



**Working with the United Nations
Special Procedures System
to fight torture and other forms of ill-treatment by acting on their
economic, social and cultural root causes**

*An invitation to submit nominations to participate in OMCT's
Special Procedures Seminar
29 June-3 July 2009, Geneva, Switzerland*

The World Organisation Against Torture (OMCT) invites nominations for participation in the Special Procedures Seminar 2009 that will take place in Geneva, Switzerland, from 29 June to 3 July 2009 at the Graduate Institute of International and Development Studies of the University of Geneva.

The purpose of this five-day seminar is to support national NGOs in using the United Nations Special Procedures System to address the economic, social and cultural root causes of torture and other forms of ill-treatment. OMCT research has demonstrated the strong links between failure to respect economic, social and cultural rights and violence, including torture, cruel, inhuman and degrading treatment, summary or arbitrary executions, forced disappearances, violence against women and violence against children. And it has also shown that acting on those root causes can reduce violence.¹

OMCT seeks to address torture and other forms of violence by strengthening the capacity of national NGOs to address their economic, social and cultural root causes through national and international instruments, including interventions (complaints) addressed to UN Special Procedures mandate holders, governments, development institutions, the private sector and the institutions of the European Union.²

This is the third Special Procedures Seminar. The first two seminars took place in June 2007 and June 2008. During those seminars, NGO representatives held in-depth discussions with leading UN Special Procedures mandate holders responsible for issues relating to torture, indigenous peoples, the right to health, arbitrary detention, protection of human rights defenders, violations of human rights by private security forces, adequate housing, minorities issues, right to food, and human rights of migrants. The 2007 seminar report is available at www.omct.org.



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.

¹ 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.

² See annex 2 for additional information on OMCT interventions.

Objectives of the seminar

The principal objective of the Special Procedure Seminar is to help NGOs to prepare interventions (complaints) for submission to the UN or other organisations and/or alternative reports for submission to UN Treaty Bodies calling for practical action to stop or prevent torture and other forms of violence by dealing with their economic social and cultural root causes. An important objective for OMCT is to build partnerships with NGOs to work together on these issues over the long term. The seminar, in particular, will seek to:

- Work together to understand the various ways violations of economic, social and cultural rights are linked to violence and how acting on those root causes can reduce violence;
- Work together to develop their own capacity to address the economic, social and cultural root causes of violence;
- Identify how action on the root causes of violence could relate to the specific circumstances of the participants' countries;
- Discuss proposals for interventions (complaints) presented by participants;
- discuss proposals from participants for including in alternative reports to UN Treaty bodies and in submissions to other institutions (for example the European Union) of information on the link between the denial of economic, social and cultural rights and torture along with recommendations for specific action; and
- Identify new and emerging issues for attention.

Methods of work

The seminar's work will be built principally around a discussion and refinement of the potential interventions or alternative report elements to ensure that the participants leave the seminar with practical action to take on returning home. Participants will be encouraged to exchange experiences and challenges and describe the methods that they have used to address the seminar's issues.

Fifteen NGO representatives will be invited to take part in the seminar to work with international experts and UN Special Procedures mandate holders³ to:

- Identify specific situations and concrete case studies in their country where government policy and projects risk to lead to violations or denials of economic, social and cultural rights, and this in turn lead to violence.
- Identify concrete and viable actions to be taken at national and international level as well as identify key actors to address the economic, social and cultural root causes of torture.

To facilitate exchanges with UN Special Procedures mandate holders, the seminar is held in parallel with their annual meeting.

³ For the full list of mandates, see <http://www.ohchr.org/english/bodies/chr/special/index.htm>

Submitting nominations and selection of participants

Fifteen representatives from NGOs will be selected to participate. Nominations are invited from members of OMCT's SOS-Torture Network and other NGO working closely with OMCT. Organisations that are working in the fields of economic, social and cultural rights and development are encouraged to apply.

If your organisation would like to nominate a participant, please complete the attached application form (including a short explanation of the relevance of participation in the seminar to your organisation's work along with a brief curriculum vitae of the person nominated) and submit the nomination to OMCT by Friday 8 May 2009. Nominations should be sent to Tom McCarthy by e-mail tmc@omct.org or by fax to +41 22 809 49 29. Participants who have been selected will be informed by mid-May 2009.

