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POSITION PAPER OF THE WORLD ORGANISATION AGAINST TORTURE

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Country situations

Human Rights and Counter-Terrorism

OMCT has followed developments in the so-called "war on terror" with grave concern. Since the attacks of 11 September 2001 numerous States have adopted legislation, policies and practices that are incompatible with international law. Examples include countries from most regions of the world – Latin America, North America, Asia and the Middle East. In Colombia for instance, the government's official policy of "democratic security" has undermined respect for human rights by giving the security forces enhanced powers that are widely reported to have led to arbitrary detentions and systematic harassment of civilian populations and human rights defenders. In Saudi Arabia freedom of expression has been further curtailed resulting in detention, sometimes without trial, of persons advocating for political reform. The United States of America has systematically tortured and ill-treated detainees in the context of interrogations and has detained indefinitely, without trial, hundreds of persons captured in the war on terror. In Uzbekistan freedom of expression and association have suffered further limitations though a series of decrees issued in 2004, also in the name of fighting the "global war on terror." In Pakistan, the Anti-terrorism Act, 1997, opens the door to grave human rights violations of the right to life, the prohibition of torture, the right to liberty and security and the right to fair trail. Section 31 of this Act prevents people convicted and sentenced from appealing. Under the Qanun-e-Shahadat, 1984, a confession made before a police officer cannot be used in court as valid evidence against the accused person. This fundamental provision is suspended in section 26 of the Anti-terrorism Act.

OMCT recognises that one of a government's primary duties is to ensure the security of its citizens. Nevertheless, security should not be used as a pretext to undermine the fundamental rights and guarantees enshrined in international human rights and humanitarian law.

Unfortunately, in an age of real and perceived threats of terrorism, security concerns have clouded debates on other policy priorities, in particular, the human rights debate. The primacy of "security" has infected the very discourse of human rights advocates who have developed a tendency to begin their every statement with a reference to terrorism and, in line with this, a reiteration of the right and duty of state authorities to protect the security of their citizens. This type of discourse tends to invoke the notion of a "balance" between human rights and security concerns as if the two were competing or antagonistic concepts. Another perhaps more disturbing development is the artificial construction of a "right to security", which is propounded as if it were one of the fundamental guarantees of the international bill of human rights. In sum, the human rights discourse appears to be on the defensive at a time when the concept of security is narrowly defined to mean protection from terrorist acts. Rather, security should be considered a concept and policy priority whose very basis is the human rights commitments that States have made. To be sure, security is the condition that enables us to enjoy these freedoms. Thus security is the servant of these rights, not its master. It has a functional relation to the entire set of rights guaranteed by international human rights law. But security is not an end in itself, and certainly not an end which justifies curtailing the very rights which it is meant to guarantee, and the enjoyment of which constitute its raison d'être.

Particularly since the Abu Ghraib scandal, discussions about security and human rights have been taking place in the context of a debate on torture. This is where the concept of balance is particularly dangerous. The prohibition of torture is one of the few norms recognized under international law as an absolute or peremptory right (*jus cogens*) allowing therefore no exception under any circumstance. A state that tortures is not a servant of human dignity and human rights. Discussions about necessity, security and balance in this context undermine the very concept of a state under the rule of law.

The Prohibition of Torture and Ill-Treatment is a Peremptory Norm of International Law

The prohibition of torture and cruel, inhuman and degrading treatment or punishment is a peremptory norm of international law (*jus cogens*). It cannot be suspended under any circumstance, including armed conflict – whether international or internal – or in situations of public emergency, or for other reasons relating to national security.[1] The *Coalition of International NGOs against Torture* (CINAT)[2] of which OMCT is a member, has developed a common position on the status of the prohibition of torture and other forms of cruel, inhuman and degrading treatment or punishment under international law. OMCT hereby incorporates by reference CINAT's Position Paper, and takes this occasion to reiterate the recommendations made in that document that the Torture Resolution of the Commission on Human Rights March/April 2005 should include a clear statement that the Commission on Human Rights:[3]

- ***Reaffirms* that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and non-derogable.**

- ***Stresses* that the use of torture and other cruel, inhuman or degrading treatment or punishment is a serious violation of international law and cannot be authorized or justified under any circumstances.**

- ***Stresses* that no State may expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment.**

- ***Stresses* also that the prohibition against such expulsion covers all possible types of transfer of custody of an individual between states.**

- ***Emphasises* that States have a positive obligation to ensure that any statement that has been made as a result of torture or other cruel, inhuman or degrading treatment or punishment, whether perpetrated by or within that state or another, shall not be used or invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.**

- ***Stresses* that States through their national legal systems should ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment have access to effective remedies to obtain adequate reparation, including compensation, rehabilitation, restitution, satisfaction and guarantees of non repetition, and in this regard encourages the development of rehabilitation centres for victims of torture.**

[1] See CINAT Position Paper, Feb. 2005.
[2] CINAT is a coalition of the following seven international NGOs: World Organization Against Torture (OMCT), Amnesty International (AI), Association for the Prevention of Torture (APT), International Federation of ACAT - Action by Christians for the Abolition of Torture (FIACAT), International Commission of Jurists (ICJ), International Rehabilitation Council for Torture Victims (IRCT), REDRESS: Seeking Reparation for Torture Survivors.
[3] See CINAT Position Paper Feb. 2005.

Children's rights

When the Convention on the Rights of the Child entered into force, a number of observers were pleased to see that this instrument became rapidly nearly universal; all countries, with the exception of two, are party to the Convention. Even if the Convention has been judged as redundant by some experts, as it repeats the norms which already feature in other instruments, OMCT was pleased to see that all persons under 18 should be protected from torture, and other cruel, inhuman or degrading treatment, as well as the death penalty. The mechanism put in place gave hope that the situation of children, in particular street children or children in conflict with the law, would notably improve.

However, unfortunately these hopes were dashed. Daily, OMCT receives denunciations concerning violence where the victims are minors in detention, orphanages, homes, or victims within the framework of maintaining law and order and judicial investigations.

Added to this State violence, or violence tolerated by the State, is violence which occurs within the family. Unfortunately, a number of legislations tolerate violence, and even justify it in the name of parental authority.

OMCT would thus urge the Commission on Human Rights to:

- ***Create*** **a special mechanism on Violence against Children in order to, inter alia, solicit, receive and exchange information and communications, including individual complaints and on systematic violations, from all relevant sources, including from children themselves, on any form of violence or ill-treatment they may be subjected to, as well as its causes and consequences; to undertake investigations; and to take appropriate measures and urgent actions – including in the field of juvenile justice. This special mechanism should interact with all relevant UN mechanisms, with relevant regional bodies and with national and international NGOs, and seek the views of children, including those who are detained.**

- ***Request*** **all States to develop juvenile justice systems and special procedures in line with all relevant international standards on juvenile justice, with special support to diversion, mediation procedures and alternatives to imprisonment for all persons under 18 in conflict with the law.**

- ***Request*** **all States to report on the reality, practice and progress of juvenile justice reforms in their country to all treaty monitoring bodies, under relevant articles of each treaty.**

- ***Recognise*** **the special vulnerability of children to torture and other cruel, inhuman or degrading treatment or punishment and reiterate member States' obligations to prevent and remedy such violations.**

- ***Condemn*** **member States whose legislation still includes provisions enabling children to be subjected to corporal punishment.**

- ***Recommend*** **the Special Rapporteur on Torture to take special note of the situation of children and to actively cooperate with the independent expert on the UN Study on Violence Against Children in order to highlight and document the scope of the phenomenon of torture of children worldwide.**

Violence against Women

OMCT has long worked and continues to work to ensure the mainstreaming of gendered causes and consequences of torture and ill-treatment into the work of the various United Nations human rights procedures and mechanisms as inasmuch as international definitions of torture have been narrowly interpreted, women have been denied equal protection against torture under both international and national law resulting in widespread impunity for the perpetrators of torture and other cruel, inhuman or degrading treatment or punishment committed against women.

In every society in the world, women and girls continue to suffer from gender-based forms of violence at the hands of the State, the family and the community. Although the distinct social, cultural and political contexts give rise to different forms of violence, its prevalence and patterns are remarkably consistent, spanning national and socio-economic borders as well as cultural identities. Despite international human rights instruments and mechanisms to combat violence, still, too many States do not accept responsibility to end violence against women and allow it to occur with impunity. Some states apply violence against women and in too many, laws, policies and cultural practices discriminate against women and deny women and men equal rights, rendering women vulnerable to violence. Also, many states have failed to pass legislation specifically prohibiting and punishing violence against women. Women are often denied equal availability and accessibility to remedies and reparation.

In order to offer real protection, the international human rights instruments and mechanisms should be implemented properly at the national level, in both legislation and practice. OMCT underlines that States have a duty under international law to act with due diligence to prevent, investigate and prosecute and punish all violence against women, irrespective whether this violence is committed by public or private individuals.

