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Combating Torture and Other Forms of Violence by Addressing the Root Causes found in Poverty, Inequality and Discrimination

**OMCT's Project Addressing the
Economic, Social and Cultural Root Causes of Violence**

Report on Activities 2008



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

How to prevent or reduce violence, including torture, by acting on its root causes often found in violations of economic, social and cultural rights, ...goes to the very heart of human rights protection.

*Ms. Louise Arbour, United Nations High Commissioner for Human Rights*¹

Establishing a link among us has enabled us to better deal with each case starting with the causes, so that we are then better able to combat the resulting human rights violations [...]. And even if we have before us a case of torture and/or other form of violence, it is easy for us to find a solution to this problem starting from an analysis of its causes. *From a participant in the OMCT African Regional Seminar*

Today our organisation very much takes into consideration the dimension of the economic, social or cultural causes with respect to torture and other forms of violence. For example, in RADDHO's appeal regarding the Kédougou demonstrations, emphasis was put on the causes linked to social and economic concerns as much as political or civil issues. *From a participant in the OMCT African Regional Seminar*

Thanks for the good work that you are doing for taking the plight of the Ogiek and other indigenous minorities to such a high level, indeed we feel honoured that at last our name is mentioned at the United Nations. We lack words to explain our gratitude. *From the Ogiek community in Kenya relating to OMCT's Alternative Report to the Committee on Economic, Social and Cultural Rights*

OMCT alternative reports are "very useful in the preparation of the questions I intended to put to the delegation of each State party", and the particular emphasis on the links between the denial or economic, social and cultural rights and the incidence of various forms of violence is "[e]xtremely relevant", and "the incidence of various forms of violence results in the restriction or even the total negation of most ESCR[economic, social and cultural rights]." *From a member of the Committee on Economic, Social and Cultural Rights*

¹ OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, www.omct.org, p.9

Executive Summary

This report describes how, during 2008, OMCT has worked to combat torture, cruel, inhuman and degrading treatment or punishment, arbitrary executions, disappearances and violence against women and children by identifying and acting on their economic, social and cultural root causes. It shows that violence can be reduced and eliminated by addressing those root causes.

2008 was the second year of a three-year OMCT project entitled *“Preventing torture and other forms of violence by acting on their economic, social and cultural root causes 2007 – 2009”* that has five principal areas of activity:

- Working with NGOs to reinforce their capacity for action;
- Bringing about change through action files and other forms of intervention;
- Using the UN Treaty Bodies and other mechanisms to bring about change;
- Working with the European Union;
- Building a framework of understanding through advocacy.

OMCT’s training seminars represent an important dimension of **“working with NGOs to reinforce their capacity for action”**. In 2008, OMCT held two such seminars: an African Regional Seminar in Maputo, Mozambique (7-11 May) and the second Special Procedures Seminar in Geneva (23–27 June). These were conceived to enable national NGOs to prepare targeted submissions calling for specific action on the economic, social and cultural root causes of violence. This practical approach to seminars has been shown to be a highly effective means of underlining the relevance of addressing the economic, social and cultural root causes of violence among seminar participants and has, moreover, proven to be an important source of material and case studies. The impact of the seminars is confirmed by positive feedback from participants in their responses to questionnaires they are asked to complete at the end of each seminar, and again some six months later with a view to assessing the extent to which the themes addressed have been incorporated in their organisations’ work.

This area of activity also involves enabling NGOs engaged in addressing the root causes of torture to remain in contact with each other and with OMCT, and to continue sharing information, good examples and ideas. Consequently OMCT is developing a **network of NGOs** with which it has worked for the purpose of facilitating information exchange. OMCT is also extending its outreach to NGOs more directly involved in development issues through an agreement to collaborate with FIAN (FoodFirst International Action Network) and its national affiliates on actions in a number of areas.

Violations of economic, social and cultural rights that lead or risk leading to violence occur in a wide range of circumstances, each requiring appropriate analysis and calling for specific reactions. This is addressed under OMCT’s activities aimed at **“bringing about change through action files and other forms of interventions”**. In some cases violence is already present or its threat is imminent, requiring OMCT to react rapidly with an urgent intervention aimed at saving lives. Other situations require more in-depth analysis of the various – and often complex - factors leading to violence, including, for example, international trade and investment patterns, national economic policies, political relations, public security strategies and social and cultural dynamics. They also call for identification of those responsible, by act or omission, for this violence and for research into sustainable, long-term remedies. The need for an appropriate tool to address situations such as these gave rise to the OMCT *Action File*,

a six to ten page document that provides a detailed analysis of a given situation and proposes specific remedial action.

The impact of urgent interventions and action files varies from case to case, according to factors such as the responsiveness of the government in question and the degree to which other actors involved, including private companies and corporations, are sensitive to international pressure. The impact of OMCT's actions is well illustrated by the case of the project for an open-pit coalmine in Phulbari, Bangladesh, discussed in this report. In addition to the concrete results that can be obtained through Action Files and urgent interventions, these tools have an invaluable role as catalysts for reinforcing links between the OMCT secretariat and national partners.

In the context of activities aimed at “**using the UN Treaty Bodies and other mechanisms to bring about change**”, in 2008, OMCT, together with national partners, submitted alternative reports on Kenya and the Philippines, as well as a pre-sessional list of issues on Brazil to the Committee on Economic, Social and Cultural Rights. They also submitted an alternative report on Kenya to the Committee Against Torture. Both the reports on Kenya, while tailored to the mandate of the respective committees, were explicitly conceived as complementary documents with the purpose of encouraging mutually reinforcing recommendations aimed at the economic, social and cultural root causes of violence. They were prepared following a preparatory mission that involved a series of interactive *community forums* designed to capture grassroots concerns among marginalised communities (residents of informal settlements, indigenous groups and rural minorities).

OMCT's strong links with national partners have been crucial in enabling the organisation to bring up-to-date, first hand information directly to Geneva from the field. This, together with the organisation's capacity to analyse, contextualise and present this information in an effective manner has brought dividends in terms of its ability to support and influence the work of the UN human rights mechanisms. The UN Treaty Bodies have, for example, begun to take up in their dialogues with governments many of the issues relating to the economic, social and cultural root causes of violence presented to them by OMCT. Indeed, in 2008, OMCT's input can be clearly traced in the concluding observations and recommendations of both the Committee Against Torture and the Committee on Economic, Social and Cultural Rights.

OMCT gives particular importance to “**working with the European Union**” in order to raise awareness within its institutions of the need to fight violence by acting on its economic, social and cultural root causes, and its contributions have been well-received. This enables the voice of the EU to be added to that of human rights and development NGOs in urging effective action against these root causes.

During 2008, OMCT Action Files were transmitted to the Human Rights Sub-committee of the European Parliament, the Parliament's Rapporteur on human rights violations deriving from China's investments in Africa, and members of the European Parliament in connection with the preparation of written parliamentary questions. OMCT also submitted a set of amendments for inclusion in the European Parliament's *Annual Report on Human Rights in the World for 2007 and EU Policy in that Matter*, in order to support the development of EU policy on human rights and to help EU institutions focus more attention on the links between human rights violations and poverty, inequality and discrimination. Most of OMCT's suggested amendments were included in the final text as adopted by the Parliament in plenary.

In the context of the development of the mandate and work programme of the new European Union Fundamental Rights Agency, OMCT wrote to key Parliamentarians and suggested that the terms of reference of the agency be modified to include identifying the economic, social and cultural factors that may constitute root causes of human rights violations.

The effectiveness of action against the economic, social and cultural root causes of torture and other forms of violence is greatly enhanced when there is a widely held understanding among influential actors of these root causes as well as of the types of action that can be taken to address these links. While progress is clearly being made, much still needs to be done to help ensure that policy makers and institutions are aware of these issues and are ready to take action. Thus OMCT seeks to contribute to “**building a framework of understanding**” with UN bodies, regional institutions, human rights defenders and, to the extent possible, the general public. In 2008, this has included making statements to the Human Rights Council, disseminating information at the African Commission on Human and People’s Rights and the NGO Pre-Sessional Forums and issuing press releases, notably on the International Day in Support of Victims of Torture. OMCT has also participated in relevant international meetings and engaged with the media in Kenya, a country in which it was particularly active in 2008.

OMCT’s expertise in this field is recognised, it is invited to address seminars and other meetings, information is requested by UN Special Rapporteurs and members of the European Parliament and it enjoys the continuing support of the Office of the United Nations High Commissioner for Human Rights (OHCHR). OMCT was asked to chair the NGO Consultation on the Draft Guiding Principles on Human Rights and Extreme Poverty (December 2008) and present the results to the OHCHR consultation (January 2009) aimed at preparing recommendations for the Human Rights Council.

In implementing this project, OMCT has learned that addressing the economic, social and cultural root causes of violence through the appropriate channels has a real potential to reduce human rights abuses, and that this in turn *increases the space for economic, social and cultural development*. This has also proven to be an effective means by which to challenge the relativistic argument that respect for the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment should be subordinated to economic priorities. While the project aims to ensure respect for all human rights, and in particular economic, social and cultural rights in national economic, development and other policies, it does not seek to determine what those policies should be.

OMCT has found that demonstrating that violations of economic, social and cultural rights can lead to torture and other serious forms of violence strengthens the pressure for action not only on States, which do not want to see their economic and social policies explicitly linked to violence, but also, for example, on the corporate sector, banks and development agencies.

OMCT has also learned that the most promising results in terms of impact are achieved by focusing on selected cases or situations and carrying out in-depth analysis. A situation-driven approach such as this allows OMCT to use its understanding of the mandates, working methods and expectations of a wide range of international organisations to tailor the use of its tools for maximum effect.

Importantly, it has become clear in the course of 2008 that in the future realising the full value of the project’s initial investment in research and analysis will require further investment in

coordinated and sustained follow-up activities that are almost as resource-intensive as the development of the original complaint.

Feedback from seminar participants, UN committee members and communities visited in the field show that this project is bringing about change and making a tangible contribution to the prevention of torture and other forms of violence by acting on their economic, social and cultural root causes.

Eric Sottas, Secretary General
Anne-Laurence Lacroix, Deputy Secretary General
The Economic, Social and Cultural Rights Team
Michael Miller, Francesca Restifo and Tom McCarthy

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1. Introduction

OMCT's project entitled "***Preventing torture and other forms of violence by acting on their economic, social and cultural root causes 2007 – 2009***" aims to prevent, reduce and eliminate violence, including torture, cruel, inhuman and degrading treatment or punishment, summary executions, enforced disappearances and violence against women and children, by identifying and acting on its economic, social and cultural root causes. It does this within the framework of OMCT's overall objectives of eliminating those forms of torture and ill-treatment.²

Through the project, OMCT works closely with national NGOs to strengthen their capacity to address the economic, social and cultural root causes of torture and other forms of violence, both directly with their own national authorities and internationally through the submission of alternative reports to United Nations (UN) Treaty Bodies, as well as by means of complaints and appeals in urgent cases addressed to the UN, governments, development institutions and the private sector, and through interaction with the institutions of the European Union (EU). Seminars and training courses are organised to help build NGO capacity, and support is provided to representatives of national NGOs taking part in UN meetings.

The European Union, through the European Initiative for Democracy and Human Rights, provides substantial support for this project, which was also supported in 2008 by the Swiss Agency for Development and Cooperation (DDC), the Interchurch Organisation for Development Cooperation (ICCO), the Karl Popper Foundation and the Fondation des Droits de l'Homme au Travail.

OMCT first took the initiative to examine the economic, social and cultural root causes of torture in the late 1980s. The organisation has subsequently maintained its leading position in this field, and the subject has become a permanent part of OMCT's work programme. In 2005, and after three years of intense investigation, OMCT completed an important interdisciplinary study on this issue entitled "***Attacking the Root Causes of Torture: Poverty, Inequality and Violence***".³ The interdisciplinary study was subsequently examined at the International Conference "***Poverty, Inequality and Violence: Is there a human rights response?***" organised by OMCT in October 2005.⁴ The outcome of the conference, together with the results of the study, led OMCT to develop the present project.

² See OMCT's 2006 Annual Report, page 3, and the Statutes, December 2001, article 3.

³ This Study is available on OMCT's website www.omct.org along with a summary of the Study's salient points

⁴ The report of the Conference is also available at www.omct.org

How the denial of economic, social and cultural rights is related to torture and other forms of violence

OMCT research has shown that denials of economic, social and cultural rights leads to torture and other forms of violence in the following ways:

- *The poor, excluded and other vulnerable groups are often the first and most numerous victims of violence, including torture and cruel, inhuman and degrading treatment.*
- *Levels of violence in a given community or society can be such that individuals or groups are unable to enjoy their economic, social and cultural rights.*
- *Violence is inflicted on persons because they demand respect for economic, social or cultural rights – their own or those of others.*
- *Denials of economic, social and cultural rights are carried out so violently as to be considered ill-treatment under international treaties.*
- *Certain violations of economic, social or cultural rights can be characterised as cruel, inhuman and degrading treatment or in some cases as a denial of the right to life.*
- *Policies and programmes by governments, private actors or development and financial institutions can exacerbate poverty and inequalities and lead to increased levels official, criminal and domestic violence.*

In the first 24 months in which this project has been active, it has made important progress, not only in raising awareness of the links between violence and the denial of economic, social and cultural rights at national and international levels, but also in acting upon these links to prevent violence. OMCT's knowledge and experience enables it to make a unique contribution to the objective of eliminating violence.

