local sources, Mr. Abraham was obviously detained to make it easier to carry out the demolition. In addition, the police also confiscated Mr. Abraham's camera. He was given it back after his release, but without the film that contained pictures taken during the demolition of houses.

According to the information received, the Adivasis currently live under very bad conditions. It has been raining heavily since the demolition and the Adivasis have scattered on the MSFC land and have no proper food, water or shelter, while women, men and children are sleeping in the bushes with no covering. Some of the people affected by the demolition are particularly vulnerable, including at least two women who had recently given birth, a number of elderly people, including Babsi Baba Salunkhe and Ramesh Salunkhe of Rustapur, who had recently suffered broken bones in both hands. Moreover, since the demolition, MSFC workers have threatened some Adivasis.

The government of Maharashtra has currently no plans to relocate the 200 families. In this respect, the Adivasis indicated that they were willing to negotiate with the government to move elsewhere. The state government has reportedly declined this offer because of concerns that agreeing to relocate the families would have the effect of substantiating their legal claim in the pending lawsuit.

### **Background**

According to the information received, the Adivasis have been using the MSFC land for subsistence farming since the early 1980s and have been, as a result, harassed by government authorities. This initial step towards occupation of the land belonging to the MSFC comes from this institution's failure to implement the 1961 Maharashtra Agricultural Land Ceiling on Holdings Act.

The adoption of this act, which authorised the government to take land over a particular size from private landholders and distribute it to landless people, marked the beginning of the land redistribution programme. In 1963, the state reportedly created the MSFC and transferred the land to the new agency to promote "effective utilisation of the land." However, the redistribution of land was never effectively carried out, despite amendments passed in 1975 to speed the distribution process and address corruption. Consequently, the MSFC remained in possession of over 35,000 acres of land that was left fallow, including the land used by the Adivasis families since the beginning of the 1980s.

In 1991, the Maharashtra Government reportedly passed a resolution stating that encroachments made prior to 1990 by landless people on government wasteland and pasture land (gairan) should be regularised and proper title given to the occupiers. As a result, in 1994, the 200 Adivasi families began to openly occupy the land, building huts, clearing brush and planting subsistence crops. They have been living there since that time.

However, on 22 April 2003, the Maharashtra government passed an amendment to the 1961 Act enabling the government to withdraw land from the MSFC and grant it to private parties for any "public purpose." OMCT and HIC-HLRN fear that the eviction of the 200 families directly results from the passage of this law that severely weakens the existing scheme by allowing the government to distribute land to any private party.

The Adivasis have resorted to legal and administrative procedure to assert their title over the land. In 2000 the Adivasis filed an application with the Aurangabad Bench of the Bombay High Court (Petition No. 454) claiming ownership rights to the land based on the 1991 Resolution and on the ground that the MSFC had violated the spirit and objectives of the 1961 Ceiling on Holdings Act, by leaving 35,000 acres of land fallow rather than distributing it to landless people. The High Court did not accept the appeal, but directed the District Collector to complete an inquiry regarding the Adivasis' claim. The District Collector of Ahmednagar then reportedly rejected the claim on the grounds that the land was not vacant government land, but was owned by MSFC. The Adivasis appealed this decision to the Revenue Commissioner at Nashik. In their appeal they have argued that the MSFC only had cultivation and not ownership rights over the land; as the MSFC has not cultivated the land for almost three decades, the land has been recorded as fallow land and is owned by the government, it therefore falls within the terms of the 1991 ruling and the Adivasis' encroachment on to this land should be regularised accordingly. This appeal was pending when the 21 July 2003 demolition took place and is still under consideration by the Revenue Commissioner.

An appeal was also filed with the Revenue Commissioner, after the demolition of houses and crops that took place on 21 July 2003, asking for a stay order against the District Collector's decision in respect of the land claim. The Revenue Commissioner denied the stay order and, as a result, the Adivasis filed on 12 August 2003 a writ petition with the Aurangabad Bench of the Bombay High Court. This writ petition addresses the demolition of houses and crops and the issue of compensation, and challenges the refusal of a stay order by the Revenue Commissioner.

### **Human rights, international law, and treaty violations**

The demolition of homes and more than 1000 acres of crops belonging to 200 Adivasi families, as well as their current living conditions, contravene, inter alia, the inhabitants' right to food and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements of the right to adequate housing as recognized in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 19 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the right to adequate housing, and General Comment No 12 on the right to food. India also has breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 4 January 1969.

Case IND-FE 270803.1 - **India**  
Follow-up to Case IND-FE 270803  
OMCT/HIC-HLRN, Joint Urgent Appeal  
Demolition of 5 homes/Continued harassment of Adivasi families in Rahata Taluk, Maharashtra

Geneva-Cairo, 15 September 2003

The International Secretariat of the World Organisation against Torture (OMCT) and the Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) request your **URGENT** intervention in the following situation in **India**.

### **New Information**

The Asian Human Rights Commission (AHRC), a member of the OMCT network, has informed the International Secretariat of OMCT that on 4 and 5 September 2003, Maharashtra State Farming Corporation (MSFC) officials destroyed five huts put up by Adivasi (indigenous) families in Rahata Taluk, Maharashtra, India. It is reported that these demolitions took place in an attempt to force the Adivasis off the land despite the fact that legal proceedings, in relation to their claims over the land, are ongoing. The families were not presented with an eviction order or given any prior notice of the eviction.

These affected inhabitants are amongst the 200 Adivasi families who were first evicted from their land when MSFC officials and police demolished 200 homes and more than 1000 acres of crops in the municipalities of Puntamba, Shingva and Rustapur, in Ahmednagar District, Maharashtra, India on 21 July 2003. On 3 September 2003, after a month of failed negotiations with the officials and repeated requests to the District officials and the police, the Adivasis gave a press statement that they were going to take the land back into their custody. Approximately 100 Adivasis have returned to the land. 20 people put up thirteen huts on the land. The MSFC officials demolished five of them on 4 and 5 September. According to the information received, they will return in the next few days to destroy the remaining eight homes. The officials have also stopped the rest of the hundred people, who went back to the land, from putting up any shelters, consequently forcing them to stay in bushes nearby to the land.

Legal proceedings related to the demolitions that were carried out on 21 July 2003 and the Adivasis' land claims are ongoing before the Bombay High Court and the Revenue Commissioner. The Adivasis have also filed 108 private complaints against state officials and the police related to the demolition, but the police did not take any action to answer these complaints.