The participants selected to take part in the regional seminar will be asked to prepare and submit in advance of the seminar a 5 to 10 page paper addressing the economic, social and cultural root causes of torture and other forms of violence in their country with regard to questions set out above and the objectives of the seminar. This paper should be based on a concrete case study and should include the elements for an intervention (complaint) on this theme. The annexes to this note provide information on these issues and further guidance is available on request from OMCT.

Practical information

OMCT will cover travel costs (including visa fees) and living expenses in accordance with OMCT's established practice. The seminar will be conducted in English.

Geneva, 21 April 2009

Annex 1

How disrespect for economic, social and cultural rights can lead to torture and other forms of violence

There are a number of ways in which violations of economic, social and cultural rights can lead to torture and cruel, inhuman and degrading treatment or punishment and other forms of violence. These linkages also indicate the areas in which strategic action can be undertaken to reduce or eliminate violence:

- ***The poor, excluded and other vulnerable groups – including women and children - are often the first and most numerous victims of violence, including torture and cruel, inhuman and degrading treatment. This is because of the marginalization they experience in society, and because their poverty does not allow them to defend themselves and demand their rights.***

Effective prevention of violence in this context requires that vulnerable groups and situations of vulnerability be identified (for example, poor slum communities, ethnic minorities or communities affected by large-scale infrastructure projects). In these situations affirmative preventive action should be taken, for example, through special police training or education, monitoring by the authorities of the conduct of police and others, and special attention by the authorities to ensure that vulnerable communities are legally recognized, protected and receive basic public services.⁴

- ***Violence is inflicted on persons because they demand respect for economic, social or cultural rights – their own or those of others.***

Trade unionists, workers, human rights defenders and citizens in general in the exercise of their legitimate human right to demonstrate, strike or otherwise claim respect for basic economic, social or cultural human rights are often subject to violent attacks by official and private forces. Arrested, they also risk being subjected to cruel, inhuman and degrading treatment and even torture.⁵

- ***Denials of economic, social and cultural rights are carried out so violently as to be considered ill-treatment under international treaties.***

Economic, social and cultural rights can be denied in such a brutal fashion as to amount to cruel, inhuman and degrading treatment. The Committee against Torture in 2002 found that the violent way in which Roma were evicted from their homes, and their dwellings destroyed and burned in the former Yugoslavia constituted acts of cruel, inhuman or degrading treatment in violation of the Convention Against Torture. Although the destruction was carried out by private individuals, the Committee found that the State Party was responsible for the violations of the Convention because the

⁴ See for example the Argentine case study “The Village” in the OMCT study, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*. www.omct.org

⁵ For a more detailed description see the Paper OMCT Presented to the United Nations Committee against Torture “Torture and violations of Economic, Social and Cultural Rights : Appraisal of the Link and Relevance to the Work of the United Nations Committee Against Torture”, OMCT Geneva (November 2001), in particular sections 2 & 3.

authorities acquiesced in the destruction.⁶ Similar conclusions were reached by the European Court of Human Rights in the Selcuk and Asker case.⁷

- ***Certain violations of economic, social or cultural rights can be characterized as cruel, inhuman and degrading treatment, or in some cases a denial of the right to life.***

The European Court of Human Rights has recognized that a State's failure to ensure safe housing can, in certain circumstances, render it responsible for a violation to the right to life. While the decision did not deal with an issue of torture or other ill-treatment directly, it does illustrate an important way States can be made responsible for failure to respect economic, social and cultural rights.⁸

- ***Policies and programmes by governments, private actors or development and financial institutions can exacerbate poverty and inequalities and lead to increased levels of official, criminal and domestic violence.***

The OMCT study *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*⁹ contains examples of public policies in the economic and social fields that directly increased poverty and inequality in large sectors of society and, in turn, resulted in a very significant increase in violence, including ill-treatment and torture.¹⁰ Similar links have been reported by other sources, including the United Nations Special Rapporteur on the Question of Torture.¹¹ NGOs have, on occasion, acted successfully to modify or stop projects which threatened a broad range of human rights.