This report contains information on the activities carried out under the project during 2008 and examines five principal areas of activity:

- Working with NGOs to reinforce their capacity for action;
- Bringing about change through action files and other forms of intervention;
- Using the UN Treaty Bodies and other mechanisms to bring about change;
- Working with the EU;
- Building a framework of understanding through advocacy.

In order to maximise the impact and efficiency of its work, OMCT actively employs a coherent, coordinated approach to ensure that different activities undertaken in these five principle areas contribute to the aims of the project in a mutually reinforcing manner and that the project's activities are coordinated with the other activities of OMCT.

Information on activities in previous years is available from OMCT (www.omct.org).

2. Working with NGOs to reinforce their capacity for action

Enabling national NGOs to prepare targeted submissions calling for specific action on the economic, social and cultural root causes of violence for transmission to the UN (Special Procedures mandate holders or Treaty Bodies), governments, international development and financial institutions and private sector actors is the principal objective of OMCT's training seminars. In 2008, OMCT held two such seminars: an African Regional Seminar in Maputo,

Mozambique (7-11 May) and the second Special Procedures Seminar in Geneva (23–27 June).

African Regional Seminar on addressing the economic, social and cultural root causes of violence (see appendix I for more information)

This bilingual seminar (French and English) enabled representatives of 18 African Human Rights NGOs from Benin, Burundi, Cameroon, Central African Republic, Congo Brazzaville, Democratic Republic of the Congo, Egypt, Ghana, Kenya, Liberia, Madagascar, Niger, Nigeria, Senegal, Togo, Zambia and Zimbabwe to examine the economic, social and cultural root causes of torture and other forms of violence in their countries, exchange experiences, select particularly serious instances of violence linked directly to violations of these rights, and, in an interactive manner, design practical ways of addressing these root causes.

Participants prepared papers in advance analysing the situation in their countries and identifying specific cases requiring action. During the seminar, targeted submissions were then drafted for transmission to governments, international organisations and private actors calling for specific action on the poverty, inequality and discrimination at the root of the violence identified in each case. Among the cases dealt with were the slavery-like conditions of indigenous hunter-gatherer forest communities in Congo-Brazzaville who are subjected to forced labour and denied most economic, social and cultural rights; official violence inflicted on export zone workers calling for respect for their basic rights in Nigeria; violence against pastoralist communities in Cameroon; violent repression of demonstrations calling for government action against rising food prices and deteriorating living conditions in Senegal; poverty and overcrowding in Madagascar's prison system; and violent evictions of indigenous communities in the Democratic Republic of Congo who, as a result, are subjected to ever graver violations of their economic, social and cultural rights.

The seminar's opening ceremony was addressed by Ambassador Glauco Calzuola, Head of the Delegation of the European Commission in Mozambique, and Ambassador Thomas Litscher of Switzerland. Representatives of the UN Development Programme and the Governments of Sweden and Finland also took part. There then followed a number of presentations in order to provide the substantive and international framework for the seminar's discussions. These examined how disrespect for economic, social and cultural rights can lead to violence, how the UN human rights system can be used to address these root causes, and how to engage with the EU to promote economic, social and cultural rights and fight torture. A session was also dedicated to an exchange of experience and information on how the human rights institutions of the African Union can be used to address the issue of violence and its root causes.

In addition, presentations on activities being carried out in Southern Africa aimed at preventing violence were made by invited experts from UNICEF Mozambique, the International Organisation for Migration's Southern African Counter Trafficking Assistance Programme and Save the Children, United Kingdom. An officer from the EU Mission in Maputo also made a presentation on EU engagement in Mozambique.

Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment

In the course of the seminar, participants also drafted and adopted the *Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* in which they recognised that violations of economic, social and cultural rights are very often the root causes of the torture and other cruel, inhuman or degrading treatment or punishment their

organisations fight against, and that such violations can be effectively reduced and eliminated by taking action on these root causes. They called on African Governments to take action to make the continent “*free from such practices*” (see appendix I). This initiative came directly from the seminar participants, who identified the importance of preparing and disseminating a declaration of this kind.

While in Mozambique, OMCT staff also met with agencies and national NGOs to discuss the significance of the economic, social and cultural root causes of violence and establish working partnerships.

Special Procedures Seminar 2008

The second of the three OMCT Special Procedures Seminars scheduled under this project took place at the Graduate Institute of International and Development Studies in Geneva from 23 to 27 June 2008 (see appendix II for press release). During this event, 14 NGO representatives from Brazil, Bulgaria, Colombia, Congo-Brazzaville, India, Kenya, Lebanon, Mexico, Mozambique, Nigeria, Peru, Philippines, Thailand and Uganda examined how to use the UN Special Procedures System to address the economic, social and cultural root causes of torture and other forms of ill-treatment.

The seminar was organised in parallel with the 14th annual meeting of the UN Special Procedures mandate holders which also took place in Geneva. This enabled the participants to meet and discuss with mandate holders responsible for Human Rights Defenders, Adequate Housing, Minority Issues, Indigenous People, the Right to Food and the Human Rights of Migrants. In addition, participants met with staff of the Office of the UN High Commissioner for Human Rights and attended a session of the Annual Mandate Holders Meeting at which the relations between Mandate Holders and NGOs were discussed. The participants also contributed to the drafting of OMCT’s statement to this meeting.

Substantive presentations to the seminar followed by discussions were made by Mr. Yves Berthelot, former Executive Secretary, UN Economic Commission for Europe and member of OMCT’s Scientific Council and Mr. Pierre de Senarclens, Professor of International Relations at the University of Lausanne, former Human Rights Director of UNESCO and also member of OMCT’s Scientific Council. Presentations were also made by OMCT staff on the economic, social and cultural root causes of violence and on engaging the UN Treaty Bodies.

Prior to the seminar participants prepared papers of some 10 pages analysing the situation in their country with regard to the economic, social and cultural root causes of violence and identifying specific action that could be taken to address them. During the seminar, both in plenary meetings and working groups, they developed cases that could be submitted to Special Procedures mandate holders, governments, international development and financial institutions and private sector actors. Particular emphasis was given to developing concrete responses to these situations and to drawing up specific and tailored recommendations for preventive or remedial action.

Among the issues dealt with were violence against persons with mental disabilities in Bulgaria and the violation of their economic, social and cultural rights in both institutional and non-institutional contexts; the forced eviction of indigenous communities to make way for an agricultural institute in India and the need to take measures to ensure respect for their rights to land, housing and employment; the repercussions for economic migrants driven out

of South Africa during the recent wave of xenophobic violence; and attacks on indigenous people in Colombia by illegal armed groups in collusion with official armed forces to make way for extensive coca plantations. Other cases included violence against peasant farmers in Egypt, human rights violations connected with the exploitation of petroleum resources in Nigeria, the denial of adequate health and support services to victims of torture in Peru, and arbitrary executions of poor and marginalised urban youth by police officers in Brazil.

Building an NGO network

A consistent request from NGOs taking part in the activities of this project is to remain in contact with each other and with OMCT and to continue sharing information, good examples and ideas. OMCT is thus developing a network of NGOs with which it has worked for the purposes of facilitating information exchange, keeping them informed of the activities of the project, seeking their help in specific situations and assisting them as much as possible in the preparation of cases for submission to the appropriate organs and authorities. This network of representatives of approximately 30 organisations is largely maintained through email correspondence, and it potentially forms the basis of a more ambitious and structured network in the future.

In addition, there are a number of other NGOs that have asked to be kept informed of activities associated with this project, and all the members of the OMCT SOS-Torture Network (some 300 organisations) are also kept abreast of developments to the extent possible. Thus, at the beginning of 2008, an information note in English, French and Spanish was widely circulated describing the project's activities during 2007 along with an invitation to NGOs to join OMCT in those activities. Many NGOs responded favourably and have been added to OMCT's economic, social and cultural rights contact list.

In order to extend OMCT's outreach to NGOs more directly involved in promoting and protecting economic, social and cultural rights and in development issues, OMCT has agreed to collaborate with FIAN (FoodFirst International Action Network) and its national affiliates on actions in a number of areas. In 2008, OMCT also became a partner in FIAN's annual *Food and Nutrition Watch* publication and was invited to join the ETO Consortium headed by FIAN that focuses attention on the extraterritorial obligations of states.

OMCT staff also meets frequently with NGO delegations visiting Geneva to explore ways in which joint actions can be carried out in the context of the economic, social and cultural rights project, in particular the preparation of action files and alternative reports to UN treaty bodies.

Results and evaluations

This practical approach to seminars – taking concrete examples based on national realities – has proven to be a highly effective means of underlining the relevance of addressing the economic, social and cultural root causes of violence among participants and has, moreover, proven to be an important source of material and case studies. Significantly, this approach has not only encouraged the engagement of seminar participants to look more closely at the root causes of violence, it has also provided the OMCT secretariat with invaluable insights into local processes.

In particular, the material prepared by the two participants from Kenya at the African Regional seminar became the basis of an important action file addressing a particularly grave situation of torture and enforced disappearances in that country (see Section 3 of this report for details of the Mount Elgon case). In keeping with the project's integrated approach, this

material in turn became a cornerstone of two alternative reports submitted to UN Treaty Bodies.

Likewise, the situations addressed by the participants during the Special Procedures seminar gave rise to a number of Action Files, press releases and letters to government, and the material produced also provided an important impetus for alternative reports to the UN Treaty Bodies on Brazil and the Philippines.

In addition, the two seminars helped to create and reinforce contacts and communication both among participants and between participants and the OMCT secretariat. Indeed, Zimbabwe Lawyers for Human Rights, one of the participating organisations, subsequently invited OMCT to make a presentation on the economic, social and cultural root causes of torture and other forms of violence at its own 5th Annual Intensive Workshop on Human Rights and Torture on “Medical and Legal Strategies for Addressing Torture, Ill-treatment, Extra-judicial Killings, Summary and Arbitrary Executions in Zimbabwe” in Harare, Zimbabwe in September 2008.

The representative of Action by Christians Against Torture (ACAT) - Burundi who took part in the African Regional seminar in Mozambique explained that,

Establishing a link among us has enabled us to better deal with each case starting with the causes, so that we are then better able to combat the resulting human rights violations [...]. And even if we have before us a case of torture and/or other form of violence, it is easy for us to find a solution to this problem starting from an analysis of its causes.⁵

Indeed, the African Regional seminar was also the nucleus of the informal network of organisations interested in reducing and eliminating torture and other forms of violence by acting upon their root causes, an initiative proposed by the participants themselves. The participants at the Special Procedures seminar in Geneva also joined this informal network of NGOs.

The Maputo Declaration, another output of the African Regional seminar, was cited as a document providing guiding principles during the above mentioned Workshop in Zimbabwe, and a lawyer from the Refugee Law Project at Makerere University, Uganda, engaged in drafting a national law criminalizing torture in line with the UN Convention Against Torture, wrote to inform OMCT that she had found the Declaration “very encouraging” for her work. NGOs and individuals from all parts of the world are invited to join the Maputo Declaration, and to date it has close to 50 signatories

In an attempt both to assess the effectiveness of its seminars and to identify areas for improvement, OMCT asks participants to complete a brief questionnaire at the end of each seminar, in order to have their immediate impressions and suggestions, and again some six months later with a view to assessing the extent to which the themes addressed have been incorporated in their organisations’ work.

In the case of the African Regional seminar and in written (anonymous) evaluations at the end of the seminar, participants were asked to grade the overall usefulness of the seminar as “good”, “average” or “poor”; 88% responded “good” and 12% “average”.

⁵ Mr. Merius Rusumo, President, ACAT-Burundi

In the survey six months after the seminar, the large majority of participants indicated that analysing torture and other forms of violence had had an impact on their work and had permitted them to broaden their approach to the prevention of torture, including in terms of advocacy work and new strategies to support victims of torture. Many indicated that they had issued appeals or taken other concrete actions associated with the root causes of torture. This included working with local associations concerning evictions taking place in Naimey, Niger, working with government officials and professionals in the area of juvenile justice in Ghana, and issuing press releases on the human rights of immigrant workers in Egypt. In Burundi, a range of initiatives were taken up, including using community networks to raise awareness of the economic, social and cultural root causes of torture and training public officials and military on the elimination of the economic, social and cultural root causes of torture. In Senegal, the analysis of economic, social and cultural rights became an explicit dimension of the actions of Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO) against the violence associated with demonstrations in Kédougou:

Today our organisation very much takes into consideration the dimension of the economic, social or cultural causes with respect to torture and other forms of violence. For example, in RADDHO's appeal regarding the Kédougou demonstrations, emphasis was put on the causes linked to social and economic concerns as much as political or civil issues.⁶

Similarly, in the written evaluations at the end of the 2008 Special Procedures Seminar, participants rated the content and organisation of the seminar 87% "good" and 13% "average". In the survey six months after the seminar, participants indicated that the perspective and approach introduced by OMCT had had a significant impact on their work. In Uganda, for example, the economic, social and cultural root causes of torture have been introduced into the advocacy strategies of the participating organisation, which has also disseminated this issue through other workshops and seminars. In Mozambique, participation in the seminar led to the preparation of an action file on domestic violence and the denial of women's social rights for presentation to the National Assembly, as well as an action file dealing with poverty and access to justice.