OMCT calls on the Commission on Human Rights to:

- ***Support*** **the full integration of a gender perspective throughout the United Nations system, including the Special Procedures of the Commission and the Treaty Monitoring Bodies within their respective mandates and to reflect this in their reports and recommendations.**

- ***Recognize*** **links between gender and torture and ill-treatment and ensure that the gendered causes and consequences of torture and ill-treatment are fully integrated within the torture resolution.**

- ***Call on*** **States to support the work of the Special Rapporteur on violence against women, its causes and consequences, and continue to ensure that the Special Rapporteur on violence against women is provided with adequate resources and encourage continued cooperation between the Special Rapporteur and other thematic Rapporteurs.**

- ***Request*** **the Special Rapporteur on Torture to undertake a study on corporal and capital punishment and that the gender-based aspects of these forms of torture and ill-treatment be adequately addressed.**

- ***Urge*** **States to exercise due diligence to prevent, investigate and punish all acts of violence against women, including by applying relevant international law; achieving and implementing goals and commitments made in Beijing; empowering women in the political, economic, social and cultural fields; disaggregating data and information; enacting, reinforcing or amending national legislation to end discrimination against women and to criminalize all forms of violence against women; providing women equal access to justice; training of legal, judicial and health personnel; formulating and implementing plans of action with measurable targets where appropriate as well as gender-budgets and national mechanisms to monitor and evaluate measures taken.**

Human Rights Defenders

The work of human rights defenders is increasingly important in a context of growing social inequalities and violations of fundamental liberties for the sake of security concerns. But this context has also constituted an obstacle to their work due, for instance, to recurrent restrictions of the right to freedom of expression, making the message of human rights defenders difficult to disseminate and their work a dangerous activity, especially in internal conflict situations.

As witnessed by the numerous denunciations made in the framework of the Observatory for the Protection of Human Rights Defenders – a joint programme of OMCT and the International Federation for Human Rights (FIDH) – throughout 2004, human rights defenders continue to be subjected to death threats, acts of violence, torture, harassment, unlawful arrests and detentions, arbitrary criminal charges, as well as discrediting campaigns and subtle methods hindering their work in various countries, in a climate of impunity in many cases. Moreover, in 2004 the Observatory noted that women human rights defenders are particularly vulnerable to such acts of harassment and violence due to their work.

Hence, OMCT recognises the increasing importance of the work conducted by Ms. Hina Jilani, the Special Representative of the UN Secretary General on Human Rights Defenders, and of the Inter-American Commission's Special Unit on Human Rights Defenders.

OMCT welcomes the appointment of a Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights at its 35th Ordinary Session, held from 21 May to 4 June 2004 in Banjul, The Gambia.

OMCT also welcomes the setting up of the EU Guidelines on Human Rights Defenders by the Irish Presidency of the EU in June 2004.

OMCT urges the Commission on Human Rights to:

- ***Support*** **the mandate of the United Nations Special Representative on Human Rights Defenders by providing necessary material and financial support;**

- ***Call upon*** **States to fully implement the principles included in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedom through the adoption of the declaration by national parliaments, the dissemination of the declaration, the implementation of awareness-raising and solidarity campaigns with defenders, and the development of mechanisms that provide safe havens for those under threat;**

- ***Urge*** **States to ensure that national security measures comply with international human rights norms and standards and are not used to justify disproportionate limitations on freedoms or impair the legitimate work of Human Rights Defenders (freedom of association, right to peaceful assembly, freedom of expression, freedom of movement);**

- ***Encourage*** **States to invite to country visits and co-operate with the United Nations Special Representative on Human Rights Defenders;**

- ***Ensure*** **the dissemination of the Declaration at the international level by including it in the United Nations plans and training programmes for State officials, with a particular focus on the issue of women human rights defenders.**

Economic, Social and Cultural Rights

The establishment of effective international remedies for violations of economic, social and cultural rights to parallel the mechanisms existing for civil and political rights is crucial to achieving real respect for human rights. This has proved one of the most difficult challenges facing human rights advocates today. OMCT has worked to promote the drafting of an optional protocol for the protection of the rights set out in the International Covenant on Economic, Social and Cultural Rights. It promoted the optional protocol in the Commission on Human Rights and actively participated in the first two sessions of the open-ended working group. All the work so far, on the international and national level, shows clearly the need for such a mechanism and the feasibility of treating economic, social and cultural rights as human rights in the full sense, including being justiciable.

OMCT's strong support for the optional protocol is based on the inherent interdependence and indivisibility of all human rights. It is also founded on the realisation that the abolition of torture and other forms of violence depends, to a large extent, on effectively addressing the violations of economic, social and cultural rights which often are at the roots of torture, cruel, inhuman and degrading treatment or punishment, disappearances, arbitrary executions and attacks on human rights defenders. This is the clear lesson OMCT has learned in over 20 years of fighting torture.

OMCT urges members of the Commission on Human Rights to:

- ***Authorise*** **the working group to begin drafting an optional protocol which should be comprehensive in scope, cover all levels of state obligations, and include respect for the full content of each rights (the creation of second class rights or right holders should be avoided). It should also provide for individual and collective communications, include an inquiry mechanism, provide for interim measures, early warning and emergency procedures and follow up measures, and be so drafted as to enable regional and international organisations to file communications and present material to trigger inquiries. It should also address the issue of international cooperation and exclude reservations.**

Colombia

The Republic of Colombia, organised constitutionally as a social State with a rule of law, is party to a number of human rights mechanisms, and in particular to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The political constitution of Colombia recognises the complete validity of international law and furthermore recognises that in case of conflict between human rights treaties and internal law, it is the treaty that prevails, notably the articles which prohibit any suspension or limitation of fundamental rights in a state of emergency. In relation to the constitution, the Colombian legislation contains norms which prohibit torture and other cruel, inhuman and degrading treatment or punishment and which formally guarantee human rights. In spite of the political constitution and legislation, Colombia has a long history of massive and systematic abuse of human rights which has been registered over the years through debates at the Commission on Human Rights, in reports of the Office of the High Commissioner for Human rights in Colombia, in reports of the Special Rapporteur and Representatives of the Secretary General which carried out various visits *in situ.*

During the last few years, the debates of the Commission on Human Rights became concrete through the declaration of the President of this Commission in which he stated, on a number of occasions, that Colombia should recognise international obligations on human rights, and establish measures to end impunity and to protect human rights defenders, among others.

For a number of years, the Colombian government presented itself internationally as a democracy, victim of a long internal armed conflict in order to excuse the grave situation of human rights and in particular justify an impunity which exceeds 90% of violations of human rights of the population. Some sectors, such as social leaders, farmers and unionists, journalists, and members of the opposition party, were subjected to frequent threats to their lives, attacks, assassinations, forced disappearances and forced displacement. The Colombian government was unable to guarantee human rights.

In the context of internal armed conflict, grave violations of international humanitarian law were recorded by different armed actors. The number of persons affected is steadily increasing. The government of Colombia, in international meetings, in particular the Commission on Human Rights, promises each year to put in place the recommendations of monitoring bodies of the international system of human rights protection, to take significant steps to improve the situation of human rights and conquer impunity. However, these demonstrations of good will are lacking in any concrete actions. In practice, grave violations of human rights continue, covered by an unacceptable veil of impunity. OMCT registered, with great concern, the persistence of human rights violations and the attitude of the public authority which, instead of contributing to improving the situation of human rights, does nothing but contribute to the deteriorating situation. These facts have previously been made known to the Commission on Human Rights.

Furthermore, OMCT is preoccupied to note that in the context of a long armed internal conflict, the diverse actors of this confrontation continue to ignore international humanitarian law and their activities affect, in an indiscriminate manner, the civilian population. Among the worst violations of humanitarian law is the kidnapping of persons which, unfortunately, is still widely practiced. In the same way, the recruitment of minors by irregular armed groups and the imposition of taxes extorted from the inhabitants of conflict zones, constitute an obvious grave lack of respect for international humanitarian law. The current government put forward democratic security as its slogan. OMCT took note, with dismay and preoccupation, that in the name of a government programme, massive and indiscriminate arrests of members of the population and social leaders in some regions of the country were actually promoted. In the name of the programme, an informers network was created with the result that the civilian population was implicated in the conflict and that human rights defenders were put in grave danger. Indeed, the President, as much as certain high functionaries of the state, reacted to certain denunciations and evaluations of human rights by NGOs by presenting them as allies of the insurrection.

During the last year, the government opened a “discussion table” with paramilitary groups and with the condition that for the process to include guerrilla groups they must free all persons in their detention. OMCT strongly urges the Commission on Human Rights to observe and control the process of the above-mentioned discussions so that it does not become a process of legalising the impunity of members of groups which have violated international humanitarian law and/or human rights. Furthermore, OMCT demands that the Colombian government and all illegal armed forces, party to the conflict, respect the civilian population and recognise the right to neutrality of this population in the framework of this conflict.

Furthermore, OMCT invites the belligerents to look for solutions to an internal armed conflict, which has lasted too long already, and guarantee the rights of the victim to truth, justice and full and adequate reparations.

Finally, OMCT is gravely preoccupied by the discourse maintained by the government during the last few months, a discourse through which the authorities are looking to, against all evidence, deny the existence of a conflict of political and social roots. We denounce, before the international community, a discourse which disqualifies the conflict and the attitude of the State which eliminates all possibility to distinguish between fighters and dissidents, opening the door to an increase in the violation of human rights of social and political leaders, and unionists of the opposition.