- ***Levels of violence in a given community or society can be such that individuals or groups are unable to enjoy their economic, social and cultural rights.***

The Committee on Economic, Social and Cultural Rights has, for example, noted that the efforts of the Government of Nepal to comply with its obligations under the Covenant on Economic, Social and Cultural Rights have been impeded by the consequences of the violent conflict in the country.¹² The Committee has also drawn attention to the situation of children in Albania who are prevented from going to school – and hence from enjoying their right to education – by the threat of violence as a result of “vendettas”.¹³ In Darfur, the widespread violence has created a climate of fear and intimidation that has severely limited the ability of displaced populations to seek assistance, including medical and health care.¹⁴

⁶ United Nations Committee Against Torture, Communication No 161/2000: Yugoslavia, submitted by Hajrizi Dzemajl. Document CAT/C/29/D/161/2000

⁷ For a description of this case as well as other jurisprudence in this area and a discussion of the justiciability of economic, social and cultural rights, see chapter 14 of the manual of the United Nations Office of the High Commissioner for Human Rights and the International Bar Association, *Professional Training Series No. 9, Human Rights in the Administration of Justice, a Manual on Human Rights for Judges, Prosecutors and Lawyers*. Geneva, www.ohchr.org

⁸ Eur. Court HR, *Case of Öneriyildiz v. Turkey*, judgement of 18 June 2002

⁹ www.omct.org

¹⁰ See in particular, the chapters and case studies relating to Argentina, Egypt, Nepal and Uzbekistan.

¹¹ See section 3 of the OMCT paper presented to the United Nations Committee Against Torture “Torture and violations of Economic, Social and Cultural Rights: Appraisal of the Link and Relevance to the Work of the United Nations Committee Against Torture”, OMCT Geneva (November 2001)

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

¹³ E/C.12/ALB/CO/1, 24 November 2006, §

¹⁴ See, for example, Medecins sans Frontiers, “Humanitarian situation in Darfur, Sudan - MSF statement to the United Nations Security Council”, 24 May 2004, www.msf.org

State responsibility

Economic, social and cultural rights are “real” human rights, that is, in many cases they are subject to enforcement by courts, they are justiciable. Courts on the national level are increasingly enforcing economic, social and cultural rights in ways similar to civil and political rights as are international monitoring organs, as the cases mentioned above illustrate.¹⁵ There are a number of issues which international and national monitoring or enforcement organs take into account in establishing state responsibility for violence which results from failure to respect economic, social and cultural rights.¹⁶

NGOs can make a difference

Participants in the OMCT international conference “Poverty, Inequality and Violence: is there a human rights response?” held in Geneva in October 2005 reported a growing realization that NGOs, by means of complaints, advocacy, lobbying and information campaigns, can be effective in changing policies and programmes that pose a threat to economic and social rights and thereby in reducing the risks of torture, ill-treatment and other forms of violence including violence against women and children.

¹⁵ For a discussion of the justiciability issue, see Chapter 14 of the above-mentioned *Manual on Human Rights for Judges, Prosecutors and Lawyers*. For national and international jurisprudence on the right to housing, see the case law database at www.cohre.org

¹⁶ See the above-mentioned *Manual on Human Rights for Judges, Prosecutors and Lawyers*.

Annex 2

Working with OMCT to prepare interventions (complaints) calling for action against the economic, social and cultural root causes of violence

The purpose of OMCT interventions (complaints) is to halt or prevent torture or other forms of violence within OMCT's mandate.¹⁷ This is done by calling for preventive and/or remedial action in relation to situations, policies or projects involving violations of economic, social and cultural rights that cause violence or that present a real and substantial risk of causing violence. This includes calling on governments or others to take protective action in relation to vulnerable groups or situations. Interventions are prepared in cooperation with reliable national NGOs including members of the OMCT SOS-Torture Network.

Interventions, which include recommendations for specific action, are sent to the competent United Nations Special Procedures mandate holders¹⁸ and to government authorities with direct responsibility. In addition, international financial and development institutions, trans-national corporations and banks are seized when they are involved in projects that cause or risk causing violence.

Further, interventions are also sent to the 282 members of the SOS-Torture Network and other NGOs in OMCT's database along with requests for action on their part. In addition, the information and recommendations developed in connection with interventions can be submitted to other procedures, for example the Human Rights Council's Universal Periodic Review of respect for human rights by UN Member States and to the institutions of the European Union. OMCT follows-up on the interventions to monitor action or renew the appeal.

An important objective in these interventions is to give voice on the international level to marginalised and vulnerable communities and groups that might otherwise remain voiceless. Cases are selected based on a number of criteria including the severity of the threat, the number of persons affected, the quality of information submitted or the possibility of developing good information in cooperation with the national partner, the potential for bringing about change (including the existence of a UN mandate or mandates or other procedure that would be willing to act on the information) and factors such as the sensitivity to pressure of the government, the international development/financial institutions or private actors involved. The importance of the appeal as a test case and as a good example for others to follow is also taken into consideration. Other elements such as geographic balance are taken into account, but are not determinant.