In Mexico, the training received at the seminar influenced the coordination of a 6 month investigation into discrimination against children from the perspective of the national legal framework for the National Council to Prevent Discrimination in Mexico. It also led the participating organisation to place greater emphasis in its work on the lack of effective protection against violence against children and its consequences in the areas of health, education, access to justice and economic exploitation. In Colombia, the participating organisation's 2008 Annual Report on the human rights situation in Nariño, produced in conjunction with the Permanent Committee for the Defence of Human Rights, underlined that poverty indexes of some regions in Nariño are the direct cause of escalating armed conflict and violence.

⁶ Mr Oumar Diallo, RADDHO, Senegal

3. Bringing about change: Action Files and other forms of interventions

Violations of economic, social and cultural rights that lead or risk leading to violence occur in a wide range of circumstances, each requiring appropriate analysis and calling for specific reactions. In some cases violence is already present or its threat is imminent, thus requiring OMCT to react rapidly with an urgent intervention aimed at saving lives. Such an intervention can take the form of an urgent appeal to the international community calling for prompt action, a press release or a letter to the government concerned.

Other situations require more in-depth analysis of the various – and often complex - factors leading to violence, including, for example, international trade and investment patterns, national economic policies, political relations, public security strategies and social and cultural dynamics. They also call for identification of those responsible, by act or omission, for this violence and for research into sustainable, long-term remedies. The need for an appropriate tool to address situations such as these gave rise to the OMCT *Action File*, a six to ten page document that provides a detailed analysis of a given situation and proposes specific remedial action.

Urgent interventions and Action Files alike are sent to government agencies, UN officials and Special Procedures mandate holders, international development and financial organizations and private corporations according to the requirements of each case. They are also circulated to OMCT's mailing list and NGO network with requests that they in turn intervene with governments and others to call for an end to the violations documented. They are available on OMCT's website (www.omct.org).

Action Files

Information concerning *severe violations of human rights, including torture and extrajudicial killings, by the Kenyan Army and Police in the Mount Elgon District of the country's Western Province* led OMCT together with Kenyan national partners to issue in June 2008 an Action File (KEN 060608.ESCR) in English, French and Spanish calling for a halt to that violence.

The human rights abuses in Mount Elgon are directly linked to local conflicts over land ownership and to competing claims over land title. They are carried out in the context of security operations against the Sabaot Land Defence Force (SLDF), an organization that emerged to defend displaced Sabaot communities in the Mount Elgon area and that has itself been responsible for grave human rights abuses. Since March 2008, in operations intended to dismantle the SLDF, the Kenyan military has been responsible for the torture and execution of thousands of men and boys from the Sabaot community. The deaths, injuries and displacement that are a direct result of the military operations also have a serious impact on the socio-economic wellbeing of the population of the affected areas.

The Action File was transmitted to members of the Government of Kenya, the Kenyan Permanent Mission in Geneva, relevant Special Procedures mandate holders, the OMCT SOS-Torture Network and the OMCT mailing list. OMCT and its national partners in Kenya called on the Government of Kenya to immediately suspend the military operation in the Mount Elgon area and to establish an independent commission to ensure that all those responsible for human rights violations are brought to trial and that victims of torture and their families receive just and adequate reparation. OMCT and its national partners also called on the Government to take concerted steps to reach fair and just resolutions to land disputes in

Mount Elgon and elsewhere, independent of political and ethnic interests. The Mount Elgon Action File was prepared as a direct result of work during OMCT's African Regional Seminar in Maputo.

Other Action Files produced in 2008 were also developed as a direct outcome of national cases presented during the UN Special Procedures Seminar. One of these addressed ***the risk of violence generated by the denial of the economic, social and cultural rights of the adivasi peoples of Wayanad District, Kerala, India*** (IND 180808.ESCR). In this Action File, OMCT, together with its local partner, reported on ongoing tensions and police harassment of members of a local *adivasi* community following the breach by the Agricultural University of Kerala of conditions attached to a transfer of land from that community to the University for the construction of a veterinary college. These conditions were intended to compensate the indigenous community for the appropriation of their land by re-housing them and providing them with employment. As a result of this breach of agreement, the affected *adivasi* (tribal) families – already marginalized - were left homeless and lost their livelihoods. Their protests were met with police harassment, intimidation and ill-treatment.

A second Action File arising from the 2008 Special Procedures seminar dealt with ***a serious arson attack on an indigenous Jumma community in Sajek Union, in Bangladesh's Chittagong Hill Tracts*** (BGD 290808.ESCR). In the context of ongoing acts of violence motivated by land claims, this episode saw Bengali settlers, with military support, set fire at night to the homes of indigenous community members in at least seven villages, destroying some 76 dwellings.

Urgent appeals, press releases and letters

Reports of ***excessive use of force by Tunisian police in the context of demonstrations against the rising cost of living and lack of work that left one person dead and 11 others wounded*** led OMCT to issue on 11 June 2008 a press release calling on the Government of Tunisia to prevent further violence, respect the right of peaceful demonstrations and investigate and punish those responsible for this excessive use of force. OMCT stated that the violent repression of demonstrations against deteriorating living conditions only exacerbates the social tensions caused by those circumstances and creates the conditions for further violence.

In July 2008, information relating to ***attacks, torture and threats against members of "La Comunidad Tabiquera Loma de Uruapilla" in the State of Michoacan Mexico***, who were objecting to being expelled from their land in order to make way for residential construction led OMCT to issue an urgent appeal calling on the Government of Mexico to halt such attacks (MEX 110708/ MEX 110708.DESC).

The following month, OMCT disseminated a press release calling for an immediate end to ***a blockade imposed upon several thousand members of dalit and adivasi communities at the Chengara Estate in the Pathananhitta District of Kerala, India***. This blockade, which was preventing access to food, medical attention and other basic services, was violently enforced by private security guards and plantation workers' trade unions affiliated to leading political parties. This violence was particularly directed against women, who were the targets of brutal attacks carried out in the presence of the police. Representatives of civil society were also prevented by violent means from crossing the blockade. The violence directed against these communities was in connection with their occupation of land to which they claim historic rights.

In view of the examination of Kenya's national reports by the UN Committee Against Torture and the UN Committee on Economic, Social and Cultural Rights in November 2008, and in light of the extreme violence that followed Kenya's elections in December 2007, OMCT joined with the Centre for Minority Rights Development (CEMIRIDE) in Kenya to prepare a letter to the Permanent Secretary of the Kenyan Ministry of Justice, National Cohesion and Constitutional Affairs drawing attention to the fact that *socio-economic hardship and the iniquitous allocation of resources in Kenya contribute to inter-community competition over scarce resources and that this, in turn, is easily transformed into violent conflict*. On behalf of 14 other NGO signatories (all of whom belong to OMCT's informal network developed in the context of this project) CEMIRIDE and OMCT urged the Government to take into consideration and systematically address the causal links between the failure to respect economic, social and cultural rights and the incidence of violence, and presented a series of concrete recommendations to this end.

On 3 December 2008, the International Day for Persons with Disabilities, OMCT, together with the Bulgarian Helsinki Committee and the Mental Disability Advocacy Centre, wrote a series of letters to members of the Bulgarian Parliament and Government, officials and elected representatives in the EU, and the UN Special Procedures mandate holders to underline that *persons with mental disabilities in Bulgaria, "frequently face social exclusion and severe human rights violations, including violence and ill-treatment"* and to express their concern that, "inadequate legislation together with entrenched institutional policies and practices also compromise their socio-economic well-being, as well as that of their families". The three organisations called on the Bulgarian authorities to ensure that Bulgarian law effectively protects the rights of persons with mental disabilities, including protection against violence, in accordance with the UN Convention on the Rights of Persons with Disabilities, and additionally issued a press release to this end. Again, the foundations for this initiative were laid during the 2008 Special Procedures Seminar.

Results

The impact of urgent interventions and action files varies from case to case, according to factors such as the responsiveness of the government in question and the degree to which other actors involved, including private companies and corporations, are sensitive to international pressure. Given the complexity of the cases addressed, OMCT's contribution, based on its specific expertise, is at times part of a broader civil society response to situations of human rights violations.

The impact of OMCT's actions is well illustrated by *the case of the project for an open-pit coalmine in Phulbari, Bangladesh* promoted by the British company GCM Resources with the planned support of the Asian Development Bank (ADB) and several international commercial banks. The Phulbari project has provoked widespread concern over its potential socio-economic, environmental and human rights impact and protests against it have resulted in loss of life and injury. In December 2007 and January 2008, OMCT circulated an Action File (BGD211207.ESCR) in order to prevent further violence and killings in relation to this project.

OMCT contacted all parties involved, including the Government of Bangladesh, private financial institutions, the ADB, UN Special Procedures mandate holders and the European Parliament to express its deep concern at the risk of further violence associated with the coalmine. OMCT has insisted that a decision on the future of the Phulbari mine should only

be taken once a thorough, transparent and independent investigation into its human and environmental impact has been carried out, with the full and informed participation of all local communities.

OMCT received responses from the private banks involved, and in February 2008, at the invitation of GCM Resources, OMCT staff met with the company's Sustainable Development Manager in Geneva to discuss the issues raised in the Action File. At the beginning of April 2008, OMCT learned that the ADB had decided to suspend its support for the project conditioning a review of their involvement on ensuring "*that all sensitivities, including concerns relating to safeguard issues, are fully considered*". In June 2008 it was announced that Barclays Bank had sold its shares in GCM. For more details see appendix III.

Concrete results can also be seen in the case of the fatal shooting by a private security guard of an indigenous activist protesting against *illegal mining operations on Sibuyan Island in the Philippines*. Having produced an Action File on this case in late 2007, OMCT wrote to the Philippine Government in early 2008 to express its concern and to ask that an investigation into this killing be initiated and that steps be taken to ensure that indigenous rights, enshrined under Philippine law, are not compromised by large scale mining activities. OMCT sources indicate that the security guard was subsequently charged with murder and that his case is pending before the regional trial court. OMCT has also learned that a Filipino Senator urged the Department of Environment and Natural Resources to suspend all mining permits and applications in Sibuyan,⁷ and that this request has been upheld by the Government.⁸

The resources required to ensure consistent follow-up of cases addressed under this project are considerable, however, based on the experience acquired in 2008, OMCT is currently exploring measures to more effectively monitor the development or outcome of the cases it addresses.

In addition to the concrete results that can be obtained through Action Files and urgent interventions, these tools have an invaluable role as catalysts for reinforcing links between the OMCT secretariat and national partners. Given their wide circulation, they also contribute to raising awareness of the links between violations of economic, social and cultural rights and violence among civil society. Importantly, they also provide a building block for other key activities under the project, including the submission of alternative reports. OMCT's Action Files have also been taken up as information sources to inform the work of other institutions, and in 2008, OMCT received requests from the Office of the UN High Commissioner for Human Rights and the European Parliament to provide additional information on a number of cases

⁷ www.senate.gov.ph/press_release/2007/1005_legarda2.asp;
www.senate.gov.ph/press_release/2007/1012_legarda1.asp

⁸ www.minesandcommunities.org/article.php?a=8998

4. Using the UN Treaty Bodies and other mechanisms to bring about change

Pre-sessional analytical lists of issues

The UN Treaty Body system has evolved so that the consideration of a State party's respect for human rights by UN committees is strongly conditioned by the preliminary list of issues and questions raised by committee members during pre-sessional discussions many months before the actual consideration of the State party's report. OMCT, working with national partners, prepares detailed substantive submissions for consideration by the respective committees during these pre-sessional discussions. OMCT has seen the impact of its submissions on the issues subsequently raised by the committees and the questions which they put to governments.

In 2007, OMCT prepared detailed annotated lists of issues for the Committee on Economic, Social and Cultural Rights to help guide their consideration of State party reports from the *Philippines* and *Kenya* scheduled for 2008 (see below), and took part in NGO briefings of the Committee on these two countries.

In May 2008, OMCT, with contributions from two national partners, submitted a list of issues to the Committee on Economic, Social and Cultural Rights in preparation for the Committee's consideration of the State party report on *Brazil*. This document notes that Brazil is a country strongly characterized by deep-rooted socio-economic disparities and inequalities, and that levels of violence are particularly high in marginalised communities. These communities remain outside the protection of the State and are therefore doubly victimized. Millions of Brazilians are caught in a vicious circle of poverty, violence and lack of state protection and OMCT emphasised the need to break this cycle which is at the root of ever increasing levels of conflict.

