

Statement by H.E Mr. Mothusi B. R. Palai, Permanent Representative of Botswana to the United Nations Office at Geneva

During the Interactive Dialogue with the Special Rapporteurs on Torture and on Human Rights Defenders

(5th March 2012, Geneva)

1. **Madam President,** Let me join my colleagues in thanking the two Special Rapporteurs for their elaborate and informative reports.
2. Starting with the report on torture and other cruel, inhuman or degrading treatment, we will agree with many delegations that the report provides invaluable information on the establishment and the *modus operandi* of both national and international commissions of inquiry.
3. Recent decades have, indeed seen the establishment of many commissions of inquiry. Some were established for the right reasons of trying to address the injustices or serious human rights violations that may have occurred during a conflict; and others, to simply try to absolve the State from its responsibilities of providing recourse to the victims and holding perpetrators accountable.
4. In this regard, we couldn't agree more with the Special Rapporteur that commissions of inquiry cannot, and should not, be used to relieve the State of its international legal obligations to investigate allegations and prosecute perpetrators of torture and other forms of ill-treatment, and to provide effective remedies to victims of past violations, and to ensure non-recurrence of such violations.

5. **Madam President,** We wish to commend the Governments of Tunisia and Kyrgyzstan for fulfilling their invitations to the Special Rapporteur. We hope the two countries will constructively implement the Special Rapporteur's recommendations.

6. We also wish to commend the Governments of Iraq, Bahrain, Tajikistan, Cuba and Zimbabwe for extending their invitations to the Special Rapporteur to visit their respective countries.

7. We remain hopeful that those countries with pending requests for invitation will extend their cooperation to the Special Rapporteur.

8. In our view, cooperation with all Special Rapporteurs, especially on thematic human rights issues, can contribute significantly to improving the human rights record of the country and thereby increasing the legitimacy, trust and confidence by the people on their Government.

9. Turning to the report on the situation of human rights defenders, we will all agree with the Special Rapporteur that journalists, media workers and environmental activists continue to contribute in no small measure to the promotion and protection of human rights and fundamental freedoms worldwide.

10. As a result of their work in exposing such ills as crime, corruption, trafficking, torture, impunity and environmental issues they continue to face all sorts of persecutions. These include killing, torture, disappearance, abduction, and other forms of ill-treatment, not only from Governments, but also from many non-Government actors.

11. As we all know, in international law the responsibility to investigate, prosecute and punish all crimes and other gross violations rests, first and foremost, with the Government.

12. With the understanding that Governments themselves get implicated in violation of the rights of journalists and other media workers, and recognising the importance of their work, we believe it may not be sufficient to place their protection at international level on a non-binding instrument, in the form the Declaration on Human Rights Defenders. Perhaps there is need to consider the possibility of an international legally binding instrument.

13. The Special Rapporteur has referred to the use by some Governments of national security to curtail the freedom of the press. National Security is extremely important to any State. It might assist if the Special Rapporteur could outline under what circumstances or how far national security could be permitted as a reason for restricting the freedom of the press on some issues.

14. Finally, may I commend the Special Rapporteurs for their continued contribution to the wealth of knowledge through their participation in many regional and international fora on issues relevant to their mandates.

15. I thank you.