As a result of its concerns with regards to the activities of the Government and of the illegal armed groups in Colombia, OMCT calls upon the Commission on Human Rights to:

- ***Pay*** **particular attention to the special situation of human rights in Colombia and the lack of implementation of the resolutions and recommendations that have been issued by a number of the United Nation's bodies;**

- ***Make*** **available all necessary resources in order to ensure that the Colombian authorities and the illegal armed groups respect human rights, as defined by international law and standards. The adherence to and implementation of recommendations made by the Office of the High Commissioner for Human Rights, the Special Rapporteurs and Representatives, the Working Groups and the treaty bodies, should be the subject of a study, which would aim at culminating in the full, effective and rapid implementation of these recommendations.**

Nepal

OMCT is gravely concern over the dramatic increase in the scale of human rights abuses since the breakdown of the ceasefire in August 2003 and the further collapse of democracy and the rule of law since February 1, 2005. Within the framework of its joint programme with the FIDH, the Observatory for the Protection of Human Rights Defenders, OMCT expresses its grave concern over the very worrying and precarious situation for human rights defenders in Nepal who are regularly subjected to arbitrary arrests, ill-treatment and torture, threats, harassment, disappearance and even summary executions. These abuses and violations are committed both by government forces and the Communist Party of Nepal (Maoist).

The human rights situation in Nepal has turned from bad to worse. Lawyers, human rights defenders, political and student leaders, as well as journalists and trade unionists were arbitrarily arrested and most of them remain currently in detention, more than two weeks after the declaration of the state of emergency. Furthermore, some leading human rights activists, journalists and trade union leaders are currently in hiding or have fled the country. In particular, defenders are facing an acute situation of insecurity due to the suspension of press freedom, the takeover of all media by the military, and the close surveillance of all activists.

The royal dismissal of the government has been accompanied by the suspension of civil liberties. Political parties were targeted, but also trade unions, with the temporary closure of public sector trade unions and the detention of senior trade union leaders across the country.

OMCT is deeply concerned about the human rights situation in Nepal and calls upon the Commission on Human Rights to adopt a resolution on Nepal calling the authorities to:

- ***Take*** **all necessary measures to guarantee the physical and psychological integrity of all people detained;**

- ***Free*** **immediately and unconditionally all human rights defenders and prisoners of opinion who are arbitrarily detained;**

- ***Lift*** **the state of emergency and to reinstate the rule of law;**

- ***Guarantee*** **the respect of human rights and fundamental freedoms in accordance with the Universal Declaration on Human Rights and other international human rights instruments ratified by Nepal;**

- ***Address*** **a standing invitation to all thematic procedures of the United Nations Commission on Human Rights.**

Furthermore, OMCT, along with other international human rights NGOs, calls upon the international community to:

- ***Suspend*** **military aid to the Government of Nepal as a means of pressure to change its human rights policies;**

and upon the Commission on Human Rights to:

- ***Adopt*** **at its forthcoming session a resolution on the human rights situation in Nepal creating a specific monitoring mechanism on that situation.**

Rwanda

The International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), in the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, wish to express their deep concerns regarding the situation of human rights defenders in Rwanda.

During 2004, the Rwandese authorities carried on their strategy of neutralising and paralysing civil society, aiming at hindering the action of independent organisations defending human rights, and more generally freedom of association, thus the very existence of an independent civil society. At the same time, human rights defenders were often subjected to threats and acts of harassment due to their activities.

At the end of 2003, a Parliamentary Commission in charge of investigating the possible spreading of the ideology of genocide, which is forbidden by the Rwandese law, had been established following the murder of several survivors of the 1994 genocide in the province of Gikongoro. On June 30, 2004, pursuant to the conclusions of that commission, which recommended the dissolution of four organisations (Forum of Rural Organisations, Parents' Memories, SDA-Iriba and 11.11.11) as well as of the Rwandese League for the Promotion and Defence of Human Rights (LIPRODHOR), accusing them of "divisions", the Parliament adopted a resolution asking the government to implement this recommendation. Moreover, some MPs asked the police and the judiciary to bring to justice leaders, executives, and members of LIPRODHOR, who were quoted by their names in the Parliamentary Commission's report, and to punish them. Considering the seriousness of this measure and of threats hanging over their security and integrity, these leaders, executives, and members of LIPRODHOR were forced into exile. In September 2004, even in exile, they were subjected to acts of harassment and arbitrary arrests. In order to put an end to the danger they were facing, all these people were taken charge of by the Office of the United Nations High Commissioner for Refugees (HCR), then settled in Europe at the end of 2004. At the same time, on September 11, 2004, a special General Assembly of LIPRODHOR was summoned in Kigali, in the absence of the elected leaders of the organisation and without any prior consultation, in order to elect a new board of directors, which was approved by the government and of which members are said to be close to the authorities.

Moreover, members of LIPRODHOR who were unable to leave Rwanda were subjected to many pressures. Mr. Pasteur Nsabimana, responsible for the consciousness-raising of politicians to human rights, and Mr. Mérari Muhumba, secretary, who did not own a passport, could not leave the country in July 2004. On December 8, 2004, they learnt through a letter from the "new" board of LIPRODHOR that they were dismissed due to "divisions". As this letter became public, the authorities took up the case and put Mr. Nsabimana and Mr. Muhumba under house arrest. At the end of December 2004, this measure was still not lifted.

Furthermore, the request of the Community of the Native Rwandese People (Communauté des Autochtones Rwandais - CAURWA), an organisation that defends the human rights of Rwandese Batwas, to obtain judicial status was refused several times, on the reason that "the objective and the name of the organisation were contrary to the constitutional principles of the Republic of Rwanda" and that it promotes "divisions". In November 2004, deeming that the organisation was still not in conformity with the Constitution, the Ministry of Justice urged the organisation to suspend its activities until the situation had been remedied. This decision is probably part of retaliatory measures against the activities of CAURWA. Likewise, during the 36th session of the African Commission on Human and Peoples' Rights in Dakar (November 23 – December 7 2004), the Rwandese government did not hesitate to publicly denigrate CAURWA before international bodies. Indeed, CAURWA's President was directly threatened by representatives of his country, after having produced an alternative report to the periodic report of Rwanda.

Finally, FIDH and OMCT express their worry regarding a bill that regulates activities of international NGOs working in the country. According to article 3 of that bill, international NGOs have to register every year at the Ministry of Local Administration, which could be entitled to have its say in the nature and activities of the organisations. The latter will also have to submit a full assessment of their activities every year to the concerned Ministries, the government being able to carry out, "each time it would be necessary" (article 21) "an audit of their activities". In November 2004, this bill, which lies within the

continuity of the Act on national NGOs that was adopted in 2001, was approved by the government and it is expected to be examined by the Parliament in 2005.

FIDH and OMCT, in the framework of the Observatory for the Protection of Human Rights Defenders, asks the Commission on Human Rights to express its deep concerns on the situation of human rights defenders in Rwanda, and urges the Rwandese authorities to:

- ***Guarantee*** **the physical and psychological integrity and security of human rights defenders in Rwanda and to put an end to any kind of harassments and threats against them.**

- ***Register*** **independent organisations for the defence of human rights that have not yet been recognised.**

- ***Invite*** **the Special Representative of the United Nations Secretary General on Human Rights Defenders to go to Rwanda.**

- ***Conform*** **to the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the United Nations General Assembly on December 9, 1998.**

- ***Conform*** **to the provisions of the International Covenant on Civil and Political Rights, as well as of the African Charter on Human and Peoples' Rights, which bind Rwanda, in particular regarding freedoms of expression and assembly.**

- ***Make*** **the declaration under article 34(6) of the Optional Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, authorising victims and NGOs to institute cases directly before the Court.**

Saudi Arabia

The pursuit of the "war on terror" which abandons the rule of law and human rights standards has had deep and far-reaching consequences in the Kingdom of Saudi Arabia. It has resulted in mass human rights violations, which include torture, arbitrary arrest, incommunicado detention, indefinite detention without charge or trial and without access to the judiciary to challenge the legality of detention.

The "war on terror" in the country has given the authorities a heavy hand to restrict freedom of expression, generating fear among journalists, government critics. The climate of fear and secrecy created by the government makes the monitoring of human rights inside the country a difficult task as people fear providing information to the outside world. Prominent public figures, perceived as critics of the state, exercise extreme caution when writing in the press, or taking part in television and radio programs in order to avoid arrest by security forces. Some have been warned not to participate in seminars and public events. Emerging press freedom is under threat. Journalists in Saudi Arabia report increased harassment and fear that they will be detained on the pretext that they "support terrorism".

For example, in March 2004, thirteen reformers who circulated a petition calling for Saudi Arabia to become a constitutional monarchy with an elected parliament were arrested. They had submitted an application to the authorities to establish a human rights group independent of the government. Eight of these were released in April and May 2004 after they signed pledges agreeing to seek the government's permission before carrying out any future public political activity. However, three, Mr. Ali al-Doumani, Dr. Matrouk al-Faleh, and Dr. Abdullah al-Hamed, refused to sign these pledges. The three have since been detained by General Intelligence (al-Mabahith al-Amma) in Ulaysha, Riyadh. Their trial began with a first public session on August 9, 2004. However, this was postponed with no further announced date.

OMCT is deeply concerned about the serious defects of the system of administration of justice which generate acts of torture and ill-treatment against persons being detained. Although article 35 of the Kingdom's code of criminal procedure, which became law in May 2002, states that any person arrested or detained shall *"be advised of the reasons of his detention and shall be entitled to communicate with any person of his choice to inform him of his arrest"* and article 116 adds that notification of the reasons for detention should be prompt, a large number of individuals who are imprisoned in Saudi Arabia are not yet convicted and may not have access to lawyers or any other form of legal representation during criminal investigations and trials. Some independent sources estimate that there are approximately 5,000 Saudi citizens in prison awaiting trial. Cases of secret trial and appeals proceedings have also been reported. Criminal trial proceedings and outcomes are surrounded with lack of transparency allowing for arbitrary and expeditious procedures.

