

**Response by Prof. Philip Alston, Special Rapporteur on extrajudicial executions, to comments made in the Human Rights Council, 4 June 2010**

Mr President,

Permit me first of all to apologise sincerely to the Council for the lateness of several of my reports. This was not intended and I certainly regret the delays.

I would like to thank the members and observers of the Council for the very kind comments made yesterday and today. I am deeply appreciative that so many States chose to make such positive comments. I would also offer particular thanks to Sweden for having shown such commitment over the years in taking the lead on this mandate in the Council.

The most important compliments, of course, are those coming from States which I have visited. I was greatly heartened by the comments by the representatives of Colombia, the Central African Republic and Brazil all engaging fully with the reports and indicating that they considered them to be fair and constructive, even when there are inevitably differences.

These responses stand in marked contrast, however, to the reply of the DRC which condemned my detailed and carefully documented report as tendentious, politicized, unbalanced, stuffed with insinuations and gratuitous indeed irresponsible claims, in brief not an objective report. It is always very worrying when a State is in total denial of grave problems that are apparent to virtually all other observers. This brings me to a very difficult issue. This Council paid its respects through a minute of silence yesterday in the memory of Floribert Chebeya and various actors called for an investigation, which the Government has already committed to. But the circumstances of the killing point to the overwhelming likelihood that nothing will come out of the investigation. The question is whether the international community in such circumstances could not put itself in a position to offer forensic and other investigative assistance in such cases without the issue needing to rise to the level of a perceived slight to the sovereignty of the state concerned and without requiring action by this Council which would be seen as confrontational. If the Council's regular lamentations about the killing of human rights defenders are to be meaningful, it will need to think and act more creatively to make a real contribution.

Singapore challenged my assertion that the mandatory death penalty is contrary to international law. Permit me only to observe that the recent judgment of the Singapore Court of Appeal, which determinedly upheld the legality of that penalty under domestic law, could not cite a single international human rights body, nor a single judgment of a respected court in the last twenty years in support of its own position. All such bodies hold the view that this penalty is cruel and inhuman, and I hope it will not be too long before a State that has achieved so much in other respects will also choose to align itself with this view.

Mr President, the representative of Sri Lanka made a very lengthy reply to my comment. He completely rejected the many reports from a diverse range of observers that have documented major alleged violations as “unsubstantiated, uncorroberated heresy”. If this Council were to respond as he suggests to such information it would need to be renamed the State Protection Council. The representative went on to say, however, that any such allegations would be dealt with very effectively by the Commission on Lessons Learnt and Reconciliation set up on May 15 by President Rajapakse. In response I would draw attention to the fact that there is not a single reference to either human rights or international humanitarian law in the Commission’s terms of reference. In terms of membership, it is composed dominantly of former Government officials and thus cannot be seen to meet the clearly established criteria for a credible, impartial and independent inquiry. Given that Sri Lanka has a 20 year long record of setting up failed commissions of inquiry to investigate major human rights violations, it is incumbent on the international community to contribute to the process.

Let me conclude by noting that the United States Government pointedly opted not to respond substantively to my report on targeted killings. The contrast between the many detailed responses to the report attributed in the media to very senior officials, and the non-response to the Council is a little surprising. I would hope, however, that the debate on this important issue will continue and that the US will seek to develop an approach governing its use of armed drones which respects the international standards to which the US Government insists it is fully committed.

Thankyou.