



HUMAN RIGHTS COUNCIL - 46th SESSION

Interactive dialogue with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

(8-9 March 2021)

Mr Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment:

Summary of the report: [A/HRC/46/26](#)

- The report focuses on two important matters: 1) The **evaluation of the effectiveness of the cooperation shown by States in their responses** and follow-up to official communications and country visit requests transmitted by the Special Rapporteur. 2) The recommendations regarding **appropriate measures to strengthen the interaction of States** with the mandate of the Special Rapporteur and **improving the compliance of States with their obligations**.
- The report evidences that the majority of States' responses to official communications transmitted by the Special Rapporteur on specific allegations of torture or ill-treatment **fall short of the standard of "full cooperation"** set by the Human Rights Council.
- Lastly, the report establishes that in order to ensure that their interaction with the mandate of the Special Rapporteur meets the standard of "full cooperation", States must guarantee **effective prevention, investigation and prosecution of and redress for torture and ill-treatment understood not as a matter of policy**, but an absolute and non-derogable obligation that binds all of them regardless of their treaty obligations

Mr Melzer highlighted the lack of cooperation shown by the **four States directly involved in the case of Julian Assange** in response to eight official communications and several press statements. He emphasized that when States consistently refuse to cooperate with the international mechanisms they have created for the monitoring of their compliance with the human rights standards they have committed to as a matter of treaty law, **the continued credibility and functionality of the global human rights system is endangered**.

Furthermore, the evaluation study of States' cooperation evidences that over the long term **more than one third (36 per cent) of official communications transmitted to States by the mandate holder do not receive any response whatsoever** ("no cooperation"); while only 10 per cent receive a fully satisfactory response. Additionally, during the SR's mandate period, the cooperation of States has been marked by a staggering failure rate of 80 percent on country visit requests and of 90 percent on individual communications, a trend that has remained unchanged since 1985. This only exposes a **systemic failure which fundamentally questions the credibility of States' commitment**.

Hence, the SR recommends this issue requires **States to have political determination to make difficult decisions and the courage to face uncomfortable truths**. Also, that the OHCHR initiates and conducts a **multi-stakeholder process aiming to identify agreed generic standards** for this purpose in all areas of their work including, official communications, country visits and thematic reporting.

Country visit to the Maldives:

Mr Melzer commended the Maldives for their excellent and **constructive cooperation** and mentioned that the country is equipped with the necessary legal, structural and procedural framework and a suitable political environment to prevent torture and other ill-treatment.

The biggest challenges that still remain are: **over-incarceration, inadequate conditions of detention and impunity for violations**.

The Government had invited the SR to conduct a follow-up visit in November 2020, but it could not take place due to COVID-related travel restrictions.



Maldives (Country concerned):

The Maldives welcomed the report by the SR and insisted they are committed to consolidating their **transitional justice system and conducting credible investigations in this regard**. Also, following the recommendations of the SR, they have enacted the **Anti-Torture Act, implemented it into their domestic law and recognized the competence of the Committee against Torture to receive individual communications in accordance with Art. 22 of the Convention**. Additionally, they have **created specialized committees** to further implement all the other SR's recommendations.

Moreover, to solve the prison overcrowding problem they have **created new complexes to house new detainees** and have **created a special management unit** within the prisons to offer better rehabilitation programs. Also, they have **implemented a monitoring system to overlook in-prison officers' compliance** with care standards. Finally, they have **created hotlines for families and prisoners to launch complaints** and **allowed prisoners to make direct skype calls** to overcome the limitations posed by the COVID-19 pandemic.

Interactive Dialogue

Delegations that took the floor during the Interactive Dialogue (45 country delegations):

Maldives (Country concerned), European Union, Denmark (on behalf of Nordic and Baltic countries), Chile (on behalf of Argentina, Brazil, Costa Rica, Ecuador, Mexico, Panama, Peru, Uruguay and Chile), State of Palestine, France, Libya, Ecuador, Russian Federation, Mauritania, Iraq, Indonesia, Switzerland, Belgium, Armenia, Japan, Venezuela, Iran, Namibia, Burkina Faso, Pakistan, USA, Cameroon, Malaysia, Ghana, China, Paraguay, Ukraine, Azerbaijan, Fiji, Botswana, UK, Sudan, Germany, Cuba, Afghanistan, South Sudan, Georgia, Philippines, Czech Republic, Cyprus, Egypt, South Africa, Jordan.