The Committee Against Torture, in December 2008, adopted its list of issues relating to its consideration of the Philippines in May 2009. That document contained two paragraphs reflecting specific problems that had been raised before the Committee on Economic, Social and Cultural Rights by OMCT in 2008 in its alternative report to that Committee on the Philippines. OMCT had made this report available to members of the Committee Against Torture.

Preparation and submission of alternative reports

During 2008, OMCT prepared and submitted three alternative reports to UN Treaty Bodies. Regarding Kenya, a report was submitted to the Committee on Economic, Social and Cultural Rights and the Committee Against Torture. Both of these reports, while tailored to the mandate of the respective committees, were explicitly conceived as complementary documents with the purpose of encouraging mutually reinforcing recommendations aimed at the economic, social and cultural root causes of violence. A third report was submitted to the Committee on Economic, Social and Cultural Rights on the situation in the Philippines. In connection with the Committees' consideration of each report, OMCT arranged for representative of the national NGOs co-sponsoring the documents to meet with and brief the Committee members on the reports and answer their questions. Together with OMCT they also made a statement to the Committee on Economic, Social and Cultural Rights during the opening day of its session.

In order to collect material for the alternative reports on Kenya, two members of OMCT staff conducted a mission to Kenya from 12 to 18 April 2008. Working closely with the Centre for Minority Rights Development (CEMIRIDE), the Independent Medico-Legal Unit (IMLU) and the International Commission of Jurists, Kenya Section (ICJ-Kenya), the staff members held meetings with representatives of Kenyan Government and civil society and conducted community discussions in both urban Nairobi and rural districts of the Rift Valley. In order to capture grassroots concerns among marginalised communities (residents of informal settlements, indigenous groups and rural minorities) and provide them with more direct access to the committees, a series of interactive *community forums* were held with OMCT staff to explore the economic, social and cultural root causes of torture and other forms of violence. These events, supported by ICJ-Kenya and CEMIRIDE, proved to be rich sources of experience and information and were filmed and recorded. On the basis of this experience OMCT is exploring the possibility of making greater use of visual media in the future to enhance the impact of alternative reports and other studies.

Key themes identified in the course of the preparatory mission included the role of land disputes as a trigger for violence in both urban and rural areas, the severe discrimination experienced by indigenous and minority communities, and high levels of violence directed at women and girls. On the basis of the information gathered during the mission, complemented by OMCT's own research, the two alternative reports on Kenya were prepared by OMCT in cooperation with national partners and submitted to the Committee secretariat. The report to the Committee on Economic, Social and Cultural Rights was co-sponsored by CEMIRIDE and ICJ-Kenya and places particular emphasis on the issue of access to land and housing as a catalyst of violence across Kenya, in rural and urban areas alike. The report to the Committee Against Torture was prepared together with by IMLU and ICJ-Kenya and examines the ways in which Kenya's poorest and most disadvantaged citizens are criminalised through Kenya's law-enforcement, judicial and penal systems.

Regarding the Philippines, the positive reaction to the list of issues submitted to the pre-session meeting of the Committee on Economic, Social and Cultural Rights encouraged OMCT to submit a full report on that country to the Committee. Based on a combination of contributions from national NGO partners and OMCT research, OMCT prepared an initial draft, which was then reviewed during a mission to the Philippines by a representative of OMCT in September 2008. In the course of this mission consultations were carried out with a range of national partners including Karapatan (Alliance for the Advancement of People's Rights), Philippines Alliance of Human Rights Advocates (PAHRA), Task Force Detainees, Philippines (TFDP), Bayan (Bagong Alyansang Makabayan) and the IBON Foundation.

The final report draws attention to the fact that the Philippines' trade liberalisation policy promotes mining activities that consistently failed to take into account the human rights of persons and communities affected by these activities, and that local resistance to these mining projects is often met with violence by private security forces. Conflict over land is also identified as a root cause of violence in the Philippines as landowners increasingly convert agricultural land to agri-business or other forms of economic activity at the expense of rural communities and small-scale farmers.

In the report, OMCT and its partners also express their concern that violence against trade unions and trade union leaders in the Philippines has been increasing in recent years. Similarly, an alarming number of Filipino human rights defenders, human rights lawyers and indigenous or peasant activists engaged in defending economic, social and cultural rights have

been victims of disappearances or summary executions. The report also underlines the fact that socio-economic marginalisation in the Philippines leads to desperation and hopelessness that can find its expression in armed rebellion. In turn, this rebellion becomes the justification for anti-insurgency activities by the Philippine military that regularly compromise the economic, social and cultural rights of rural communities.

In order to assist NGOs in preparing alternative reports for submission to UN Treaty Bodies, OMCT has prepared a *“A guide to submitting information on torture and other forms of violence to the UN Committee on Economic, Social and Cultural Rights”*.

United Nations Human Rights Council: The Universal Periodic Review

The Universal Periodic Review is a new procedure under which the Human Rights Council periodically reviews the respect for human rights of its members based, in part, on NGO submissions. In November 2007, OMCT submitted a list of issues to the UN Secretariat in order to help prepare for the Council’s consideration of the Philippines, scheduled for April 2008. OMCT drew attention to the serious situation as regards torture and other cruel, inhuman or degrading treatment or punishment in the Philippines and, in particular, emphasised that the root cause of torture and other forms of serious violence was frequently found in the violation of the economic, social and cultural rights of Filipino citizens. A number of specific points were developed and recommendations made.

In April 2008, in connection with the Council’s consideration of the Philippines, OMCT, together with a number of other NGOs, advocated strongly with the members of the Council, representatives of the Government of the Philippines and the secretariat of the UN Office of the High Commissioner for Human Rights for permission to hold a public parallel event within UN premises to enable civil society organisations to provide information and express their views. Proposals to hold such a public event had initially met with strong resistance from some governments, but finally it was permitted in order to discuss the preparations of civil society input into the UPR process. OMCT took part in this parallel event on 11 April, and reviewed the process of preparing its list of issues and the recommendations contained therein. OMCT also called attention to the Action File (PHL 301107.ESCR) relating to the violence inflicted on local communities and indigenous people in relation to a mining project that violates their rights and endangers their way of life on the Filipino Island of Sibuyan and for which no adequate government response had been received.

Results

OMCT’s strong links with national partners have been crucial in enabling the organisation to bring up-to-date, first hand information directly to Geneva from the field. This, together with the organisation’s capacity to analyse, contextualise and present this information in an effective manner has brought dividends in terms of its ability to support and influence the work of the UN human rights mechanisms. The UN Treaty Bodies have, for example, begun to take up in their dialogues with governments many of the issues relating to the economic, social and cultural root causes of violence presented to them by OMCT. This is also true of UN Special Procedures mandate holders who act on OMCT complaints, request follow-up information, and dialogue with national NGO activists during OMCT’s annual Special Procedures Seminars organised under this project.

Responding to a questionnaire distributed by OMCT to help tailor the organisation’s submissions to the UN committees, a member of the Committee on Economic, Social and

Cultural Rights indicated that she found OMCT alternative reports “very useful in the preparation of the questions I intended to put to the delegation of each State party”, described the particular emphasis on the links between the denial or economic, social and cultural rights and the incidence of various forms of violence as “[e]xtremely relevant”, and confirmed that, “The incidence of various forms of violence results in the restriction or even the total negation of most ESCR[economic, social and cultural rights].”

As for the concrete impact of OMCT’s alternative reports, regarding Kenya, the Committee Against Torture specifically acknowledged the links between violence and denials of economic, social and cultural rights in emphasising,

*the persistent linkage between widespread violence and torture by state agents and the problem of land in the State party. The lack of access to land, paired with other social and economic injustices, are frequently considered as root causes of torture and violence.*⁹

The Committee also expressed its concern at,

*the common practice of unlawful and arbitrary arrest by the police and the widespread corruption among police officers, which particularly affects the poor living in urban neighbourhoods. [...] The Committee urges the State party to address the problem of arbitrary police actions, including unlawful and arbitrary arrest and widespread police corruption, particularly in slums and poor urban neighbourhoods.*¹⁰

This point was particularly underlined during the OMCT preparatory mission to Kenya by representatives of residents of informal settlements who denounced police arbitrary actions, illegal arrests and harassment in poor areas. Among its recommendations, the Committee echoed the call by OMCT and its national partners for the establishment of an Office of Public Defender and a reform of the current bail system to ensure that it is more reasonable and affordable.

Likewise, the concluding observations and recommendations of the Committee on Economic, Social and Cultural Rights on Kenya reflect many of the concerns expressed and measures proposed by OMCT and its partners. In particular, the Committee noted that, “disparities in the enjoyment of economic, social and cultural rights, including access to land, have led to inter-ethnic tensions and post-election violence during which as least 1,500 persons were killed in early 2008”.¹¹ It also issued a comprehensive recommendation that brings together a number of measures OMCT and its partners had identified as crucial for resolving land-based conflict in Kenya. Specifically, the Committee calls upon the Kenyan Government to:

address disparities in the enjoyment of economic, social and cultural rights, including in access to land, which particularly affect poor people in urban areas and minority and indigenous communities in rural areas, e.g. by adopting the Draft National Land Policy, establishing land inspectorates to monitor discriminatory allocation of land, and implementing the recommendations of the Ndung’u Commission of Inquiry into Illegal/Irregular Allocation of Public Land. It also recommends that the State party establish a tribunal on post-election violence to bring perpetrators to justice, as well as a Truth, Justice and Reconciliation Commission to address broader historical injustices, and that it

⁹ U.N. Doc. CAT/C/KEN/CO/1, para. 21

¹⁰Ibid. para 12

¹¹ U.N. Doc. E/C.12/KEN/CO/1, para 12

*foster dialogue and promote comprehensive reconciliation among its different ethnic groups.*¹²

Other issues raised by OMCT, CEMIRIDE and ICJ-Kenya and reflected in the recommendations of the Committee include police corruption, harmful traditional practices, trafficking in women and children, child labour - in particular child sexual exploitation - and lack of legislation specifically criminalizing domestic violence, including spousal rape.

In the case of the Philippines, the Committee on Economic, Social and Cultural Rights in its concluding observations and recommendations reflected a number of concerns raised by OMCT in its Alternative Report. This included a specific reference to forced disappearances and extrajudicial killings of trade union activists, indigenous leaders, peasant activists advocating for the implementation of the agrarian reform and human rights defenders engaged in defending the economic, social and cultural rights of their communities. The Committee also expressed particular concern about the limited progress made by the State party in investigating such cases and in prosecuting the perpetrators of these crimes. Echoing OMCT's recommendations, it explicitly called upon the Government to take all necessary measures to protect these groups against "any intimidation, threat and violence, whether perpetrated by State security forces and agents or non-State actors." It also called on the State party "to ensure that all alleged cases of forced disappearances and extrajudicial killings are promptly and thoroughly investigated, and that alleged perpetrators are prosecuted and appropriately punished, if found guilty."¹³

In addition, the Committee noted with concern the adverse effects that economic activities connected with the exploitation of natural resources, especially mining operations, carried out in indigenous territories continue to have on the right of indigenous peoples to their ancestral domains, lands and natural resources. In line with OMCT's alternative report, it recognised the conflict of laws between the 1995 Mining Act and the 1997 Indigenous Peoples Rights Act and called on the Government to ensure,

*the effective enjoyment by indigenous peoples of their rights to ancestral domains, lands and natural resources, and avoiding that economic activities, especially mining, carried out on indigenous territories adversely affect the protection of the rights recognized to indigenous peoples....*¹⁴

Just as OMCT seeks to bring the voice of local communities to the UN Committees, so to it aims to relay the reflections and recommendations of these Committees to the local level. For example, a representative of an Ogiek community which OMCT visited during its preparatory mission in Kenya, and about which the Committee on Economic, Social and Cultural Rights issued a specific recommendation regarding its recognition as a distinct ethnic group with the right to the preservation, protection and development of its cultural heritage and identity, wrote with,

thanks for the good work that you are doing for taking the plight of the Ogiek and other indigenous minorities to such a high level, indeed we feel honoured that at last our name is mentioned at the United Nations. We lack words to explain our gratitude.

¹² Ibid. para 12

¹³ U.N. Doc. E/C.12/PHL/CO/4, para. 15

¹⁴ Ibid. para 16

5. Working with the European Union

OMCT gives particular importance to working with the institutions of the European Union, in particular the European Parliament, in order to raise their awareness of the need to fight violence by acting on its economic, social and cultural root causes. This enables the voice of the EU to be added to that of human rights and development NGOs in urging effective action against these root causes.

Submissions to the European Union

In January 2008, OMCT submitted information on *Egypt* to the Human Rights Subcommittee in connection with its discussion of the relations between the EU and Egypt. An OMCT Action File on serious human rights violations in connection with two major hydro-electric projects in *Northern Sudan* (SDN301107.ESCR) was submitted to the Parliament's Rapporteur on human rights violations deriving from China's investments in Africa, and a number of Action Files were transmitted to the Parliament in support of the seminar on "*Tackling Grand Corruption, National Resources and Poverty: Can the EU take the global initiative?*" held in May 2008. Several Action Files and appeals were transmitted to members of the European Parliament in connection with the preparation of written parliamentary questions.

