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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 7th 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 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) 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.

The incidents of torture and ill-treatment around the world are not diminishing and the need for effective prevention is as great as it ever has been. It is for this reason that we greatly welcome the increase in participation in the OPCAT system. Of course, OPCAT is only open to those states which are parties to the UNCAT – and let me take this opportunity to say how privileged I am to be sharing this platform today with my esteemed colleagues and friends, the Special Rapporteur on Torture and the Chair of the Committee against Torture. Universal ratification of the UNCAT is, however, long overdue and so the SPT has been delighted to learn of the newly launched CTI (Convention against Torture Initiative) spearheaded by Chile, Denmark, Ghana, Indonesia and Morocco – and supported by very many others – to bring this about. Naturally, we hope that this will also be a spur to OPCAT ratification for new and older UNCAT states parties alike.

As the number of States Parties to the OPCAT rises, the pressure on the SPT to undertake more field visits has – rightly – increased. During 2013 a lack of secretarial capacity meant that it was, once, again, only able to schedule 6 visits – three full visits, to New Zealand, Peru and Gabon, two NPM Advisory Visits, to Germany and Armenia, and one follow-up visit, undertaken in accordance with OPCAT Article 13(4) to Cambodia. It had planned to visit Togo, but this had to be postponed and this will now take place this year. Frankly, this number of visits is far too few to enable the SPT to properly fulfil its Convention mandate. In the current year therefore, the number of visits was increased to eight – but once again the lack of staffing within the Secretariat has meant that only seven visits could be undertaken and one of these – to Nigeria – was a very short visit of three days which focussed exclusively on exploring the

nature of the NPM and its work. Other countries so far visited this year include Nicaragua, Ecuador, Malta and Azerbaijan, and two more are due to be conducted. In short – there has barely been any increase in operational capacity despite the rising number of States Parties – which now stands at 74 (and might I extend a welcome to Finland as the latest state to become so, last week). It has to be said that due to financial and staffing constraints we are still told that we cannot undertake more than three full visits each year. This means we are operating on a 25 year cycle of full visits, in addition to having a backlog of visits which itself would take at least 15 years to clear. This is of course completely inappropriate and the importance of addressing this serious deficit in operational capacity needs to be focussed on as a matter of urgency. The SPT believes that it should be able to undertake full 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 OPCAT is not just a source of abstract legal obligations – it establishes a set of practical tools, in the form of independent national preventive mechanisms which work with the SPT and with the States Parties in a collaborative fashion based on a shared commitment to take effective measures to make torture and ill-treatment less likely, if not inexistent. Where such mechanisms have been properly established in accordance with OPCAT criteria they have proven to be of real worth, and their work has been welcomed by those working within the custodial systems as well as by those who are in detention. This is why the SPT continues to focus on ensuring that NPMs are established and operate as the drafters of the OPCAT intended, and so we will continue to undertake shorter visits focussing on NPMs, or on the establishment of NPMs where this does not appear to have occurred. This is not only useful in itself but it also means that we can formally engage with more states than would otherwise be possible. The number of NPMs established is impressive – in the region of 60 are in place and operating in some degree. Many, however, are grossly under resourced and so are not able to work as they should whilst others – it has to be said – do not seem to have fully grasped what a ‘preventive approach’ means in practice. The SPT is, therefore, taking any and every opportunity to meet with NPMs and States Parties in order to address this. As a result, the amount of OPCAT related work undertaken by SPT members is very much greater than the number of formal visits undertaken would suggest. Similarly, the amount of work done by the understaffed secretariat in supporting this – to the extent that it can – needs to be understood and appreciated.

I am afraid it needs to be said that undertaking this preventive work appears to be getting more, rather than less, challenging from a practical perspective. Despite very clear Convention commitments, we have experienced increasing delays in being provided with the information and facilities which are necessary to undertake visits efficiently and – for the first time – we found it necessary to suspend one of our full visits – to Azerbaijan – due to repeated problems in securing immediate and unimpeded access to places of detention. This visit will be undertaken again, once appropriate measures in place to ensure that this does not happen again – and from our discussions with the authorities we are confident that this will indeed be the case. The SPT takes the terms of its OPCAT mandate very seriously and it will not imperil the system of torture prevention which States have established and entrusted to it by not responding to such situations as it ought.

The OPCAT is built on the idea of co-operation in the interests of prevention. Yet as time passes and more SPT visits have taken place, attention is naturally turning to the responses to its reports and recommendations. The SPT is delighted that the strong trend in favour of publication of its reports continues – and commends Armenia, Germany, Kyrgyzstan Moldova and New Zealand for having done so since this time last year. I would, however, be even more delighted were it able to see a similar trend towards the implementation of its recommendations. I say this with some caution – because it may very well be that many of our recommendations – and the recommendations of the NPMs – are being implemented. The difficulty is that we just do not know. Our ability to return to countries is, for the reasons, already given, extremely limited. We are trying to address this by increasing the intensity of written discussion with states following visits, but this can be a long, drawn out affair, in which essential issues may not be fully appreciated or properly addressed. We also appreciate that this can be a real burden for states who are already feeling the burden of UN processes. Therefore, we are seeking to expand the number of short follow-up visits which we undertake. I have already mentioned such a visit was conducted to Cambodia in 2013 and another will be undertaken this year. This trend will continue into the future. But we need to do more.

Distinguished Colleagues, it is in this context that we look with anticipation to the implementation of Res 68/268 on Treaty Strengthening. Whilst it is true that the SPT derives little direct benefit from this resolution other than the regularization of current ad hoc staff levels, the resolution does provide for a step change in the provision of technical advice and assistance on the fulfillment of treaty obligations – and this what the OPCAT calls on the SPT

to do. We are therefore anxiously waiting to discover how the new arrangements being put in place by the OHCHR can be used support the SPT fulfill its technical assistance obligation to States Parties. We hope and believe that this could support a step change in our work, which is now long overdue.

It is overdue because the SPT has now been working long enough to have gained significant insights into reality – rather than the rhetoric – of torture and torture prevention and what can – and must – be done about it. Perhaps this is why we are finding it a little more challenging to do our work. Perhaps we are now penetrating more deeply into the issues and asking rather more awkward questions. If we are – so be it. An example of this is in our 7th Report which raises for the first time the issue of the clear connection between torture, ill-treatment and corruption, which go hand in hand. Effective prevention must tackle such issues too. Likewise, the need to be open and honest about the reality of governance within places of detention – only those who are *really* in charge can bring about change, who *is* really in charge? And so on.

Distinguished Colleagues, it is not the role of the SPT to investigate, expose or condemn. It is the role of the SPT to seek to understand and advise. That advice is not going to take the form of the ritual incantation of agreed statements and standards. Important as these are, they achieve nothing if not put into practice. The SPT sees far too often constitutional provisions and legislative and administrative frameworks which bear very little relationship to what actually happens on a routine basis in many places of detention. There are often many reasons for this – some are entirely understandable, some are completely incomprehensible but all are usually addressable. The role of the SPT, and the NPMs -with whom we will now seek to work ever more closely on substantive as well as process issues - is to suggest practical steps to address issues where they occur and then seek to discuss the implementation of these in detail and in an on-going manner with those who share our commitment to torture prevention.

Let me thank you for your kind attention and I look forward to responding to your questions.
