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Statement by Mr. Malcolm Evans
CHAIRPERSON
SUBCOMMITTEE ON PREVENTION OF TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT

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Chairperson,
Distinguished delegates, colleagues and friends

It is with great pleasure that I present to you the 6th Annual Report of the Subcommittee on Prevention of Torture (SPT), covering the calendar year 2012, and update you on its subsequent activities. As you will know, the OPCAT mandates the Subcommittee: (a) to engage in a constructive dialogue with States parties on reducing the risk of torture or ill-treatment, based on visits which it conducts to places where persons may be deprived of their liberty; (b) to advise and assist States parties in the establishment of their National Preventive Mechanisms (NPMs), as provided for in the OPCAT, and engaging with NPMs in the furtherance of their work; and (c) to co-operate with other international, regional and national bodies and agencies engaged in activities related to torture prevention.

Last year, I reported that the SPT had concluded it could most effectively conduct its work by undertaking an increased number of shorter visits, with fewer members and a more targeted focus. Building on this approach, the SPT planned to undertake six visits during 2012, three full visits, to Argentina, Kyrgyzstan and Gabon, and three visits focused on the fulfillment of its mandate regarding NPMs, to Honduras, the Republic of Moldova and Senegal. These so called ‘NPM advisory visits’ have turned out to be an unparalleled success, warmly welcomed by both the States Parties and the NPMs themselves. We consider the NPMs to be the ‘front line’ of torture prevention and these visits have led to tangible, positive changes in the operation and resourcing of the NPMs in question. This, we think, vindicates our decision to prioritise the development of this strand of our mandate, something which we shall continue to do.

Our pleasure at this positive development was, however, tempered by our disappointment at being unable to carry out our visit to Gabon because of a shortage of staff within the SPT secretariat. We had hoped to add this ‘lost’ visit to existing 2013 programme of six visits – but this proved more than our hard-working and overstretched secretariat could manage. So in 2013 we will, once again, be carrying out six ‘official’ visits (and we have already been to New Zealand, Germany, Peru and Armenia so far this year). I stress ‘official’ visits, since SPT members frequently attend meetings at the invitation of States, Civil Society and other organisations which also contribute to the implementation of OPCAT, and the significance of these activities - and the preparedness of members to undertake them - must not be forgotten.

No matter how important such additional activities are, however, they are no substitute for the SPT’s own visits. Regrettably, these take place far too infrequently. The SPT believes that it should visit states with a frequency akin to that of the reporting cycle to other treaty bodies, which would mean visiting each State party every 4 or 5 years. The current cycle is at best every 10 years, and, as regards ‘full’ visits, on a cycle of over 20 years. We also have the equivalent of a ten year backlog of visiting. This remains incompatible with the objective of the OPCAT, which is ‘to establish a system of regular visits undertaken by international and national bodies to places where people are deprived of their liberty’ (OPCAT, Article 1). On such measures, we are, without doubt, the most under-resourced of the treaty bodies.

In recent years the SPT has consciously avoided making special requests for additional resources. We are aware that we must work efficiently within the budgetary allocations made available to it by the Office of the High Commissioner for Human Rights within its overall budgetary envelope. The SPT is very grateful to those States which, recognizing the inadequacy of that provision, have striven in various ways to address its needs. It is, however, obvious that it order to fulfill even its current work plans it is essential that the SPT be serviced by a stable, core Secretariat - sadly lacking in recent times – which, as a minimum, should be returned to its level of two years ago. Of course, it also needs to be further strengthened in line with the High Commissioner’s recommendation in her report on treaty body strengthening.
Whilst it must remain a matter of conjecture how, in the longer term, the SPT can continue to meet the ever increasing desire of States Parties and of NPMs to work with the Subcommittee, in the short term the SPT has once again responded by finding innovative ways to mitigate this situation. It has completely restructured its Sessions, increasingly meeting in smaller Regional Teams and working groups, which enable it to cover more ground, more effectively. As a result, the SPT has been able to contribute substantively to current discussions concerning the Standard Minimum Rules for the Treatment of Prisoners, and has been actively involved in developing new approaches to the risk of reprisals arising from its visits — a subject which the SPT takes very seriously indeed.

Within its Regional Teams all members now act as Country Rapporteurs – details of which are available on our public website. We are now able to have an informed consideration of compliance with OPCAT obligations by each and every of the 69 State Parties to OPCAT at each and every SPT session, generating further action as appropriate in a timely fashion. This depth, spread and frequency of coverage is possibly unique within the treaty body system, and allows us to work in conformity with the core principles of confidentiality, impartiality, non-selectivity, universality and objectivity set out in OPCAT Article 2 (3). We also believe that these changes have had a direct impact on compliance with the obligation to establish an NPM: today 45 NPMs have been officially designated. Whilst this means that nineteen states are currently in breach of their obligation to have done so, this represents a declining percentage of states parties — and we are aware of NPMs which do exist even though we have not been officially notified. Moreover, we are in touch with many of those nineteen States in order to encourage and assist them in establishing their NPM.

Distinguished Colleagues, it is fair to say that as a result of the OPCAT and the work of the SPT, systems for regular visiting to places of detention as part of an international system of torture prevention is now a reality in over a quarter of all states within the international community. Of course, this is not enough: but the changes which OPCAT has generated in all parts of the world having only been in force for seven years in force is truly astonishing - and well worth reflecting on at greater length than is possible here today.

The rise in interest in the OPCAT Special Fund has been equally remarkable. The purpose of the Fund, established by OPCAT Article 26 is to support the implementation of SPT Recommendations contained in published visit reports, and educational programmes of NPMs. In 2012 the fund received over US$ 400,000 in contributions, and the SPT is anxious to ensure that donations continue at a rate commensurate with the needs which it is intended to address. The second call for applications to Fund in 2012 yielded thirty applications, resulting in eight grants worth, US$ 280,000. A third call for applications has just been issued. We hope that the Fund continues to be able to support very practical projects essential for the effective prevention of torture and ill-treatment, as it currently the case.

OPCAT is premised on the belief that preventing torture and ill-treatment is facilitated when national and international bodies working collaboratively. I am delighted to be sharing this platform with my colleagues the Special Rapporteur on Torture and the Chair of the Committee against Torture. We will be meeting again in during our session in November in Geneva, when we will also be meeting other UN agencies, Regional bodies, NPMs and States Parties. We continue to work with other UN field presences at a national and regional level, as well as other regional and international organisations and we greatly appreciate their support for the SPT and the work of NPMs. I should therefore like to thank, in particular, La Francophonie for their generous assistance in facilitating a series of implementation events in the coming months. Similarly, I should like to take this opportunity to thank the many civil society organisations, and in particular those within the OPCAT Contact Network, for their invaluable practical assistance. And I apologise now for failing to mention the

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1 In 2012, the Special Fund received the following contributions: US$ 158,227.85 from United Kingdom of Great Britain and Northern Ireland; US$ 10,219.56 from Czech Republic; US$ 215,982.72 from Switzerland; and US$ 18,932.47 from Italy.
many others who have also provided valuable practical support to the SPT in recent times – and there are many. As you know, much of the substance of the SPT’s visiting work is confidential – but the opportunities which OPCAT offers for other to contribute to and share in the work of torture prevention – to become our ‘partners in prevention’ – is certainly not confidential and needs to be better understood and built on. This is yet another task which we have identified and which needs to be further developed in the months and years ahead if we are to maximise the potential of OPCAT to help root out torture and ill-treatment – which is what we are here to do.