



Geneva, 1 June 2012

Open Letter to the Coordination Committee of the Special Procedures

Dear Members of the Coordination Committee,

I am addressing you on behalf of the undersigned international human rights NGOs that are committed to supporting and strengthening the work of the Special Procedures. As a group we have been actively involved in engaging with the Special Procedures and its Annual Meetings. This letter is provided to you in preparation for the session with NGOs to be held on 14 June 2012 during this year's Annual Meeting.

Following the 18th Annual Meeting in June 2011, a Joint Statement was produced (Annexed to this letter), based on oral statements made by NGO representatives during the Meeting. The Statement was produced with a view to providing constructive and useful recommendations in a single document that could then be used as the basis for future consultations. To that end, the undersigned NGOs would welcome comments from mandate-holders on improvements over the past 12 months on issues raised in the Joint Statement, as well as areas in respect of which it has not been possible to make progress. We would also be interested to hear of other new initiatives relevant to the work and functioning of the Special Procedures that you believe should be brought to the attention of civil society.

On the subject of new initiatives, we welcome recent positive developments, including the establishment of a database by the Working Group on Arbitrary Detention; the collation of all information on upcoming missions in one place on the OHCHR website; and the communications reports of the Special Procedures now issued for each session of the Human Rights Council. We see these initiatives as important steps towards providing better access to information on the activities of the Special Procedures, which will in turn assist civil society to undertake their work and monitoring.

Additional to the comments and recommendations in the Joint Statement, the undersigned NGOs wish to bring to your attention the following observations and suggestions. This information will be supplemented by oral statements during the Annual Meeting:

1. Concerning the communications reports of the Special Procedures, we suggest that its format can be improved to make the information more meaningful and useful for persons looking at the situation of human rights in particular countries. It is suggested that the Special Procedures should call for communications to be presented by country, rather than in chronological order, to facilitate country-specific research and monitoring. In addition, we underline the importance of the analysis provided by Special Procedures on cases and Governments' replies to communications by Special Procedures.
2. Access to information on the reaction to, and handling of urgent appeals and individual communications remains a matter of concern, particularly for families and victims who understandably seek to know what has come of their communication without undue delay, especially in urgent cases. The lack of cooperation on the part of States with regards to communications and visit requests is a priority to matters of concern for our organizations.
3. We encourage mandate-holders to consider ways to address persistent cases of non-cooperation with Special Procedures. In particular, several States have demonstrated a continuing record of ignoring requests for visits – hindering the functioning of the mechanism at large. For example, in December 2012, it will be ten years since Uzbekistan has not granted access to a single Special Procedure, despite ten pending requests for visits. It is suggested that the Special Procedures should consider actions to pressure States ignoring requests for visits for years, such as joint reminders or public communiqués.
4. The issue of reprisals against those who cooperate with UN human rights mechanisms was raised during last year's Annual Meeting. In response, mandate-holders noted that they were considering further practical measures to protect individuals against reprisals, and we would appreciate an update in this regard. Particularly in the context of increasing expressions of concern about reprisals, including from the President of the Human Rights Council and the UN Secretary-General, a sustained approach from the Special Procedures to bringing alleged cases of reprisals to the attention of States and the President of the Council would contribute to more robust protection against this practice.
5. Concerning the preparation of the OHCHR compilation of UN information for the Universal Periodic Review, a question has been raised as to whether the Special Procedures have been consulted in that process. If the compilation simply identifies what recommendations have been made, as we suspect is the case, might it be useful for the Special Procedures to be more directly asked if there are outstanding issues to be raised with a State under review, and/or what priorities might apply in that respect?
6. As noted in the Joint Statement, NGOs and civil society have greatly appreciated when mandate holders have organized NGO briefings in the margins of Council sessions. Recent sessions, however, have seen the last-minute cancellation of such meetings. Because NGOs have only 20 minutes to participate in interactive dialogues, and recognizing that a number of civil society actors travel to Geneva for the purpose of engaging with the Special Procedures, we would ask that NGO briefings continue to be arranged and that they not be cancelled.

7. Finally, the Special Procedures ‘facts and figures’ have proven very useful to our work in the past, and we encourage you to ensure that these continue to be updated on a regular basis.

Please note that oral statements during the Annual Meeting are also intended on the subjects of: the process of review of the UN Standard Minimum Rules for the Treatment of Prisoners; the Maastricht Principles on the extraterritorial obligations of States in the area of economic, social and cultural rights; developments concerning lesbian, gay, bisexual and transgender persons; and the High Level discussion at the General Assembly on the rule of law.