OMCT and HIC-HLRN are very concerned about the repeated demolitions of the homes of the Adivasis, the attempts by the state officials to stop the Adivasis from residing on the land, and the failure to take into account and respect the ongoing legal proceedings. We note with grave concern that there is a high risk that the state officials will demolish the remaining eight homes.

### **Brief Reminder of the Situation<sup>18</sup>**

On 21 July 2003 around 100 police and officials of the demolished about 200 homes and more than 1000 acres of crops belonging to 200 Adivasi families. The families did not receive any prior notice of the eviction and they were not presented with an eviction order. Also, the authorities failed to provide compensation, alternative housing, or food.

On the same day of the demolition the police detained, without charges, Mr. John P. Abraham, a leader in the Adivasi struggle, from 10:00 until 19:30 at the police station in Rahata, Ahmednagar District. Reportedly to make the demolition easier to carry out.

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<sup>18</sup> For more detailed information, please refer to Case IND-FE 270803

Since their eviction and the demolition of their houses, the Adivasis have been living under very bad conditions. It has been raining heavily since the demolition and the Adivasis have no proper food, water or shelter, while women, men and children have been sleeping in the bushes with no covering. According to the information received, the government of Maharashtra had no plans to relocate the 200 families.

The Adivasis have been using the MSFC land for subsistence farming since the early 1980s and have been, as a result, harassed by government authorities. As a result, the Adivasis have resorted to legal and administrative procedure to assert their title over the land. In 2000, they filed an application with the Aurangabad Bench of the Bombay High Court (Petition No. 454) claiming ownership rights to the land based on the 1991 Resolution and on the ground that the MSFC had violated the spirit and objectives of the 1961 Ceiling on Holdings Act, by leaving 35,000 acres of land fallow rather than distributing it to landless people. The High Court did not accept the appeal, but directed the District Collector to complete an inquiry regarding the Adivasis' claim. The District Collector of Ahmednagar then reportedly rejected the claim on the grounds that the land was not vacant government land, but was owned by MSFC. The Adivasis appealed this decision to the Revenue Commissioner at Nashik. In their appeal they argued that the MSFC only had cultivation and not ownership rights over the land; as the MSFC has not cultivated the land for almost three decades, the land has been recorded as fallow land and is owned by the government, it therefore falls within the terms of the 1991 ruling and the Adivasis' encroachment on to this land should be regularised accordingly. This appeal was pending when the 21 July 2003 demolition took place and is still under consideration by the Revenue Commissioner.

An appeal was also filed with the Revenue Commissioner, after the demolition of houses and crops that took place on 21 July 2003, asking for a stay order against the District Collector's decision in respect of the land claim. The Revenue Commissioner denied the stay order and, as a result, the Adivasis filed a writ petition with the Aurangabad Bench of the Bombay High Court on 12 August 2003. This writ petition addresses the demolition of houses and crops and the issue of compensation, and challenges the refusal of a stay order by the Revenue Commissioner.

### **Human rights, international law, and treaty violations**

The demolition of the homes of the Adivasis and the attempts to stop them residing on the land contravene, inter alia, the inhabitants' right to food and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements of the right to adequate housing as recognized in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 19 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the right to adequate housing, and General Comment No 12 on the right to food. India also has breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 4 January 1969.



Case PHL-FE 240703. ESCR - **Philippines**  
OMCT/HIC-HLRN, Joint Urgent Appeal  
Forced Eviction of 115 Indigenous Families/Use of Force

The International Secretariat of OMCT and the Coordination Office of HIC-HLRN request your **URGENT** intervention in the following situation in the **Philippines**.

**Brief description of the situation**

The Task Force Detainees of the Philippines (TFDP) and the Asian Human Rights Commission (AHRC), both members of the OMCT network, have informed the International Secretariat of OMCT that, on 16 April 2003, police forces—in the presence of Quezon Municipality and the Subdistrict of Lumintao—forcibly evicted from their homes 115 indigenous families living in the Lumintao Subdistrict, in the Municipality of Quezon, Bukidnon Province, Island of Mindanao. This housing rights violation apparently has been carried out at the behest of local commercial interests.

These families, of the indigenous Manobo people and members of the Resean Manobo Farmers Association (REMFA), have reportedly been evicted from public land where they have been living for around five months. Reportedly, they settled on this public land following a previous eviction from a historically Manobo-held site they occupied in their struggle to regain control over their ancestral land.

While 58 families reportedly found shelter with relatives in Lumintao, on 21 April, the Subdistrict Captain Villamor Yaba transferred the 57 other families to the Lumintao Elementary School, where they built shanties using laminated sacks for roofs. These 57 families are comprised of 256 people, among them 135 children under 18, seven lactating mothers, and four pregnant women. The source reports that the families had no beds, and slept directly on the ground. Only 30 shanties were built, and many families were forced to live in crowded conditions, sharing a shanty with up to three other families. According to the information received, the families did not have enough food to eat and were reduced to eating only porridge.

Following a period of approximately 2 months, during which some of the families have been living in temporary shanties under inadequate housing, nutritional and sanitary conditions, the Lumintao Subdistrict officials eventually resettled the 57 families on 24 June 2003 to a new site located less than one mile from where the police evicted them on 16 April 2003.

While the authorities are claiming that the most-recent relocation site is to be permanent, OMCT and HIC-HLRN are concerned that the uncertain legal status of that resettlement site leaves the 57 families without secure tenure. They also recognize that the water supply in the new location is reportedly contaminated and not safe for drinking. The personal safety and integrity of these families are precarious.

Apparently, none of the 115 families has received adequate compensation for the loss of their homes and possessions and, according to the source, no independent inquiry has been carried out into the forced evictions and demolition of houses.

**Detail of the case: facts, official position and efforts at local remedy**

According to the information received, on 16 April 2003, at around 13:00, Bukidnon Province Sheriff Mr. Tyrone Tan, accompanied by approximately 40 people, including several police officers, the Quezon City Police Chief Mr. Bobby Abao, the Quezon Municipal Councilor Ms. Gloria Yaba and the Lumintao Barangay Captain Villamor Yaba, entered the premises where the 115 indigenous families were living. Several men were allegedly wearing masks and arrived with two dump trucks, a police vehicle, a Land Cruiser, and a military service vehicle. They were also reportedly accompanied by six

members of the private security forces employed by Mr. John Unchuan of the Escano family, which owns the adjacent property and sugar plantation and is currently engaged in a land conflict with the 115 Manobo families.