OMCT also submitted a set of amendments for inclusion in the European Parliament's *Annual Report on Human Rights in the World for 2007 and EU Policy in that Matter*, in order to support the development of EU policy on human rights and to help EU institutions focus more attention on the links between human rights violations and poverty, inequality and discrimination.

EU Fundamental Rights Agency

The European Parliament, in late 2007 and early 2008, reviewed and amended the mandate and work programme of the new EU Fundamental Rights Agency. The original draft contained no reference to economic, social and cultural rights as basic human rights or to the fact that their violation can lead to the violation of other rights. Consequently, OMCT wrote to key Parliamentarians and suggested that the terms of reference of the Agency be modified to include, "*seek[ing] to identify the economic, social and cultural factors that contribute to respect for the human rights [...] or which may constitute root causes of violations of those rights.*" OMCT's amendment was accepted by the Civil Liberties Committee of the Parliament in December and by the Parliament as a whole in January 2008.¹⁵ Unfortunately, the European Commission and EU Council failed to accept the Parliament's recommendations, thus leaving economic, social and cultural rights outside the mandate of the Agency. OMCT thus wrote to the Commission and Council urging them to reconsider the Parliament's recommendations both to ensure the protection of all the human rights of the citizens of Europe and to the strengthen EU's efforts to promote respect for human rights at the international level, particularly in the UN system.

Results

OMCT's contributions have been well-received by the EU, and in the case of the Phulbari Action File (see above), which OMCT transmitted to the European Parliament, the Chair of the Committee on Development asked the organisation to provide additional information and to keep the Committee informed of future developments in this case.

¹⁵ Multiannual Framework for the Fundamental Rights Agency for 2007-2012 - adopted on Thursday, 17 January 2008 – Strasbourg, Article 2, introductory part:

Regarding OMCT's suggested amendments to the Parliament's *Annual Report on Human Rights in the World for 2007 and EU Policy in that Matter*, most of these were included in the final text as adopted by the Parliament in plenary (see appendix IV). In particular, the Parliament explicitly mentioned the principle of indivisibility of human rights and reaffirmed the importance of the principle of interdependence of human rights by recognising the need for a human rights assessment accompanying each impact analysis carried out by the Directorate General for Trade. The Parliament also adopted OMCT's amendment calling on the European Commission to ensure that the economic activities of EU private companies in third countries - in particular as regards the exploitation of natural resources - abide by international human rights standards, including the obligation to obtain the prior and informed consent of local communities and indigenous peoples affected.¹⁶

The Report also incorporated OMCT's proposal to include a clear reference to the special situation of human rights defenders in the new EU Common Code on Visas, as well as an explicit mention of economic, social and cultural rights defenders within this category. Furthermore, the European Parliament endorsed OMCT's suggestion that the Council and the Commission should enhance cooperation with the Council of Europe in order to create a *"Europe-wide zone free from torture and other forms of ill-treatment, as a clear signal that European countries are firmly committed to eradicating these practices also within their borders."*¹⁷

6. Advocacy: building a framework of understanding

The effectiveness of action against the economic, social and cultural root causes of violence is greatly enhanced by a widely held understanding of the links between violations of those rights and violence and the types of action that can be taken to address these links. While progress is clearly being made, much still needs to be done to help ensure that policy makers and institutions are aware of these issues and are ready to take action. Thus OMCT seeks to contribute to building a framework of understanding with UN bodies, regional institutions, human rights defenders and, to the extent possible, the general public.

In addition, OMCT's advocacy aims to encourage NGOs to work with OMCT on these issues and thus, as mentioned above, an information note highlighting the project's activities in 2007 was widely circulated. OMCT also discusses these issues with visiting delegations of NGOs, as well as making presentations to groups on study trips to Geneva. In 2008, OMCT hosted students from both the London School of Economics and the University of Exeter, UK.

Statements to the Human Rights Council

OMCT submitted a written statement on the economic, social and cultural root causes of torture and other forms of violence to the 7th session of the Human Rights Council in connection with Item 3, Promotion and protection of all human rights, civil, political, social and cultural rights, including the right to development. Specifically, OMCT recommended that members of the Human Rights Council:

¹⁶ European Parliament resolution of 8 May 2008 on the Annual Report on Human Rights in the World 2007 and the European Union's policy on the matter (2007/2274(INI))- Thursday, 8 May 2008 - Brussels 128.

¹⁷ European Parliament resolution of 8 May 2008 on the Annual Report on Human Rights in the World 2007 and the European Union's policy on the matter (2007/2274(INI))- Thursday, 8 May 2008 - Brussels 50.

- ensure that policies and programmes by governments, private actors, development institutions and financial institutions are founded on a human rights-based approach and do not exacerbate poverty and inequalities that lead to increased levels of official, criminal or domestic violence;
- request that the UN Special Procedures mandate holders continue to take into account the link between the denial of economic, social and cultural rights and violence in their reports wherever relevant;
- ensure that the Universal Periodic Review process takes into account the economic, social and cultural root causes of torture and other forms of violence.

In connection with the 2008 session of the Social Forum of the Human Rights Council, OMCT submitted a written statement relating to the eradication of poverty in the context of human rights. OMCT also made an oral statement to the 15th Annual Meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council in June 2008, urging the Special Procedures to further develop the examination of economic, social and cultural root causes of violence in their work.

Further, at the invitation of the newly-appointed UN Special Rapporteur on the Right to Food, OMCT submitted recommendations for matters to be discussed by the Human Rights Council during its special session on the global food crisis. OMCT suggested that the question of social unrest as a result of rising food prices and the potential violent suppression of protest by police and security services be considered by the Council as either a separate or a cross-cutting issue. OMCT referred in particular to the concerns of the participants in the African Regional Seminar and to the reports of the excessive use of force by Tunisian police against demonstrators protesting against high living costs and lack of work.

OMCT was asked to chair the NGO Consultation on the Draft Guiding Principles on Human Rights and Extreme Poverty (December 2008) and present the results to the OHCHR consultation (January 2009) aimed at preparing recommendations for the Human Rights Council.

The African Commission on Human and Peoples' Rights

OMCT reports and CD-ROMs on the economic, social and cultural root causes of torture, including OMCT's Interdisciplinary Study, were distributed during the meeting of the African Commission in Swaziland and the NGO Pre-Sessional Forum in May 2008, and preliminary contacts were made to facilitate OMCT's involvement in subsequent meetings of the Commission. In November 2008, OMCT was represented at the Forum on the Participation of NGOs in the 44th Ordinary Session of the African Commission on Human and Peoples' Rights in Nairobi and at the 44th Ordinary Session itself, and included in its work a call to the Commission that it focus attention on the economic, social and cultural root causes of violence.

International Day in Support of Victims of Torture: press release

On 26 June 2008, the International Day in Support of Victims of Torture, OMCT issued a press release (see appendix V) drawing attention to the fact that, around the world, the majority of victims of torture and other forms of violence come from the most disadvantaged social groups and that members of marginalised communities are not only more vulnerable to such abuses, but also least able to claim their rights and seek protection and redress.

OMCT called upon civil society to remain vigilant to the risk that incidents of torture and violence directed against the poorest and most marginalised elements of society become still more frequent over the coming months, in the context of growing public unrest provoked by rising global food prices and increasing food insecurity. OMCT also emphasised that, at the same time, it is imperative that governments recognise and respect the right of their citizens to peaceful demonstration.

Other advocacy activities

In its work to raise awareness of the need to address the economic, social and cultural root causes of torture and violence, OMCT has made presentations to the above-mentioned Intensive Workshop on Human Rights and Torture in Zimbabwe (September 2008), and to the “Expert Seminar on the Impact of Terrorism and Counter-terrorism Measures on the Enjoyment of Economic, Social and Cultural Rights” organised by OHCHR in Geneva in November 2008.

OMCT also raised the issue at the University of Geneva Graduate Institute of International and Development Studies’ Annual Meeting on Global Issues and its NGO Programme dedicated to Corporate Social Responsibility and the concept of corporate complicity in human rights violations (28 October 2008). During the preparatory mission to Kenya in April 2008, OMCT staff spoke about the economic, social and cultural root causes of violence on a Kenyan community radio programme. Further, OMCT contributed to an article by CEMIRIDE, published in *The Standard* newspaper, Kenya in October 2008 and entitled “The Reform Path that Kenya should take for a Stable and Better Future”.

7. Lessons learned, challenges and responses

In the first two years of the implementation of this project, OMCT has learned that addressing the economic, social and cultural root causes of violence through the appropriate channels has a real potential to reduce human rights abuses, and that this in turn increases the space for economic, social and cultural development. This has also proven to be an effective means by which to challenge the relativistic argument that respect for the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment should be subordinated to economic priorities. While the project aims to ensure respect for all human rights, and in particular economic, social and cultural rights in government economic, development and other policies, it does not seek to determine what those policies should be.

In order to maximise the impact of its activities and to maintain a more sustained involvement in a number of strategically selected countries (most notably Kenya and the Philippines, and more recently Brazil), OMCT has adopted an integrated approach based on complementary and mutually reinforcing activities. Thus, for example, OMCT’s training seminars strengthen links with national NGOs and generate material for Action Files and similar initiatives. In turn, this provides the foundation for other activities, including the preparation of alternative reports which, in complementary forms, may be submitted to more than one UN Committee.

Through these outputs, and by clearly demonstrating how violations of economic, social and cultural rights can lead to torture and other serious forms of violence, OMCT has succeeded in increasing the pressure on those responsible to take preventive or remedial action. This holds true not only for governments, which do not want to see their economic and social

policies explicitly linked to violence, but also for the corporate sector, banks and development agencies.

OMCT has learned that the most promising results in terms of impact are achieved by focusing on selected cases or situations and carrying out in-depth analysis. This often calls for additional research into important crosscutting issues such as the status of women and their access to economic resources or issues relating to indigenous peoples. It also requires direct contact with national partners who can provide specific insights into national dynamics. On the basis of this analysis, specific targets are identified and the most appropriate combinations of tools are selected (Action Files, letters, press releases, complaints or alternative reports, submitted, as appropriate, to governments, development agencies, UN organs, the private sector and European institutions, including the EU Parliament etc). The formulation of recommendations for action can be strengthened by references to examples of good practices that in turn result from OMCT research and the organisation's growing experience in this field.

This situation-driven approach allows OMCT to use its understanding of the mandates, working methods and expectations of a wide range of international organisations to tailor the use of its tools for maximum effect. In addition, and since the problems addressed are complex and require long term solutions involving many actors, OMCT has come to recognise that a successful outcome also depends on vigorous and continuous follow-up activities. The very nature and complexity of the problems faced means that action must be targeted over the long-term, as capacities and understanding of a given case or situation are developed. The initial investment in research and analysis realises its full value through coordinated and sustained follow-up activities that are almost as resource-intensive as the development of the original complaint.

National NGOs are key partners in OMCT's work, and building their capacity to address the root causes of torture and other forms of violence potentially brings a new and important dimension to their activities to promote human rights. The importance of an active and well supported network of interested NGOs has become apparent in the course of the project, and OMCT has learned that here too, a significant investment must be made in order to build NGO capacity.

OMCT will therefore continue to focus attention on building and supporting its network of those interested in economic, social and cultural rights. This is particularly important given that for many organisations the analysis of the economic, social and cultural root causes of torture and other forms of violence remains a challenge. On the one hand, NGOs that focus on the promotion of civil and political rights, while aware of the links between poverty, inequality and violence, often lack the expertise to analyse the root causes of this violence. On the other, NGOs working in the fields of economic, social and cultural rights and development frequently do not have the capacity to use the tools of civil and political rights protection effectively. This observation has led OMCT to conceive of its training seminars as forums for constructive interaction among NGOs with complementary areas of expertise. The practical work of analysing cases and preparing targeted submissions calling for carefully tailored action on the economic, social and cultural root causes of specific cases of violence becomes a means of bridging this gap between organisations with different expertise and ways of operating. The value of this approach is confirmed by feedback from seminar participants themselves.

Another challenge arising from the multi-disciplinary nature of this project, bringing together as it does international human rights standards and economic, social and cultural analysis, lies in encouraging UN Treaty Bodies and Special Procedure mandate holders with specialised briefs to adopt a more holistic approach to violence and its root causes. In part this calls for careful analysis in order to clearly identify these root causes and trace their influence in specific cases and situations. It also requires the presentation of findings in a manner best suited to each mechanism. This was one of the principal reasons behind OMCT's strategic decision to submit complementary reports on Kenya to different UN Treaty Bodies. Regarding the Philippines, one alternative report was submitted to the Committee on Economic, Social and Cultural Rights in November 2008 and another has been presented to the Committee Against Torture for discussion in April 2009. These reports, while responding to the specificities of the two Covenants, are complementary and designed to encourage mutually reinforcing recommendations. It is encouraging that in the case of Kenya, the concluding recommendations of both Committees clearly reflect OMCT's concerns. Also with regard to UN Treaty Bodies, OMCT has learned of the significant advantage in preparing contributions for a committee's preliminary list of issues in terms of influencing the subsequent dialogue between that committee and the government.