OMCT expresses its grave concern about the abuse of detainees under interrogation which highlights the need for independent monitoring of the detention process. There is currently no provision in the Kingdom's laws to effectively protect individuals from arbitrary and unlawful detention. Although article 39 of the criminal procedure code gives officials of the Bureau of Investigation and Prosecution the power to investigate if a detention is lawful and to order the release of a detainee in such cases, article 114 of the same code also permits the Bureau of Investigation and Prosecution to authorize extension of the detention of a suspect for a period of up to six months from the date of arrest. Thus the power to detain and the power to investigate the legality of a detention are vested in the same body.

OMCT calls on the Commission on Human Rights to adopt a resolution on the Kingdom of Saudi Arabia:

- ***Denouncing*** **the widespread violations of human rights perpetrated in the country, notably torture and other forms of ill-treatment, arbitrary arrests, and incommunicado detention. The resolution should also include provisions for calling the Kingdom of Saudi Arabia to cooperate fully with thematic mechanisms of the UN Commission on Human Rights and to ratify additional international human rights treaties.**

- ***Urging*** **the ratification of the International Covenant on Civil and Political Rights and its two Optional Protocols; the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Elimination of Discrimination Against Women;**

- ***Harmonising*** **national legislation with international instruments relating to human rights which the country has ratified and implement recommendations made by UN treaty monitoring bodies and Commission on Human Rights thematic mechanisms;**

- ***Complying with*** **the provisions of the 1998 United Nations Declaration on defenders of human rights and the recommendation made in June 2002 by the Committee Against Torture regarding the adoption of *"(…) adequate measures to permit the creation of independent non-governmental organizations and the development of their activities in the area of the defence of human rights*.**

Sudan

OMCT welcomes the signature, on 9 January 2005, of the Comprehensive Peace Agreement (also known as the Naivasha Protocols) by the Government of Sudan and the Sudan People's Liberation Movement / Army (SPLM/A) - the main southern rebel group - in Nairobi, bringing an end to two decades of devastating conflict in the South of Sudan. However, the truth and reconciliation commission recommended by the agreement – albeit with no concrete provisions – will fail to alter the prevailing climate of impunity if it is not followed by measures for prosecuting those in both parties responsible for massive human rights violations during the war.

Moreover, OMCT remains gravely concerned by the human rights situation in the region of Darfur, where the Government of Sudan and its sponsored Janjaweed militias continue to be the primary authors of international human rights and humanitarian law violations so widespread and systematic that they amount, according the UN International Commission of Inquiry on Darfur, to war crimes and crimes against humanity. The indiscriminate attacks observed throughout the region this year again constitute a breach of the April 8, 2004 ceasefire agreement and include killings of civilians not taking part in the hostilities, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement. A number of the 28 urgent appeals issued by OMCT in 2004 also point to an increase in the use of violence by security forces inside IDP camps – in Darfur and southern Sudan – directed at people under their protection (IDPs) as well as humanitarian workers, along with more frequent recourse to sexual violence against women and several instances of abduction of women and children. It is furthermore estimated that to this date, nearly 1.8 million persons have been forcibly displaced by Arab militias, the overwhelming majority of whom are members of African tribes, in particular the Fur, Zaghawa and Masaalit communities.

In light of this dire situation, OMCT is alarmed by the Sudanese authorities' persistent unwillingness to protect civilian populations from the above-mentioned atrocities, coupled with their conspicuous failure to disarm the militias responsible for these crimes and bring their leaders to justice, in spite of explicit Security Council injunctions to this end. Although access to international humanitarian aid has improved, this progress was offset by a proportional increase in the number of areas and populations in need of such aid.

Finally, OMCT remains concerned by the use of the death penalty as punishment in this region: during 2004, over 200 persons were sentenced to death, including at least two children, over 20 were executed, and there were over 100 persons awaiting conviction, who face execution should their appeals fail. In addition, OMCT condemns the use of corporal punishment in the country: during 2004, two girls were sentenced to lashes of the whip, without any recourse to an appeal; over 20 persons were sentenced to amputation or cross-amputation of the left arm and right leg.

OMCT recommends that the Commission on Human Rights adopt a resolution on Sudan:

- ***Condemning*** **the current widespread human rights violations taking place in the country, notably in the Darfur region, including arbitrary arrests and detention, torture and other forms of ill-treatment, enforced disappearance, corporal punishment, extra-judicial executions and unlawful killings.**

- ***Appointing*** **a Special Rapporteur on Sudan, whose mandate was discontinued in 2003 and has been sorely missed since that time. The mandate of the Special Rapporteur should explicitly call on such persons to examine the human rights situation in the Darfur region as well as to report on the increasing use of sexual violence against women, notably in IDP camps.**

- ***Urging*** **the Sudanese authorities to disarm the militias in the Darfur region; to halt attacks upon civilians by its armed forces; to create conditions of security permitting displaced civilians to return safely and voluntarily to their areas of origin; to abolish legal provisions that permit the detention of individuals without judicial review and grant officials immunity from prosecution, while taking steps to enhance the capacity and independence of the judiciary; to allow for unlimited access to the region by human rights and humanitarian organisations; to issue standing invitations to all of the Commission's mechanisms; and to ratify fundamental human rights treaties such as the Convention against Torture and**

Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the Protocol to the African Charter of Human and Peoples' Rights (ACHPR) on the Rights of Women in Africa, the Optional Protocol to the Convention on the Rights of the Child (CRC) on the involvement of children in armed conflict, the Rome Statute of the International Criminal Court (ICC), the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

- ***Encouraging*** **the establishment, in accordance with the Naivasha Protocols, of an independent commission inquiring into the crimes committed during the war in the South of Sudan and the Nuba Mountains; a United Nations body shall be the prime supervisor of this commission, working in cooperation with the Government of Sudan, the SPLM/A and all other political bodies established by the Naivasha Protocols.**

Togo

The signatory NGOs, Agir Ensemble pour les Droits de l'Homme, the International Federation of Action by Christians for the Abolition of Torture (FIACAT), the International Federation for Human Rights (FIDH), Franciscans International, the World Organisation Against Torture (OMCT), in conjunction with ACAT-France, Secours Catholique - Caritas France and Survie, which have come together in a Coalition of NGOs for Togo, wish to alert the Human Rights Commission of the disturbing human rights situation in Togo, and call on the Commission to adopt a resolution on Togo.

On 5 February 2005, a few hours after the death of President Eyadéma was announced, the army transferred power to his son, in breach of the Constitution. In an attempt to legitimise this coup d'état, the National Assembly adopted by a show of hands a series of amendments to the Constitution, contravening article 144 of the Constitution, which stipulates that the Constitution cannot be amended during a period of transition. These amendments affect article 65 which governs the transition period: the organisation of free and pluralist elections within 60 days is cancelled, whilst the interim period, during which the president of the National Assembly assumes presidential duties, is extended "to the term of his predecessor's mandate", in this case to June 2008. For these arrangements to benefit Fauré Gnassimgbé, the deputies elected him as president of the National Assembly to replace the current president, Fambaré Natchaba Ouattara.

The Coalition condemns this coup d'état and the amendments made to the Constitution contrary to the rights guaranteed by the Universal Declaration on Human Rights, the International Covenants of 1966, the African Charter of Human and Peoples' Rights, the Bamako Declaration and the provisions made in the so-called Cotonou Agreements, in particular article 96.

Moreover, the Coalition is greatly disturbed by the serious violations of human rights observed since the coup d'état: banning of all public demonstrations for two months, dispersing a student demonstration using live ammunition, suppression of all radio broadcasts on the political situation, and intimidation of journalists.

The military coup and the resultant disturbing human rights situation render meaningless any commitments made by the national authorities in their political dialogue with the European Union under article 96 of the Cotonou Agreement to enhance the State of law and establish prompt, open and credible dialogue between politicians and the civilian population.

In this context, despite encouraging moves made by the Togolese authorities (partial removal of the usual obstacles preventing opposition political parties to hold meetings; adoption on 24 August 2004 of a new press code which decriminalises violations of press law and abolishes custodial sentences for defamation and attacks on personal honour; etc.), the adoption on 19 January 2005 of a new electoral code, entrusting the organisation of elections to the Ministry of the Interior, throws doubt over the likelihood of transparency of future elections.

Continuing violations of human rights remain a cause for great concern:

- ***Violation of the right to life***

On 20 November 2004, as a result of misinformation from the public media and manipulation by the authorities, a large crowd had gathered in front of the residence of the Head of State to greet what was publicised as a decision by the European Union to restart economic cooperation with Togo.

According to several different sources in agreement, there was a disturbance in the crowd, resulting in around 60 dead and over 200 injured, due to Lomé II security forces' failure to prevent this tragedy.

- ***Torture, arbitrary arrests and appalling prison conditions***

As stated in several recent reports by the organisations signatory to this intervention, torture and other forms of punishment or cruel, inhuman and degrading treatment are commonly used during arrests, in detention centres such as police and gendarme stations and army camps.

Arbitrary arrests are also frequent. Our organisations have established that although the Togolese authorities seemed to bow to pressure from the EU to free several political prisoners, they managed a selective process, deliberately keeping hundreds of people locked up, including many military personnel, purely for their opinions.