Following their arrival at the site, Sheriff Tan produced a document he claimed was a demolition order to be enforced that day. However, according to the information received, this document, dated March 18<sup>th</sup> 2003, was invalid because it was only signed by the Quezon Court Clerk Angelina Gam and not by Judge Dante Villa. When this concern was raised by Mr. Datu Lito Aglay (Chairperson of the REMFA) Sheriff Tan allegedly told him to shut up and to vacate the area. The families reportedly did not receive prior notification of this eviction.

The local sources report that the police, led by Chief Bobby Abao, ordered the families to surrender their farm tools, grabbed the inhabitants and forced them into the dump trucks. The families were reportedly not able to take their animals with them. Reportedly, the police snatched the children and, consequently, 10-year-old Charlie Sacalang suffered from a swollen right arm. The Subdistrict Captain Villamor Yaba then reportedly took the families to the Subdistrict Hall in Luminato where, two days later, the Subdistrict authorities returned their possessions, including their clothes and kitchen utensils.

At this time, Mr. John Unchuan's private security forces allegedly burned down some of the families' houses and destroyed the remainder with a payload vehicle fitted with a forklift. It is reported that the police took no action to stop the destruction of the homes and left the area while the security forces carried out the demolition and burning. According to local sources, there has been no investigation into the eviction of the families, the validity of the writ under which the eviction was carried out and the destruction of the homes by private security forces. TFDP has filed a complaint against Sheriff Tan for grave abuse of authority.

As the Lumintao Elementary School reportedly opened for a new school year on 13 June 2003, the 57 displaced Manobo families forcibly relocated again on 24 June 2003 to the new site less than a mile from the families' 16 April 2003 eviction site. Barangay Lumintao officials have reportedly informed the Manobo families that this site would provide them with 20 hectares of land, including farmland, and that it is a permanent relocation.

According to the information received, this site has been allotted following negotiations between the Bukidnon Provincial Governor Jose Maria Zubiri, Jr., and the owners of the neighbouring Escano sugar plantation, who have claimed that the land belong to them. It should be noted, however, that an October 2002 Department of Environment and Natural Resources (DENR) report designated that site as public land, which could only be officially distributed through the DENR.

### **Background**

The 16 April 2003 eviction of the Manobo families and their 24 June 2003 relocation occurred against the background of the indigenous Manobos' struggle to regain control over their ancestral land. This struggle brought them in direct conflict with the Escano family and, as a result, they have been facing repeated harassment, threats and actual abuse by the Escano security forces and the police.

While this harassment has been lasting for many years, it reached an unprecedented scale since June 2002 when the Manobo families reportedly occupied a portion of the Escano estate, which they considered as part of their ancestral land. Their moving out of this land in November 2002 to resettle on a public domain did not put a stop to abuses perpetrated by the Escano security forces. On the contrary, the Escanos have claimed to themselves this land and, as a result, their security forces have reportedly harassed and intimidated the Manobo families in this new location on several occasions. This harassment took notably the form of firing, erecting barricades and barbed wire fencing around the Manobo settlement and destruction of houses. More detailed information about this harassment can be found on OMCT website ([www.omct.org](http://www.omct.org)).

The Manobo families have been fighting for legal recognition of their ancestral land for more than 20 years. In 1983, the Philippines Supreme Court reportedly granted 62 hectares to the Manobo families, but the government authorities never satisfactorily distributed it. In March 1991, the Manobos filed a petition for land distribution with the Department of Agrarian Reform, which reportedly noted that land had already been allocated in the 1983 Supreme Court decision. Currently, the Manobo families are reportedly preparing a claim for the National Commission of the Indigenous Peoples (NCIP), an agency created to settle claims regarding ancestral land.

**Human rights', international laws', and treaties' violations**

The eviction of the Manabo families, but also their relocation, contradict, *inter alia*, their right to food, to water, to adequate housing, as well as their right to be protected against cruel, inhuman or degrading treatment: their right, as women, men, and children, to live in a secure place to live in peace and dignity. The Philippines authorities especially violate these citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate location, participation, and compensation. All are elements of the Right to Adequate Housing, and recognised as such in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which The Philippines ratified on 7 June 1974. The State also has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 & 7 on the Right to Adequate Housing, and No. 15 on the Right to Water. The Philippines also has breached articles 1 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 15 September 1967.

#### 4. As a Form of Collective Punishment

Case ISR 240103.ESCR – **Israel/Palestinian Occupied Territories**  
Urgent Appeal - Economic, Social and Cultural Rights  
Threat of house demolitions/evictions

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

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

The International Secretariat of OMCT has been informed by a Al-Haq, a member of the OMCT network, of the possible demolition of 14 house, affecting more than 90 people in two West Bank villages located close to the Green Line.

According to the information received, on January 13<sup>th</sup> 2003 an official from the Israeli Ministry of the Interior -identifying himself as Ronain- issued 14 warning letters to homeowners in the West Bank villages of Al Burj and Beit Mersim. According to the information received, the warning letters were issued by the regional section of the building inspection unit of the Israeli Ministry of the Interior and indicated that the homes of the recipients were constructed illegally. According to the information received, the letters further requested that all construction work in the area had to be stopped and that all the buildings that have been identified as having been constructed illegally should be destroyed. It is also reported that the letters called on the 14 homeowners to visit the inspector's office at the Ministry of the Interior within ten days, stipulating that any failure to do so could result in legal action being taken against them.

According to the information received, several homeowners were also told verbally that it had been determined that their homes had been constructed illegally on the Israeli side of the green line and would therefore be destroyed. More than ninety people reportedly live in the fourteen homes in question.

##### **Background Information**

According to the information received, the villages of Al Burj and Beit Mersim -where the 14 homes are constructed- are located close to the green line with Israel. It is reported that all the homeowners who received warning letters own houses that are located on the West Bank side of this line, at a distance of approximately 10 to 15 meters from this line. In this respect, the owners of other homes located in the two villages, which are further from the green line reportedly did not receive warning letters.

According to the information received, the Ministry of the Interior stipulated that the letters are merely warnings and are not demolition orders. The letters were allegedly issued in order to give the homeowners a chance to state their cases. In the meantime, the Ministry of the Interior reportedly detailed that it will continue to investigate the case using experts to determine on which side of the green line the homes are being located.