OMCT has also observed that the relevance of addressing the root causes of torture and other forms of violence for the work of different UN Treaty Body committees is further underlined by the submission of first-hand information on the situation of local communities gathered in the course of field missions. Local forums, in which those directly affected by violence and violations of economic, social and cultural rights meet with national NGOs and OMCT staff to explain their situation and discuss remedies, have thus become an important tool for this project. A member of the UN Committee on Economic, Social and Cultural Rights described this approach as being "very useful as it is direct information from affected communities".

Finally, as OMCT refines its techniques, hones the tools at its disposal and acquires an increasingly extensive body of knowledge, an important challenge becomes that of ensuring that the experience acquired in this process is used to the maximum extent possible. This implies placing still greater importance on the question of follow-up and long-term monitoring of situations, as well as building the capacity of local NGOs to assume this role. These elements are likely to play an increasingly important role during the final year of this project and, indeed, in OMCT's future activities to address the economic, social and cultural root cause of torture and other forms of violence.

Appendix I Press Release, African Regional Seminar



African Human Rights NGOs meeting to address the economic, social and cultural root causes of torture call on Governments to make Africa a torture-free continent

On 11 May of this year, representatives of 18 African Human Rights NGOs meeting in Maputo, Mozambique, to participate in the World Organisation Against Torture (OMCT) African regional seminar on the economic, social and cultural root causes of torture drafted and adopted the Maputo Declaration Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In this document, the seminar participants - representing organisations from Benin, Burundi, Cameroon, Central African Republic, Congo Brazzaville, Democratic Republic of the Congo, Egypt, Ghana, Kenya, Liberia, Madagascar, Niger, Nigeria, Senegal, Togo, Zambia and Zimbabwe - express their extreme concern at the erosion of the absolute prohibition against torture and urge concerted action at both national and international levels to bring an end to this practice.

The Maputo Declaration was drafted in the course of OMCT's regional seminar on addressing the economic, social and cultural root causes of torture and other forms of violence (7-11 May 2008). The aim of the seminar was to explore the ways in which violations of economic, social and cultural rights are linked to violence and how acting on those root causes can in turn reduce levels of violence. During the seminar, participants selected, presented and collectively analysed specific situations from their own countries and identified practical actions to address the root causes. For each case they developed concrete recommendations for Government authorities, the human rights bodies of the United Nations and other institutions, such as the European Union and private sector actors.

The Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The seminar participants - all engaged in fighting torture and other cruel, inhuman or degrading treatment or punishment in Africa - discussed the many serious obstacles placed in the way of their activities. To express their deepest concern at the present situation, they adopted the Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see annex) in which they call on African Governments to make the continent "*free from such practices*".



This seminar is part of a wider OMCT project designed to address the economic, social and cultural root causes of torture. The European Union through the European Initiative for Democracy and Human Rights provides substantial support for this project which is also supported by the Swiss Agency for Development and

Cooperation (SDC), the Interchurch Organisation for Development Cooperation and the Karl Popper Foundation and the Foundation for Human Rights at Work.

In the Declaration, participants, “deplore the open practice and justification by certain States of torture and other cruel, inhuman or degrading treatment or punishment and the open or silent cooperation and complicity of other States in those practices that gravely undermine our daily work and provide justification to repressive regimes that practice torture”. They also express their deepest concern at attempts by certain public figures, jurists, academics and others to undermine the absolute prohibition of such practices and the complicity of some media in justifying such unlawful treatment.

The participants encourage the African Union, the European Union and the United Nations to take practical steps to reinforce their cooperation and activities against torture and other cruel, inhuman or degrading treatment or punishment and to strengthen their cooperation and support for civil society organisations engaged in the promotion and protection of human rights. They invite human rights NGOs from all over the world to join in the Declaration and ask for its widest circulation.

Acting on the economic, social and cultural root causes of torture

In the Maputo Declaration, the signatories also recognise “that violations of economic, social and cultural rights are very often the root causes of the torture and other cruel, inhuman or degrading treatment or punishment that our organisations fight against”. Indeed, on the basis of papers prepared in advance of the seminar, participants analysed specific cases in order to identify what action NGOs can take to end and prevent serious violations of human rights by acting on the poverty, inequality and discrimination at their roots. Among these situations were:

- Slavery like conditions of indigenous hunter-gatherer communities who, because of their weak economic position and marginalisation, are subjected to forced labour and denied most economic, social and cultural rights;
- Official violence inflicted on export zone workers calling for respect for their basic rights;
- Demonstrations calling for government action against rising food prices and deteriorating living conditions met with violent repression;
- Conflict over land allocation and mass evictions that led to armed resistance by populations and violent and indiscriminate repression by government forces;
- Torture and ill-treatment of detainees, including children, who are unable to afford legal defence and are not released from custody pending trial;
- Violent evictions of indigenous communities who, as a result, are subjected to ever graver violations of their economic, social and cultural rights;
- Eviction of an island community to make way for a hotel and casino complex.

These and other cases were analysed in working groups where they were enriched through an enthusiastic exchange of experience and ideas. The proposals for action that resulted are being further refined by participants in their own countries and, in cooperation with OMCT, may be presented to governments, international bodies and private sector actors.

Opening ceremony and providing the substantive framework

The opening ceremony on 7 May was addressed by Ambassador Glauco Calzuola, Head of the Delegation of the European Commission in Mozambique and Ambassador Thomas Litscher of Switzerland, with representatives of the United Nations Development Program and the Governments of Sweden and Finland also taking part.

In order to provide a substantive framework for the seminar's discussions, presentations based on OMCT research and experience¹⁸ were made on how disrespect for economic, social and cultural rights can lead to violence and how the United Nations human rights system can be used to address those root causes (Dr. Michael Miller, OMCT Director of Research and Development). Presentations were also made on engaging with the European Union to promote economic, social and cultural rights and fight torture (Ms. Francesca Restifo, OMCT Researcher and Dr. Anna-Lena Svensson-McCarthy, Lawyer and Human Rights Consultant). In addition, a presentation on how NGOs can interface with the European Union, especially on the country level, was made by Ms. Fotini Antonopoulou of the Delegation of the European Commission in Mozambique. Further, a special session was devoted to exploring how the human rights institutions of the African Union can be used to address the issue of violence and its root causes.

Guest speakers also provided participants with examples of practical responses to violence – and violence against children in particular - in Mozambique and Southern Africa. Mr Mioh Nemoto (UNICEF Mozambique) gave an overview of the socio-economic conditions of children and women in the country and presented UNICEF's child protection activities. Ms, Nely Chimedza (International Organisation for Migration, Southern African Counter Trafficking Assistance Programme) discussed practical responses to child trafficking, and Mr. Chris Bjornestad (Save the Children, UK) presented the situation of unaccompanied and undocumented child migrants in the Southern African Region. All the presentations were followed by lively discussions with participants.

Participants expressed appreciation for having been able to deepen their understanding of the economic, social and cultural root causes of violence. They also underlined the importance of targeted action to address these root causes and called for the setting up of an African regional network of NGOs interested in the subject to exchange information and ideas. OMCT was asked to assist in this as well as to continue to provide support to African NGOs wishing to address the economic, social and cultural root causes of violence.

¹⁸ See the OMCT publication "*Attacking the Root Causes of Torture, Poverty, Inequality and Violence: an Interdisciplinary Study*" (Geneva, September 2006), and the Report of the International Conference "*Poverty, Inequality and Violence: Is there a Human Rights Response?*" (Geneva, 4 to 6 October 2005) both available at www.omct.org.



The Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The undersigned African Human Rights Non-Governmental Organisations fighting torture and other cruel, inhuman or degrading treatment or punishment and the World Organisation Against Torture (OMCT), meeting at the African Regional Seminar on Addressing the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence, held in Maputo, Mozambique, from 7 to 11 May 2008;

Recognise that violations of economic, social and cultural rights are very often the root causes of the torture and other cruel, inhuman or degrading treatment or punishment that our organisations fight against and that such violations can be effectively reduced and eliminated by action on those root causes;

Call for concerted action on the national and international levels in collaboration with other civil society partners to identify, address and act upon those root causes along with those violations of civil and political rights that make torture and other cruel, inhuman or degrading treatment or punishment possible;

Strongly reaffirm that torture and other cruel, inhuman or degrading treatment or punishment are absolutely prohibited in all circumstances by international human rights law and international humanitarian law, and that torture and other inhuman acts constitute in certain circumstances crimes against humanity under the Statute of the International Criminal Court. No circumstances can ever justify torture and other cruel, inhuman or degrading treatment or punishment and such acts must be made criminal offences in national law. States are responsible before the international community for outlawing torture and other cruel, inhuman or degrading treatment or punishment, for preventing their occurrence, for prosecuting and punishing those guilty of such acts and for providing reparation to the victims;

Strongly deplore the open practice and justification by certain States of torture and other cruel, inhuman or degrading treatment or punishment and the open or silent cooperation and complicity of other States in those practices that gravely undermine our daily work and provide justification to repressive regimes that practice torture and other cruel, inhuman or degrading treatment or punishment;

Further, express our deepest concern at attempts by certain public figures, jurists, academics and others to undermine the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the complicity of some media in justifying such unlawful treatment;

Emphasising that in our daily work of defending human rights and human dignity, we are witness to the devastating physical and psychological consequences that torture and other

cruel, inhuman or degrading treatment or punishment inflict on the victims, such as women, men, children, youth, the poor and marginalised, indigenous peoples, minorities and others, on their family members and on society as a whole, in addition to the dehumanising effects upon those who practice torture and other forms of ill-treatment;

Welcome the conclusions of 29 April 2008 of the Council of the European Union in which it recalled "the EU's firm position to fully comply with obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment, in the fight against terrorism, in particular the absolute prohibition of torture and cruel, inhuman and degrading treatment";

Call on all States to make similar statements categorically rejecting torture and other cruel, inhuman or degrading treatment or punishment;

Call, in particular, on African Governments to end torture and other cruel, inhuman or degrading treatment or punishment and to make Africa a continent free from such practices, to end impunity by identifying, prosecuting and punishing those guilty, directly or indirectly, of torture and other cruel, inhuman or degrading treatment or punishment, and to ensure justice, reparation, assistance and rehabilitation to victims of torture and other cruel, inhuman or degrading treatment or punishment;

Recognise the essential role of civil society organizations in effectively ending torture and other cruel, inhuman or degrading treatment or punishment and in efforts to ensure justice, reparation, assistance and rehabilitation for the victims;

Call for strengthening of the civil society organizations fighting torture and other forms of ill-treatment and increased cooperation with them on the part of national authorities in the fight against torture and other cruel, inhuman or degrading treatment or punishment;

Encourage the African Union, the European Union and the United Nations to take practical steps to strengthen their cooperation and activities against torture and other cruel, inhuman or degrading treatment or punishment, in particular within the framework of the Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment and to strengthen their cooperation and support for civil society organisations engaged in the promotion and protection of human rights;

Request all interested organisations to join with the World Organisation Against Torture in adhering to this Declaration and in circulating it widely, and invite organisations and individuals to transmit this Declaration to all African Governments, the African Union, the European Union, the United Nations and other relevant institutions.

- Action by Christians for the Abolition of Torture (ACAT), Burundi
- Action by Christians for the Abolition of Torture (ACAT), Central African Republic
- Action by Christians for the Abolition of Torture (ACAT), Togo
- Association pour les Droits de l'Homme et l'Univers Carcéral (ADHUC), Republic of the Congo
- Centre for Security and Development Studies (CSDS), Liberia
- CLEEN Foundation, Nigeria
- Comité des Observateurs des Droits de l'Homme (CODHO), Democratic Republic of the Congo

- Comité de Réflexion et d'Orientation Indépendant pour la Sauvegarde des Acquis Démocratiques (CROISADE), Niger
- Defence for Children International (DCI), Ghana
- Enfants Solidaires d'Afrique et du Monde (ESAM), Benin
- Independent Medico-Legal Unit (IMLU), Kenya
- International Commission of Jurists (ICJ), Kenya
- Land Centre for Human Rights (LCHR), Egypt
- Mouvement pour la Défense des Droits de l'Homme et des Libertés (MDDHL), Cameroon
- Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), Senegal
- Women in Law and Development in Africa (WiLDAF), Zambia
- World Organisation Against Torture (OMCT), Switzerland
- Zimbabwe Lawyers for Human Rights (ZLHR), Zimbabwe

Maputo, Mozambique
11 May 2008

In addition, the following organisations and individuals adhere to and express their support for the message and principles contained in the Maputo Declaration:

- African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Uganda
- Antenna International, Switzerland
- L'Association de Défense des Droits de l'Homme au Maroc (ASDHOM), France
- Rencontre pour la Paix et les Droits de l'Homme (RPDH), Republic of Congo
- Bulgarian Helsinki Committee, Bulgaria
- Centre Action Social Réhabilitation et Réadaptation pour la Victime de la Torture (SOHRAM-CASRA), Turkey
- Centre for Human Rights, Democracy and Transitional Justice Studies, Democratic Republic of Congo
- Centre for Minority Rights Development (CEMIRIDE), Kenya
- Centro de Atención Psicosocial (CAPS), Peru
- Khulumani Support Group, South Africa
- Jananeethi Institute, India
- Justiça Global, Brazil
- La Ligue Camerounaise des Droits Humains, Cameroon
- Movement for the Survival of the Ogoni People (MOSOP), Nigeria
- Nora Wilson, Toronto, Canada
- Philippine Alliance of Human Rights Advocates (PAHRA), Philippines

Appendix II

Press Release, OMCT Special Procedures Seminar



OMCT SEMINAR – ADDRESSING THE ECONOMIC, SOCIAL AND CULTURAL
ROOT CAUSES OF VIOLENCE THROUGH THE UN SPECIAL PROCEDURES
SYSTEM,
GENEVA 23-27 JUNE 2008

How can national human rights NGOs address the economic, social and cultural root causes of torture through the UN Special Procedures System?