Dealing effectively with a number of the situations addressed requires extended analysis of the factual, technical, legal and other aspects of the case and detailed presentation of the

¹⁷ OMCT's mandate includes torture, cruel, inhuman and degrading treatment, summary or arbitrary executions, forced disappearances, violence against women and violence against children.

¹⁸ United Nations Special Procedures mandates deal with a wide range of issues including violence against women, trafficking in persons, migrants, racism, torture and other cruel, inhuman or degrading treatment or punishment, mercenaries and private security forces, minority issues, internally displaced persons, indigenous people, independence of judges and lawyers, human rights defenders, the right to health, the right to food, freedom of opinion and expression, extrajudicial and summary executions, the sale of children, arbitrary detention and enforced or involuntary disappearances. In urgent cases these procedures can intervene rapidly with Governments.

recommended action. Because of the extensive nature of the information, analysis and recommendations in these cases, they are prepared in the form of **OMCT Action Files**.

In 2007, OMCT issued 12 interventions involving the economic, social and cultural root causes of violence (3 interventions were made jointly with other OMCT Urgent action programmes). The appeals dealt with situations in Bangladesh, Brazil, Cameroon, Chile, Ecuador (2 interventions), India (2 interventions), Mexico, the Philippines (2 interventions) and Sudan.

The principal interventions in 2007 include:

- A village located on coastal backwaters in Tamil Nadu State, India in which the villagers, in attempting to speak out against the negative impacts of an illegally-located aquafarm on their health and economic status, have been subjected to police violence and harassment and have had false charges of a serious nature brought against them by the owner of this farm. (IND041007.ESCR)
- The peaceful opposition by local communities and indigenous people to mining that violates their rights and endangers their way of life on the Filipino Island of Sibuyan. Their objections have been met with violence resulting in the killing of some 17 persons, the most recent the shooting of the leader of a protest movement by a mining company security guard. (PHL301107.ESCR)
- The construction of two large-scale hydropower dams in the Northern Nile Valley in Sudan that has led to repeated violent clashes between local communities and security forces and resulted in a number of civilian deaths. (SDN301107.ESCR)
- A forced eviction in Kolkata, India, carried out violently and in breach of international standards. The victims, including children, women and elderly persons, were physically ill-treated and subjected to violence, and homes and belongings were destroyed by the police. The evictees were not properly informed and were offered neither compensation nor alternative housing. (IND141207.ESCR)
- A proposed open-pit coal mine at Phulbari in Bangladesh that risks seriously affecting the lives of between 50,000 and 500,000 people, including a number of indigenous communities. Many of these affected will be forced to leave their homes and land. The mine has been planned without those directly concerned having been fully informed or adequately consulted and public protests have been met with violence. (BGD211207.ESCR)
- The arbitrary arrest, detention and ill-treatment of 46 male and 25 female prison guards in Yaoundé, Cameroon, who had taken strike action to protest against their living and working conditions. They were released ten days later. (CMRO40107.DESC)
- Military activity seriously affecting the safety and well being of rural indigenous communities (children used as military shields, denial of access to fields, forced evacuation, interruption of education of children) in Surigao del Sur, the Philippines. (PHL031207.ESCR)
- Severe violations of human rights, including torture and extrajudicial killings, by the Kenyan Army and Police in the Mount Elgon District. These human rights violations are directly linked to local conflicts over land ownership and to competing claims over land title. (KEN060608.ESCR)
- Ongoing tensions and police harassment of members of a local *adivasi* community following the breach by the Agricultural University of Kerala, India, of conditions attached to a transfer of land from that community to the University for the construction of a veterinary college. (IND 180808.ESCR)

- Arson attack on indigenous Jumma community in Sajek Union, the Chittagong Hill Tracts in *Bangladesh* in which Bengali settlers, with military support, set fire at night to the homes of the indigenous community in at least 7 villages with some 76 homes destroyed. (BGD 290808.ESCR)
- Risk of a further forced eviction for more than 5000 people, all from Dalit and poor communities, living in the municipal garbage dumping ground of Howrah West Bengal, India. The eviction order was taken without any previous consultation with the households affected and in the absence of any resettlement plan. (IND 150109.ESCR)

These interventions are available on the OMCT website (www.omct.org). Selected appeals are translated into Arabic, French and Spanish.