A final matter we wish to bring to your attention concerns the timing of the meeting with NGOs and NHRIs during the Annual Meetings of the Special Procedures. It had been requested in the Joint Statement that future exchanges with civil society take place early in the programme of work so that the ideas generated and questions raised by NGOs might carry through to the private discussions on those issues later in the agenda. We ask that this request be considered when preparing the programme for the 2013 Annual Meeting.

Yours sincerely,

Alex Conte
Representative to the United Nations
International Commission of Jurists

On behalf of:

Action Canada for Population and Development
Alkarama
Amnesty International
ARC International
Asia Forum for Human Rights and Development (FORUM-ASIA)
Association for the Prevention of Torture
Cairo Institute of Human Rights Studies
Canadian HIV/AIDS Legal Network
Center for Reproductive Rights
Centro de Estudios Legales y Sociales
CIVICUS: World Alliance for Citizen Participation
Connectas Direitos Humanos
FoodFirst Information and Action Network (FIAN International)
Human Rights Watch
Humanas (Corporación Regional de Derechos Humanos y Justicia de Género)
International Commission of Jurists
International Federation for Human Rights (FIDH)
International Federation of Action by Christians for the Abolition of Torture (FIACAT)
International Movement Against All Forms of Discrimination and Racism (IMADR)
International Service for Human Rights (ISHR)
NGO Group for the CRC
World Organisation Against Torture (OMCT)



ISHR



JOINT STATEMENT BASED ON ORAL STATEMENTS MADE BY NGO REPRESENTATIVES AT THE 18TH ANNUAL MEETING OF THE SPECIAL PROCEDURES OF THE UN HUMAN RIGHTS COUNCIL

held on 30 June 2011

The following comments and recommendations represent a compilation of the oral statements made by representatives from the following NGOs: Amnesty International, Alkarama, ARC International, the International Commission of Jurists, the International Disability Alliance, the International Service for Human Rights (ISHR), CIVICUS: World Alliance for Citizen Participation, and the World Organisation Against Torture (OMCT). The signatories to this joint statement hope to follow up on, and develop, the current joint statement as a part of future consultations with the Special Procedures of the UN Human Rights Council.

NGOs and civil society hold the work of the Special Procedures in very high esteem. The expertise and work of mandate holders has lent considerable weight to the functioning of the UN's human rights mechanisms. The undersigned NGOs remain committed to supporting the work of the Special Procedures. It is against that background that this statement seeks to provide constructive and useful recommendations to all mandate holders on a few specific areas in the hope that the system of Special Procedures can become even more robust and effective.

NGOs are aware of the financial and resource constraints faced by the Special Procedures and by the OHCHR Special Procedures Branch, particularly in the lack of sufficient regular budget resourcing. The High Commissioner recently highlighted this issue, including during the presentation of the 2011 Annual Report of her Office. The undersigned, many of which also lobby for increased financial and other resources to be provided to the Special Procedures, strongly encourage mandate holders to continue their own efforts to raise this issue with Governments.

1. Cooperation

1.1 Lack of State cooperation

The lack of cooperation by States remains a major obstacle to the effective functioning of the Special Procedures.

A formal and independent process assessing the cooperation of States (a "cooperation audit") might induce States to respond more favourably to country visit requests and recommendations of the Special Procedures. Such an audit could be used by the Human Rights Council and the General Assembly to review and assess the State of cooperation with the Special Procedures of members of the Council, and for States that are candidates for membership in the Council. Mandate holders are encouraged to develop their own guidelines on measuring the level of cooperation of States. A standardised

summary of key “cooperation indicators” could be included in mandate holders’ annual reports, capturing elements of communications, visits and follow-up. The Special Procedures could bring cases of persistent non-cooperation formally to the attention of the Council.

The prospect of a forthcoming Universal Periodic Review (UPR) could be utilised as a persuasive tool in seeking invitations from and visits to States. Mandate holders may wish to consider the Second Cycle of the UPR, which begins in June 2012, to encourage States to facilitate a country mission for the sake of enhancing the UPR outcome report. This might be particularly persuasive in respect of States that are about to be reviewed under the UPR process, or in respect of which there is no standing invitation. This may be even more relevant in the case of States that have recently become members of the Human Rights Council, especially if the pledge made by a recent member when standing for election undertakes to engage and cooperate with UN human rights mechanisms.

It is suggested that where States are not cooperative with the Special Procedures, joint appeals and requests for visits should be resorted to regularly for the purpose of encouraging and better facilitating cooperation by States.