According to the information received, the fact that it is the Israeli Ministry of the Interior rather than the Civil Administration that issued the warning letters in these West Bank villages is in itself worrying. Indeed, one can fear that these letters might be a precursory move that could eventually lead to a shifting of the green line to the east. Indeed, the Israeli Ministry of the Interior has no legal authority in the West Bank and any action taken by this Ministry in these two villages would amount to a de facto illegal annexation of these areas to Israeli control.

Case ISR-FE 050803 - **Israel/Palestinian Occupied Territories**  
OMCT/HIC-HLRN/PENGON Joint Urgent Appeal  
Construction of the Wall in the Palestinian Occupied Territories

Information made available by “The Apartheid Wall Campaign,” a Palestinian initiative coordinated by the Palestinian Environment NGO Network (PENGON), a member of HIC-HLRN, reports the urgent situation and grave housing rights violations arising from Israel’s construction of its “separation fence,” more popularly known as the “Apartheid Wall,” in Palestine’s West Bank. The PENGON appeal calls for an immediate stop to the wall’s construction.

In April 2002, The Israeli government of Gen. Ariel Sharon established a steering committee to implement the separation wall plan, which called for its immediate construction in the northern West Bank and the Jerusalem area. At present, the wall is being built in the Qalqiliya, Tulkarem, Jenin, Jerusalem, and Bethlehem Districts (five of the nine West Bank districts), and up to 6 km east of the Green Line, inside the West Bank. In the northern three districts alone, subjects of the wall’s “first phase,” the wall is isolating—and *de facto* annexing--over 120,000 dunums (some 30,000 acres) of land, and at least 35 water wells west of the wall belonging to some 50 communities, including thousands of farmers. In this “first phase,” an additional 16 communities already are trapped between the wall and the Green Line (1948 armistice line border of Israel). While Israel extends this so-called “security” measure deep inside the West Bank, the wall will enclave 95,000 Palestinians—4.5% of West Bank population—in addition to 200,000 Palestinian residents in East Jerusalem, who will be totally cut off from the rest of the West Bank.

Contrary to common belief, the Apartheid Wall is not on, or, in most cases, not even near, the Green Line. Israel’s massive land grab along the wall, if completed, will seal the fate of the West Bank into caged cantons. The wall’s size, magnitude, and consequences on the ground are considered one of the most destructive measures initiated by Israel since its depopulation of over 500 Palestinian villages 55 years ago. Amid the pretense of negotiations and a “road map” for peace that prevail in the media, the Israeli authorities continue to wreak more destruction every day, making the Apartheid Wall map a clear indicator of the actual path that is being laid out for the further decimation of Palestine.

### **Consequences to the Victims and the Agenda of the Violators**

Not including the various proposed wall expansions, the present construction translates into the confiscation of *at least* 10% of the West Bank. As of May 2003, some 25 Israeli companies have been contracted to work on the wall, and 250 bulldozers have already razed over 14,500 dunums of land for the footprint of the wall, including the uprooting of some 102,000 trees, and the destruction of 35,000 meters of water pipes. Inhabitants of the affected areas, therefore, are losing most of their agricultural lands, infrastructure and livelihoods on which they have depended for many generations, indeed centuries. In notable cases, this destruction also forecloses Palestinian villager’s only access to water sources.

Moreover, the wall totally severs the economic, social and family relations among the affected inhabitants. They are trapped between the wall and the Green Line, and will be compelled to leave or face complete isolation from all economic survival and vital services. Some 40,000 residents of Qalqiliya town, which used to be a major economic center in the region, is now completely surrounded by the wall with a military checkpoint as the sole passage. Consequently, Qalqiliya already faces a 70% unemployment rate. At least 10% of the town’s population have had to leave their caged community, exemplifying the fate of Qalqiliya and the tens of other villages and towns near the Apartheid Wall.

The wall is made up of either an 8 meter-high (25 feet) concrete barrier that includes concrete watchtowers, along with a 30–100 meter-wide buffer zone intended for electrified fences, trenches, cameras, sensors and security patrols; or it takes the form of a barbed wire wall with the same buffer

zone. Both versions fully prevent indigenous inhabitants' access to land, services, and employment. In many instances, the wall stands just meters away from houses.

The wall's building plans and path have changed several times to confiscate further land and water and annex illegal Jewish settler colonies, further revealing Israel's true objectives. The government is now formally adopting the latest expansion plan that the Yesha settlers council formulated in direct consultation with the Israeli Ministry of Defense. This latest plan, which is already being implemented in the northern West Bank, was made public in mid-March 2003, when the Israeli government announced that the wall's path would be altered to include Ariel and Immanuel settler colonies to accommodate the settlers' wishes. The following week, Israeli Prime Minister Sharon declared the building of a *second* wall, in addition to the minimum 360 kilometers of the wall presently under construction. The second wall would be located in the eastern West Bank, encompassing the settler colonies near the Jordan Valley and its water resources under total Israeli control. If completed, both walls will reach 650 km in length, effectively slicing the West Bank into three separated Palestinian ghettos.

### **Human Rights Violations and the State Legal Duty:**

By this latest device of the occupation, the Israeli state violates, among others, the human rights to property, work, freedom of movement, water, and all the elements of the right to adequate housing, especially security of tenure, access to public goods and services (including education and health), enjoyment of natural resources (including land and water), freedom from dispossession and deprivation of means of subsistence, the right to participation & self-expression and physical security. All of these are internationally recognized elements of the right to adequate housing. Thereby also, Israel flouts articles 12, 13, 17, 18, 19, 21, 23 & 25 of the Universal Declaration of Human Rights, and instrument of customary internal law.

Moreover, on 3 January 1979, the State of Israel ratified the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) and, on 3 October 1991, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Consequently, as the UN Special Rapporteur on the Right to Adequate Housing has pointed out in the report he submitted to the Committee on Economic, Social and Cultural Rights in May 2003, Israel now violates its treaty obligations, *inter alia*, under articles 6, 7, 11 & 12 of the ICESCR, including duties spelled out in General Comments 4 & 7 on the human right to adequate housing, and General Comment 15 on the right to water. Israel hereby also breaches articles 1, 17.1 & 19 of the ICCPR, and articles 1, 5(e) & 6 of CERD. The first article of these international treaties, as with the three other main UN human rights conventions that Israel has ratified, reaffirms the important obligations to implement the principles that override all human rights, namely self-determination, non-discrimination and, in the case of ICESCR, non-retrogression.

