

## Using United Nations Treaty Bodies to bring about change: Submitting alternative reports

### Overview

The preparation of alternative reports for submission to United Nations Treaty Bodies<sup>[1]</sup> in connection with a Committee's review of state party respect for human rights has been shown to be a powerful tool in helping committees better understand the situation in the country and in formulating well targeted recommendations. There is a growing awareness by UN treaty bodies that violations of economic, social and cultural rights can lead to torture and other serious forms of violence and of the need to act on those root causes.

The purpose of alternative reports is to raise awareness of the economic, social and cultural root causes of torture and other forms of violence in a national context and, above all, to **promote change** by influencing the Committee's concluding observations and recommendations to the government. These recommendations, in turn, provide the basis for action on the national level to improve respect for human rights by NGOs and others, including National Human Rights Institutions (NHRIs).

### The implementation cycle

Preparing alternative reports is just one part of the treaty body reporting cycle which gives NGOs and NHRIs several opportunities to bring influence to bear to promote improved respect for human rights.

The cycle begins with the submission by the State party of its report on how it respects the particular treaty to the Office of the United Nations High Commissioner for Human Rights (OHCHR). On the basis of this report the Committee usually prepares a **list of issues** requesting more information from the State party. The State party is invited to provide written responses to the list. Next, a public dialogue between committee members and representatives of the State party takes part. On the basis of that exchange, the Committee adopts concluding observations and makes recommendations on action to be taken to the State party. A further important step is the follow-up of the implementations of the recommendations by the committee and by NGOs and NHRIs.

At almost every one of these stages NGOs and NHRIs have the possibility of bringing pressure to bear for change. In some cases, national NGOs and NHRIs are associated with the preparation of the state party report.

OMCT works with national NGOs, usually members of OMCT's SOS-Torture Network, to assist them in intervening in the reporting process and has learned that effectively influencing a committee can require action at several stages of the reporting cycle.

NGO action often begins after the state has submitted its report by the submission to the committee of suggestions for the **list of issues**. This is usually followed by a **preparatory mission** to the

country concerned, the drafting and submission of the **alternative report** and the **presentation of the alternative report to the committee** by OMCT and national partner representatives. Representatives of national partners and OMCT then observe the committee's **dialogue with the government** representatives.

After the adoption of the concluding observations and recommendations, NGOs, NHRIs and OMCT can undertake **follow-up action** to encourage and help in the implementation of the recommendations and to report back on progress. Follow-up activities usually include **publication of the alternative report and committee recommendations** on the national level in English and usually also in a national language, and a **follow-up mission** by OMCT to the country concerned, usually six months after the committee session. A report can then be submitted to the government and the committee.

In addition to being submitted to UN treaty bodies, the information and recommendations developed in connection with alternative reports can be submitted to other human rights mechanisms, for example, the Human Rights Council's Universal Periodic Review of respect for human rights by UN Member States and UN Special Rapporteurs and also to the institutions of the European Union.

OMCT for its part provides the "Geneva perspective", its knowledge of the United Nations system and the best ways of working with the various Committees and their members, and its knowledge, through its Brussels Office, of European Institutions.

## Sources of information

The main source of information used in preparing alternative reports is that submitted by national NGO partners and that gathered during OMCT's preparatory missions to the country concerned. However, other sources of information especially concerning poverty and inequality are often found useful, including World Bank reports, reports from UNICEF, UNDP and regional development organisations. In addition, the Common Country Assessments (CCA) prepared by the United Nations Development Group, can prove helpful in making clear the link between poverty, inequality, discrimination and violence and in identifying possible remedial action. Examples can be found in the alternative reports listed below relating to Uzbekistan, the Philippines and Kenya.

## Recommendations for effective action

Alternative reports must respond to the particular needs and level of awareness of each Committee and provide recommendations for *feasible and concrete steps* that the state party can take to address the root causes of violence the report has identified. This requires the report to be as *specific as possible* - both in terms of identifying challenges and proposing remedies. This also facilitates monitoring government implementation of committee recommendations.

Effectively eliminating torture and other forms of violence in a society requires multidimensional and integrated action aimed at ensuring the implementation of all human rights; civil, cultural, economic, political and social. Experience has shown that acting only on selected causes of violence has little chance of success. Thus, OMCT submitted alternative reports on the economic, social and cultural root causes of torture to the Committee Against Torture and the Committee on Economic, Social and Cultural Rights with regard to the Philippines and Kenya (See below). While each report responded to the specific treaty, they were submitted with a view to providing the Committees with the basis for mutually reinforcing recommendations.

In addition, when following up on the recommendations of the respective Committees with regard to those two countries, OMCT approached national authorities on the basis of the recommendations of the two Committees combined to focus on the violations that needed to be corrected. This was in order to help address the *implementation gap* which can appear when on the national level the recommendations of the Committees are implemented separately through distinct channels.