1.2 Cooperation amongst Special Procedures

When scheduling country visits, mandate holders are encouraged to coordinate the timing of country visits, or even the type of issues to be addressed, with other Special Procedures who may also be planning a visit to the same country.

In light of limited resources, it is suggested that the approach of having multiple mandate holders focus their attention on one country might not be the most effective or efficient. Special Procedures visiting different countries, and conducting follow up missions, would lead to a broader global impact. Special circumstances might nevertheless warrant joint visits.

However, where several Special Procedures have undertaken country visits to the same countries in a short timeframe, for example four Special Rapporteurs visiting Colombia between June 2009 and February 2010 and three Special Rapporteurs visiting Mexico within a nine-month period in 2010, a common report might be issued subsequent to each mandate holder’s mission report addressing the status of implementation of the respective recommendations.

1.3 Cooperation with other UN and regional mechanisms

Increased collaboration with relevant regional Procedures and UN field offices – by exchanging information on upcoming visits and country recommendations – might play a role in the enhanced implementation of recommendations, and more generally in sustaining engagement with States after visits are completed. Mandate holders are encouraged to exchange information on their activities with relevant regional mechanisms and engage in joint actions (press releases, missions, etc) when relevant. Care should be taken, however, not to confuse the often distinct roles and mandates of regional and international mechanisms.

Mandate holders are also encouraged to seek cooperation with the Special Rapporteur on Disability (mandated under the Commission for Social Development, rather than the Human Rights Council). Such cooperation was recently prompted by the Human Rights Council in the context of a resolution calling for a joint OHCHR study on violence against women and girls with disabilities, in June 2011, to be carried out in consultation

with the Special Rapporteur on Violence Against Women and the Special Rapporteur on Disability. Although this example should not be taken to mean that cooperation amongst mechanisms is limited to situations where this is requested by the Council, it illustrates the view that cooperation amongst different mechanisms, including with the Special Rapporteur on Disability, has been treated as a beneficial practice.

The good practice undertaken by most mandate holders of reviewing relevant recommendations of treaty bodies in preparation for country missions is strongly encouraged. The Special Procedures can benefit from following-up on the implementation of Concluding Observations from periodic reports or of specific recommendations coming from Views on individual communications. In the context of recommendations in Concluding Observations, this is important because they represent an authoritative interpretation of the reporting State's obligations. In the context of recommendations from individual communications, this may be vital to ensure that access to justice is meaningful, i.e. by helping to push for the actual provision of effective remedies and reparations as recommended by the treaty bodies.

Also concerning the preparation and conduct of country missions, there are advantages, it is suggested, in consideration of the relevant country's UPR outcome document. Where recommendations relevant to a particular mandate have been accepted by the State under review, the mandate holder is provided with leverage to push for meaningful action on such recommendations. Where certain key recommendations have not been accepted by the State under review, mandate holders are encouraged to explore the reasons behind this. In a similar fashion, pledges made by States when standing for election to the Human Rights Council could be used by Special Procedures to push for meaningful action.

1.4 Cooperation with NGOs during Human Rights Council sessions

NGOs and civil society have greatly appreciated when, during Council sessions, mandate holders have organised NGO briefings. Though time-consuming, these briefings are welcomed by both Geneva-based NGOs and civil society actors who travel to Geneva to participate in interactive dialogues with mandate holders. NGOs have just 20 minutes amongst them all for each interactive dialogue, which means that a great deal of information cannot be conveyed to mandate holders during the interactive dialogue process. Further information can be shared with mandate holders by NGOs, including those that have been unable to intervene during the formal interactive dialogue. NGO briefings where mandate holders share their information on upcoming visits and thematic focuses can also assist NGOs in the development of their own work plans, and even donor-based action.

NGOs would welcome pressure brought by the Special Procedures to de-cluster interactive dialogues. This could be pursued by way of a formal joint letter from the Special Procedures (or the Coordination Committee) to the President of the Human Rights Council. The clustering of interactive dialogues means that NGOs must choose which mandate holder(s) to interact with as there are usually restrictions on the number of interactive dialogues an NGO can participate in.

1.5 Other forms of cooperation and engagement with NGOs

NGOs appreciate the reasons behind holding private sessions during the Annual Meeting of the Special Procedures, reflecting the existence of certain restrictions on the ability of mandate holders to speak frankly amongst themselves when meetings are open. It is nevertheless requested that careful thought be given to whether all meetings

should be held in private. In this regard, it was greatly appreciated that the joint meeting of the Special Procedures and Inter-Committee Meeting was held in public this year.