Finally, as an occupying power, the Israeli state has violated the Fourth Geneva Convention and the Hague Regulations of 1907, as they prohibit any requisition of land in occupied territories, the destruction or seizure of property and any changes to property not required by military necessity; prohibitions against altering the legal system in an occupied territory, practicing collective punishment and transferring population, including the implantation of settlers.

In addition to the State and Government of Israel, violators/duty holders include the World Zionist Organization, Jewish Agency and Jewish National Fund, which are public institutions linked to the State of Israel by a special "Status Law." These "national" institutions operate to transfer Palestinian land and property to exclusive possession and use by persons having "Jewish nationality," an apartheid-like civil status that confers special benefits and rights at the expense of the indigenous Palestinian people, whether inside the Green Line or in the occupied territories. These institutions are also among the most consistently active agents of illegal settler colony development and recruitment of settler colonists abroad. The UN Committee on Economic, Social and Cultural Rights (CESCR) has repeatedly recognized the State's obligation to reconsider its relationship with these institutions in conformity with its treaty obligations.

## 5. Affecting Farmers

**Philippines** – Open Letter to President  
Gloria Macapagal-Arroyo

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

Ms. President,

The International Secretariat of OMCT has been informed by Task Force Detainees of the Philippines (TFDP), a member of the OMCT network, of the burning of houses belonging to members of the Buenavista United Farmers Association (BUFA) as a form of punishment for the alleged involvement of some members of this association in the murder of 2 military informers in Brgy. Nueva Montaña, Buenavista, Bohol, Philippines.

OMCT would like to bring your attention to the fact that 15 houses belonging to members of BUFA have been reportedly burned, since February 15<sup>th</sup> 2003, in Brgy. Nueva Montaña, leaving their occupants homeless. The victims believe that members of the 2 military informers' families perpetrated the said acts as a form of punishment against the whole community. It is also reported that these acts have been tolerated by the army, which has a unit in the area. It must be noted, in this regard, that the BUFA has reportedly vocally opposed the plan to train the Civilian Armed Forces Geographical Unit (CAFGU) in Brgy. Nueva Montaña and has also campaigned for the removal of the military presence in the area.

In this respect, on February 15<sup>th</sup> 2003, five houses belonging respectively to Melchor Abanda, Agapito Abanda, Romulo Lofranco, Gonzalo Lofranco and a man named Diosdado have reportedly been the subject of arson attacks. Four days later, on February 19<sup>th</sup> 2003, four huts belonging respectively to Efren Sanchez, Bernardino Sanchez, Sonny Ramirez and a person identified as Jiji were also torched. Subsequently, on February 23<sup>rd</sup> 2003, 5 houses belonging respectively to Rolando Degamo, Jepelito Degamo, Dacoy Degamo, Jeffrey Degamo and Nilob Lofranco were burned to the ground.

As previously mentioned, these events are being carried out as a form of punishment against the farmers of Brgy. Nueva Montaña and the members of the BUFA for the killing of 2 military informers, Mr. Baldomero Betraganso and Mr. Virgilio Betraganso, and are being tolerated by the army. Indeed, according to the information received, on February 3<sup>rd</sup> 2003, two military informers, Mr. Baldomero Betraganso and Mr. Virgilio Betraganso were killed in Brgy. Nueva Montaña by alleged members of the New People's Army (NPA). It is reported that witnesses claimed of having seen members of the BUFA acting as lookouts during the incident, including Antonio Sanchez (chairperson of BUFA), and Ruben Busalanan. In this respect, Victoria Betraganso (the wife of one victim) and her daughter reportedly claimed of having seen these persons within the vicinity of their house during the incident, although the accused have, since then, continuously denied their involvement in the killing.

On the basis of the testimonies given by the victims' relatives, soldiers from the 15<sup>th</sup> Battalion of the Army reportedly went to the house of Antonio Sanchez and Ruben Busalanan and brought them to the police station. It is reported that at their arrival they were immediately locked up in the municipal jail with the two persons accompanying them, Edwin Lofranco and Ruben Mejias. On the following day, a case of murder was then reportedly filed against them at the Municipal Circuit Trial Court (Crim. Case No. MCTC-B-2006) in Inabanga, Bohol. The four detainees were then reportedly transferred to the Bohol Detention and Rehabilitation Centre in Cabawan District, Tagbilaran City, where they are still being detained.

Following the arrest of the BUFA members, the majority of the farmers in Brgy. Nueva Montaña, as well as BUFA members reportedly fled from their homes due to fear of repression. While most of the villagers have returned to their homes, the relatives of those suspected of being responsible for the killing of the two military informers are still in hiding out of fear of further punishment or repression.

In view of these considerations, OMCT hopes that your Government will take immediate measures to ensure that the rights of these persons are protected and upheld, in particular their right to adequate housing, as well as their right to be protected from any cruel, inhuman or degrading treatment or punishment, in conformity with the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the General Comments No. 4 and No. 7 of the U.N. Committee on Economic, Social and Cultural Rights respectively on the right to adequate housing and forced evictions.

OMCT also hopes that these measures will be accompanied by the provision of adequate compensation, reparation and rehabilitation to all the victims. Finally, OMCT urges your Government to take all the appropriate steps in order to guarantee an immediate investigation into the burning of the houses and the killing of the two military informers, identify those responsible, bring them before a competent and impartial tribunal, and apply the penal, civil and/or administrative sanctions provided by law.

We thank you in advance for your careful consideration of this matter, and remain,

Yours Sincerely,

Eric Sottas  
Director

Case PRY 161003.ESCR – <b>Paraguay</b> Urgent Appeal - Economic, Social and Cultural Rights Forced eviction / Excessive use of force / Extra judicial killing
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The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Paraguay**.

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

The International Secretariat of OMCT has been informed by Comisión Latinoamericana por los Derechos y Libertades de los Trabajadores y Pueblos (CLADEHLT), a member of the OMCT network, and by other reliable sources, of the violent eviction suffered by more than 120 peasant families that are members of the “National Peasant Organisation” (ONAC - Organización Nacional Campesina) — that is affiliated to the “National Workers Union” (CNT - Central Nacional de Trabajadores) — on October 2<sup>nd</sup>, 2003, in the Tembiapora Settlement (Asentamiento de Tembiapora), in Paraguay.

According to the information received, the eviction was performed by the Asentamiento Tembiapora National Police, resulting in around 100 peasants being beaten, 26 detained (now released), the death of Mr. **Miguel Peralta** as a result of due to police gunfire, and five severely injured persons who are now in the Centro de Salud Hernadarias (Health Center), including: **Reinaldo David Espinola**, 16 years old; **Jorgelina Rolón**, 36; **Elva González**, 47; **Félix Benítez**, 39 and **Felipe Ortiz**, 44.

