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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 5th Annual Report of the Subcommittee on Prevention of Torture (SPT) 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 the visits which it conducts to places where persons may be deprived of their liberty by a State party, (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.

During 2011 the Subcommittee conducted three full visits, to Ukraine, Brazil and Mali. As the SPT had recently expanded to 25 members, and in order to allow all members the opportunity to participate in visiting work, the size of delegations and scope and complexity of these missions was considerable. This also coincided with the UN decision to introduce a maximum length on reports arising from visits. A combination of these factors has led the SPT to conclude that it can most effectively conduct its work by undertaking an increased number of shorter visits, with fewer members and a more targeted focus. Thus at the end of 2011 the SPT announced it would conduct six visits in 2012 – twice as many as before – with three of these targeted on providing advice and assistance regarding the work of NPMs.

We hope to continue this trend. There are now 64 States Parties to OPCAT, meaning that it will be at least ten years before the SPT is able formally to visit a country. This is not compatible with the spirit of conducting ‘regular’ visits and ongoing dialogue. We wish to visit all state parties on a cycle similar to the reporting cycles of other treaty bodies – about every four or five years. This would mean a further doubling of our workload, and more again as participation in the OPCAT system increases. Recognising the reality of resource constraints, including the extremely limited size of the Secretariat, we feel that further refinement and innovation in our working practices will be essential if we are to realise this goal, and we look to States Parties to offer us their support as we seek to do so. We are also looking forward with anticipation to the outcome of the Treaty Strengthening Process, and will continue to support the efforts of all stakeholders to maximise the gains from this important opportunity.

An SPT visit is designed to set in motion an ongoing preventive dialogue. We have been heartened this year by the quantity and, most importantly, the quality of replies received to our visit reports. We are now formally responding to these when they arrive, and also seeking out other ways of discussing and facilitating the implementation of SPT recommendations, including through liaison with other UN local or regional offices and agencies. Nevertheless, four replies remain overdue. Whilst this hampers our work, it does not prevent our continuing to discuss issues with the authorities in other ways, as well as with the NPMs and, where the reports are made public, with others. Over half of our Visit Reports have now been published, Brazil being the latest to do so, soon after its receipt. We greatly welcome the publication of Reports, whilst fully respecting and observing the right of States to preserve the confidentiality of our exchanges.

One of the benefits of publication is that it enables applications to be made to the Special Fund established under Article 26 of OPCAT for the implementation of SPT Recommendations, and educational programmes of NPMs. We have been delighted with the response to the first call which took place in November 2011, and has so far resulted in approval for projects in Benin, Honduras, Paraguay, the Maldives and Mexico. A new Call is currently in progress. Beyond the practical significance of these particular projects, the Special Fund is symbolically important, showing that preventive work through the OPCAT can be quickly translated into real, practical and tangible protections and improvements for those at risk of ill-treatment whilst in detention.

Similarly, we are also heartened by the continued increase in the number of NPMs. Currently, 36 have been established and we have made contact with all of these in order to better learn of their work and gauge what assistance we can offer them. SPT members are now grouped in NPM task forces which allow us to follow their work more closely and engage with them inter-sessionally and outside of our formal visit programme. The demand for such engagement from NPMs is ever-increasing and the SPT is concerned that demand for its input already outstrips its capacity to provide it.

Twenty-three States Parties are yet to establish the NPM within the time frame provided for in OPCAT, whilst other NPMs exist more on paper than in practice. We will continue to work closely with States Parties who are in the process of establishing their NPM, drawing attention to our Guidelines. Our major goal is to see effective NPMs established in all States Parties in accordance with OPCAT criteria as swiftly as possible. When coupled with international oversight by the SPT, we consider this to be the most potent means possible to prevent torture and ill-treatment and we will remain firmly focussed on this pillar of our mandate.

Distinguished Colleagues, the reason for our focus on NPMs is that they provide local and regular scrutiny of the day to day reality of detention and of the risk of ill-treatment than would otherwise be possible. The SPT’s own programme remains a vital element of the overarching architecture of prevention but, through the OPCAT system, the NPMs become the ‘front line’ which it is our job to help establish and support. This is not only efficient, but it is also effective.

As I have indicated, and as our Report illustrates, the amount of change generated as a result of the OPCAT within its first six years is, I would suggest, quite remarkable. It is a testament to those who devised this innovation in international human rights protection; to those States Parties which have embraced it; to the National Preventive Mechanisms which work within its framework; to those in civil society (and in particular the OPCAT Contact Network) who do so much to support us; to the OHCHR and to the SPT Secretariat who work tirelessly on our behalf; and, of course, to the founder members of the SPT who pioneered this work, half of whom must now step down at the end of their maximum period of membership.

Last year I underlined that OPCAT is premised on the belief that preventing torture and ill-treatment can be facilitated by collaborative processes between national authorities and national and international mechanisms working together in a constructive and forward-looking fashion. This year we have continued to see evidence of the truth of this. Whilst there remains much to be concerned about, we believe that working in collaboration with our colleagues at the UN – in particular the Special Rapporteur on Torture and the Committee against Torture – and elsewhere we can continue to make steady progress in erecting safeguards to help prevent torture and ill-treatment from occurring within those States Party to the OPCAT and we look forward to more States Parties joining us on this journey.