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Statement by Mr. Nils Melzer

SPECIAL RAPPORTEUR ON TORTURE AND OTHER
CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT

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Mister President, Distinguished Representatives, Observers, Ladies and Gentlemen,

It is with great honour that I address this Assembly in my capacity as the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

I first would like to thank the States here represented for the many constructive exchanges during the first three years of my mandate and I look forward to continuing these important working relationships in the course of my second term in the coming three years. I also would like to thank the Swiss Government for their continued support and encourage other States to provide additional financial and human resources. Every day, this mandate continues to be overwhelmed with requests for urgent interventions but, due to a persistent lack of resources and capacity, only a fraction of these requests can be adequately considered.

In mid-June 2019, I was only the second mandate of Special Procedures invited to undertake an official visit to Comoros. While I thank the Government for this invitation, I regret to report that my visit had to be terminated early, as I was unable to obtain full access to all places of detention. I will, however, submit a country report to the Human Rights Council in March 2020 in order to encourage a constructive dialogue with the Government with a view to facilitating many necessary reforms and investments.

I also thank the Governments of the Maldives, Burkina Faso, Mongolia and Paraguay for extending invitations to my mandate. I plan to visit the Maldives in the 2nd half of November of this year and will soon prioritise my visits for 2020.

Further, I would like to thank the Government of the United Kingdom for having facilitated my visit to Mr. Julian Assange in Belmarsh Prison in London

in May 2019, including his examination by two experienced medical experts. Although Mr. Assange showed a pattern of symptoms typical for long-term exposure to psychological torture, I regret to report that none of the concerned States have agreed to investigate or redress their alleged involvement in his abuse as required of them under human rights law.

More generally, I would like to take this opportunity to remind all States that, wherever there is reasonable ground to believe that an act of torture has been committed by persons under their jurisdiction, including any attempt, participation and complicity, the relevant authorities are legally required to conduct of a prompt and impartial investigation, to prosecute and punish perpetrators and to ensure redress and rehabilitation for victims. Failure to do so is not a question of political discretion, but constitutes a violation of international law.

Mister President,

This year, my interim report examines the relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment for the context of domestic violence.

Domestic violence is perpetrated every day against millions of children, women, and men. It includes a wide variety of abusive conduct, ranging from culpable neglect and coercive or excessively controlling behaviour, to various forms of mental abuse, sexual and physical violence, mutilation, and even murder. In terms of the intentionality, purposefulness and severity of the inflicted pain and suffering, domestic violence often falls nothing short of torture and ill-treatment. Although most instances of domestic violence occur in the private sphere, Governments have positive obligations to prevent, investigate, and prosecute such abuse and to provide victims with redress and rehabilitation.

Therefore, my resulting **recommendations** focus on strengthening the capacity of States to effectively prevent and respond to torture and other cruel, inhuman or degrading treatment or punishment in the context of domestic violence.

1. Ratification of international legal instruments: First, States should ratify, without reservations, all international legal instruments aiming to give effect to the prohibition of torture and ill-treatment.

2. National laws, policies and practices: Second, States should refrain from promoting violent, discriminatory or dehumanizing narratives, they should criminalize domestic violence, and repeal or reform any national laws, policies and practices that contribute to societal norms and structures that uphold, perpetuate or are otherwise conducive to domestic violence.

3. Protective measures: Third, States should establish accessible help lines, data-collection processes and intervention services, such as shelters and care settings, ensuring the prompt and effective protection of victims and their dependents from domestic violence. Further, under no circumstances should States expel persons to places where there are substantial grounds for believing that they would be in danger of domestic violence amounting to torture or cruel, inhuman or degrading treatment or punishment.

4. Judicial measures: Fourth, States should provide legal assistance to victims of domestic violence, conduct prompt and impartial investigations, take appropriate protective measures, and ensure administrative, civil and criminal accountability of perpetrators.

5. Full compensation and rehabilitation: Fifth, States should ensure their legal systems provide redress and that victims have an enforceable right to fair and adequate compensation, including the means for the fullest possible

rehabilitation. In particular, I encourage States to follow the comprehensive and gender-sensitive guidance provided by the Special Rapporteur on violence against women, its causes and consequences on the topic of reparations (A/HRC/14/22). My report also outlines additional mechanisms and services that should be made accessible to complement any legal proceedings to ensure the victims' rights, including the best interests of the child.

6. Structural measures and Non-discrimination: Finally, given that most forms of domestic violence are intrinsically linked to discriminatory patterns, structural subordination and systemic marginalization, States should address the legal, systemic and socioeconomic conditions that may increase exposure to, or perpetuate these patterns.

Mister President,

In conclusion, domestic violence cannot be regarded as a private matter, but constitutes a major human rights issue of inherently public concern that requires examination, *inter alia*, from the perspective of the prohibition of torture and ill-treatment.

In terms of both scale and severity, domestic violence is one of the predominant sources of humiliation, violence and death worldwide, and claims a similar number of lives as armed conflict. Like war, domestic violence is a veritable scourge of humanity, traumatizing countless individuals, in particular women and children, on a daily basis and brutalizing human society for generations to come.

Unlike war, however, domestic violence is still widely considered to be a "private matter." As long as a substantial part of the world's population is oppressed and abused within the perceived legal "black hole" of the home, the

promises of the Universal Declaration of Human Rights and the 2030 Agenda for Sustainable Development will remain a far cry from reality.

It is therefore my hope that this report may contribute to raising awareness for the alarming scale and prevalence of domestic violence worldwide, as well as for the gravity of the pain and suffering it inflicts on current and future generations, and to encourage and enable States to effectively prevent and respond to such abuse in line with their international legal obligations under human rights law, including the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

I thank you for your attention and look forward to a fruitful and constructive dialogue.