Prison conditions are particularly disturbing. Overpopulation in detention centres is aggravated by an ageing infrastructure and appalling sanitary conditions and levels of hygiene. Deaths occur regularly as a result of the extreme conditions and harsh treatment of detainees.

- ***Repression of freedoms of expression, assembly, information and opinion***

Despite the recent adoption of a new press code deemed more respectful of freedoms of expression and information, journalists, trade unions and political parties are still being subjected to intimidation, death threats and judicial persecution for their activities.

Furthermore, the State media, and Togolese television in particular, leave little airtime for opposition parties and are becoming platforms for repeated denigration of opposition politicians and representatives of civilian society, all under the watchful eye of the High Audiovisual and Communications Authority (HAAC), reputed for the abusive sanctions it imposes on the private media.

- ***Persecution of civilians***

Civilians are having to put up with almost daily interference from the authorities in going about their normal business: semi-permanent police surveillance, intimidation, persecution, denigration, arbitrary arrests and harassment. Civilians are also discriminated against when it comes to schooling, entitlement to jobs or promotion in public office.

- ***Violation of economic, social and cultural rights***

Many Togolese have not received their salaries, family allowances or pensions for months. Yet any attempt to speak out or demand better working conditions is seen as political manipulation and considered an attack on State security, even though articles 38 and 84 of the Constitution expressly acknowledge trade union rights.

The implementation of the right to education has suffered from the absence of a coherent strategy from the State. While the percentage of children in education is high in urban areas, it remains low in rural areas, especially in the savannah region to the north of the country. The authorities should seek to improve poor conditions of study at the university, instead of regarding students who speak up about them as enemies of the government. The freedom to teach has always been difficult to implement because of poor management practice and the semi-permanent presence of the security forces on university campus at Lomé, to prevent any student demonstrations.

Therefore, the Coalition of NGOs on Togo calls on the Commission on Human Rights to adopt a resolution:

- ***Condemning*** **the coup and arbitrary amendments made to the Constitution, and demanding a return to Constitutional rule.**

- ***Calling*** **for a return to normal transition protocol in accordance with the Togolese Constitution and the prompt organisation of free, transparent and pluralist elections.**

- ***Appointing*** **a Special Rapporteur to lead an enquiry into the human rights situation in Togo and to report to the next session of the Human Rights Commission.**

while calling on the Togolese authorities to :

- ***Invite*** **the Working Group on Arbitrary Detention, the Special Rapporteur on Torture, and the Special Representative of the Secretary-General on Human Rights Defenders.**

- ***Ratify*** **the international and regional instruments on the protection of human rights and the struggle against impunity.**

- ***Create*** **an independent body to harmonise international instruments ratified by Togo with national legislation, to oversee the submission of initial and periodic reports to the Treaty bodies and ensure that the recommendations and conclusions made therein regarding Togo are implemented.**

- ***Make*** **a declaration under article 34.6 of the Additional Protocol to establish the African Court of Human and Peoples' Rights to enable Togolese nationals and non-governmental organisations to use this instrument immediately in the struggle against impunity.**

- ***Respect*** **all commitments in full as made on 14 April 2004 at the start of discussions with the European Union, under article 96 of the Cotonou Agreement.**

- ***Launch*** **immediately impartial investigations into all cases of suspicious death of detainees and allegations of torture.**

- ***Pursue*** **through the courts all who have engaged in torture and to act according to the stipulations of the Convention Against Torture to which Togo is party.**

- ***Provide*** **adequate reparation to victims of torture and their families, and to put into place official programmes of reparation, rehabilitation and readaptation of victims.**

- ***Considering*** **that prison conditions could be described as cruel, inhuman or degrading treatment, undertake immediately the reforms necessary to improve living conditions.**

- ***Respect*** **all principles in the United Nations Declaration of 1998 on Human Rights Defenders.**

- ***Guarantee*** **all fundamental freedoms of expression and information, in accordance with the provisions set out in the International Covenant on Civil and Political Rights.**

Turkmenistan

"Turkmenistan is one of the most repressive countries in the world. The government systematically violates virtually all civil, political, economic, social, and cultural rights. Little has changed in Turkmenistan's human rights record since the EBRD adopted its country strategy for Turkmenistan in 2002. If anything, conditions have worsened" reads the "Strategy for Turkmenistan" of the European Bank for Reconstruction and Development (EBRD) for 2004.[4] Furthermore, the EBRD notes that the Turkmen government "(...) has failed to comply with the resolutions adopted by the U.N. Commission on Human Rights and the General Assembly in 2003 and 2004."[5]

Torture and ill-treatment of detainees is systematic. The most commonly used methods include the use of electro-shocks, beating with rubber truncheons, and placing gas masks over the head and cutting the flow of oxygen, leaving many handicapped for life. In 2004 credible reports emerged not only of police and security agents' torturing suspects but also, a number of deaths in custody resulting from such treatment. Different from many other countries where torture is used for extracting confessions or information, in Turkmenistan torture has an additional function. It is used as an additional punishment after the "confession" has been signed. Observers can witness still drowsy prisoners reading pre-written confessions live on TV. A credible source of such reports is the family of the victim, who are sometimes made to listen to their loved ones being tortured in the next room.

Conditions are poor in prisons, which are unsanitary, overcrowded and unsafe. Disease, particularly tuberculosis, is rampant, in part because prisoners who were ill were often not removed from the general prison population. Food is poor and prisoners depend on relatives to supplement inadequate food supplies. Facilities for prisoner rehabilitation and recreation are extremely limited. The Turkmen government has systematically refused access to pre-trial and prison facilities to any credible international organisation or foreign state representatives and considers such access as interference in their internal affairs. The Government claimed that granting access to prisoners would be an admission that there were problems with the country's penal system.

Civil liberties are not respected. Fair trials are non-existent and there is no redress for victims or punishment for the perpetrators. Various local and international monitors have reported victims of torture appearing in courtrooms with broken arms or legs, with lost sight, without teeth and various other clear marks deserving close observation by the judges, but allegations of torture, regardless of proof, are usually ignored. Civil society groups operate in full secrecy and almost underground, and are regularly harassed by security forces. Censorship is institutionalised and independent reporting eliminated. Information is limited and disclosure is risky as potential "informers" might be disclosed, arrested and tortured. The Turkmen government has not responded to the numerous calls made by intergovernmental organisations, foreign states and international human rights groups. The Turkmen government has refused to cooperate with the international community, and although it has ratified most of the key U.N. human rights treaties, it has systematically failed to implement them fully.

In view of the above-mentioned situation, OMCT calls on the Commission on Human Rights to:

- ***Adopt*** **a resolution condemning the current widespread violations of human rights taking place in Turkmenistan, including the systematic use of torture and other forms of ill-treatment, arbitrary detentions, restrictions on the freedoms of thought and expression and urges the Government of Turkmenistan to comply with the resolutions adopted by the U.N. Commission on Human Rights and the General Assembly in 2003 and 2004.**

[4] Document of the European Bank for Reconstruction and Development, "Strategy for Turkmenistan. Report on the Invitation to the Public to Comment."
[5] Ibid.

United States of America

The shocking revelations that Americans have systematically tortured and ill-treated detainees at Abu Ghraib (Iraq), Guantánamo (Cuba), Baghram (Afghanistan) and elsewhere, and that these abuses resulted directly from policies set at the highest levels of the U.S. government constitutes a stunning setback in the global struggle for human rights, and especially, the struggle to ensure universal adherence to the peremptory prohibition of torture and ill-treatment.[6] Historically, the United States has been the principal global champion of democracy and rule of law. As such, it has a special responsibility to set an example for other countries where respect for these principles remains problematic. Continued failure by the United States to adhere to well established principles of international law in the prosecution of what it calls the "global war on terror" will undoubtedly have a damaging effect on the international human rights system.

OMCT is gravely concerned that in the year since the abuses of Abu Ghraib first came to light, little has been done to hold accountable those persons in the U.S. government who were responsible for setting the policies and giving the orders which put the United States in serious breach of its obligations under international law. Despite statements of top government officials that the U.S. "will leave no stone unturned to make sure that justice is done"[7] not a single high level official[8] has been charged with wrongdoing or is even under investigation. This lack of accountability contributes to the perception that respect for human rights is neither a domestic nor international policy priority for the current U.S. administration, despite its many public statements to the contrary.

In this connection, OMCT is particularly concerned by the fact that the U.S. government continues to refuse to apply international human rights and humanitarian law principles in the conduct of the "global war on terror" particularly in relation to detainees it is holding in many different countries including at secret locations. The U.S. practice of detaining persons indefinitely, without charge or trial, or access to counsel has placed hundreds, possibly thousands of detainees in a "legal black hole" in violation of their fundamental procedural due process rights. OMCT has consistently maintained that incommunicado detention exposes the detained person to a particularly heightened vulnerability to torture and ill-treatment.[9] The systematic brutalisation of Arab and Muslim detainees at the hands of their U.S. captors bears out this proposition.

Background

An accumulating body of evidence shows that torture and ill-treatment of detainees at U.S. detention centres became systematic because these practices were not only endorsed, but also authorized at the highest levels of the U.S. government as a means of extracting "actionable intelligence" from persons captured in the war on terror, especially in respect of "high value detainees". As early as January 2002, White House Counsel Alberto Gonzalez (now Attorney General) advised President Bush that the global war on terror "presents a new paradigm [that] renders obsolete Geneva's strict limitations on the questioning of enemy prisoners".[10] This opinion was followed by a flurry of other legal interpretations (the "torture memos") emanating from the highest levels of the U.S. government which placed detainees outside the protections of both international human rights and humanitarian law and gave a new definition of torture so restrictive as to make the prohibition meaningless. The torture memos also outlined legal strategies and hypothetical defences describing how American officials could avoid domestic and international liability for acts of torture and ill-treatment in the event that they were brought before a domestic or international tribunal such as the ICC.[11]

The "torture memos" came to light not because the administration released them but because they were leaked to the press or because the U.S. government was compelled to disclose them by court order.

