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Statement by Mrs. Suzanne Jabbour

Chairperson

**SUBCOMMITTEE ON PREVENTION OF TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

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Chairperson,

Dear delegates and colleagues,

I am very pleased to present to you the 14th annual report of the Subcommittee on Prevention of Torture (SPT), my first as its new Chairperson. On this occasion, I would like to give my thanks to my fellow SPT members for electing me to this position. I would also like to thank my colleague Sir Malcom Evans, for the 10 years he spent at the head of the Subcommittee. I look forward to build on his great work during my mandate, together with the SPT Bureau, Secretariat and fellow expert members; as well as with other UN agencies and mechanisms, especially the Committee against Torture and the Special Rapporteur on Torture.

As I take over, it is my task to present to you the activities of the SPT for the year 2020. It should be no surprise to you that this past year has been an extremely difficult and challenging one.

The first and principal challenge we encountered was that the SPT was not able to conduct any visit in 2020; with the last visit having taken place in October 2019, as the March 2020 visit to Argentina was suspended due to the pandemic. This is far too long for an activity that is *the* objective of the OPCAT, as set in its first article, and thus is at the core of the work of the Subcommittee. We recognize the need for measures to prevent the spread of COVID-19; but at the same time and especially now, a year and half after the pandemic was first declared, it should not entirely prevent us from conducting our mission and our visits. All SPT members have now been vaccinated, and we have elaborated a strict protocol to conduct visits under pandemic conditions. This will ensure that we do not risk transmitting the disease to those that we are visiting, hence fully abiding by the “do no harm” principle that we embrace in our work. We *can* now fulfill our visiting mandate; we just need to be given the financial and human resources to do so.

We are planning to resume visits this month with Bulgaria, followed hopefully by another by the end of the year, and to have a full visiting program next year. But, as of today, we are not able to do more than 6 or 7 visits a year, while we should be doing at least twice this number.

The past year and half has seen the world being completely disrupted on many levels and in many aspects. Persons in places of deprivation of liberty were affected particularly hard. In many countries, they are detained in cramped, overcrowded, insalubrious and unhygienic conditions, with little access to healthcare. Staff is often overworked and lacks resources to do its work, including implementing COVID-19 safety protocols for everyone. These conditions, among others, favor the quick spread of the virus.

This fragile situation prompted a large number States to adopt emergency measures to prevent or counter outbreaks of the pandemic in places of detention; measures which the UN bodies such as the WHO, but also the SPT, recommended and which the SPT very much welcomed. In the first place, steps were taken by States to decongest prisons and other detention facilities, in some places significantly, in others only over a short time. The reduction of overcrowding of detention facilities is something that had long been pushed for by the international community and especially the SPT after several visits to different countries; but these recommendations were seldom met with adequate follow-up measures by States and relevant authorities. In numerous prison systems, access to hygiene and healthcare was intensified; persons with higher health risks, such as older inmates or those with underlying health issues were protected.

All of these efforts and measures have shown one thing: improvements *can* be implemented. Overcrowding *can* be managed and reduced, access to healthcare *can* be guaranteed, special care for vulnerable groups *can* be put in place. If this was possible in times of crisis, then it should be possible to pursue such policies also in ordinary times. We encourage States and national authorities to build on those policies and practices in the long-term.

While these developments and actions were welcome, the SPT raised concerns regarding the management of the pandemic in some States and detention systems. Those concerns notably touch upon the aforementioned issues of overcrowding and lack of access to healthcare, where they have not been addressed and have thus put persons in places of deprivation of liberty at a heightened risk of infection. The SPT also identified a lack of support in case of mental health issues in closed facilities. Furthermore, the Subcommittee remains concerned about some of the COVID-19 measures implemented in places of detention, such as, among others, the disproportionate restrictions of movement and excessive measures of isolation; the inadequate alternative measures to compensate for the suspension of contacts with the outside world (such as e.g. with families, lawyers, or external organizations and services providing essential support). The SPT has also particularly been worried about limitations imposed on national preventive mechanisms and other monitoring bodies in executing their mandate.

It remains impossible to predict how long the pandemic will last, in which regions it will persist more, what the situation will be if it does and with which intensity. It is therefore a concern of the SPT as to how long the restrictive measures will remain in place.

Despite the challenging circumstances brought by the pandemic and the absence of visits, the SPT found innovative ways to fulfill other aspects of its mandate.

The Subcommittee was the first UN treaty body to undertake a full session and program of work entirely online, in June 2020; and has continued doing so since then. We have used every

tool at our disposal, including interpretation and webcasting ones; and we were able to conduct important sessions of work within the Subcommittee, its regional teams and working groups; as well as meetings with State parties, NPMs and other actors. This allowed the SPT, while in session, to have a continuous and direct contact with stakeholders to monitor the pandemic situation and provide direct advice to those implementing mitigating measures on how to reduce its negative impact. This is definitely a positive achievement that we can build on for future sessions. However, we would like to point out the need for additional resources to make the most of it.

As one of the pillars of our mandate, we also continued providing technical assistance to torture prevention stakeholders all along the year. We maintained direct and close contact, even with the constraints of doing so remotely, with a high number of NPMs, State parties and signatories, and other stakeholders; including by participating in a high number of national, regional and international meetings. We also continued close cooperation with other treaty bodies and international mechanisms, for example through participation in the informal treaty body COVID-19 working group, as well as with other stakeholders such as American and African regional bodies for the prevention of torture.