It is requested that future exchanges with civil society take place early in the programme of work so that the ideas and questions raised by NGOs might carry through to the private discussions on those issues later in the agenda. The undersigned NGOs also request that written statements or proposals by NGOs and civil society that are submitted for the Annual Meeting be posted on the Special Procedures extranet.

Throughout the year NGOs would welcome more opportunities to exchange information with individual mandate holders and the Coordinating Committee as a group.

NGOs have noted the trend of a shrinking space for civil society within political and social fora in some States. Mandate holders are encouraged to monitor increasing barriers, including through restrictive legislation on civil society organisations, in particular during election processes.

2. Country Missions

2.1 Preparation for country visits

The OHCHR Civil Society Section has recently started a practice of announcing forthcoming visits, which is greatly appreciated. In preparation of country visits, a heightened level of engagement with NGOs, particularly with civil society in the country prior to the conduct of the mission can greatly enhance the effectiveness and outcome of the mission.

While some NGOs are very familiar with the working methods of some Special Procedures, there is scope to encourage and facilitate greater involvement by civil society. The OHCHR's publication, *A Handbook for Civil Society*, contains very useful information on how NGOs can engage in follow up activities, but this information is not clearly and prominently displayed on the Special Procedures web pages. Given that mandate holders are working to different deadlines for the gathering of information, it would be useful to have some very precise online information for NGOs about what they can contribute, how they can present their information and what deadlines they should work to.

2.2 Engagement with NGOs during country visits

Given that follow up to Special Procedures country visits and reports is necessarily a joint activity involving many different stakeholders, NGOs and civil society welcome opportunities during visits to provide information to mandate holders on the state of implementation of international obligations, and in order to assist in advocating for governments to implement recommendations. NGOs can encourage national level stakeholders, such as parliamentarians, national human rights institutions and UN offices, to lobby governments to implement recommendations, and to ensure that there is a holistic and universal approach at the domestic level to giving effect to implementation of international obligations and recommendations, including through national plans of action.

Mandate holders are encouraged to hold meetings with a wide range of stakeholders relevant to their mandates, including organisations of persons with disabilities, NGOs advocating for the rights of women, and in respect of LGBTs, to name a few.

3. Follow-up

Follow-up remains one of the biggest challenges facing the UN human rights system. Although the recent review of the work and functioning of the Human Rights Council did not adopt measures for specific steps to be taken for increased and focused attention by the Council to follow up on Special Procedures work, including in respect of individual communications and urgent appeals, mandate holders are encouraged to themselves pursue those measures, wherever practicable. NGOs and civil society encourage all mandate holders to continue to integrate follow up activities into their work plans, and for the OHCHR to consider what institutional capacities may be available or necessary to support and sustain these activities.

Many good follow-up practices have been developed by mandate holders, such as seeking information through questionnaires sent to a variety of stakeholders to assess levels of implementation. Increased sharing among the Special Procedures of best practices in follow-up activities may help to develop more consistent and systematised methods of work by all mandate holders.

Where possible, mandate holders are encouraged to ask governments to respond within a set time frame on the implementation of recommendations and opinions and to provide information where recommendations and opinions have not been implemented. Governments can also be encouraged to report voluntarily and periodically to the Council on their implementation of Special Procedure recommendations and opinions. It would be very beneficial if this evolved into a good practice which States engaged in.

Very few mandate holders are in the privileged position of being able to undertake dedicated follow-up missions, yet this may be the most effective means of actively supporting implementation. Further consideration could be given to lessons learned from follow-up missions and whether there are other ways to achieve similar results, given the constraints on mandate holders' time and resources.

Mandate holders should continue, where possible, to coordinate with follow-up rapporteurs of treaty bodies who are working on issues that are relevant to their mandates. Mandate holders can also directly and indirectly request information on issues and on the implementation of recommendations from States during the UPR of States and during mandate holders' annual interactive dialogues. Mandate holders are also encouraged to bring recommendations arising from visits and individual cases which arise only shortly before the UPR, and as a result the findings of which are not published in time to be included in the review to the attention of members of the UPR working group. The Special Procedures could even contact States at regular intervals, in coordination with the UPR schedule, to follow-up on the implementation of recommendations.

4. Communications

There is concern, including amongst NGOs, that the new Code of Conduct has created some problematic restrictions for Special Procedures by limiting the channels of communication available to mandate holders. It risks reducing the protection provided by Special Procedures by delaying communication with the relevant authorities. Consideration might be given, in this regard, to the widening of the circle of mobilisation beyond Ministries of Foreign Affairs (i.e. public prosecutors, interior ministries, etc) as a working method that might encourage Permanent Missions to accelerate the transmission of communications to relevant authorities.