This was the key question addressed by representatives of fourteen NGOs from around the world during the 2nd International Seminar on the UN Special Procedures System organised by the World Organisation Against Torture (OMCT). The seminar was held in Geneva from 23 to 27 June and took place in parallel with the 15th annual Meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council.

The core discussions were aimed at strengthening synergies between national NGOs and the UN Special Procedures mandate holders, with a particular view to reducing violence associated with the denial of economic, social and cultural rights. The outcome of the seminar highlighted the mutually beneficial relationship between national NGOs and mandate holders. Indeed, on the one hand, mandate holders rely on well-targeted information reported from the field, and on the other, national NGOs benefit from the international exposure that the Special Procedure System offers to their concerns.

During the seminar, the participants – representatives of NGOs from Brazil, Bulgaria, Colombia, Congo Brazzaville, Kenya, India, Lebanon, Mexico, Mozambique, Nigeria, Peru, Philippines, Thailand, and Uganda - presented and discussed case-studies examining the economic, social and cultural root causes of torture in their countries. The entry point of the debate focused on the policies and programmes that are the cause of poverty and marginalisation, and that, consequently, lead to discontent, protests and violence. Among the main issues addressed by the participants were conflicts arising from access to land, forced evictions, access to water resources and adequate food, militarisation and the effects of free trade agreements and liberalisation policies.

More specifically, the fourteen cases presented during plenary sessions and analysed in detail in working groups addressed the following themes:

- Indigenous communities subjected to gross human rights violations by private actors or private militia in connection with development projects. The forced eviction of indigenous communities without alternative resettlement and remedy.
- Violence generated by land grabbing and the inability of the dispossessed - often peasant farmers or pastoralists - to provide for themselves and their families;
- Omission by the State to correct gross inequalities and uneven distribution of resources, particularly as regards the most marginalised communities. Absence of mechanisms addressing inequality and of programmes to promote the enjoyment of economic, social and cultural rights. Demonstrations to protest against these poor living conditions are frequently met with violent repression;
- Violence against vulnerable groups including children, migrants and persons with mental disabilities. Lack of effective access to health and social services for these groups. Victims of torture denied access to rehabilitation services and social support;
- Criminalisation of poverty, leading to false charges against and imprisonment of the poor, suppression of legitimate social protest, and police impunity as regards arbitrary executions and violence against the poor;
- Widespread poverty and environmental damage caused by extractive industries, and violence directed at local populations when they call for respect for their rights and a fair share of revenues.

The individual cases presented by the participants indicated that, time and time again, the principal victims of violence come from the most vulnerable segments of society such as the poor, persons with disabilities, indigenous peoples, women and children, as well as economic, social and cultural rights defenders. For each case, the participants developed concrete recommendations on the type of action needed to effectively address these situations. They also drew up lists of key national and international actors to whom to address their concerns and recommendations. Lastly, participants explored the ways in which the UN Special Procedures System can help them address these concerns.

To support participants in their reflections, OMCT invited a number of UN mandate holders for an in-depth exchange of views. In this way, participants had the opportunity to interface directly with mandate holders on how to deal with the link between torture and the denial of economic, social and cultural rights in their countries. Specifically, participants met with the Special Rapporteurs on Education, Human Rights of Indigenous Peoples, Right to Food, Human Rights Defenders, Right to Housing, and Human Rights of Migrants, as well as the Independent Expert on Minority Issues and the assistant to the Special Rapporteur on Torture. All mandate holders emphasised the need to enhance the relationship between the Special Procedures System and national NGOs, especially when addressing the economic, social and cultural root causes of violence and other human rights violations.

In addition, participants attended the 15th annual Meeting of Special Procedures mandate holders, during which OMCT made a statement on the UN Special Procedures System, indicating, *inter alia*, that the above-mentioned NGO representatives from around the world encouraged the mandate holders to focus attention - both individually and collectively - on the root causes of violence in all their activities.

Many of the NGOs represented at OMCT's seminar have also adhered to the Maputo Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (please see http://www.omct.org/pdf/ESCR/2008/maputo_declaration_en.pdf). This Declaration was drafted by OMCT and eighteen African NGOs on the occasion of the OMCT African Regional Seminar on Addressing the Economic, Social and Cultural Root Causes of Torture, held in Maputo, Mozambique, from 7 to 11 May 2008.

Geneva, 11 July 2008



Preventing violence, in particular torture, ill-treatment, extrajudicial and arbitrary killings by acting on their economic, social and cultural root causes is of high importance to OMCT and its network of some 280 national human rights NGOs and OMCT has developed a specific project to address those root causes. The European Union through the European Initiative for Democracy and Human Rights has provided substantial support for this project which is also supported by Swiss Agency for Development and Cooperation, the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation and the Fondation des Droits de l'Homme au Travail.

Appendix III



OMCT acts to prevent further violence in connection with a large scale open-pit coal mine in Phulbari, Bangladesh and welcomes the Asian Development Bank's suspension of support for this project

Geneva, 3 July 2008: The project for an open-pit coal mine in Phulbari – promoted by British company GCM Resources - has provoked widespread concern over its potential socio-economic, environmental and human rights impact. Protests against this project have already resulted in loss of life and injury. OMCT has contacted all parties involved, including the Government of Bangladesh, private financial institutions and the Asian Development Bank, to express its deep concern at the risk of further violence associated with the project. OMCT has insisted that a decision on the future of the Phulbari mine should only be taken once a thorough, transparent and independent investigation into its human and environmental impact has been carried out, with the full and informed participation of all local communities.

The mining project, human rights and violence

In December 2007 and January 2008 OMCT acted to prevent further killings and violence in connection with the Phulbari mining project - Dinajpur District of **Bangladesh** - and to ensure respect for the human rights of the local communities and indigenous peoples directly affected. In August 2006, several persons had been killed and many injured as a result of action by police and personnel of the Bangladesh Rifles against demonstrations of opposition to the proposed large scale open-pit coal mine. Local NGOs approached OMCT to express their serious concern that further violence, ill-treatment and even deaths could result from Government reaction to the expression of opposition by the local communities and indigenous people directly affected.



Preventing violence, in particular torture, ill-treatment, extrajudicial and arbitrary killings by acting on their economic, social and cultural root causes is of high importance to OMCT and its network of some 280 national human rights NGOs and OMCT has developed a specific project to address those root causes. The European Union through the European Initiative for Democracy and Human Rights has provided substantial support for this project which is also supported by Swiss Agency for Development and Cooperation, the Karl Popper Foundation and the Fondation des droits de l'homme au travail

The information reported to OMCT stated that if the proposed Phulbari mine was carried out it would negatively affect between **50,000 and 500,000 people** through mass evictions, destruction of agricultural land and the pollution that would result from extraction activities. The mine would also seriously compromise the rights to health and to an adequate standard of living of those affected (including access to housing, land, adequate food and clean water). In addition, concern was expressed at the failure to carry out serious environmental impact assessments, and the lack of adequate information and consultation with the affected communities about the project and its potential consequences was criticised.

OMCT acts to prevent further violence

OMCT carried out in-depth research into the mining project itself, its implications for the human rights of the affected populations, local resistance to the project, the limits imposed by the Government on expression of opposition and the specific impact on the economic, social and cultural rights of those affected. OMCT identified how those human rights violations were connected to past violence and created the risk of further violence in the future.

OMCT also investigated the corporate structure of the mining operation, the planned support of the Asian Development Bank (ADB) and that of private banks as shareholders in the mining company in order to identify the specific responsibilities of each.

This research resulted in an OMCT **Action File (BGD 21 12 07)** [annex 1 removed]. This Action File focussed attention on preventing violence by addressing the economic, social and cultural root causes and was seen by OMCT as adding a crucial dimension to the efforts of other organisations objecting to the potentially negative impacts of the proposed mine.

OMCT's Action File called on the Government of the Peoples' Republic of Bangladesh to suspend the mining project and to initiate a thorough and independent investigation into the human and environmental impact of the project and to request the assistance of the Office of the United Nations High Commissioner for Human Rights in that connection. It also called on the Government to ensure the full and informed participation of all local communities in the investigation, to make the report public and abide by its recommendations. It also called on the Government to lift restrictions on public demonstrations and take all necessary steps to prevent future violence. See annex 1 for further recommendations to the Government.

The Action File called on Global Coal Management Resources Plc (GCM), the company responsible for the project, to suspend its activities pending the human and environmental impact report, to fully respect the land rights, resources and livelihoods of all affected communities and to provide fair and adequate compensation. The File also called on the major shareholders in GCM (UBS, RAB Capital and Barclays) to ensure that GCM abided by the impact report and respected national laws and international human rights standards.

The Asian Development Bank (ADB) was scheduled to approve in June 2008 a US\$ 100 million loan and a US\$ 200 million political risk guarantee for the project. This led OMCT to contact the ADB, transmit the Action File and request the Bank to recognise the discontent of the majority of the local population at the manner in which the preparatory phases of the Phulbari project have been conducted. OMCT asked the ADB to insist on the production of a comprehensive human rights and environmental impact study with the full and informed participation of all local communities as a fundamental condition for financial support.

OMCT transmitted the Action File along with requests for specific action to the President of Bangladesh and relevant Government ministers, the Chief Executive of the mining company GCM, the Chief Executives of the above mentioned financial institutions, together with that for Credit Suisse, another shareholder (calling attention to the Equator Principles and the UN Global Compact) and the President of the ADB.

The Action File was also transmitted to the UN Special rapporteurs on Indigenous People and Adequate Housing and the UN Special representative on Transnational Corporations and Human Rights. In addition, the Action File was transmitted to the chairs of the European Parliament Committees on International Trade and Development and the Subcommittee on Human Rights. Finally, the file was transmitted to the 282 national NGOs in OMCT's SOS-Torture Network with the request that they, in turn, seize the appropriate authorities.

The reaction

GCM Resources, the company which was awarded the licensing agreement for mining the Phulbari deposit through Asia Energy Corporation, its wholly-owned subsidiary, contacted OMCT and proposed a meeting to discuss the issues raised in the Action File. As a result, on 26 February 2008 OMCT staff met with the Sustainable Development Manager of GCM Resources in Geneva. The main points made by GCM at that time are summarised in the attached note (annex 2) that has been shared with and approved by GCM. That includes information on GCM's Environmental and Social Impact Assessment (ESIA), the level of compliance' with both ADB's Safeguard Policies and the Equator Principles, planned engagement with local stakeholders and plans concerning compensation of affected communities and local businesses. These points do not necessarily reflect the views of OMCT.

OMCT also received responses from Barclays PLC, RAB Capital, Credit Suisse and UBS, the main financial institutions involved. Unfortunately, and notwithstanding some references to the Equator Principles and the Global Compact, the responses to a large extent reflected a lack of transparency and a failure to take responsibility for the shares held in the name of clients. That constitutes a real challenge to ensuring that financial institutions take responsibility for the human rights implications of their investment decisions.

At the request of the Chair of the European Parliament Committee on Development, OMCT provided additional information on the Phulbari case. OMCT was subsequently requested to keep the Committee informed of further developments. The Committee Chair transmitted the Action File to the Secretariats of the South Asian Delegation and the Human Rights Subcommittee.

The Asian Development Bank's decision

At the beginning of April 2008, the ADB decided to suspend its support for the project. In a statement, the ADB said, *"We think it is premature to continue dialogue with the private sector under current circumstances. So, at this stage we are open to suggestions of the government of Bangladesh, civil society and other stakeholders and prepared to review our engagement in this project to ensure that all sensitivities, including concerns relating to safeguard issues, are fully considered."*¹⁹

The ADB's decision bears testament to the potential of concerted civil society action to influence an issue with serious human rights implications.

¹⁹ See <http://www.guardian.co.uk/business/2008/apr/06/mining.bangladesh>

The future

OMCT, together with its national NGO partners, will remain vigilant to help ensure that any future work on the proposed mine respect the rights of local communities and international human rights standards in the matter.