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[6] See *CINAT Recommendations for the Torture Resolution of the UN Human Rights Commission*, Feb. 2005 for legal analysis of the *jus cogence* nature of the prohibition of torture and ill-treatment under international law.

[7] Colin Powell at the United Nations, 4 May 2004.

[8] 130 mostly low-ranking members of the military have faced or are facing abuse related disciplinary or court martial charges. Brian Knowlton, *Will Abu Ghraib Prosecution go Higher?*, International Herald Tribune, 20 January 2005.

[9] See *Position Paper of the World Organization Against Torture, 2004 United Nations Commission on Human Rights 60th session (March 15th to April 23rd 2004) Geneva*. OMCT is of the opinion that prolonged incommunicado detention may in itself amount to torture or cruel, inhuman or degrading treatment.

[10] Memorandum of Alberto Gonzalez to President Bush, 25 January 2002.

[11] E.g. the "Yoo Letter" 1 August 2002 addressed to Alberto Gonzalez, and the "Bybee Memorandum", Deputy Attorney General, Department of Justice, 1 August 2002.

There are certainly many other documents in the hands of the U.S. government which, if disclosed, would provide a better understanding of how torture came to be permitted as a matter of policy in the Bush administration.

Perhaps one the most notorious of the torture memos is the 1 August 2002 memorandum written by Jay Bybee, Assistant Attorney General in the Office of Legal Counsel, U.S. Department of Justice, in response to a request by the White House for legal guidance on permissible interrogation tactics under the U.N. Convention against Torture and other binding international law obligations.[12] Legal and other commentators have described this memorandum as a roadmap to circumvent the prohibition on torture[13] because it 1) defined torture so narrowly as to permit virtually any type of violent abuse which does not kill the victim[14]; 2) argued that the Convention against Torture does not prevent U.S. officials from employing cruel, inhuman, or degrading treatment as interrogation tactics; 3) argues that the prohibition against torture does "not apply to interrogations undertaken pursuant to [the President's] Commander-in-Chief authority"[15]; 4) argues that "even if an interrogation method might violate [the torture statute] necessity or self-defence could provide justifications that would eliminate any criminal liability."[16]

The Bybee Memo was used by the Pentagon to draw up a list of permitted interrogation techniques[17] which included 1) the use of stress positions, 2) exploitation of detainees individual phobias to induce stress (e.g. use of dogs), 3) prolonged isolation, 4) sensory deprivation 5) hooding during transportation and interrogation, 6) forced nudity, 7) use of physical contact such as pushing around, poking, grabbing etc. Another technique reportedly approved in the same document is "waterboarding" a technique known in Latin America as "*el submarino"* whereby the detainee is repeatedly submerged in water until he or she is close to drowning, and then revived.[18] The Pentagon document does not place any limitations regarding the simultaneous or consecutive use of any or all of the above techniques. As widely reported in the press,[19] the techniques approved for use in Guantánamo were later used in Afghanistan and Iraq. In Iraq, torture techniques were used on members of the regular Iraqi army, including two cases where U.S. internal investigations established that Iraqi officers were tortured to death. At least in the case of the Iraqi officers, the U.S. has never expressed any doubts as to the applicability of the Geneva conventions.

The fact that the U.S. administration made significant efforts to engineer legal interpretations circumventing the prohibition of torture and ill-treatment may explain why U.S. personnel did not stop torturing detainees even after the first public revelations of the abuses at Abu Ghraib in April 2004.[20]

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[12] The Memorandum, addressed to White House Counsel Alberto Gonzalez, starts: "You have asked for our Office's views regarding the standards of conduct under the Convention Against Torture … As we understand it, this question has arisen in the context of the conduct of interrogations outside of the United States." *See* memorandum at: http://www.humanrightsfirst.org/us_law/etn/gonzales/memos_dir/memo_20020125_Gonz_Bush.pdf

[13] Harold Hongju Koh, Dean of Yale Law School and law professor was invited to testify at the Senate confirmation hearings of Alberto Gonzalez. He made the following statement about the Bybee Memorandum: "… in my professional opinion, the August 1, 2002 OLC Memorandum is perhaps the most clearly erroneous legal opinion I have ever read … [it] is a stain upon our law and our national reputation. A legal opinion that is so lacking in historical context, that offers a definition of torture so narrow that it would have exculpated Saddam Hussein, that reads the Commander-in-Chief power so as to remove Congress as a check against torture, that turns Nuremberg on its head, and that gives government officials a license for cruelty can only be described … as a 'disaster.'"

[14] "Physical pain amounting to torture must be equivalent in intensity to the pain accompanying serous physical injury, such as organ failure, impairment of bodily function, or even death" and "even if the defendant knows that severe pain will result from his actions, if causing such harm is not his objective, he lacks the requisite specific intent even though the defendant did not act in good faith. Instead, a defendant is guilty of torture only if he acts with the express purpose of inflicting severe pain or suffering on a person within his custody or physical control." Bybee Memo, p. 1

[15] Bybee Memo, p. 31

[16] Bybee Memo, p. 46

[17] Defence Department's *Working Group Report on Detainee Interrogations in the Global War on Terrorism: An Assessment of Legal, Historical, Policy, and Operational Considerations* (April 4, 2003) contains extensive verbatim excerpts from the Bybee Memo.

[18] Donald Rumsfeld, *Memorandum for Commander Joint Task Force 170*, 11 October 2002.

[19] E.g. Kate Zernike, *Files Show Early Concern on U.S. Prisoner Abuse*, New York Times, 7 January 2005.

[20] Torture was also employed long before the April 2004 revelations of abuse at Abu Ghraib as reported in the New York Times: " When the Abu Ghraib scandal broke last spring, officials characterized the abuse as the aberrant acts of a small group of low-ranking reservists, limited to a few weeks in late 2003. Buth thousands of pages in military reports and documents released under the Freedom of Information Act to the American Civil Liberties Union in the past few months have demonstrated that the abuse involved multiple branches of the military, in Afghanistan, Iraq and Guantánamo Bay, *beginning in 2002 and continuing even after Congress and the military had begun*

Instead, as evidenced by a leaked ICRC report, torture and ill-treatment continued at Guantánamo where the methods observed by the ICRC in June 2004 had become even "more refined and repressive"[21] than what the ICRC had seen on its prior visits. In its report, the ICRC is said to have described how interrogators used medical information to exploit detainees' physical and psychological weaknesses during interrogation. The conclusion of the ICRC that the tactics used, including "humiliating acts, solitary confinement, temperature extremes, use of forced positions" were "tantamount to torture" was widely publicised when the document was leaked to the press at the end of November 2004.[22]

On 30 December 2004 the Bybee Memo was replaced with another Justice Department memo giving a more expansive definition of torture but failing still to repudiate the argument that the President's authority as Commander-in-Chief is unconstrained by laws prohibiting torture.[23] Nevertheless, the U.S. administration has still not retreated from its position that the Geneva Conventions are not applicable in the conflict with Al Qaeda, and has also expressed the unprecedented opinion that the U.S. is not bound to respect the U.N. Convention against Torture's prohibition on cruel, inhuman and degrading treatment, in respect of aliens outside the United States' borders. This interpretation of U.S. human rights obligations effectively authorizes the CIA and other U.S. personnel to continue brutalizing detainees to extract information as long as the treatment stops short of torture.[24] In Gonzalez' written responses to questions posed by Senators during his confirmation hearings, the new Attorney General wrote: "[T]he Department of Justice has concluded that there is no legal prohibition under the Convention Against Torture on cruel, inhuman or degrading treatment with respect to aliens overseas."[25] In fact, shortly before the Gonzalez confirmation hearings the Bush administration had moved quickly to scuttle legislation then pending before Congress that would have explicitly prohibited the CIA from employing torture and cruel, inhuman and degrading treatment and required the CIA as well as the Pentagon to report to Congress on its interrogation methods.[26] Condoleeza Rice, then National Security Advisor and now Secretary of State, wrote to members of Congress that she opposed the legislation on the grounds that it "provides legal protections to foreign prisoners to which they are not now entitled under applicable law and policy."[27]

In view of the above, there can be little doubt that the policies of the current administration to abandon international human rights and humanitarian law principles in the conduct of its "war or terror" is linked to the abuses which occurred at Abu Ghraib, Guantánamo, in Afghanistan and elsewhere. These abuses include hundreds of detainee and witness accounts of torture contained in the various internal investigations,[28] leaked ICRC reports, and other documents the U.S. government has been compelled to release. According to the Pentagon, more than 130 mostly low-ranking military personnel face disciplinary or legal charges for abusing detainees.[29] Moreover, there are multiple cases where American investigators have established that detainees were tortured to death by their captors.[30] By June 2004, the

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investigating Abu Ghraib" (emphasis added). Kate Zernike, *Files Show Early Concern on U.S. Prisoner Abuse*, New York Times, 7 January 2005.