The reports point out that at approximately 9:00 am on October 2<sup>nd</sup>, 2003, 80 policemen armed with heavy weapons (machineguns, revolvers and guns of different calibres) arrived to the Asentamiento and proceeded to burn farms. They did not show any clearance order, but were allegedly acting under the orders of the Attorney Official of Hernadarias, lawyer Cantalicio Avalos. When they were



requested to hold a dialogue and explain their procedure, they allegedly replied by opening fire against the group of peasants, killing one of them, Mr. Miguel Peralta (3 shots), and leaving 5 severely wounded, all of them with bullet wounds: **Elva González**, (3 bullet wounds); **Félix Benítez**, (2); **Felipe Ortiz**, (2); **Reinaldo Espinola** (1), and **Jorgelina González** (1 bullet wound). The five injured persons were allegedly charged by the Prosecutor Cantalicio Avalos, and reportedly have arrest warrants against them. It is believed that the Chief of the IV Police Zone, Inspector Centurión; the Chief of the Departmental Police of Alto Paraná, Inspector Arístides Cabral; and the Chief of Order and Security, Inspector Morel, were present during this operation. Then, at about 16:00, the police came back to the area and arrested 26 peasants (now released).

Furthermore, our sources report that at approximately noon on October 3<sup>rd</sup>, the eviction continued and violent action was still being taken, including the burning of farms and persecution of the peasants, even though the majority of them, in the face of police action, had already abandoned the above-mentioned property peacefully, placing themselves in improvised tents in the street. However, they were still being evicted from this location with unnecessary violence. Finally, following the intervention of the leaders of ONAC and CNT, of Senator Estanislao Martínez, accompanied by authorities of the Gobernación del Alto Paraná and of the Junta Departamental, and some Deputies, calm was restored and the peasants were allowed to stay in a tent - called “Carpa de la Resistencia” (Resistance Tent).

According to our sources, the alleged reason for this eviction is “the restitution” of the property to its supposed owners: the “Gladis Comercial e Industrial” company owned by the Duarte Alder family (General Enrique Duarte Alder was a prosecutor during Alfredo Stroessner’s dictatorship that governed Paraguay from 1954 to 1989), who allegedly purchased it from “Industrial Paraguaya SA”. Our sources also note that there was no eviction warrant, due to the fact that the case refers to criminal law under charges of “Invasion of Private Property”, which means that the settlers had allegedly been there as “invaders”. Although it is true that the settlers do not have a land certificate, their occupation of this land, we are informed, is reportedly legitimate for several reasons: the land is part of a “Surplus Property” (unutilised state land) owned by the Instituto de Bienestar Rural (Rural Welfare Institute) - the State body competent on land and Land Reform; there are serious doubts about the validity of the Duarte Alder family’s title to property and about the possibility of claiming legitimacy over the ownership of this land, which was unproductive before its occupation in 1998. The reports state that General Enrique Duarte Alder allegedly used influence to unlawfully appropriate a part of the Fiscal Surplus, and that he supposedly fabricated a title deed, since the land could never belong to him as he is not subject of the Land Reform (none of the former Prosecutors of the Alfredo Stroessner’s regime could be subject of the Land Reform).

### **Background**

The Tembiapora Settlement was founded on July 9<sup>th</sup>, 1998, and is composed of 127 families and has houses, a chapel, an Elementary School recognized by the Ministry of Education and Culture, and crops of different sorts. The settlement, which is inside the Finca (Ranch) No. 1340, both of which are inside a Surplus Property, was allegedly unduly attached to the lands owned by the firm “La Industria Paraguaya SA”. The Instituto de Bienestar Rural reportedly never registered this surplus as property of the institution and, to this date, it has been impossible to carry out this procedure since the aforementioned dossier is missing.

It is worth noting that since the 1970’s, and with the construction of Itaipú and the project of a Superhighway to Saltos del Guairá, in addition to the implementation of a high scale agricultural production model, great interest has been generated around the possession of land in this area. In this context, there are serious suspicions around the disappearance of this judicial dossier and the fact that the Surplus Property is not registered as property of the IBR, and serious doubts about the title to property of “La Industrial Paraguaya SA” and, in consequence, that of “Gladis Comercial e Industrial”.

The International Secretariat of OMCT deeply deplores the death of Mr. Miguel Peralta, as well as the bullet wounds inflicted on the other aforementioned persons. OMCT expresses its serious concern regarding the excessive use of force by the Paraguayan Police and calls on the authorities to launch a thorough and impartial investigation into the circumstances of these events, in order to identify those responsible, bring them to trial and apply the penal or administrative sanctions provided by law. Furthermore, OMCT considers that only a constructive dialogue between the authorities and the settlers' representatives could lead to a lasting solution to the poverty and discrimination problem that the less favoured face.

#### IV. RIGHT TO HEALTH, ACCESS TO MEDICAL CARE

Case ISR 180903.ESCR – **Israel**  
Urgent Appeal/Economic, Social and Cultural Rights Concern  
Denial of Access to Medical Care/Deteriorating Health Conditions of Two Palestinian Detainees

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

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

The International Secretariat of OMCT has been informed by the Public Committee against Torture in Israel (PCATI), a member of OMCT network, that two Palestinian detainees in Israeli prisons are being denied access to medical assistance in spite of their deteriorating health conditions and repeated requests for such assistance.

Mr. Daoud Halmi Mohammed Seder (ID 911721280), 21 years old, was arrested on April 14<sup>th</sup> 2003 at his home in Hebron and is currently detained in the Shikma Detention Centre. Mr. Seder had reportedly previously been hurt by an electric shock and had to get 59 stitches. As a result, Mr. Seder is suffering from a chronic skin condition on his stomach, which necessitates special medical treatment that includes the cleansing of the damaged skin and its exposure to sunlight. Since his arrest, Mr. Seder hasn't, so far, received any medical attention. His request for medical care and for being transferred to a cell with window has been refused. The prison doctor reportedly advised him to use the butter that he receives with his food as an ointment to rub on the affected skin. As a result of very hot weather and lack of medical care, the condition of Mr. Seder's skin has seriously deteriorated. He is currently suffering from intense itching and blotches have appeared on his body.