Furthermore, we closely monitored State parties' responses to COVID-19 in places of deprivation of liberty. We provided NPMs and State parties with advice and recommendations issued early on in March and April 2020 on how to tackle challenges brought by the pandemic. The SPT approached notably the new issue of mandatory quarantine and measures to take to prevent the spread of COVID-19 while protecting the rights of people inside closed facilities – according to the principle of “do no harm”. In its newest advice issued in June 2021, the SPT stressed concerns with regard to certain measures and made new recommendations, especially regarding the vaccination of persons in establishments of deprivation of liberty. This close monitoring of the situation and the responses in detention facilities will provide the SPT with the necessary information to assess shortcomings, challenges and impacts on all persons concerned, vaccinated, affected or infected, and propose new recommendations for action. If I am detailing all of these activities, it is as much to update you on them as it is to show that the SPT followed the situation in a *holistic* approach, that embraced *all aspects* of the challenges raised by the COVID-19 pandemic in places of deprivation of liberty.

We did so in close cooperation with State parties and NPMs. I would here like to highlight and express the SPT's particular appreciation for the large number of NPMs that not only were active, from the very beginning of these challenging times, to continue torture prevention efforts; but did so by finding new ways of monitoring prisons, juvenile and immigration detention facilities, social welfare institutions and closed psychiatric hospitals; and of cooperating with the SPT and other key stakeholders.

The SPT also assisted in the assessment of project proposals and grant recommendations for the next round of projects supported by the OPCAT Special Fund. The funds raised in 2020 exceeded the amounts in the last five years, and will support 12 projects in 9 countries, to be implemented in 2021. The Special Fund is an essential tool for complementing and strengthening the means of the Subcommittee to assist NPMs; we therefore urge States to continue providing it with supplementary financial support.

All of these activities were made possible by the continuous work of the SPT's expert members and Secretariat, to both of which I would like to express my sincerest gratitude. The experts – whose function and participation in the SPT, let me recall, is *voluntary* and *supplementary* to their main professional activity –, participated in sessions, meetings and activities all year long; even where and when the access to the Internet was limited or in spite of time differences. As for the Secretariat, it was simply behind every activity described in the annual report.

This is where I would like to point out, as my predecessors did, the lack of human and financial resources of the Secretariat to fulfil its important role supporting the SPT's mandate. Let me recall here that the SPT is in charge of following the implementation of the OPCAT in *90* State parties and *13* signatories, in close collaboration with the States' authorities and approximately 70 NPMs. We are the only human rights treaty body that does not work based on regular reports submitted by States, but rather on observations gathered from visits on the field.

The Secretariat is in charge of preparing visits and follow-ups; SPT sessions; correspondence, dialogue and meetings with State parties and NPMs; cooperation between members and with other treaty bodies; etc. It only has 4 full-time staff to do all this. While I want to acknowledge their everyday commitment to conducting their mission, I must also stress that this is not enough, compared to the work at hand.

The crisis in places of deprivation of liberty is not a new one. It is a long-standing one that the pandemic only highlighted and exacerbated. Even after this wake-up call, prisons and other places of detention in many parts of the world continue to face disastrous detention conditions, with chronic overcrowding issues; a lack of access to hygiene and healthcare, sometimes even to food and clothing; an overall lack of funding and resources to remedy these issues; and so much more.

In such contexts, and especially in the current global one, where it has never been more difficult to know what happens behind the doors of detention facilities, torture is all the more likely to occur. The work of NPMs and other organizations has thus never been more essential to ensure that these issues are known and actively addressed; and that efforts for the prevention of torture in places of deprivation of liberty are facilitated.

The fact that 90 countries have ratified and 13 signed the OPCAT is an achievement in itself. However, the slowing progress in ratifications and signatures observed over the last few years has now reached a new point: 2020 was the first year since the treaty went into force in 2006 that there were none. Furthermore, out of the 90 State parties, 21 have not yet designated their NPM, despite their obligation to do so within a year of ratification. The SPT recognizes the challenges raised by the pandemic for the process of establishing an NPM, but would like to point out that, for at least 14 State parties, as of the end of 2020, it has been a long-standing issue of non-compliance with Article 17 of the OPCAT. The previous year has demonstrated the importance of having officially designated, with appropriate mandate, independent, adequately resourced preventive mechanisms. We urge State parties that have not done so to establish their NPM, and other countries to join the important treaty that is the OPCAT. The SPT is deeply committed to supporting State signatories and countries, which want to be a party to the OPCAT on every step of this way.

In general, and as various national, regional and international organizations and mechanisms have repeatedly pointed out in the past year; the COVID-19 pandemic cannot be a pretext for putting human rights in the background. The prohibition of torture is absolute. Torture or other cruel, inhuman and degrading treatment cannot be justified – or even indirectly tolerated – in any situation, including an extraordinary public emergency such as the current one. This includes the right of every person to be protected from torture, and the duty of stakeholders at all levels to work to prevent it from happening in the first place.

The Subcommittee on Prevention of Torture has been mandated to lead on and support torture prevention efforts at all levels. It needs to be given the full means to do so; including by providing the adequate resources for a strong Secretariat; and for the visits that are at the heart of its mandate.

As this year has shown, the OPCAT remains, despite the challenges, a strong and effective instrument to prevent torture and protect human dignity. Let us continue working together towards it.

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