The majority of the speakers commended the report made by the Special Rapporteur and **highlighted the concern over the "partial collaboration" or no collaboration from countries with the mandate**. Hence, the majority urged other States to maintain full cooperation with the SR and all mandate holders. Also, most countries made a call to States that still have "standing invitations", to support the visit of the SR. Additionally, most concurred in that States should **implement measures to train law enforcement authorities** to prevent this kind of human rights violations.

Several countries referred to the importance of the **independent status of the mandate holders** and the obligation of all States to cooperate with them.

Russia and **Cuba** established that the mandate holder should also show an interest in dialogue with the countries concerned **as this cooperation must be a two-way street**. **Russia** raised the concern for the **choosing criteria of the countries by the SR** as it seems the invitations keep being sent to the same States. Along with **Ecuador**, both emphasized the need to **guarantee the non-politicization of mandate holders** to maintain their reputation and that **they should abide by the norms of law**.

Cuba mentioned that it is important for the SR to take into account that **some countries have limited resources** to be able to manage in a timely manner these communications and country visits.

Venezuela called on the **USA** to **liberate Julian Assange**.

USA referred to the **torture of Muslims in China** and political prisoners in **Belarus**, as well as the arbitrary detention and torture of journalists and human rights activists in **Syria** amounting to crimes against humanity.

China referred back to the "irresponsible" statements made by the **USA** and said that they should first revisit their actions in **Iraq** and **Guantanamo Bay**.

Pakistan and **Philippines** mentioned that a country visit by the SR is currently under review in their respective countries and that there have been some delays with this due to the COVID-19 pandemic.

Palestine specifically called on **Israel** to be hold accountable for crimes related to torture and degrading treatments of **Palestinian prisoners**.



NHRIs that took the floor during the Interactive Dialogue (2):

National Human Rights Council of Morocco, Office of the Human Rights Defender of Armenia

The representative of the National Human Rights Council of Morocco welcomed the King's amnesty law which benefited a number of people. The Office of the Human Rights Defender of Armenia condemned Armenian military servicemen that are **being beheaded, killed and tortured by Azerbaijan forces**.

NGOs that took the floor during the Interactive Dialogue (10):

Centro de Apoio aos Direitos Humanos "Valdício Barbosa dos Santos, Colombian Commission of Jurists, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, Asociación Civil, Commonwealth Human Rights Initiative, Conectas Direitos Humanos, Coordination des Associations et des Particuliers pour la Liberté de Conscience, Helsinki Foundation for Human Rights, Society for Threatened Peoples, World Organisation Against Torture, Reporters Sans Frontiers International.

Most of the NGOs representatives referred to situations of torture or ill treatment in specific countries: **Cases of torture in Brazil's** prisons and the weak participation of civil society in the National Committee Against Torture as well as the designation of military personnel for government representation; **Police abuse against protestors in Colombia** as well as impunity for these crimes and the **death of prisoners in jails**; Impunity for torture cases in **Mexico**; death squads and kidnappings in **Baluchistan, Pakistan; Chinese authorities responsibility in the pattern of deaths of Tibetans** after torture and mistreatment in detention centers and the need to urgently initiate an independent investigation on the human rights situation in **China**; George Floyd's police abuse case in the **USA**; systematic cases of torture in **Belarus, Bangladesh, India, Vietnam** and **Egypt**.

Several NGOs called for an urgent visit of the SR to **Colombia, Mexico, and China**.

Most of the NGOs established that the **COVID-19 has increased States' excess of violence** over marginalized communities. Also, that in order to advance in cooperation with special procedures mechanisms **it is key to develop this kind of evaluative standards of countries' cooperation**.

Finally, most NGO representatives agreed that **without the political will of States to bring about holistic institutional changes**, the absolute prohibition of torture will be reduced to hortatory claims.

To watch full ID with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, refer to UN Web TV, [part 1](#) (8 March 2021) – [part 2](#) (9 March 2021).