For further information contact:

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PHULBARI ANNEX 1

Addressing the economic, social and cultural root causes of violence

OMCT ACTION FILE (BGD 211207.ESCR)

BANGLADESH: RISK OF VIOLENT SUPPRESSION OF PUBLIC OPPOSITION TO THE PHULBARI COAL MINE PROJECT, DINAJPUR DISTRICT, BANGLADESH

Text removed. Available on request from OMCT or at www.omct.org

PHULBARI ANNEX 2

Global Coal Management Resources Plc (GCM)

Meeting with Julia Lewis, Sustainable Development Manager, GCM Resources Geneva, Tuesday 26 February 2008

The following is a summary of the main points communicated by GCM Resources with respect to the Phulbari Project. They do not necessarily reflect the views of OMCT.

- GCM recognises that social issues are not covered in detail in the *Summary Environmental Impact Assessment* disclosed by the Asian Development Bank (ADB), however this document was prepared according to the format required by ADB. GCM has carried out a comprehensive Environmental and Social Impact Assessment (ESIA) which includes various socio-economic studies such as the Resettlement Plan (RP) and the Indigenous Peoples Development Plan (IPDP). These studies cover the potential socio-economic impacts of the project on local communities and businesses and provide measures to mitigate against these. GCM is reviewing these plans in detail with ADB as part of their due diligence process.
- The ESIA for the mine was completed a month before the final release of the new IFC (International Finance Corporation) Performance Standards.
- An independent study commissioned by Barclays Capital indicated that the Phulbari project demonstrated a 'moderate to high level of compliance' with both ADB's Safeguard Policies and the Equator Principles.
- The suspension of activities at the project site, and the closure of the Phulbari Information Centre in August 2006 have contributed to an 'information void'. GCM states that it had always made clear that Phulbari would be an open-pit mine. As with all mining projects of this scale, while there is local support for the project, there are also those who have concerns regarding its impact. Extensive further engagement is planned with local stakeholders and will continue throughout the mine life to address their concerns.
- Consultations took place for the most part from 2004 to 2006. Engagement with communities was halted in August 2006, at a critical point in the project's development. The delay in project implementation means that certain data will need to be reviewed. GCM continues to optimise the RP, IPDP for the Phulbari Coal Mine.

- Regarding compensation, affected communities and local businesses were surveyed for data on their current livelihood and earnings and other assets such as land, buildings and crops. Studies show that the informal economy is harder to account for but significant. GCM is conscious that Indigenous People's Groups in particular have cultural sensitivities and dependencies on the land. In keeping with best practices in rehabilitation, GCM is looking at ways to focus on like for like compensation, rather than over reliance on cash for compensation. The project will ensure that those who have to be resettled will have their living conditions improved and livelihoods improved or at least restored. Investments in public services, such as water, schools and health clinics will also be made by the Company.

PHULBARI ANNEX 3 Responses from Banks

UBS²⁰



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Berne Declaration
Private Finance Programme
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December 6, 2007

Global Coal Management

Dear Mr. Missbach and Mr. Barnden

Thank you for the letter and documentation you sent to Marcel Ospel on 21 November.

With regard to your enquiry pertaining to Global Coal Management, please note that UBS has reportable positions in a large number of companies in which it does not have any strategic interest. Often UBS holds these positions on behalf of clients.

The diverse positions in a particular company are collated across business units and reported to the company once the total position has crossed (or fallen below) the applicable notification threshold.

UBS does, however, not comment on specific or potential client relations or transactions or its investments in any particular company.

Yours sincerely,

Christian Leitz
UBS AG

Michael Willi
UBS AG

²⁰ Transmitted in response to OMCT' letter on 11 February 2008 by Dr. Christian Leitz, UBS AG, Communication Management – Corporate Responsibility

RAB Capital



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Mr E Sottas
OMCT Secretariat International
8, rue du Vieux Billard
Case Postale 21
CH-1211
Geneve 8
Switzerland

20 February 2008

Dear Mr Sottas

Phulbari Mining Project

I refer to your letter of 1 February 2008 in which you express concerns about the Phulbari Mining Project in the Dinajpur District of Bangladesh.

RAB Capital plc acts as investment manager for RAB Special Situations (Master) Fund Limited ("RAB SS"), the entity that has invested in GCM Resources plc ("GCM"). As I am sure that you are aware, RAB SS has recently agreed to sell the majority of its holding in GCM.

We appreciate your efforts to ensure that the Government of the People's Republic of Bangladesh balances its economic, social and environmental responsibilities to its people when working with GCM to progress the Phulbari Mining Project. It is not however the policy of RAB Capital plc to comment on the operations of the companies that RAB SS has invested in.

Yours faithfully

Philip Richards
Chief Executive

Credit Suisse



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Organisation Mondiale Contre la Torture
Eric Sottas
Director
8, rue du Vieux Billard
Case Postale 21
1211 Genève

February 26, 2008

Your letter regarding Phulbari mining project, Bangladesh

Dear Mr. Sottas:

We refer to your letter to Mr. Brady Dougan, Chief Executive Officer of Credit Suisse, dated February 1, 2008, in connection with the Phulbari open pit coal mine, a project under development by Global Coal Management plc (GCM) in Bangladesh.

We note your concerns about the potential environmental and social risks associated with this project as expressed in your letter, and thank you for the additional information included in the OMCT Action File enclosed with your letter. Please be assured that Credit Suisse, being a committed member of the UN Global Compact and a founding institution of the Equator Principles, operates a company-wide Reputational Risk Review Process, which aims to ensure that business relationships that entail potential risks relating to human rights, the environment, and other areas are examined in detail and are subject to a special authorization process. Any direct involvement of Credit Suisse in this or any similar project would therefore have to be thoroughly assessed in our risk review process.

While we are unable to comment about particular investments or positions, we should point out that, in general, shareholding positions attributed to Credit Suisse in public records are in most cases held by the bank on behalf of clients, who are the beneficial owners of such securities. As we are sure you understand, we have little or no leverage over the investment decisions of our clients where these are not prohibited or restricted by any applicable laws or regulations. And since we hold such shares on behalf of our clients, we are not in a position to actively engage with those companies regarding their application of environmental or social standards.

It is also worth pointing out that Credit Suisse shareholdings that are reported as part of our public disclosure requirements are as of a particular date; however, because of market events or client investment decisions the magnitude of these positions may vary both widely and quickly, and information in the public domain may become out of date in a relatively short time.

Yours sincerely

CREDIT SUISSE


Dr. René Büchelzer
Head of Public Policy



John Tobin-de la Fuente
Head of Public Policy-Sustainability Affairs

Barclays



Pour action... *Sm / Phil*

Requie: 31 MARS 2008

Copie à

A classer

1 Churchill Place
London
E14 5HP

26 March 2008

Mr Eric Sottas
Director
OMCT
8 rue du Vieux Billard
Case Postale 21
CH-1211 Geneva 8
Switzerland

Dear Mr Sottas

I write in connection with your letter to Barclays President, Bob Diamond, concerning the Phulbari mining project in Bangladesh and GCM Resources PLC.

Thank you for raising the issue with us, and for your comments about our adoption of the Equator Principles and membership of the Business Leaders' Initiative on Human Rights - I apologise for the delay in responding.

In response to the two action points highlighted, please be assured that Barclays takes our environmental and social responsibilities seriously and ensures that the projects we support meet our own stringent criteria, as well as local and international parameters. We were one of four banks that drafted the original Equator Principles (EPs) launched in 2003 and continue to apply the current revised and strengthened requirements. International and local regulatory compliance is also a requirement of our involvement.

Yours sincerely

Philippa Birtwell
Head of Public Policy Research

Appendix IV

OMCT Press Release, 27 May, 2008

The European Parliament adopts OMCT's amendments in its Annual Report on Human Rights

The World Organisation Against Torture (OMCT) welcomes the new [Annual Report on Human Rights in the World 2007 and the EU Policy on the matter](#) (the Report) adopted by the European parliament on May 2008 with an overwhelming majority.

In adopting this Report, the European Parliament has indeed reaffirmed its commitment to the promotion of human rights and the fight against torture throughout the world. In this respect, OMCT appreciates the inclusion in the Report of a number of suggestions that OMCT submitted in order to support the development of the EU policy on human rights.

In particular, OMCT welcomes the adoption of the paragraph calling on the Council and on the Commission to enhance the cooperation with the Council of Europe in a view to creating a "Europe-wide zone free from torture and other forms of ill-treatment, as a clear signal that European countries are firmly committed to eradicating these practices also within their borders".

As for EU trade policy and investments in third countries, OMCT considers a decisive achievement the adoption of paragraph 128, urging the Commission to ensure that the economic activities of EU private companies in third countries - in particular as regards the exploitation of natural resources - abide by international human rights standards, including the obligation to obtain the prior and informed consent of local communities and indigenous peoples affected.

The European Parliament also endorsed OMCT's suggestion to include a clear reference to the special situation of human rights defenders in the new EU Common Code on Visas, as well as an explicit mention of economic, social and cultural rights defenders within this category.

Moreover, OMCT welcomes the fact the European Parliament reaffirmed the principle of interdependence of human rights by highlighting the need for a human rights impact assessment accompanying the Sustainability Impact Assessments of DG Trade. In this respect, OMCT recalls that this is in line with the recommendations of the EU Human Rights Forum - held in Lisbon in December 2007 - on the topic of economic, social and cultural rights.

Further inputs provided by OMCT include, among others, the explicit mention of the principle of indivisibility of human rights, as well as a call for transparency in the process of renewal of the UNHRC special procedure mandates, which should be both gender and geographically balanced.

Finally, OMCT welcomes the opinion submitted to the Report by the Committee on Civil Liberties and, in particular, the adoption of the paragraph calling on the EU for a more holistic approach in addressing torture that takes into consideration a wide spectrum of possible measures aimed at eradicating torture, including prevention, assistance to victims and the fight

against impunity.

OMCT now calls on the Council of the European Union and on the Commission to follow-up the pronouncement of the European Parliament by adopting concrete measures aimed at addressing the concerns expressed in the Report.

Geneva, 27 May 2008

Appendix V

OMCT Press Release, 26 June 2008

Around the world, poverty and discrimination fuel torture and other forms of violence

Torture is an offence and outrage against us all, but it is often the poorest and most marginalised populations who experience its most direct and brutal impact. For this reason, OMCT's fight against torture is also a fight against economic and social injustice.

Eric Sottas, Secretary General, OMCT

Geneva, 26 June 2008. On this, the International Day in Support of Victims of Torture, OMCT underlines that all too often, torture and poverty go hand in hand. Experience shows that, around the world, the majority of victims of torture and other forms of violence come from the most disadvantaged social groups. Members of marginalised communities are not only more vulnerable to such abuses, they are also least able to claim their rights and seek protection and redress. Supporting the victims of torture therefore means giving voice to women and children, indigenous communities, the poor, ethnic, racial and religious minorities and all those forced to live on the margins of society.

In some cases, acts of torture and violence are carried out by states themselves in an attempt to suppress public protest against socio-economic policies or to silence those who seek to defend economic, social and cultural rights. In others, they are used to remove opposition to major infrastructure projects, the establishment of special economic zones, clearance of informal settlements or the exploitation of natural resources. And more and more, torture is carried out at the hands of non-state actors such as paramilitary and guerrilla groups, organised criminal gangs, private individuals or security companies protecting economic interests – including those of multinational corporations engaged in mining and agri-industrial activities.

If torture and cruel, inhuman or degrading treatment or punishment and other forms of violence are to be eliminated, then their economic, social and cultural root causes must be, first, understood and, secondly, effectively addressed. The converse equally applies: acting to reduce levels of violence in a given society is a fundamental step toward ensuring the widespread enjoyment of economic, social and cultural rights. Around the world, conflict and lack of security expose citizens to situations that severely impede their possibility of escaping from poverty, of working in just and favourable conditions, of providing care and education to their children and of enjoying an adequate standard of living and the highest attainable standard of health.

For this reason OMCT is committed to addressing the phenomena that create a context for human rights violations, including the deterioration of social fabric, growing income gaps, weakening of the State's regulatory capacity, and the repression of manifestations of linguistic, cultural or religious identity.

OMCT calls upon civil society to remain vigilant to the risk that incidents of torture and violence directed against the poorest and most marginalised elements of society become still more frequent over the coming months, in the context of growing public unrest provoked by

rising global food prices and increasing food insecurity. At the same time, it is imperative that governments recognise and respect the right of their citizens to peaceful demonstration. Meeting unrest generated by deteriorating living standards with violent repression only heightens social tensions and creates a context for further violence. OMCT also encourages governments to take the necessary steps – including subventions and even emergency distribution - to minimise the impact of rising food prices on the poorest and most vulnerable sectors of society.

The right to peaceful demonstration, the right to work and the right to food and an adequate standard of living are all guaranteed under international and regional instruments. The current difficult global economic climate offers no grounds whatsoever for the erosion of these rights. Nor should it be invoked as a justification by States for failing to meet their clear obligations to ensure that no citizen is subjected to torture and that those who do fall victim to torture obtain redress, compensation and rehabilitation.

For further information, please contact:
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