

Wednesday, 20 September 2006

Response to the debate by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston

Thank you very much, Mr. President. I want to respond to the various remarks that were made yesterday.

Let me begin by saying that I was greatly reassured by the general tenor of the remarks made, particularly by those representatives from the countries which I have visited recently. The remarks by the governments of Nigeria, Sri Lanka and Guatemala were, in my view, extremely encouraging. They demonstrate the importance of the dialogue that we are engaged in and I took them as reaffirming the value of the Special Procedures in addressing complex issues that arise in the countries we visit.

Let me turn to some specific issues that were raised. First, the representative of Algeria raised the question of my comments in relation to the draft amnesty law which was presented to a referendum in that country. I want to say that there will inevitably, and I'm sure for a long time to come, be a difference between the position of the general international community in relation to amnesties and that of individual governments coming out of conflict situations. The international community as a whole is clearly moving quite strongly and systematically, I think, towards a fairly strict approach to the question of amnesty laws. I can understand that an individual government is going to find that difficult and that the dialogue that we have will rarely be welcome. In terms of making my views known in advance of a referendum, the key factor for a Special Procedure, acting at the behest the Council, is effectiveness, and to issue a statement only after the results of a national referendum would have been a waste of time.

In relation to the comments by the government of Nigeria, I thank them for their very cooperative approach. I would only want to take issue with the question that arose in relation to the crimes of sodomy and adultery. The explanation offered by the representative is not in my view a compelling one. Perhaps the most interesting meeting I've ever had as a Rapporteur was with half a dozen judges of the Sharia Court in Kano where we sat around for an hour or so and talked as lawyers to one another. They made a similar point to that made by the representative. In a nutshell, it is that ultimately this law will never be applied. In other words, while it's on the books they did not anticipate anyone actually being stoned to death for sodomy or for adultery.

I thought about this. The next morning I visited the prison in Kano. The very first prisoner with whom I met was on death row, in atrocious conditions, for the crime of consensual sodomy. The question that then arises is: is it acceptable to have a law on the books which has the harshest possible consequences and which leaves an individual for years and years under the shadow of death while at the same time saying "Don't worry, because you won't really be executed in the end."?

Not surprisingly, this wasn't the way in which my interlocutor in the prison – rotting in a dark, damp and confined cell for 'condemned prisoners' – saw things.

I would also say that the suggestion that there are some who would consider the death penalty to be an appropriate and just punishment is, of course, entirely inconsistent with the federal law in Nigeria. The Federal Government has never taken this position and my request to the Government is simply that it reaffirms its legal obligations and acts in such a way as to ensure conformity on the part of the states.

In terms of the government of Iran, I appreciate the comment by the representative that "setting a date for a visit takes a long time". Unfortunately, I am getting old and three years is a long time to wait for a date.

Nonetheless, I welcome the assurances given by the Representative that none of the cases that I have taken up with the Government has really involved juveniles, despite the information I have received to the contrary. The only way forward, of course, is for a visit to Iran to be arranged to enable me to clarify the cases that continue to be brought to my attention alleging the execution of juveniles and I very much look forward to receiving a date from the Government.

Finally, Mr. President, the case of Sri Lanka was focused upon by a great many governments. I'm very pleased that Asian governments in particular have expressed their support for international cooperation in resolving the conflict. The key challenge is to establish some form of human rights monitoring. The current proposal by the President of Sri Lanka needs to be clarified. Initially it was indeed to set up some sort of international monitoring mechanism. But that proposal was subsequently changed fundamentally to provide for a national level commission appointed by the President, which in my view, on its own, is very unlikely to be treated as a satisfactory and credible response to a crisis in which the government itself is significantly involved.

What we need then is a serious international contribution. There is no existing model which should be superimposed. We are not talking here about the Nepalese model, the Rwanda model, the Guatemala model. What we want is the Sri Lanka model. We want an international monitoring arrangement which is going to meet the needs of the people of Sri Lanka.

I was asked by the Government if the LTTE had indicated that they would cooperate. I am not in touch on a regular basis with the LTTE, but I did read an interview several days ago given by Mr. Thamilselvan, the political head with whom I had met in Sri Lanka, and he at least left the door open to cooperation with an international mechanism.

Finally, the issue of security was raised. I want to emphasize that I think it's a mistake to juxtapose security and human rights as though they are polar opposites. In a situation like that in Sri Lanka, the only credible road to security lies through respect for human rights.