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Mandate of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment

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Dear Mr. T L Early,

In my capacity as United Nations Special Rapporteur on the question of torture and other cruel, inhuman, or degrading treatment or punishment (SR on Torture) pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/23, I have drafted a submission on a voluntary basis to the European Court of Human Rights (ECHR) in the case of **Barbar Ahmad and Others v. The United Kingdom** for the Court's consideration without prejudice to the privileges and immunities of the United Nations and its experts and officials.

It has recently come to my attention that the issue of solitary confinement, a practice of central concern to the mandate of the SR on Torture, has arisen before the Court in connection to the present case. I acknowledge however, that the period for third party observations in the present case closed in December 2010, and that the case is in the final stages of consideration by the Court, and therefore will keep my submission concise.

Pursuant to UN Human Rights Council 16/23 (A/HRC/RES/16/23), I act under the aegis of the Human Rights Council without remuneration as an independent expert within the scope of my mandate which enables me to seek, receive, examine and act on information from numerous sources, including individuals, regarding issues and alleged cases concerning torture and or other cruel, inhuman or degrading treatment or punishment. Where necessary, in response to complaints and other communications received, I conduct field visits to relevant States and engage in a dialogue with States to determine if violations have occurred and propose remedies. The communications with States also seek to ensure that every effort is taken to root out the practice of torture worldwide. The working methods of the SR on Torture ensure confidentiality of the specific content of complaints and any follow-up communications until such time as they

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am engaged in a dialogue with the United States Government on allegations of the prolonged solitary confinement of Mr. Bradley Manning, a United States army soldier charged with the unauthorized disclosure of classified information. The United States Government granted me permission to interview Mr. Manning but did not agree to an unmonitored conversation. Under such terms, both Mr. Manning and I declined the offer. In April 2011, Mr. Manning was transferred to an army prison at Fort Leavenworth, Kansas, where he is now held under conditions that do not include solitary confinement.

It is my understanding that prolonged and indefinite solitary confinement is applied in United States' prisons in a variety of ways and for different purposes. In particular, it is applied to inmates accused or convicted of terrorism-related offenses, both during pre-trial detention and post-conviction. For these inmates, solitary confinement is often supplemented with "special administrative measures" (SAMs) that further restrict contacts of these defendants with family and lawyers. Both solitary confinement and SAMs seem to be imposed without any relation to the behaviour of the inmate or his observance of prison discipline. Although these restrictions are imposed invoking the need to prevent acts of terrorism by others, no particular showing is made of specific reasons for such measures. Indeed, it appears that inmates have limited or no opportunity to challenge those reasons or to do anything that would allow them to "step down" from SAMs or solitary confinement.

I understand that in the present case, the Applicant asserts that his possible extradition to the United States may violate the legal principle of non-refoulement under Article 3 of the European Convention on Human Rights. Non-refoulement requires States to act affirmatively to prevent the extradition of detainees to States where torture or other cruel, inhuman, or degrading treatment or punishment are practiced. Without causing prejudice to the Court's findings, I am concerned that extradition of a detainee to a State that practices prolonged solitary confinement with limited recourse would violate Article 3.

As SR on Torture I will continue to engage with States and other bodies on the matter of solitary confinement.

Again, this letter is provided without prejudice to, and should not be considered as a waiver, express or implied, of the privileges and immunities of the United Nations, its officials and experts on missions, pursuant to the 1964 Convention on the Privileges and Immunities of the United Nations.

Sincerely,



Juan E. Méndez
Special Rapporteur on torture and other cruel,
inhuman or degrading treatment or punishment