The *recommendations* developed in the alternative reports include specific programmes of preventive measures based on the identification of the sectors of the population most at risk. They involve focussed action for economic, social and cultural development (employment creation, housing, education, nutrition and health initiatives, respecting and promoting culture etc), reinforcing measures to ensure compliance by public authorities with legal standards and good practice (strengthening and training of the judiciary, police, local administration, military authorities etc) and the establishment of a permanent monitoring function with the participation of those directly concerned.

Finally, OMCT recommends the adoption of a *human rights based approach* to economic and development policy that would include *human-rights impact assessments* of government economic policy and development projects, including those by the private sector.

## **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 the relevant Committee 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. The Committee sends the list of questions to the government to help prepare the discussion of the State party report.

For greatest impact, it is important to raise emerging issues such as the link between respect for economic, social and cultural rights and torture and other forms of violence in relatively detailed substantive submissions during the pre-sessional consideration of the state party report. Thus, OMCT, working with its national partners, prepares and submits analytical lists of issues to the relevant committee at its pre-sessional consideration of the State party report. The analytical list of issues summarises the available information relating to the economic, social and cultural root causes of violence and places it in the context of the relevant sections of the State party's report to facilitate comparison.

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, 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. In November 2008 OMCT submitted a list of issues on the Philippines to the Committee Against Torture.

## **Preparatory missions**

Preparatory missions to the country concerned enable OMCT staff to gather firsthand information and achieve a better understanding of the national situation. During these missions training seminars and workshop on the link between torture and violence and denials of economic, social and cultural rights and on how the UN treaty body system works can be organised as appropriate. In addition

community forums can also be organised aimed at hearing of the concerns of victims of human rights abuses, thus enabling them to bring their concerns more directly to international human rights bodies.

## **Follow-up missions**

Helping to ensure the implementation on the country level of committee recommendations is crucial to OMCT's work with UN treaty bodies. Thus, to the extent possible, OMCT carries out follow-up missions to the country concerned several months after the committee has made its recommendations. OMCT staff meets with national partners, government officials and persons directly affected by the violence generated by violations of economic, social and cultural rights. Together an evaluation is made of progress and suggestions developed for further action and a report is prepared for submission to the respective committee in connection with that committee's own follow-up activities. During certain missions, meetings take place with officials from the UNDP, European Union and regional development agencies to examine how they can contribute to the implementation of committee recommendations.

## **Alternative reports and other information submitted to committees**

Based on the data developed in preparing the Interdisciplinary Study, OMCT submitted in October 2006 to the Committee Against Torture a report on the economic, social and cultural root causes of violence in South Africa in connection with that Committee's consideration of South Africa's state party report. Also in 2006, OMCT submitted a briefing note to the Committee Against Torture containing conclusions and recommendations relating to the economic, social and cultural root causes of violence in Guatemala. Similarly, and based on the Interdisciplinary Study, in 2007 OMCT submitted information to the Committee on Economic, Social and Cultural Rights in relation to their consideration of the State party report from Nepal.

During the period 2007 to 2009, OMCT submitted the following alternative reports dealing with the economic, social and cultural root causes of torture:

- Brazil: Alternative Report to the CAT 'Preventing torture by acting on its economic, social and cultural root causes';
- Kenya: Alternative Report to the CESCER 'The Lie of the Land';
- Kenya: Alternative Report to the CAT 'Addressing the Economic, Social and cultural Root Causes of Torture in Kenya';
- Philippines: Alternative Report to the CESCER 'Addressing the Economic, Social and Cultural Root Causes of Torture and other forms of Violence in the Philippines';
- Philippines: Alternative Report to the CAT 'Preventing torture by acting on its economic, social and cultural root causes';
- Uzbekistan: Alternative Report to the CAT "The Economic, Social and Cultural Root Causes of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Uzbekistan.

## **Uzbekistan**

The report (2007) analyzed how government economic and development policies impacted negatively on a wide range of human rights (health, education, work, standard of living, housing, social security) and the particular impact on vulnerable groups (women, street children and orphans, and undocumented urban migrant workers). Corruption was seen as a main obstacle to accountability and the report showed that the socio-economic situation in Uzbekistan was at the root

of the torture or other abuse, including unlawful and arbitrary arrests and detention aimed at the poor and impoverished groups of the population that made up the majority of the population.

## **Kenya**

The two alternative reports on Kenya (2008), while being 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. Key themes identified by both reports include the role of land disputes as a trigger for violence in both urban and rural areas, the criminalisation of the poor through Kenya's law-enforcement, judicial and penal systems, the severe discrimination experienced by indigenous and minority communities, and high levels of violence directed at women and girls.