[21] Neil Lewis, *Red Cross Finds Detainee Abuse in Guantánamo*, New York Times, 30 Nov. 2004

[22] Neil Lewis, *Red Cross Finds Detainee Abuse in Guantánamo*, New York Times, 30 Nov. 2004.

[23] The fact that the memo was later retracted does not diminish the criminal liability of those persons who created it for the abuses which resulted from the document. It should be recalled that this memo remained binding executive interpretation of the law for more than 2 years and was not repudiated until it became public, and two weeks before the man would solicited it was to be confirmed as Attorney General of the United States.

[24] Eric Lichtblau, *CIA Called Exempt from Torture Ban*, New York Times, 20 January 2005.

[25] Written response to question posed by Senator Feinstein requesting clarification of this issue. See Human Rights First, analysis of Gonzalez' responses at http://www.humanrightsfirst.org/us_law/etn/gonzales/statements/hrf-opp-gonz-full-012405.pdf

[26] Douglas Jehl and David Johnston, *Congress Killed Measures to Ban U.S. Use of Torture*, New York Times, 14 January 2005: "At the urging of the White House, congressional leaders scrapped a legislative measure last month that would have imposed new restrictions on the use of extreme interrogation measures by U.S. intelligence officers, congressional officials say … The Senate had approved the new restrictions, by a 96 – 2 vote, as part of the intelligence reform legislation. The restrictions would have explicitly extended to intelligence officers a prohibition against the use of torture or inhumane treatment, and it would have required the CIA as well as the Pentagon to report to Congress about the methods they were using.".

[27] See supra, *Congress Killed Measures to Ban U.S. Use of Torture*, New York Times, 14 January 2005.

[28] Mark Danner, *Will Americans all Become Torturers*, New York Times, 7 January 2005.

[29] Brian Knowlton, *Will Abu Ghraib Prosecution go Higher?*, International Herald Tribune, 20 January 2005.

[30] According to the *Final Report of the Independent Panel To Review DoD Detention Operations*, August 2004, (the "*Schlesinger Report")* at least 5 prisoners have been tortured to death by U.S. personnel and that at least 30 prisoner deaths have at some point been under investigation by U.S. authorities.

U.S. Army admitted that at least 39 detainees in Iraq and Afghanistan had died in detention, some while under interrogation.[31]

The current administration has also engaged in other practices which stand the prohibition of torture on its head such as the "rendition" of detainees to other countries where torture is known to be routinely practiced so as to be able to extract information from them.[32] The U.S. government has also disappeared at least a dozen "high value" detainees who are being held at secret locations with no due process guarantees whatsoever and where they have reportedly been tortured.[33]

U.S. actions, practices and policies are undermining global efforts to end the abhorrent practice of torture and ill-treatment around the world. For this reason, the OMCT calls on the Commission on Human Rights during its 61st Session to adopt a resolution on the United States:

- ***Condemning* the widespread use of torture and cruel, inhuman and degrading treatment of detainees at Abu Ghraib (Iraq), Guantánamo, Baghram (Afghanistan) and other U.S. detention centres as a serious breach of international law.**

And urging the U.S. Government to:

- ***Immediately bring itself* into compliance with its obligations under international human rights and humanitarian law obligations in respect of persons in its custody.**

- ***Grant* the ICRC immediate access to all facilities where it is holding detainees.**

- ***Put* an immediate end to the illegal practice of disappearing detainees to secret detention centres, and allowing immediate ICRC access to these detainees.**

- ***Put* an immediate end to the illegal practice of rendering detainees to third countries where they are tortured to extract information.**

- ***Initiate* a prompt and impartial investigation into the torture and ill-treatment of detainees in its custody and hold criminally accountable those persons found to be responsible for the abuses.**

[31] Anthony Lewis, *Making Torture Legal*, The New York Review of Books, 15 July 2004.
[32] Examples include Mamdouh Habib who was turned over by U.S. authorities to the Egyptians for torture. See Jane Meyer, *Outsourcing Torture, The Secret History of America's "extraordinary renditions"* http://www.newyorker.com/printable/?fact/050214fa_fact6.
[33] Khalid Shaikh Muhammad, Ramzi bin al-Shibh, Hambali, Abd al-Rahim al-Nashiri and others. See *The United States' "Disappeared"; the CIA's Long-Term "Ghost Detainees"*, Human Rights Watch (HRW), October 2004.

Uzbekistan

Despite some minor progress such as the invitation to the Special Rapporteur on torture to visit the country (November 2002), and the registering of two independent human rights organisations, in March 2002 and March 2003 respectively[34], OMCT considers that Uzbekistan's human rights record continues to fall well below acceptable standards: opposition parties are denied registration and their members face harassment and sometimes arrest, there is increasing pressure on NGOs and civil society generally; freedom of expression remains extremely limited and the practice of torture is widespread.

Restrictive legislation undermining freedom of association and expression as well as human rights defenders' freedom of action

Despite the removal of formal censorship, newspapers and broadcasting remain almost exclusively under state control. In February 2004 the definition of crime of treason stated in article 157 of the Criminal Code was extended to the dissemination of secret information to organisations, thus opening the door for repressive measures and criminalisation of human rights NGOs and defenders in contact with international NGOs or bodies.

Legal requirements for registration operate as a restriction on the activities of NGOs, and new restrictive measures were taken by the Uzbek government in the year 2004 in order to keep a tight control over activities of foreign and local NGOs operating in Uzbekistan and of human rights defenders (HRDs) acting through NGOs[35]

Many of these restrictive measures were justified on the basis of the "global war on terror", boosting regular cases of intimidation and harassment including violent dispersal of peaceful demonstrations are reported.[36]

Widespread practice of torture and ill-treatment

Systematic torture practices are probably one of the most serious human rights violations in Uzbekistan. Despite severe international criticisms to the Uzbek government on this issue, the situation has not improved at all, on the contrary.

Torture is reported to be used at all stages of criminal procedure starting from first moments of detention, police interrogations, prisons, etc. but in particular during the 72 hours pre-trial detention period, during which prisoners are usually kept incommunicado. The vast majority of cases are "ordinary people" from economically disadvantaged or marginalised/targeted groups (such as alleged members of Muslim movements).

Despite a legislation that provides for a framework for detention conditions, in practice they still fall far from minimum standards[37], and deaths in custody continue to be reported[38], the exact number being difficult to evaluate due to the lack of recording by the Uzbek authorities, intimidation against victims' families, as well as lack of independent forensic medical examination.

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[34] These are 'Ezgulik' and the *Independent Human Rights Organisation of Uzbekistan*.

[35] A December 2003 decree requested international NGOs operating in Uzbekistan to re-register with the Ministry of Justice and the Ministry of Foreign Affairs; as a consequence the Open Society Institute section based in Tashkent was shut down on April 14, 2004 and the accreditation for 2004 for the independent media Institute for War and Peace Reporting (IWPR) was refused – *see Observatory open letter to the Uzbek authorities, May 26th 2004*.
By decree No 56 (February 2004) all funds that NGOs receive from international donors are to be transferred to the National Bank or to Asaka bank, and NGOs' access to these funds is depending on permission by the government – *see Observatory open letter to the Uzbek authorities, Aug. 13th 2004.*
A decree, effective since May 27, 2004, imposes re-registration of all Women NGOs with the Women's Committee, a governmental body, but without stipulating the criteria determining a "Women NGO" *see Observatory open letter to the Uzbek authorities, Aug. 13th 2004.*
A resolution of the Cabinet of Ministers N°275, adopted on June 11, 2004, requires all NGOs to obtain licenses from the authorities for the printing of any publications and brochures.

[36] Such as the peaceful demonstration organised in November 2004 by the Human Rights Society of Uzbekistan (HRSU). On page 2 I.

[37] See for example OMCT Urgent appeal UZB 310703.VAW (VIOLENCE AGAINST WOMEN).

[38] See for example OMCT Urgent appeal UZB 020603.

Moreover the Uzbek legislation does not provide with any protection against "refoulement" of asylum-seekers or refugees toward countries where they risk to be submitted to torture or ill-treatment. Indeed, "The Republic of Uzbekistan remains the only country in the CIS which has not ratified any international refugee instrument, adopted any national legislation or established any administrative asylum procedure.[39]"

Lack of independence of the judiciary and access to fair trial

The executive power visibly dominates the judiciary. Indeed the Uzbek President appoints and dismisses judges from the regional, district and city courts of law, and also selects and dismisses the provincial governors. Moreover, corruption is also widespread among lawyers, judges and prosecutors, linked to the lack of political independence and low salaries.

The existing non-judiciary mechanisms for the protection of human rights, such as the Ombudsman and the National Centre on Human Rights are neither independent at all: the Ombudsman is under control of the executive power and the National Centre is a purely governmental agency, whose main activities are the drafting of reports to international organisations on behalf of the government and other declarative issues in the area of human rights[40].

Access to legal counsel/lawyer is guaranteed by the Uzbek legislation. However, in practice these provisions are not respected, and law enforcement personnel employ all means at their disposal to deny persons in detention access to a lawyer while trying to gather evidence for prosecution through various unlawful methods, including torture.

Last but not least, the Uzbek legislation and case law provide that judges should rule out any evidence obtained by means of torture[41]. In practice, judges regularly ignore complaints of torture and continue to use evidences obtained under torture as a basis for convictions[42]. Obtaining redress and reparation in cases of torture is almost impossible. Courts decline the absolute majority of petitions for initiating a criminal case submitted by the defence against state officials who use such methods. Only in exceptional circumstances criminal cases are filed and, as a rule, those responsible get very light, purely symbolical, punishment[43].

