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### **PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Joint written statement\* submitted by Amnesty International (AI), Association for the Prevention of Torture (APT), International Commission of Jurists (ICJ), International Federation of ACAT (Action by Christians for the Abolition of Torture – FIACAT), International Rehabilitation Council for Torture Victims (IRCT), and World Organization Against Torture, non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2008]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

**Review, rationalization and improvement of Special Procedures mandates: the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment – Joint statement by the Coalition of International NGOs Against Torture (CINAT)<sup>1</sup>**

Torture has long been recognized as one of the most heinous violations of human rights. The nature and consequences of the act is such that its prohibition is absolute in all circumstances, including situations of armed conflict and during states of emergency, as reflected in the Universal Declaration of Human Rights and other international and regional instruments. Despite the gradual increase in states parties to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture) and to its Optional Protocol and to the International Covenant on Civil and Political Rights, non-governmental organizations regularly document cases of torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) occurring in scores of countries and all regions of the world. The ultimate goal of eradication remains elusive.<sup>2</sup>

When the former Commission on Human Rights established the mandate of Special Rapporteur on torture in 1985, it responded to the need for a mechanism with global reach, empowered to respond effectively to credible allegations of torture and other ill-treatment.<sup>3</sup> Thus the mandate of the Special Rapporteur was created to complement the (then) newly adopted UN Convention against Torture.<sup>4</sup>

The Special Rapporteur has made a significant contribution to the global campaign for the eradication of torture and ill-treatment. The four mandate-holders have analyzed and developed recommendations on key issues related to acts of torture and ill-treatment perpetrated by the state (and increasingly, non-governmental entities). The topics raised by the current mandate-holder include corporal punishment, counter-terrorism measures, diplomatic assurances, non-refoulement, impunity, effective investigation of torture, guarantees for persons deprived of their liberty, evidence extracted by torture, reparation for victims, and torture equipment. They have also focused on the torture and ill-treatment of children and gender-specific forms of torture.

A critical function performed by the Special Rapporteur is the ability to respond rapidly to credible threats of torture and ill-treatment in order to avoid irreparable harm. Mandate-holders have also issued “allegation letters” to states, where the situation is not life-threatening. The communications are humanitarian and preventive in nature, not accusatory. The Special Rapporteur’s latest report to the Human Rights Council records

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<sup>1</sup> The Redress Trust (REDRESS), a CINAT member, also shares the views expressed in this statement.

<sup>2</sup> As at 19 May 2008, a total of 145 member states of the UN have ratified the UN Convention against Torture and 34 states have ratified the Optional Protocol to that treaty. There are 161 states parties to the International Covenant on Civil and Political Rights.

<sup>3</sup> Resolution 1985/33, adopted 13 March 1985, requested the Special Rapporteur to “seek and receive credible and reliable information from governments, as well as specialized agencies, intergovernmental organizations and non-governmental organizations” and “to respond effectively” to such information.

<sup>4</sup> The UN Convention against Torture was adopted by the General Assembly on 10 December 1984 through resolution 39/46.

that, during the 12-month period from 16 December 2006, the mandate-holder sent 187 urgent appeals to 59 governments, and 79 allegation letters to 51 states.<sup>5</sup>

The Special Rapporteur has also conducted visits to 38 states and territories since the mandate was first created. These visits have been described by a former mandate-holder as "the most important contribution in the long term...where the mission report and its recommendations become the agreed basis for future national dialogue between the authorities and civil society in how to eradicate torture".<sup>6</sup> The Special Rapporteur's missions complement visits undertaken by the Committee against Torture in response to allegations of systematic torture, and those made by the Sub-Committee for the Prevention of Torture, established under the Optional Protocol to the UN Convention against Torture. The Special Rapporteur may seek permission to visit any state, irrespective of whether or not it is party to an international treaty.<sup>7</sup> The Special Rapporteur's missions combine visits to places of detention, meetings with officials as well as detainees and torture victims, their families and representatives, and civil society. The integrity of the mission is assured by prior agreement of the state to cooperate in facilitating the Special Rapporteur's visit, in accordance with the terms of reference adopted by the Special Procedures in 1998.<sup>8</sup> The result of the Special Rapporteur's visit is a public report containing recommendations.

The Special Rapporteur has made important contributions to the development of best practices in implementing Special Procedures' mandates. The Special Rapporteur has pioneered a procedure to encourage continuing dialogue and implementation of recommendations following country visits. A separate report on follow-up is issued as an addendum to the main report which is presented to the Human Rights Council. This supports efforts by the states concerned to provide an update on measures towards implementation and any constraints hindering that aim, and for other stake-holders to provide their input.<sup>9</sup> Civil society has benefited immensely from the accessibility and openness of the Special Rapporteur, and his willingness to participate in events around the world aimed at promoting the eradication of torture and ill-treatment, and the role of the mandate. The Special Rapporteur has actively enhanced collaboration among mandate-holders through participating in joint visits, which has provided a more holistic review of multifaceted issues.

Despite the pivotal role that the Special Rapporteur performs, this mechanism is often subjected to attempts by governments to undermine its valuable and necessary work. For example, the Special Rapporteur's public reports document repeated failures by many states to respond at all or in full to urgent and routine communications. Several states have

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<sup>5</sup> See *Summary of information, including individual cases, transmitted to governments and replies received*, contained in UN doc. A/HRC/7/3/Add.1, 19 February 2008.

<sup>6</sup> Former Special Rapporteur on torture Sir Nigel Rodley in an interview with Amnesty International, 2007.

<sup>7</sup> The Committee against Torture can seek permission to carry out an on-site visit to a state party in response to allegations submitted under Article 20. The procedure is confidential, including the outcome of the Committee's investigation, until the state party agrees to make the report public. To date, it has visited six states parties in relation to Article 20 complaints. The Sub-Committee for the Prevention of Torture's mandate is based on monitoring of places of detention without the prior consent of the state party. The Sub-Committee's work is confidential.

<sup>8</sup> The terms and conditions of the mission are specified on the Special Rapporteur's webpage: <http://www2.ohchr.org/english/issues/torture/rapporteur/visits.htm>

<sup>9</sup> The Special Rapporteur's most recent report is contained in UN doc. A/HRC/7/3/Add.2, 18 February 2008.

failed to respond positively to requests from the Special Rapporteur to undertake a visit, and some requests have been outstanding for ten years or more.<sup>10</sup> This is despite the call by the General Assembly in a recent resolution that states ensure proper follow-up to the recommendations of the Special Rapporteur and co-operate with him.<sup>11</sup> The Coalition of International NGOs Against Torture (CINAT) believes that the Human Rights Council has a critical role to play in supporting the Special Rapporteur by taking appropriate action to encourage states to co-operate with the mandate-holder, including by facilitating the Special Rapporteur's visit requests promptly and providing satisfactory and timely responses to communications.

In view of the numerous instances of serious violations of the absolute right of all human beings to be free from torture and other ill-treatment, the CINAT believes that the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, serves a vital and unique function in addressing these violations.

The CINAT calls on the Human Rights Council to:

- Renew the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;
- Urge states to fully cooperate with the Special Rapporteur, including by responding promptly and in full to his urgent appeals, communications and requests for visits;
- Carefully review the reports of the Special Rapporteur and take action against states which persistently fail to cooperate with the mandate-holder.

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<sup>10</sup> See the latest *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* contained in UN doc. A/HRC/7/3/Add.1, 15 January 2008.

<sup>11</sup> A/RES/62/148, adopted by the General Assembly on 18 December 2007.