Mr. Louie Ibrahim Hassan Malesh (ID 905750626) was arrested on March 27<sup>th</sup> 2003 at his home in Bethlehem. He was detained at the Russian Compound Detention Centre in Jerusalem until his transfer, in May 20<sup>th</sup> 2003 to the Nitzan detention centre in Ramle where he is currently held. According to the information received, Mr. Malesh suffers from acute pains in a left molar tooth in his lower jaw, which provokes insomnia. Before his arrest, Mr. Malesh was reportedly undergoing a special treatment by a dentist, but his arrest put a stop to the treatment before its completion. It is reported that Mr. Malesh repeatedly requested medical attention to the prison administration without success. According to the information received, Mr. Malesh is also suffering from pains in his eyes, a deterioration of his vision and violent headaches. He has reportedly been asking medical cares for a month but hasn't seen any doctor yet, the prison administration telling him to wait.

## V. RIGHT TO EDUCATION

Greece – Open Letter to Prime Minister  
Constantine Simitis

Geneva, September 29<sup>th</sup> 2003

Mr. Prime Minister,

The International Secretariat of OMCT has been informed by the Greek Helsinki Monitor (GHM), a member of the OMCT network, of the current difficulties faced by the 14 Roma children, who are living in the Roma settlement of the Spata Municipality, in being able to attend primary school.

OMCT believes that the difficulties faced by these children are representative of the failure by the authorities to honour their commitments towards the 22 Roma families who were compulsorily relocated in October 2000 to what was termed a 'model settlement'. Despite what was promised by the authorities, the Roma settlement still has no electricity connection. Running water is transported daily to the settlement, stored in plastic tanks and does not always cover the resident's needs. This situation unfortunately highlights a lack of vigilance and political will towards the implementation of the positive policies announced by your government, towards which the Prime Minister's Office for the Quality of Life has shown a commendable and sustained devotion.

OMCT would like to bring your attention to the fact that on September 11, 2003, 14 Roma children living in the settlement could not attend their first day of school, in spite of the guarantees given by the authorities on June 5, 2003. Indeed, on that day, the Mayor of Spata, representatives from the Ministry of Education, from the Eastern Attica Prefecture and from the Prime Minister's Office for Quality of Life agreed that a school bus will be chartered in order to transport them to the 3<sup>rd</sup> Primary School of Spata (see Minutes of the Meeting, document compiled by the Greek Ombudsman's office Ref. No. 11211/01/16-7-03). Moreover, none of the competent authorities had reportedly verified whether their commitment for a chartered school bus had been materialised. As a result, some parents interrupted their work and carried their children to school.

Following pressure exercised by GHM, a contract was signed to charter a school bus on September 12, 2003. A press release by the Mayor of Spata also confirmed that on Monday September 15, 2003, the school bus would pass by the Roma settlement. However, on that day, the bus did not show up. Following new efforts and further pressure, the parents were reassured that the school bus would go to their settlement on Tuesday September 16, 2003. On that day, the bus went to the wrong place, as no official had made sure that the bus company was properly informed of the route. Eventually, the bus arrived at 10:30 am to the school with all children on board. However, at the same time, the bus company informed GHM that the Roma settlement was difficult to reach as the road was dangerous and in a bad condition and that it would therefore have to examine whether its bus could drive all the way to the settlement on a daily basis. It has subsequently told GHM that it does not expect the bus to be able to reach the settlement on days with bad weather as the 1,5 km bumpy road leading to it is barely useable when the road is dry.

OMCT is very concerned about this situation as transportation constitutes a crucial element for the Roma children's school attendance. The Roma settlement is located 5 kilometres away from the last house of Spata Municipality. There is no public transportation to and from the settlement and people have to use a dusty and unpaved road of 1.5 kilometres to reach it. The distance from the Municipality makes it virtually impossible for the Roma children to reach school without transportation.

In this respect, it is also important to note that since the Roma have been compulsory relocated in October 2000 to this settlement, children's school attendance has remained a recurrent problem. The children who were attending the primary school were forced to drop out as they were not provided with transportation, as required under national regulations. Art. 1 of the Joint Ministerial Decision of the Minister of Interior, Public Administration and Decentralization, Minister of Finance, Minister of Education and Religious Cults (Ref. No IB/607126-8-98). When this issue was brought to the attention of the Greek Ombudsman's Office in the summer of 2001, the competent State authorities invoked the fact that no children had been enrolled as an excuse for not providing them with a school bus. However, according to the information received, 8 Roma children were enrolled at that time. In 2002, due to the lack of transportation, Roma parents did not enroll their children for the new school year, considering that it would be of no use.

In view of these considerations, OMCT hopes that your Government will take immediate measures to ensure that Roma children get regular transportation from their settlement to the primary school in the Municipality of Spata. OMCT also hope that adequate measures will be taken in order to implement other commitments made on June 5, 2003 by the Mayor of Spata, representatives from the Ministry of Education, from the Eastern Attica Prefecture and from the Prime Minister's Office for Quality of Life according to which Roma children be provided with school items.

OMCT also hopes that your government will immediately provide public utilities (i.e., water, sanitation, electricity, etc.) to the Roma community in Spata, as required under Article 3 of the Sanitary Provision, A5/696/25.4-11.5.83, amended by the 23641/3.7.03, Joint decision by the Minister of Interior, Public Administration and Decentralization, the Minister of Health and the Minister of Environment (published in Government Gazette No 973 B', July 15, 2003) and in accordance with General Comment No. 15 of the UN Committee on Economic, Social and Cultural Rights on the right to water.

We thank you in advance for your careful consideration of this matter, and remain,

Yours Sincerely,

Eric Sottas  
Director

Case MYS 090703. ESCR – **Malaysia**  
Urgent Appeal -Economic, Social and Cultural Rights  
Right to Education

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

**Brief description of the situation**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, that the trial of 7 students who were charged with illegal assembly and then suspended from their university studies for their participation in a demonstration on June 8<sup>th</sup> 2001 have been scheduled to stand trial from July 7<sup>th</sup> to July 14<sup>th</sup> 2003 at Magistrate Court 1A, Kuala Lumpur, Malaysia.

According to the information received, following their arrest on June 8<sup>th</sup> 2001, the students were charged with illegal assembly under section 27(5) of the 1967 Police Act. It is reported that the students were then suspended by their respective universities under section 15(d) of the 1971 Universities and University Colleges Act.

