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## **PRESS RELEASE**

### **BRAZIL MUST SHOW COMMITMENT TO FIGHT TORTURE NOW**

**Due diligence in the case of sexual torture of 15-year-old girl is a test Brazil cannot fail**

**Geneva, 11 December 2007:** The international NGO World Organisation Against Torture (OMCT) recalls that as a Party to the UN Convention against Torture Brazil must carry out a prompt, impartial and thorough investigation into the sexual torture of a 15-year-old girl in pre-trial detention in the state of Pará. It must also hold accountable all those directly and indirectly responsible and apply adequate sanctions as provided by the law.

In the eyes of the international community, Brazil has recently given signs of genuine commitment to fight the widespread torture that plagues the country, as denounced in reports by the United Nations Rapporteur on Torture and by the Committee against Torture after their respective visits in 2001 and 2005. In July, Brazil ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, only one year after having recognised the competence of the Convention's monitoring body to receive individual complaints on violations thereof.

However, increased openness to international scrutiny alone will not bring about a decrease in the incidence of torture in the country. As the recent case of rape of an adolescent girl in a police cell shows, some of the most basic safeguards to prevent torture and ill-treatment, as provided in the Brazilian Constitution and international treaties are consistently overlooked by the State. These include the separation of children and adults and men and women in detention.

L. was arrested on suspicion of petty theft in October and placed in pre-trial detention in the city of Abaetetuba, Pará State. For a period of 26 days she was held in a police cell with about 20 adult male prisoners.. While the police, Public Ministry, judiciary and detention system officials claim good faith in believing that she was an adult, none of them prevented her detention with and subsequent rape by several prisoners. Moreover, OMCT asserts that good faith cannot constitute a criterion for failure to apply due diligence and points out that, since children from the age of 12 are subject to specific measures, the relevant authorities had the obligation to base their decision to detain L. on clear evidence as to her age. And even so, under no circumstance could a female suspect have been held with men.

The case has prompted public outcry, and administrative investigations were promptly instructed at police and judiciary levels once an anonymous complaint reached the *Conselho Tutelar*, the governmental body responsible for the protection and welfare of children and adolescents, in November. However, in what appears to be a coordinated approach, there have been many attempts by public officials in declarations to the Brazilian media to minimise their respective organ's responsibility in these events.

OMCT recalls that according to the UN Convention, torture consists of an act by which severe pain or suffering is intentionally inflicted on a person for a specific purpose, such as discrimination on the basis of sex or age, by a person acting in an official capacity, at his or her instigation or with his or her consent or acquiescence. Given the apparent opportunity that law enforcement and judicial personnel had to prevent this episode, State negligence alone provides grounds for these officials and the rapists to be prosecuted for torture. Any proof of a person's complicity requires him or her to be held accountable and duly prosecuted.

OMCT commends the protection that has been afforded to the victim and her family, including their removal from the State of Pará. It further commends the Governor's order to transfer all women in the State from police stations to more adequate facilities and the prompt appointment of commissions to visit such places. At the same time, this development has meant that some women are now hundreds of kilometers away from their families and this should therefore not be regarded as a long-term solution. OMCT is also deeply concerned by declarations that mainly announce disciplinary measures while little is said by the competent authorities about the criminal prosecution of those responsible. Indeed, on 5 December, an official request by the National Council for Criminal and Penitentiary Policy of the Justice Ministry was addressed to the Prosecutor-General of the State of Pará calling on him to order the criminal prosecution for torture, rape and "violent assault on public decency" of all those officials in the prison system, police, Public Ministry and judiciary involved in the case, as well as those superiors that had knowledge of the situation but failed to order measures to promptly address it. OMCT supports the National Council's recommendation, while emphasising that this should by no means exonerate the detainees themselves of their criminal responsibility for the same acts.

OMCT recalls that administrative measures alone do not suffice to ensure compliance with international law, as either action or omission by public officials in such a case amounts to a violation of the prohibition of torture. Moreover, the UN Convention provides for the State's duty to ensure full reparation for torture victims, including compensation and rehabilitation.

More generally, OMCT calls on the federal authorities to take this opportunity to adopt and implement structural measures nationwide to prevent further violations of this kind and to ensure that safeguards provided in national law are fully enforced. Indeed, this is not the first such case, and as the number of women arrested and detained in Brazil rapidly increases, facilities that fully meet the requirements for protection of women's physical and psychological integrity must be put in place and effective monitoring mechanisms made operational.

For further information, contact OMCT's Violence against Women Programme: Mariana Duarte, [md@omct.org](mailto:md@omct.org) or Child Rights Programme: Cécile Trochu Grasso, [ct@omct.org](mailto:ct@omct.org)

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*The World Organisation Against Torture (OMCT) is the world's largest coalition of non-governmental organisations fighting against arbitrary detention, torture, summary and extrajudicial executions, forced disappearances and other forms of violence. Its global network comprises nearly 300 local, national and regional organisations, which share the common goal of eradicating such practices and enabling the respect of human rights for all.*

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