## **Philippines**

The Philippines report (2008) to the Committee on Economic, Social and Cultural Rights drew attention to the Philippines' trade liberalisation policy that 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. In addition, the report identified conflict over land 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.

The Philippines report to the Committee Against Torture (2009) described how the poor, vulnerable and marginalised in their daily struggle for existence and in their legitimate activities to claim and protect their rights are met with violence on a large scale. Farmers and indigenous peoples wishing to have continued access to their means of living, the Muslim population of the Philippines seeking respect for their culture and way of life, workers seeking to protect their rights, victims of large scale mining operations, and human rights defenders working to protect those populations and their rights are subjected to torture, summary executions, forced disappearances and other forms of ill-treatment from public and private sources.

## **Brazil**

The report on Brazil submitted in 2009 to the Committee on Economic, Social and Cultural Rights examined the economic, social and cultural root causes of violence from the specific perspective of "the criminalisation of poverty", with a particular emphasis on Brazil's urban areas. The report focuses on the poorest members of Brazilian society identified by the police as criminal elements and on that basis being targeted for extortion, arbitrary arrest and detention, physical violence or, indeed, summary execution.

## **Analytical lists of issues and participation In committee meetings**

Detailed analytical lists of issues were submitted to the respective committees with regard to Brazil, Kenya and the Philippines. In addition, preparatory missions were carried out with regard to those countries that with regard to Kenya and Brazil included meetings in community forums with people directly affected by violence and meetings with national NGOs and in Kenya and the Philippines with government officials. Further, with regard to these three countries, representatives of the national partners were enabled to travel to Geneva to meet and brief committee members.

## Recommendations

Each of the alternative reports made recommendations targeted to the specific situation in the country but with the objective of a structured and multidimensional approach to the elimination of the violations of economic, social and cultural rights as well as civil and political rights that were at the roots of the torture and violence in that country.

## Follow-up missions

**Field presence in Kenya** OMCT, with regard to the two alternative reports on Kenya, was able to organise a three month (March to June 2009) follow-up field presence in Kenya. A representative of OMCT worked with several national partners to assist and catalyse action by the Government for the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights and the Committee Against Torture, in particular relating to the economic, social and cultural root causes of violence. English and Kiswahili versions of both reports were published and distributed and forums and workshops were held as well as meetings with concerned officials. This three month presence in Kenya showed the advantage of investing time in the often long and complicated process of bringing about coordinated and effective action to implement committee recommendations.

**Follow-up mission to the Philippines** A follow-up mission to the Philippines headed by the President of OMCT took place in November 2009 to examine the progress made in the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights and the Committee Against Torture relating to the economic, social and cultural root cause of torture and violence. The recommendations of both committees were dealt with together in order to encourage the cross-cutting and mutually reinforcing action necessary to effectively address the root causes of violence. Working closely with the Commission on Human Rights of the Philippines (CHRP), the team met with representatives of a wide range of civil society organisations from the Manila area and elsewhere, with the Philippine National Economic Development Agency (NEDA), with the staff of the Philippine Senate Committee on Justice and Human Rights, the UN Resident Coordinator/UNDP Resident Representative, the Asian Development Bank and the Chair and senior staff of the CHRP. (See <http://www.omct.org/reports/philippines/2010/10/d6149/>)

**Follow-up mission to Brazil** OMCT conducted a five-day follow-up mission to Brazil from 14 to 19 March 2010. The purpose of this mission was twofold: to assess developments in the enjoyment of economic, social and cultural rights in the light of the recommendations of the Committee on Economic, Social and Cultural Rights to the Government of Brazil following the submission of the State Party's second periodic report - and in particular those recommendations most closely linked to the issue of violence in Brazilian society; and to assist in the launch and dissemination of the Alternative Report on Brazil prepared by OMCT, Justica Global and the National Movement of Street Boys and Girls (MNMMR) in April 2009. (See <http://www.omct.org/reports/brazil/2010/10/d6147/>, <http://www.omct.org/press-releases/brazil/2010/10/d6148/>)

## Impact

Alternative reports prepared by OMCT have influenced the conclusions and recommendations made to governments by a number of Committees. Further, the submission of pre-sessional analytical lists of issues has had a clear impact on the list of issues and questions sent by the Committee on Economic, Social and Cultural Rights to the governments of Kenya and the

Philippines in preparation for the review of their reports.

For information on the **impact** of alternative reports see the Report on implementing OMCT's Project, Preventing torture and other forms of violence by acting on their economic, social and cultural roots causes: January 2007 to March 2010.

## References

1. For information on United Nations Treaty Bodies see [www.ohchr.org](http://www.ohchr.org)