OMCT calls on the Commission on Human Rights during its 61st session to adopt a resolution on Uzbekistan urging the authorities to :

- ***Ensure* protection of HRDs against any violence, threats or other forms of harassment by public or private actors, and withdraw all measures that restrict HRDs and NGOs' freedom of action, ensuring the existence and effective operation of civil society groups;**
- ***Amend* the recently adopted regulations that are restricting freedom of association in Uzbekistan, in a way that complies with the 1998 UN Declaration on Human Rights Defenders;**
- ***Take* all necessary measures to ensure the independence of the judiciary both in law and in practice, in conformity with the international standards (in particular the Basic Principles on the Independence of the Judiciary) ;**
- ***Ensure* the right to a fair trial and public hearing by competent, independent and impartial tribunals and guarantee the respect of procedural rights immediately after arrest and during all stages of detention, in accordance with international standards and establish a**

[39] COUNTRY OPERATIONS PLAN, Executive Committee Summary, Country: Uzbekistan, Planning Year: 2005. http://www.unhcr.org/, consulted on December 10th 2004.
[40] US department, Country Report on Human Rights Practices 2003.
[41] Article 95 of **the** Criminal Procedural Code prohibits **the use of** evidences obtained by illegal means, and a resolution of the Supreme Court states that evidences obtained through human rights violations, including torture, **do** not have legal value and must not be considered.
[42] See for example recent OMCT Urgent appeal UZB 100904-1 dated 13.01.2005.
[43] See for example the case of Agzam Sharipov, a minor who lost his leg as a result of torture. The law enforcement officer responsible for the torture was subjected to 10 years sentence. However, the police officer is on search and has not been arrested up to date.

fully independent complaints mechanism outside the procuracy for the persons held in custody;

- ***Establish*** **a specific criminal procedure law to deal with minors in accordance with international standards as well as separate juvenile courts;**
- ***Ensure*** **prompt, thorough and impartial investigations in all cases of allegations of torture and the prosecution and punishment, as appropriate, of the persons responsible by independent bodies, and guarantee in practice that no evidence obtained under torture be used in court cases;**
- ***Implement*** **the UN recommendations related to torture and ill-treatments, and in particular the 2001 United Nations Committee Against Torture recommendations and those of the Special Rapporteur on Torture in 2002;**
- ***Sign and ratify*** **the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and make the relevant declarations under art.21 & 22 of the CAT;**
- ***Invite*** **the Special Representative of the Secretary General of the United Nations on Human Rights Defenders and the United Nations Independent Expert on the independence of judges and lawyers to visit Uzbekistan, as requested.**

Zimbabwe

During the 60th session of the United Nations Commission on Human Rights, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), in the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, had already expressed their concern regarding the situation of human rights defenders in Zimbabwe. In particular, the Observatory emphasised that Zimbabwean authorities were using a broad range of legal provisions in order to silence defenders, thus threatening their freedoms of expression, association and assembly through the adoption of new laws that are particularly restrictive. The Observatory also deplored that the lack of independence of the judiciary, the corruption of judges and systematic postponements of hearings were weakening defenders, who feared to be devoid of any judicial recourse.

Again, the Observatory wishes to express its deep concerns regarding the situation of human rights defenders in Zimbabwe, especially with regards to the legislative obstacles that stand up against their activities as well as the human rights violations they face.

1. Legislative obstacles to human rights defenders' activities

Hindrance to freedom of association

The Observatory strongly denounces the NGO Act, adopted by the Zimbabwean Parliament on December 9, 2004, which imposes serious restrictions to freedom of association, and which will come into force once signed by the President of the Republic. Indeed, the bill makes provisions for the compulsory registration of NGOs to the Ministry of Social Affairs, as well as for criminal sanctions, including against members of non-registered NGOs. Furthermore, the bill provides for the creation of a NGOs council, composed of five members from civil society (whose representativeness and independence are not guaranteed by the bill) and of nine governmental members, under the aegis of the Ministry of Social Affairs. This council would in particular be in charge of the registration of NGOs, but would also investigate the administration, management and activity of NGOs. Finally, the bill enables the government to forbid all foreign funding, to give the money received by NGOs back to donors or to take over these funding.

Hindrance to freedom of information

The amendment Bill to the Access to Information and Protection of Privacy Act, adopted by the Zimbabwean Parliament in November 2004 and published at the official bulletin in January 2005, makes provisions for prison sentences of two years for journalists who are not registered to the Media and Information Commission (MIC), which is a way for authorities to control them. In 1998, the United Nation Committee on Human Rights had already asked to the Zimbabwean government to put restrictions on freedom of expression and on freedom of the press in strict conformity with article 19(3) of the International Covenant on Civil and Political Rights[44].

On December 9, 2004, the Parliament adopted the Criminal Law Codification and Reform Act, which also strongly worries journalists and, more generally, human rights defenders, due to its provisions that are extremely repressive and contrary to freedoms of expression and information, as defined by international covenants on human rights protection. According to the Act, sentences up to 20 years in prison can be pronounced against any journalist who communicates or published to a third party "false information considered as prejudicial to State security".

2. Violations of human rights defenders' human rights

Arbitrary arrests and detentions of several human rights defenders

On April 27, 2004, Mrs. **Mabel Sikhosana**, representative of ZimRights in Masvingo, was arrested by officers from the police station of Masvingo. Mrs. Sikhosana was accused of organising a meeting without having informed authorities. She was released on the same day, and no charge was officially held against her. The arrest of Mrs. Sikhosana was probably linked to the organisation of a peaceful march in favour of democracy and of a reform of the Zimbabwean Constitution, which was held in Harare on April 28, 2004.

[44] Document of United Nations, CCPR/C/79/Add.89/§22.

During this demonstration, the police arrested many participants. Thus, on April 28, 2004, Mrs. **Sheba Dube Phiri**, vice-chairman of the National Constitutional Assembly (NCA), was arbitrarily arrested by plain-clothes policemen, then detained at the police station of Bulawayo. Moreover, policemen searched her flat without any warrant, and seized reports, files and documents related to activities of ZimRights, Amnesty International and NCA. Mrs. Dube Phiri was arrested along with Mr. **Félix Mafa**, member of Post Independence Survivors Trust (PIST), an NGO assisting victims of the 1980s Gukurahundi massacres, as well as with Mr. **Goden Moyo**, member of NCA, Mr. **Reggie Moyo**, member of the Bulawayo Agenda, an active group for democracy in Zimbabwe, and two other persons. All five were questioned then released after two hours of detention, and no charge was officially held against them. However, police informed them that they could be summoned in the future.

Furthermore, Mr. **Lovemore Madhuku**, chairman of NCA, has for many years been subjected to threats, stalking, regular arbitrary arrests and detentions aiming at hindering his activities in favour of human rights. Thus, in September 2004, after having taken part in a demonstration in favour of the reform of the Zimbabwean Constitution, Mr. Madhuku was once again arrested at 4 a.m. at his house, which was already under surveillance. Detained during the day, he was finally released with no charge held against him. In October 2004, one member of NCA was assaulted by security members and left for dead after a meeting he had had with Mr. Madhuku. This person was even threatened several times when he was hospitalised.

Torture against Mr. Tinashe Lukas Chimedza

On April 22, 2004, Mr. **Tinashe Lukas Chimedza**, student and defender of social rights, was arrested by members of the republican police at the Mount Pleasant Hall in Harare, while he was talking on the right to education at a peaceful gathering. Mr. Chimedza was brought to the police station of Marlborough, where he was violently beaten by policemen. He had to be hospitalised in a critical state, after the lawyers Messrs. **Otto Saki**, member of Zimbabwe Lawyers for Human Rights (ZLHR), **Jacob Mafume**, member of the Forum for Human Rights, and **Tonderai Bhatasara**, insisted that he received necessary health care. Mr. Chimedza is said to have left the country soon after.

In light of these facts, the Observatory for the Protection of Human Rights Defenders asks to the Commission on Human Rights to adopt a resolution on the situation in Zimbabwe:

- ***Condemning*** **persistent human rights violations.**

- ***Urging*** **Zimbabwean authorities to invite the Working Group on Arbitrary Detention, the Special Rapporteur on Torture as well as the Special Representative of the Secretary General on Human Rights Defenders.**

Asking to Zimbabwean authorities to:

- ***Guarantee*** **the physical and psychological integrity of human rights defenders.**

- ***End*** **any kind of harassment, arbitrary arrests and detentions, and threats against human rights defenders.**

- ***Not promulgate*** **the NGO Act, which is contrary to fundamental freedoms as provided by regional and international covenants on human rights protection.**

- ***Revise*** **the Criminal Law Codification and Reform Act so that this Act should satisfy international provisions concerning freedoms of information and expression.**

- ***Strictly conform*** **to the provisions of the United Nations Declaration on Human Rights Defenders, adopted in 1998, as well as of the International Covenant on Civil and Political Rights.**

- ***Ratify*** **the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the Optional Protocol to the Convention against Torture.**

- ***Bring*** **to justice the authors of acts of torture and apply the sanctions provided by law, in accordance with provisions of international human rights instruments.**

- ***Ratify*** **the Optional Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, and to make a declaration at the time of the ratification that authorises NGOs and individuals to institute cases directly before the Court, under article 34(6) of the Protocol.**