It is suggested that urgent communications and letters of allegation should remain “pending” until the mandate holder is satisfied that such communications have been adequately addressed by the government concerned. This would ideally include the period after the immediate danger to the victim has passed to ensure that appropriate redress is provided. Special Procedures are encouraged to ensure that States give effect their recommendations on individual cases.

Efforts by a few mandate holders to assess the quality of government responses to the communications is extremely useful for NGOs, victims and their families who rely on the communications procedure, as well as for providing a basis for mandate holders to follow up and elicit a response that actually addresses concerns on the ground. More Special Procedures are encouraged to take up this practice.

NGOs appreciate their responsibility to provide as much follow-up information as possible on cases submitted under the communications process, as circumstances allow. However, difficulties are caused by the fact that once a communication is submitted, there is often little feedback provided to NGOs on whether the request for communication/urgent appeal has been received and whether action has been taken on behalf of the victim. While acknowledging paragraph 37 of the Manual of Operations for Special Procedures, which underlines the confidential nature of communications, NGOs would suggest that it is important that at least confirmation of the receipt of the communication/urgent appeal is given to the source, and that once action has been taken, this is communicated without excessive delay to the source. It is suggested that this form of communication would be in line with the Manual of Operations, since it can be described as falling under the “specific circumstances” provided for in paragraph 37. This would allow for sources to provide better follow-up information.

The Working Group on Enforced or Involuntary Disappearances has a well-developed communications procedures that offers some good practice around regular and transparent reporting of follow up. Efforts by a few mandate-holders to assess the quality of government responses are also useful, and might encourage a meaningful and timely exchange by States in the procedure.

5. Use of language and accessibility

Mandate holders are encouraged to ensure that their language is consistent with that laid out in the CRPD, using the term “persons with disabilities”.

Mandate holders are similarly encouraged to make their reports available in MS Word format so that they are accessible to persons with disabilities, and to make sure that their web pages fall in line with international standards on accessibility, i.e. the Web Accessibility Initiative standards (<http://www.w3.org/WAI/>).

Mandate holders are also encouraged to request States to make the recommendations in their mission reports available in relevant (local) languages.

6. Reprisals

Reprisals against individuals who cooperate with the UN is an issue of particular concern for the Special Procedures given mandate holders’ close contact with victims, their families and human rights defenders. A sustained approach, both jointly and from individual mandate holders, is needed in order to better protect individuals from reprisals, but also to increase systems of accountability for such acts. This could include individual mandate holders bringing alleged cases of reprisals to the attention of the State concerned as well as to the President of the Council in an urgent and timely

manner. It could also mean a timely intervention with UN country presences and diplomatic missions in the country concerned, which would provide some measure of protection to the individuals suffering reprisals.

7. Thematic reports

Though thematic reports presented during the Human Rights Council and the General Assembly by the Special Procedures remain an essential tool for providing vital guidance on specific human rights issues, some thematic reports are drafted in an increasingly abstract manner, failing to identify concrete human rights violations and challenges encountered, and avoiding mention of specific examples or country situations. Such trends are being seen both in the context of the body of some thematic reports, as well as the conclusions and recommendations.

This remains a matter of concern to NGOs, who desire actionable recommendations on specific violations. This is again something linked to effective follow-up, since it is actionable recommendations that can most effectively be monitored and pursued.

Compilations of recommendations by theme, as produced by some Special Procedures, such as the Special Rapporteur on the extrajudicial, summary or arbitrary executions, may also be very useful for the identification of thematic messages to be monitored and pursued. The undersigned NGOs therefore encourage mandate holders to consider periodically issuing such compilations.

8. Public statements in respect of inaction by the Council

Where the Human Rights Council has chosen to remain silent, or where it has failed to act effectively, in the face of a massive wave of human rights violations, Bahrain being a recent example, NGOs appreciate the role of the Special Procedures in filling that gap through strongly worded joint statements. Mandate holders are encouraged to continue to issue such statements, as a way of harnessing the media and drawing global attention to issues in respect of which the Council fails to take appropriate action. This may act as a reminder to members of the Human Rights Council of their responsibility to “uphold the highest standards in the promotion and protection of human rights” (General Assembly resolution 251/60 establishing the Council).

Amnesty International
Alkarama
ARC International
Canadian HIV/AIDS Legal Network
CIVICUS: World Alliance for Citizen Participation
Human Rights Watch
International Commission of Jurists
International Disability Alliance
International Service for Human Rights (ISHR)
World Organisation Against Torture (OMCT)