According to the information received the students are seeking withdrawal of the charges retained against them and a reinstatement to their university studies. The students' names and university affiliations are:

- Rafzan Ramli, Mara University of Technology (UTM)
- Helman Sanuddin, UTM
- Dzulkefle Idris, UTM
- Wan Mohd. Sanusi Wan Modh. Noor, University of Malaysia (UM)
- Kairul Amal Mahmud, UM
- Ahmad Kamal Abd. Hamid, UM
- Nik Noorhafizi Mik Ibrahim, University Kebangsaan Malaysia (UKM)

It is reported that the students are suffering due to the strain of the lengthy legal process resulting from the charges and concerns over their future due to the suspension from university and that some students have not been able to find jobs since their arrest.

### **Background information**

According to the information received, over 500 students participated in the June 8<sup>th</sup> 2002 demonstration in front of the National Mosque in Kuala Lumpur to protest Malaysia's 1960 Internal Security Act. It is reported that these 7 students were arrested and detained at the Tun H.S. Lee police station at Jalan Stadium overnight before being granted police bail. They were then reportedly charged with illegal assembly.

It is reported that the students have been required to attend at least 6 hearings regarding the charges retained against them on October 15<sup>th</sup> 2001 and on January 2<sup>nd</sup>, February 28<sup>th</sup>, May 14<sup>th</sup>, July 9<sup>th</sup> and August 14<sup>th</sup> 2002, and have remained suspended from university studies while these proceedings continue. It is reported that the students' lawyers have tried unsuccessfully to have the case withdrawn by bringing it before the High Court on a Constitutional issue.

Case MYS 090703.1 ESCR – **Malaysia**  
Urgent Appeal -Economic, Social and Cultural Rights  
Follow-up of Case MYS 090703.ESCR  
Violent Repression of Peaceful Demonstration

24 July 2003

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

### **New Information**

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, that on 14 July 2003 police forces disrupted a peaceful demonstration and arrested and beat participant Syahrir Mahmood as the crowd of around 300 protesters marched to the Magistrate Court, Kuala Lumpur, Malaysia.

According to the information received, on 14 July 2003 a group of around 300 demonstrators gathered at the Kuala Lumpur National Mosque and planned to march to the Magistrate Court in support of a group of students, known as the ISA7, who were facing trial for their participation in a June 2001 demonstration against the 1960 Internal Security Act (ISA). It is reported that a large police force, led by Chief Inspector of the District Police Hadi Ho Abdullah, intervened and used force against the participants just as the march was beginning. Mr. Hadi Ho Abdullah reportedly took a position that

the march was illegal and that there would be no negotiations about continuing the march and then gave the demonstrators no time to disperse.

According to the information received Mr. Syahrir Mahmood, a spokesperson for the *Students Abolish ISA Movement (Gabungan Mahasiswa Mansuhkan ISA, or GMMI)*, attempted to negotiate with the police to allow the group time to disperse, but these efforts were rebuffed. It is reported that seven uniformed police officers later grabbed Mr. Mahmood, sprayed his eyes with tear gas, causing him to nearly lose consciousness, and struck him several times on the head and back. It is reported that Mr. Mahmood suffered bruises on his head and that his neck was bleeding and swollen. The police reportedly continued to strike Mr. Mahmood after he was handcuffed. It is reported that Mr. Mahmood was arrested and brought to the Jalan Stadium Road Police Station (also known as Tun H.S. Lee Police Station), then released on police bail at approximately 7:30 p.m.

### **Background information**

According to the information received, the aforementioned march is part of a larger effort to support the *ISA7* in getting the charges against them dropped and to get them reinstated to their universities. The seven students were arrested on 8 June 2001 for their participation in a demonstration against the 1960 Internal Security Act. After being detained overnight at the Jalan Stadium Road Police Station, they were charged with illegal assembly under the 1967 Police Act and suspended from their universities under the 1971 Universities and University Colleges Act.

It is reported that these students, who have been suspended from their universities for over two years, have been unable to find jobs and are suffering from the strain of the lengthy legal process resulting from the charges. The students have reportedly been required to attend at least 6 hearings regarding the charges against them. At the time of the march, the students were scheduled to stand trial on the criminal charges from July 7<sup>th</sup> to July 14<sup>th</sup> 2003 in Kuala Lumpur Magistrate Court. It is reported that their trial is scheduled to resume on 27 October 2003.

## VI. ACCESS TO BASIC SERVICES

**Dominican Republic** – Open Letter to President  
Hipolito Mejia

Geneva, March 14<sup>th</sup> 2003

Mr. President,

The International Secretariat of the World Organisation Against Torture (OMCT) would like to bring your attention to the situation of more than 500 Haitians who are currently seeking asylum in the Dominican Republic.

The International Secretariat of OMCT has been informed that these persons, while waiting for a decision on their status for two years, are denied access to basic social services and find themselves in a critical socio-economic condition where their basic needs and economic, social and cultural rights are not fulfilled. In this respect, we would like to note that while OMCT has received detailed information on individual cases of Haitian asylum seekers in the Dominican Republic, their socio-economic situation and the actual violations they have been facing when returning to Haiti, concerns expressed by these persons regarding their safety make it difficult for us to disclose the aforementioned information.

However, OMCT would like to draw your attention to the fact that the majority of these persons are either living in very precarious housing or in the streets, that they find themselves without work or social assistance, that they do not have access to adequate healthcare and that their children do not go to school. In such a context, the absence of work and social assistance, besides its afore-mentioned implications in term of health status and housing, bears a direct impact on access to adequate food and on the enjoyment of the right to food. As a result, the majority of children of Haitian asylum seekers are reportedly undernourished.

This desperate socio-economic situation reportedly left some of these persons with no other alternative but to return to Haiti where some have been subjected to torture and other forms of cruel, inhuman or degrading treatment in the hand of police forces.

Eventually, it is also reported that those asylum seekers who have been subjected to torture and other forms of cruel, inhuman or degrading treatment in Haiti -including electric shocks and severe flogging- do not receive adequate medical assistance in the Dominican Republic and remain unattended.

In view of these considerations, OMCT hopes that your Government will take immediate measures to ensure that the rights of these persons are protected and upheld, and in particular their economic, social and cultural rights, as well as their right to be protected from torture and other forms of cruel, inhuman or degrading treatment, in conformity with the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

In this respect, OMCT would urge your government to expedite the consideration of the applications of Haitian asylum-seekers and to provide them with basic social services, including adequate housing, health care and education.



We thank you in advance for your careful consideration of this matter, and remain,

Sincerely yours,

Eric Sottas  
Director